

**DISCOVERY HARBOUR COMMUNITY ASSOCIATION
RULES GOVERNING PROCEDURES OF THE
ARCHITECTURAL/ENVIRONMENTAL CONTROL COMMITTEE**

I. Purpose

The Environmental Control Committee is a standing committee authorized by the Discovery Harbour Community Association (DHCA) Declaration of Protective Covenants Article V, and as reaffirmed per DHCA Bylaws Article III, section 3(b), (2009, as amended) as the Architectural/Environmental Control Committee (A&E Committee) by Resolution #2010-R1. Per the DHCA Bylaws Article III, section 3(b) (2009, as amended), “ [A&E Committee] to the extent provided in said DHCA resolution or resolutions or in other provisions of the DHCA Bylaws, shall have and may exercise the powers of the Board of Directors (BoD) in the management of the business and affairs of the Association.” Per the DHCA Bylaws Article III, Section 3 (d) (2009, as amended), the “A&E Committee shall develop and maintain [this] procedures manual, which shall be reviewed annually” and updated as deemed appropriate and which shall be approved by the BoD. The DHCA rules governing the procedures of the A&E Committee as stated below establish the duties exercised by the A&E Committee on behalf of the BoD. The A&E Committee may also ask the BoD Secretary to make editorial corrections to the procedures manual at any time without Board approval and may propose procedural changes to the BoD for approval at any time during the year when an issue arises that is deemed pertinent to bring to the BoD’s attention.

II. Responsibilities

The A&E Committee is directed by the BoD to perform the following functions per the DHCA Declaration of Protective Covenants (CC&Rs) (1972 Declaration):

- A.** Protect and preserve the environment as defined by the DHCA CC&Rs Articles II, III, IV, V, and VI.
- B.** Review and approve/disapprove submitted architectural plan applications and grant variances for proposed new structures and additions/deletions to lots and other land use in Discovery Harbour per DHCA CC&Rs Article V, or;
- C.** Prepare (modify when necessary) and recommend to the BoD a permit fee structure/schedule for the architectural plan application filing per DHCA CC&Rs Article VI(d);
- D.** Observe, report, and cite non-compliance with applicable DHCA CC&Rs by members per DHCA CC&Rs Articles II, III, IV and VI, and recommend to the BoD procedures for assessing members for non-compliance with those CC&Rs; and
- E.** After giving appropriate notice to the owner(s) of a specific lot or lots that are in non-compliance with the DHCA CC&Rs, recommend that the BoD take actions including, but not

limited to, contacting an appropriate local, county or private agency to determine steps that may be taken to bring such lot/lots into compliance with the DHCA CC&Rs.

III. Committee Membership

A. Composition: Per the DHCA CC&R's Article V, Section 2 (1972 Declaration), "the Committee shall be composed of three (3) members." Per these rules of procedure, the three(3) committee members shall be in addition to the A&E Committee Chair.

B. Qualifications: The volunteer A&E Committee members shall be in good standing and it is recommended that they be qualified in reviewing plans and/or general environmental concerns/knowledge, preferably with experience in construction, engineering, or related fields, and have working knowledge of the current CC&Rs and Bylaws. If none of the Committee members have the aforementioned experience an outside contractor may be hired, when deemed necessary, to appropriately address an issue requiring construction and/or engineering expertise.

C. Impartiality: All A&E Committee members shall act in an impartial manner and uniformly apply the DHCA CC&Rs.

IV. Committee Officer(s)

Per the DHCA Bylaws Article III, section 3(c) (2009, as amended), "after the annual meeting and the first BoD meeting, the members of the BoD, except the President, Secretary, and Treasurer, will organize themselves so that [one] is a Chair of the [Committee] and serving until next annual Board of Director's meeting." Another BoD Director, excluding the President, Secretary, and Treasurer, shall fill any vacancy resulting from the resignation of the A&E Committee Chair.

V. Meetings

The A&E Committee shall make every effort to meet once a month as scheduled and published.

VI. Procedures:

A. Environmental Control Procedures

All lots and parcels located within the DHCA are subject to the standards found in Article II, Section 3 through 18 of the CC&Rs. Environmental control has been established by the CC&R's for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole. To facilitate the enforcement of Article II, Section 5 of the CC&Rs, for both aesthetic and fire prevention purposes, vegetation that is "unsightly, unsanitary, or a hazard to health" is defined as follows: All grasses and weeds which have grown to be a least twenty-four inches (24") in height. Specifically included, but not limited to, grasses such as guinea, kikuyu, and buffel, which are considered to be high intensity burning fuels. The above is

not intended to be an exclusive list but rather is intended to be indicative of those types of plants which are considered a detriment to the residents' health and safety. Excluded from this definition are trees, ornamental shrubbery, flowers and garden vegetables.

