

ARTICLE I. COMPLIANCE AND APPEALS

Amended June 21, 2005

Amended October 9, 2007

Amended September 9, 2014

A. Policy

The Association, through its Board of Directors, shall ensure that the requirements of the Project Documents are carried out uniformly for the purpose of enhancing and protecting the value, desirability and attractiveness of the property subject to those documents as well as enhancing the quality of life within Kala Point.

Members of Kala Point, the Board and Committees have the right under CC&R Art. XX to seek enforcement of the Project Documents and/or appeal a Committee decision to the Board by using the procedures for Compliance and Appeals.

The Board strives to provide a positive atmosphere where violations do not occur. However, if a complaint of non-compliance does occur, the Board encourages resolution in as amicable a manner as possible, utilizing the procedure for Resolving Compliance Issues. As a last resort, if a Member refuses to rectify a correctable problem, or, in fact, violates these requirements irrevocably, the Board may impose a fine, legal action or other penalty under CC&R Art. V, VIII and XX.

No decision that has become final shall be modified or reversed absent a showing of a material or significant change in circumstances occurring after the final determination was made.

B. Authority and Jurisdiction

1. **Architectural Standards.** The CC&Rs mandate that the Board maintain architectural control and that the Architectural Committee administer the Architectural Standards. (CC&R Art. VIII Sec.3)
2. **Tree and Vegetation Removal.** The CC&Rs specifically assign jurisdiction to the Architectural Committee for tree removal on lots. (CC&R Art. IV.B.Sec.8,15) The Grounds and Architectural Committees delegate jurisdiction to the Tree Committee or Bluff Management Advisory Committee (BMAC) when appropriate except during construction.
3. **Land Use and Appearance.** The CC&Rs specifically assign jurisdiction to the Grounds Committee for the maintenance of neat, clean and non-hazardous conditions of improved lots. (CC&R Art.IV.B.Sec.7; Art. IX. Sec. 2b.)
4. **Project Documents.** The CC&Rs mandate that the Board of Directors enforce the Project Documents (CC&Rs, Articles, Bylaws, Rules & Regulations) by appropriate means including the suspension of Member privileges, promulgation of Rules & Regulations which shall include the establishment of a system of fines or penalties enforceable as Special Assessments, employment of legal counsel, and enforcement by proceedings at law or in equity. (CC&R Art. IVA.Sec.7, Art. IV. B.Sec.1, 6, 8; Art. V. Sec. 1,2,3; Art. IX. Sec.2b; Art. XX Sec.1.) In some instances, as indicated in the Rules & Regulations, the Board has delegated jurisdiction to the Manager and staff or committees.

C. Types of Non-Compliance

1. **Minor Infraction** - Violations and activities that cause general problems to neighbors and the community shall be handled at the lowest level possible but may result in Board Action.
2. **Repairable Damage** - Violations that are correctable shall be handled at the lowest level possible but may result in Board action. The Board may direct corrective action and/or fines with the costs charged to the Member as a special assessment.
3. **Irreparable Damage** - Violations that are not correctable shall be handled by the Board. The Board may levy fines or penalties with the costs charged to the Member as a special assessment.
4. **Health, Safety & Security** - Violations that endanger the health, safety and/or security of Members, guests or staff of the Kala Point community shall be addressed as promptly as possible. Because improper use of Common Area facilities may require a timely response, the Board delegates enforcement of these rules to the Manager and the staff. Violators may be penalized by suspension of their right to use the recreational facilities located on the common areas for a period not to exceed sixty (60) days for each infraction of KPOA's published Rules and Regulations. In extreme situations the Board may also levy fines or penalties charged to the Member as a special assessment. When applicable, the violation shall be reported to appropriate county authorities. Compliance shall be handled at the lowest level possible but may result in Board action.
5. **Architectural Standards** - Violation of Architectural Standards by Members or their contractors shall be handled at the lowest possible level but may result in Board action.
6. **Assessments** - Assessments not paid by the due date shall be handled in accordance with CC&Rs Article VII, Non-Payment of Assessments. The CC&Rs state that Members with delinquent assessments shall be subject to (1) suspension of rights to vote and to use the recreational facilities located on the Common Areas, (2) Notice of Default, Notice of Claim of Lien and foreclosure proceedings, and (3) the Association's assessment and collection policies.

