

ORDINANCE NO. 10 114 BILL NO. 204
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – TWO ACRES (FA-2a) AT KAPALAALAEA 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-7-007:047.

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

SECTION 1. Section 25-8-3, 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 Kapalaalaea 2nd, North Kona, Hawai'i, shall be Family Agricultural – Two Acres (FA-2a):

Beginning at a ½ inch pipe (found) at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 8 of the Keauhou Uka Subdivision, Unit II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 18,646.71 feet South and 13,576.49 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along the remainder of Grant 3019 to Kaaipulu;

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|----|--------------|--------|---|
| 1. | 175° 56' 10" | 177.45 | feet along Lot 8 and Road Parcel of the Keauhou Uka Subdivision, Unit II, to a ½ inch pipe (set); |
|----|--------------|--------|---|

Thence, for the next six (6) courses following along Lot 1-A-2 of this subdivision;

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|----|--------------|--------|------------------------------|
| 2. | 248° 30' | 90.00 | feet to a ½ inch pipe (set); |
| 3. | 258° 53' | 470.00 | feet to a ½ inch pipe (set); |
| 4. | 250° 00' | 410.17 | feet to a ½ inch pipe (set); |
| 5. | 333° 38' 50" | 26.01 | feet to a ½ inch pipe (set); |
| 6. | 241° 50' | 116.36 | feet to a ½ inch pipe (set); |

7. 346° 07' 208.49 feet to a ½ inch pipe (set);

Thence, for the next twenty (20) courses following along middle of stonewall and along Royal Patents 4475 and 6856, Land Commission Award 7713, Apana 6 to V. Kamamalu, the direct azimuths and distances being:

8.	54° 55'	72.82	feet to a point;
9.	60° 14'	56.46	feet to a point;
10.	50° 49'	20.13	feet to a point;
11.	67° 37'	56.03	feet to a point;
12.	67° 18'	46.10	feet to a point;
13.	73° 16'	57.63	feet to a point;
14.	73° 02'	53.94	feet to a point;
15.	77° 47'	69.25	feet to a point;
16.	93° 31'	51.00	feet to a point;
17.	89° 02'	57.42	feet to a point;
18.	84° 00'	55.49	feet to a point;
19.	81° 11'	56.68	feet to a point;
20.	87° 14'	57.00	feet to a point;
21.	85° 37'	97.83	feet to a point;
22.	80° 05'	53.45	feet to a point;
23.	81° 42'	60.77	feet to a point;
24.	81° 00'	57.04	feet to a point;
25.	65° 44'	52.60	feet to a point;
26.	71° 00'	52.75	feet to a point;

27. 74° 41' 49.75 feet to the point of beginning and containing an area of 5.275 Acres.

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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within one hundred and eighty (180) days from the effective date of this ordinance. The applicant shall execute an Elevation Agreement and submit a tank and pump system schematic prepared by a professional engineer licensed in the State of Hawai'i meeting the requirements of the Department of Water Supply prior to Final Subdivision Approval.

- C. Final Subdivision Approval of the proposed family-agricultural subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.

- D. On the combined private access driveway (Easement 6) that serves as an entrance

from the terminus of Nohealani Street to all mauka parcels of multiple subdivisions, the Applicant shall:

1. Construct a separate driveway entrance into Lot 1-A-3-A (makai) and Lot 1-A-3-B (mauka) if such a driveway does not already exist;
 2. Not allow driveway access directly from Nohealani Street;
 3. For safety reasons on Lot 1-A-3-A (makai) and Lot 1-A-3-B (mauka), construct one concrete pull-out with one-half of the pull-out mauka and one-half of the pull-out makai of the property line of Lot 1-A-3-A (makai) and Lot 1-A-3-B (mauka) to allow mauka-traveling vehicles to move completely off of the combined private access driveway;
 4. Repair any cracks, potholes, or other deficiencies in the combined private access driveway from the terminus of Nohealani Street to the eastern-most boundary of the Lot 1-A-3-B (mauka);
 5. Construct one speed hump on the combined private access driveway between Lot 1-A-3-A (makai) and Lot 1-A-3-B (mauka). The speed hump shall not be located at the pull-out to prevent vehicles from circumventing the speed hump;
 6. Design and construct all improvements required by this Condition to the standards and meeting the approval of the Department of Public Works.
- E. A drainage study, if required, shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.

- F. Restrictive covenant(s) in the deeds of all the proposed family-agricultural lots shall prohibit the construction of a second dwelling unit and condominium property regimes on each lot. A copy of the proposed covenant(s) to be recorded with the 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 approved covenant(s) shall be recited in an instrument executed by the applicant and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval.

- G. 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.

- H. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.

- I. 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.

- J. 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, its 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 County Council for appropriate action.
- K. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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.

