



FOR OMAOPIO RIDGE COMMUNITY ASSOCIATION

THIS DECLARATION. MADE THIS \_\_ day of \_\_\_\_\_,2001, Edward T. Esty, II and Mary Lee Esty, husband and wife, whose address is 4608 Drummond Avenue, Chevy Chase, MD 20815, (hereinafter collectively referred to as “Declarant”);

W I T N E S S E T H   T H A T:

WHEREAS, Declarant is the owner of certain property situate on Omaopio Road, Kula, Island and County of Maui, State of Hawaii, known as Omaopio Ridge (the “Subdivision”) as more particularly described in Exhibit “A” attached hereto and made a part hereof; and

WHEREAS, Declarant desires to create a residential-agricultural community consisting of each of said lots referred to in Exhibit “A” (“Phase I”), and further desires to insure that said community may engage in pursuits consistent with the nature of the land; to maintain the view planes; to promote aesthetic standards for structures thereon and their relationship to each other, and to prevent nuisances and other impairment of the attractiveness of said community, by subjecting said lots to the protective provisions hereinafter set forth, each and all of which is and are for the benefit of each of said lots and each owner thereof; and

WHEREAS, it is the desire and intent of Declarant that said protective provisions shall be and the same shall run with the land described in Exhibit “A” binding all present and subsequent owners and persons dealing with the same; and

WHEREAS, Declarant may increase the size of the Subdivision by adding additional lots that will also be governed by this Declaration of Covenants, Conditions and Restrictions and be part of the Omaopio Ridge Community Association.

WHEREAS, Declarant has already created a non-profit corporation under the laws of the State of Hawaii called the Omaopio Ridge Community Association (the “Association”), which shall in part be assigned the administering and enforcing of said protective provisions; and

WHEREAS, Declarant will record this document in the Bureau of Conveyances of the State of Hawaii (the “Bureau”) and give copies to all prospective purchasers of lots in the Subdivision,

NOW, THEREFORE, Declarant hereby declares that each of the lots in the Subdivision described in Exhibit “A” shall be held, sold, conveyed, mortgaged, encumbered, used, occupied and improved subject to the following protective provisions.

ARTICLE A  
GENERAL CONDITIONS

1. Run With the Land. The following protective provisions affect and restrict all the land described in Exhibit “A”, except it will not affect approximately one-acre of the west, southwest corner of the property after it is consolidated and resubdivided with the adjoining property known as Tax Map Key No. (2) 2-3-03-002. Said protective provisions are and shall be construed as protective provisions running with the land in keeping with the general scheme of development binding upon the owners of the land or any part of the lots thereof (singularly and collectively, the “Owners”), and all subsequent Owners thereof and of persons dealing and inuring to the benefit of such Owners and persons; it being the intent of Declarant that the following restrictions shall bind and restrict the land, the Owners, and their grantees, heirs, personal representatives, successors and assigns. All said protective provisions are intended to create mutual servitudes upon each lot within the subdivision and to create reciprocal rights between the respective Owners. It is understood that this Declaration shall supplement the Declaration of Covenants, Conditions and Restrictions also recorded against the Lots with the Bureau of Conveyances of the State of Hawaii on December 24, 1998, as Document No. 98-193719.

2. Recordation. This Declaration shall be recorded in the Bureau and shall be referred to in all contracts and deeds of conveyances relating to said land or any part thereof.

3. Remedies. All persons dealing with said land, including Declarant, and the Association shall have a full and adequate remedy both at law and in equity to enforce and compel compliance herewith and to benefit and take advantage hereof and in any such proceeding to have and recover from any then owner all costs and expenses of such proceedings, including a reasonable attorneys' fee.

4. Modification and Amendment. This Declaration may be modified and amended by a vote of seventy-five percent (75%) of the Owners.

5. Severability. In the event any covenant, condition, restriction or reservation herein contained is held to be invalid or unenforceable in whole or in part, by any order, judgment or decree of any court, then such decision shall in no wise affect the validity of the other covenants, conditions, restrictions or reservations herein contained, and they shall remain in full force and effect.

