

LAND COURT SYSTEM

REGULAR SYSTEM

RETURN BY: MAIL (X) PICKUP ()

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TITLE OF DOCUMENT: **FIRST AMENDED BY-LAWS OF KONA PARADISE
PROPERTY OWNERS ASSOCIATION**

PROPERTY DESCRIPTION:
Subdivision known as KONA
PARADISE and situated at Kaohe
4th, District of South Kona,
Hawaii and being a portion of
Mahele Award Nol 25, R.P. 7739
to Nahua, which property
comprising said subdivision is
particularly shown on that
Subdivisions map approved on
January 19, 1959, under file
Number 1313, and revised on
January 10, 1971, amended by
the Bylaws of Kona Paradise
Property Owners Association
filed on February 16, 1999, as
Document No. 99-02284

DOCUMENT NO. 99-022824
RECORDED: FEBRUARY 16, 1999

**FIRST AMENDED BY-LAWS
Of
KONA PARADISE PROPERTY OWNERS ASSOCIATION**

ARTICLE I

SECTION 1. Name. The name of the corporation is the KONA PARADISE PROPERTY OWNERS ASSOCIATION, hereinafter for convenience called the "corporation".

SECTION 2. Principal Office. The principal office and the mailing address of the corporation shall be 87-369 Kaohe Road, Captain Cook, Hawaii 96704, or at such other place in the State of Hawaii as the Board of Directors from time to time shall determine.

SECTION 3. Place of Meetings. All meetings of the members and of the Board of Directors shall be held at such place as is determined by the Board as being most convenient for the members.

SECTION 4. Seal. The corporation may, but need not, have a common seal. The seal of the corporation shall be in such form and shall bear the name of the corporation and such other words, devices and inscriptions as the Board of Directors from time to time shall prescribe.

SECTION 5. Fiscal Year. The fiscal year of the corporation shall be from January 1st through December 31st.

SECTION 6. Purpose. It is the intent and purpose of the Association to regulate the uses for authorized occupants and guests within the subdivision, and to provide the maximum enjoyment of the facilities and services of the Association for the safety and health of the owners and properties within the Kona Paradise subdivision. The authority and responsibility for enforcing the Bylaws and any rules adopted by the Association is vested in the Board of Directors of the Association and, where so directed, its designee, including any managing agent. The owners, authorized occupants, tenants and their respective guests shall be bound by these Bylaws, and shall further be bound by standards of reasonable conduct whether or not specified herein. Neither the Board of Directors nor its designees shall be responsible for non-compliance of the Bylaws or rules by others.

Nothing in these Bylaws shall be construed, interpreted or enforced in a manner that would constitute prohibited discrimination on the basis of race, creed, religion, sex, national origin, handicap, familial status, marital status, parental status, ancestry or HIV infection under the provisions of Title VIII of the Civil Rights Act of 1968, as amended, or the provisions of HRS Chapter 515, as amended, or the Americans With Disabilities Act of 1990. Use of the facilities and services of the Association shall be made available on an equal basis to all persons, subject to reasonable limitations and restrictions designed to insure the health and safety of such users as set out in the Bylaws and any rules adopted by the Association in pursuit thereof.

ARTICLE II

MEMBERS

SECTION 1. Eligibility, Admission, Effective Dates. Every owner of a lot within the subdivision known as Kona Paradise and situated at Kaohe 4th. District of South Kona, Hawaii and being a

portion of Mahele Award No. 25, R P. 7739 to Nahua, which property comprising said subdivision is more particularly shown on that subdivision map approved on January 19, 1959, under File Number 1313, and revised on January 20, 1971, shall be a member of the corporation. No such owner shall for any reason be denied membership in the corporation. The term "owner" as used in these By-Laws shall include a vendee under valid contract of sale and shall mean the singular or plural member, individuals, trustees or corporations, and each of their respective successors, executors, administrators and permitted assigns. "Owner" shall also include any person or entity which owns a lot or has the right of occupancy of a lot under a recorded lease having a term of twenty or more years from its commencement date. [HRS Sec. 421-J-2]. No such owner whether one or more individuals, trustees or corporations shall be eligible for more than one (1) membership per each such lot. If there is more than one owner of a lot, they may designate in whose name the membership will be held, but upon their failure to do so, any one of them may be designated as the member. Each such owner shall be admitted to membership by the entry of his name upon the membership roll of the corporation and no other or further formality shall be required to constitute any such owner a member of the corporation. The effective date of membership for Paradise, Incorporated and for each vendee under a contract of purchase from Paradise, Incorporated antedating the effective date of the Charter of the corporation shall be the effective date of the Charter. The effective date of membership for each owner of a lot who has been issued a deed by Paradise, Incorporated prior to the effective date of the Charter shall be the date of the separate membership agreement executed by each such owner. The effective date of each and every other owner shall be the date of the instrument, act or occurrence by which such person becomes an owner of the lot.

SECTION 2. Expulsion, Withdrawal, Transfer. No membership shall be terminated or forfeited nor member be expelled, except upon sale of his lot; provided, however, that upon execution and delivery of a valid contract of sale of any lot, the vendor's membership, including voting rights adhering thereto, shall be considered as having been temporarily transferred to the vendee, such transfer becoming permanent upon subsequent delivery of a deed in compliance with said contract of sale or revesting in the vendor in the event of termination of said contract of sale. No member may withdraw, nor shall any member transfer or otherwise dispose of his membership, except upon lawful conveyance (including contract of sale as aforesaid) of his lot.

ARTICLE III

MEETINGS

SECTION 1. Annual Meeting. The annual meeting of the members of the corporation shall be held on a Saturday in March of each year as scheduled by the Board. At the annual meeting the President, Treasurer and Standing Committee Chairmen shall make their annual reports to the members, the members shall elect the members of the Board of Directors, may transact any general business which may be brought before the meeting and may take any corporate action.

SECTION 2. Special Meetings. Special meetings of the members of the corporation may be held at any time upon the call of the President, or upon the call of a majority of the Board of Directors, or upon a petition of any thirty-five (35) members in good standing who present to the President or the Board of Directors a request for such meeting, giving the necessity or specific reason for calling a special meeting. No business other than that for which the special meeting is called shall be transacted at such meeting.

SECTION 3. Notice of Meeting. A written or printed notice of every meeting of the members, stating whether it is an annual, regular or special meeting, the authority for the call of the meeting, the place, day and hour thereof and the purpose therefore shall be given by the Secretary or the person or persons calling the meeting at least 30 days but not more than 90 days before the day set for such meeting, except that notice of the annual meeting will be mailed at least 60 days in advance of the meeting. Such notice shall be given to each member in any of the following ways: (A) By leaving the same with him personally, or (B) By leaving the same at the residence or usual place of business of such member, or (C) By mailing it, postage prepaid, addressed to such member at his address as it appears on the membership roll of the corporation. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of meeting shall in no way invalidate the meeting or any proceedings thereat.

