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OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, September 21, 2022, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2880

A BILL FOR AN ORDINANCE AMENDING THE STATE LAND USE DISTRICT BOUNDARY CONCERNING A PARCEL IN KAPA'A HOMESTEADS, KAUAI (*Manuel DeSilva, Jr., Applicant, Trustee*) (A-2022-1)

This Bill proposes to amend the State Land Use District Boundary designation for the property identified as Tax Map Key No.: 4-6-007:058 (approximately 4.669 acres), from the State "Agricultural" Land Use District (A) to State "Rural" Land Use District (R), subject to the conditions stated in the Bill. The applicant is Manuel DeSilva, Jr., Trustee.

Bill No. 2881

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION IN KAPA'A HOMESTEADS, KAUAI (*Manuel DeSilva, Jr., Applicant, Trustee*) (ZA-2022-13)

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, relating to zoning designation for the property identified as Tax Map Key No.: 4-6-007:058 (approximately 4.669 acres), as shown on Zoning Map ZM-500, from County-zoned "Agriculture District" to "Residential District R-1," subject to the conditions stated in the Bill. The applicant is Manuel DeSilva, Jr., Trustee.

Bill No. 2882

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CAMPGROUNDS (*Kaua'i County Council, Applicant*) (ZA-2022-10 - *Planning Commission Recommendation*)

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, by permitting educational campgrounds in the Agriculture Zoning District and the Open Zoning District under the Use Permit process and by exempting State and County campgrounds that were in existence prior to December 2, 2021.

Bill No. 2885

A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE WEST KAUAI COMMUNITY PLAN IMPLEMENTING ORDINANCE (*County of Kauai Planning Department, Applicant*) (ZA-2022-9)

This Bill proposes to amend Chapter 10, Article 3, Kauai County Code 1987, as amended, by utilizing the Plantation Camp Form-Based Code to maintain the unique historical character of Kaumakani's built environment while also allowing additional housing and limited commercial development on the vacant areas of the Kaumakani Camp and Kaumakani Avenue areas in a manner that reinforces and maintains the pattern of the associated neighborhood. This Bill also proposes to add a new Special Planning Area "O" (SPA-O), which shall also be known as the "Kaumakani Plantation Camp Walkable Mixed Use District". The proposed Plantation Camp Form-Based Code is attached as Appendix "D" to the West Kauai Community Plan, and the proposed Special Planning Area is identified in the zoning maps attached to Bill No. 2885 as Exhibit 1.

Bill No. 2886

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMPREHENSIVE ZONING ORDINANCE DEFINITIONS (*County of Kauai Planning Department, Applicant*) (ZA-2022-14)

This Bill proposes to amend and update Kauai County Code 1987, as amended, Chapter 8 (Comprehensive Zoning Ordinance) (CZO), Section 8-1.5 (Definitions), to accomplish the following: (1) clarify terminology that is currently not clearly stated, (2) add definitions for uses listed in the Use Table of the CZO that are currently lacking any definition, and (3) remove definitions or phrases that are not used within any section of the CZO.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of these Bills are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend these Bills at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bills Nos. 2880, 2881, 2882, 2885, and 2886 were passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

AYES:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
NOES:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 18, 2022

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – August 25, 2022)

**A BILL FOR AN ORDINANCE AMENDING THE STATE LAND USE
DISTRICT BOUNDARY CONCERNING A PARCEL IN KAPA'A
HOMESTEADS, KAUA'I**

(Manuel DeSilva, Jr., Trustee, Applicant) (A-2022-1)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. The State Land Use District Boundary designation for that certain area in Kapahi, Kaua'i, identified as Tax Map Key: 4-6-007:058, as shown on the map attached hereto and incorporated herein as Exhibit A-2022-1, is hereby amended from the State "Agricultural" Land Use District (A) to State "Rural" Land Use District (R)," subject to the following conditions:

1. The State Land Use District Boundary Amendment and Zoning Amendment shall be limited to the deed description of Lot 81-C-1, Kapa'a Homesteads First Series.
2. The Applicant is made cognizant that development on the subject parcels shall conform to the standards of the Residential District, per Sections 8-4.3 and 8-4.5 of the Kaua'i County Code 1987, as amended.
3. The Applicant shall resolve and comply with the applicable standards and requirements, if any, of the County Housing Agency and the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD).
4. The Applicant is made aware that upon further development of the subject parcel, considerations shall be made to evaluate potential drainage impacts pursuant to the standards enforced by the County Department of Public Works.
5. The Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

SECTION 2. The Planning Department is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION 3. Severability Clause. If any provision of this Article or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this Article and the application of such provisions to other persons or circumstances shall not be affected thereby.

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

Introduced by:



MASON K. CHOCK
(By Request)

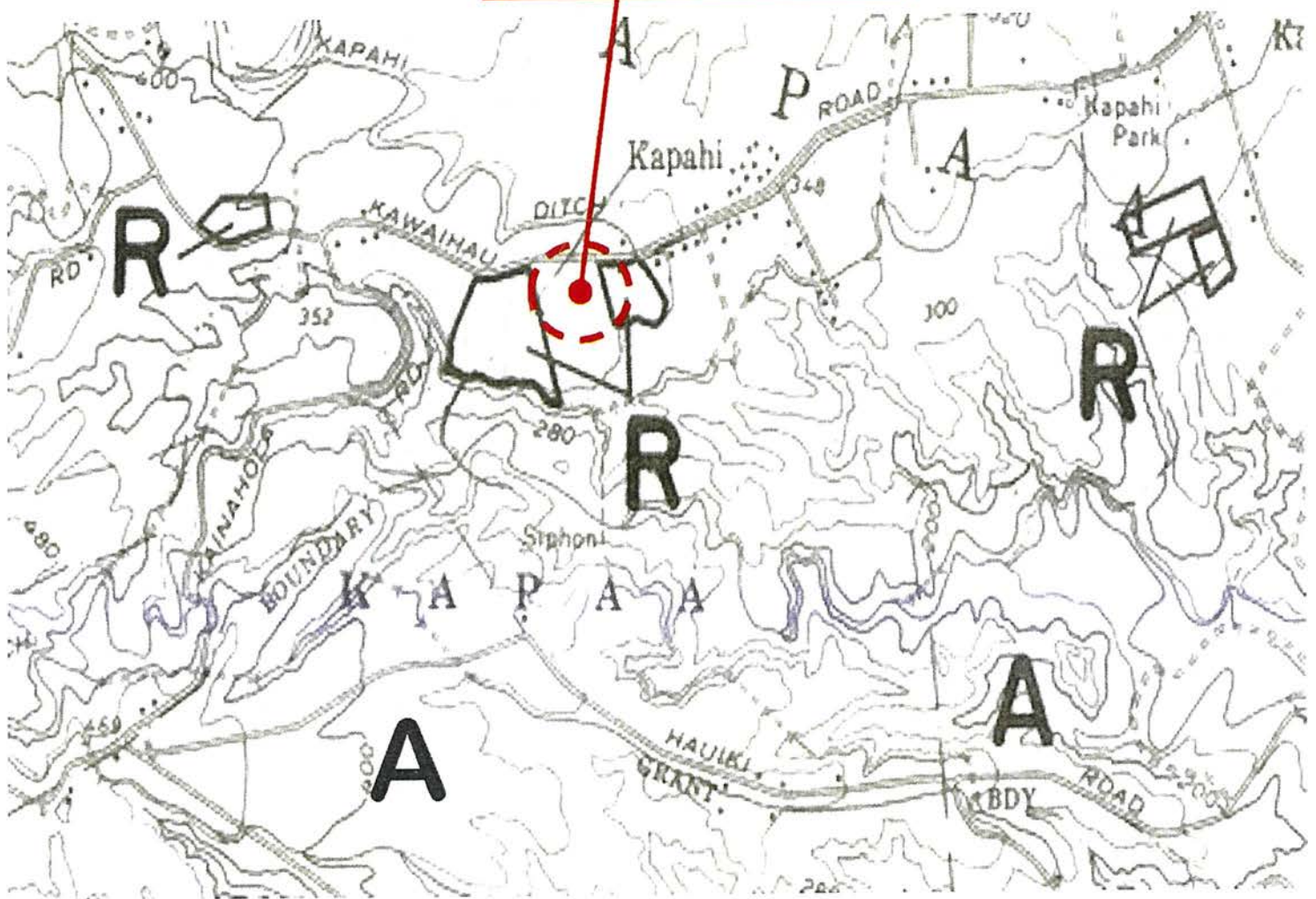
DATE OF INTRODUCTION:

August 17, 2022

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\PDB - SLUD A-2022-1 (Maunel DeSilva Jr.) AAO_dmc.docx

PROPOSED AMENDMENT AREA



MAP LEGEND

"A" – Agricultural District
"R" – Rural District
"U" – Urban District

LOCATION MAP SHOWING
PROPOSED STATE LAND USE DISTRICT BOUNDARY AMENDMENT
from
AGRICULTURAL DISTRICT to RURAL DISTRICT
TAX MAP KEY: 4-6-007:058
KAPA'A HOMESTEADS, KAUA'I, HAWAII

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2880, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 18, 2022



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY
CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION IN
KAPA'A HOMESTEADS, KAUAI**

(Manuel DeSilva, Jr., Trustee, Applicant) (ZA-2022-13)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The zoning designation for that certain area in Kapahi, Kauai, identified as Tax Map Key: 4-6-007:058, as shown on Zoning Map ZM-500 and on the map attached hereto and incorporated herein as Exhibit ZA-2022-13, is hereby amended from the County Zoned "Agriculture District (A)" to "Residential District (R-1)," subject to the following conditions:

1. The State Land Use District Boundary Amendment and Zoning Amendment shall be limited to the deed description of Lot 81-C-1, Kapa'a Homesteads First Series.
2. The Applicant is made cognizant that development on the subject parcels shall conform to the standards of the Residential District, per Sections 8-4.3 and 8-4.5 of the Kauai County Code 1987, as amended.
3. The Applicant shall resolve and comply with the applicable standards and requirements, if any, of the County Housing Agency and the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD).
4. The Applicant is made aware that upon further development of the subject parcel, considerations shall be made to evaluate potential drainage impacts pursuant to the standards enforced by the County Department of Public Works.
5. The Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

SECTION 2. The Planning Department is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION 3. Severability Clause. If any provision of this Article or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this Article and the application of such provisions to other persons or circumstances shall not be affected thereby.

