



BILL NO. _____

ORDINANCE NO. _____

1AN ORDINANCE AMENDING CHAPTER 25, ARTICLES 2, 4, 5, AND 7, OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO TELECOMMUNICATION ANTENNAS AND TOWERS.

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

SECTION 1. Findings and purpose. The purpose of these regulations is to provide a comprehensive set of standards for the development of telecommunications facilities. The regulations contained herein are designed to protect and promote public safety and community welfare, while at the same time not unduly restricting the development of telecommunications facilities.

SECTION 2. Chapter 25, article 2, division 6, section 25-2-61, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

- (a) The following uses shall be permitted within designated County zoning districts only if a use permit is obtained for the use from the commission:
- (1) Bed and breakfast establishments in RS, RA, FA, and A districts, provided that the property is within the state land use urban district.
 - (2) Crematoriums, funeral homes, funeral services and mortuaries in RS, RD, RM, RCX, RA, FA, A and V districts.
 - (3) Churches, temples and synagogues, including meeting facilities for churches, temples, synagogues and other such institutions, in RS, RD, RM, RA, FA and A districts; provided that a minimum building site area of ten thousand square feet is required within the RS, RD, RM, and RA districts.
 - (4) Day care centers in RS, RD, RM, RA, FA and A districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
 - (5) Golf courses and related golf course uses including golf driving ranges, golf maintenance buildings, and golf club houses in the RS, RD, RM, RCX, RA, FA, A, V, CG, CV, and O districts, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (6) Group living facilities that exceed the criteria in subsection 25-1-5(b), paragraph (b) of the definition of "group living facility" in the RS, RD, RM, RCX, RA, FA, A, CN, CG, CV, and V districts.
 - (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes in

the RS, RD, RM, RCX, RA, FA, A, and V districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, RCX and RA districts.

- (8) Major outdoor amusement and recreation facilities in RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.
- (9) Medical clinics in RS, RD, RM, RA, FA, and A districts.
- (10) Schools in RS, RD, RM, RA, FA, A, V, MCX, ML, and MG districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
- ~~[(11) Telecommunication antennas and towers in RS, RD, RM, RCX, RA, FA, A, IA and O districts.]~~

~~[(12)]~~(11) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.

~~[(13)]~~(12) Wind energy facilities in the O district; provided that the property is within the state land use agricultural district.

~~[(14)]~~(13) Other unusual and reasonable uses which are not specifically permitted in any zoning district with the approval of the director and the concurrence of the council by resolution.

- (b) Any use which received an approval as a conditionally permitted use prior to September 25, 1984, or which received prior approval through the use permit process, is considered a legal use of the affected parcel and may be expanded or enlarged without obtaining another use permit, provided such expansion, enlargement or addition is in full compliance with this chapter and the applicable district regulations.
- (c) A use permit shall not be required for any use described in subsection (a) above, if a special permit is obtained for that use, pursuant to section 205-6, Hawai'i Revised Statutes.

SECTION 3. Chapter 25, article 2, division 7, section 25-2-74, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-2-74. Plan approval application requirements for telecommunication antennas.

In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for a telecommunication antenna or tower shall contain the following information:

- (1) A plot plan showing the location on the building site of the proposed antenna or tower;
- (2) Building plans for the tower, certified by a licensed structural engineer, verifying that the tower, ~~[together with the initial antennas and other equipment proposed to be installed thereon,]~~ at full build out inclusive of all potential antennas and equipment, will have a hard survivability for sustained winds of one hundred thirty miles per hour;
- (3) A statement from the Federal Aviation Administration that the application has not been found to be a hazard to air navigation; and