## ARTICLE B

### OMAOPIO RIDGE COMMUNITY ASSOCIATION

1. Organization. The Association is a non-profit Hawaii corporation formed by Declarant and charged with the duties and vested with the powers prescribed by law and set forth in this Declaration and its Articles of Incorporation (the “Articles”) or its Bylaws, subject to the limitation upon the exercise of such powers as are expressly set forth in the Articles and Bylaws and in the Declaration. In the event that the Association as a corporate entity is dissolved, all of the assets of the corporation shall be disposed of as set forth in the Articles.

2. Membership.

(a) Each Owner of a Lot within the Subdivision shall be a member of the Association.

(b) The membership in the Association of each Owner shall be appurtenant to said Lot and shall not be transferred, pledged or alienated in any way except upon the transfer of fee title to said Lot, and then only to the transferee of title to said Lot. Any attempt to make a transfer except as aforesaid shall be void. Any transfer of title to a Lot subject to the Declaration shall automatically operate to transfer the membership to the new owner thereof.

(c) The rights, duties, privileges and obligations of an Owner as a member of the Association shall be those set forth in, and shall be exercised and imposed in accordance with, the provisions of this Declaration, the Articles and the Bylaws of the Association.

3. Association's Powers. The Association has the right, obligation and duty, subject to the provisions of this Declaration, the Articles and the Bylaws, to do and perform each and every one of the following for the benefit of the Owners.

(a) The Association shall accept all Owners as members of the Association., including any Owners of new lots added to the Subdivision by Declarant.

(b) The Association shall levy assessments, make contracts and acquire and dispose of property and shall take such action whether or not expressly authorized by this Declaration as may reasonably be necessary to accomplish the duties and obligations of the Association and to enforce the restrictions, limitations, covenants and conditions of this Declaration, the Articles, the Bylaws and the rules of the Omaopio Ridge Design Control Committee (the "Design Control Committee"). The Association shall levy assessments to pay for common expenses such as, but not limited to, maintenance of landscaping and fencing along the roadway and dedicated easements, maintenance and repair of the entry monument, roadway, the water system, electricity for the water well pumps and street lights, insurance for the roadway and for the Board of Directors of the Association, and administrative costs. The assessment will be divided by the number of lots sold or available for sale in the subdivision and billed on a regular basis. Initially, because only 8 lots are available for sale in the Subdivision, each lot owner will be responsible for 1/8 of the total costs incurred by the Association.

(c) After Declarant completes all additional phases of the Subdivision it may convey the roadway lot, known as Ikena Kai Place, to the Association.

4. Appointment to Committee. The Association shall appoint and remove

members of the Design Control Committee to insure that at all reasonable times there is available a duly constituted and appointed Design Control Committee subject to the right of Declarant, as provided in Exhibit "B" hereof, to do so.

5. Liability of Members of the Board, Officers, and Committee Members. No member of the Board or any officer or any member of a duly appointed committee of the Association, including, without limitation, the Design Control Committee, shall be personally liable to any Owner, guest, lessee or any other persons, including Declarant, for any error or omission of the Association, its representatives and employees or such committee; provided, however, that such member has acted in good faith and with actual knowledge possessed by him.

The Association may obtain and maintain at the Association's expense a policy of director's and officer's liability insurance covering all directors and officers of the Association, and a liability policy covering members of the Design Control Committee and shall indemnify each director, officer or member of each duly appointed committee of the Association against all costs, expenses and liabilities, including judgments, amounts paid in compromise settlements and amounts paid for reasonable attorneys' fees and other related expenses which may be incurred by or imposed on him in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted or threatened in which he may be involved as a party or otherwise by reason of his being or having been such director, officer or committee member, or by reason of any past or future action taken, authorized or approved by him or any omission to act as such director, officer or committee member, whether or not he continues to be such director, officer or committee member at the time of the incurring or imposition of such costs, expenses or liabilities but not including such costs, expenses or liabilities as shall relate to matters as to which he shall in such action, suit or proceeding be finally adjudged to be, or shall be, liable by reason of his gross negligence or willful misconduct toward the Association in performance of his duties as such director, officer or committee member.

