

WAIKELE COMMUNITY ASSOCIATION

MODIFICATIONS COMMITTEE RULES AND GUIDELINES

INTRODUCTION

These "Modifications Committee Rules and Guidelines" are authorized by Article XI, Section 11.03 of the Master Declaration of Covenants, Conditions and Restrictions for the Waikele Community which was filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on December 28, 1990, as Land Court Document No. 1791991 ("Master Declaration") and will sometimes be referred to in this document and other documents of the Waikele Community Association ("WCA") as the "Rules and Guidelines." The rules and guidelines contained herein have been developed from applicable portions of the Master Declaration and the Waikele Residential Design Handbook and have been professionally and appropriately augmented over time as conditions present themselves. Any revisions to the Rules & Guidelines are made with the authority of the Master Declaration.

I. WAIKELE DESIGN PHILOSOPHY

In a master-planned community, owners have contractually agreed to surrender some of their freedom of expression in improving their properties, and have accepted an obligation to conform to architectural and landscaping standards established in accordance with the Master Declaration and these Rules and Guidelines, in order to preserve and maintain the character of the community in which they have chosen to live. These standards are protected by the Master Declaration and the Rules and Guidelines for the ultimate benefit of all WCA owners and residents.

There are two committees that are responsible for establishing and enforcing these standards. The New Construction Committee ("NCC") has jurisdiction over all original construction in the Waikele Community and has the task of ensuring that all developers who create projects within the Waikele Community conform to the Waikele Residential Design Handbook. The NCC consists of one member who was originally appointed by the Declarant under the Master Declaration so long as the Declarant owns any property within the Waikele Community unless the Declarant specifically surrenders that right. Except for those who construct their own homes, most Waikele Community homeowners will have little contact with the NCC. However, to maintain overall control of the appearance of the Waikele Community, the NCC has the power to overrule decisions of the Modifications Committee.

The committee that has the greatest effect on individual homeowners is the Modifications Committee, which has the overall responsibility of preserving and maintaining architectural and landscaping standards concerning alterations and additions to existing dwellings. The primary objective of the Committee in meeting this responsibility is to ensure harmonious aesthetic relationships between individual buildings and their sites and to ensure compatibility of each Lot and its improvements with the architectural and landscaping standards that prevail within each individual WCA development and within the community as a whole.

The Modifications Committee will attempt to accommodate the desires of individual homeowners; however, given its primary responsibility of maintaining and preserving the architectural and landscaping standards developed under the protection of the Master Declaration and the Rules and Guidelines, the Committee cannot – and will not – approve designs and materials that, in its opinion, will have an adverse effect upon the architectural and landscaping standards of the Waikele Community.

The decisions of the Modifications Committee involve areas where individual impressions, personal preferences and subjective opinions may lead individual homeowners to disagree with some of the standards incorporated in this document. Nevertheless, the Committee is charged with the responsibility of using its collective knowledge and experience to establish and maintain architectural standards which will balance the needs of the community and those of individual homeowners and residents. The Modifications Committee is also aware that plans and specifications do not always convey the true appearance of a particular design. The Committee will seek to be equitable, objective and consistent in the procedures it uses for evaluating construction and landscaping proposals to see that they conform to all requirements of the Master Declaration, standards in the Rules and Guidelines, and any relevant design requirements. The Committee will also seek to ensure that the design and landscaping standards outlined in the Rules and Guidelines are interpreted and enforced in a uniform and consistent manner by the General Manager and the Covenants Specialist (Enforcement Committee) for the ultimate benefit of all owners and residents and the community as a whole.

From time to time, the Modifications Committee may deem it appropriate to consider new and different designs and materials for use within its area of responsibility. The Committee will strive to be reasonable and flexible in reviewing new design concepts and materials that can be integrated harmoniously with existing structures. The Committee will not, however, approve designs or materials that are inconsistent with its existing architectural standards simply because such designs or materials are currently popular or considered fashionable. Experimental or *avant garde* or overly decorative designs or materials are unlikely to be approved.

The basic design philosophy calls for an underlying order and establishes the control necessary to make the master planned community work, wherein all the various elements add to, not detract from, the character of the community.

Finally, a master planned community emphasizes design criteria that are compatible, complementary and cohesive, so that all elements blend with one another. Elements that detract from this ambiance are clearly not acceptable. Homeowners are encouraged to explain these guidelines to designers and suppliers of gates.

II. MODIFICATIONS COMMITTEE DUTIES

The Modifications Committee's role is to protect the visual character of Waikele and, by inference, the economic best interests of all property owners. The Committee is primarily concerned with the designs of the exterior of the residence and landscaping, and with any materials used, including window treatments, which are visible from the street and from neighboring properties, such as an adjoining Lot, the shopping center, or the golf course.

The Modifications Committee shall act in accordance with the Master Declaration and with the Rules and Guidelines, which is specifically authorized by the Master Declaration as an amplifying document to supplement and clarify the provisions of the Modifications Committee.

III. AUTHORITY

The Master Declaration contains standards and restrictions affecting each owner's use of his or her Lot which constitute "covenants running with the land." This means that anyone acquiring, occupying or using any property in the Waikele Community must obey the provisions of the Master Declaration whether or not he or she has actual knowledge of those provisions. Articles IX, X, and XI, of the Master Declaration govern all residential and non-residential properties as to use, restrictions, improvements, etc. Whenever an owner proposes to make any residential improvement to or build upon a Lot, or to reconstruct, alter or refinish the exterior of any improvement already constructed, the owner is responsible for complying with the limitations and conditions contained in the Master Declaration, as interpreted and implemented in the Rules and Guidelines and by the New Construction Committee and/or Modifications Committee pursuant to the provisions of Article XI of the Master Declaration.

Specifically, Article X states:

The right of an Owner to construct, reconstruct, refinish, alter or maintain any improvement upon, under, or over any Lot or to retake or create any excavation or fill thereon, to alter or modify the exterior of existing improvements, to plant or remove plants, trees, or shrubs, or to make any change in the natural or existing surface drainage thereof, or to install any utility line (wire or conduit) thereon or thereover, shall be subject to the prior written approval of the NCC or the MC, as appropriate, any rules or design standards promulgated by the NCC or MC, as appropriate, and all of the limitations and conditions of this Section.

IV. ENFORCEMENT POWERS

Section 11.09 of the Master Declaration provides as follows:

Any construction, alteration or other work done in violation of this Article shall be deemed to be non-conforming. Upon written request from the Board or the Declarant, Owners shall, at their cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed before the construction, alteration or other work. Should an owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, together with interest thereon at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Special Assessment pursuant to Section 12.05(b) hereof.

Additionally, pursuant to Section 15.02 of the Master Declaration, the WCA is empowered to enforce all of the provisions of the Master Declaration and the costs of enforcement, including court costs and attorneys' fees, shall be paid by the Owner who has violated any of these provisions.

Note: Neighbor Disputes

The Waikele Community Association has no jurisdiction over any neighbor dispute which does not directly challenge the Declaration of Covenants, Conditions and Restrictions. Disputes not related to the governing documents shall be referred to The Mediation Center of the Pacific (521-6767) for arbitration or mediation.

V. LIMITS OF LIABILITY

Approval of plans by the Modifications Committee is solely for the architectural design or scheme thereof and for conformance with the requirements of the Master Declaration and these Modifications Committee Rules and Guidelines. It shall be the Owner's responsibility to ensure that all modifications or additions shall comply with all applicable statutes, ordinances, codes, rules and regulations.

No representation is made nor is any responsibility assumed by the Declarant, the Waikele Community Association or the Modifications Committee regarding the structural quality or soundness of the work proposed or approved. It shall be the sole responsibility of the owner and the owner's architect or builder to examine the premises and to undertake adequate design for all improvements or changes to be constructed and made on the owner's property. From time to time, the Modifications Committee may require an engineer stamp for any plan proposing maximum height retaining walls.

Neither the Modifications Committee nor any of its consultants shall be responsible for the effects on the value of any property which result from any modification due to Modifications Committee approval. The limitation of liability is set forth in Section 11.06 of the Master Declaration which states:

Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot.

VI. OTHER CODES, LAWS, RULES AND ORDINANCES

Approval of plans does not modify or eliminate the owner's obligation to comply with all existing laws, ordinances, rules and regulations, and as may be amended, or hereafter made by any governmental authorities or with such terms and conditions required under the Master Declaration of Waikele, or any deed, lease, or mortgage. In cases of conflict, the more stringent requirement shall apply.

VII. DEFINITIONS

Air Conditioners: shall mean both window units and split system units. The condenser and all associated piping and wiring for split system or window units shall be considered as part of the air conditioner, as well as any material used to "fill in" any portion of a window removed for a window unit installation.

Backyard: shall mean any portion of the yard from the front face of the house to the rear property line, or any portion of the yard not included in the front yard.

Corner Lot: shall mean any lot with two property lines adjacent to roadways.

Covenant Enforcement Committee: shall mean the committee, if any, appointed by the WCA Board of Directors to oversee and establish policies and procedures concerning the enforcement of the provisions of the Master Declaration. If no such committee is specifically appointed, the Board shall act as the Covenant Enforcement Committee.

Declarant: shall mean Amfac Property Development Corporation, and its successors or assigns who take title to any portion of the Waikele property as described in the Master Declaration for the purpose of development and sale and who are designated as the Declarant in a recorded instrument executed by the aforesaid Declarant.

Excavation: shall mean any disturbance of the surface of the land (except temporarily for planting) which results in the removal of earth or rock for a depth of more than 8 inches.

Front of House: shall mean the side of the house fronting the street used for the address of the house. This street will also be known as the front street.

Front Yard: shall mean that area between the front of the house and the front property line.

Fill: shall mean any addition of rock or earth materials to the surface of the land which increases the previous elevation of such surface by more than 18 inches, which includes 'backfill'.

Garage: the term "garage" shall include "carport."

General Manager: shall mean the person, if any, appointed by the WCA Board of Directors to enforce the provisions of the Master Declaration. Until and unless someone else is appointed, the WCA property manager may act as the General Manager.

Gravel: as defined for limited landscape purposes, shall be defined as all inert material including stones, pebbles, sand, crushed rock, volcanic cinders and coral.

Improvements: shall include buildings and additions thereto, outbuildings, roads, driveways, parking areas, fences, retaining walls, stairs, decks, patio slab, hedges, windbreaks, planted trash surrounds, poles, signs, permanent basketball backboards and any other structures of any type or kind.

Landscape: shall mean to adorn, improve, or arrange the grounds attractively by clearing, grading, contouring the land and planting grass, ground cover, flowers, shrubs and/or trees. Approved landscape shall mean landscape that meets the guidelines described in Table I Waikele Landscape Guidelines and included in Table II Waikele Recommended Plant List.