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

Introduced by:



MASON K. CHOCK
(By Request)

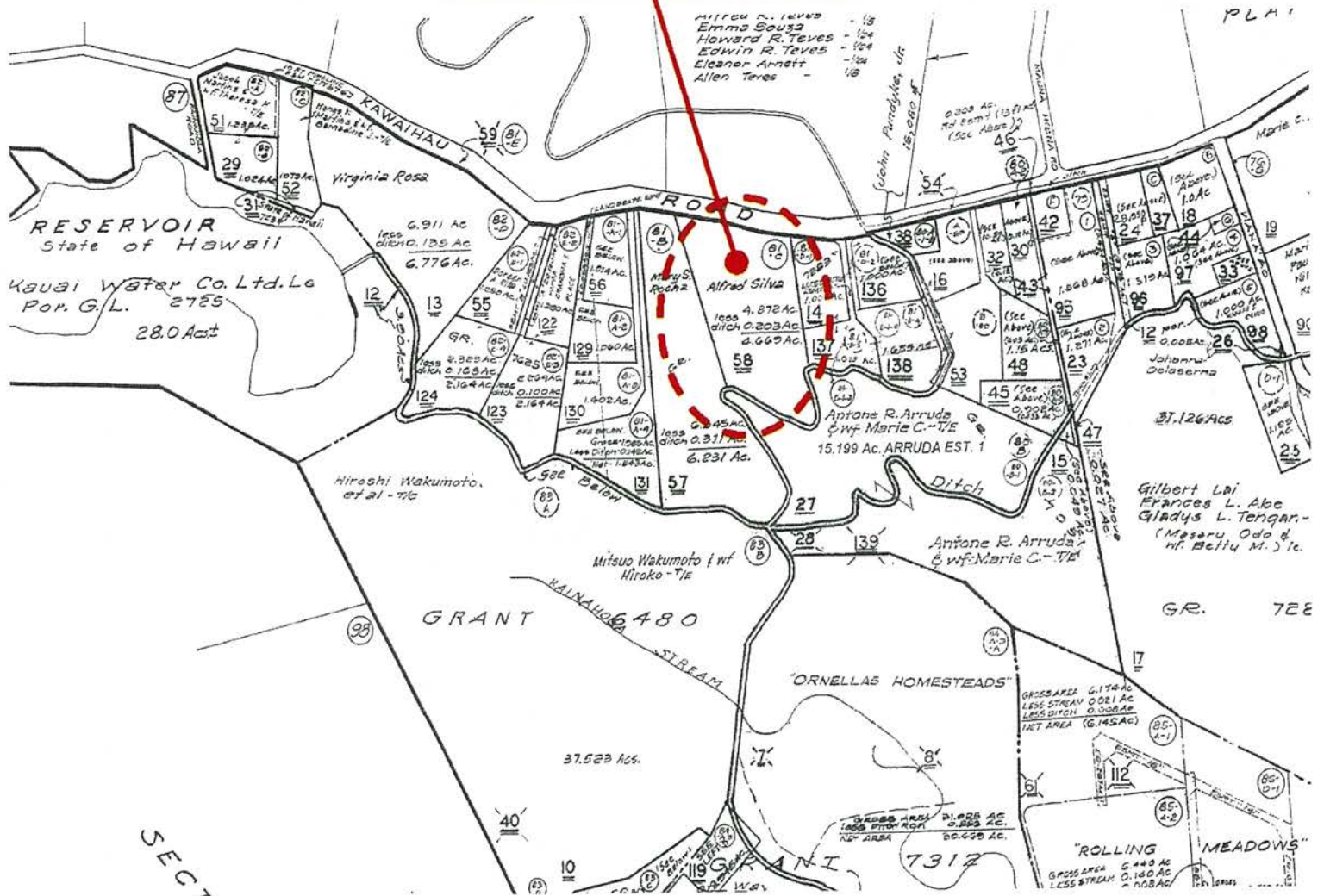
DATE OF INTRODUCTION:

August 17, 2022

Līhu'e, Kaua'i, Hawai'i

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PROPOSED AMENDMENT AREA



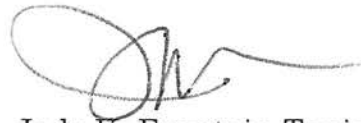
LOCATION MAP SHOWING
PROPOSED AMENDMENT to ZONING MAP ZM-500
from
AGRICULTURE DISTRICT (A)
to
RESIDENTIAL DISTRICT (R-1)
TAX MAP KEY: 4-6-007:058
KAPA'A HOMESTEADS, KAUA'I, HAWAII

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2881, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 18, 2022



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

ORDINANCE NO. _____

BILL NO. 2882

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO CAMPGROUNDS**

(Kaua'i County Council, Applicant) (ZA-2022-10)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that positive supportive environments that camps create provide young people with the opportunity to grow socially, develop important life skills (including critical workforce-relates skills), and experience nature, all in a fun, hands-on setting. Problem-solving, flexibility, and communication are skills critical to an individual's success as they age and are easy to focus on while in an educational camping environment.

The Council also finds that the camping experience can build a sense of community between participants. Group activities where everyone works together highlights the importance of community and develops an understanding of civic responsibility. The educational camping experience can develop our youth's sense of place for their home and outdoor environment through learning and practicing agricultural and cultural practices unique to the history of Kaua'i.

The Council also finds that Ordinance No. 1105, which became effective December 2, 2021, prohibits Developed Campgrounds in the Open Zoning District and creates a possible dilemma for existing State and County parks and facilities located in the Open Zoning District.

The purpose of this Ordinance is to permit educational campgrounds in the Agriculture Zoning District and the Open Zoning District under the Use Permit process and to exempt existing State and County campgrounds from Sec. 8-9.6.

SECTION 2. Chapter 8, Section 8-1.5, Kaua'i County Code 1987, as amended, is hereby amended by inserting the definition of "Educational Campgrounds" as follows:

"Educational Campgrounds" means a place with temporary accommodations operated by an organization to educate campers eighteen (18) years of age or younger about the cultivation, production, and sale of agricultural products. The temporary accommodations may contain facilities such as tent sites, camp trailers, camp vehicles, parking areas, piped water installations, and bathrooms or other sanitary facilities. Each individual tent camping site may have permanent footings, platforms, and private restroom facilities. These temporary accommodations do not include mobile or manufactured homes. Educational campgrounds may be used, let, or rented for compensation, monetary or otherwise."

SECTION 3. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, to permit “Educational Campgrounds” in the Agriculture Zoning District under the Use Permit process, as follows:

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	UNV
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
3-2.4(r)(1)	Animal hospitals								U		
3-2.4(r)(2)	Botanical and Zoological gardens								U		
3-2.4(r)(3)	Cemeteries								U		
3-2.4(r)(4)	Churches, temples, and monasteries								U		
3-2.4(r)(5)	Commercial Recreation								U		
3-2.4(r)(6)	Construction and worker temporary housing								U		
3-2.4(r)(7)	<u>Educational Campgrounds</u>								U		
3-2.4(r)(8)	Farm worker housing								U		
3-2.4(r)(9)	Farmers Markets								U		
3-2.4(r)(10)	Golf courses								U		
3-2.4(r)(11)	Mineral extraction and quarries								U		
3-2.4(r)(12)	Pet keeping and raising proposed within five hundred (500) feet of any Residential District								U		
3-2.4(r)(13)	Piggery, when to be located within three thousand (3,000) feet of any Use District								U		
3-2.4(r)(14)	Poultry Raising, when to be located within three thousand (3,000) feet of any Use District								U		
3-2.4(r)(15)	Private and public utilities facilities								U		
3-2.4(r)(16)	Restaurants and food services								U ₂		
3-2.4(r)(17)	Retail Sales								U		
3-2.4(r)(18)	Schools and day care centers								U		
3-2.4(r)(19)	Transportation terminals								U		
3-2.4(r)(20)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District								U		

SECTION 4. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, to permit “Educational Campgrounds” in the Open Zoning District under the Use Permit process, as follows:

Sec.	USE	ZONING DISTRICT									
		Residential			Commercial		Industrial				
		R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV
8-2.4(t) (1)	Communication facilities									U	
8-2.4(t) (2)	Day care centers									U	
8-2.4(t) (3)	<u>Educational Campgrounds</u>									<u>U₃</u>	
[8-2.4(t) (3)] 8-2.4(t) (4)	Home businesses									U	
[8-2.4(t) (4)] 8-2.4(t) (5)	Intensive agriculture									U	
[8-2.4(t) (5)] 8-2.4(t) (6)	Livestock and grazing within the Urban District as established by the State Land Use Commission									U	
[8-2.4(t) (6)] 8-2.4(t) (7)	Outdoor recreation concessions									U	
[8-2.4(t) (7)] 8-2.4(t) (8)	Police and fire facilities									U	
[8-2.4(t) (8)] 8-2.4(t) (9)	Quarries									U	
[8-2.4(t) (9)] 8-2.4(t) (10)	Recreation vehicle parks									U	
[8-2.4(t) (10)] 8-2.4(t) (11)	Religious facilities									U	
[8-2.4(t) (11)] 8-2.4(t) (12)	Utility installations									U	
[8-2.4(t) (12)] 8-2.4(t) (13)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District									U	

SECTION 5. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, by adding a new footnote, as follows:

“Notes:

1. Requirements for Additional Dwelling Units (ADU) are contained in Article 15.

2. Only produce raised or grown on the property and/or associated farm or value-added goods derived primarily from produce or livestock raised on the subject property and/or associated farm.

