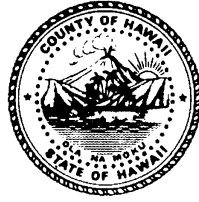


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 19 1

BILL NO. 204

AN ORDINANCE AMENDING ORDINANCE NO. 06 47, WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-028:030, 032 AND 033.

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

**SECTION 1.** Section 2 of Ordinance No. 06 47 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 ([2005] 2016 Edition, as amended), 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.

~~[1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.~~

~~2. The proposed development shall be established within one (1) year from the effective date of this ordinance. This time period shall include securing Final Plan~~

~~Approval for the conversion of the single family dwellings into offices from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the 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).~~

- ~~3. All structures on the properties shall comply with the height limit requirements and setback requirements for the RS-10 district at the time of issuance of the building permit.~~
- ~~4. Construction activities on the properties shall be limited to 7 a.m. to 5 p.m., Mondays through Saturdays.~~
- ~~5. A 10-foot wide future road widening strip along Kilauea Avenue shall be delineated on the plans submitted for Plan Approval review. No structural improvements shall be allowed within this road widening strip, provided however, that any required landscaping may be permitted within this strip. Further, applicable setbacks shall be taken from the 10-foot future road widening strip line.~~
- ~~6. Access to Kilauea Avenue shall be limited to a single location. All driveway connections to Kilauea Avenue shall conform to Chapter 22, County Streets, of the Hawaii County Code.~~
- ~~7. The applicant shall also install street lights and traffic control devices as required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices. All of the~~

roadway improvements to Kilauea Avenue shall be completed prior to receipt of a Certificate of Occupancy.

8. ~~The applicant shall provide reconstruction improvements to the curb and sidewalk fronting the subject properties along Kilauea Avenue in a manner meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.~~
9. ~~All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.~~
10. ~~A drainage study 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 receipt of a Certificate of Occupancy.~~
11. ~~Construction within the designated flood zone shall conform to Chapter 27, Flood Control, of the Hawaii County Code. No additional structure shall be built in the AE zone or shaded Zone X Flood Zones. Such construction in the areas currently mapped in the AE or shaded X Flood Zones shall be allowed if the owner secures a letter of map revision.~~
12. ~~Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.~~

- ~~13. — A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.~~
- ~~14. — 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 mitigation measures have been taken.~~
- ~~15. — If the applicant, successors, or assigns develop residential units on the subject properties in excess of the units allowed by the current RS-10 zoning, 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 \$6,411.25 per multiple 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 shall be allocated as follows:~~

1. ~~\$3,162.49~~ per multiple family residential unit to the County to support park and recreational improvements and facilities;
2. ~~\$99.95~~ per multiple family residential unit to the County to support police facilities;
3. ~~\$307.46~~ per multiple family residential unit to the County to support fire facilities;
4. ~~\$137.04~~ per multiple family residential unit to the County to support solid waste facilities; and
5. ~~\$2,704.31~~ per multiple 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.~~

16. ~~To insure 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, Hawaii County Code, relating to affordable housing policy. This requirement shall be approved by the administrator of the Office of Housing and Community Development.~~

~~17. — Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.~~

~~18. — The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.~~

~~19. — 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 Director shall submit the applicant's request to the County Council for appropriate action.~~

20. ~~Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.]~~
- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, its successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including impacts to state waters and fire code.
- C. Construction of the proposed commercial development or use of the property, as substantially represented or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of this amended ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed commercial development or use of the property 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 proposed structure(s), signage, fire protection measures, outdoor lighting (outdoor lighting shall be shielded with light directed downwards), future road widenings, paved driveway access and parking stalls associated with the proposed commercial development or use. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent RS-zoned properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirement) standards.
- D. All structures on the properties shall comply with the height limit requirements and setback requirements for the RS-10 district at the time of issuance of the building permit.

- E. Construction activities on the properties shall be limited to 7 a.m. to 5 p.m., Mondays through Saturdays. Best Management Practices (BMPs) shall be implemented. Noise from construction activities and operations, and method of fugitive dust control shall meet the standards and requirements of the State Department of Health.
  