D. Procedure: RESOLVING COMPLIANCE ISSUES

Intent: Violations of Type 1 or 2 non-compliance (see Section C) with the Association's Governing Documents and disputes arising from their enforcement will be addressed via a step by step process which seeks to resolve the issue at the lowest possible level. These violations or disputes shall not be addressed by the Board before this process is exhausted. Violations of Type 3 or 4 non-compliance may proceed directly to the Board.

Steps:

1. Individual Members and authorized staff who observe a violation or are involved in a non-compliance issue are encouraged to work out the problem with the non-complying Member or Guest, if possible.
2. If the situation is not resolved at Step #1, the Member/Staff shall contact the appropriate Committee Chair/Manager directly (if an emergency) or through the Association Office, 1760 Kala Point Drive, Port Townsend, WA 98368, (360) 385-0814. Violations must be witnessed or supported through documentation. Anonymous complaints will not be acted upon.
- 3.a. In the case of Type 1 or 2 violations, the Committee involved or the Manager shall contact the non-complying member in person whenever possible and discuss the problem in an informal manner. If compliance is not achieved or if a repeat of the violation occurs, the Committee or Manager will send a written request for compliance.

Depending on the severity of the issue, at least two written requests for compliance shall be sent. If the issue remains unresolved, and if either party feels it may be productive, the Committee Chair may schedule a follow-up meeting, possibly with different Committee representatives and the non-complying Member. Any discussions with the member must be documented by the Committee member or Manager. Copies of the documentation shall be provided to the Member/Committee filing the complaint, the non-complying Member and the Association office. If compliance is still not achieved, the Committee shall prepare a Request for Compliance Hearing (Appendix I-1).

- 3.b. In the case of Type 3 violations (see Section C), the Committee involved shall investigate the alleged violation and if possible speak with the Member/Staff member reporting the violation and the alleged non-complying member in person. This shall be documented and if justified a Request for Compliance Hearing form will be prepared.
- 3.c. In the case of Type 4 violations (see Section C), the Manager may prepare a Request for Compliance Hearing. All attempts to obtain compliance shall be documented.
- 3.d. In the case of Type 5 violations (see Section C), Steps 3a, 3b, or 3c should be used, depending on the severity of the situation.
4. If the issue is not resolved, the Staff shall notify the non-complying Member in writing with a copy of the Request for Compliance Hearing form, stating the complaint.

E. Procedure: PREPARATION FOR COMPLIANCE HEARING

Intent: Compliance hearings are the process by which the Board addresses compliance issues that have not been resolved at the Committee level. The Manager and Committees have the right to request a Compliance hearing anytime, Members, however, may only do so after utilizing all channels available, i.e. personal contact, Manager and Committees.

1. Upon receipt of a *Request for Compliance Hearing* form (Appendix I-1), the President, or in his/her absence, the Vice President, shall complete and distribute a *Notice of Hearing* (Appendix I-2) to the Non-complying Member, the Staff/Committee filing the complaint, Board members, and the Association Office. The Non-complying Member shall be notified by certified mail at least 14 days prior to the hearing date.
2. The President shall ensure that a notice which states the nature and location of hearing is posted on the bulletin boards and, if timely, placed in the Kala Pointer and on the Board Agenda.
3. The Staff/Member/Committee filing the Complaint shall submit information and materials related to the complaint, if any, to the Association Office at least five days prior to the hearing. If the non-complying Member submits new information, the complaint shall be returned to the appropriate committee or Manager. If the committee/Manager does not resolve the issue, the committee chair/Manager or designated representative shall notify the complainant in writing of the committee's decision and include another *Request for Compliance Hearing* form (Appendix I-1). Members of the Board may, at their discretion, meet informally with the Non-complying Member and/or the Committee/General Manager prior to the hearing to gather additional facts.
4. The Administrative Assistant shall distribute the Board Agenda, copies of the *Request for Compliance Hearing* and related materials from the non-complying Member and the Staff/Member/Committee filing the complaint to Board members at least five days prior to the hearing.