3. Only applies to those lands that are within the State Land Use Agricultural District.

KEY: U = Use Permit Required
P= Permitted Use or Structure (Zoning Permit may be required)”

SECTION 6. Chapter 8, Article 9, Kaua'i County Code 1987, as amended, is hereby amended by amending Sec. 8-9.6 as follows:

"Sec. 8-9.6 Developed Campgrounds in Open Zoning Districts.

Developed campgrounds are prohibited in all Open Zoning Districts. This Section shall not apply to State and County campgrounds existing prior to December 2, 2021."

SECTION 7. If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 9. This Ordinance shall take effect upon approval. The requirements of this Ordinance shall not affect any application which has been approved by the Commission prior to the effective date of this Ordinance, unless there is a subsequent approval required prior to a building permit, in which case, that subsequent application shall be subject to the relevant requirements of this Ordinance, excluding subdivisions which have received tentative approval prior to the approval date of this Ordinance.

Introduced by: /s/ MASON K. CHOCK
/s/ BILL DECOSTA

DATE OF INTRODUCTION:

August 17, 2022

Līhu'e, Kaua'i, Hawai'i

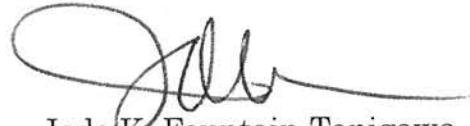
V:\BILLS\2020-2022 TERM\Bill No 2882 - PLNG version - Relating to campgrounds (revised 8-17-22) CNT_jy.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2882, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
August 18, 2022



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 3,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO THE WEST KAUA'I COMMUNITY PLAN
IMPLEMENTING ORDINANCE**

(County of Kaua'i Planning Department, Applicant) (ZA-2022-9)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Kaumakani Plantation Camp areas maintains a unique sense of identity and has features and qualities that should be preserved. There are also vacant areas adjacent to these communities that are within the State Land Use Urban District and the Plantation Camp Zoning District that could be further developed.

The purpose of this Ordinance is to utilize Form-Based Code to maintain the unique historical character of Kaumakani's built environment while also allowing additional housing and limited commercial development on the vacant areas of the Kaumakani Camp and Kaumakani Avenue areas in a manner that reinforces and maintains the pattern of the associated neighborhood. Form-Based Code is currently used as a zoning overlay in the town cores of West Kaua'i.

SECTION 2. Chapter 10, Section 10-3.5, Kaua'i County Code 1987, as amended, is hereby amended to add a Special Planning Area "O" (SPA-O), which shall also be known as the "Kaumakani Plantation Camp Walkable Mixed Use District". The Special Planning Area shall be adopted with two new maps ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) and adopted within the West Kaua'i Community Plan, as attached in Exhibit 1. The corresponding design standards in text format shall be adopted within the West Kaua'i Community Plan.

SECTION 3. The West Kaua'i Community Plan is hereby amended to adopt a Kaumakani Plantation Camp Walkable Mixed Use District map and design standards through the Plantation Camp Form-Based Code, attached as Appendix "D", and is by reference incorporated herein and made a part hereof.

SECTION 4. The content of Chapter 10, Article 3, West Kaua'i Community Plan Implementing Ordinance, Kaua'i County Code 1987, as amended, is amended as follows:

"Article 3. West Kaua'i Community Plan Implementing Ordinance

Section 10-3.1 Title and Purpose.

(a) This Article shall be known and may be cited as the "West Kaua'i Community Plan Implementing Ordinance." It is adopted:

(1) To provide design and development standards in order to implement the detailed planning goals and objectives for the West Kaua'i Planning District;

(2) To establish special planning areas, future growth areas, land uses, and development and design standards to guide and regulate future development;

(3) To protect certain physical characteristics found to be of particular public value, as provided in Chapter 8, Article 11, Section 6, Kaua'i County Code 1987, as amended (Special Planning Areas); and

(4) Establish exceptions, modifications, or additions to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) in order to more specifically provide for the regulation of land use, subdivision, and development practices within the West Kaua'i Planning District.

(b) Nature of the West Kaua'i Community Plan Ordinance. This Article provides the necessary framework and guidelines to direct future development and capital improvements in the West Kaua'i area, whose boundary is described in the report entitled "West Kaua'i Community Plan." Additionally, this Article supplements Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance) by regulating use and development standards within the West Kaua'i Special Planning Areas, as identified in the zoning maps attached to Ordinance No. 1083 and Ordinance No. ***, and on file with the Planning Department, County of Kaua'i.

(c) The guidelines of this Article are based on the report entitled "West Kaua'i Community Plan" (Planning Commission draft approved in 2020, as amended by the Kaua'i County Council in 2020, and as may be subsequently amended), a booklet whose major components include:

- (1) Regional and town plan maps;
- (2) Policies for the West Kaua'i region as a whole;
- (3) Goals and objectives for Kekaha, Waimea, Hanapēpē, 'Ele'ele, Port Allen, Kaumakani, Pākālā Village, Numila, and other areas; and
- (4) Appendices.

Section 10-3.2 Vision and Goals.

The vision and goals for the region referred to in this Article, which shall be known as the West Kaua'i Planning District, and its communities are described in the report entitled "West Kaua'i Community Plan."

Section 10-3.3 Application of Regulations.

(a) The West Kaua'i Form-Based Code, attached as Appendix "C", and the Plantation Camp Form-Based Code, attached as Appendix "D", to the West Kaua'i Community Plan, [is] are by reference incorporated herein and made a part hereof. The provisions of the West Kaua'i Form-Based Code and the Plantation Camp Form-Based Code shall apply to all new development located within the Special Planning Areas, as identified in the zoning maps attached to Ordinance No. 1083 and Ordinance No. ***, and on file with the Planning Department, County of Kaua'i.

(b) The regulations and procedures established in Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) shall apply within the Special Planning Areas of the West Kaua'i Planning District, except to the extent that such regulations or procedures are changed or modified by the provisions of the West Kaua'i Form-Based Code. When the provisions of this Article differ with respect to the provisions of Chapter 8, Kaua'i County Code 1987, as amended (Comprehensive Zoning Ordinance) and Chapter 9, Kaua'i County Code 1987, as amended (Subdivision Ordinance), the West Kaua'i Form-Based Code shall supersede such provisions as provided in Chapter 8, Article 11, Kaua'i County Code 1987, as amended (Special Treatment Districts (ST)).

Section 10-3.4 Existing Conditions.

(a) This Article does not mandate the immediate modification of structures and uses lawfully in existence upon the enactment of this Article.

(b) The requirements of this Article will not be triggered by routine maintenance not requiring a zoning permit.

(c) Existing Buildings and Structures. Buildings and structures lawfully in existence upon the enactment of this Article that do not conform to the provisions of this Article are subject to the requirements of Chapter 8, Article 13, Section 1, Kaua'i County Code 1987, as amended (Nonconforming Buildings and Structures).

(d) Existing Uses. Uses lawfully in existence upon the enactment of this Article that are not consistent with the Special Planning Areas will be allowed to continue on the parcel of record as provided in Chapter 8, Article 13, Section 2, Kaua'i County Code 1987, as amended (Nonconforming Uses).

Section 10-3.5 Special Planning Areas, Designations, and Procedures.

(a) Designation of Special Planning Areas "K," "L," "M," [and "N."] "N," and "O." The boundaries of the following form-based code districts are hereby adopted as described in the West Kaua'i Form-Based Code and the Plantation Camp Form-Based Code, attached as Appendix "C" and Appendix "D" to the West Kaua'i Community Plan, and shall be referred to as follows:

(1) Special Planning Area "K," which shall also be known as the "Kekaha Town Walkable Mixed Use District" and be designated as "SPA-K" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 1, and on file with the Planning Department, County of Kaua'i.

(2) Special Planning Area "L," which shall also be known as the "Waimea Town Walkable Mixed Use District" and be designated as "SPA-L" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 2, and on file with the Planning Department, County of Kaua'i.

(3) Special Planning Area "M," which shall also be known as the "Hanapēpē Town Walkable Mixed Use District" and be designated as "SPA-M" as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 3, and on file with the Planning Department, County of Kaua'i.

