

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 32 BILL NO. 184
(DRAFT 4)

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO 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 – 7,500 SQUARE FEET (RS-7.5) AND MULTIPLE-FAMILY RESIDENTIAL – 1,000 SQUARE FEET (RM-1) TO MULTIPLE-FAMILY RESIDENTIAL – 1,500 SQUARE FEET (RM-1.5) AT KUKUAU 1ST, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-025:048, 053, AND 080.

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

SECTION 1. Section 25-8-33, 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 Kukuau 1st, South Hilo, Hawai'i, shall be Multiple-Family Residential – 1,500 square feet (RM-1.5):

PARCEL 1

Beginning at the northeast corner of this parcel of land being also the southeast corner of Lot 9-L-5, Land Court Application 1205 and on the southwesterly side of Kapiolani Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 462.44 feet South and 3,541.34 feet East, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|--------|--|
| 1. | 333° 18' 30" | 80.80 | feet along Kapiolani Street; |
| 2. | 49° 56' | 206.35 | feet along Lot 9-L-7, Ld. Ct. App. 1205; |
| 3. | 154° 53' | 81.36 | feet along the remainder of Lot 9-L-6; |

4.	229° 56'	204.05	feet along Lot 9-L-5, Ld. Ct. App. 1205 to the point of beginning and containing an area of 16,130 square feet.
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PARCEL 2

Beginning at the northwest corner of this parcel of land being also the northeast corner of Lot 9-L-16, Land Court Application 1205 and on the southeasterly side of Kukuau Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 804.62 feet South and 2,912.09 feet East, thence running by azimuths measured clockwise from true South:

1.	214° 04'	65.73	feet along Kukuau Street;
2.	328° 10'	83.38	feet along Lots 9-L-3-D and 9-L-4, Ld. Ct. App. 1205;
3.	229° 56'	324.99	feet along Lot 9-L-4, Ld. Ct. App. 1205;
4.	328° 10'	79.43	feet along Lot 9-L-5, Ld. Ct. App. 1205;
5.	229° 56'	132.86	feet along Lot 9-L-5, Ld. Ct. App. 1205;
6.	334° 53'	81.36	feet along the remainder of Lot 9-L-6;
7.	49° 56'	123.25	feet along Lot 9-L-7, Ld. Ct. App. 1205;
8.	328° 10'	410.47	feet along Lots 9-L-7 and 9-L-8, 9-L-9 and 9-L-10, Ld. Ct. App. 1205;
9.	63° 28'	122.52	feet along L.P. 8063, L.C. Aw. 2663 to Kahue;
10.	75° 46'	154.80	feet along L.P. 8063, L.C. Aw. 2663 to Kahue;

- | | | | |
|-----|----------|--------|---|
| 11. | 97° 12' | 144.30 | feet along L.P. 8063, L.C. Aw. 2663 to Kahue; |
| 12. | 148° 10' | 430.33 | feet along Lots 9-L-19 and 9-L-16, Ld. Ct. App. 1205 to the point of beginning and containing an area of 203,844 square feet. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a 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:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty days from the effective date of this ordinance.

- C. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply prior to the issuance of a Certificate of Occupancy.
- D. The applicant shall secure Final Subdivision Approval to consolidate tax map key numbers 2-4-25:48, 2-4-25:53 and 2-4-25:80 within two (2) years from the effective date of this ordinance.
- E. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway accesses and parking stalls associated with the proposed development. The applicant shall develop parking spaces associated with the proposed development in accordance with the required parking spaces pursuant to Sections 25-4-51 and 25-4-52, Chapter 25 (Zoning Code), Hawai'i County Code. In addition, the applicant shall develop additional parking spaces up to a maximum of 60% of the required spaces for the total residential units to be built within the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). The applicant shall comply with landscaping requirements for RM zoning.
- F. The applicant shall grant drainage easement(s) through the subject properties to the County of Hawai'i. The easement(s) shall be granted prior to Final

Subdivision Approval for the lot consolidation described in Condition D and shall meet with the approval of the Department of Public Works.