- (4) A statement from the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.
- (5) Documentation demonstrating compliance with the National Historic Preservation Act of 1966 Section 106 review has been completed.
- (6) A report indicating whether the facility could be co-located elsewhere. The report shall include:
 - (A) A statement from the applicant that diligent, but unsuccessful efforts to install or co-locate the applicant's telecommunication antennas on existing towers or feasible antenna support structures have been made;
 - (B) A map showing the sites that have been investigated with a detailed analysis on how those sites are inadequate and how the site selected is the least obtrusive;
 - (C) Maps showing the coverage areas of existing towers within a 2 mile radius and the proposed tower;
 - (D) A letter from the nearby tower owners indicating the tower is not feasible for co-locating antennas; and
 - (E) A statement that the wireless telecommunications provider commits to allow a minimum of two other wireless telecommunications providers to co-locate antennas on their proposed tower facilities wherever structurally and technically feasible.
- (7) A statement providing the reasons for the location, design and height of the proposed tower or antennas and the efforts made to meet with the adjacent landowners and/or community regarding the development.
- (8) A visual impact analysis shall be provided and include:
 - (A) Mitigation measures to minimize the visual impacts of the tower;
 - (B) Before and after photo simulations from various locations and/or angles from which the public would typically view the site; and
 - (C) A map depicting where the photos were taken.

The application shall demonstrate that less intrusive sites are not available or do not provide the necessary communication coverage to provide the service. The director may request the submission of additional materials, including but not limited to photo overlays, scaled models, renderings, or field mock-ups, to evaluate potential visual impacts. These materials should address appropriate coloration, blending, and stealth design (e.g., monopine, monopalm) to harmonize the facility with the surrounding area.

SECTION 4. Chapter 25, article 4, division 1, section 25-2-12, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-4-12. Telecommunication antennas or towers.

- (a) A telecommunication antenna or tower shall be permitted in ~~[the V, CN, CG, CV, MCX, ML, MG and CDH]~~ all zoning districts; provided that the antenna, tower, and its use are not hazardous or dangerous to the surrounding area and the director has issued plan approval for such use. ~~[A telecommunication antenna or tower may be permitted in the RS, RD, RM, RCX, RA, FA, A, IA, and O districts if a use permit is obtained for such use. Where there is an existing telecommunication tower, co-location of additional antenna or equipment will be permitted provided the director has issued plan approval for such use.]~~ Co-location of antennas upon an existing privately owned tower and expansion of related support equipment within the project site is permitted and encouraged provided the director issued plan approval for the existing tower. The ground lease areas of co-locating carriers must be adjacent to the existing ground lease area and not located within the open yard setback areas, and the co-location must not result in a 'substantial change', as defined by the Federal Communication Commission. Co-location that results in a 'substantial change' to the tower height or ground lease area, as defined by the Federal Communication Commission, requires issuance of a new plan approval.
- ~~[(b) The minimum setbacks for a telecommunication antenna and tower are as follows:~~
- ~~(1) Freestanding antennas and towers shall be set back from every property line a minimum of one foot for every five feet of antenna or tower height.~~
 - ~~(2) Telecommunication antennas and towers supported by guy wires shall be set back from every property line a minimum of one foot for every one foot of antenna or tower height.]~~
- (b) Telecommunication facilities developed by government agencies primarily to protect public health, safety, and welfare, including but not limited to facilities for police, fire, ambulance, and other emergency dispatch services, shall be exempt from the telecommunication tower requirements outlined in this chapter.
- (c) Minimum Lot Size Requirements for Telecommunication Towers.
- (1) The minimum lot size for the placement of any telecommunication tower within the A, FA, IA and O zoning districts shall be five (5) acres.
 - (2) The minimum lot size for the placement of any telecommunication tower within a RS, RD, RM and RA zoning districts shall be one (1) acre.
 - (3) No minimum lot size shall be required for the placement of telecommunication towers within the V, CN, CG, CV, MCX, ML, MG and CDH zoning districts.
- The minimum lot size may be reduced, upon finding that the issuance of a variance by the director will not result in adverse impacts, including but not limited to noise, light, glare, visual, drainage, or other detrimental effects to adjacent property.
- (d) The minimum setback for telecommunication towers are as follows:
- (1) Telecommunication towers shall be set back from any property line with a minimum distance equal to one hundred and twenty (120) percent of the tower height as measured from the ground level.