SECTION 4. Notice Unnecessary. The presence of all of the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall at the opening of said meeting object to the holding of the same for non-compliance with the provision of Section 3, immediately above. Any meeting so held without objection shall, notwithstanding the fact that no notice of meeting was given or that the notice given was improper, be valid for all purposes and at such meeting any general business may be transacted and any corporate action may be taken.

SECTION 5. Quorum. At any meeting of the members of which proper notice has been given, thirty-five percent (35%) or more of the members of the corporation, present in person or by proxy, shall constitute a quorum, and the concurring vote of a majority of the members constituting a quorum shall be valid and binding upon the corporation, except as otherwise provided by law or by these By-Laws or by the Charter of the corporation. At any meeting of which proper notice has not been given, the presence of all of said members, in person or by proxy, shall be required to constitute a quorum.

SECTION 6. Voting/Proxies by Owners. At every meeting of the members of the corporation, each member in good standing shall be entitled to vote in person or by proxy.

(a) A proxy shall be in writing and shall be valid for only a specified meeting of the association and any adjournments of that meeting.

(b) A member of the association may give a proxy to any person or the board of directors as an entity, and the proxy may be limited as indicated by the member. No proxy shall be irrevocable unless:

(1) The proxy is coupled with a financial interest in the unit; or

(2) the proxy is held pursuant to a first mortgage of record encumbering a unit or an agreement of sale affecting a unit.

(c) To be valid, a proxy shall:

(1) Be delivered to the secretary of the association or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains;

(2) Contain at least the name of the association, the date of the meeting of the association, the printed name and signature of the person or persons giving the proxy, the unit or units for which the proxy is given, and the date that the proxy is given; and

(3) Contain boxes wherein the owner has indicated that the proxy is given:

- (A) For quorum purposes only;
- (B) To the individual whose name is printed on a line next to this box;
- (C) To the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or
- (D) To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

(d) If the board of directors uses association funds to distribute proxies that include the election of directors, it shall first post notice of its intent to distribute proxies in prominent locations within the project at least thirty days prior to its distribution of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for nomination to the board accompanied by a statement, the board shall mail to all owners either:

(1) A proxy form containing the names of all owners who have requested nomination to the board accompanied by their statements; or

(2) A proxy form containing no names, but accompanied by a list of names of all owners who have requested nomination to the board and their statements. The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

Each member shall be entitled to one (1) vote per lot. Any member who is in default in the payment of a lot assessment shall not be considered as a member in good standing and while he/she may attend meetings and be counted as a member for purposes of establishing a quorum, he/she shall not be entitled to vote. However, each member in default shall be notified in writing of such default at the time and in the manner notice of meetings are given, pursuant to Article III, Section 3, hereof and provided that if within ten (10) days of notice of such default, but no later than 15 February, the member shall fully pay his/her delinquency, or if he/she shall in writing request a hearing by the Board of Directors, and said request is received by the Board of Directors by 1 February, and if it is determined by the Board that he/she can become eligible to vote, then such member shall be considered a member in good standing and be fully entitled to vote at the meeting.

SECTION 7. Adjournment. Any meeting of the members of the corporation, whether annual, regular or special, may be adjourned from time to time, whether a quorum be present or not, without notice other than the announcement at the meeting. Such adjournment may be to such time and to such place as shall be determined by a majority vote of the members present; provided, however, that if any meeting cannot be held because a quorum is not present, the members present, in person or by proxy may adjourn the meeting to a time not less than 48 hours nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be

twenty-five percent (25%) or more of the members of the corporation present in person or by proxy. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted by a quorum at the original meeting as originally called.

ARTICLE IV

BOARD OF DIRECTORS

SECTION 1. Number and Qualification. There shall be a Board of Directors of the corporation of not less than nine (9) or more than fifteen (15) members, as may from time to time be determined by the members of the corporation. Until the members of the corporation shall otherwise determine, the Board of Directors shall consist of eleven (11) members. Every member of the board of directors shall be a member of the Association, and members nominated to serve on the Board must be in good standing and not delinquent in any assessment or fine, or in violation of any of the provisions of these Bylaws or duly adopted rules or regulations of the Association, at the time of nomination.

SECTION 2. Election and Term. Directors shall be elected at each annual meeting of the members of the corporation, and shall, unless sooner removed by the members of the corporation as provided in these By-Laws, hold office until the successor shall be duly elected. Nominations for the Directors to be elected shall be made in writing by any member in good standing to the Secretary of the corporation. Said written nomination shall be made no later than the 31st day of the month of December immediately preceding the annual meeting. The Secretary of the corporation shall mail to each member a list of all written nominations for Directors received by the corporation.

The list of all written nominations shall be mailed to the members of the corporation with the notice of the annual meeting provided in the By-Laws herein. Nominations for Directors may be permitted from the floor of the meeting at which election is to be held. Each nominee will submit a brief biographical sketch and statement of interest.

SECTION 3. Annual Meeting. The annual meeting of the Board of Directors of the corporation shall be held at the place of each annual meeting of the members and immediately following such meeting. At the annual meeting the Directors shall elect the officers of the corporation for the following year, may transact any general business which may be brought before the meeting and may take any corporate action.

SECTION 4. Regular Meetings. The Board of Directors may establish regular meetings to be held at such places and at such times as it may from time to time determine, and when any such meeting or meetings shall be so determined, written notice shall be sent to all Board members 7 (seven) days in advance of said meeting.

SECTION 5. Special Meetings. Special meetings of the Board of Directors may be called at any time by the President or by any two (2) Directors.

SECTION 6. Notice of Special Meeting. A written or oral notice, including phone message of each special meeting of the Directors of the corporation, stating the reason(s) and authority for the call of the special meeting and the place, day and hour thereof, must be given to each Director by the Secretary or by the persons calling the meeting at least 48 hours before the date set for the special meeting. Such notice shall be given to each Director in any of the following ways:

A. In writing:

(1) By leaving the notice with the Director personally; or (2) By leaving the notice at the Director's residence or usual place of business; or (3) By mailing said notice at least 48 hours in advance of said special meeting, addressed to the Director at the Director's address as it appears on the books of the corporation.

B. By conversation, direct or by telephone or by telephone message with each Director no later than 48 hours prior to the date set for the special meeting.

For any actions taken by the Directors at a special meeting, a majority of the total number of Directors of the current Board must be present.