- G. The applicant shall subdivide and dedicate to the County a ten (10)-foot wide future road widening strip along the entire Kapi'olani Street frontage of Parcel 53, prior to Final Subdivision Approval for the lot consolidation described in Condition D.
- H. Access at Kapi'olani Street shall be limited to right-turn in and right-turn out movements only.
- I. All driveway connections to Kūkūau Street and Kapi'olani Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- J. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicant.
- K. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage improvements, if required, shall be constructed, meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- L. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- M. If required by the Director of the Department of Environmental Management ("DEM"), applicant shall conduct a sewer study in accordance with the then

applicable wastewater system design standards prior to approval to connect to the County sewer system. Applicant shall provide such sewer line or other facility improvements as the Director of DEM may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project.

- N. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
- O. 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- P. The applicant 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 Plan Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. 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 **\$7,698.11** per multiple family residential unit (**\$11,996.63** per single family residential unit). The total amount shall be determined with the actual number of

units according to the calculation and payment provisions set forth in this condition.

The fair share contribution per multiple family residential unit (single family residential unit) shall be allocated as follows:

1. **\$3,797.26** per multiple family residential unit (**\$5,784.99** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.01** per multiple family residential unit (**\$279.07** per single family residential unit) to the County to support police facilities;
3. **\$369.17** per multiple family residential unit (**\$551.20** per single family residential unit) to the County to support fire facilities;
4. **\$164.54** per multiple family residential unit (**\$241.32** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,247.12** per multiple family residential unit (**\$5,140.06** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant 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.

- Q. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to the Affordable Housing Policy. Compliance with Chapter 11 shall be approved by the Administrator of the Office

of Housing and Community Development prior to receipt of Final Plan Approval and/or Final Subdivision Approval.

- R. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- S. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- T. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- U. 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 Director shall submit the applicant's request to 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.

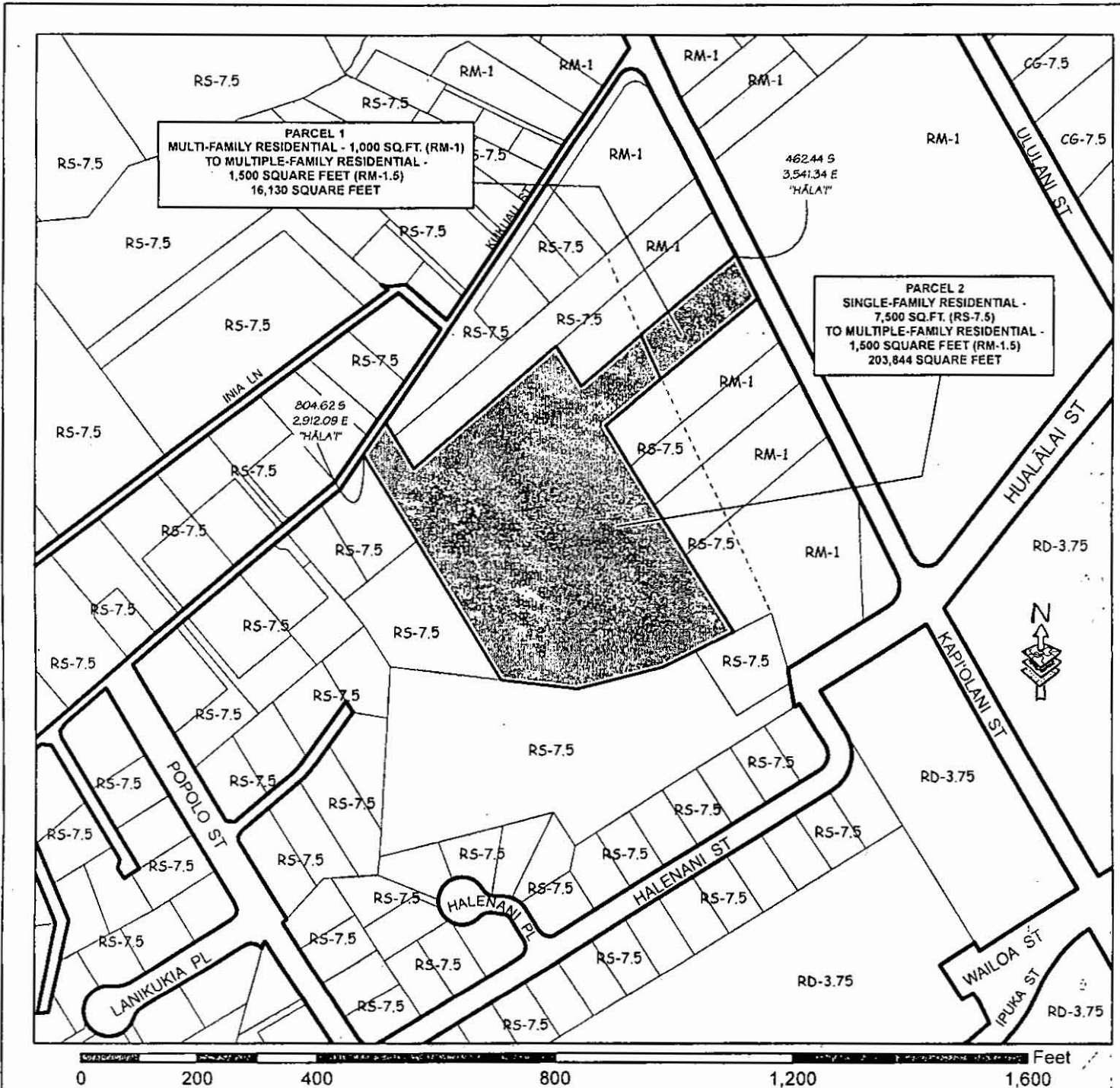
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i
Date of Introduction: January 22, 2010
Date of 1st Reading: April 7, 2010
Date of 2nd Reading: April 20, 2010
Effective Date: May 10, 2010