- F. A 10-foot wide future road-widening strip along Kīlauea Avenue shall be delineated on the plans submitted for Plan Approval review. No structural improvements shall be allowed within this road-widening strip, provided however, that any required landscaping may be permitted within this strip. Further, applicable setbacks shall be taken from the 10-foot future road widening strip line.
  
- G. Prior to the issuance of a water commitment(s) by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations to the DWS prepared by a Hawai‘i-state licensed professional engineer whose license is current, valid and in good-standing with the State Department of Commerce and Consumer Affairs.
  
- H. The applicants shall submit and maintain the required water commitment payment(s) to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” upon the DWS determination of the water commitment deposit amount and the prevailing facilities charge.
  
- I. Subject to other agencies’ requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department



of Water Supply's affected water system facilities, should they be necessary, which may include conveying the water system improvements and necessary easements to the Water Board.

- J. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property as required, which must be inspected and approved by the Department of Water Supply prior to activation of water service.
  
- K. Access to Kīlauea Avenue shall be limited to a single location. All driveway connections to Kīlauea Avenue shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
  
- L. The applicant shall also install street lights and traffic control devices as required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices. All of the roadway improvements to Kīlauea Avenue shall be completed prior to receipt of a Certificate of Occupancy.
  
- M. The applicant shall provide reconstruction improvements to the curb and sidewalk fronting the subject properties along Kīlauea Avenue in a manner meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
  
- N. Should the applicants, successors or assigns develop a land use which the Planning Department, in consultation with the Department of Public Works, determines will generate over 50 peak hour trips, a Traffic Impact Analysis Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The applicants shall implement, when

required by the Department of Public Works, at no cost to the County, any transportation system improvements to Kīlauea Avenue that may be deemed necessary by the Department of Public Works.

- O. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- P. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- Q. A drainage study 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 receipt of a Certificate of Occupancy.
- R. Construction and/or the conversion of the dwellings into office use or other uses within the designated flood zone shall conform to Chapter 27, Flood Control, of the Hawai'i County Code and the flood zone boundaries as depicted by the State of Hawai'i, Department of Land and Natural Resources, Flood Hazard Assessment Tool (<http://gis.hawaiiinfip.org/FHAT>). No additional structure shall be built in the AE zone or shaded Zone X Flood Zones. Such construction in the areas currently mapped in the AE or shaded X Flood Zones shall be allowed if the owner secures a letter of map revision.
- S. Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.

- T. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- U. An Emergency Evacuation Plan shall be submitted to the Hawai'i County Civil Defense Agency for review and approval prior to the issuance of Final Plan Approval. A copy of the approved plan shall be submitted to the Planning Department for their files.
- V. In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- W. If the applicant, successors, or assigns develop residential units on the subject properties in excess of the units allowed by the current RS-10 zoning, 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 \$9,195.34 per multiple 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 shall be allocated as follows:

1. \$4,535.80 per multiple family residential unit to the County to support park and recreational improvements and facilities;
2. \$143.36 per multiple family residential unit to the County to support police facilities;
3. \$440.97 per multiple family residential unit to the County to support fire facilities;
4. \$196.54 per multiple family residential unit to the County to support solid waste facilities; and
5. \$3,878.67 per multiple 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.

- X. To insure 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 affordable housing policy. This requirement shall be approved by the administrator of the Office of Housing and Community Development.
  
- Y. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
  
- Z. 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 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 subject area to its original or more appropriate designation.”