(4) Special Planning Area “N,” which shall also be known as the “Ele’ele-Port Allen Walkable Mixed Use District” and be designated as “SPA-N” as shown on the zoning map attached to Ordinance No. 1083 as Exhibit 4, and on file with the Planning Department, County of Kaua’i.

(5) Special Planning Area “O,” which shall also be known as the “Kaumakani Plantation Camp Walkable Mixed Use District” and designated “SPA-O” as shown on the zoning maps attached to Ordinance No. *** as Exhibit 1, and on file with the Planning Department, County of Kaua’i.

(b) Designation of Zoning Maps. In order to carry out the purpose of this Article, the zoning maps ZM-K100 (Kekaha), ZM-W100 (Waimea), and ZM-H200 (Hanapēpē) of Chapter 8, Kaua’i County Code 1987, as amended (Comprehensive Zoning Ordinance), are hereby amended. Zoning Map ZM-KV-100 (Kaumakani Village) and ZM-KA-100 (Kaumakani Avenue) is hereby adopted.

Section 10-3.6 Implementation of the West Kaua’i Community Plan.

The West Kaua’i Community Plan shall serve as a guide for all development within the West Kaua’i area.”

SECTION 5. The Planning Department is directed to note the change on the official Zoning Map on file with the Commission.

SECTION 6. 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 7. When revising, compiling, or printing this Ordinance for inclusion in the Kaua’i County Code 1987, as amended, the designated Ordinance number of this Ordinance shall be substituted for the *** placeholders.

SECTION 8. Material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua’i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 9. This Ordinance shall take effect upon its approval.

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

August 17, 2022

Lihu’e, Kaua’i, Hawai’i

V:\BILLS\2020-2022 TERM\Bill No. 2885 (08-17-2022) AAO_jy.docx



Map Showing Proposed Zoning Map ZM-KV-100



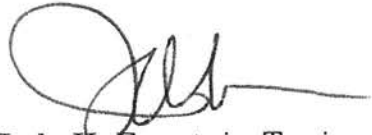
Map Showing Proposed Zoning Map ZM-KA-100

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2885, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 18, 2022


Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

ORDINANCE NO. _____

BILL NO. 2886

**A BILL FOR AN ORDINANCE AMENDING
CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
COMPREHENSIVE ZONING ORDINANCE DEFINITIONS**

(County of Kaua'i Planning Department, Applicant) (ZA-2022-14)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The County of Kaua'i adopted the first General Plan in 1971 (updated in 1984, 2000, and 2018). Subsequently, the County of Kaua'i adopted the Comprehensive Zoning Ordinance (CZO) in 1972. Since its adoption, the County of Kaua'i has approved several amendments to specific provisions of the CZO.

The purpose of this Ordinance is to amend and update Section 8-1.5 of the CZO as it relates to the definitions, and to accomplish the following: (1) clarify terminology that is currently not clearly stated, (2) add definitions for uses listed in the Use Table of the CZO that are currently lacking any definition, and (3) remove definitions or phrases that are not used within any section of the CZO.

SECTION 2. Section 8-1.5, Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended as follows:

"Sec. 8-1.5 Definitions.

When used in this Chapter the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

["Accessory Building" or "Structure"] "Accessory Structure" means a [building or] structure [which] that is subordinate to, and the use of which is incidental to, that of the main [building,] structure or use on the same lot or parcel[.] and not used for human occupancy of habitation.

"Accessory Use" means a use customarily incidental, appropriate, and subordinate to the main use of the parcel or [building.] structure.

"Additional Dwelling Unit (ADU)" means a structure or portion thereof designed and used for single-family residential purposes as permitted under Article 15 of this Chapter, and which can be detached from or attached to an existing residence, to be used for single-family occupancy and containing one (1) kitchen.

"Additional Rental [Unit"] Unit (ARU)" means a rental unit that includes a kitchen, bedroom(s), and bathroom facilities, attached or detached from a dwelling

unit that is used for the purpose of a [long term] long-term rental unit. When built within an existing residential dwelling unit or attached to one, the two (2) units together shall constitute a multi-family dwelling.

“Adult Family Boarding Home” means any family home [providing for a fee,] licensed by the State of Hawai‘i Department of Health to provide twenty-four (24) hour living accommodations for a fee to no more than five (5) adults unrelated to the family, who are in need of minimal “protective” oversight care in their daily living activities. [These facilities are licensed by the Department of Health, State of Hawai‘i under the provisions of Secs. 17-883-74 to 17-883-91.]

“Adult Family Group Living Home” means any family home [providing] licensed by the State of Hawai‘i Department of Health to provide twenty-four (24) hour living accommodations for a fee to five (5) to eight (8) elderly, handicapped, developmentally disabled, or totally disabled adults, unrelated to the family, who are in need of long-term minimal assistance and supervision in [the adult’s] their daily living activities, health care, and behavior management. [These facilities are licensed by the Department of Health, State of Hawai‘i, under the provisions of Secs. 17-883-74 to 17-883-91.]

“Agricultural Retail Stand” means a building or structure, not to exceed a gross floor area of 1,000 square feet, from which agricultural products produced on the subject property or the associated farm are sold.

“Agriculture” means the breeding, planting, nourishing, caring for, gathering, and processing of any animal or plant organism for the purpose of nourishing people or any other plant or animal organism; or for the purpose of providing the raw material for non-food products. For the purposes of this Chapter, agriculture shall include the growing of flowers and other ornamental crops and the commercial breeding and caring for animals as pets.

“Alley” means a public or permanent private way less than fifteen (15) feet wide for the use of pedestrians or vehicles [which] that has been permanently reserved and [which] affords, or is designed or intended to afford, the secondary means of access to abutting property.

“Animal Hospital” means an establishment for the care and treatment of small animals, including household pets.

“Apartment.” See **“Dwelling, Multiple Family.”**

“Apartment-Hotel” means a building or portion thereof used as a hotel as defined in this Section and containing the combination of individual guest rooms or suite of rooms with apartments or dwelling units.

“Applicant” means an owner or any person who has full written authorization of the owner.

“Aquaculture” means the growing and harvesting of plant or animal organisms in a natural or artificial aquatic [situation which requires a body of water such as a pond, river, lake, estuary or ocean.] environment.

“Auditorium” means a facility that contains a large assembly seating area used for public or private events, activities, and conventions.

“Automobile Repair.” See **“Automobile Service.”**

“Automobile Sales” means the facilities and outdoor retail space used for the sale of new or used automobiles, trucks, mopeds, motorcycles, recreational vehicles, or other similar vehicles, and marine vehicles.

“Automobile Service” means a commercial retail establishment that provides service and repair needs for automobiles and marine vehicles.

“Automobile Storage” means any structure or area used for the long-term storage of automobiles or marine vehicles, including a facility or site, such as a baseyard, used for any combination of the following: the storage, service, and/or repair of automobile equipment, construction materials, vehicles, and the staging of employees.

“Bar” means a commercial establishment that serves alcoholic beverages and may serve food but does not provide live entertainment or dancing.

“Base Flood” means the flood, from whatever source, having a one percent (1.0%) chance of being equaled or exceeded in any given year, otherwise commonly referred to as the one hundred (100) year flood.

“Base Flood Elevation” means the water surface elevation of the base flood.

“Bed and Breakfast.” See [“Homestay,” “Transient Vacation Rental,” “Single Family Vacation Rental,” or “Multi-Family Transient Vacation Rental.”] **“Homestay.”**

“Boarding House” means any structure containing individual sleeping rooms with no individual kitchens and which may have individual or shared bathrooms and used for long-term residential rentals.

“Botanical Garden” means a public or private facility used for the commercial demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants for a fee.

[**“Building”** means a roofed structure, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The word “building” includes the word “structure.”] **“Building.”** See **“Structure.”**

“Cabaret” means an establishment where food is prepared and served along with alcoholic beverages, and which provides amplified or live entertainment and dancing.

“Campground, Developed” means land or premises designed to be used, let, or rented for compensation, monetary or otherwise, for transient occupancy by campers traveling by automobile or otherwise, and which contains facilities such as tent sites, bathrooms or other sanitary facilities, piped water installations, and parking areas, but not including mobile home parks. Each individual tent camping site offers a campsite that may have permanent footings, platforms, and private restroom facilities. Developed campgrounds may include facilities for the temporary placement of camp trailers and camping vehicles that are used for non-permanent residential uses.

“Campground, Undeveloped” means land or premises: (1) designed to be used by property owners and their guests for non-commercial camping purposes; (2) without permanent footings, platforms, or structures; and (3) without compensation, monetary or otherwise, for use of the site.

“Cemetery” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria[,]; mausoleums[,]; mortuaries[,]; and crematoriums, provided the crematorium has the approval of the State of Hawai‘i Department of Health, Planning Commission[and], and County Council when operated in conjunction with and within the boundary of the cemetery.

“Center Line.” See **“Street Center Line.”**

[**“Church”** means a building designed for or used principally for religious worship or religious services.] See **“Religious Facility.”**

“Club” means any organization established for a social, patriotic, political, or athletic nature, or the like, having a regular membership to all who are charged dues. “Club” also means the establishment so operated and the premises or facilities thereof in which the establishment operates.

“Coastal High Hazard Area” means the area subject to high velocity waters, including, but not limited to, coastal and tidal inundation or tsunami. The area is designated on a FIRM as Zone VE.