- (2) Telecommunication towers must be sited at least 1,200 feet from nearby residences and schools not on the subject property.
- (3) Telecommunication towers located within V, CN, CG, CV, MCX, ML, MG and CDH zoning districts shall be exempt from the property line setback requirements stated in Section 25-4-12(d)(1).
- (e) Fencing and Safety Measures. Telecommunication towers must be enclosed by fencing a minimum of 6 feet in height, and towers must be equipped with an anti-climbing device.
- ~~[(e)]~~(f) The tower, together with the initial antennas or other equipment proposed to be installed thereon, shall have a hard survivability for sustained winds of at least one hundred thirty miles per hour.
- (g) The telecommunication antennas and tower shall comply with all applicable rules, regulations and requirements of the affected agencies, including the Federal Aviation Administration and Federal Communications Commission. All exterior lighting, except safety beacons required by the FAA, shall be shielded to minimize impacts to migrating seabirds.
- (h) To enhance wildfire detection and response capabilities, telecommunication towers located in areas identified as high-risk for wildfire activity may be required to provide space for a surveillance camera system designed to monitor and detect wildfire activity as a condition of Final Plan Approval. High-risk wildfire activity areas shall be determined by the director in consultation with any relevant federal, state, and county emergency service agencies.
- (i) Should any state or federally listed or endangered species be found on the subject property, the applicant shall comply with all applicable requirements of Department of Land and Natural Resources-Division of Forestry and Wildlife and/or the United States Fish and Wildlife Service.
- (j) Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including the concrete foundation. The applicant shall immediately provide written notification to the director of the termination of the telecommunication tower and related improvements and the removal of all structures.
- (k) The director may require any conditions or changes in the location and design of telecommunication antennas and towers which, in the director's opinion, are necessary to carry out the purposes of this chapter and the considerations contained in section 25-2-74, 25-2-77, and the natural beauty chapter of the General Plan. This can include but not be limited to requiring stealth design (e.g., monopine, monopalm) in order to reduce visual impacts to surrounding properties. If the proposed site is located within an area of the natural beauty as designated by the General Plan or is located along a roadway, bikeway, trail or park used by the public the director may require an on-site or off-site relocation of the telecommunication tower in an effort to mitigate visual impacts.

SECTION 5. Chapter 25, article 5, division 1, section 25-2-76, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-2-76. Action on plan approval application.

- (a) The director may issue plan approval subject to conditions or changes in the proposal which, in the director's opinion, are necessary to carry out and further the purposes of this chapter and the considerations contained in section 25-2-77.
- (b) The director may only issue plan approval for a telecommunication antenna or tower if the proposed use meets all of the conditions contained in sections 25-2-77 and 25-4-12, and if the applicant provides all verification required under section 25-2-74.
- (c) The director may only issue plan approval for a temporary model home or real estate office if the proposed use meets all of the conditions in section 25-2-77 and 25-4-8.
- (d) The director shall render a decision to either approve or deny a plan approval application, other than for an agricultural tourism facility ~~[or]~~, any special district with adopted design guidelines and/or standards, or any telecommunication antenna or tower, within thirty days after acceptance of the application. If the director fails to render a decision within the thirty-day period, the application shall be considered approved without further certification by the director. In addition, the following specific provisions shall apply:
 - (1) For an agricultural tourism facility, the department shall conduct a site inspection prior to issuing plan approval within sixty days after acceptance of the application. If the director fails to render a decision within the sixty-day period, the application shall be considered approved without further certification by the director.
 - (2) For any plan approval application within a special district with adopted design guidelines and/or standards, the director shall render a decision to either approve or deny the plan approval application within forty-five days after acceptance of the application. If the director fails to render a decision within the forty-five day period, the application shall be considered approved without further certification by the director.
 - (3) For a telecommunication antenna or tower, the director shall render a decision to either approve or deny the plan approval application within sixty days after acceptance of the application, in accordance with Hawai'i Revised Statutes, Chapter 46-89. If the director fails to render a decision within the time frame specified by Hawai'i Revised Statutes, Chapter 46-89, the application shall be considered approved without further certification by the director.