F. Procedure: PREPARATION FOR AN APPEAL HEARING

Intent: Appeal hearings are the process by which a Member appeals to the Board a Committee/Manager decision.

Note: In the event a member disagrees with any ruling/decision of a Committee/Manager, she/he may appeal in writing to the Board. The written request must be received by the Board within 30 days following the final decision of the Committee/Manager. Within 45 days following receipt of *Request for Appeal Hearing*, the Board shall render its written decision. Such written decision shall be binding upon the Committee/Manager and the appellant.

1. Upon receipt of a Request for Appeal Hearing (Appendix I-4), the President, or in his/her absence, the Vice President, shall complete and distribute a *Notice of Hearing* form (Appendix I-2) to the Appellant, the Committee, Board members, and the Association Office. The Appellant shall be notified by certified mail at least 14 days prior to the hearing.
2. The President shall ensure that a notice of hearing which states its nature and location is posted on the bulletin boards, placed in the Kala Pointer, on the KPOA website and on the Board Agenda.
3. The Appellant filing the Appeal shall submit information and materials related to the appeal, if any, to the Association Office at least five days prior to the hearing. If the appellant submits new information, the appeal shall be returned to the appropriate committee. If the committee does not resolve the issue, the committee chair or designated representative shall notify the appellant in writing of the committee's decision and include another *Request for Appeal* form.
4. The Committee shall submit information and materials related to the appeal, if any, to the Association Office at least five days prior to the hearing. Members of the Board may, at their discretion, meet informally with the Appellant and/or the Committee/General Manager prior to the hearing to gather additional facts.
5. The Administrative Assistant shall distribute the Board Agenda, copies of the *Request for Appeal* and related materials from the Appellant and the Committee to Board members at least five days prior to the hearing.

G. Procedure: CONDUCT OF A HEARING BY THE BOARD

1. Members of Kala Point with an interest in the issue may make a three minute statement during the Public Comment period.
2. Any Directors who serve on a committee filing the complaint/appeal shall abstain from participating as a Board member during the hearing.
3. The Non-complying Member or Appellant or his/her Representative shall have 30 minutes to make a presentation and may provide witnesses to speak to the issue. A written "expert" opinion shall also be accepted in lieu of the witness appearing in person.
4. The Member/Committee filing the complaint or the Committee involved in the appeal shall have 30 minutes to make a presentation and may provide witnesses to speak to the issue during the period. A written "expert" opinion shall also be accepted in lieu of the witness appearing in person.
5. Board members may discuss the complaint/appeal before voting on the request and may ask questions of the Non-complying Member or Appellant, the Member/Committee and any witness who participated in the presentation.

6. The vote shall be taken on a motion to approve or deny the complaint/appeal by a show of hands.
7. Any motion to dismiss the complaint/appeal shall state the reason which may include (1) lack of supporting evidence, (2) extenuating circumstances, (3) community input and impact on the community, or (4) infringement on the owner's rights.
8. If the Board determines that a violation has occurred or upholds the Committee decision, the Board shall determine what action shall be taken and the deadline for that action. (refer to Art. I. C and I) The Board shall establish and record findings on which the determination was based.
9. The President shall ensure that the non-complying Member or Appellant is sent by certified mail a *Notice of Determination* (Appendix I-3) within 45 days following receipt of the *Request for Compliance Hearing* or *Request for Appeal*. The notice shall include the Non-complying Member's or Appellant's name, nature of the complaint or appeal, date of hearing, and the Board's decision including the motion and number of votes for, against, and abstaining. The failure of the Board to render a written decision within said 45-day period shall be deemed a decision in favor of the Non-complying Member or Appellant. If a complaint document or appeal is remanded to the applicable committee for consideration, the forty-five (45) day period set forth in Section 6, Article 8 of the CC&Rs is suspended.