Light Source Visibility: shall mean visibility of the filament of the light source from neighboring property.

Lot: shall mean any Lot designated on a tax map or a subdivision or development map recorded in the State of Hawaii Bureau of Conveyances or filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as appropriate, for residential or recreational use, or, with respect to any condominium, any apartment of such condominium, or, with respect to any townhouse, apartment house, duplex, or multiple dwelling in low, medium or high-rise buildings, a complete residential unit, and in each case, except when clearly contrary to the context, shall include all improvements thereon. Upon splitting of any Lot pursuant to Section 15.04 of the Master Declaration, the term "Lot" shall mean each parcel, condominium apartment, or residential unit, into which such Lot has been split. Upon consolidation of two or more Lots pursuant to Section 15.04, the term "Lot" shall mean the parcel consisting of the Lots so consolidated.

Modifications Committee ("MC") and New Construction Committee ("NCC"): shall mean the Committees created pursuant to the Master Declaration, whose duty it shall be to consider and act upon all proposals and plans relative to architecture, design and landscaping in Waikele.

NCC: New Construction Committee is no longer in existence. All responsibilities and duties of the NCC, as stated in the Master Declaration, are now taken care of by the Modifications Committee.

Owner: shall mean the person or persons, corporation or corporations, or other legal entities, as set forth in Section 1.40 of the Master Declaration, provided, however, that "Owner" shall include for the purposes of Article IV, unless the context otherwise requires, family, invitees, licensees, lessees, employees, and agents of any Owner. For the purposes of the limitations and restrictions set forth in Articles IX and X of the Master Declaration, "Owner" shall not include the Declarant concerning any Lots owned by the Declarant.

Residence: shall mean a building or buildings used for residential purposes, together with any garage, carport or similar outbuilding appurtenant thereto, whether or not a part of the same structure.

Retaining Wall: shall mean any structure constructed for the purpose of containing or supporting any embankment, fill or other earthen form.

Rules and Guidelines: shall mean these rules adopted by the Modifications Committee pursuant to the Master Declaration and include any revisions or alterations which are approved by majority of the Committee and the Board of Directors.

Single-Family: shall mean one or more persons living and cooking on the premises together as a single, non-profit housekeeping unit; provided, however, that the number of persons living on the premises shall not exceed the standards and requirements set forth in the Housing Code of the City & County of Honolulu.

Storage: shall mean any item or items on any lot or unit lanai or yard not in immediate use, not designed for outdoor use, stacked for storage purposes, placed in cardboard boxes, plastic rubbish bags or containers, gardening or cleaning equipment, building materials and equipment, automotive and boating tools, parts and accessories, rubbish or refuse of any kind which is visible to any street or adjacent property and prohibited by the Declaration of Covenants, Conditions and Restrictions.

Trellis: shall mean a frame supporting structure either attached or unattached to the existing home and at least 50% open.

Visible from Neighboring Property: shall mean, with respect to any given object or activity, that such object or activity is or would be in line of sight originating from any point six (6) feet above the lowest adjoining property, excluding contiguous property owned by the owner of the property involved, but including common areas and streets, highways, adjoining lots, the Waikele Golf Course or the Waikele Shopping Center. Example: An alteration to the lanai of an owner's property is visible from neighboring property if it is visible to a person standing at ground level on an adjoining Lot, the Waikele Golf Course, or the Waikele Shopping Center.

Visible from a Street: shall mean concerning any given object or activity, that such object or activity is or would be visible from any point of a street or highway fronting the Lot or adjacent to the Lot.

Waikele Residential Design Handbook: shall mean the handbook for the design of projects in the Waikele Community established by the Declarant for the guidance of project developers.

Waikele Rules: shall mean the rules for the governance of the Waikele Community adopted by the Board of Directors of the WCA pursuant to the Master Declaration.

Xeriscape: refers to planned landscape using water conservation techniques and designs which provide beauty and function. It is a water conservation landscape design which includes plants, turfgrass and hardscape (rocks and/or gravel).

VIII. ARCHITECTURAL REVIEW PROCEDURES

The following procedures must be completed and approval granted by the Modifications Committee prior to beginning construction for all additions or alterations to any Lot subject to the Master Declaration of Waikele which alter the exterior appearance of any residence or structure, including landscaping, walls and fences, and including the painting thereof. These procedures and the Modifications Committee review and approval are only for compliance with Waikele planning and design standards. Owners are responsible for obtaining any necessary City & County building permits and for complying with all applicable codes, ordinances and regulations. Owners are promulgated in accordance therewith by the Neighborhood Committee or Neighborhood Association having jurisdiction of the Lot and, in the case of condominium apartments, with the project's declaration of condominium property regime and the by-laws and house rules of the association of apartment owners. **No application will be considered by the Modifications Committee unless 1) all required Neighborhood Committee, Neighborhood association, or condominium association approvals have been obtained prior to submission of the application to the Modifications Committee; and 2) Owner is a member in good standing, i.e., has no outstanding violations of WCA Covenants, Conditions and Restrictions and Rules and Guidelines.**

Step 1: Submit one (1) completed copy of "WCA Application for Approval of Modifications, Additions or Improvements" form to the Waikele Community Association, 94-1030 Waipio Uka Street, Suite 103, Waipahu, HI 96797. This form can be obtained at the Waikele Community Association office or website at www.waikeleohana.com.

Step 2: Submit one (1) copy of the plot plan (copies available at the WCA office), and if applicable the building plan, for any improvements that incorporate structures, concrete or masonry surfaces, or manmade materials, e.g., walls, fences, walkways, slabs, gutters, down spouts, solar units, etc.

If submitting building plans larger than 11" x 17", two (2) copies are required; one will be returned to the homeowner upon approval by the Modifications Committee. **NOTE:** Homeowners are recommended to provide an electronic copy (PDF) of plans if possible. The electronic copy will be accepted in place of one (1) set of plans. One (1) hard copy must always be provided and will be returned to homeowner upon approval.

Photograph(s) of the home/lot reflecting the areas of proposed modifications should be submitted with other required material to clarify what the plans or plot plan may fail to present.

a. **Plot Plan (Scale 1 inch = 10 feet)**

The plot plan provided to each owner at the time of the original sale should contain adequate grade information to allow for quick evaluation and decisions on wall heights, drainage swale modifications, etc. The outline of the proposed modification should be clearly identified on the plot plan so that the proposed modifications can be evaluated in relation to the existing improvements.

b. **Building Plan (Scale ¼ inch = 1 foot)**

Detail drawings are required which clearly reflect the proposed modification(s). For instance, for walls or fences, adequately scaled sections and details of walls and proper identification of the location of these details on the plot plan are essential.

Show plan (top view), all elevations (front, rear and side views), and cross-sections. If the proposed structure is to be connected to an existing structure, drawings must show the relationship to the existing structure and a detailed cross-section of the point of connection must be provided.

Building plans must include type and finish of the exterior materials, which should usually match any existing structure's materials and colors. If the structure or structures are to be finished in a different color, samples of both existing and proposed colors must be on file or provided with the application.

Step 3: All application packages for Modifications Committee approval must be accompanied by the appropriate permit processing fee. **There is no fee required for regular maintenance projects such as repainting, re-roofing, landscaping, etc., which do not alter the exterior appearance of previously-approved structures. In addition, minor improvements such as solar unit installation, air conditioning installation, and screen doors do not require a permit processing fee. These "no**

fee” modifications do, however, require an application and must be approved by the Modifications Committee prior to construction. Application fees are non-refundable.

Permit Processing Fees:

- (1) **\$25.00 - Minor Improvement Application:** A minor modification, window tinting, new driveway extension, simple patio slab, sidewalks around house, rain gutters, pre-fabricated structures not visible to street or adjacent property or in setback area, etc. In general, this category includes applications which may require only WCA approval.
- (2) **\$50.00 - Major Improvement Application:** Modifications or improvements which incorporate new structures or additions, e.g., walls, fences, swimming pools, new driveway or detailed/extensive patio slab, custom-designed storage sheds located in setback areas, etc. In general, this category includes but is not limited to those applications that require additional consultation, a building permit and/or multiple improvements.
- (3) **\$100.00 - Building Additions/Extensions:** Modifications which significantly alter the primary dwelling, e.g., covered patio, sundeck, and additional rooms.
- (4) **\$150.00-\$200.00 - Custom house or new residence on vacant lot.**
- (5) **50% of Original Fee - Revisions or Resubmittals.** Should any application be revised, thus requiring resubmittal more than once, the applicant will be assessed an additional fee equal to 50% of the original fee to help offset the Association's cost for additional reviews.
- (6) **After-the-fact Fee:** The Modifications Committee may, in its sole discretion, implement a fee equivalent to double the normal fee for after-the-fact application for existing, unapproved modifications or improvements to offset the Association's cost for bringing violations into compliance.

***Note:** The Modifications Committee shall, in its sole discretion, determine the appropriate fee for each application. The above permit processing fees may be revised by the Modifications Committee as deemed necessary. The current fee schedule is available in the Covenant Manager's office.*

Step 4: The General Manager shall review the owner's modification application before sending the application to the Modifications Committee and/or the architect and/or other consultants.

This pre-review will help to establish the scope of the proposed work intended by the owner and assist the homeowner in preparing the proper documents needed to complete a modification request application.

At this pre-review, misunderstandings or misinterpretations of the modification guidelines can be clarified in order for the homeowner to make necessary drawing or document changes before the application is forwarded to the Modifications Committee or the architect and/or other consultants for review. Also, the pre-review will determine if a variance is required for the owner's proposed modification and the proper additional information can be prepared by the homeowner as required. The pre-review will serve to expedite the review process and assists in understanding the homeowner's construction schedule and potential impact on adjacent lots.

Depending upon the complexity, accuracy and adequacy of the plans, **the review process by the MC may take anywhere from 1 to 6 weeks** after receipt of the completed application package. Applications may be disapproved, approved, or approved with changes. If the plans are disapproved, the plans must then be revised to conform to MC design requirements and resubmitted for reconsideration and approval within 120 days to avoid additional application permit processing fees. Oral requests for approval or preliminary approval of proposed work that is subject to these rules and guidelines will not be accepted.

Step 5: To maintain overall control of the appearance of the Waialeale Community, the NCC has the power to overrule decisions of the MC. If the proposed plans/modifications involve precedents, variance, policies or procedures, the MC will forward a copy of the application to and consult with the NCC. If the NCC disapproves or approves with changes, the MC shall be governed by the NCC's decision. The MC may also impose additional conditions if deemed necessary. If the NCC has not responded within 14 calendar days of receipt of an application, it shall be deemed as approved by the NCC. If the MC and NCC approve the application, with or without changes, a WCA permit will be issued by the MC, and the applicant may then obtain any necessary permits or approvals as required by the City & County Building Department. WCA permits are good for 120 days after issue. Each homeowner receiving a permit may coordinate the issuing date of the permit with the office staff to coincide with their construction schedule. If a construction schedule changes, the homeowner may request a delay in issuing the permit to avoid

re-submitting their request and to avoid a second review and permit processing fee. If the application is not approved, it must be revised to conform to MC and/or NCC requirements and resubmitted for reconsideration and approval within 120 days to avoid additional application permit processing fees. Oral requests for approval or preliminary approval of proposed work that is subject to these rules and regulations will not be accepted.