**SECTION 2.** Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

**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.]~~ Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

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

INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

\_\_\_\_\_  
Kona, Hawai'i

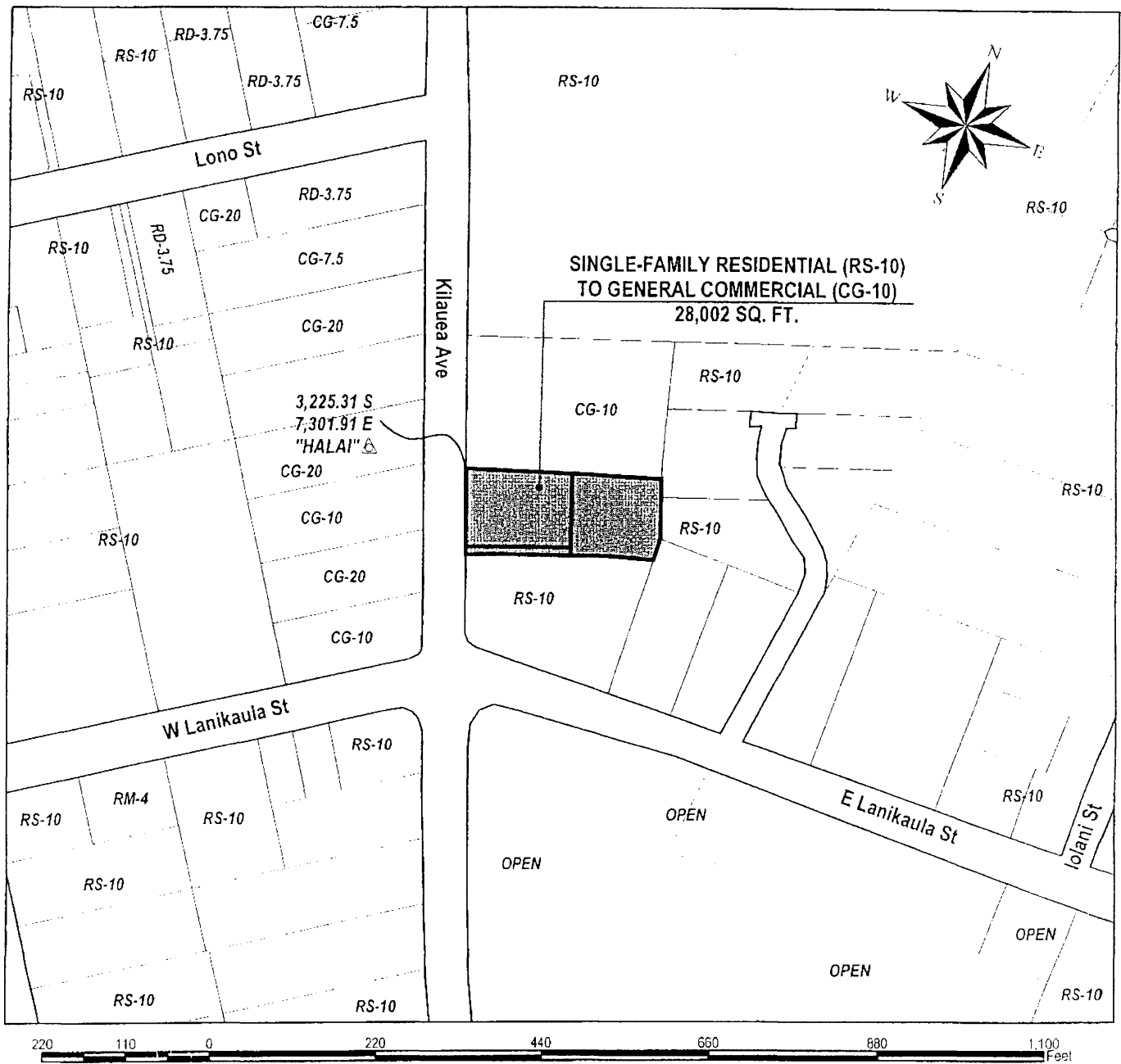
Date of Introduction: **November 20, 2018**

Date of 1st Reading: **November 20, 2018**

Date of 2nd Reading: **December 19, 2018**

Effective Date: **January 7, 2019**

REFERENCE Comm. 1135



# 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 (RS-10)  
 TO GENERAL COMMERCIAL (CG-10)  
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



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

COUNTY CLERK  
 COUNTY OF HAWAII

2019 JAN -7 PM 3:46

Introduced By: Karen Eoff (B/R)  
 Date Introduced: November 20, 2018  
 First Reading: November 20, 2018  
 Published: November 30, 2018

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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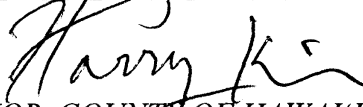
Second Reading: December 19, 2018  
 To Mayor: December 28, 2018  
 Returned: January 7, 2019  
 Effective: January 7, 2019  
 Published: January 19, 2019



REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha				
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles			X	
	7	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	9	0	0	0

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

Disapproved this 7<sup>th</sup> day  
 of January, 2019.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 204 (2016-2018)  
 Reference: C-1135/PC-76  
 Ord No.: 19 1