SECTION 7. Conduct of Board Meetings. Whenever practicable, all meetings of the board of directors, other than executive sessions, shall be open to all members. Members who are not on the board of directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the board of directors votes otherwise. Minutes of the meetings of the board of directors shall include the recorded vote of each board member on all motions except motions voted upon in executive session. The board of directors, with the approval of a majority of a quorum of its members, may adjourn any meeting and reconvene in executive session to discuss any vote upon matters concerning personnel, litigation in which the association is or may become involved, or as may be necessary to protect the attorney-client privilege of the association. The general nature of any business to be considered in executive session shall be first announced in the regular session. A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

SECTION 8. Quorum. A majority of the total number of directors to which the Board is entitled shall constitute a quorum to transact business. To be valid, any act or business must receive the approval of a majority of such quorum. A vacancy or vacancies in the membership of the Board shall not affect the validity of any action of the Board, provided there is present at the meeting a quorum of all members to which the Board is entitled.

SECTION 9. Actions Authorized Without Meeting. Any action which the Board of Directors may lawfully take in any meeting properly called and held may also be taken by their written assent thereto. To be valid, any act or business must receive the approval of a majority of the total number of Directors to which the Board is entitled. Any action so taken shall be valid and effective from and after the filing with the Secretary or with an Assistant Secretary of a written minute or other instrument, signed by a majority of the Directors to which the Board is entitled, evidencing the action.

SECTION 10. Powers. Subject to any limitations which may be set forth in the Charter of Incorporation or in these By-laws, the Board of Directors shall have full power to control and direct the business and affairs of the corporation and to do and provide for any and every lawful act, whether in the ordinary course of the business of the corporation or otherwise. The Board of Directors may establish such rules and regulations in conformance with and to implement these By-Laws and covenants, conditions and restrictions.

SECTION 11. Removal. Any Director may be removed from office by the concurring vote of three-fourths (3/4ths) of the members of the corporation present at any meeting duly called and held for such purpose. Any Board member who fails to attend two Board of Directors meetings without prior notice, verbal or written to the Secretary, will have been deemed to have resigned.

SECTION 12. Vacancies. If any vacancy occurs in the Board of Directors, the remaining members of the Board by an affirmative vote of a majority of them may elect a successor to serve until the next annual meeting of the members of the corporation or until a successor shall be duly elected.

SECTION 13. Compensation of Directors. Members of the Board of Directors shall receive no compensation for their services as Directors but they may be reimbursed for actual expenses incurred.

ARTICLE V

OFFICERS

SECTION 1. Election and Term. The Officers of the corporation shall be a President, one or more Vice Presidents, a Treasurer, and a Secretary. Each of the Officers shall be elected at the annual meeting of the Board of Directors and shall hold office until the next annual meeting or until a successor shall be duly elected and qualified. One person may hold more than one office. If a vacancy occurs in any office, the Board of Directors may elect a successor to fill such vacancy for the remainder of the term. All Officers must be members of the corporation.

SECTION 2. Subordinate Officers and Agents. The Board of Directors may appoint such subordinate Officers, including Assistant Treasurers and Assistant Secretaries, agents and representatives as may be deemed proper, who shall hold their positions at the pleasure of the Board of Directors and who shall have such powers and duties as may be assigned to them by the Board of Directors. The authority to appoint agents and representatives and to fix their power and duties may not be delegated by the Board of Directors. Any Officer of the corporation may also be a subordinate Officer, agent or representative.

SECTION 3. Compensation. Compensation, if any, of all Officers, subordinate Officers, agents and representatives shall be determined by the Board of Directors. The authority to fix the compensation of agents and representatives may not be delegated.

SECTION 4. Bonds. Any Officer may be required by the Board of Directors to give a surety company bond for the faithful discharge of his duties in such sum as the Board of Directors may require and such bond shall be deposited as the Board may direct. The cost of any bond as required herein will be an expense borne by the corporation and shall be considered part of the common expenses of the corporation.

ARTICLE VI

PRESIDENT

SECTION 1. Powers and Duties. The President when present shall preside at all meetings of the members of the corporation and of the Board of Directors. Subject to the control of the Board of

Directors, he shall be the chief executive Officer of the corporation, shall exercise general supervision and direction over the management and conduct of the business and affairs of the corporation and shall have the right to inspect at all times any and all of the records, accounts and property of the corporation. He shall also have such other powers and duties as are given to him elsewhere by law or in these By-Laws and as may be assigned to him from time to time by the Board of Directors.

ARTICLE VII

VICE PRESIDENTS

SECTION 1. Powers and Duties. The Vice President (or Vice Presidents, in order of priority of appointment) shall assume and perform the duties of the President, in the absence or disability of the President or whenever the office of President is vacant. Each Vice President shall have such other powers and duties as may be given to him by law or in these By-Laws and as may be assigned to him from time to time by the Board of Directors.

ARTICLE VIII

TREASURER

SECTION 1. Powers and Duties. The treasurer shall receive all monies belonging to the corporation and deposit the same in a reliable bank. He shall pay out money only as approved by the President or as directed by the Board of Directors. He shall account for all funds and disbursements at such time and in such manner as the Board of Directors may specify and shall render a report of all receipts and disbursements at annual meetings. He shall also have the powers and perform the duties customarily incidental to the office and such other powers and duties as may be given elsewhere in these By-Laws or as may be assigned from time to time by the Board of Directors.

ARTICLE IX

SECRETARY

SECTION 1. Powers and Duties. The Secretary shall attend and keep the minutes of all meetings of the members of the corporation and of the Board of Directors and of any committee, in books provided for that purpose. He shall give all notices provided by these By-Laws and shall have such other powers and duties as may be incidental to the office of Secretary or elsewhere given to him by law or in these By-Laws and as may be assigned to him from time to time by the Board of Directors.

SECTION 2. Secretary Pro Tem. If the Secretary shall not be present at any meeting, the presiding Officer shall appoint a Secretary pro tempore. He shall keep the minutes of such meeting and record them in the books provided for that purpose.

ARTICLE X

AUDITOR

SECTION 1. Election. The members of the corporation may at any annual meeting, or at any special meeting called for that purpose, appoint some person, firm or corporation engaged in the business of auditing to act as Auditor of the corporation.

SECTION 2. Disqualification. No Director, Officer or member shall be eligible to serve as Auditor of the corporation.

SECTION 3. Duties. The Auditor shall, as often as is required by the Directors, examine the books and papers of the corporation and compare the statements of the treasurer with the books and vouchers of the corporation, and otherwise make a complete audit of the books of the corporation, and thereafter make appropriate reports to the Directors, who shall within thirty (30) days of the completion of such audit make a copy thereof available to each member.

ARTICLE XI

REMOVALS, VACANCIES AND ABSENCES

SECTION 1. Removals. The Board of Directors may at any time remove from office any Officer, subordinate Officer, agent or representative appointed by it or by any person under authority delegated by it, except so far as such removal would be contrary to law.

SECTION 2. Vacancies. If the office of any Officer shall become vacant by reason of death, resignation, removal, disqualification or otherwise, the Board of Directors may appoint a successor who shall hold office for the unexpired term.