### ARTICLE C SPECIFIC CONDITIONS

1. Use of Lots. Every lot described in Exhibit "A" shall be used in conformance with the provisions set forth in (i) the zoning code of the County of Maui, as the same may be amended from time to time (the "zoning code"), with respect to lots zoned "Agricultural" thereunder, (ii) Section 205-4.5, Hawaii Revised Statutes (the "Section"), governing permissible use within an agricultural district, as the same may be amended from time to time, and (iii) all other applicable codes and ordinances; provided, however, where requirements hereunder are more stringent than under the zoning code, the Section or such other applicable codes or ordinances, the requirements hereunder shall govern. Once a Lot is transferred by Declarant, such Lot, if smaller than fifteen (15) acres, shall not be thereafter subdivided.

Each lot shall be used for residential purposes and the other permissible uses set forth in the zoning code and the Section. Each lot shall contain only one single family dwelling and appurtenant outbuildings unless an additional dwelling is authorized under the zoning code, the Section, and all other applicable codes and ordinances. Such lot and single-family dwelling or

dwellings shall not be converted and registered under the provisions of Chapter 514A, Hawaii Revised Statutes (entitled “Horizontal Property Regimes”), or any successor thereto, nor be allowed to be transferred to ownership under a timeshare program, as defined by Chapter 514E, Hawaii Revised Statutes. No dwelling shall be rented out under either a long or short term rental basis. If additional dwellings are constructed, they shall only be used by the Owners and their guests. The owners and occupants of every lot shall landscape such lot in a manner suitable for a residential community. The occupants of every lot shall (i) keep all plantings thereon in good cultivation and condition, (ii) not keep or suffer thereon any animals suffering from a contagious disease, and (iii) keep all permitted animals thereon safely confined. Some Lots in the Subdivision contain sites of archeological significance that will require preservation by the Owner and Association. Each Owner hereby agrees to abide by any state approved archeological preservation plan.

No lot or any part thereof shall at any time be used for or in connection with any (i) apartment, hotel, or industrial purpose whatsoever, (ii) child day care center, hospital, sanitarium, nursing institution, convalescent home, boarding house, asylum, undertaking establishment, crematory, cattle feedpen, slaughterhouse (iii) church or religious establishments, (iv) roadside stand for the sale of agricultural products grown on or off the premises, (v) mills, storage processing facilities or maintenance facilities, (vi) wind energy facilities, or (vii) utility facilities or transformer stations, except as required to increase the water pressure and utilize power available from Ikena Kai Place.

Any agricultural activity shall be organic. Any spraying shall be conducted so that no spray will drift or wash onto any neighboring property. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners or the Subdivision.

2. Care and Maintenance of Lots. Each Lot shall be kept free of any unsightly overgrowth of trees, shrubs, bushes, vines and wild plants, and shall be kept clear, clean and free of rubbish and debris. Abandoned cars or other inoperable vehicles shall not be permitted. The Owners and occupants of every lot shall be responsible, at their own expense, for the care and maintenance of such lot and any adjacent roadside to the established road surface, and any stream, gulch, drainage way or drainage pond within said lot in a strictly clean, neat and attractive condition, free from any debris, any and all buildings and other improvements with all reparations and amendments thereto on such lot in good order and condition, and in case of any failure by the Owners or occupants thereof to maintain such lot, adjacent roadside, stream or drainage way, or buildings and other improvements with all reparations and amendments thereto with reasonable diligence after notice to do so, the Association may at its option cause any such work to be performed and recover all costs thereof by special assessment against such lot. All drainage shall be designed to minimize impact to the neighboring Lots and shall be reviewed and approved by the Design Control Committee.

3. Construction of Improvements. The construction of improvements shall comply with the provisions of the zoning code, the section and all other applicable codes and ordinances. Exterior improvements must be completed within a reasonable time applicable to the nature of the improvement as determined by the Design Control Committee in its sole discretion.