1. All complaints shall be submitted in writing on a Complaint Form. Complaint Form templates shall be approved by the BoD (See Exhibit A).
2. Any and all lot owners or renters, property managers, local police and fire officers, Hawaii County officials and public utility officials may submit complaint Forms. Regardless of the source of the complaint, all complaints will be kept confidential, however, if the complaining party wants to remain anonymous the office staff will redact their name from the form. The office staff will maintain a secure spreadsheet with the redacted names that will only be available to the BoD and DHCA office staff.
3. Upon receipt of a Complaint Form by the DHCA office, a copy of the form will be forwarded to the A&E Committee Chair with the original maintained in the appropriate office file. The Chair will assign a committee member to verify the complaint. This committee member will verify all Complaint Forms in person within seven days of receipt, taking pictures if necessary, for the file.
4. After the assigned committee member has verified the Complaint Form, the CC&R Section in violation shall be noted and the Form returned to the Office for preparation of a primary violation notice letter. A courtesy call may be attempted to advise the Lot Owner of a pending letter regarding a violation. Primary violation letters are to be prepared utilizing the template approved by the BoD (Exhibit B). The A&E Committee will provide the Office with specific details of the violation for inclusion in the violation letter. The Office staff will prepare the primary violation notice letter within seven (7) days. After review by the A&E Committee Chair, two (2) A&E Committee members will sign each violation letter. The violation letter will be mailed to the property owner of record by certified mail and regular mail, with a copy sent by regular mail to the tenant (if possible) if the property is a rental. The entire committee at the next A&E Committee meeting will review violation complaints. All violation letters will be available for BoD review, but approval is not required for processing these letters.
5. The DHCA office staff shall maintain the master Architectural tracking spreadsheet and the Violation tracking spreadsheet and appropriate hard copy files. The A&E Committee recorder will provide the office staff with all updates to the master spreadsheets no later than three (3) days before the next scheduled BoD meeting.

6. Primary violations will be given thirty (30) days to comply from the postal date of the notice letter. A shorter time may be imposed if the A&E Committee determines that the violation will cause an imminent health or safety hazard, or if construction commencement occurred without A&E Committee approval. Prior to each A&E Committee meeting, all outstanding violations and architectural issues will be re-evaluated by a designated A&E Committee member(s), for informed discussion at the meeting. The A&E Committee member will verify compliance status in writing on the Complaint Form and return the form to the Office for filing. Any violation not corrected or appealed by the property owner of record, within the 30-day compliance period, will be presented at the next BoD meeting. The BoD will vote to approve or dismiss the special assessment of no less than \$25 monthly, until compliance is achieved.

This special assessment against an owner will be the direct result of the owner's acts or failure or refusal to act or otherwise to comply with the Declarations of Protective Covenants, Corporate Charter or Bylaws, in an amount equal to the monies expended from the Associations' operating fund in performing its duties to enforce the provisions of the Declaration of Protective Covenants, Corporate Charter or Bylaws.

Such assessment shall be in the amount as expended and shall be due and payable to the Association when levied. Monies so expended shall include, without limitation, secretarial, clerical, engineers, architects, attorneys and accountants fees and costs where reasonably incurred by the Association to enforce the Associations' Declaration of Protective Covenants, Corporate Charter and Bylaws.

7. Any property owner may appeal the Violation Notice within thirty (30) days from the postal date of the notice letter. Upon receipt of an appeal request, the A&E Committee Chair will put the appeal on the agenda for discussion during the next A&E Committee meeting. Should the A&E Committee deny the appeal, the property owner may appeal the A&E Committee's decision to the BoD. A request for appeal to the BoD of the A&E Committee's decision must be filed in writing at the Office within thirty (30) days of the A&E Committee's denial. Any violation in an appeal status will not be charged the \$25 monthly special assessment.
8. Should the property be found to be non-compliant at the end of the 30-day compliance period, the A&E Committee may initiate the \$25 monthly special assessment and/or refer the case to the BoD for appropriate further action. All violations brought into CC&R compliance will be verified and signed off by the A&E Committee. The Office shall prepare a thank you letter, to be reviewed by the A&E

Committee Chair, and then mailed to the property owner of record by regular mail, with a copy sent by regular mail to the tenant (if possible) if the property is a rental.