SECTION 3. Absence of Treasurer or Secretary. In the absence of the Treasurer or in his inability to act, or if that office is vacant, the duties thereof shall be performed by such Assistant Treasurer as may have been designated by the Board of Directors, otherwise by the Secretary. In the absence of the Secretary or in his inability to act, or if that office is vacant, the duties thereof shall be performed by such Assistant Secretary as may have been designated by the Board of Directors, otherwise by the Treasurer.

ARTICLE XII

EXECUTION OF INSTRUMENTS

SECTION 1. Authorized Signatures. All checks, drafts, notes, bonds, acceptances, deeds, leases, contracts and all other instruments shall be signed by a minimum of two persons who shall be designated by general or special resolution of the Board of Directors. In the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the President OR Vice President and the Treasurer OR the Secretary.

ARTICLE XIII

LIABILITY OF OFFICERS AND DIRECTORS

SECTION 1. Exculpation. Each Director or Officer shall be free from all personal liability for any acts done on behalf of the corporation or for any losses incurred or sustained by the corporation unless the same have occurred through his willful negligence or willful misconduct.

SECTION 2. Indemnification. Every Director or Officer shall be indemnified by the corporation against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon him in connection with or resulting from any claim action, suit, proceeding, investigation or inquiry of whatever nature in which he may be involved as a party or otherwise by reason of his being or having been a Director or Officer of the corporation, whether or not he continues to be such Director or Officer of the corporation at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which he shall be finally adjudged in such action, suit, proceeding, investigation or inquiry to be liable for willful misconduct, willful negligence or neglect toward the corporation in the performance of his duties as such Director or Officer. As to whether or not a Director or Officer was liable by reason of willful misconduct, willful neglect or negligence toward the corporation in the performance of his duties as such Director or Officer, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each Director and Officer may conclusively rely upon an opinion of legal counsel selected by or in the manner designated by the Board of Directors. The foregoing right to indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law, and shall inure to the benefit of the legal representatives of such person.

ARTICLE XIV

RULES AND REGULATIONS AND RECORDS OF THE ASSOCIATION

SECTION 1. Adoption. The Board of Directors may from time to time make such rules and regulations concerning implementation of these By-Laws, and Covenants, Conditions and Restrictions and the use of the facilities of the corporation as it deems necessary or advisable, including the matter of the use of such facilities by guests of members or of the corporation in conformance with these By-Laws and Covenants, Conditions and Restrictions and the costs for and conditions under which records of the Association shall be made accessible to owners within the subdivision.

SECTION 2. Promulgation. The Secretary shall mail a true and correct copy of all rules and regulations, or amendments thereto, to each member of the corporation as appears on the membership roll of the corporation at his last known address, and shall enter upon the records of the corporation his certificate of such mailing.

SECTION 3. Effective Date. Any such rule or regulation or amendment thereto, adopted by the Board of Directors shall be effective commencing at 12:01 A.M. on the fifth (5th) day following the date of such mailing unless the Board of Directors, in adopting the same, shall specify some other effective date.

SECTION 4. Advisory Committee. The President, with the approval of the Board of Directors, may appoint a committee of members to prepare drafts of such rules and regulations, to suggest amendments thereto, and generally to advise the Board of Directors in regard to the use of the facilities of the corporation.

SECTION 5. Association Records and Access. The Association shall maintain at its principal office, and allow access to Association Records, as follows:

- (a) The Association shall maintain the most current financial statements and the minutes of the most recent board meeting (other than executive session minutes); upon approval by the Board, such records shall be made available to any member at no cost. The conditions under which such approval shall be given may be adopted by the rule making authority granted to the Association in Sections 1 and 2 above.
- (b) Approved minutes of all other board meetings (except executive sessions), and for the current and prior years' owner's meetings shall be made available for review by owners during reasonable hours at a location designated by the Board. If any owner wants copies, the Board may charge a reasonable fee for duplication, postage and stationary and other administrative costs associated with handling the request to be fixed by the board under its rule-making authority granted in Sections 1 and 2 above.
- (c) Financial statements, general ledgers, accounts receivable and payable, check ledgers, insurance policies, contracts, invoices for the current and prior year, and any documents regarding delinquencies of 90 days or more shall be made available, with the costs of handling the request chargeable to the party requesting the same as stated in Subsection (b). The board may, however, require that the owner furnish an affidavit to the Association stating that the foregoing information is requested in good faith for the protection of the interests of the association, its members, or both.
- (d) Proxies, tally sheets, ballots, check-in lists and certificates of elections for a period of 30 days after an association meeting may be viewed by members, and proxies and ballots may be destroyed following the 30 day period. Subject to payment of a reasonable fee, a member may obtain copies of tally sheets, check-in lists and certificates of election from the most recent owner's meeting on request. HRS §421J-7(d).
- (e) If an owner requests any other record or document of the Association, the board shall give written authorization, or written refusal with an explanation of the refusal, within 60 days of the request. Approval to the request may be conditioned on payment of reasonable fees or costs for reproduction and access.
- (f) The following documents may, at the Board's direction, be withheld from inspection or copying:
 - 1-Personnel records;
 - 2-Individual medical records;
 - 3-Relating to currently negotiated business transactions;
 - 4-Attorney/client privileged documents;
 - 5-Complaints against an individual member of KPPOA;

- 6-Other records, the release of which "could" be a violation of any law, ordinance, rule or regulation; or
- 7-"Similar records".

ARTICLE XV

ASSESSMENTS AND CHARGES

SECTION 1. Regular Annual Assessments. One of the primary purposes and objects of the corporation shall be to establish a suitable and equitable assessment program to ensure the adequate and continued maintenance of community facilities, including roadways, within the Kona Paradise subdivision. In furtherance of such purposes, a scale of assessments shall be fixed by the Board of Directors on a budgetary basis so that sufficient revenue shall be derived therefrom to enable the corporation to accomplish its general purposes and to enable it to maintain all roadways within the subdivision in good condition and repair and in accordance with those reasonable standards as may be lawfully required by the Planning Commission of the County of Hawaii, State of Hawaii or which other governmental body empowered by law to establish any such lawful requirements. The amount of any annual assessment shall not be increased during the fiscal year. The annual assessment may only be increased by ten percent (10%) per year based on the annual assessment established for the prior year.

SECTION 2. Special Assessments. The Board of Directors shall not levy any Special Assessment without the affirmative vote of sixty-six and two thirds percent (66-2/3%) of the membership present in person or by proxy at the annual meeting or a special meeting of the membership called specifically for this purpose. The notice of a special meeting as well as an annual meeting at which a special assessment is to be proposed shall describe any proposal to levy a special assessment.

No levy of a special assessment shall, in any event, exceed that amount charged to any single lot annually as the regular annual assessment. The effective date of any such levy of special assessment shall be the date of the next regular billing of owners after the passage of the special assessment by the membership.