After-the-fact applications for improvements will have, in the sole discretion of the MC, a permit duration of 30 days after issue.

*The fact that an owner has scheduled or started work, arranged financing, entered into a contract for materials or labor, received approval from Neighborhood Association or condominium association boards or City & County agencies having jurisdiction over related permit approvals, or may suffer any alleged hardships, **shall not be a basis for any modifications to the approval process** required by the Modifications Committee under the provisions of the Master Declaration and these Rules and Guidelines.*

Contractors and suppliers may not submit plans, materials, or products for review to the Modifications Committee. Should a contractor or supplier submit an application on behalf of a property owner, the property owner has the sole obligation to submit complete and accurate plans for work to be performed. Only with written permission from the property owner may a WCA permit be released to a contractor or supplier.

IX. RULES AND GUIDELINES

1. SUBSTANTIAL STRUCTURAL ADDITION OR ALTERATION

Substantial structural addition or alteration to the structure or lot which is visible from a street or adjacent property requires approval from the Modifications Committee as to design, color and materials. An addition or alteration shall be deemed substantial when its replacement cost is more than \$500 or if it materially alters the aesthetic appearance of the existing structure/lot.

2. MATERIALS

All materials used for structures shall be termite and fungus free and shall not be used or secondhand. A mix of materials will be approved only if the materials in the proposed use will compliment one another. Non-availability of materials originally proposed for use by an owner is not sufficient justification for substitution of materials that are not acceptable to the Modifications Committee. The use of any materials that vary aesthetically from those on approved plans is not authorized without specific approval by the Modifications Committee.

3. GRADING

The owner shall accept the condition of the Lot "as is" and shall be responsible for the maintenance of the Lot including wind and water erosion control and proper drainage control. All grading, excavation, fill and site work required thereafter shall be done only in accordance with approved drawings and at the expense of the owner. Excavation, footings or drainage areas extending beyond the subject property line will require the written permission of the affected adjacent property owner(s), (See Illustration #1).

Fill material brought to the site shall be free of gray slippery adobe, termites and deleterious matter.

The owner shall obtain, if necessary, a grading permit for cuts and fills as required by the ordinances of the City & County of Honolulu and shall abide by all ordinance requirements.

All graded areas on improved Lots shall be landscaped within the time requirements listed below. Graded areas on unimproved Lots must be kept free of noxious weeds or vegetation and maintained by the owner in good and clean condition in such manner as not to create a fire, safety or health hazard. No accumulated waste plant materials are permitted on such Lots. If necessary, owners of unimproved Lots may be required to plant a non-noxious ground cover to control erosion or water drainage to adjacent Lots or common areas of the Association after that date. Surface runoff shall be dispersed or channeled in such a manner as to prevent erosion damage and/or excessive water and soil flow through adjacent Lots.

a. Excavation

Whenever an owner excavates within his Lot, it shall be done in such a manner as not to adversely affect the drainage of adjacent properties.

Whenever excavation creates an unstable or potentially unstable bank condition, the owner shall take appropriate action to control and retain said embankment. Excavation that creates a high and unsightly retaining wall may be disapproved.

b. Fill

Whenever an owner seeks to fill his Lot, it shall be done so as not to adversely affect adjoining properties. Whenever fill creates an unstable or potentially unstable bank condition, the owner shall take appropriate action to control and retain said embankment. Fill which creates an extremely high and unsightly retaining wall may be disapproved.

Further, should fill or excavation cause destruction of existing drainage swales or natural drainage patterns, it shall be the owner's responsibility to restore said swales and drainage patterns or to otherwise provide for adequate drainage which does not adversely affect adjoining Lots.

4. SETBACKS

For standard interior lots, the minimum building setback from the front and rear property line shall be ten feet (10'), and five feet (5') for the side yards. Lots adjacent to the golf course have an additional five foot setback in the rear yards so that the minimum building setback from the rear property line shall be fifteen feet (15') for the rear yard. For the purposes of applying setback guidelines to typical corner lots, the minimum building setback from property line shall be ten feet (10') from property lines adjacent to streets and five feet (5') from property lines adjacent to other properties. The application of minimum building setbacks for non-typical lots may vary (e.g., corner lots adjacent to the golf course, flag lots, zero-line lots, etc.) and will be reviewed on a case-by-case basis by the MC or NCC.

5. LANDSCAPING

For landscaping 25% or less of yard space, homeowners do not need to gain Modification Committee approval.

Guidelines for planting trees within residential lots are attached as Table I (p 24). Table II provides examples of recommended plant material (p 25). All landscaped areas will be maintained in a neat, attractive, green, and healthy condition. What constitutes "completed landscaping" shall be determined by the Modifications Committee, but as a minimum, grading, weeding (removal of all noxious weeds and vegetation), soil preparation, finished seeding or planting of a suitable ground cover, and the planting or emplacement of plant and non-plant landscaping materials to a sufficient degree that the majority of the committee members agree that the area or Lot in question is a "completed landscape" rather than primarily "red dirt and weeds" will determine whether the landscaping requirements of these Rules and Guidelines have been met. Artificial grass will be considered on a case-by-case basis.

In the event that the NCC or MC has approved landscaping plans that incorporate major improvements such as: extensive grading or excavation work, or the installation of retaining walls and/or fences, or the incorporation of driveways, walkways, or patios which are visible from the street, it may grant an extension for the landscaping requirement beyond the expiration date of the applicable permit of not more than six months. The General Manager or the Covenant Enforcement Committee may also extend these requirements if the owner makes a substantial and significant effort to complete the landscaping in a timely manner. "Substantial and significant effort" will be determined by the good judgment of the General Manager and/or a majority of the members of the Modifications Committee.

Any portion of a Lot visible to the street, neighboring or adjacent properties will be maintained in a good and clean condition. Owners of properties with an electrical transformer or switch gear boxes are responsible for ensuring that the transformer or switch gear box area is kept in a good and clean condition. What constitutes a "good and clean condition" as it pertains to the maintenance of completed landscaping on any Lot shall be determined by the reasonable judgment of the General Manager and/or a majority of the members of the Modifications Committee.

Vegetable gardens are not acceptable as landscaping for yard areas which are visible from any street. Nor are vegetable gardens acceptable as landscaping for planting strips located along any street.

When gravel of any type (crushed blue rock, lava rock, red rock, coral rock, etc.) is used in a landscape, it may be used only as an accent in combination with assorted approved plant materials. In accordance with the Waialeale Design Philosophy, gravel may not be used as a replacement material for lawns. All gravel installed after the development of the home may not exceed 25% of any lawn area which remains **AFTER the footprint of the structure, driveway, and original concrete installed by the developer (i.e. walkways and slabs) are subtracted from the total lot area. Except for a three (3) foot path of gravel around the structure for termite protection, all gravel must be proposed on a landscape plan, applied for and approved prior to installation.**

Trees with aggressive root systems, but not limited to the following, that have large or high canopies or large quantities of leaves or fruit, such as Monkey Pod, Banyan, Autograph Tree, Breadfruit, Litchi and Mango, shall not be planted. Poisonous plants, such as Bestille and Oleander, are not permitted. Fruit trees, including Avocado, Banana, Citrus and Papaya, shall be permitted only in rear yards. Trees and shrubs taller than six feet (6') shall not create safety, trash or maintenance problems in adjoining properties.

The rules and guidelines seek to preserve the character of the community, ensure harmonious aesthetic relationships between buildings and sites and maintain high landscape standards throughout the neighborhoods.

Therefore, plants that are left permanently in cheap nursery plastic pots are not allowed because they detract from the higher quality ambiance of the Waialeale neighborhoods; they give a temporary and sloppy appearance to the landscaping schemes around homes. Owners should either put plants in the ground or upgrade surface pots to better quality containers such as clay, concrete, wooden, brass or other metals (non reflective), high quality plastic pots or other decorative materials. In this way, a look of permanence is achieved.

A reasonable number of potted plants will be allowed for landscaping purposes. More than twenty five (25) such plants will require formal approval of a landscape site plan showing plant placement submitted under the provisions of these Rules and Guidelines.

Poly Dividers (Used for edging between different landscape treatments i.e. grass, gravel, wood, chips, ground cover, etc.) are acceptable as an edging in yards if they are of sufficient size and rigidity and if they are installed properly.

Materials: Heavy duty poly (landscaper's quality) with ¾" 'bulb' and 4" height should be used. (i.e. Suncoast Mfrs.)

Lightweight/thin gauge poly edging will not hold a straight line or a uniform curve and will instead give a wavy, sloppy appearance.

Installation Poly dividers should not be driven into the ground with a hammer. Proper installation requires that a small trench be dug; the divider is then placed so that the 'bulb' is at grade. Align the divider properly, then backfill on both sides.

Trees - No trees planted by the Declarant shall be removed or cut down without the prior approval of the NCC or MC, as appropriate. Master Declaration, Section 10.01(I). An "Application for Approval of Modifications, Additions or Improvements" form is available and must be submitted to the Association office to request this approval.

The following rules adopted by the Director of Parks and Recreation of the City & County of Honolulu by authority of Ordinance 3738 adopted June 2, 1971, apply to all streets owned by the City & County within the WCA area of responsibility.

- (1) It shall be unlawful for any person to prune or remove trees growing in the planting strip, without first obtaining a permit from the Director, provided, however, that in emergencies, the Traffic Engineer of the City & County of Honolulu may, at their discretion, remove trees.**
- (2) It shall be unlawful for any person to plant trees in the planting strip without first obtaining a street tree planting permit from the Director. When an excavation permit is required by the Department of Public Works prior to the planting of a tree, the applicant shall obtain said permit prior to his application to the Department for a street tree planting permit.**
- (3) It shall be unlawful for any person to injure or destroy trees in the planting strip in any manner or by any means, including but not limited to:**
 - (a) Constructing concrete, asphalt, brick or gravel sidewalk or otherwise filling in the ground area around any tree so as to shut off the air or water from the roots.**
 - (b) Piling building materials, equipment or other substance around any tree so as to cause injury.**
 - (c) Pouring any deleterious or poisonous matter on or around any tree, or on the ground, sidewalk or lawn.**
 - (d) Posting any sign, advertisement, or notice on any tree, tree stakes or guard or fastening any guy wire, cable, or rope to any tree, tree stake, or guard, provided, however, that under supervision of the Director, warning, traffic and official notices may be temporarily installed or placed on tree trunks.**
 - (e) Damaging any tree stake, or guard with a vehicle or animal, or in any other manner causing injury to any tree.**

6. NAME PLATES & HOUSE NUMBERS

All residences must have easily readable house numbers affixed to the dwelling or, in the case of single family units, on the mailbox. Name plate restrictions are covered under "SIGNS" in Paragraph 35 of these rules and guidelines.