Subject to said provisions, no building or structure shall be constructed or maintained on any lot closer than one hundred (100) feet from the front or street boundary of such lot, except for any structure maintained by the Association. No Owner or occupant of any lot shall erect or place thereon any building or structure, including walls and fences, or make any additions or structural alterations to any building, or change the grade or drainage thereof, or construct or alter any common facilities (other than emergency repairs thereof), except in accordance with plans and specifications, including a detailed plot plan which shall be prepared by a licensed architect or civil engineer, and approved in writing by the Design Control Committee. No fence on the side or rear boundary of any lot that is constructed within twenty-five (25) feet of the such boundary shall have a greater height than four (4) feet above the finished grade of the ground at such point. The design of material used for all fences shall be submitted to the Design Control Committee and no such fence or any part thereof shall be constructed prior to the approval in writing by said committee, save and except fences constructed or to be constructed by Declarant. See, Design Requirements, Exhibit B, Paragraph 5(c).

a. Maintenance of View Planes. The Design Control Committee shall establish preferred house building sites and view planes therefrom for each of the Lots, which view planes shall be protected, to the greatest extent possible. Improvements, including landscaping, shall be constructed to minimize the effect, if any, to said view planes. No structures shall be built within fifty feet of any boundary line of an individual lot, except Lot 19-A-1-A on which the main residence may be built closer than 50 feet from the 289 foot mauka boundary between Lots 19-A-1-A and 19-A-1-B. This will create a natural buffer zone around each property. Landscaping within the buffer zone shall be limited to Lawn Grass, Pepper Trees, Kiawe, Jacaranda, Silk Oak, Pride of India, Agave Attenuata, Sisal, Agave Americana, Bougainvilleas, Yucca, Ilima Papa, Lavender, Lantana, Prostrate Naio, Day Lilies and Plumerias.

b. Waste Disposal. Owners are required to install and maintain aerobic household units approved by the State of Hawaii Department of Health (“DOH”) in accordance with DOH’s “Administrative Rules,” Title 11, Chapter 62, Section 33, for any waste disposal system within 1000 feet of the drinking water well. Effluent from the aerobic units will be discharged into leaching fields. Disposal systems located more than 1000 feet from the well shall have approved septic systems which also discharge into leaching fields.

4. Use of Gulches and Drainage Ponds. No Owner or occupant of any lot shall divert, dam, decrease or otherwise interfere with the volume or direction of flow or the capacity for drainage of any gulch, drainage way, or drainage pond, on or adjacent to such lot or place therein any branches, trees, waste, garbage, sewage, debris, rubbish, rocks, sand, soil or other materials whatsoever.

5. Signs. Subject to the provisions of the zoning code, no signs, placards or notices shall be erected, placed, maintained or permitted to remain on any part of any lot.

6. Reservations and Exceptions. Nothing contained in any provisions of this Declaration shall be understood or construed to prevent the placement, erection, maintenance or operation by Declarant, its duly authorized agents and licensees, or any private or public body or

private or public utility corporation, on its own land within or upon the Subdivision of any equipment, structure, building, sign or business related to or connected with the Subdivision, development or sale of the Subdivision or used by any private or public utility serving any part of the Subdivision. Declarant hereby reserves for itself, its duly authorized agent, licensee, or such private or public utility corporation, the express right and authority to place, erect, maintain, and operate any such equipment (including water lines and storage tanks), structure, building, sign or business.

7. Easements. Easements for the installation and maintenance of utilities, sanitary sewer and drainage facilities are reserved as shown on Subdivision Maps attached hereto as Exhibit "C". Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may obstruct, retard or change the direction of flow of drainage. The easement area of each property and all improvements in it shall be maintained continuously by the Owner of the property except for those improvements for which a public authority or utility company is responsible. Declarant hereby reserves the right to record convey or dedicate all easements set forth on the Subdivision Map, be it for utilities, sanitary sewer or drainage purposes, to the County of Maui, or to a public utility doing business in the State of Hawaii, without the consent of any Owner, their assigns or mortgagees. Additional easements for the installation and maintenance of fencing and/or landscaping by the Homeowner's Association along the Omaopio Road and Ikena Kai Place boundaries of all lots are reserved and will be recorded that shall extend approximately five (5) feet into each lot and run along the roadway boundaries. An easement on Lot 19A-1-A will be recorded that extends across the corner of the lot along the Omaopio Road and Ikena Kai Place intersection consisting of no more than 2000 square feet of land that will be used by the Homeowner's Association for landscaping and for the subdivision sign. Declarant and all Owners in the subdivision agree to sign and record any and all easement agreements that are identified in Exhibit "C", but not recorded prior to the recordation of these Restrictive Covenants.