“Commercial Indoor Amusement and Parks” means an establishment providing indoor amusement. Typical uses include: billiard and pool halls, electronic and coin-operated game rooms, movie theaters, bowling alleys, and indoor shooting ranges.

“Commercial Outdoor Amusement” means land or premises designed to be used by the public for a fee or other consideration, that contain facilities such as miniature golf courses, merry-go-rounds, car racetracks, and outdoor motion picture theaters.

“Commercial Use” means the purchase, sale, or other transaction involving the handling or disposition (other than that included in the term “industry” as defined in this Section) of any article, substance, or commodity for profit or a livelihood, including [in addition,] public garages, office buildings, offices of doctors and other professionals, public stables, recreational and amusement enterprises conducted for profit, shops for the sale of personal services, places where commodities or services are sold or are offered for sale, either by direct handling of merchandise or by agreements to furnish them but not including dumps and junk yards.

“Common Driveway” means an access that serves to provide vehicular access to at least one (1) but less than twenty (20) residential dwelling units (including dwelling units and additional rental units).

“Communications Facility” means a public utility (as defined under Hawai‘i Revised Statutes) structure, including but not limited to cellular, radio, and television transmitting and receiving antennas, radar stations, and microwave towers.

“Community Center” means a structure used as a place of assembly for members or organizations or as an outreach facility to provide public services (such as health screening and elderly services).

“Compatible Use” means a use that, because of its manner of operation and characteristics, is or would be in harmony with uses on abutting properties in the same zoning district. In judging compatibility, the following shall be considered: intensity of occupancy as measured by dwelling units per acre, pedestrian or vehicular traffic generated, volume of goods handled, and other factors such as, but not limited to: vibration noise level[,]; smoke, odor, or dust produced; or light or radiation emitted.

“Condominium Property Regime (CPR)” means whenever the sole owner or all of the owners including all of the lessees of a property expressly declare, through the execution and recordation of a master deed, together with a declaration, which declaration shall set forth the particulars enumerated by Hawai‘i Revised Statutes (HRS) Chapter 514B, the sole owner’s or their desire to submit the property to the

regime established by HRS Chapter 514B, there shall thereby be established a condominium property regime with respect to the property, and HRS Chapter 514B shall be applicable to the property. If the master deed is already recorded, the recordation of the declaration is sufficient to achieve the same result.

“Conforming” means in compliance with the regulations of the pertinent district.

“Construction, Commencement of” means the actual placing of construction materials in their permanent position, fastened in a permanent manner.

“Contiguous Lots or Parcels in Common Ownership” means more than one (1) adjoining lot or parcel each of which is owned in full or part by the same person, or his or her representative.

“County Engineer” means the County Engineer of the Department of Public Works of the County of Kaua‘i.

“Cultivation” means the disturbance by mechanical means of the surface soil to a depth less than two (2) feet where the original grade and shape of the land is not substantially altered, for the purpose of planting and growing plants.

“Day Care Center” means any facility [which] that complies with [the] State of Hawai‘i licensing requirements where seven (7) or more children under the age of eighteen (18) are cared for without overnight accommodations at any location other than their normal place of residence. This term includes child care services and other similar uses and facilities consistent with this definition, and not covered by the “Family Child Care Home” definition.

“Day Use Areas” means land, premises, and facilities, designed to be used by members of the public, for [a fee or otherwise,] non-commercial purposes, for outdoor recreation purposes on a daily basis. Day use areas include uses and facilities such as parks, playgrounds, picnic sites, tennis courts, beaches, marinas, athletic fields, and golf courses.

“Density” means the number of dwelling units allowed on a particular unit of land area.

“Developed Campgrounds” means land or premises designed to be used, let, or rented for compensation, monetary or otherwise, for transient occupancy by campers traveling by automobile or otherwise and which contain such facilities as tent sites, bathrooms or other sanitary facilities, piped water installations, and parking areas, but not including mobile home parks. Each individual tent camping site offers a campsite that may have permanent footings, platforms, and/or private restroom facilities. Developed campgrounds may include facilities for the

temporary placement of camp trailers and camping vehicles which are utilized for non-permanent residential uses.]

“Distance, Measurement of” means, unless otherwise specified, all distances other than height shall be measured in a horizontal plane. Height shall be measured vertically.

“Diversified Agriculture” means the growing and harvesting of plant crops for human consumption [which] that does not involve a long-range commitment to one (1) crop. Diversified agriculture includes truck gardening and the production of fresh vegetables, and minor fruit or root crops such as guava or taro.

“Division of Land” means the division of any lot or parcel or portion thereof into two (2) or more lots, plots, sites, or parcels for the purpose, whether immediate or future, of sale, transfer, lease, or building development. It includes subdivisions and resubdivision and other divisions of land and may relate to the process of dividing land or to the land or territory divided.

“Dock” means a wharf or row of piers where ships or boats are berthed for a fee, and may include warehouse facilities and the loading and unloading of materials and passengers.

“Dormitory” or **“Residence Hall”** means a building primarily providing sleeping and residential quarters for students and faculty, and visitors affiliated with the university or college. A dormitory contains multiple private or semiprivate single rooms, usually along with communal bathroom facilities, kitchen facilities, and recreation areas.

“Dry Cleaning” means the process of removing dirt, grease, paints, and other stains from wearing apparel, textile fabrics, rugs, and other material by the use of nonaqueous liquid solvents, flammable or nonflammable, and it may include the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and nonaqueous liquid solvents.

“Dump” means a place used for the discarding, disposal, abandonment, or dumping of waste materials.

“Dwelling” means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating, and sanitation.

“Dwelling, Farm” means the same as defined in Hawai'i Revised Statutes (HRS) Section 205-4.5(a)(4): “a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides

income to the family occupying the dwelling.” If the dwelling is located on a parcel within the State Land Use Agricultural District, it is considered a farm dwelling and must observe all the restrictions contained within HRS Chapter 205.

“Dwelling, Multiple Family” or **“Dwelling, Multiple-Family”** or **“Dwelling, Multi-Family”** means a building or portion thereof consisting of two (2) or more dwelling units and designed for occupancy by two (2) or more families living independently of each other, where any one (1) of the constructed units is structurally dependent on any other unit.

“Dwelling, Single Family Attached” or **“Dwelling, Single-Family Attached”** means a building consisting of two (2) or more dwelling units designed for occupancy by two (2) or more families living independently of each other where each unit is structurally independent although superficially attached or close enough to appear attached.

“Dwelling, Single Family Detached” or **“Dwelling, Single-Family Detached”** means a building consisting of only one (1) dwelling unit designed for or occupied exclusively by one (1) family.

“Dwelling Unit” means any building or any portion thereof [which is] designed or intended for occupancy by one (1) family or persons living together or by a person living alone and providing complete living facilities[,] within the unit for sleeping, recreation, eating, and [sanitary facilities,] sanitation, including installed equipment for only one (1) kitchen[. Any], provided that any building or portion thereof that contains more than one (1) kitchen shall constitute as many dwelling units as there are kitchens.

“Easement” means an acquired privilege or right of use or enjoyment [which] that an individual, firm, corporation, person, unit of government, or group of individuals has in the land of another[.] through legal recording and documentation.

“Existing Grade” means [the existing grade or elevation of the ground surface which exists or existed prior to manmade alterations such as grading, grubbing, filling or excavating.]: (1) the ground surface existing prior to manmade alterations such as grading, grubbing, filling, or excavating, or (2) the finished ground surface elevation that may have been graded, filled, or excavated for a house pad, through a subdivision process that has been certified complete.

[“Factory Built] “Factory-Built Housing” means any structure or portion thereof [which] that is: designed for use as a building or dwelling; prefabricated or assembled at a place other than the building site; and capable of complying with the standards and requirements contained in Sec. 12-4.4 of Chapter 12, Building Code.

“Family” means an individual or group of two (2) or more persons related by blood, adoption, or marriage living together in a single housekeeping unit as a dwelling unit. For purposes of this Chapter, family shall also include a group of not more than five (5) individuals unrelated by blood, adoption, or marriage.

“Family Care Home” means any care home licensed by the State of Hawai‘i Department of Health to be occupied by not more than five (5) care home residents. [These facilities are licensed by the Department of Health, State of Hawai‘i, under the provisions of Secs. 17-883-74 to 17-883-91.]

“Family Child Care Home” means [providing] a facility licensed by the State of Hawai‘i Department of Health to provide child care services and other similar uses consistent with this definition where six (6) or fewer children under the age of eighteen (18) are cared for in a private dwelling unit without overnight accommodations at any location other than the children’s normal place of residence[and which complies with State of Hawai‘i licensing requirements.].

“Farmers Market” means the offering of fresh agricultural products for sale by multiple farmers or farms directly to the consumer at an open-air or enclosed area.

“Finished Grade” means the final elevation of the ground surface after manmade alterations such as grading, grubbing, filling, or excavating have been made on the ground surface.

“Flag Lots” means a lot or parcel bounded by at least six (6) sides and describing two (2) distinct but contiguous areas, one (1) of which is the primary development area used to determine lot area, width, and proportion, and the other of which is an appendage normally used as access from a street to the primary development area. The primary development area is referred to as the “flag” portion of the lot, and the appendage is referred to as the “pole” portion of the lot.

“Flammable Liquid” means any liquid having a flash point below two hundred (200) degrees Fahrenheit and having a vapor pressure not exceeding forty (40) pounds per square inch (absolute) at one hundred (100) degrees Fahrenheit.