SECTION 6. Chapter 25, article 5, division 1, section 25-5-3, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-3. Permitted uses.

- (a) The following uses shall be permitted in the RS district:
 - (1) Adult day care homes.

- (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (3) Community buildings, as permitted under section 25-4-11.
- (4) Crop production.
- (5) Dwellings, single-family.
- (6) Family child care homes.
- (7) Group living facilities.
- (8) Home occupations, as permitted under section 25-4-13.
- (9) Meeting facilities.
- (10) Model homes, as permitted under section 25-4-8.
- (11) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (12) Public uses and structures, as permitted under section 25-4-11.
- (13) Short-term vacation rentals situated in the general plan resort and resort node areas.
- (14) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(14)]~~(15) Temporary real estate offices, as permitted under section 25-4-8.
- ~~[(15)]~~(16) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RS district, provided that a use permit is issued for each use:
 - (1) Bed and breakfast establishments as permitted under section 25-4-7.
 - (2) Care homes.
 - (3) Churches, temples and synagogues.
 - (4) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (5) Day care centers.
 - (6) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (8) Medical clinics.
 - (9) Schools.
 - ~~[(10)]~~[(10)] Telecommunication antennas and towers.
 - ~~[(11)]~~(10) Yacht harbors and boating facilities.
- (c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RS district.

SECTION 7. Chapter 25, article 5, division 2, section 25-5-22, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-22. Permitted uses.

- (a) The following uses shall be permitted in the RD district:
 - (1) Adult day care homes.
 - (2) Bed and breakfast establishments as permitted under section 25-4-7.

- (3) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (4) Community buildings, as permitted under section 25-4-11.
- (5) Crop production.
- (6) Dwellings, double-family or duplex.
- (7) Dwellings, single-family.
- (8) Family child care homes.
- (9) Group living facilities.
- (10) Home occupations, as permitted under section 25-4-13.
- (11) Meeting facilities.
- (12) Model homes, as permitted under section 25-4-8.
- (13) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (14) Public uses and structures, as permitted under section 25-4-11.
- (15) Short-term vacation rentals situated in the general plan resort and resort node areas.
- (16) Temporary real estate offices, as permitted under section 25-4-8.
- (17) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(17)]~~(18) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RD district, provided that a use permit is issued for each use:
 - (1) Care homes.
 - (2) Churches, temples and synagogues.
 - (3) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (4) Day care centers.
 - (5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (7) Medical clinics.
 - (8) Schools.
 - ~~[(9) Telecommunication antennas and towers.]~~
 - ~~[(10)]~~(9) Yacht harbors and boating facilities.
- (c) Buildings and uses normally considered directly accessory to the uses permitted under this section shall also be permitted in the RD district.

SECTION 8. Chapter 25, article 5, division 3, section 25-5-32, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-32. Permitted uses.

- (a) The following uses shall be permitted in the RM district:
 - (1) Adult day care homes.
 - (2) Bed and breakfast establishments, as permitted under section 25-4-7.

- (3) Boarding facilities, rooming, or lodging houses.
- (4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (5) Commercial or personal service uses, on a small scale, as approved by the director, provided that the total gross floor area does not exceed one thousand two hundred square feet and a maximum of five employees.
- (6) Community buildings, as permitted under section 25-4-11.
- (7) Crop production.
- (8) Dwellings, double-family or duplex.
- (9) Dwellings, multiple-family.
- (10) Dwellings, single-family.
- (11) Family child care homes.
- (12) Group living facilities.
- (13) Home occupations, as permitted under section 25-4-13.
- (14) Meeting facilities.
- (15) Model homes, as permitted under section 25-4-8.
- (16) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (17) Public uses and structures, as permitted under section 25-4-11.
- (18) Short-term vacation rentals situated in any of the following:
 - (A) General plan resort and resort node areas.
 - (B) Outside the general plan resort and resort node areas, in multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai'i Revised Statutes.
- (19) Temporary real estate offices, as permitted under section 25-4-8.
- (20) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(20)]~~(21) Time share units situated in any of the following:
 - (A) Areas designated as resort under the general plan land use pattern allocation guide (LUPAG) map.
 - (B) Areas determined by the director to be within resort areas identified by the general plan land use element, except for retreat resort areas.
 - (C) Areas determined for such use by the council, by resolution.
- ~~[(21)]~~(22) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
 - (1) Care homes.
 - (2) Churches, temples and synagogues.
 - (3) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (4) Day care centers.
 - (5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