The Board of Directors, acting for the Association as a whole, shall not under any circumstances whatsoever borrow or incur any debt at any time in excess of the total revenue collected from one year's maintenance fees, based upon the previous year's revenue collected from the regular annual maintenance fee assessment.

SECTION 3. Reserve Fund. In determining the amount of any annual or special assessment, the Board of Directors shall consider the necessity and advisability of establishing a reserve fund for emergency or extraordinary expenses and the Board shall have the power to reasonably and equitably establish such a reserve fund.

Said reserve fund, if deemed advisable by the majority of the Board of Directors, shall be established only with funds already collected from the regular monthly maintenance fees collected or from such other revenue as may be due "KONA PARADISE PROPERTY OWNERS ASSOCIATION" from sources other than the monthly maintenance fee assessment. All special assessment funds shall be placed in this reserve fund for purposes of accounting and shall be

dispensed only in accordance with the objectives specified at the time of authorization of the special assessment.

SECTION 4. Annual and Special Assessments. Deleted in its entirety, already covered in Sections 1, 2, and 3.

SECTION 5. Annual Budget and Limitation on the Authority of the Board and its Officers. The Board of Directors shall prepare a detailed annual budget and proposed assessment for the corporation. The budget and assessment shall have the same term as the directors and run from one annual meeting of the members to the next. The budget may have a provision for emergencies and contingencies or set aside reserves and may identify an amount to be spent at the discretion of the Board. Every budget and every assessment must be specifically approved by the membership at their annual meeting.

The Officers of the corporation may not spend funds of the corporation except as specifically authorized in the budget. The Board of Directors may not spend funds or commit to spend funds in excess of the total amount authorized by the members. The Board of Directors can move funds within the budget only on the affirmative vote of two-thirds of the Directors.

A copy of the proposed budget and assessment together with financial statements will be mailed to the members as soon after the end of the calendar year as it is available. Any money spent or proposed to be spent that will go to, or has gone to, any Officer, Director, their Family, or their business affiliates will be clearly identified to the members together with any changes made in the budget (see above).

This same information will be sent to the members by the end of July of each year as part of the mid-year report and will include financial results for the calendar year through the end of June. The mid-year report will include progress on the approved budget rather than the proposed budget. Updated financial information will be provided at the Annual Meeting of the members.

Members are welcome to, and encouraged to, attend every meeting, including Board meetings, executive meetings and fiduciary meetings. Members are welcome to review and to be provided copies of interim financial reports, the minutes of meetings, income tax statements and every other document that is the business of the Association except that the Board may exclude information or attendance at a particular meeting by majority vote, if the Board believes that information or attendance at a particular meeting by one member may bring harm to another. There are to be no restrictions on information that is the business of the Association, between members of the Board or Officers and the Board.

SECTION 6. Payment of assessments, delinquency. Every assessment, whether annual or special shall be borne by the members pro-rata; that is each member will be required to pay the amount that is equal to the quotient of the total amount of the assessment as determined by the Board divided by the total number of lots within the Kona Paradise Subdivision as of the effective date of such assessment. Each annual assessment shall be due and payable on or before March first of each year. Each special assessment shall be due and payable not later than thirty (30) days after its effective date.

SECTION 7. Lien. Each assessment shall constitute a lien upon each lot against which it is imposed and such then may be foreclosed by the corporation in the same manner as a real estate mortgage may be foreclosed, as set forth in Chapter 336 and Section 3426i, Revised Laws of Hawaii

1955, as the same is now or may hereafter be amended; provided that no action shall be brought to foreclose such lien unless ninety (90) days written notice thereof shall be mailed to the delinquent member. Such lien shall be prior to all other liens, except (1) liens for taxes and assessments lawfully imposed by governmental authority against such lot and (2) all sums unpaid on mortgages of record. Notwithstanding the foregoing right of the corporation to foreclose on any such lien, the corporation may, at its sole option, elect to sue to recover money judgment for any unpaid assessments and such suit may be maintained without foreclosing or waiving the lien. If suit is brought, whether for foreclosure or money judgment, the member shall be responsible for all costs thereof, including reasonable attorney fees.

ARTICLE XVI

AMENDMENTS TO BY-LAWS

SECTION I. Procedure. These By-Laws may be altered, amended, added to or repealed by an affirmative vote of not less than two-thirds (2/3rds) of the members of the corporation present, in person or by proxy at any meeting duly called and held if notice of the proposed amendments shall have been given in the call for such meeting. These Bylaws may also be altered, amended, added to or repealed by (1) the recording of a written instrument or instruments specifying the amendment(s) or change(s), executed by the Owners who hold not less than two-thirds (2/3) of the voting power of the Association or (2) by the receipt of written ballots affirmatively adopting such amendment(s) or change(s) from not less than two-thirds (2/3) of the voting power of the Association, which vote shall be evidenced by an instrument or instruments certifying such vote signed and sworn to by the treasurer, secretary and president of the Association holding those positions at the time the votes were received by the Association.

ARTICLE XVII

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SECTION 1. Procedure. Declaration of Covenants, Conditions and Restrictions adopted on February 5, 1975, and incorporated into the By-Laws of the Kona Paradise Property Owners Association on March 5, 1984, as new Article XVII, is subject to the same procedure for amendments as the original By-Laws of the Association.

SECTION 2. Objectives. The objectives of Article XVII are: to protect the interests of all Kona Paradise Subdivision lot owners; to develop and maintain standards for the general attractiveness of the subdivision; to promote and enforce basic standards for construction of homes and for landscaping of lots with regard for neighboring lots, undisturbed view planes, conformance with the ordinances and codes of the County and State of Hawaii; to set safety standards for residents and visitors such as speed limits on the roadway system, removal of fire hazards; to establish the procedure by which a "truant owner" can be put on notice for his/her violation of the By-Laws/CC&R's of the Association and enforcement of same by legal means, including assessment of fines, public recordation of notice of violation or non-conformance with these By-Laws or CC&R's or initiation of litigation. Each property owner is responsible for ensuring that these By-Laws/CC&R's and related rules, regulations and guidelines are observed on the property owner's lot by tenants or guests.

SECTION 3. Compliance with Governmental Regulations. All work undertaken within the subdivision shall comply with the appropriate existing laws, rules, regulations, codes and ordinances of the County of Hawaii and the State of Hawaii applicable within the County of Hawaii. Where requirements hereunder are more stringent than the County of Hawaii and the State of Hawaii laws, rules, regulations, codes and ordinances, the requirements hereunder shall govern. Kona Paradise is a private, residential subdivision. Each subdivision lot shall contain no more than one single family dwelling and shall have one carport or garage.