“Flood Fringe Area” means the portion of the flood plain outside the floodway, designated as AE, AO, and AH Zones on the FIRM.

“Flood Insurance Rate Map[er] (FIRM)” means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards, the risk premium zones applicable, base flood elevations, and floodways.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floor” means a surface area within an enclosed structure that divides a structure into a “story” or stories. Any vertical space between floors that is more than 78 inches in height shall be deemed a separate floor or story.

“Food Processing and Packaging of [agricultural products] Agricultural Products” means facilities where raw [and/or] or refined agricultural products are made suitable for human consumption and prepared for transport and sale.

“Forestry” means the growing or harvesting of trees for timber or wood fiber purposes.

“Frontage” means that portion of a parcel of property [which] that abuts [on] a road, street, or highway.

[**“Front, Building”**] **“Building, Front”** means the side of a building or structure nearest the street on which the building fronts. In cases where this definition is not applicable, the Planning Director shall make the determination.

“Garage” means a building or structure or a portion thereof in which a motor vehicle is stored, housed, kept, repaired, or serviced.

[**“Garage, Automobile Repair”** means a garage wherein major repairs are made to motor vehicles or in which any major repairs are made to motor vehicles other than those normally used by the occupants of the parcel on which the garage is located.]

[**“Garage, Automobile Storage”** means any garage used exclusively for the storage of vehicles.]

“General [Flood Plain] Floodplain Area” means the area consisting of the approximate [flood plain] floodplain area as delineated on the flood maps, where detailed engineering studies have not been conducted by the Federal Insurance Administration to delineate the flood fringe and floodway and identified as A, X, and D Zones on the FIRM.

“Golf Course” means a tract of land laid out for the purpose of playing the game of golf.

“Grade” [with reference to a street or land surface, means the gradient, the rate of incline or decline expressed as a percent.] means the elevation of the ground surface, and can be existing or finished.

“Grazing” means the production or use of vegetative land cover for the pasturing of animals.

“Ground Level” means with reference to a building, the average elevation of the finished ground levels adjoining the walls of a building.] **“Ground Level.”** See **“Existing Grade”** and **“Finished Grade.”**

“Guest House” means a building with a floor area of no more than five hundred (500) square feet, which may contain a kitchen, and is used for dwelling purposes by guests, tenants, or owner(s). A guest house shall not be used for a transient vacation rental (TVR) or homestay operation within or outside of the visitor destination area (VDA).

“Height Building.” **“Building, Height.”** See appropriate Chapter provisions.

“Height, Fence or Screen” **“Height, Fence”** or **“Height, Screen”** means the vertical distance measured from the ground level to the top of the fence. For the purpose of applying height regulations, the average height of the fence along any unbroken run may be used provided the height at any point is not more than ten percent (10%) greater than that normally permitted.

“Height, Wall” means the vertical distance to the wall plate measured from the ground level at the bottom of the wall.

“Historic Resource” or **“Historic Site”** means any property, area, place, district, building, structure, site, neighborhood, scenic viewplane, or other object listed in the National or State Register of Historic Places or having special historical, cultural, architectural, or aesthetic value to the County of Kaua‘i.

“Home Business” means any use customarily conducted entirely within a dwelling and carried on solely by the inhabitants thereof, in connection with which there [are:] is: no display from the outside of the building; no mechanical equipment used except as is normally used for domestic or household purposes; and no selling of any commodity on the premises; which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The office, studio, or occupational room of an architect, artist, engineer, lawyer, or other similar professional person; a family child care home; business conducted entirely by phone or by mail (not involving frequent bulk shipments); and an office for “homework” of a person in business elsewhere; all shall be permitted as home businesses except that no activity involving, encouraging, or depending [upon] on

frequent visits by the public and no shop or clinic of any type shall be deemed to be a home business.

“Homestay” means an [owner occupied] owner-occupied dwelling unit in which overnight accommodations are provided to transient guests within the same dwelling unit in which the owner resides and the respective owner currently benefits under [Sec.] Section 5A-11 of this Code for a homeowner’s exemption for the homestay site. A guest house may not be used as accommodations for transient guests in a homestay operation.

["Horizontal Property Regime” means the forms of development defined in the Horizontal Property Act, Chapter 514A, H.R.S.] **“Horizontal Property Regime.”** See **“Condominium Property Regime (CPR).”**

“Hospital” means any building or portion thereof to which persons may be admitted for overnight stay or longer and which is used for diagnosis, care, or treatment of human illness or infirmity or which provides care during and after pregnancy.

“Hotel” means any building containing six (6) or more rooms intended or designed to be used, or which are used, rented, or hired out to be occupied for sleeping purposes by guests when the rooms are open to the occupancy by the general public on a commercial basis whether the establishment is called a hotel, resort hotel, inn, lodge, or otherwise which rooms do not constitute dwelling units.

“HPR Commission” means the Historic Preservation Review Commission.

["Indoor Amusement, Commercial” means buildings and structures designed to be used by members of the public that contain amusement facilities such as movie theaters, bowling alleys, pool halls and skating rinks.]

“Industry” or “Industrial Use” means the manufacture, fabrication, processing, reduction, or destruction of any article, substance, or commodity, or any other treatment thereof in a manner so as to change the form, character, or appearance thereof, and storage other than that accessory to a nonmanufacturing use on the same parcel including storage elevators, truck storage yards, warehouses, wholesale storage, and other similar types of enterprises.

“Intensive Agriculture” means the growing and harvesting of plant crops for human consumption or animal feeds primarily for sale to others and involving the long-range commitment to one (1) crop such as sugar, pineapple, sorghum, or grain.

“Junk” means any worn-out, cast-off, or discarded article or material [which] that is ready for destruction or has been collected or stored for salvage or conversion to some use; any article or material [which,] that, unaltered or unchanged and without

further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

“Junk Yard” means any [open space] area in excess of two hundred (200) square feet, used for the breaking up, dismantling, sorting, storage, or distribution of any scrap, waste material, or junk[.] for commercial purposes.

“KHPRC” means the Kaua‘i Historic Preservation Review Commission.

“Kitchen” means any room used or intended or designed to be used for cooking and preparing food.

“Kuleana” means an area of land that was originally awarded to native tenants during the “Great Mahele of 1848,” which was recognized by the Land Commission as a Land Commission Award (L.C. Aw.), and further defined in Hawai‘i Revised Statutes Chapter 183C.

“Land Coverage” means a man-made structure, improvement, or covering that prevents normal precipitation from directly reaching the surface of the land underlying the structure, improvement, or covering. Structures, improvements, and covering include roofs, and surfaces that are paved with asphalt, stone, or the like, such as roads, streets, sidewalks, driveways, parking lots, tennis courts, patios, and lands so used that the soil will be compacted so as to prevent substantial infiltration, such as parking of cars and heavy and repeated pedestrian traffic. Land coverage shall not include bus stops, bus shelters, and public [shared use] shared-use paths greater than ten (10) feet in width. Any [shared use] shared-use path wider than ten (10) feet requires the Planning Director’s approval for lot coverage exemption. The Planning Director may determine that a material is semi-permeable (e.g., grasscrete or grass pavers) and that the respective area covered by the semi-permeable material may qualify for up to a fifty percent (50%) reduction in lot coverage. Provided such improvements cannot otherwise be made without conflicting with the provisions of this chapter, County or State improvements and retrofitting of improvements when such improvements are required to comply with the Americans with Disabilities Act (ADA) shall not be included in calculating land coverage.

“Landscaping” means the modification of the landscape for an aesthetic or functional purpose. It includes the preservation of existing vegetation and the continued maintenance thereof together with grading and installation of minor structures and appurtenances.

“Land Use” and **“Use of Land”** includes “building or structure use” and “use of building[.]” or structure.”

“Laundromat” means a facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

“Library” means a public facility containing printed information, electronic information, and pictorial material for public use, such as for study, reference, and recreation.

“Livestock” means domestic animals of types customarily raised or kept on farms for profit or other productive purposes.

“Loft” means the floor placed between the roof and the floor of the uppermost story within a [single family] single-family detached dwelling, the floor area of which is not more than one-third (1/3) the floor area of the story or room in which it is placed.

“Lot” means a portion of land shown as a unit on an approved and recorded Subdivision Map.

“Lot Area” means the total of the area, measured in a horizontal plane, within the [lot boundary lines.] property lines.

“Lot Coverage.” See **“Land Coverage.”**

“Lot Length” means the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

“Lot Width” means the average horizontal distance between the side lot lines measured at right angles to the line followed in measuring the lot depth.

“Manager” means the Manager and Chief Engineer of the Water Department of the County of Kaua‘i.

“Manufacturing, Construction Material” means the processing and packaging establishments involving significant mechanical and chemical processes, large amounts of metal transfer, or extended shift operations. Typical activities include, but are not limited to: paper and textile milling; wood millwork and the production of prefabricated structural wood products; the manufacture of soaps and detergents; rubber processing and the manufacture of rubber products; the production of plastics and other synthetic materials; primary metals processes; the manufacture of vehicles, machinery, and fabricated metal products; electroplating; cement-making and the production of concrete; gypsum and related products; the production of chemical products, perfumes, and pharmaceuticals; and the production of paving and roofing materials. This term does not include those activities associated with: petroleum processing; the manufacture of explosives and

toxic chemicals; waste disposal and processing; [and/or] or the processing of salvage, scrap, and junk materials.