9. Properties with a recurrence of a violation shall be construed as special circumstances and the 30-day compliance period will not apply. The Violation may be immediately turned over to the BoD for action. However, the A&E Committee may decide to send a second- notice letter affording the property owner an additional 30 days to correct the problem.

B. Architectural Procedures

All lots and parcels within the DHCA are subject to the standards for construction of improvements established in Article V, Section 1 of the CC&Rs. No improvements may be constructed without prior written approval of the A&E Committee. The A&E Committee may disapprove any application which does not comply with the CC&R's, or, if in the judgment of the A&E Committee is inharmonious with the Development. The A&E Committee defines "inharmonious" as incongruent, incompatible, or inconsistent with the community standards as a whole. Each new dwelling shall be harmonious with the average dwellings in the Discovery Harbour Community (Article V, Section 1 (b) (iii)) written rules and procedures. Although the minimum legal requirement for a dwelling in Discovery Harbour is 750 square feet (Article II (a), 1972 Declaration) it is strongly recommended that new homes be built to include 1,240 square feet of enclosed living space, which is 80% of the size of the average existing home of 1,550 square feet. All dwellings must also have an accessory thereof, a carport, garage or parking space, although a two-car garage is recommended.

1. All grading and construction plans, along with the 'Architectural Plan Review Form' and remittance of the plan check fee, must be submitted to the Office for approval by the A&E Committee prior to commencement of any such work. The A&E Committee will promptly notify any property owner who begins construction of improvements, prior to obtaining approval from the A&E Committee, to cease construction. The A&E Committee may initiate a complaint against the owner per the procedural process established in this document under the Environmental Control Procedures and shall be subject to any action as authorized in the CC&Rs.
2. All requests for construction of improvements shall be submitted on a Plan Review Application Form. Plan Review Application Form templates will be approved by the BoD (See Exhibit C).
3. Two (2) sets of plans for new construction or additions of any building, and/or outbuilding, fence or retaining wall, along with applicable fees, must be submitted to the DHCA Office and approved by the A&E Committee prior to submitting

plans to the County Building Department for permit. Any such new construction or addition not requiring a County permit must also be approved prior to commencement of work. In order to comply with Hawaii County Building Department requirements, it is highly suggested that four (4) sets of plans be submitted for any construction requiring a permit.

4. All new construction will be required to comply with standards considered harmonious and in line with those achieved by the existing housing development. The A&E Committee has the power to disapprove any application it deems in discord with the standards set or with improvements erected on other lots.
5. The A&E Committee shall meet once monthly to review all submitted plans. Plan approval or disapproval requires the signature of at least three (3) A&E Committee members. All A&E Committee decisions shall be transmitted to the applicant in writing. Any disapproval shall specify the disapproval specifics with suggested corrective actions.
6. All correspondence shall be reviewed and approved by the A&E Committee Chair prior to mailing.
7. The A&E Committee may allow reasonable variances if literal application of the provisions of the CC&R's result in unnecessary hardship, if such variance is in conformity with the general intent of the CC&R's, and if granting of the variance will not be materially detrimental or injurious to owners of other lots in the Development. All variances shall be in writing and become part of the file for the property.
8. Any property owner shall have the right to appeal any adverse decision of the A&E Committee to the BoD by filing a written request within thirty (30) days of the date of the notice being appealed.
9. Plan review criteria shall be updated and adjusted annually by the BoD according to the changes in the community, or as needed.
10. The A&E Committee shall not accept for review any plans submitted by a DHCA member for a property that meets one or more of the following:
 - 1) Has current unresolved violation to CC&Rs
 - 2) Has unpaid monies owed to DHCA
 - 3) The property owner is not a member in good standing as defined by governing documents.

VII. Budget:

The total A&E Committee budget will be approved annually. In most cases these funds will be spent cutting grasses and maintaining neglected lots that have been determined to be detrimental to the health and/or safety of DHCA community members. No money will be sent until every aforementioned effort has been taken to achieve compliance. Any A&E Committee individual expenditure over \$400 must receive BoD approval prior to commitment of the funds.

These Rules supersede all previous Procedures.

Approved by the Discovery Harbour Board of Directors at the Regular Board Meeting held on the 13th Day of June, 2015.