SECTION 4. Architectural Review Committee. Before any building, garage, earth fill, wall, retaining walls, or fence or other structure or grading of any type whatsoever, shall be commenced, erected or maintained upon the properties, or any exterior addition to or change or alteration therein or change in the exterior appearance thereof, the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Review Committee (herein referred to as "ARC"), which shall be composed of three (3) or more representatives appointed by the Board of Directors of the Kona Paradise Property Owners Association, Inc. Members shall be appointed every three years with vacancies filled within sixty (60) days by the Board. The Board may remove any member at any time for any reason whatsoever. The Architectural Review Committee shall adopt rules and regulations for the submission and consideration of said plans and shall establish standards and requirements governing the construction of improvements, landscaping and maintaining the premises, which shall be reasonable. In the event of any dispute between the Declarants and the Owner, or between the Owner and Owners of other said lots, as to whether any use or proposed use complies with the conditions hereof relating to the use of the property, the same shall be submitted to the Architectural Review Committee, whose decision with respect thereto shall be final.

SECTION 5. Approval of Building and Landscaping Plans. After the plans have been submitted to the ARC, the owner may not proceed until said plans have been approved in writing by at least two (2) members of the ARC. One set of such plans will be kept in the Association's files. Any such structure on which construction is connected shall be completed in a timely manner, provided, however that neither the declarants, their successors or assigns, nor any member of the ARC or the Board shall be responsible for any structural defects in said plans or specification, nor in any building or structure erected in accordance with such plans and specifications. In the event the ARC fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, or, in any event, if no suit or other action permitted by law to enjoin the erection of such building or the maintenance of such alterations has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with. House construction will be completed within one year from the date of pouring of foundation or setting of footings as the case may be. Written requests for extension may be made to the Architectural Review Committee.

SECTION 6. Specifications Regarding the Residence. No residence shall be erected upon a lot if it contains less than 1,200 square feet of living space on one level excluding a porch/lanai. A covered garage or carport shall NOT be included in the calculation of the basic 1,200 square feet residence requirement.

SECTION 6, sub-paragraph a. View protection. No structure of any type shall be erected that will exceed 18 feet in height from the highest natural point of land within the perimeter of the

structure. Nor will any tree, hedge or other plant be allowed to grow so as to interfere with the view of any other lot.

SECTION 6, sub-paragraph b. Foundation. No conventional sub-floor framing shall be exposed from any side of the structure. All sub-floor framing shall be concealed in a manner that will be acceptable to the Architectural Review Committee. A "stilt" appearance will not be permitted.

SECTION 6, sub-paragraph c. Driveways. All driveways shall be a minimum of twelve (12) feet in width when said driveway meets the roadway system in the subdivision. Said driveway must be constructed in such a manner as to not create a traffic hazard or a drainage or runoff problem for any other lot or any of the roadway system with which it is connected.

SECTION 6, sub-paragraph d. Roofs. No metal roofing material shall be allowed unless painted or prepainted as approved by the Architectural Review Committee. Flat roofs shall also have covering as approved by the ARC.

SECTION 6, sub-paragraph e. Garages and Carports. Garages and carports with entrances facing the street must be a minimum of ten (10) ft. back from the street property line provided that a county approved variance from the county code required setback is first granted. Garages and carports not having entrances facing the street shall have the side facing the street walled. All storage facilities opening from a garage or carport shall have their own enclosing doors. Every residence shall have a minimum of a 2-car off-street parking area, one of which shall be roofed (carport or garage), with a minimum storage area of 100 cubic ft. Residents will utilize the off street parking areas on their lot to park their vehicles and will not use the subdivision roads for parking, except for visitors, unless approved by the ARC.

SECTION 6, sub-paragraph f. Unauthorized Structures. No trailer, mobile home, tent, shack, garage or out-building or any non-conforming structure shall be added prior to or during construction of a permanent residence or used at any time as a residence, either temporarily or permanently, nor shall any structure of a temporary nature be used as a residence, carport or garage..

SECTION 6, sub-paragraph g. Rooftop Equipment. Any and all antennae, towers, serials or other devices for the reception of radio, television or satellite broadcast or other means of communication shall only be installed within the structure of the house, garage or carport on any lot. If such an interior installation is not possible or does not provide adequate signal reception, the property owner may apply to the Architectural Review Committee for review and approval of an exterior installation. Any exterior installation shall be adequately secured. Appliances (such as water heaters and air conditioners) or other installations upon the roofs of structures shall not be permitted unless they are installed in such manner that they are not unreasonably objectionable to neighboring lots whose view plane may become obstructed or altered by reflection from said appliances or installation. The review by the Architectural Review Committee shall be made utilizing the guidelines of the Federal Communications Commission as set out in 47 CFR 1.4000 as the same made be amended, modified or repealed.

SECTION 6, sub-paragraph h. Construction Materials. All materials used in the construction of any improvement upon any portion of the land shall be new materials except when architectural decorative or structural materials are used to enhance the appearance of the building. No used or second hand lumber shall be incorporated in the construction of any improvements erected upon the

above described premises, nor shall any building be placed or re-erected upon said premises which shall previously have been erected in another location.

SECTION 6, sub-paragraph i. Repetitious type house designs, such as pre-fab, modular, package-kit or tract designs are generally not acceptable for construction unless such a design is sufficiently modified to the satisfaction of the Architectural Review Committee.

SECTION 6, sub-paragraph j. Catchment. All water systems must be roofed and skirted as approved by the Architectural Review Committee. Those built after March 31, 1992, will be shown on house or catchment building plans submitted to the Architectural Review Committee for review. It is recommended that those built before April 1, 1992, also be roofed and skirted. Plans must be submitted to the Architectural Review Committee for review. (There will be no plan review fee for the roofing and skirting of pre-April 1, 1992, catchment systems.) All new home water catchment systems installed after April 1, 2004, must have a capacity of not less than 10,000 gallons.

SECTION 6, sub-paragraph k. Clothes washers, clothes dryers, water heaters and other major appliances will be installed within the walls of the house or garage or carport so as not to be in open view.

SECTION 7. Specifications Regarding the Non-Structural Aspects of Lot Development. As with any development of a residential area, many physical characteristics must be considered, including but not limited to view planes, traffic safety, fire hazards, the auditory and olfactory senses of residents, and so forth. This Section 7 attempts to give some substance to guidelines which will lead to a more amicable environment in which to live.

SECTION 7, sub-paragraph a. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose. There shall be no more than two (2) dogs, raised, bred or kept on any lot. Dogs shall be confined to their owner's lot and shall not be allowed to wander or run at large upon the streets and roads of the subdivision or on any lot that is not the land of the owner of the dog. Dogs shall not be allowed to urinate or defecate on the streets and roads of the subdivision or on any lot that is not the land of the owner of the dog. No dog shall be allowed on the roads and the streets of the subdivision or on any lot that is not the land of the owner of the lot unless the dog is controlled by a suitable leash. Nothing in this subparagraph shall prohibit the use of a certified guide or signal dog by a person or persons requiring use of the same, provided that the owner complies herewith and remains responsible to the Association for damages or losses incurred to property owned by the Association.