7. UTILITIES SERVICE

All residential utility, electric, telephone, and TV cable service lines shall be underground.

8. SANITARY WATER PIPING

All piping shall be concealed.

9. GROUND TERMITE TREATMENT

Soil under all concrete slabs on grade and under all building floors, whether on grade or over air space, and all footings and masonry foundation walls shall be treated against subterranean termites. All termite treatment work shall be performed by a properly licensed and qualified pest control operator.

10. WALLS, FENCES, AND GATES

Regarding **gate designs**, *simplicity* is the key. This rules out excessive scroll work. There is no scroll work on the houses in the Waikele community. So, geometric designs that reflect the architecture are more acceptable than fussy scroll work. Metal spires are likewise uncalled for as they relate to nothing within the community.

A curved top rail is acceptable if it is simple and clean. Avoid designs that are so complicated and cluttered that they detract from the simple and pleasing architectural design of the homes. Therefore, the clean, vertical and horizontal lines should be more pronounced than the decorative elements.

Design - No Gingerbread-Style - The ultra fancy filigree does NOT relate to anything on the house or in the neighborhood and is, therefore, out of place.

a. Front Yard Fences, Walls and Gates

No fences, walls and gates shall be permitted within the 10' front yard setback. Only by variance may walls and fences be constructed within the 10' front yard setback. They will be reviewed and approved on a case-by-case basis. Fences and walls not more than 3' high may be located from the front face of the building up to the 10' front yard setback line. Gates may exceed the 3' limit. Shrub plantings approximately one-half the height of the fence or wall are encouraged on the street side of the fence or wall.

Overly decorative walls, fences and gates containing banisters, balustrades, squiggles or any decorative concrete or iron artwork such as balls, spheres, spires, circles or ornamental features are strictly prohibited.

b. Side Yard Fences and Walls

Side yards are encouraged to be used as outdoor living areas. To increase the visual size of the side yard, property line fences and walls shall only be utilized where required for privacy or security. Side yard fences and walls shall be limited to 6' in height from the rear property line to the front face of the building and to a maximum of three feet (3') in height from the front face of the building to within 10' of the front property line.

c. Rear Yard Fences and Walls

Rear yard property line fences and walls are generally permitted to a height of 6' on Lots which do not abut the golf course. Perimeter lots adjacent to a project wall/fence must drop in height not to exceed project fence from a distance of ten feet (10') from the rear property line.

d. Combination Fences and Walls

Where fences are used in combination with walls, the 6' maximum height shall apply to the wall and fence combination (See Illustration #1). When an owner elects to construct a retaining wall and a separate fence, the fence shall be constructed at least 4' from the retaining wall. The area between the fence and wall shall be maintained with approved landscape material (See Illustration #2).

e. Retaining Walls at Adjacent Properties (Rear Yards)

Homeowners with sloping grades within their lots may make these areas usable by installing retaining walls, provided that the walls do not exceed the allowable height for the location of the wall according to Sections 10a through 10c of the Waikele Community Association Modification Committee Rules and Guidelines.

Where the grade differential exceeds the allowable height of wall terracing of retaining walls may be required to stay within the maximum allowable wall height. The terraced area must be at least 4' wide and maintained with approved landscape material (See Illustration #3).

A homeowner on an upper adjoining parcel also may construct a fence at his property line not to exceed the height in Sections 10a through 10c of these guidelines.

It is the owner's responsibility to ensure that all walls are designed and constructed using sound engineering principles.

The owner must also obtain all required approvals, including adjacent property owner approvals, if construction activities will cross the property line. A copy of this material (building permits, approvals, etc.) must be on file with the Waikele Community Association.

f. Side by Side Walls/Fences

Walls or fences will be evaluated on a case-by-case basis if they are to be constructed parallel with adjacent walls or fences.

Homeowners who decide to build separate property line walls/fences instead of developing a common property line wall/fence will agree to jointly maintain the area between any two walls/fences.

g. Party Walls and Fences - Joint Ownership and Maintenance Agreement

Whenever two adjacent owners desire to jointly construct a fence or a wall along and over the property line, it is required that a joint ownership and maintenance agreement incorporating the provisions of Section 4.05 of the Master Declaration be signed and recorded in the Bureau of Conveyances and/or filed in the Office of the Assistant Registrar of the Land Court (See Illustration #4) or as clearly stipulated by changes in State laws regarding encroachment.

h. Walls / Fences Along The Golf Course

To preserve the sense of openness along the golf course, fences or walls shall not be permitted within 15' of the golf course. Garden retaining walls up to 30" in height are permitted within the rear setback of Lots abutting the golf course, depending upon design variances for specific neighborhoods. See 'Acceptable Variances, paragraph 6 'Neighborhood Specific Requirements'. Fences up to 6' in height are permitted between the rear face of the building and up to the fifteen foot (15') golf course setback, provided that such walls/fences shall be at least 60% open.

i. Special Conditions for Corner Lots

Both yards that are adjacent to roadways are subject to the same requirements as the front yard of an "interior" lot. Therefore, corner lots not adjacent to the golf course have two (2) front yards and two (2) side yards.

j. Materials and Design

Replacement fences and walls must be of the same design and materials as utilized in the initial construction of the project and compatible with the perimeter walls and fences for the project. The use of multiple materials within one design is discouraged. Designs utilizing mixed materials will be considered on a case-by-case basis. Chain link fencing shall not be permitted.

All material, design, and colors for new fence and wall construction will be reviewed on a case-by-case basis.

Unfinished concrete masonry unit (CMU) is not an acceptable wall material. All CMU must have all grout lines filled and all exposed surfaces finished with stucco, a heavy body (textured) paint in a color tone compatible with the paint of the house, or finished with rock veneer. Split-face hollow tile is acceptable as a final finish where allowed unless otherwise prohibited by individual project CC&Rs or sub-association rules. Owners with existing, previously-approved unfinished CMU walls will be encouraged to finish their wall(s) with an acceptable finish.

k. Good Side Out

Whenever a fence or a wall by nature of its construction and materials has a "good side", said good side shall face outward from the property towards the adjacent property, adjacent street, etc. The unfinished side, if any, which exposes framing, support materials, bracing, etc., shall face inward to the property and may, at the option of the owner, be finished with an approved material.

l. Access to Adjacent Properties

Where access is required to an adjacent property for the construction of walls/fences (or any other reason), written permission must be obtained from the owner of the adjacent property prior to accessing the adjacent property (See Illustration #1).

m. Gate Designs

Gate designs must be simple and uncomplicated while complimentary to the architecture of the dwelling. All gates must be applied for and approved prior to installation. Designs which incorporate excessive scroll work, spires, filigree or overly decorative elements will generally be disapproved. See illustration #6 for acceptable typical gate design.

n. Rubbish and Trash Cans

When designing walls, fences and gates, take into consideration the placement of the rubbish can after construction. Consider building an enclosure with easy access for removal and replacement of rubbish

cans. City & County rubbish cans are larger than the average rubbish can and may require a taller and larger space to adequately conceal them. When selecting gates, be aware that wrought iron or open metal gates do not adequately conceal rubbish cans from view. Alternate methods of storing rubbish cans may be planned and require approval prior to installation.

11. PARKING REQUIREMENTS

Whenever it is desired to enclose an existing garage or carport and convert its use to another purpose, provisions must be made to construct covered parking elsewhere on the Lot connected to the main dwelling.

Parking is strictly prohibited on any surface other than a driveway or street. Parking on grass exposes all homeowners/tenants to parking citations and fines as well as any liability arising out of damage to any common area or landscape easement.

Second driveways and garages for residences will be considered on a case-by-case basis. If approved, second driveways will normally lead to a second garage or be incorporated with suitable gates, walls, and fences of sufficient size and design as to be capable of screening trucks larger than one ton from view from an adjoining street as required by Section 9.03(h) of the Master Declaration.

12. MAINTENANCE OF PUBLIC AREAS DURING CONSTRUCTION

Owners shall keep all public areas clean during periods of construction. Materials shall not be stored so as to block or partially block public access areas. Once the residence has been completed, no construction materials or equipment may be stored in any area visible from adjoining streets.

13. ADDITIONS AND ENCLOSURES

In general, additions and enclosures shall have matching materials, details, colors, and be in appropriate scale to the existing dwelling. Further, the architectural theme and general quality of the existing dwelling shall be maintained. Variances will be considered only to the extent of their conformance to these guidelines.

a. Rooms

Wherever a room is added (including lanais), exterior siding, window and door details shall match the original or existing structure.

b. Concrete Slabs, Walkways and Driveway

When reviewing a plan for a concrete slab, the Modifications Committee shall consider the potential covering or enclosing of such slab to determine if such addition can be made without compromising the exterior appearance of the dwelling.

Concrete work such as walkways will be approved provided that slabs and walkways leave adequate room for landscaping within the property. As concrete is an inert material, concrete may only be used on 25% of any lawn area which remains **AFTER the footprint of the structure, driveway, and original concrete installed by the developer (i.e. walkways and slabs) are subtracted from the total lot area.**

The maximum width of any concrete walkway along the side and/or rear yards will be 5'0" providing there is a 2'0" planting strip along the property line. **Concrete from the house to the property line is not allowed. Driveways may be widened to a maximum of five (5) feet in any combination to either side (e.g., 5' left 0' right; 2.5' either side; etc.).** Termite treatment by a licensed exterminator is required under all concrete work.

c. Roofs

New roofs must conform in design and materials to the existing structures within each neighborhood. Connections between existing roofs and new roof additions must preserve the overall form and architectural style of the dwelling. Mansard and gambrel roof forms shall not be permitted. Acceptable roof materials are concrete tile, textured asphalt or fiberglass shingles, and cedar shakes and shingles. Metal roofing, composition roll roofing, untextured asphalt shingles, and built-up roofing on pitched roofs shall not be permitted.

d. Awnings

Permanent awnings will not be approved by the MC. Installations of retractable awnings will be reviewed on a case-by-case basis.

e. Enclosed Lanais

See Sub-paragraph 13.a (above).

f. **Adding a Second Story to an Existing One-Story House**

Single story residences not designed for a second-story addition generally encounter architectural and structural problems that are difficult to overcome. Detailed review by the Modifications Committee will be required to determine issues of open space, view planes, roof line and architectural compatibility with existing homes in the same neighborhood, architectural compatibility with the existing dwelling, and other considerations.