8. Repairs to Automobiles, Trucks, etc. No automobile, truck, motorcycle, boat, or any other equipment may be dismantled, repaired or serviced on any lot in an area visible from the road or neighboring property.

9. Entryway Improvements and Maintenance. The entry to the subdivision and all the Lots shall be through and over Ikena Kai Place. Owners of Lot 19A-1a & 1b may seek access directly from Omaopio Road. County of Maui approval will be required for such access. The maintenance for the landscaping, entryway, roadway and all utilities necessary for Ikena Kai Place shall be paid for by the Association and all such improvements shall be kept in good condition and repair. The Association may dedicate Ikena Kai Place in the future to the County of Maui.

10. Private Water System. The Association shall maintain and repair, as necessary, the private water system for the Subdivision. This includes the well, pumps, control equipment house, chlorination equipment, tanks and distribution lines. The Association will follow the water system engineer's recommendation whether to keep a spare well pump. The private water system has been designed to provide adequate supply for domestic use, and fire protection. In the event an Owner engages in intensified landscaping or agricultural activities, said Owner may be required to

install a storage tank or similar system to provide sufficient storage capacity, as deemed necessary and acceptable by the Design Control Committee. If water ever becomes available from the County of Maui, Department of Water Supply, the Association may convert the system to a dual system of water delivery where irrigation water is supplied by the well and County water is used for domestic use and fire protection.

Declarant and all future owners of any Lot acknowledge and agree that the privately owned water system will not have more than fourteen service connections, and will not regularly serve more than an average of 24 individuals daily at least 60 days out of the year. Nothing shall be done to create a Public Water System, defined as, "... if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year," without prior approval of both (1) the owners in the subdivision and (2) the State of Hawaii Department of Health, Safe Drinking Water Branch for compliance with Hawaii Administrative Rules, Title 11, Chapter 20, Rules Relating to Potable Water Systems. All future owners acknowledge, agree and consent that the Declarant and/or the Association may apply for the creation of a Public Water System. All future owner agree to cooperate in the application process to obtain approval of the System.

11. Facilities for Fire Service. Any improvements required for the fire protection or other mutual benefit of the subdivision shall be paid for by the Association. Maintenance for such facilities, which have been constructed for the use and benefit of the subdivision, shall be paid for by the Association.

12. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the provisions of this Declaration.

13. Enforcement. Upon failure or default of any owner to observe or perform any covenant hereunder, Declarant and/or the Association shall have the right, in addition to any other right or remedy that they may have, after seven (7) days prior written notice to such defaulting Owner, to enter such Lot and to correct such default at the cost and expense of the defaulting Owner, and such defaulting Owner shall pay to the Declarant and/or Association effecting such remedy upon demand all amounts incurred in curing said default, together with interest upon the full amount thereof at the rate of 10% interest per year from the date expended until the date repaid, and any and all attorneys fees and cost incurred by the Declarant or the Association in the enforcement of these Restrictive Covenants and the collection of any amounts owed hereunder.

#### ARTICLE D ARCHITECTURAL DESIGN REQUIREMENTS

Design requirements as set forth in Exhibit "B" attached hereto and incorporated herein by reference are established to ensure that (1) the Subdivision shall be attractive and pastoral in nature, (2) the views be maintained wherever reasonably possible, (3) aesthetic standards for structures and their relationship to each other and to public spaces and the terrain be promoted, and (4) nuisances and other impairments to the attractiveness of the Subdivision be prevented.

ARTICLE E  
INDEMNITY

Except as otherwise provided in this Declaration, the Association and all Owners and their family, tenants, guests, agents, employees and licensees shall indemnify and hold the Declarant and all members of the Design Control Committee harmless against all claims and demands for loss, damage or injury, including property damage, personal injury and wrongful death, arising out of or in connection with the use or ownership of any lot or lots, or other property, within the Subdivision, or any portions thereof, or any provision of this Declaration, or the application of any provision of this Declaration to any Owner or his family, tenants, guests, agents, employees or licensees, or any rights, duties, privileges, easements or reservations created by or under this Declaration, and will jointly and severally reimburse the Declarant and members of the Design Control Committee for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the defense of any such claim or demands.