H. Penalties for Non-Compliance

Before levying any penalty, the Board shall consider, if information is available, the Member's explanation, past history of violations, degree of damage, impact on the community, and implications on enforcement of KPOA Governing Documents in the future.

If a violation has occurred, after following the procedures in this document, the Board or its delegate may take one or more of the following actions:

1. Suspend the privileges for the use of KPOA Common Areas, tow unauthorized vehicles, or remove unauthorized signs.
2. Correct the problem, with costs levied as a special assessment on the non-complying Member.
3. Levy a fine, not to exceed \$1000, per occurrence, as a special assessment. The determination of whether a violation constitutes a Minor Infraction, Repairable Damage, Irreparable Damage, a threat to Health, Safety & Security, or a breach of Architectural Standards is a matter of discretion of the Board. Guidelines for the Board's use in determining the level of fine to impose are provided below. The fine may be suspended, repeated or escalated for repeated violations or lack of corrective action.
 1. Minor Infraction - up to \$250
 2. Repairable Damage - up to \$500
 3. Irreparable Damage - up to \$1,000
 4. Health and Safety - up to \$1,000
 5. Architectural Standards - up to \$1,000
4. Pursue legal action as provided by the Project Documents.

APP I-1
REQUEST FOR COMPLIANCE HEARING
Kala Point Owners' Association
1760 Kala Point Drive
Port Townsend, WA 98368

DATE SUBMITTED:

COMPLIANCE ISSUE:

DATE AND LOCATION OF OCCURRENCE:

COMMITTEE OR MANAGER SUBMITTING:

CC & R'S, ARCHITECTURAL STANDARDS OR RULES AND REGULATIONS INVOLVED:

Name and Address of Non-complying Member:

I (we) request that the KPOA Board hold a hearing on the above matter in accordance with the Administrative Policies and Procedures.

Manager or committee signature_____

**APP I-2
NOTICE OF HEARING
Kala Point Owners' Association
1760 Kala Point Drive
Port Townsend, WA 98368**

Date of Notice:

Date of Hearing:

Time:

Place: Kala Point Clubhouse, 310 Sailview Drive

Subject:

Reference:

Member's Name:

Member's Unit #:

Member's Address:

The Board invites the member's participation and requests that any relevant materials be submitted to the Association office, 1760 Kala Point Drive, Port Townsend, WA 98368 at least 5 days before the above hearing date. Public comment up to three minutes may be heard on this matter at the time of the hearing.

The procedure outlined in the Administrative Policies and Procedures will be followed.

For the KPOA Board of Directors,

By _____

cc: Board of Directors
Manager

_____ Committee
Member(s) - By Certified Mail

**APP I-3
NOTICE OF DETERMINATION
Kala Point Owners' Association
1760 Kala Point Drive
Port Townsend, WA 98368**

DATE OF BOARD MEETING:

SUBJECT

MEMBER NAME:

MEMBER UNIT #:

DECISION

For the KPOA Board of Directors,

By _____

Date _____

cc: Board
Manager
_____ Committee
Member(s) - By Certified Mail

**APP I-4
REQUEST FOR APPEAL HEARING
Kala Point Owners' Association
1760 Kala Point Drive
Port Townsend, WA 98368**

DATE SUBMITTED_____

ISSUE_____

COMMITTEE/MANAGER_____

COMMITTEE/MANAGER DECISION_____

CC&R's, ARCHITECTURAL STANDARDS OR RULES AND REGULATIONS INVOLVED;_____

DESCRIPTION OF THE ISSUE AND BASIS FOR APPEAL_____

I (we) request that the KPOA Board hold a hearing on the above matter in accordance with the Administrative Policies and Procedures.

Member's signature_____

Member's signature_____

Print Name:

Address:

Phone:

Return this form to KPOA, 1760 Kala Point Drive, Port Townsend, WA 98368