- (6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
- (7) Medical clinics.
- (8) Schools.
- ~~[(9)] [Telecommunication antennas and towers.]~~
- ~~[(10)]~~(9) Yacht harbors and boating facilities.
- (c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RM district.

SECTION 9. Chapter 25, article 5, division 4, section 25-5-42, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-42. Permitted uses.

- (a) The following uses shall be permitted in the RCX district:
 - (1) Adult day care homes.
 - (2) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (3) Boarding facilities, rooming, or lodging houses.
 - (4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (5) Churches, temples and synagogues.
 - (6) Commercial or personal service uses, on a small scale, as approved by the director.
 - (7) Community buildings, as permitted under section 25-4-11.
 - (8) Convenience stores.
 - (9) Crop production.
 - (10) Day care centers.
 - (11) Dwellings, double-family or duplex.
 - (12) Dwellings, multiple-family.
 - (13) Dwellings, single-family.
 - (14) Family child care homes.
 - (15) Group living facilities.
 - (16) Home occupations, as permitted under section 25-4-13.
 - (17) Medical clinics.
 - (18) Meeting facilities.
 - (19) Model homes, as permitted under section 25-4-8.
 - (20) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
 - (21) Public uses and structures, as permitted under section 25-4-11.
 - (22) Restaurants.
 - (23) Schools.
 - (24) Short-term vacation rentals situated in the general plan resort and resort node areas.
 - (25) Telecommunication antennas and towers, as permitted under section 25-4-12.
 - ~~[(25)]~~(26) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RCX district, provided that a use permit is issued for each use:

- (1) Care homes.
- (2) Crematoriums, funeral homes, funeral services, and mortuaries.
- (3) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
- (4) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
- (5) Major outdoor amusement and recreation facilities.
- ~~[(6) Telecommunication antennas and towers.]~~
- ~~[(7)](6)~~ Yacht harbors and boating facilities.
- (c) Buildings and uses normally considered directly accessory to the above uses shall also be permitted in the RCX district.

SECTION 10. Chapter 25, article 5, division 5, section 25-5-52, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-52. Permitted uses.

- (a) The following uses shall be permitted in the RA district:
 - (1) Adult day care homes.
 - (2) Agricultural products processing, minor, provided that the site or buildings used for such processing, shall be located at least seventy-five feet from any street bounding the building site.
 - (3) Agricultural tourism as permitted under section 25-4-15.
 - (4) Animal hospitals.
 - (5) Aquaculture.
 - (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
 - (7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (8) Crop production.
 - (9) Dwelling, single-family, one per building site.
 - (10) Family child care homes.
 - (11) Group living facilities.
 - (12) Kennels, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
 - (13) Livestock production (excluding pigs), provided that:
 - (A) The requirements of the department of health are met;
 - (B) Approval of the director is obtained; and
 - (C) Any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animal shall be located at least seventy-five feet from any lot line.
 - (14) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
 - (15) Public uses and structures, as permitted under section 25-4-11.