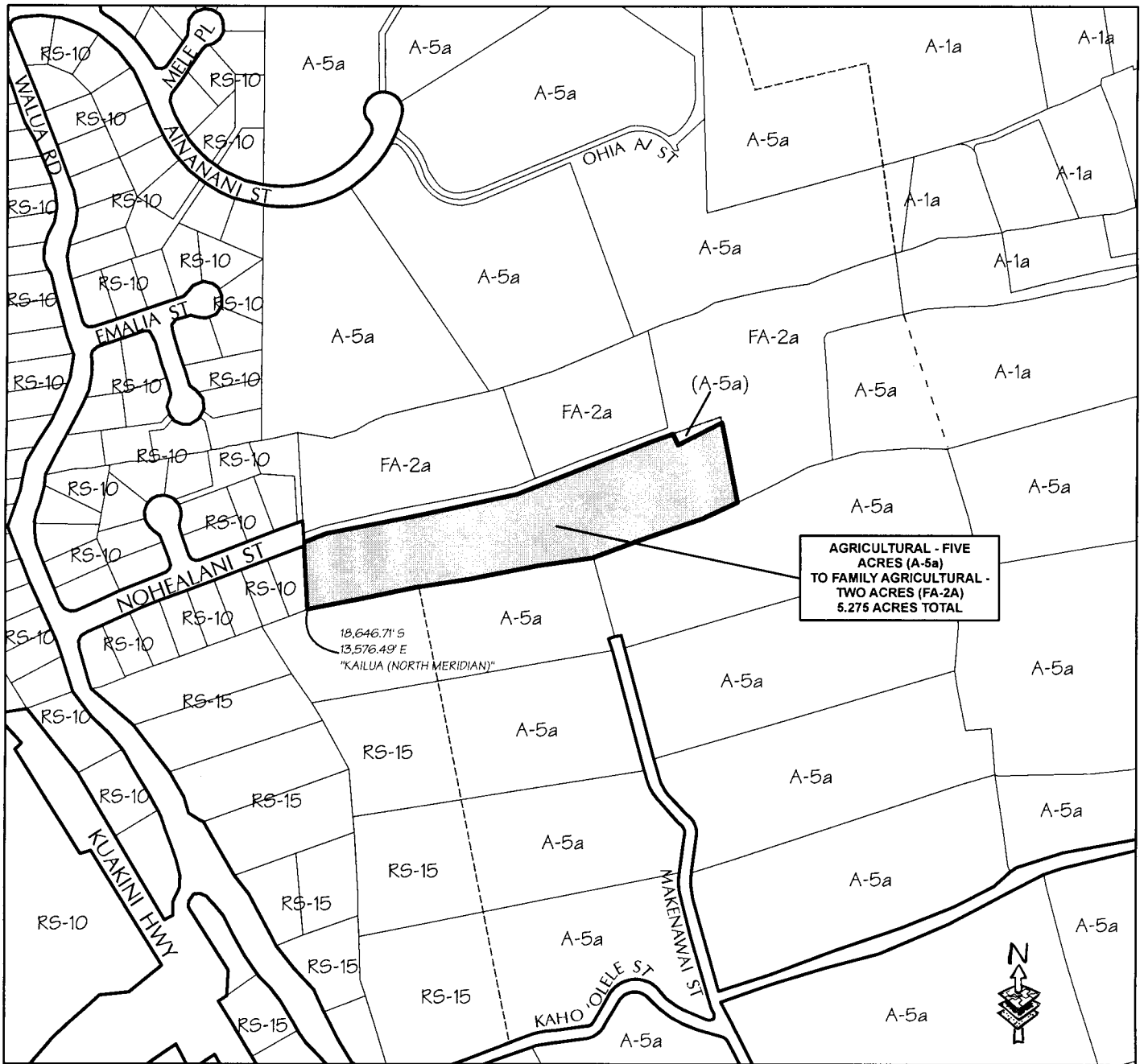
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i
Date of Introduction: ~~November~~ 4, 2010
Date of 1st Reading: ~~November~~ 4, 2010
Date of 2nd Reading: ~~November~~ 17, 2010
Effective Date: December 13, 2010

REFERENCE: Comm. 689.3



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL - TWO ACRES (FA-2a)
 AT KAPALAALAEA 2nd, NORTH KONA, HAWAII'

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

Introduced By: Brenda Ford
Date Introduced: November 4, 2010
First Reading: November 4, 2010
Published: N/A

REMARKS: _____


Second Reading: November 17, 2010
To Mayor: November 29, 2010
Returned: December 13, 2010
Effective: December 13, 2010
Published: December 22, 2010

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	0	1	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	0	1	0

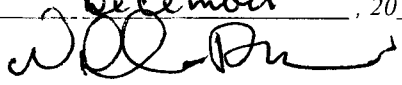
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date DEC - 8 2010


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 204 (Draft 2)
Reference: C-689.3/PC-102
Ord No.: 10 114

Approved/Disapproved this 13th day
of December, 2010

MAYOR, COUNTY OF HAWAII

Ordinances Numbered 10-114, 10-115, 10-116, 10-117, 10-118, 10-119, 10-120, & 10-121

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on November 17, 2010, by vote, as listed below:

Ordinance 10-114 (Bill 204, Draft 2): An Ordinance Amending Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Agricultural – Five Acres (A-5a) to Family Agricultural – Two Acres (FA-2a) at Kapalaalaea 2nd, North Kona, Hawai'i, Covered by Tax Map Key: 7-7-007:047. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-115 (Bill 298): An Ordinance Amending Chapter 27, Article 2, and Article 4, of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Floodplain Management. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-116 (Bill 301, Draft 2): 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 Agricultural – Three Acres (A-3a) to Family-Agricultural – One Acre (FA-1a) at Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-4-032:012. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

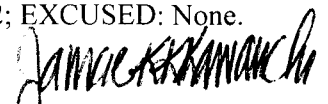
Ordinance 10-117 (Bill 307): An Ordinance Amending Chapter 25, Hawai'i County Code 1983 (2005 Edition, As Amended) Relating to Processing Time for a Use Permit Application. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-118 (Bill 308): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-119 (Bill 309): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-120 (Bill 310): An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member – Hoffmann – 1; EXCUSED: None.

Ordinance 10-121 (Bill 315): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriquez, Ford, Greenwell, Ikeda, Naeole, Onishi, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Hoffmann and Yagong – 2; EXCUSED: None.


Jamae K. K. Kawauchi
County Clerk

(Hawai'i Tribune-Herald – December 22, 2010)
(West Hawai'i Today – December 22, 2010)

Note: The original Digest/Affidavit is attached to Ordinance 10-114.