“Manufacturing, Light” means the processing and packaging establishments involving activities that: are non-offensive to adjacent uses; involve no open storage or other types of outdoor accessory uses other than parking and loading; do not involve processes that generate significant levels of heat, noise, odors, or particulates; and do not involve chemicals or other substances that pose a threat to health and safety. Typical activities include, but are not limited to: (1) the production of: handcrafted goods, electronics-intensive equipment, components related to instrumentation and measuring devices, bio-medical and telecommunications technologies, computer parts and software, and optical and photographic equipment, and (2) other manufacturing, processing, and packaging uses meeting the criteria prescribed herein.

“Manufacturing, Retail Sales.” See **“Manufacturing, Light.”**

“Medical Facility” means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients. A “medical or dental profession or occupation” is any activity involving the diagnosis, cure, treatment, mitigation, or prevention of disease or that affects any bodily function or structure.

“Mineral Extraction” means any excavation or removal of natural materials not related to or [not] occasioned by an impending development of the site of the excavation.

“Monument” means a commemorating freestanding structure supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.

“Mortuary” means an establishment providing services such as preparing the human dead for burial and arranging and managing funerals, including limited caretaker facilities and crematorium facilities, but not including cemeteries and columbariums.

“Motel” means a group of attached or detached buildings containing rooms, designed for or used temporarily by automobile tourists or transients, with garages attached or parking [space] spaces conveniently located to each unit, including auto court, tourist court, or motor lodge, [or otherwise,] which rooms do not constitute dwelling units.

“Multi-Family Transient Vacation Rental” means a multi-family dwelling unit which is used as a transient vacation rental.]

“Museum” means a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

“Night Club” means a commercial establishment where persons congregate for the purpose of eating, drinking, dancing, or singing, and where musical or live entertainment is provided. This term includes cabaret.

“Nonconforming Building [and] or Structure” means a building or structure or portion thereof, lawfully existing on September 1, 1972 or as a result of any subsequent amendment to this Zoning Ordinance, [and which] that does not comply with the regulations of the zoning district in which it is located.

“Nonconforming Use” means a lawful use of a building or land, existing on September 1, 1972 or as a result of any subsequent amendment to this Zoning Ordinance, [and which] that does not comply with the regulations for the zoning district in which it is located.

“Nursery” means the growing, collecting, or storing of plants for the purpose of selling to others for transplanting.

“Nursing Home” means a facility established for profit or nonprofit, which provides nursing care and related medical services on a twenty-four (24) hour per day basis to two (2) or more individuals because of illness, disease, or physical or mental infirmity. It provides care for those persons not in need of hospital care.

“Office” means a room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

“Open Space” means the portion or portions of a parcel unoccupied or unobstructed by buildings, paving, or structures from the ground upward.

“Orchards” means the establishment, care, and harvesting of over twenty-five (25) [fruit bearing] fruit-bearing trees, such as persimmon, guava, banana, or papaya, for the purpose of selling the fruit to others.

“Outdoor Amusement, Commercial” means land or premises designed to be used by members of the public, for a fee, that contain outdoor amusement facilities such as miniature golf courses, merry-go-rounds, car race tracks, and outdoor motion picture theaters.]

“Outdoor Recreation” means uses and facilities pertaining primarily to recreation activities that are carried on primarily outside of structures[.] and are not used for commercial or compensatory purposes.

“Outdoor Recreation Concession” means uses and facilities ancillary to outdoor recreation uses, such as gasoline pumps at piers and marinas, and boat rental and food and beverage facilities at public beaches.

“Owner” means the holders of legal title of land in fee simple.

“Parcel” means [an area of contiguous land owned by a person.] a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

“Parking Area, Public” means an open area, other than a street or alley, used for the parking of automobiles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

“Parking Garage” means a building used for the parking of automobiles and available to the public, whether for free or for compensation.

“Parking Space, Automobile” means an area other than a street or alley reserved for the parking of one (1) automobile. The space shall be afforded adequate ingress and egress.

“Permanent Open Space” means an area designated within a subdivision or other development project to be used for open space purposes or recreational uses in perpetuity, not including any structures. This space cannot be used for any future density calculation.

“Personal Services” means establishments that offer specialized goods and services purchased frequently by the consumer, including barbershops, beauty shops, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair, and other similar establishments. This term also includes commercial wedding chapels and services.

“Pet” means any domesticated animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, fish, rabbits, hamsters, mice, turtles, and the like.

“Pet Keeping” means the feeding or sheltering of more than two (2) animals or four (4) birds as a service to others.

“Pet Raising” means the breeding, feeding, or sheltering of more than two (2) animals not normally used for human consumption for the purpose of sale to others.

“Piggery” means any parcel where ten (10) or more weaned hogs are maintained.

“Planning Commission” means the Planning Commission of the County of Kaua‘i.

“Planning Director” means the Director of the Planning Department of the County of Kaua‘i.

“Poultry Raising” means the breeding, feeding, sheltering, or gathering of more than four (4) game or domestic fowl for the purpose of sale, food or egg production, or pets.

“Power Purchase Agreement [(P.P.A.)] (PPA)” means a contract in which the purchaser, a registered public utility pursuant to [H.R.S.,] Hawai‘i Revised Statutes Chapter 269, consents to purchasing more than one hundred (100) kilowatts of electricity from a transmitting party.

“Private Recreation Areas” means lands or premises designed to be used exclusively by owners and renters of dwelling units, that contain such facilities as tennis courts, playfields, swimming pools, clubhouses, bathing beaches, and piers.

“Private Street” means any parcel of land or non-exclusive easement that is: not owned by the County or State of Hawai‘i, [nor] not offered for dedication to the public, not a common driveway, and [which is] used or intended to be used for vehicular access to a lot or parcel.

“Project” [and **“Project Instrument.”** “Project”] means property that is subject to project instruments, including, but not limited to, condominiums and cooperative housing corporations.

[“Project Instrument”] **“Project Instrument”** means one (1) or more documents, including any amendments to the documents, by whatever name denominated, containing restrictions or covenants regulating the use or occupancy of a project.

“Property Line” or **“Lot Line”** means any property line bounding a lot as defined in this Section.

“Property Line, Front” means the line separating the lot from the street or other public areas. [In case] Where a lot abuts [on] more than one (1) street, the lot owner may elect any street [lot] property line as the front property line, provided that the choice, in the discretion of the Planning Director, will not be injurious to adjacent properties and will comply with any other reasonable determination of the Planning Director. Where a lot does not abut [on] a street or where access is by means of an [access way,] accessway, the [lot] property line nearest to and most nearly parallel to the street line [is] shall be the front [lot] property line. [In cases where] Where

this definition is not applicable, the Planning Director shall designate the front [lot] property line.

“Property Line, Rear” means [that] the line of a lot [which] that is opposite and most distant from the front property line of the lot. [In cases where] Where this definition is not applicable, the Planning Director shall designate the rear [lot] property line.

“Property Line, Side” means any [lot boundary] property line that is not a front or rear [lot] property line.

“Public Facility” means a facility owned or controlled by a governmental agency.

“Public [Shared Use] Shared-Use Path” means a minimum eight (8) foot width bikeway that is physically separated from motorized vehicular traffic by an open space or barrier, and is within the highway right-of-way or has an independent right-of-way. [Shared use] Shared-use paths may also be used by pedestrians, skaters, wheelchair users, joggers, and other non-motorized users.

“Public Utility” [has the meaning] means the same as defined in [Sec. 269-1, H.R.S.] Hawai‘i Revised Statutes Section 269-1.

“Quarry” means a site used for rock mining or crushing, sand removal, or manufacturing of asphalt paving material or concrete usually affiliated with a rock-crushing operation.

[**“Rear, Building”**] **“Building, Rear”** means the side of the building or structure opposite the front. In cases where this definition is not applicable, the Planning Director shall make the determination.

“Recreational Trailer” means a portable structure, used or designed for human habitation or occupancy, and built on a chassis with wheels, which is capable of being licensed as a motor vehicle, a vehicle, or a trailer pursuant to Hawai‘i Revised Statutes Chapter 249 and transported on a highway, but which is unable, due to its size, design, construction, or other attributes, to comply with the minimum standards and requirements applicable to dwellings or buildings, or portions thereof, contained in Sec. 12-4.4 of Chapter 12, Building Code.

“Recreation Vehicle Park” means a parcel of land under one (1) ownership [which] that has been planned and improved and [which] is let[or], rented, or used for the temporary placement of camp trailers and camping vehicles [which] that are [utilized] used for non-permanent residential use.

“Registration Number” means a number assigned to a transient vacation rental in a [Visitor Destination Area] visitor destination area by the [Finance] Director of Finance upon registration of [said] the rental.

[**“Religious Facilities”** means buildings, other structures, and land designed to be used for purposes of worship.] **“Religious Facility”** means a building, structure, or land designed to be used for purposes of worship.

“Repair” [(as applied to structures)] means the renewal or treatment of any part of an existing structure for the purpose of its maintenance. [The word “repairs” shall] This term applies to structures, but does not apply to any change of construction such as alterations of floors, roofs, walls, or the supporting structure of a building or the rearrangement of any of its component parts.

“Residential Care Home” means any care home facility occupied by more than five (5) care home residents.

“Resource Management” means non-commercial uses and facilities pertaining to forest products, minerals, and other natural resources.