- (16) Roadside stands for the sale of agricultural products grown on the premises.
- (17) Stables, commercial or boarding, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
- (18) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(18)]~~(19) Utility substations, as permitted under section 25-4-11.
- ~~[(19)]~~(20) Veterinary establishments.
- (b) The following uses may be permitted in the RA district, provided that a use permit is issued for each use:
 - (1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - ~~[(2) Telecommunication antennas and towers.]~~

SECTION 11. Chapter 25, article 5, division 6, section 25-5-62, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-62. Permitted uses.

- (a) The following uses shall be permitted in FA districts:
 - (1) Agricultural products processing, minor, provided that the area or buildings used for such processing, shall be located at least seventy-five feet from any street.
 - (2) Agricultural tourism as permitted under section 25-4-15.
 - (3) Animal hospitals.
 - (4) Aquaculture.
 - (5) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
 - (6) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.
 - (7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (8) Crop production.
 - (9) Dwelling, single-family, as permitted under chapter 205, Hawai'i Revised Statutes and as permitted under section 25-5-67(b).
 - (10) Farm dwellings, as permitted under section 25-5-67(b) and (c).
 - (11) Game and fish propagation.
 - (12) Group living facilities.
 - (13) Kennels.
 - (14) Livestock, grazing; provided that any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animals shall be located at least seventy-five feet from any lot line.

- (15) Public uses and structures, necessary for agricultural practices.
- (16) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest.
- (17) Riding academies, and rental or boarding stables.
- (18) Roadside stands for the sale of agricultural products grown on the premises.
- (19) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(18)]~~(19) Utility substations, as permitted under section 25-4-11.
- ~~[(19)]~~(20) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, and livestock grazing.
- ~~[(20)]~~(21) Veterinary establishments.
- (b) The following uses may be permitted in the FA district, provided that a use permit is issued for each use:
 - (1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - ~~[(2)- Telecommunication antennas and towers.]~~

SECTION 12. Chapter 25, article 5, division 7, section 25-5-72, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-72. Permitted uses.

- (a) The following uses shall be permitted in the A district:
 - (1) Agricultural parks.
 - (2) Agricultural products processing, major and minor.
 - (3) Agricultural tourism as permitted under section 25-4-15.
 - (4) Animal hospitals.
 - (5) Aquaculture.
 - (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
 - (7) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.
 - (8) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (9) Crop production.
 - (10) Dwelling, single-family, as permitted under chapter 205, Hawai‘i Revised Statutes and as permitted under section 25-5-77(b).
 - (11) Farm dwellings, as permitted under section 25-5-77(b) and (c).
 - (12) Fertilizer yards utilizing only manure and soil, for commercial use.
 - (13) Forestry.
 - (14) Game and fish propagation.

- (15) Group living facilities.
- (16) Kennels.
- (17) Livestock production, provided that piggeries, apiaries, and pen feeding of livestock shall only be located on sites approved by the State department of health and the director, and must be located no closer than one thousand feet away from any major public street or from any other zoning district.
- (18) Public uses and structures which are necessary for agricultural practices.
- (19) Retention, restoration, rehabilitation, or improvement of building or sites of historic or scenic interest.
- (20) Riding academies, and rental or boarding stables.
- (21) Roadside stands for the sale of agricultural products grown on the premises.
- (22) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(22)]~~(23) Utility substations, as permitted under section 25-4-11.
- ~~[(23)]~~(24) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, livestock grazing and livestock production.
- ~~[(24)]~~(25) Veterinary establishments.
- ~~[(25)]~~(26) Wind energy facilities.
- (b) The following uses may be permitted in the A district, provided that a use permit is issued for each use:
 - (1) Golf courses and related golf course uses, including golf course driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - ~~[(2) Telecommunication antennas and towers.]~~

SECTION 13. Chapter 25, article 5, division 8, section 25-5-82, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-82. Permitted uses.

