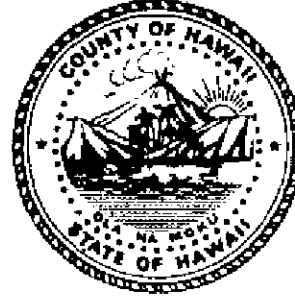


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 94 BILL NO. 21

AN ORDINANCE AMENDING SECTION 25-8-24 (KURTISTOWN ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL - 20,000 SQUARE FEET (RS-20) TO SINGLE FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15) AT KEAAU, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-7-016:028.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-24, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Keaau, Puna, Hawai'i, shall be Single Family Residential - 15,000 square feet (RS-15):

Beginning at the North corner of this lot and on the South side of the Plantation Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OLAA" being 566.90 feet North and 1007.00 feet East, and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 275° 12' | 138.96 | feet along the South side of the Plantation Road to a pipe; |
| 2. | 23° 09' | 277.52 | feet to the West corner of Fred Roman's lot; |
| 3. | 100° 16' | 135.61 | feet along boundary of Fred Roman to a pipe; |
| 4. | 203° 09' | 264.92 | feet along Lots 11 and 10 of this house lot subdivision to the point of beginning; and containing an Area of 0.823 acre, more or less. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
-
- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. A water commitment deposit in accordance with the "Water Commitment Guidelines Policy" of the Department of Water Supply shall be submitted to the Department of Water Supply within 180 days from the effective date of this ordinance.
 - C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
 - D. The two existing dwellings on proposed Lot 12-A shall be converted into a single residential unit. The kitchen in one of the dwellings shall be removed. The conversion shall occur prior to the issuance of Final Subdivision Approval.

- E. Restrictive covenants in the deeds of all the proposed lots shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawaii Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- F. Access to the property shall meet with the requirements of the Department of Transportation.
- G. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required by the Department of Public Works, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to issuance of Final Subdivision Approval.
- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.
- I. The method of sewage disposal shall meet with the requirements of the Department of Health.

- J. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- K. The applicants shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution shall be for the additional lot to be created. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$11,506.13** for the additional single family residential unit. The fair share contribution per single family residential unit shall be allocated as follows:
1. **\$5,548.46** per single family residential unit to the County to support park and recreational improvements and facilities;
 2. **\$267.66** per single family residential unit to the County to support police facilities;
 3. **\$528.66** per single family residential unit to the County to support fire facilities;

4. **\$231.45** per single family residential unit to the County to support solid waste facilities; and
5. **\$4,929.90** per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants may contribute land and/or construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council.

- L. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
 1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.

2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission and the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

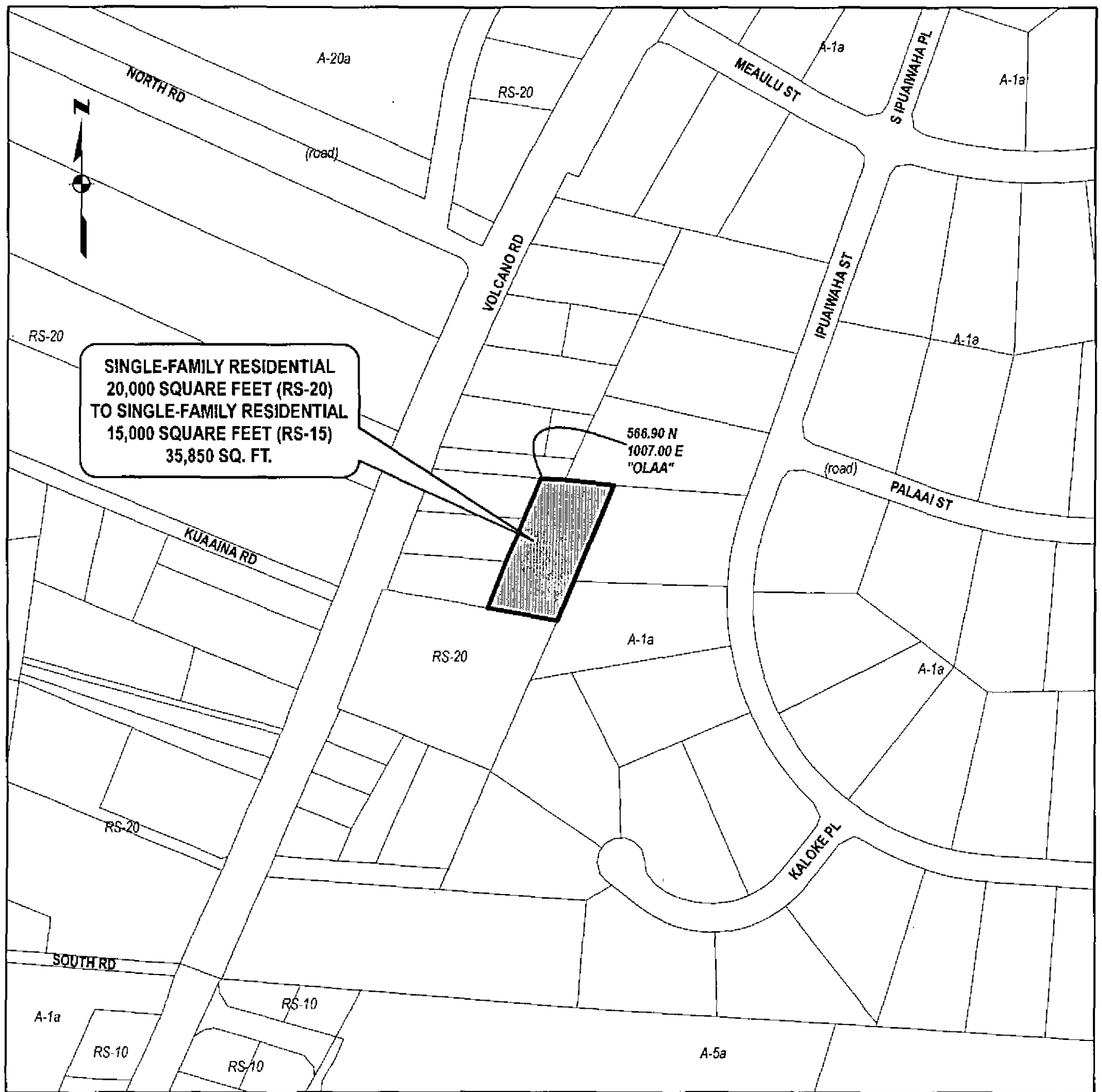
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: August 5, 2009
Date of 1st Reading: August 5, 2009
Date of 2nd Reading: August 19, 2009
Effective Date: September 2, 2009