SECTION 7, sub-paragraph b. Refuse Containers and Enclosures. Provision for storage of garbage cans and sacks should be contained in the plans submitted to the Architectural Review Committee. If adequate storage area for refuse is not included in the residence, carport or garage, then a separate enclosure for the refuse containers must be constructed at least twenty (20) feet from the street. The design shall be substantial and shall conceal the refuse containers from view and shall be kept in a sanitary condition at all times. Garbage cans, sacks and refuse of all kinds generated by a household shall be kept within the residence or the garage, or the carport, or in a separate enclosure and shall not be left in open view on the lot or elsewhere.

SECTION 7, sub-paragraph c. Control of Fire Hazards. Kona Paradise Subdivision has no County or private water system available and it is located in an area where rainfall is not sufficient to

keep the area green at all times. The restrictions against open burning of trash, debris, old tires, piled up heaps of trees, grasses and rubbish caused by clearing of a lot, are stringent and enforceable through the Fire Prevention Division of the Fire Department, Kailua-Kona. NO OPEN BURNING IN KONA PARADISE IS PERMITTED.

SECTION 7, sub-paragraph d. Storage of Items on the Lot and Portable Luas. No lumber, metals, bulk items, or materials, storage containers or shipping containers or crates shall be kept, stored or allowed to accumulate on any lot except building or other materials to be used in connection with the work of construction, alteration or improvement as approved by the Architectural Review Committee. Construction debris shall not be allowed to accumulate and must be removed in a timely manner so as not to create any fire hazard. Portable luas or similar temporary structure shall be utilized for all construction sites until occupancy and, wherever possible, shall be placed on the lot for which construction is being performed; if such placement is not possible on the Owner's lot, such luas or similar temporary structure may be placed on Association common area only with the prior written consent of the ARC.

SECTION 7, sub-paragraph e. Nuisances. No loud or unusual noises shall be permitted in the subdivision. Machinery, power tools, construction activities, which include delivery of materials, within the subdivision are permitted only during the hours of 7:00am to 6:00pm from Monday through Friday and from 8:00am to 5:00pm on Saturdays, Sundays, and federal holidays; provided however, movement or operation of heavy equipment, including but not limited to backhoes, hammerhoes, bulldozers, dump trucks, earth-moving equipment, and similar machinery, shall not be permitted at any time on Sundays and such legal holidays. Air conditioning units or systems shall be adequately sound dampened. No owner shall keep any dog which barks, bays, cries, howls or makes any other noise continuously or incessantly for a period of ten minutes or barks, bays, cries, howls or makes any other noise intermittently for a period of twenty minutes within a thirty-minute period of time to the disturbance of any person at any time of day or night and regardless of whether the dog is physically situated in or upon private property and provided further that such noise would cause annoyance or disturbance to a reasonable person.

SECTION 7, sub-paragraph f. Vehicles, Boats, Trailers, etc. No lot in Kona Paradise Subdivision shall be used as a "parking lot or "dumping ground" for any type of motor vehicle, truck, boat trailer, motor driven cycle, heavy equipment whether self-propelled or transported by low-boy or any commercial van or vehicle of whatever design. No motor vehicle, truck, boat trailer, motor driven cycle, heavy equipment whether self-propelled or transported by low-boy nor any commercial van or vehicle of whatever design nor disabled equipment or vehicle of any nature whatsoever, shall be placed or parked at any time in front of any lot or on any street within the roadway system of KONA PARADISE SUBDIVISION for more than twenty-four (24) hours without the written permission of the Architectural Review Committee. After 24 hours any of the items as above named that are so parked or placed on the KONA PARADISE SUBDIVISION roadway system without proper authorization shall be declared abandoned and the owner-driver shall be cited for the infraction of Article XVII, Section 7, sub-paragraph f, of the By-Laws of KPPOA and a warning label placed on said vehicle, truck, trailer, etc. If the offending motor vehicle, truck, trailer, and so forth is not removed within the time specified in the citation, said motor vehicle, truck, trailer, and so forth, will be towed away at the expense of the owner-driver. There shall be no repair or maintenance of vehicles, boats or other equipment on the roads of the subdivision except for emergency repair.

SECTION 7, sub-paragraph g. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign stating one's name and profession, total area of sign to be no greater

that two (2) square feet; one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a contractor to advertise the property during construction of the home and subsequent sale period. Notwithstanding the foregoing, an Owner shall be allowed to place a sign or signs of no greater than two (2) square feet for the purpose of providing notice of a dangerous or potentially dangerous condition or conditions on the Owner's lot, provided such Owner shall first submit plans and the reasons therefore to the ARC for approval before placing such sign(s).

SECTION 7, sub-paragraph h. Weeds and Noxious Growth. After a home is built, or a lot is graded and/or natural vegetation has been removed, the owner shall maintain and keep his premises in a clean and sanitary manner and shall remove all weeds, noxious growth, and excessive vegetation each year and in the event he fails to do so, the Kona Paradise Property Owners Association, Inc., shall have the right to abate such weeds and growth and assess the owner for said costs, including cost of collection and reasonable attorney fees, if any.

SECTION 8. Change of Ownership of Property. No deed, mortgage or lease or other conveyance document shall be made or delivered by the owner or new buyer, conveying, mortgaging or leasing a subdivision lot or any part thereof or at any time, unless such deed, mortgage or lease shall contain a paragraph directly referring to the Kona Paradise Property Owners Association, its Charter, By-Laws and Amendments and the restrictive terms and conditions as are herein specified in Article XVII of the Association's By-Laws, as well as Article XV of the By-Laws which specifically refers to the obligation of the Owner-Buyer to participate financially in the maintenance of the common elements in the Kona Paradise Subdivision.

SECTION 9. Validity of the Charter and By-Laws of the Kona Paradise Property Owners Association. The foregoing restrictions shall operate as covenants running with the land and the breach of any such covenants or the conditions or the continuance of any such breach may be enjoined, abated or remedied by said Declarants, or their successors in interest, or by any lot owner or owners but by no other person. The term "owner" shall include the bona fide owner or holder of any agreement of sale executed in connection with the sale of any of said lots. Provided, however, that any violation or re-entry shall not forfeit or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said premises or any part thereof. Each and all of said restrictions shall be binding upon and enforceable and effective against any owner of said realty whose title thereto is acquired through foreclosure or trustee's sale, as well as the successors in interest of any such owner.

SECTION 10. Subsection a. Terms of Enforcement of Association By-Laws. Jurisdiction may be taken in equity or at law for or on behalf of the Kona Paradise Property Owners Association, Inc. or by any owner of a lot within the Kona Paradise Subdivision who is adversely affected to restrict or prevent by injunction, mandatory or restraining, or for damages or other relief for the violation of any terms or conditions of these Bylaws or rules adopted pursuant to these Bylaws. The remedies available to the Association or such adversely affected owner shall be cumulative and non-exclusive.