- (a) The following uses shall be permitted in the IA district:
 - (1) Agricultural parks.
 - (2) Agricultural products processing, major and minor.
 - (3) Agricultural tourism as permitted under section 25-4-15.
 - (4) Aquaculture.
 - (5) Cemeteries, as permitted under chapter 6, article 1 of this Code.
 - (6) Crop production.
 - (7) Farm dwellings, as permitted under sections 25-5-87(b) and (c).
 - (8) Forestry.
 - (9) Livestock production, provided that piggeries, apiaries and pen feeding of livestock shall not be closer than one thousand feet to any major road or to any district other than the A district on building sites approved by the State department of health and the director.
 - (10) Public uses and structures which are necessary for agricultural practices.

- (11) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(11)]~~(12) Utility substations, as permitted under section 25-4-11.
- (b) ~~[The following uses may be permitted in the IA district, provided that a use permit is obtained for such use:~~
- ~~(1) Telecommunication antennas and towers.]~~
- ~~[(e)]~~(b) The following uses may be permitted in the IA districts, provided that a special permit is obtained for such use:
- (1) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (2) Churches, temples, or synagogues.
 - (3) Community buildings as permitted under section 25-4-11.
 - (4) Day care centers.
 - (5) Hospitals.
 - (6) Public uses and structures, other than those necessary for agricultural purposes, as permitted under section 25-4-11.
 - (7) Uses other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai'i Revised Statutes.
- ~~[(d)]~~(c) In IA districts in areas with over thirty percent slope, in gullies, and where rough terrain discourages intensive agricultural uses, the director may approve any other uses which are permitted in the RA, FA, or A districts.
- ~~[(e)]~~(d) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the IA district.
- ~~[(f)]~~(e) No building site shall be established in the IA district which shall in any way restrict or limit the uses permitted under this section.

SECTION 14. Chapter 25, article 5, division 13, section 25-5-130, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-132. Permitted uses.

- (a) The following uses shall be permitted in the MCX district:
- (1) Agricultural products processing, minor.
 - (2) Amusement and recreation facilities, indoor.
 - (3) Art galleries, museums.
 - (4) Art studios.
 - (5) Automobile sales and rentals.
 - (6) Automobile service stations.
 - (7) Bars, nightclubs and cabarets.
 - (8) Broadcasting stations.
 - (9) Business services.
 - (10) Car washing.
 - (11) Catering establishments.
 - (12) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (13) Churches, temples and synagogues.
 - (14) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleaning agent.

- (15) Commercial parking lots and garages.
- (16) Community buildings, as permitted under section 25-4-11.
- (17) Convenience stores.
- (18) Crematoriums, funeral homes, funeral services, and mortuaries.
- (19) Data processing facilities.
- (20) Display rooms for products sold elsewhere.
- (21) Equipment sales and rental yards.
- (22) Farmers markets.
- (23) Financial institutions.
- (24) Food manufacturing and processing.
- (25) Home improvement centers.
- (26) Ice storage and dispensing facilities.
- (27) Kennels in sound-attenuated buildings.
- (28) Laboratories, medical and research.
- (29) Laundries.
- (30) Manufacturing, processing and packaging establishments, light.
- (31) Medical clinics.
- (32) Meeting facilities.
- (33) Model homes.
- (34) Motion picture and television production studios.
- (35) Offices.
- (36) Personal services.
- (37) Photographic processing.
- (38) Photography studios.
- (39) Plant nurseries.
- (40) Public uses and structures, as permitted under section 25-4-11.
- (41) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
- (42) Repair establishments, minor.
- (43) Restaurants.
- (44) Retail establishments.
- (45) Sales and service of machinery used in agricultural production.
- (46) Schools, business.
- (47) Schools, photography, art, music and dance.
- (48) Schools, vocational.
- (49) Self-storage facilities.
- (50) Telecommunication[s] antennas and towers, as permitted under section 25-4-12.

SECTION 15. Chapter 25, article 5, division 14, section 25-5-142, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-142. Permitted uses.

- (a) The following uses shall be permitted in the ML district:
 - (1) Agricultural products processing, minor.
 - (2) Airfields, heliports and private landing strips.
 - (3) Amusement and recreation facilities, indoor.

