

KAKELA MAKAI OCEANVIEW COMMUNITY ASSOCIATION

GROUND COVER & EROSION CONTROL

POLICY 2008-1

I. BACKGROUND

As stated in Article I of the “Kakela Makai Subdivision Declaration of Covenants, Conditions, and Restrictions,” the purpose of the “Declaration” is

1. To create and maintain the Subdivision in a desirable, attractive, and safe condition for the benefit of the owners of the property within the Subdivision.
2. To protect and enhance the quality, value, aesthetics, desirability, and attractiveness of the Subdivision.
3. To provide for a Community Association.
4. To define the duties, powers, and rights of the Association, including but not limited to the creation of a method for reviewing and enforcing the design criteria for improvements within the Subdivision.
5. To define certain duties, land use restrictions and rights of the owners of the property within the Subdivision.

II. PURPOSE

The purpose of this document is to provide the members of the Kakela Makai Oceanview Community Association with guidelines on ground cover requirements for each Lot.

III. JUSTIFICATION

The Declaration of CC&Rs grants to the Association the rights, obligations, duties, and powers to promulgate and enforce these guidelines to “protect and enhance the quality, value, aesthetics, desirability, and attractiveness of the Subdivision.” The Board of Directors of the Association reserves the right to provide clarification and updates to these guidelines at any future time.

Article VII, Section 7.2 of the Declaration of CC&Rs states that “each Lot and any and all Improvements from time to time located thereon shall be maintained by the Owner in good and clean condition and repair, and in such manner as not to create a fire, safety, or health hazard to the Subdivision or any part thereof, all at such Owner’s sole cost and expense.”

IV. SCOPE

The scope of this document is limited to ground cover requirements and erosion control within the Kakela Makai Oceanview Community, and this document is not intended to address any other land use restrictions that may be explicitly or implicitly included in the Declaration of CC&Rs.

V. GROUND COVER MAINTENANCE

In order to enhance the attractiveness of the Subdivision and prevent erosion and related problems, each association member is responsible for the maintenance of their lot. Whatever ground cover is utilized, it must be maintained if 1) blooming and/or 2) reaches a height of 12” or greater.

VI. ENFORCEMENT

This policy will be enforced according to the guidelines established in the Declaration of CC&Rs and the noncompliance policy (policy 2007-1) of the Board of Directors. An agent appointed by the Board of Directors shall conduct inspection of properties on a regular basis. According to the Board’s existing noncompliance policy, a cited association member will receive an initial notice of noncompliance at the first occurrence of violation of this ground cover policy. A second notice of noncompliance will be sent if no corrective action is taken, or if there is a relapse to a noncompliant state at a later time. Thereafter, any further violations or failure to adhere to this ground cover policy will result in a fine of \$100 per occurrence/per month until there is evidence of compliance.

VII. TRANSITION AND EXCEPTIONS

The Board of Directors recognizes that it will take some time for association members to establish adequate ground cover on their lot. During the first six months after notification and initiation of corrective measures, complete coverage by ground cover shall not be required. However, there must be evidence that corrective action is being taken by the cited association member. The intent of this exclusion is to give Owners an opportunity to act in good faith. Silt fences will not be considered as a final remedy to a bare lot. (Of note, impending sale of the lot is not sufficient grounds to exempt an association member from full compliance.) Association members must realize that in order for ground cover to be effective, it is possible that some sort of irrigation system be employed during this transition period.