Irene Eklund
President of Board for the
Architectural/Environmental Control Committee

Exhibit A
DHCA CC&Rs Complaint Form

DHCA CC&Rs Complaint Form

Name: _____ PHONE NUMBER: _____ OR Please Keep my Name Anonymous:

DATE: _____ TIME: _____

LOT NUMBER AND DESCRIPTION: _____

BRIEFLY DESCRIBE THE VIOLATION AND HOW/FROM WHERE THE VIOLATION WAS NOTED:

FOR OFFICAL USE ONLY

Name _____ TMK# 9-4- _____

Verification Date/Time: _____

Architectural/Environmental Control Committee member: _____

NOTES _____

PHOTOS: (with date and initials, please) YES e-file print NO

CC&R VIOLATION (CHECK ALL THAT APPLY; PLEASE SEE CC&R'S FOR DETAILED DESCRIPTIONS):

Article II:

- Section 2. Accessory Outbuildings (no garage/shed shall be constructed prior to built dwelling)
- Section 3. Completion of Construction (dwelling shall be completed within 9 months of start)
- Section 4. Prohibition Against Used Buildings (no used buildings shall be placed on lot)
- Section 5. Maintenance of Lots (lot shall not be unsightly, unsanitary, or hazardous)
- Section 7. Nuisances (no noxious/offensive nuisances shall be conducted on lot)
- Section 8. Signs (only professionally prepared signs, less than 5 sq. ft. may be displayed on lot)
- Section 9. Animals (only usual, reasonably confined household pets shall be kept on lot)
- Section 10. Vehicle Parking (no boat, truck or camper trailer shall be habitually parked on street/lot)
- Section 11. Garbage Disposal (no garbage/junked vehicles shall be accumulated or burned on lot)
- Section 12. Fuel Tanks/Trash Concealment (fuel tanks/trash on lot shall be screened from view)
- Section 13. Temporary Structure Restrictions (no travel trailer/tent shall be placed on lot)
- Section 14. Television/Radio Antennae & Laundry (antennae/laundry shall be screened from view)
- Section 15. Drainage Ditches/Swales (drainage ditches/swales on lot shall be unobstructed)
- Section 16. Other _____

ARTICLE V:

- Section 1a. Power of Approval (no improvements may be constructed without prior written approval of the Committee)

DUPLICATE VIOLATION(S) ALREADY IN PROCESS: YES NO

DATES: _____; LETTER SENT: _____ FOLLOW-UP DATE: _____

VERIFICATION DATE/TIME: _____ COMPLIED? YES NO

A/E CONTROL COMMITTEE MEMBER: _____

LOT OWNER CALLED:

DATE _____, TIME _____ BY _____

COMMENTS: _____

FURTHER ACTIONS:

—

Exhibit B
Primary Violation Notice Letter Template



**Discovery Harbour
Community Association**

P.O. Box 651 • Naalehu, Hawaii 96772-0651
(808) 929-9576 • Fax: (808) 939-9046

Email: dhca@discoveryharbour.net

website: www.discoveryharbour.net

{Date}

{Owner Name}

{Owner Address}

{City, State, Zip Code}

Re: Violation of the CC&R's

Dear {Owner Name},

A complaint has been recently filed with the Architectural & Environmental Committee(A&E) with regard to your property T.M.K. No.#9-4-....., also known as Lot #.... for It is therefore in violation of the following section of the Declaration of Protective Covenants and this letter shall serve as notice of the violation:

Article II: General Application Single-Family Residential,

Section, , which reads:
“ ”

We are requesting you, as the owner, remedy the situation regarding your lot. (If overgrown vegetation...”For your convenience, we have two (2) licensed and bonded landscapers who regularly mow properties for DHCA. If you would like their contact information, please let us know.

You have thirty (30) days from the date of this letter to correct the violation or to appeal this notice. You may appeal to the Committee as well as the Board in writing via fax or mail, or you may physically drop off your written appeal at the DHCA office on Monday, Wednesday, or Friday from 8:00 a.m. to 12:00 p.m. HST. Failure to either remedy the situation or file an appeal may result in the A&E Committee initiating a \$25/month special assessment. And/or being turned over to the Board for possible legal action. The property owner shall be billed for all legal fees resulting in this action.

Please inform the office upon compliance; we appreciate your prompt response on this issue.