In the event of any dispute which arises between the Association and any owner regarding compliance or violation of these Bylaws or rules adopted pursuant to these Bylaws, it will first be submitted to mediation pursuant to HRS §421J-13, or any amendments thereto. In the event of suit or action, the prevailing party shall be entitled to his/her/its reasonable attorneys fees and court costs (including any such fees or costs incurred in connection with a mediation over the same dispute), or upon any appeal therefrom. No Owner shall be entitled to bring action or suit, or collect attorneys fees or costs for such action or suit, in the nature of a derivative action unless such owner shall have (1) prior

to the action first given written demand to the Association to pursue an enforcement action and allowed not less than thirty (30) days for the Association to do so or (2) shall demonstrate to the satisfaction of the Court that a demand for such enforcement made to the board of directors of the Association would be fruitless.

SECTION 10 Sub-paragraph b. Notice and Enforcement of the CC&R's. Any property owner, or legal resident of the community may bring possible CC&R violations to the attention of the Board. Notice of a possible violation can be made in writing, or given to the Board at a regular meeting. The notice should include the specific CC&R provision(s) violated, and identify the parties and property involved. The Board will decide if the alleged violation is credible and significant. If the Board decides to investigate the matter further:

1. A notice will be forwarded to the alleged violator by Certified Mail or hand delivery. The alleged violator will be given the opportunity to fix the problem, respond to the Board, or reach a compromise with the ARC Committee.
2. The issue will be turned over to the ARC Committee which will investigate and try to negotiate compliance if violations are confirmed. The ARC Committee will report its results back to the Board.

If the ARC Committee recommends sanctions and if seven (7) or more members of the Board vote for sanctions, and if the alleged violator has had the opportunity to respond and be heard, then the Board may impose a fine of up to \$1,000.00 per violation plus up to \$100.00 per day for each day each violation continues until compliance occurs. The Board may in addition seek the assistance of civil authority and pursue any appropriate civil or criminal remedy available through the courts.

Nothing herein shall prevent or preclude any property owner or resident from complaining to local authorities, including the police, when it is necessary and appropriate.

ARTICLE XVIII

SEVERABILITY

SECTION 1. Severability. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions which remain in full force and effect.

These By-Laws supersede and replace those By-Laws of KONA PARADISE PROPERTY OWNERS ASSOCIATION which were recorded in the Bureau of Conveyances on February 16, 1999 as Document No. 99-022824

CERTIFICATE OF ADOPTION

The undersigned owners of all property of the subdivision, through its authorized officers designated below, hereby adopt the foregoing FIRST AMENDED BY-LAWS OF KONA PARADISE PROPERTY OWNERS ASSOCIATION as approved by vote of a majority of a qualified quorum of owners, effective as of March 27, 2004.

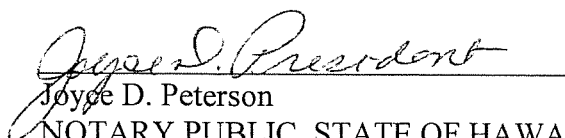
KONA PARADISE PROPERTY OWNERS ASSOCIATION

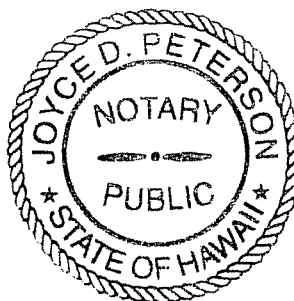
By Nancy Zorn
NANCY ZORN, Its: President

By Linda Savell
LINDA SAVELL, Its: Secretary

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

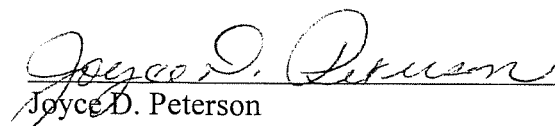
ON THIS 28th DAY OF July 2004, BEFORE ME PERSONALLY
APPEARED **NANCY ZORN** TO ME PERSONALLY KNOWN WHO BEING DULY SWORN
DID SAY THAT SHE IS THE **PRESIDENT** OF THE KONA PARADISE PROPERTY OWNERS
ASSOCIATION, A HAWAII NON PROFIT CORPORATION; AND THAT THE FOREGOING
**FIRST AMENDED BY-LAWS OF KONA PARADISE PROPERTY OWNERS
ASSOCIATION** WAS EXECUTED ON BEHALF OF SAID ASSOCIATION BY AUTHORITY
OF ITS BOARD OF DIRECTORS AND PURSUANT TO A VOTE OF THE OWNERS OF MORE
THAN 65% OF ALL OF THE PROPERTY IN SAID SUBDIVISION, AND SAID OFFICER
ACKNOWLEDGED THAT HE EXECUTED SAID FIRST AMENDED BY-LAWS AS THE FREE
ACT AND DEED OF THE BOARD OF DIRECTORS OF KONA PARADISE PROPERTY
OWNERS ASSOCIATION AND THAT SAID KONA PARADISE PROPERTY OWNERS
ASSOCIATION HAS NO CORPORATE SEAL.


Joyce D. Peterson
NOTARY PUBLIC, STATE OF HAWAII
MY COMMISSION EXPIRES: 6/23/06



STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

ON THIS 28th DAY OF July 2004, BEFORE ME PERSONALLY
APPEARED **LINDA SAEVILL** TO ME PERSONALLY KNOWN WHO BEING DULY SWORN
DID SAY THAT SHE IS THE **SECRETARY** OF THE KONA PARADISE PROPERTY OWNERS
ASSOCIATION, A HAWAII NON PROFIT CORPORATION; AND THAT THE FOREGOING
**FIRST AMENDED BY-LAWS OF KONA PARADISE PROPERTY OWNERS
ASSOCIATION** WAS EXECUTED ON BEHALF OF SAID ASSOCIATION BY AUTHORITY
OF ITS BOARD OF DIRECTORS AND PURSUANT TO A VOTE OF THE OWNERS OF MORE
THAN 65% OF ALL OF THE PROPERTY IN SAID SUBDIVISION, AND SAID OFFICER
ACKNOWLEDGED THAT HE/SHE EXECUTED SAID FIRST AMENDED BY-LAWS AS THE
FREE ACT AND DEED OF THE BOARD OF DIRECTORS OF KONA PARADISE PROPERTY
OWNERS ASSOCIATION AND THAT SAID KONA PARADISE PROPERTY OWNERS
ASSOCIATION HAS NO CORPORATE SEAL.


Joyce D. Peterson
NOTARY PUBLIC, STATE OF HAWAII
MY COMMISSION EXPIRES: 6/23/06