REFERENCE: Comm: 97



SINGLE-FAMILY RESIDENTIAL
 20,000 SQUARE FEET (RS-20)
 TO SINGLE-FAMILY RESIDENTIAL
 15,000 SQUARE FEET (RS-15)
 35,850 SQ. FT.

566.90 N
 1007.00 E
 "OLAA"



AMENDMENT TO THE ZONING CODE

**AMENDING SECTION 25-8-24 (KURTISTOWN ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM SINGLE-FAMILY RESIDENTIAL 20,000 SQUARE FEET (RS-20)
 TO SINGLE-FAMILY RESIDENTIAL 15,000 SQUARE FEET (RS-15)
 AT KEEAAU, PUNA, HAWAII**

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Kona, Hawai'i

FILED

Introduced By: Donald Ikeda
Date Introduced: August 5, 2009
First Reading: August 5, 2009
Published: August 14, 2009

REMARKS: March 3, 2009 - Postponed

Second Reading: August 19, 2009
To Mayor: August 28, 2009
Returned: September 3, 2009
Effective: September 2, 2009
Published: September 16, 2009

REMARKS: _____


ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

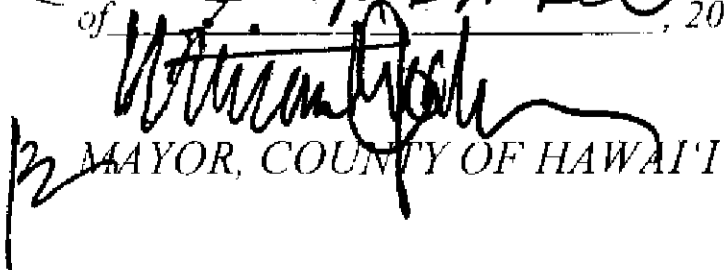
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Date AUG 31 2009

Bill No.: 21
Reference: C-97/PC-6
Ord No.: 09 94

Approved/Disapproved this 2nd day
of September, 2009

MAYOR, COUNTY OF HAWAII

Ordinances Numbered 09-94, 09-95, 09-96, 09-97, 09-98, 09-99, 09-100, 09-101, & 09-102

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on August 19, 2009, by vote, as listed below:

Ordinance 09-94 (Bill 21): An Ordinance Amending Section 25-8-24 (Kurtistown Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Single Family Residential – 20,000 Square Feet (RS-20) to Single Family Residential – 15,000 Square Feet (RS-15) at Keaau, Puna, Hawai'i, Covered by Tax Map Key: 1-7-016:028. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: Council Member Hoffmann – 1; ABSENT: None; EXCUSED: None.

Ordinance 09-95 (Bill 65): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Enriquez, Hoffmann, Ikeda, Onishi, Yagong, and Chair Yoshimoto – 6; NOES: Council Members Ford, Greenwell, and Naeole – 3; ABSENT: None; EXCUSED: None.

Ordinance 09-96 (Bill 91): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-97 (Bill 98): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-98 (Bill 99): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-99 (Bill 100): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-100 (Bill 102): An Ordinance Amending Ordinance No. 09-48, Relating to the International Energy Conservation Code. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-101 (Bill 104): An Ordinance to Amend Ordinance No. 09-64, as amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 09-102 (Bill 118): An Ordinance Further Amending Ordinance No. 08-64, as Amended by Ordinance No. 09-13, Relating to Extending Public Use of the Haleki'i Street Extension. AYES: Council Members Enriquez, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.



Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald - September 16, 2009)
(West Hawai'i Today - September 16, 2009)

Note: The original Digest/Affidavit is attached to Ordinance 09-94.