REFERENCE: Comm. 652.13



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO 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 - 7,500
SQUARE FEET (RS-7.5) AND MULTIPLE-FAMILY RESIDENTIAL - 1,000 SQUARE FEET (RM-1)
TO MULTIPLE-FAMILY RESIDENTIAL - 1,500 SQUARE FEET (RM-1.5)
AT KUKUAU 1ST, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

(Draft 4)

Introduced By: Donald Ikeda
 Date Introduced: January 22, 2010
 First Reading: April 7, 2010
 Published: April 16, 2010

REMARKS:

January 22, 2010 - Amended to Draft 2
and postponed; February 3, 2010 -
Amended to Draft 3 and postponed;
April 5, 2010 - Public Hearing

Second Reading: April 20, 2010
 To Mayor: April 28, 2010
 Returned: May 10, 2010
 Effective: May 10, 2010
 Published: May 17, 2010

REMARKS:

2010 MAY 10 11 3 18

	AYES	NOES	ABS	EX
Enriques				
Ford		X		
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong		X		
Yoshimoto	X			
	6	3	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford		X		
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole-Beason			X	
Onishi	X			
Yagong		X		
Yoshimoto	X			
	5	3	1	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:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date APR 30 2010

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 184 (Draft 4)
 Reference: C-652.13/PC-62
 Ord No.: 10 32

Approved/Disapproved this 10th day
 of May, 20 10

[Signature]
 MAYOR, COUNTY OF HAWAII

Ordinances Numbered 10-32, 10-33, 10-34, 10-35, 10-36, & 10-37

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on April 20, 2010, by vote, as listed below:

Ordinance 10-32 (Bill 184, Draft 4): An Ordinance Amending Section 25-8-33 (City of Hilo 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 – 7,500 Square Feet (RS-7.5) and Multiple-Family Residential – 1,000 Square Feet (RM-1) to Multiple-Family Residential – 1,500 Square Feet (RM-1.5) at Kukuau 1st, South Hilo, Hawai'i, Covered by Tax Map Key: 2-4-025:048, 053, and 080. AYES: Council Members Enriques, Greenwell, Ikeda, Onishi, and Chair Yoshimoto – 5; NOES: Council Members Ford, Hoffmann, and Yagong – 3; ABSENT: Council Member Naeole-Beason – 1; EXCUSED: None.

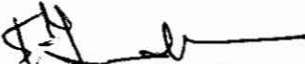
Ordinance 10-33 (Bill 216): An Ordinance Amending Chapter 14, Article 4, Section 14-21 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Prohibition of Smoking in Certain Places. AYES: Council Members Ford, Greenwell, Hoffmann, Naeole-Beason, and Chair Yoshimoto – 5; NOES: Council Members Ikeda, Onishi, and Yagong – 3; ABSENT: Council Member Enriques – 1; EXCUSED: None.