Discovery Harbour Community Association Environmental/Architectural Committee

A&E Committee Chair

A&E Committee Member

Exhibit C

DHCA Architectural and Environmental Control Committee

Architectural PLAN REVIEW APPLICATION

DHCA Architectural and Environmental Control Committee
Architectural PLAN REVIEW APPLICATION

- Submit to DHCA office: 2 sets of plans, stamped by a State of Hawaii licensed architect (including location on lot and finished ground elevation)
- 1 set grading plans, if no grading required, please submit a letter Stating grading not necessary
- \$50 fee (check, money order or cash only)
- County approved grading plan (if required)
- Signed letter of agency for contractor (if applicable)

Application Received
/ /

Owner/Builder Licensed Contractor (license # _____)

Lot Number: _____ Lot Owner: _____ Date: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Contact (phone/cell/e-mail): _____

Owner's Signature: _____

DHCA WILL RETURN THREE SETS OF THE PLANS TO THE REQUESTOR FOR SUBMISSION TO THE COUNTY. A COUNTY STAMPED SET MUST BE RETURNED TO THE DHCA OFFICE PRIOR TO COMMENCEMENT OF CONSTRUCTION.

County stamped plans Received / /

PLEASE SEE "Summary of Architectural requirements for Plan Review Application" PROVIDED ON A SEPARATE SHEET FOR DETAILS REGARDING DHCA CC&R REQUIREMENTS.

FOR OFFICAL USE ONLY:

Enclosed living space sq. ft.: _____

Garage sq. ft.: _____

Lanai sq. ft.: _____

Height: _____

Foundation type: _____

Grading plans submitted _____

And approved: _____

FINAL INSPECTION Received
/ /

Viewed by the Architectural/Environmental Control Committee on ___ / ___ /20 ___, and found

- NOT APPROVED**, due to: Incomplete application Insufficient fee
- Other _____

APPROVED & signed by: _____ / /20
Committee Chairperson

_____/ /20 _____ / /20
Committee Member Committee Member

Summary of Architectural requirements for Plan Review Application

A copy of the current DHCA CC&Rs is available on-line at <http://www.discoveryharbour.net/> or for purchase at the DHCA office. It is your responsibility to read and comply with all requirements. The Committee may disapprove any single-family residential application per Article V, section 1(b) of the CC&Rs. A non-inclusive summary of the CC&R requirements (Articles II and V) is provided below for your reference.

You have the right to appeal any decision made by the Committee to the Board of Directors within 30 days of the giving of notice of disapproval. Any and all variances must be submitted in writing, and all responses, denials or approvals will be returned in writing.

- a) Each new dwelling shall be harmonious with the average dwellings in the Discovery Harbour Community [Article V, section 1(b)(iii) written rules governing procedures]. Although the minimum legal requirement for a dwelling in Discovery Harbour is 750 square feet (Article II (a), 1972 Declaration) it is strongly recommended that new homes be built to include 1,240 square feet. All dwellings must also have an accessory thereof, a carport, garage or parking space, although a two-car garage is recommended.
- b) Each dwelling shall be single-story [Article II, section 1(b)]. Split-level or two-story construction shall be approved by the Committee on a case by case basis.
- c) Each dwelling shall be at least 25 feet from the front lot line [Article II, section 1(c)].
- d) No garage or shed shall be built before a dwelling is built on a lot [Article II, section 2].
- e) The dwelling shall be completed within nine (9) months from commencement [Article II, section 3].
- f) No used buildings shall be placed on any lot [Article II, section 4].
- g) All plumbing fixtures shall be connected to a septic tank, cesspool, or other sewage system [Article II, section 6].
- h) All fuel storage tanks shall be either buried below ground or screened from view [Article II, section 12].
- i) No travel trailer or tent shall be erected on any lot, nor shall any overnight camping be permitted [Article II, section 13].
- j) Each Owner shall keep drainage ditches and swales located on their lot unobstructed [Article II, section 15].
- k) The location of each dwelling on the lot shall be subject to the prior approval of the Committee, so as to protect as much as reasonably possible the view from each other lot [Article II, section 18].
- l) A minimum one car garage is required for each new dwelling.
- m) All changes require approval and shall be submitted in writing to the Committee or shall be deemed in violation.

AFTER COMPLETION, PLEASE PROVIDE THE DHCA OFFICE WITH THE FINAL INSPECTION NOTICE.

Please make sure that the DHCA office has your current contact information.