



## *Waikiki Banyan*

### **REVISED TEMPORARY SPECIAL COVID-19 HOUSE RULES AMENDMENT**

#### **PURPOSE:**

To be consistent with Federal, State and Municipal COVID-19 Guidelines in curbing the spread of Corona virus, the Board of Directors has adopted Special House Rules and a fining procedure to be in effect during the pandemic.

#### **1. COVID-19 RULES.**

All individuals (residents, guests, contractors and or delivery persons) are required to wear a protective face mask covering their nose and mouth and to maintain social distancing (i.e., remain 6 feet away from others) while in any common area except as provided in Section D.6. Common areas include, but are not limited to:

- Hallways and corridors on all floors
- Lobby, Coffee Shop, Mini Mart & mailbox area
- Recreation Deck
- Elevators (2 persons maximum, except as provided in Section D.6)
- Laundry rooms (2 persons maximum)
- Garage
- Porte Cochere

Violations of Special COVID-19 Rules will result in fines levied against the unit in accordance with the fining procedure outlined below.

#### **2. AMOUNT OF FINES.**

**A.** The Board of Directors has adopted the following schedule of fines for COVID-19 Rules violations:

1. First Offense. A written citation delivered to the owner, agent and occupant.
2. Second Offense. A written citation delivered to the owner, agent and occupant, and a \$50.00 fine assessed against the owner.
3. Third Offense. A written citation delivered to owner, agent and occupant, and a \$100.00 fine assessed against the owner.
4. Fourth and Subsequent Offenses. A written citation delivered to owner, agent and occupant, and a \$200.00 fine assessed against the owner for each offense.

**B.** Second, third, fourth, and subsequent offenses need not be for a violation of the same provision before a fine is imposed. For example, if an occupant violates a “social distancing” rule for his/her first violation, and then violates a “mask” rule for his/her second violation, the fine would be imposed on the owner upon the occurrence of the second violation. It is not necessary for an occupant to violate a specific rule, such as “mask” rule, twice before a \$50.00 fine is levied.

**C.** The Board authorizes the General Manager and Managing agent the full authority to levy fines for violations of the COVID-19 Rules.

**3. CITATIONS.** Each citation issued shall briefly describe the nature of the violation, date of the violation, apartment number, and name of parties involved, if known. The original citation shall be delivered to the apartment owner either in person or via email, who shall be responsible for payment of any applicable fine. If the apartment owner is not an occupant, then a copy of the citation shall also be delivered to the occupant; however, this shall not be deemed a waiver of the apartment owner’s responsibility for payment of any applicable fine.

**4. PAYMENT OF FINES AND LIABILITY.** Apartment owners shall be liable for their own fines and for fines assessed against their tenants, guests, agents, or employees. Unless appealed as permitted below, a fine must be paid by the apartment owner to the Association within seven (7) days of the citation and assessment of the fine. If the apartment owner fails to pay or appeal a fine within seven (7) days after the fine is assessed, the fine shall be deemed an expense specially assessed against the apartment. The Association may file a lien against the apartment for the unpaid fines and may collect the unpaid fines under the procedures provided in the Governing Documents for collection of delinquent assessments, including the assessment of late fees for fines that remain unpaid, unless the Board votes to suspend or cancel the fine.

**5. APPEAL OF FINES.** Any citation or fine may be appealed as provided in this section.

**A.** Within seven (7) days of the date of a citation or fine, an owner, occupant, or other offender may appeal to the Board by delivering a written notice of appeal to the Board or the Managing Agent. A date for hearing the appeal will be set and the appealing party will be notified

**B.** If an appeal is made to the Board, the written notice of appeal must contain a copy of the citation, a statement of the facts of the offense, the reason for the appeal, the names and addresses of any witnesses, and copies of any proposed exhibits.

**C.** The Board may reduce, suspend, or cancel any citation or fine after consideration of the appeal. The Board shall deliver a written decision to the owner (and the person making the appeal, if not the owner) within seven (7) days of the hearing on the appeal.

**D.** Pending issuance of a written decision in response to an appeal to the Board, an apartment owner need not pay a fine and no lien shall be imposed on an apartment. Unless, however, the Board votes to reduce, suspend, or cancel a citation or fine, filing a notice of appeal shall not halt the accrual of any ongoing late fees or affect the ability to issue citations or levy fines for subsequent violations.

E. If a fine is paid, in lieu of appealing a fine in accordance with this Section 4 D5, an apartment owner has the right to initiate a dispute resolution process as provided by Hawaii Revised Statutes Sections 514B-161, and 514B-162, or by filing a request for an administrative hearing under a pilot program administered by the State Department of Commerce and Consumer Affairs.

**6. EXCEPTIONS.**

A. The rule requiring individuals to wear a protective face mask covering their nose and mouth do not apply to individuals with medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the individual; and to children under the age of 5.

B. The rule limiting elevators to 2 persons maximum does not apply to immediate family members/households occupying the same unit.

**7. EFFECTIVE DATE.** These COVID-19 Rules shall be effective May 23, 2020 and continue until terminated by the Board of Directors based on consideration of Federal, State and Municipal COVID-19 Guidelines.