Ordinance 10-34 (Bill 217): An Ordinance Amending Ordinance No. 09-65, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2009 to June 30, 2010. AYES: Council Members Ford, Hoffmann, Ikeda, Onishi, Yagong, and Chair Yoshimoto – 6; NOES: Council Member Greenwell – 1; ABSENT: Council Members Enriques and Naeole-Beason – 2; EXCUSED: None.

Ordinance 10-35 (Bill 218): 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 Ford, Greenwell, Hoffmann, Ikeda, Onishi, Yagong, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Enriques and Naeole-Beason – 2; EXCUSED: None.

Ordinance 10-36 (Bill 219): 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 Ford, Greenwell, Hoffmann, Ikeda, Onishi, Yagong, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Enriques and Naeole-Beason – 2; EXCUSED: None.

Ordinance 10-37 (Bill 233): 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 Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Enriques – 1; EXCUSED: None.


Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald – May 17, 2010)
(West Hawai'i Today – May 17, 2010)

Note: The original Digest/Affidavit is attached to Ordinance 10-32.

Bill Nos. 184 (Draft 4), 216, 217, 218, 219, 233, and 234

I hereby certify that the following Bills passed first reading at the meeting of the Hawai'i County Council on April 7, 2010, by vote as listed below:

Bill 184, Draft 4: Amends Section 25-8-33 (City of Hilo 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 – 7,500 Square Feet (RS-7.5) and Multiple-Family Residential – 1,000 Square Feet (RM-1) to Multiple-Family Residential – 1,500 Square Feet (RM-1.5) at Kukuau 1st, South Hilo, Hawai'i, Covered by TMK:2-4-025:048, 053, and 080; Giampaolo "Paul" Boschetti, Applicant. The applicant 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 have a combined value of \$7,698.11 per multiple family residential unit (\$11,996.63 per single family residential unit). AYES: Council Members Enriques, Greenwell, Ikeda, Naeole-Beason, Onishi, and Chair Yoshimoto – 6; NOES: Council Members Ford, Hoffmann, and Yagong – 3; ABSENT: None; EXCUSED: None.

Bill 216: Amends Chapter 14, Article 4, Section 14-21 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Prohibition of Smoking In Certain Places. Prohibits smoking in all motor vehicles if a person under 18 years of age is in the motor vehicle. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, and Chair Yoshimoto – 7; NOES: Council Member Yagong – 1; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Bill 217: Amends Ordinance No. 09-65, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2009, to June 30, 2010; Adds PUBLIC WORKS: Kaūmana Drive Flood Protection Project – Federal [\$191,000] (\$441,000) and Kaūmana Drive Flood Protection Project – County (\$350,000); funds shall be provided from Federal Grants Receivable (\$250,000) and General Obligation Bonds, Capital Projects Fund-Fund Balance and/or Other Sources (\$350,000). AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Bill 218: Amends Ordinance No. 09-64, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010; Increases revenues in Federal Grants – Federal Transit Administration (\$717,678); appropriates same to Federal Transit Administration. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Bill 219: Amends Ordinance No. 09-64, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010; Appropriates revenues in Federal Grants – Sexual Violence Prevention and Planning (\$9,900); appropriates same to Sexual Violence Prevention and Planning. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Bill 233: Amends Ordinance No. 09-64, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010; Appropriates revenues in Fund Balance from Previous Year (\$700,000); appropriates same to Transfer to Capital Projects Fund – Geothermal. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

Bill 234: Amends Ordinance No. 09-48, as Amended by Ordinance No. 09-100, Relating to the International Energy Conservation Code. Amends the effective date from May 11, 2010, to January 1, 2011. AYES: Council Members Enriques, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 6; NOES: Council Members Ford and Hoffmann – 2; ABSENT: Council Member Greenwell – 1; EXCUSED: None.



Kenneth G. Goodenow
COUNTY CLERK

(Hawai'i Tribune Herald – April 16, 2010)
(West Hawai'i Today – April 16, 2010)

Note: The original Digest/Affidavit is attached to Bill 184 (Draft 4).