ARTICLE F  
MISCELLANEOUS

The terms "Declarant " and "Owner(s)," or any pronoun in place thereof, as and when used hereinabove or hereinbelow, shall mean and include the masculine or feminine, the singular or plural number, individuals, trustees, partnerships, or corporations, and each of their respective successors in interest, heirs, personal representatives and assigns, and that if these presents shall be signed by two or more Grantors, all covenants of such parties shall be and for all purposes are deemed to be joint and several.

IN WITNESS WHEREOF, Declarant has executed these presents the day and year first above written.

\_\_\_\_\_  
EDWARD T. ESTY, II

\_\_\_\_\_  
MARY LEE ESTY

STATE OF HAWAII            )  
  ) ss.  
COUNTY OF MAUI         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2001, appeared **EDWARD T. ESTY, II**, to me personally known to be the person described in and/or satisfactorily proved to me to be the person described in and who have executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

\_\_\_\_\_  
Name of Notary: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF HAWAII            )  
  ) ss.  
COUNTY OF MAUI         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2001, appeared **MARY LEE ESTY**, to me personally known to be the person described in and/or satisfactorily proved to me to be the person described in and who have executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

\_\_\_\_\_  
Name of Notary: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

EXHIBIT "B"

OMAOPIO RIDGE

DESIGN REQUIREMENTS

1. Design Control Committee. There shall be a Design Control Committee, hereinafter called the "Committee", which shall be composed of at least one (1) but not more than (4) members. For the first five (5) years from the date of this Declaration, the right to appoint and remove and to determine the term of office of all members of the Design Control Committee shall be and is hereby reserved and vested solely in Declarant; provided, however, that Declarant may at any time upon written notice to the Omaopio Ridge Association, hereinafter called the "Association", relinquish all or part of said right in favor of said Association. For any term after said five (5) year period, or sooner relinquishment of said right of Declarant, the power and right to appoint and remove and to determine the term of office of the members of the Committee shall be vested solely in the Association. Upon the relinquishment of the function of the Committee to said Association, the Committee shall have three (3) members at least two (2) being owners of lots in the Omaopio Ridge Subdivision (the "Subdivision").

a. Edward T. Esty, II, Mary Lee Esty, Phil Christopher, and Hunton Conrad are hereby designated by Declarant as the initial members of the Committee and shall hold office for a term of three (3) years from the date of this Declaration, and thereafter, until their successors have been appointed as herein set forth, unless they have sooner resigned or been removed.

b. Any Owner who wants to build, remodel, paint or repaint any improvements on their property must submit plans, material lists and the proposed improvements to the Design Review Committee. It shall be the duty of the Committee to review all plans and specifications for all buildings, structures, and other improvements to be constructed in the Subdivision.

c. The Committee shall adopt any rules and regulations necessary to carry out the functions delegated to it.

d. The written consent of a majority of its members shall constitute the act of the Committee.

e. The Committee may require a reasonable fee to cover direct costs incurred by the Committee for the review of plans and specifications.

f. The Committee's approval or disapproval shall be given in writing within thirty (30) days after payment of the fee requested by the Committee and submission of complete plans and specifications. Upon approval of same, the Committee shall provide the owner entitled thereto with a statement approving any proposed work of construction improvement or

alteration.

g. The Committee shall disapprove any plans in which the proposed construction or alteration fails to comply with the Declaration of Protective Covenants, Conditions and Restrictions for Omaopio Ridge, and may disapprove any plans if in the opinion of the Committee the proposed construction or alteration is unsatisfactory either in location as may adversely affect the view from an adjoining lot, or usability of an adjoining lot, in proportions or in architectural style or appropriateness, in finished design, or if same would not be in harmony of exterior design or color with the structures located within the Subdivision or in the general area or with the topography and grade. Approval of any plans and specifications shall not be deemed to waive the right of the Committee to object to the same or similar plans or specifications or any feature or element embodied therein that are submitted for approval for use on other lots in the subdivision.

h. The Committee is authorized to grant variances from the provisions herein if in its sole opinion the granting of a variance will not have an adverse effect on the neighboring lots and is compatible with the intent of these protective provisions and restrictions.

