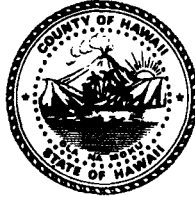


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **10 116** BILL NO. 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.

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 Waiākea, South Hilo, Hawai'i, shall be Family-Agricultural – One Acre (FA-1a):

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 20,030.94 feet south and 1,909.86 feet west, and running by azimuths measured clockwise from true South:

- |    |          |        |  |
|----|----------|--------|--|
| 1. | 265° 40' | 967.94 | feet along Lot 1;  |
| 2. | 355° 40' | 225.00 | feet along Homestead Road;   |
| 3. | 85° 40'  | 967.94 | feet along Lot 3;  |
| 4. | 175° 40' | 225.00 | feet along Lot 5 to the point of beginning and containing an area of 5.00 acres, more or less. |

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
  
- B. The applicant, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
  
- C. The required water commitment payment for the additional lots 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.
  
- D. The applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to, (a) the extension of approximately 650 feet of 6-inch water main along the proposed Road Lot 2-E, capable of providing water at adequate volume and pressure under peak-flow and fire-flow conditions, (b) service laterals that will accommodate a

5/8-inch meter fronting each additional lots, and (c) installation of at least one fire hydrant along proposed Road 2-E and within 300 feet of proposed Lots 2-B, 2-C and 2-D.

- E. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.
- F. The applicant shall subdivide a ten (10)-foot wide future road widening lot along the entire property frontage with Alaloa Road for dedication to the County, at no charge to the County, within five (5) years from the effective date of this ordinance.
- G. All driveway connections to Alaloa Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- H. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared and submitted to the Department of Public Works and any required drainage improvements shall be constructed, meeting the approval of the Department of Public Works prior to Final Subdivision Approval.
- I. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
- J. The method of sewage disposal shall meet with the requirements of the Department of Health.

- K. 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.
  
- L. 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.
  
- M. If the applicant, successors, or assigns develop residential units on the subject property, 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 for the additional lots to be created. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution shall be based on the actual number of additional lots 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 **\$12,059.55** 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. **\$5,815.33** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$280.53** per single family residential unit to the County to support police facilities;
3. **\$554.09** per single family residential unit to the County to support fire facilities;
4. **\$242.59** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,167.02** 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. The fair market value of the road widening required under Condition F shall be credited toward the required roadway fair share contribution in this condition.

- N. 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.

- O. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
  
- P. 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 County Council for appropriate action.
  
- Q. 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: October 20, 2010  
Date of 1st Reading: October 20, 2010  
Date of 2nd Reading: November 17, 2010  
Effective Date: December 13, 2010

**REFERENCE** **Comm.** 944.3



# AMENDMENT TO THE ZONING CODE

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

MAP PREPARED BY:  
COUNTY OF HAWAI'I, PLANNING DEPARTMENT



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

Introduced By: Donald Ikeda  
Date Introduced: October 20, 2010  
First Reading: October 20, 2010  
Published: October 30, 2010

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Reading: November 4, 2010  
To Mayor: \_\_\_\_\_  
Returned: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Published: \_\_\_\_\_

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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			
	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			
	6	1	2	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 HAWAI'I

Date \_\_\_\_\_

Approved/Disapproved this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

MAYOR, COUNTY OF HAWAI'I

COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: \_\_\_\_\_

Reference: \_\_\_\_\_

Ord No.: \_\_\_\_\_

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

DEC 13 2010

Introduced By: \_\_\_\_\_  
 Date Introduced: \_\_\_\_\_  
 First Reading: \_\_\_\_\_  
 Published: \_\_\_\_\_

REMARKS: November 17, 2010 - The motion to reconsider Bill 301 was approved and a re-vote was taken for second reading (purpose of the reconsideration was to amend this bill, solely to rectify formatting and other clerical errors).

Revote:  
 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				
Ford				
Greenwell				
Hoffmann				
Ikeda				
Naeole				
Onishi				
Yagong				
Yoshimoto				

(Draft 2)

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.

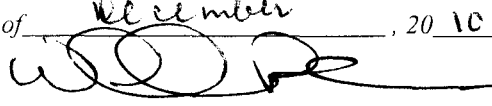
APPROVED AS TO  
 FORM AND LEGALITY:  
  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date DEC - 8 2010

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Bill No.: 301 (Draft 2)  
 Reference: C-944.3 /PC-98  
 Ord No.: **10 116**

Approved/Disapproved this 13<sup>th</sup> day  
 of December, 2010  
  
 MAYOR, COUNTY OF HAWAII