In general, Waikele shall be a developer-designed and built community where roof lines along a given street are planned by an architectural team to maximize open spaces and view planes available to each individual Lot and to neighboring Lots. Individual models for each area will be selected to harmonize the architectural "look" among adjacent dwellings while allowing for some variation between neighboring units. Vertical additions which vary roof lines abruptly along streets are likely to disrupt the desired look of the community, and the Modifications Committee is not inclined to allow vertical additions unless the proposed changes clearly do not markedly detract from the architectural standards of any given street and unless open spaces, view planes, and the "balance" between adjacent units is not degraded. Proposed changes must be architecturally compatible with both the existing structure and neighboring dwellings.

g. **Garage Doors**

Garage doors with designs and materials compatible with these rules and guidelines may be approved by the Modifications Committee. Doors with exposed exterior metal surfaces will not be approved. Steel doors are acceptable provided that exterior surfaces resemble other approved garage doors or provided that they are painted with approved colors that match the primary dwelling.

14. **SIDING, VENEER AND FACADES**

Certain vinyl sidings may be approved by the Modifications Committee on a case-by-case basis. Owners desiring to apply exterior siding must apply to the Modifications Committee for approval. White or off-white exterior siding will not be approved. Applications must include color samples that adhere to the WCA approved color chart.

Veneers such as sandstone, lava rock, brick, etc., are not generally appropriate to the basic design of Waikele homes; but they may be approved on an individual basis if their use is compatible with the architectural and landscaping design of a given Lot and do not detract from architectural standards of adjacent properties.

Facades: The partial application of sidings or veneers to one area of a dwelling usually result in a "stage set" appearance that is generally unacceptable; such proposals will be considered on a case-by-case basis under the same criteria as for veneers.

15. **PAINTING**

The Modifications Committee requires that exterior paint on all homes in Waikele must be kept in good condition at all times. Signs of deterioration include but are not limited to: **peeling, heavily stained with red dirt, visible black mold, fading or chalkiness of exterior coating etc.** The Waikele Community Association recommends repainting your home every seven (7) to ten (10) years to help maintain Waikele's aesthetic appeal as well as protect your home from the elements.

Approval is required for ALL painting other than routine maintenance and touchup (less than 10% of the surface), including repainting with an existing original color. Color samples must be provided with the application in order to assure a good match with the original colors. These samples must be of an adequate size and quality to accurately determine an acceptable match. Small paint samples frequently do not match the color produced by the manufacturers and large areas of solid color often convey an impact that is not readily determined from small swatches. Responsibility for precisely matching the color samples provided to the Modifications Committee ultimately rests with the owner. **"Close to" an approved color on the WCA list of acceptable colors is not enough.** Owners are cautioned not to accept a too-light tint which approaches white from paint providers after selecting one of the lighter "earth tones" from the beige color spectrum, nor should they accept paints which drift toward an unacceptable blue tint after selecting colors from among the gray hues.

Paint color should be non-reflective, flat to semi-gloss natural tones. Strong and/or bright colors, whites and very light or highly reflective colors will not be approved as primary house colors unless specifically approved as part of the original color palette for the project in question. The use of transparent or semitransparent house stains will be considered on individual merit under these rules and guidelines. A sample of the stain on the actual material to be used must be provided.

Color paint schemes (for single family communities) are located at the WCA office (color sample MUST match WCA books). Repainting with an existing color is specifically NOT authorized in instances where previous owners painted with an unapproved color or where approval of a color not on the WCA color list was due to administrative error. Routine maintenance and touch-up painting (less than 10% of the residence) usually does not require prior approval. For the purposes of this exception, however, all colors must have been formally approved by the Modifications Committee or the General Manager, in writing. In all cases, the responsibility for verifying that an approved WCA paint application is on file in the WCA General Manager's Office rests with the owner of the Lot on which any painting is performed. Repainting the entire house using the touchup 10% rule is strictly prohibited. NOTE: Tropics at Waikele residents may obtain color schemes from their sub-association Board or designated property manager.

Note: Pre-approved vendor application process – An expedited process is available to homeowners who elect to obtain paint from our pre-approved vendor. Paint codes from our pre-approved vendor have been reviewed and granted a blanket approval by the Modifications Committee. Owners wishing to utilize the pre-approved vendor paints must complete and return to the WCA office a Pre-Approved Permit for Exterior Repainting application. A permit will be immediately issued to the homeowner upon receipt of the application.

a. Changes of Color

Owners must obtain written approval whenever repainting involves changes in color. Only colors within the range of colors originally specified for the project will be accepted. Acceptable color schemes are available at the WCA office. Owners must ensure that their selected color scheme does not match that of immediate neighboring properties.

b. New Additions - Paint to Match

Whenever, as a condition of approval, a new addition or enclosure is required to match the existing structure, the owner will be required to carry the new paint to a natural breaking point in the building such as a corner or a change of materials, etc., in order to blend with the existing structure.

The term "paint to match" when applied to solid walls or additions or enclosures for the purposes of these rules and guidelines is defined as matching the wall color of the primary dwelling. Matching an accent or tint color using "complementary" colors does not satisfy the requirement to "paint to match." If the owner wishes to use any other color than a previously-approved primary wall color for walls, additions, enclosures, etc., formal application for approval by the Modifications Committee is required.

c. Painting Without a Permit

In all instances where painting or repainting is performed on any structure without the required WCA Modifications Committee approval on file, complete with color samples, the owner will be assessed a fine in accordance with the Waikele Rules, shall apply for approval as set forth above, and may be required to repaint if such approval is not granted. This rule includes repainting the entire house using the 10% touchup rule.

16. VISIBILITY FROM NEIGHBORING PROPERTY OR STREET

The Committee considers visual impact of all proposals which are visible from neighboring properties and streets, as defined in Section VII of these Rules and Guidelines.

a. Multi-Family Lanais

A lanai or patio is intended for outdoor living and use. Outdoor furniture (furniture design exclusively for outdoor use) and barbeques (only if approved by the governing board of directors) may be placed on lanais. Bicycles and baby carriages are allowed provided that they are not stored in boxes or under tarps, a moderate amount of weight lifting equipment is allowed, and plants are highly encouraged. Storage cabinets must be approved by the multi-family Board of Directors or Design Committee and must not block any window or door and may not be placed against any railing. Approved storage cabinets may not be placed against project fences so that they protrude above the height of the fence. Storage of boxes, coolers, tools, sports equipment, appliances of any kind, rubbish cans and bags are strictly prohibited.

b. Single-Family Lanais

Open lanais, patios, and decks are also intended for outdoor use. The rules concerning lanais (as stated above) also apply to single-family dwellings. Storage (as defined in section VI. Definitions page 5) is strictly prohibited.

17. SCREEN DOORS

The Modifications Committee may approve screen doors and security doors, provided they are finished in such a way as to match the siding or trim and are kept in good repair. All screen doors will be reviewed closely. Doors with exposed reflective material shall not be approved.

18. BASKETBALL BACKBOARDS, HOOPS AND TOYS

Basketball backboards and hoops must be maintained in good and neat condition. Only new materials may be used for construction and must be adequately maintained. Support structures must be painted to blend with adjacent materials. Permanently installed backboards and hoops must be approved by MC and will be considered on a case-by-case basis.

All portable basketball units must be stored wholly on the homeowner's Lot and may not protrude onto any sidewalk, common driveway, or street area when not in active use.

Generally, toys are allowed without any prior approvals. Toys in any quantity should be kept in a neat and orderly condition so as not to become an eyesore. Homeowners or tenants with toys that appear piled up or cluttered in yards or on lanais will be notified to keep the toys in a neat and orderly condition when not in use.

19. SWIMMING POOLS

Swimming pools may only be constructed in backyards. When there is no backyard, a swimming pool may be constructed in the side yard. The setbacks detailed in the Waialeale Residential Design Handbook shall be observed.

a. Pools Above Grade

Swimming pools constructed above grade (on the ground) may be permitted provided they are not readily visible from a street or neighboring properties.

b. Pools Below Grade

Swimming pools constructed below grade visible from the street will generally be approved provided that the owner complies with these rules and guidelines pertaining to grading, walkways, noise, drainage, etc.

c. Fences and Walls

All applications for approval to construct a swimming pool must include an application to construct a fence around the pool according to the "Fences and Walls" section of these guidelines and with City & County ordinances and regulations.

d. Filter Noise

Applicants for swimming pools must submit details of abatement of filter and skimmer noise. The pump and the filter and skimmer units shall be adequately soundproofed and the pool used in such a manner as to prevent a nuisance to adjacent property occupants. Should undue noise result from the operation of the pool, the owner will, at the General Manager's request, take immediate steps to curtail the noise by changing operating methods, providing added soundproofing, etc. Should this not be possible, the owner will close the pool until the noise can be abated. Notwithstanding the Modifications Committee's right to approve and require adjustment to the filtering unit, the owner shall bear full responsibility and shall hold the Association harmless against any and all claims arising from the maintenance and operations of the swimming pool and equipment.

e. Disposal of Excavation Material

See Paragraph 33, below: "DISPOSAL OF CONSTRUCTION WASTE AND DEBRIS."

f. Outdoor Jacuzzis, Whirlpool Baths, and Hot Tubs

Outdoor Jacuzzis™, whirlpool baths, and hot tubs are subject to the rules and guidelines (above) for swimming pools. Covers specifically manufactured to cover these items are approved for use provided the color ties in with the overall architectural scheme of the house. **Blue tarps or covers similar to blue tarps are strictly prohibited.**

Filter Noise: The rules for swimming pool filter noise also apply to Jacuzzi filter equipment.

20. LIGHTING

Refer to Paragraph 27, "EXTERIOR LIGHTING". In addition, the Modifications Committee will approve appropriate underwater lighting in those instances where the light source is not visible from adjacent properties. Literature or drawings for proposed lighting must accompany the application.

21. BUILT-IN BARBEQUES

Permanent barbecues and barbecue pits that are visible from the street or adjoining property will be considered on individual merit. Covers specifically manufactured to cover built-in or portable barbecues are approved for use provided the color ties in with the overall architectural scheme of the house. **Blue tarps or covers similar to blue tarps are strictly prohibited.**

22. PREFABRICATED STRUCTURES (PLAY HOUSES, DOG HOUSES, GAZEBO, STORAGE AND TOOL SHEDS)

Prefabricated structures that are visible from a street or adjoining property require review/approval and will be considered on individual merit. The applicable setbacks for the house shall apply to these and other structures on the lot. All such structures must be painted to match the color of the house unless of a prefabricated variety provided that the color is compatible with the existing dwelling and features. Literature or photographs must accompany requests for prefabricated storage sheds. Chain link fencing is strictly prohibited for any use including those covered in this section.