2. Temporary Structures. No temporary buildings, structures, outhouses, sheds, tents or trailers of any kind shall be erected, altered, placed or permitted to remain on any lot except as expressly provided in this paragraph. One temporary structure or trailer and portable toilet may be erected or placed on any lot during the period of construction thereon for use as a construction office but in no event as a residence. The temporary construction structure or trailer shall remain upon the lot only during the period of construction of permanent improvements thereon and must be removed within thirty (30) days after completion thereof. Any surplus material from construction must be removed within thirty (30) days of the completion of construction.

3. Laws, Codes and Ordinances. All work undertaken on any lot shall comply with all applicable, existing laws, rules, regulations, codes and ordinances; provided, however, where requirements hereunder are more stringent than the applicable laws, rules, regulations, codes and ordinances, the requirements hereunder shall govern.

4. Building Type. All lots may have one single-family residential dwelling with a private garage, for not less than two (2) cars; provided, however, Owners may construct a second residential dwelling of a minimum of five hundred (500) square feet if so authorized by the zoning code, the Section and all other applicable codes and ordinances; provided, further, that such second residence shall be constructed in accordance with the terms and conditions of the Declaration and shall, in all other respects, comply with, and be subject to these Design Requirements.

5. Restrictions and Regulations. No residence of less than 2400 square feet of interior living space exclusive of decks, balconies, lanais and garages and having a maximum height over thirty (30) feet above existing grade, shall be permitted to be constructed on any lot. All new buildings, improvements and other structures and all alterations, changes and additions to all existing buildings, improvements and other structures shall conform to the following standards:

a. Standards. The architectural design, materials and colors of the buildings, improvements and other structures shall be reasonably consistent to create a harmonious appearance. All designs, plans, specifications, construction documents and “on-site” supervision of all construction of residences, or other improvements and/or structures must be prepared and supervised by a licensed professional architect or civil engineer registered in the State of Hawaii.

b. Prohibited Materials and Design Styles. Harsh contrasts, faddish and self-conscious design will not be permitted. The following materials will not be permitted:

- (1) Exterior Building Wall Materials
  - (a) Concrete block over four (4) inch coursing
  - (b) Corrugated metal
  - (c) Standard precision block
  - (d) Gloss-glazed ceramic tile
- (2) Colors, Painting and Finishes
  - (a) Glaring and non-muted
  - (b) Bright white or pure white
  - (c) Diluted paint or single coat
- (3) Framing and structural
  - (a) Single wall constructions
  - (b) Girts
  - (c) Less than 5/8 inch siding material
- (4) Roofing Materials
  - (a) Any materials not installed in strict compliance with manufacturer's specifications
  - (b) Objectionable glaring or reflective materials
  - (c) Corrugated metal, except certain high grade bonded-on painted metal roofs subject to design control committee approval.
  - (d) White or bright rock
  - (e) Spray urethane foam
- (5) Exterior Glass and Glazing
  - (a) Mirrored glass
  - (b) Green or blue-tinted glass

(6) Exterior Lighting. All exterior lighting of any sort, the light source of which is visible from the adjacent street or adjacent lots, must be approved in writing prior to its installation by the Design Control Committee.

(7) Specific Limitation

- (a) Second-hand or used lumber or other used material for construction without the prior approval of the Design Control Committee.
- (b) Unpainted, glaring, non-blending colors, excepting copper, for use as rain gutters.

Any service or utility area or any laundry facility including any area for hanging clothes must be completely screened from view on all sides. All propane tanks or similar equipment shall be completely screened from view and properly maintained and kept in good repair.

c. Fences. The location and construction of any fence to be placed upon a Lot shall first be reviewed and approved by the Design Control Committee. Fence location shall be aesthetically pleasing and blend with the landscape and topography, and minimize impacts to the view planes from the Lots. Fences shall be constructed of Kiawe post and rail or standard ranch fencing, which includes Kiawe posts and metal posts with a combination of barbed or other wire fencing.

6. Driveway Entry Gates, Concrete Approaches and Driveways. All points of ingress and egress from the main subdivision roadway to all dwellings will have an approach and driveway constructed of concrete material. Entry gates not provided by the developer, and any modification to an entry gate, must be approved by the Design Review Committee