“Restaurant and Food Services” means a retail business selling [ready to-eat] ready-to-eat food and/or beverages for [on or off-premise] on- or off-premises consumption. These include food trucks and eating establishments where customers are served from a walk-up ordering counter for either [on or off-premise] on- or off-premises consumption (“counter service”) and establishments where customers are served food at their tables for [on premise] on-premises consumption (“table service”) that may also provide food for take-out[, but does not include drive through services, which are separately defined and regulated.].

[**“Retail Stores or Shops”**] **“Retail Store”** or **“Retail Shop”** means an establishment primarily engaged in selling goods, wares, or merchandise directly to the ultimate consumer.

“School” means an institution with an organized curriculum offering instruction to children in the grade range kindergarten through twelve (12), or any portion thereof.

“Setback, Front” means a distance measured at right angles from the building structure to the street right-of-way, and shall be unobstructed by any structure or portion of a structure, except as specifically permitted. A property or lot within the Residential District that is bounded by more than one (1) street will require more than one (1) front setback, however, the owner may choose a single front yard for the sole purpose of establishing the location of the rear yard. In any lot configuration, there shall be at least one (1) front setback.

“Setback, Rear” means a distance measured at right angles from the building structure to the rear property line. In any lot configuration, there shall be at least one (1) rear setback.

“Setback, Side” means a distance measured at right angles from the building structure to the side property line.

“Setback Line” means a line parallel to any property line and at a distance from there equal to the required minimum dimension from that property line, and extending the full length of the property line.

“Single Family Transient Vacation Rental” means a single family dwelling unit, other than a homestay, which is used as a transient vacation rental.]

“Slope” means a natural or artificial incline, such as a hillside or terrace. Slope is usually expressed as a ratio or percent.

“Solar Energy Facility” means a use [and/or structure(s)] or structure that collects and [utilizes] uses the sun’s radiant energy as an electrical source for the primary purpose of commercial distribution. To qualify as a solar energy facility, the use [and/or structure(s) must] or structure shall be operated or managed by a registered public utility pursuant to [H.R.S.] Hawai’i Revised Statutes Chapter 269, or the electricity generated [is] shall be transmitted to a registered public utility under a Power Purchase Agreement [(P.P.A.).] (PPA).

“Specialized Agriculture” means the growing, collection, or storing of any plant for ornamental or non-food use such as flowers and [pot] potted plants.

“Stock Raising” means the breeding, feeding, grazing, herding, or sheltering of more than one (1) animal, such as cattle, sheep, pigs, goats, and horses, for any purpose.

“Stockyard” means an enclosed yard, usually with pens or stables, in which livestock, such as chickens, cattle, or pigs, are temporarily kept until slaughtered, sold, or shipped elsewhere.

“Story” means the space in a building between the upper surface of any floor and the upper surface of the floor next above, [and if there be] provided that if there is no floor above, then it is the space between the upper surface of the topmost floor and the ceiling or roof above. No story shall be more than twelve (12) feet high measured from the floor level to the wall plate line.

“Street Center Line” means the center line of a street as established by official surveys or a recorded subdivision map. If not so established, the center line is midway between the right-of-way lines bounding the street.

“Street” or **“Highway”** means a way or place of whatever nature, open to the public for purposes of vehicular travel.

“Street Right-of-Way Line” means the boundary line right-of-way or easement and abutting property.

“Structural Alteration” means any change in the supporting members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components or changes in roof or exterior lines.

“Structure” means anything affixed, constructed, or erected [which] that requires location on the ground or [which] is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, and excluding utility poles and towers constructed by a public utility.

“Subdivider” means a person [commencing] who commences proceedings to effect a division of land for [him or herself or for] the person or another.

“Subdivision” means the division of land or the consolidation and resubdivision into two (2) or more lots or parcels for the purpose of transfer, sale, lease, or building development, and when appropriate to the context shall relate to the process of dividing land for any purpose. [The] This term also includes a building or group of buildings, other than a hotel, containing or divided into two (2) or more dwelling units or lodging units.

“Tenant” means a person who occupies real property owned by another based [upon] on an agreement between the person and the [landlord/owner, almost always] landlord or owner, usually in exchange for rental payments.

“Theater” means an assembly structure or area used for the purpose of featuring movies, plays, theatrical arts, or exhibits for commercial purposes.

“Thoroughfare” means a highway or street.

[**“Time Share”** **“Timeshare Plan”** means any plan or program in which the use, occupancy, or possession of one (1) or more [time share] timeshare units circulates among various persons for less than a sixty (60) day period in any year, for any occupant. The term [“time share”] **“timeshare plan”** shall include both [time share] timeshare ownership plans and [time share] timeshare use plans, as follows:

- (1) [**“Time Share”** **“Timeshare Ownership Plan”** means any arrangement whether by tenancy in common, sale, deed, or other means whereby the purchaser receives an ownership interest and the right to use the property for a specific or discernible period by temporal division.

(2) **["Time Share] "Timeshare Use Plan"** means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security, or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a [time share] timeshare unit for a specific or discernible period by temporal division, but does not receive an [owner-ship] ownership interest.

["Time Share] "Timeshare Unit" means the actual and promised accommodations, and related facilities, [which] that are the subject of a [time share] timeshare plan.

"Trailer Home" means [factory built] factory-built housing [which] that is capable of being licensed as a vehicle or trailer pursuant to Hawai'i Revised Statutes Chapter 249 and transported upon a highway.

"Transient" [or "Transients"] means any person who owns, rents, or uses a dwelling unit or a portion thereof for one hundred eighty (180) days or less, [and which] where the dwelling unit is not the person's primary residence under the Internal Revenue Code. This definition shall not apply to nonpaying guests of the family occupying the unit, patients or clients in health care facilities, full-time students, employees who receive room [and/or] or board as part of their salary or compensation, military personnel, low-income renters receiving rental [subsistence] assistance from [State or Federal governments,] the state or federal government, or overnight accommodations provided by nonprofit corporations or associations for religious, charitable, or educational purposes where no rental income is transacted.

"Transient Vacation [Rental] Rental (TVR)" means a dwelling unit [which is] provided to transient occupants for compensation or fees, including club fees, or as part of interval ownership involving persons unrelated by blood, with a duration of occupancy of one hundred eighty (180) days or less.

"Transient Vacation Rental, Single-Family" means a single-family dwelling unit, other than a homestay, that is used as a transient vacation rental.

"Transient Vacation Rental, Multi-Family" means a multi-family dwelling unit that is used as a transient vacation rental.

"Transportation Terminal" means a facility usually affiliated with the vehicular transport of people or goods, such as bus stations, airports, and harbor facilities.

["Undeveloped Campgrounds" means land or premises designed to be used by property owners and their guests for non-commercial camping purposes. There are no permanent footings or platforms, and there are no permanent structures. There is no compensation, monetary or otherwise, for use of this site.]

“University” or **“College”** means a nationally-accredited institution of learning that provides full-time or part-time education, whether public or private, including but not limited to community colleges and college-preparatory institutions, providing facilities for teaching, research, and group learning, and authorized to grant academic diplomas [and/or] or degrees.

“Use” means the purpose for which land or a building is arranged, designed, or intended, or for which [either] land or a building is or may be occupied or maintained.

“Used” includes designed, intended, or arranged to be used.

“Use, Existing” means a lawful use of land existing on August 17, 1972.]

“Use Permit” means a permit issued under the definite procedure provided in this Chapter allowing a certain use [which] that is conditionally permitted for the particular district.

“Utility Facility” means a use or structure used directly in distribution or transmission of utility services.] **“Utility Facility, Private”** or **“Utility Facility, Public”** means the structures or site used for the delivery of utility services, such as solid waste, sewer, water, cable, and electricity. These structures and facilities include but are not limited to transfer stations, transformers, pump stations, water tanks, and equipment sheds.

“Utility Line” means the conduit, wire, or pipe employed to conduct water, gas, electricity, or other commodity from the source tank or facility for reduction of pressure or voltage or any other installation, employed to facilitate distribution.

“Visitor Destination [Area” or **“VDA”** are] **Area (VDA)”** means those areas designated as Visitor Destination Areas on County of Kauaʻi Zoning Maps.

“Wall” means any structure or device forming a physical barrier, which is so constructed that fifty percent (50%) or more of the vertical surface is closed and prevents or tends to prevent the passage of light, air, and vision through the surface in a horizontal [plane. (This includes] plane, including structures of concrete, concrete block, wood, or other materials that are solids and are so assembled as to form a solid barrier, provided that carport posts, columns, and other similar structures not constructed of fifty percent (50%) or more of the vertical surface shall be deemed [walls.]) walls.

“Zoological Garden” means a [parklike] park-like area in which live animals are kept in [large] enclosures for public exhibition for a fee.”

SECTION 3. 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 that can be given effect without

the invalid provisions or application, and to this end the provisions of this Ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This Ordinance shall take effect on its approval. The requirements of this Ordinance shall not affect any application that has been approved by the Commission prior to the effective date of this Ordinance, unless there is a subsequent approval required prior to a building permit, in which case, that subsequent application shall be subject to the relevant requirements of this Ordinance, excluding subdivisions that have received tentative approval prior to the effective date of this Ordinance.

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

August 17, 2022

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\Bill No. 2886 Amended Bill CZO Definitions JA_jy.doc

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2886, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 17, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kualii	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	DeCosta, Kaneshiro	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 18, 2022



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i