Playhouses will be considered on individual merit. Substantial sized playhouses may not exceed the roof height of the existing dwelling and must be painted to match the color scheme of the house. All materials (siding, roofing, etc.) must match the existing dwelling. All building setbacks apply.

23. ROOF VENTS AND CHIMNEYS

The adverse appearance of roof vents shall be minimized to the extent possible by installation below ridge lines and in those portions of the roof not facing a street. Fireplace chimneys shall comply with all governmental codes and regulations and shall be approved on a case-by-case basis. Reflective materials used in vents and chimneys shall be subdued with flat, non-reflective black paint (or prevalent dark color).

24. “GINGERBREAD” STYLE DECORATIONS AND TRIM

Scallops, shutters, decorative metal or wood trimmings, lattice and other such “gingerbread” decorations shall be disapproved unless they blend with the architecture of the dwelling, do not present a “tacked on” appearance, and are not inconsistent with the intent and purpose of these Rules and Guidelines as determined by the Modifications Committee. Lattice and ornate decorations will generally not be approved.

25. GUTTERS AND DOWNSPOUTS

Gutters and downspouts will be approved if they are designed to conform to the drainage plans shown in the original construction drawings or with later drainage plans approved by the Modifications Committee. Gutters and downspouts must be non-reflective and match the surfaces to which they are attached or the trim of the house. Copper gutters and downspouts need not be painted, provided that the natural color compliments the color scheme of the dwelling as determined by the MC. Downspouts must be located so as to discharge the runoff entirely within the applicant's property. The proposed location of the downspouts should be clearly indicated on the plot plan submitted with the “WCA Application for Approval of Modifications, Additions, or Improvements” form.

26. ANTENNAS AND SATELLITE DISHES

Antenna Installation for devices exempt from FCC Rules:

Antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, Digital Audio Radio Services (“DARS”), antennas used as part of a hub to relay signals among multiple locations, or antennas not covered by Federal Communications Commission (FCC) adopted rules for Over-the-Air Reception Devices (“OTARD” rules) require Modifications Committee approval and must be applied for.

Antenna Installation Affected by the FCC Rule:

These guidelines for the installation of antennas and satellite dishes are adopted by the Waialeale Community Association Modification Committee in conformance with the rules of the Federal Communications Commission (47 C.F.R. Part 1, subpart S 1.4000 et seq.)[“FCC Rule”] governing installation of direct broadcast satellite antennas (formerly referred to as multichannel multi-point distribution services), and television broadcast stations.

- a. WCA approval is not required for the installation of an antenna or satellite dish covered under the FCC adopted rules for OTARD; however, a written notice must be submitted to the WCA within (7) days after the device has been installed.

- b. Following receipt of the notice, the Waikele Community Association may inform the owner in writing that either:
- 1) The installation meets the requirements of these rules; or
 - 2) That the Waikele Community Association reserves the right to seek a determination on whether the installation meets the requirements of these rules.

An owner's failure to give notice shall preclude the grandfathering of any installation and shall permit the Waikele Community Association to take action against that owner, or the owner's successor in title, at any time in the future if the installation is deemed to violate these rules.

ANY AND ALL BORADCAST ANTENNAS (AS DEFINED ABOVE) SHALL CONTINUE TO BE SUBJECT TO THE FOLLOWING RESTRICTIONS:

- a. A mast, antenna or satellite dish may only be installed on property which is within the exclusive use or control of the user where the user has a direct or indirect ownership interest in the property. Installation in other areas is not permitted.
- b. No mast, antenna, or satellite dish shall exceed one meter in diameter. Devices affected by the FCC rules are subject to current FCC regulations.
- c. All satellite dishes and antennas shall be installed in a location which is not visible from the street or an adjoining property unless doing so would impair reception of an acceptable signal. For example, if (1) a satellite dish can be placed in the front yard or the back yard and still receive an acceptable signal; and (2) the satellite dish is visible from the street in the front yard but not in the back yard, the satellite dish must be placed in the back yard.
- d. At the request of the Waikele Community Association, an owner who installs a satellite dish or antenna which is visible from the street or an adjoining property may be required to provide a certification from a qualified person that:
 - 1) the location of the dish is the only location from which the owner can receive an acceptable quality signal; and
 - 2) that it is not possible to receive an acceptable quality signal if the dish or antenna is installed in a location which is not visible from the street or the adjoining property.
- e. Any antenna which is installed in such a way as to be visible from the street or an adjoining property shall be painted to match the color of the trim on the structure to which it is attached.
- f. The Waikele Community Association will require an owner to obtain a permit for the following:
 - 1) A mast for a satellite dish or antenna which will extend more than 12 feet above the roof line of a property on which the mast is erected.
 - 2) A structure, including an antenna, satellite dish or mast which, when erected, will be nearer to the lot line than the total height of the structure above the ground or roof line where it is located. (In other words, a permit will be required if the structure is too tall that, if it falls, at least part of it will fall outside the property's lot line.)
- g. Any mast for an antenna or satellite dish must be properly and adequately guyed to prevent any risk of harm from the structure falling. An owner who installs a mast, antenna or satellite dish shall be completely responsible for any damages caused by the structure. The Waikele Community Association may request written certification from an engineer or other qualified person that any mast is properly installed and guyed.
- h. No mast, antenna or satellite dish shall be installed in such a way that it may come into contact with any power lines or other electrical power sources.
- i. No mast, antenna or satellite dish may be installed in such a way that it obstructs the view or access of any drivers of vehicles entering or leaving an owner's lot, any adjoining lots or any intersections of the street.

27. EXTERIOR LIGHTING

Exterior lighting is allowed provided that bare bulbs (incandescent or fluorescent) be covered in such a way as to diffuse the light source from neighboring property, that no glare is created which would unreasonably disturb adjoining property owners or occupants, that all wiring or conduit be painted to match the surface to which it is attached, and, in particular, for the following types of lighting:

Garden Lights - Low voltage, low-to-the-ground lighting may be installed for landscaping/garden accents.

Security Lights - Any security light, including motion-sensitive lighting, must be of residential grade

(not industrial or commercial) and must match the color of the house or trim.

Fluorescent Lighting - These fixtures must have an apron around the outside of the light which matches the surface to which it is attached and must block the light/glare to neighboring properties and must restrict the light source to the property of the applying homeowner. All related wiring must be furred or hidden from view and colors must match the house or trim.

28. SPRINKLER SYSTEMS

As a part of good landscape maintenance, owners are encouraged to water lawns on a regular basis. Installation of in-ground sprinkler systems must have prior Modifications Committee approval. Homeowners must show location of sprinkler heads, tie-in to the potable water supply and the drainage pattern relative to the plot plan.

29. HOUSE DECORATIONS

Temporary holiday or special event decorations are exempted and need not be submitted for approval provided that they are installed no sooner than thirty (30) days before the holiday or event and are removed no later than fifteen (15) days after the holiday or event.

30. PARTY TENTS AND TEMPORARY STRUCTURES

Party tents, tarps and temporary structures such as lean-tos, luau enclosures, etc., may be erected without Modifications Committee approval, provided that the owner shall not continue to use the structure beyond the special event for which it is planned and shall expeditiously remove the tent or temporary structure after its use. Placement of any such structure on any Lot for any purpose longer than four (4) days requires application and approval. **Blue tarps may not be used for temporary structures.** No application/review fee will be charged for such requests.

31. WINDOW TREATMENTS

All window treatments such as draperies, blinds, louvers, curtains, stained glass and other similar shading devices used on the interior and exterior of windows and doors are subject to an ongoing aesthetic evaluation by Waialeale Community Association. While a formal, written application is not necessary, acceptable window/door treatment materials are all materials specifically intended for use as window/door coverings. Examples of materials not acceptable are all reflective materials (foil), newspapers, posters, cardboard of any kind, pictures, blankets, bed sheets, towels, plastic film, tarpaulins and paint.

It is each homeowner's responsibility to maintain any acceptable window/door treatment in good appearance condition due to the high visibility from the street and neighboring properties. Any window/door treatment exhibiting rips, tears, heavy discoloration, or otherwise unkempt in appearance is subject to a Waialeale Community Association request for removal and/or repair.

Windows may not be removed and left 'glassless' in any house or garage for any reason. All missing window material must be replaced immediately with original design material.

a. Golf Course Windows

At lots fronting the golf course, the Modifications Committee has considered applications for exterior window screens as a preventive measure to the breakage problems associated with errant golf balls. Each application will be reviewed on an individual basis for matching design and colors. It is the applicant's sole responsibility to ensure the design and installation of such window screens meet existing building code requirements for emergency exits and ventilation.

d. Stained Glass

All stained glass must be applied for and will be reviewed on a case-by-case basis.

c. Garage Door Windows

For privacy and security, opaque (solid black) tint film may be applied to garage door windows. Standard window tints may also be applied to minimize sun exposure. All tints must be applied for and approved prior to installation.

d. Security Bars

Security bars for windows and doors will be considered by the MC on a case-by-case basis.

32. DROP BLINDS

Drop blinds for lanais and balconies may be used provided they meet the following criteria:

- a. The color will match the house/unit color, trim color or compliment the building and fit the aperture(s)

into which they are installed. No garish or "loud" colors shall be used.

- b. Blinds shall be maintained in good condition at all times.
- c. Blinds shall be rolled and/or adequately tied down during periods of high winds to avoid slapping and banging, causing annoyance to adjacent residents.
- d. Blinds for multi-family townhouse and condominium projects shall be of a single, standard design approved by the board of directors of each project and such number, class or percentage of owners as may be required by the project documents and/or any applicable statute, ordinance, rule or regulation.
- e. Dual blinds (fitting the aperture) must be of the exact same color and design. Both drop blinds must be stored in the closed position when not in use. When lowered, both blinds must be firmly tied at the exact same height. Differing heights are not acceptable.
- f. Mini blinds intended for interior use are not acceptable. Only blinds designed and intended for exterior use are acceptable.

33. DISPOSAL OF CONSTRUCTION WASTE AND DEBRIS

Each owner shall be responsible for promptly disposing of construction waste and debris and for keeping the public, private and common areas surrounding his property free of waste and debris at all times. There is no dump site available within the Waialeale Community.

34. LAUNDRY AND CLOTHES DRYING AREAS

Requests for clotheslines will be considered on a case-by-case basis provided they are screened from view from any street or neighboring property by a fence or other enclosure that meets the requirements of these rules and guidelines. Laundry drying areas may be concealed by using plants provided the area is completely and permanently concealed. Neither clotheslines nor laundry areas may be installed in garages or carports so as to be visible from the street. No clothing or laundry may be hung on or from any lanai or deck if visible from the street or adjacent property.

35. SIGNS: Section 9.03(e) of the Master Declaration states:

Unless approved by the NCC or Modifications Committee, as appropriate, no signs whatsoever, including without limitation, commercial, political or similar signs, visible from the street shall be erected or maintained on any Lot except:

- (i) Such signs as may be required by legal proceedings;
- (ii) Residential identification signs of a combined total face area of one square foot or less for each resident;
- (iii) During the time of construction of any Residence or other improvement, job identification signs having a maximum face area of twenty-four (24) feet per sign and of the type usually employed by contractors, subcontractors and tradesmen; and
- (iv) Not more than one "For Sale" or "For Rent" sign having a maximum face of six (6) square feet, such sign to refer only to the premises on which it is situated.
- (v) Signs erected by the Board or the Declarant.

The Modifications Committee has ruled that "For Sale" signs must be situated at the front of the property so that it is visible to the street and not visible to the golf course or shopping center. (Modifications Committee Meeting 4/3/97) The Committee also rendered a decision (September 4, 1997) allowing security system signs and beware of dog signs provided they conform to size requirements, are attractive and non-reflective. Stencils of any kind on any surface on any lot are strictly prohibited

36. MAILBOXES AND NEWSPAPER TUBES

All residences must have easily readable house numbers either on the dwelling or, alternatively, on the mailbox for single-family units. Replacement mailboxes, post and newspaper tubes must match the original design and color in order to maintain consistency throughout the community. The WCA office can assist with locating a source for appropriate materials and design as required herein. Mailboxes must be kept in good condition (minimal rust spots, clean, paint in good condition, etc.) at all times. Security mailboxes will be considered by the MC on a case-by-case basis. Plastic replacement materials are acceptable provided that the appearance matches the original design.

Homeowners must first obtain written approval from the U.S. Post Master prior to the relocation of any mailbox or mailbox post.

37. ACCESSORY STRUCTURES

No accessory structure or building shall be constructed, placed or maintained upon any Lot prior to the construction of the main structure of the Residence, provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained for a period not to exceed one (1) year during and used exclusively in connection with the construction of the main structure of the residence. [Main Declaration, Section 9.03(g)]

38. UNDERGROUND INSTALLATIONS AND EASEMENTS

The owner shall be responsible for determining the location of easements, utility lines and underground installations prior to the start of any construction.

39. WINDOW TINTING AND REFLECTIVE FINISHES

No reflective finishes shall be used on exterior surfaces (other than glass and the surfaces of hardware fixtures) where such exterior surface is visible from neighboring property. Highly reflective window tinting that creates glare on adjacent properties or streets is not to be constructed as a "glass" exception to the reflective finish restriction. Such window tinting treatments are specifically prohibited.

All window tinting installations are subject to review and approval. While homeowners are generally concerned with the levels of light and heat transmission, the Association review focuses on light reflectance. **Light reflectivity must be 34% or less.** Applications for window tinting should be accompanied by a manufacturer's specification sheet and a minimum 3" x 5" tint sample. Metallic finishes are discouraged. All tinting must be professionally installed.

Homeowners are required to replace any tinting that discolors or has visible flaking, bubbling, peeling or cracking.

Pertaining to garage door windows, for privacy and security, opaque (solid black) tint film may be applied to garage door windows. Standard window tints may also be applied to minimize sun exposure.

40. TANKS ABOVE GRADE

Tanks for the storage of cooking and heating gas or other tanks may be installed, as permitted by government laws and ordinances, provided they are adequately screened from any adjacent street or property by fencing or landscaping.

This rule is in no way intended to mean that the Waikele Community Association or the Modifications Committee assumes any responsibility for any hazards connected with tanks.

41. TIME REQUIREMENTS

Owners shall pursue requested work in a timely fashion to completion. Failure to complete construction, modifications, additions, improvements, or painting prior to the expiration date of approvals granted by the Modifications Committee will require the processing of a new Waikele Community Association Application for Modifications Committee Approval and the resubmittal of all plans and specifications as appropriate for reconsideration by the Committee for issuance of a renewal permit. Any applicable permit processing fees in effect at the time of resubmittal will be due and payable prior to the issuance of any renewal permit.

a. Required Start Date:

All permits and approvals granted by the Modifications Committee are null and void if construction does not commence within 120 days of the date of issuance of any permit granted by the Modifications Committee.

b. Expiration Dates for Paint Permits:

Permits issued for painting or repainting have an expiration date of four (4) months from the date of issue. If painting approval was granted in conjunction with a permit for new residence construction or on an approval for modifications, additions or improvements with work other than painting involved, the expiration date will be in accordance with sub-paragraph c or d, below as applicable.

c. Expiration Dates for Modifications, Additions or Improvements:

Permits for modifications, additions or improvements have an expiration date of 120 days from the date of issuance.

d. Expiration Dates for New Residence Construction:

Permits granted for the construction of a new residence have an expiration date of two (2) years from the date of issuance.

e. Cancellation of Permits or Approvals for Lack of Progress:

If at any time, more than 120 days have passed without substantial and significant progress toward completing any project for which the Modifications Committee has granted a permit, the Committee may declare all permits and approvals null and void; and the owner must resubmit a new Application for Modifications Committee Approval, along with the required plans and specifications, as amended. The owner will be responsible for any permit processing fees in effect at the time of resubmittal. Determination of a lack of substantial and significant progress will be determined by a majority vote of the members of the Modifications Committee.

NOTE: The Modifications Committee shall not be bound by any previous decision when reconsidering plans and specifications that may come before the Committee as a result of an owner exceeding the time requirements for completion of any project.

42. AIR CONDITIONERS

Air conditioners may be installed without Modifications Committee approval, provided they are not visible from the street or adjacent property. In the case where the unit is visible from any street or adjacent property, MC approval must be obtained prior to installation and the following conditions are observed.

- a. In those cases where air conditioners will be visible from any street or adjacent property, the owner must screen all associated equipment and piping from public view. No metal, brackets, tubing, conspicuous filter elements, etc. may be exposed. All exterior piping must be covered or "furred" and painted to match the surface to which they are attached. All exterior wiring must be concealed or painted to match the surface to which they are attached. **The use of lattice of any kind for air conditioner screening will not be approved**

The owner may accomplish screening through the use of one or more of the following approved methods for screening:

1. Potted plants or landscape features. Consideration must be given to the size, density, placement and ongoing maintenance of the plant(s) used in order for the air conditioner to be completely screened upon installation and thereafter. Each homeowner is responsible for checking visibility from all angles (street and adjacent properties) and, when necessary, adjusting the plants so that the screening remains fully effective on a continuous basis.
 2. Waialeale Community Association approved louvered screen for window units (refer to ill.17).
 3. Waialeale Community Association approved screen for THROUGH-WALL units.
 4. Walls, fences and/or gates that hide the units from view.
 5. A proposed design reviewed and approved by the Modifications Committee.
- b. Any glass removed for the installation of the air conditioner must be replaced with clear glass or Plexi-glass. Plywood will not be allowed as a permanent replacement.
 - c. The owner is responsible for ensuring quiet operation of all installed air conditioning units. If the General Manager and/or Covenant Enforcement Committee determines that an air conditioning unit operates at an excessively noisy level and is a disturbance to neighbors, the owner may be required to remove the unit.
 - d. Only new air conditioning units shall be installed, provided that the installation of used units may be permitted with the prior inspection and written approval of the General Manager.
 - e. Air conditioning units shall be maintained at all times in a clean and attractive condition and shall not be permitted to become unsightly.

43. FISH PONDS, WATERFALLS, AND STRUCTURES INCIDENTAL TO LANDSCAPING

Fish ponds, waterfalls and structures incidental or typical to landscaping must be applied for and will be reviewed on a case-by-case basis. The rules for noise covered in Paragraph 19 above, pertaining to "Swimming Pools," also apply.

44. SOLAR ENERGY DEVICES (SOLAR ATTIC FAN, SOLAR WATER HEATER, AND PHOTOVOLTAIC)

There is no permit processing fee for the installation of any solar devices (solar attic fan, solar water heater, and photovoltaic); however, approval of the Modifications Committee is required. Solar units must meet the following criteria:

- a. To the maximum extent possible, solar units must be integrated into the architecture and design of the building. No part of the solar panels, piping or any exposed part of the installation may be higher than the nearest roof peak. This will include the roof mounted tank of any system. Where open-ceiling

design home prevents a direct run of piping from solar panels to the storage tank, the piping may be run over the peak of the roof for the shortest routing unless other routing is equal or shorter.

The highest point of any exposed part of the system may not be higher than twenty-one (21) inches above the surface (sloped or flat) of the roof on which it is mounted. This includes the top of the roof mounted tank of any system.

- b. The lowest point of any exposed part of the system may not be more than six (6) inches above the surface (sloped or flat) of the roof on which it is mounted.
- c. Reflective surfaces are not permitted for any exposed parts. Other exposed surfaces must be painted to match the surface on which it is mounted. Homeowners will ensure that all painted surfaces are properly maintained to prevent peeling and cracking of paint.
- d. Solar panels should be installed as far as possible to the rear of the house. The front slope of the roof of the house or carport may not be used unless no other location is feasible.
- e. The same general rules for solar panels apply to roof-mounted solar powered turbo fans.

45. REFRIGERATORS / FREEZERS / WASHERS / DRYERS

Refrigerators, freezers, washers and dryers may be located in garages. They may not be located in carports or lanais so as to be visible from the street or neighboring properties.

46. WEATHERVANES

The Waikele Design Philosophy highlights the need for conformance to certain architectural standards to preserve and maintain the overall character of the community.

While weathervanes may be an attractive and appropriate architectural feature in "Colonial" or "Early American"-style residential communities, they are not consistent with Waikele's architectural styling and design.

Therefore, weathervanes mounted on rooftops are **not permitted**, but may be used for landscape features and will be reviewed on a case-by-case basis.

47. FLAGS

Homeowners must notify the WCA prior to the installation of any flag. Community associations may place reasonable restrictions pertaining to the time, place, or manner of displaying of the American flag necessary to "protect a substantial interest" of the community association.

48. RUBBISH, RUBBISH/RECYCLING RECEPTACLES, AND BULKY ITEM PLACEMENT

No rubbish shall be maintained on any lot except in closed receptacles screened from view from any adjoining street. Rubbish/recycling receptacles should be maintained in good condition, and neatly stored. WCA recommends that all receptacles be stored in the garage or in an enclosure built for that purpose (such as behind a wall or a fence). Receptacles should only be placed on the street curbside on scheduled refuse pick up days.

In an effort to deter homeowners from storing bulk trash items on the curbside weeks before Honolulu City & County's scheduled pick up date, the Waikele Community Associations recommends that homeowners place items on the curbside no earlier than the day before pick up date. Storing of bulk items on the curbside can create an opportunity for others to contribute to the pile, resulting in an unattractive and sometimes hazardous situation. Residents living in multi-family units must contact their property manager for rules and procedures of disposing of trash items.

T A B L E I

WAIKELE LANDSCAPE GUIDELINES

As referenced in the Waikele Community Association Rules and Guidelines, Section IX - 5, Landscaping, the following guidelines for planting trees within residential lots are also recommended. In addition to open lawn areas for family recreation and visual continuity throughout the community, the planting of flowering trees, shrubs and ground covers, particularly drought-tolerant plants, is encouraged at Waikele. Small shade trees will assist in cooling the neighborhood and home, in addition to their aesthetic benefits.

Care should be taken in planting young trees near side and rear property lines. As trees mature, the canopies of branches and foliage grow dramatically and can easily infringe on neighboring properties. In the same vein, property owners should be cautious about allowing height of mature trees to overwhelm neighboring properties, unnecessarily closing them in. Please exercise good judgment and be mindful and considerate of your neighbors.

The following paragraph provides guidelines for tree planting:

It is recommended that trees not be planted within five feet (5') of property lines, utility lines, walls, building foundations and overhangs. Root barriers should be installed where trees are planted in the vicinity of the building foundations or walls. Trees planted in residential yards should be pruned so that the canopy does not extend over the property lines unless approved by the adjacent property owner. Corner lots are reminded that both yards that are adjacent to roadways are subject to the same requirements as the front yard of an "interior" lot. Homeowners must be considerate of their neighbors when planting and maintaining their landscaping.

Homeowner sub-associations may implement more restrictive landscaping requirements.

TABLE II

WAIKELE RECOMMENDED PLANT LIST

COMMON NAME	BOTANICAL NAME
SMALL CANOPY TREES	
Allspice	Pimenta Dioica
False Olive	Elaeodendron Orientale
Harpullia	Harpullia Pendula
Hawaiian Kou	Cordia Subcordata
Hong Kong Orchid	Bauhinia Blakeana
Jaboticaba	Eugenia Cauliflora
Kalamona	Cassia Glauca
Lignum Vitae	Guaiacum Officinale
Plumeria Varieties	Plumeria Sp.
Podocarpus	Podocarpus Sp.
Puakeniken	Fagraea Berteriana
Silver Trumpet	Tabebuia Argentea
FRUIT TREES	
Avocado	Persea Americana
Banana	Musa Sp.
Dwarf Citrus	Citrus Sp.
Papaya	Carica Papaya
Pomegranate	Punica Granatum
PALMS	
Areca Palm	Chrysalidocarpus Lutescens
Bottle Palm	Mascarena Lagenicaulis
Fiji Fan Palm	Pritchardia Pacifica
Fishtail Palm	Caryota Mitis
Kentia Palm	Howeia Forsteriana
Licuala Palm	Licuala Grandis
MacArthur Palm	Ptychosperma Macarthurii
Manila Palm	Veitchia Merrillii
Rhapis Palm	Rhapis Excelsa
SHRUBS	
African Iris	Moraea Iridioides
Bird of Paradise	Strelitzia Reginae
Dwarf Cycad	Cycas Revoluta
Dwarf Date Palm	Phoenix Roebeleni
Gardenia Varieties	Gardenia Sp.
Ginger Varieties	Alpinia Sp.
Heleconia Varieties	Heleconia Sp.
Impatiens	Impatiens Sultani
Ixora Varieties	Ixora Sp.
Kokutan	Raphiolepis Indica
Monstera	Monstera Deliciosa
Philodendron	Philodendron Selloum
Plumbago	Plumbago Capensis
Spathyphyllum Varieties	Spathyphyllum Sp.
Spider Lily	Crinum Asiaticum
Ti Leaf	Cordyline Terminalis

TABLE II
WAIKELE RECOMMENDED PLANT LIST
(Continued)

COMMON NAME	BOTANICAL NAME
HEDGE MATERIAL	
Croton	Codiaeum Variegatum
Eldorado	Pseuderanthemum Reticulatum
Hibiscus Varieties	Hibiscus Sp.
Leea	Leea Coccinea
Mock Orange	Murraya Paniculata
Natal Plum	Carissa Grandiflora
Podocarpus	Podocarpus Nerifolius
Snowbush	Breynia Nivosa Rosi-Picta
VINES	
Allamanda	Allamanda Cathartica
Bougainvillea Varieties	Bougainvillea Sp.
Cats Claw	Doxantha Unguis-Cati
Creeping Fig	Ficus Pumila
Galphimia	Tristellateia Australasiae
Haupala	Pyrostegia Ignea
Jade	Strongylodon Macrobotrys
Stephanotis	Stephanotis Floribunda
Thunbergia	Thunbergia Grandiflora
GROUND COVER	
Agapanthus	Agapanthus Africanus
Asparagus Fern	Asparagus Sp.
Golden Glory	Arachas Pinto
Hemigraphis	Hemigraphis Colorata
Joyweed	Alternanthera Amoena
Lantana	Lantana Sp.
Laua'e Fern	Polypodium Phymatodes
Mondo Grass	Mondo Japonicum
Neomarica	Neomarica Gracilis
Portulaca	Portulaca Grandiflora
Pothos	Scindapsus Aureus
Rhoeo	Rhoeo Discolor
Syngonium	Syngonium Podophyllum
Walking Iris	Neomarica Bicolor
Wedelia	Wedelia Trilobata
GRASS	
Bermuda	Cynodon Dactylon
Centipede	Eremochloa Ophiuroides
Seashore Paspalum	Paspalum Vaninatum Swartz
St. Augustine	Stenotaphrum Secundatum
Zoysia	Zoysia Tenuifolia

**WAIKELE COMMUNITY ASSOCIATION
MODIFICATIONS COMMITTEE RULES AND GUIDELINES
“ACCEPTABLE” VARIANCES**

While the Modifications Committee Rules and Guidelines outline specifics concerning several wall/fence configurations, it may be helpful to note that acceptable variances for other wall/fence construction have been occasionally granted. These conditions, referenced and detailed in the following text and illustrations, remain as variance issues because of the unique lot conditions encountered in Waikēle. Every application involving such wall/fence variances will be reviewed on a case-by-case basis by the Modifications Committee. (Modifications Committee 3-6-97)

1. Front Yard - While the ten foot (10') front yard setback remains intact, a variance may be granted to construct front yard walls or fences at the front property line provided that the maximum height of the wall or fence does not exceed thirty inches (30") in height as measured from the sidewalk. Additionally, a variance may be granted to construct front side walls or fences within the area from the front property line to the face of the building, provided that the maximum height does not exceed thirty inches (30") in height as measured from the existing or finish grade, whichever is lower. Materials for front yard walls will be limited to concrete masonry units (CMU) with an approved finish or concrete rubble masonry (CRM). A condition of this variance is that no wall beyond the front face of the building may exceed thirty inches (30") with the exception of a cross wall variance as stated below (See Illustration #5).

A variance may be granted for a single cross wall protruding beyond the front face of the building to permit the installation of an entry gate to open out to the driveway rather than to the front yard. (See Illustration #6) The width of the gate shall be no more than four feet (4') wide. Supporting posts, columns and wall sections for the gate installation shall be minimized. The installation of the gate and supporting elements shall maintain a minimum of ten feet (10') to the front property line. Approved landscaping shall also be planted at the exposed wall/fence front face. (Modifications Committee 3-6-97)

2. Front Yard - Interior Lots - Where grade difficulties are encountered at front yards of interior lots (non-corner lots), variances for terraced retaining walls will be considered (See Illustration #7). No fence material will be allowed to be constructed on the terraced walls or within other portions of the front yard.
3. Corner Lots - Fences along the longer of the two front yards - Along the longer of the two property lines adjacent to a roadway, variances may be granted to construct an open metal fence not to exceed six feet (6') in height from the original grade at the time the house was completed (See Illustration #8). The fence shall terminate or return to the building at the face of the building at the front yard (shorter property line). In no case shall the fence encroach into the Department of Transportation Services line of sight requirements. To maintain openness, the pickets shall be spaced a minimum of five inches (5") apart and have a maximum dimension of three-quarters inch (3/4"). Vertical structural support shall not exceed two inches (2") in any dimension. One upper and one lower horizontal support brace, not to exceed one and a half inches (1-1/2") in any dimension, will be allowed (See Illustration #9). Fence colors and decorative details are subject to approval by the Modifications Committee.

Wall / Fence Combination along the longer of two front yards - Along the longer of the two property lines adjacent to a roadway, variances may be granted to construct a wall/open fence combination. The solid wall portion will be limited to thirty inches (30"), as measured from the sidewalk, with the open metal portion limited to the total wall/fence height of six feet (6'). The extent of the wall/fence shall also be limited by the Department of Transportation Services line-of-sight restriction and/or the front plane of the house or garage (See Illustration #10). Front yard fences can be returned along the property line to the face of the existing building. The restrictions for the thirty inch (30") high solid wall portion and six foot (6') high combined total open metal fence/wall also apply to the return wall/fence (See Illustration #11 and #12).

Wall / Fence Return determined by house entry - Where house entries are located along the longer front yard, the front yard wall/fence can be returned to the face of the house, not garage (See Illustration #13).

Where house entries are located at the interior of the property and not along the longer front yard, the front yard wall/fence can be returned to the face of the garage, not house (see Illustration #14).

At the rear of the property, this same front yard wall/fence can be returned at the property line. The requirement for openness shall be maintained until the face of the building is reached.

Terraced Retaining Walls - Variances for terraced retaining walls at the long side of front yards at corner lots will be considered if the grade difference between sidewalk and house exceeds thirty inches (30"). Each retaining wall shall still be limited to a maximum of thirty inches (30") in height. Open metal fences on the interior of the two walls will be allowed, not to exceed six feet (6') as measured from the existing grade. The extent of the wall/fence shall be limited by the Department of Transportation Services line-of-sight restriction and/or the front plane of the house or garage (See Illustration 15).

4. Fences Abutting Existing Project Fences - Where sideyard fences abut existing subdivision "Project" fences at the rear of the property (with exception of golf course frontages and other restricted design areas), the sideyard fence(s) shall be transitioned to no more than the existing project fence height for a distance of ten feet (10') from the rear property line (See Illustration #16).
5. Additional Variances - It should be noted that requests for additional variances will generally not be approved unless the applicant can show that it is a unique condition not previously encountered or provided for by the guidelines and that without an additional variance it would create an extreme hardship or hazardous condition. Requests for additional variances will be considered on a case-by-case basis. The individual merit of each request will be evaluated based upon such factors as existing slope conditions, aesthetics, etc.
6. Neighborhood Specific Requirements - The preceding guidelines pertain to the master planned community as a whole. There may be additional design requirements which are specific to the granting of an acceptable variance within a single neighborhood, e.g. Golf Club Estates golf course lots, The Champions perimeter lots, Royal Pines, Signatures and Highland View Estates golf course lots, The Classics golf course lots etc. Homeowners should consult with the Waialeale Community Association office for additional information and illustrations.