- (4) Animal hospitals.
- (5) Animal quarantine stations.
- (6) Aquaculture activities.
- (7) Automobile and truck storage facilities.
- (8) Automobile and truck sales and rentals.
- (9) Automobile service stations.
- (10) Bakeries.
- (11) Bars.
- (12) Broadcasting stations.
- (13) Car washing.
- (14) Carpentry, hardwood products and furniture manufacturing and storage establishments.
- (15) Catering establishments.
- (16) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (17) Churches, temples and synagogues.
- (18) Cleaning and dyeing plants.
- (19) Commercial parking lots and garages.
- (20) Community buildings, as permitted under section 25-4-11.
- (21) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
- (22) Crematoriums, funeral homes, funeral services, and mortuaries.
- (23) Day care centers.
- (24) Financial institutions.
- (25) Food manufacturing and processing facilities.
- (26) Greenhouses, plant nurseries.
- (27) Heavy equipment sales, service and rental.
- (28) Home improvement centers.
- (29) Junkyards, provided that the building site is not less than one acre in area.
- (30) Laboratories, medical and research.
- (31) Laundries.
- (32) Lumberyards and building material yards, but not including concrete or asphalt mixing and the fabrication by riveting or welding of steel building frames.
- (33) Manufacturing, processing and packaging establishments, light.
- (34) Motion picture and television production studios.
- (35) Photographic processing.
- (36) Plumbing, electrical, air conditioning and heating establishments.
- (37) Primary airports, provided that plan approval is secured from the director.
- (38) Public uses and structures, as permitted under section 25-4-11.
- (39) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
- (40) Recycling centers, which do not involve the processing of recyclable materials.
- (41) Repair establishments, minor.
- (42) Restaurants.

- (43) Self storage facilities.
- (44) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
- (45) Telecommunication antennas and towers, as permitted under section 25-4-12.

SECTION 16. Chapter 25, article 5, division 15, section 25-5-152, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-152. Permitted uses.

- (a) The following uses shall be permitted in the MG district:
 - (1) Agricultural products processing, major and minor.
 - (2) Airfields, heliports and private landing strips.
 - (3) Amusement and recreation facilities, indoor.
 - (4) Animal hospitals.
 - (5) Animal quarantine stations.
 - (6) Animal sales, stock, and feed yards.
 - (7) Aquaculture activities and facilities.
 - (8) Automobile and truck storage facilities.
 - (9) Automobile body and fender establishments.
 - (10) Automobile service stations.
 - (11) Bakeries.
 - (12) Bars.
 - (13) Breweries, distilleries, and alcohol manufacturing facilities.
 - (14) Broadcasting stations.
 - (15) Bulk storage of flammable products and bulk storage of explosive products.
 - (16) Car washing.
 - (17) Catering establishments.
 - (18) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (19) Churches, temples and synagogues.
 - (20) Cleaning and dyeing plants.
 - (21) Commercial parking lots and garages.
 - (22) Community buildings, as permitted under section 25-4-11.
 - (23) Concrete or asphalt batching and mixing plants and yards.
 - (24) Contractors’ yards for equipment, material, and vehicle storage, repair, or maintenance.
 - (25) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (26) Day care centers.
 - (27) Dumping, disposal, incineration, or reduction of refuse or waste matter.
 - (28) Expansion of an existing commercial excavation operation, provided that plan approval is secured from the director.
 - (29) Fabricating establishments.
 - (30) Fertilizer manufacturing plants.
 - (31) Financial institutions.
 - (32) Food manufacturing and processing facilities.
 - (33) Freight movers.
 - (34) Greenhouses, plant nurseries.

- (35) Heavy equipment sales, service and rental.
- (36) Home improvement centers.
- (37) Junkyards.
- (38) Kennels.
- (39) Laboratories, medical and research.
- (40) Laundries.
- (41) Lava rock or stone cutting or shaping facilities.
- (42) Lumberyards and building material yards.
- (43) Machine, welding, sheet metal, and metal plating and treating establishments.
- (44) Manufacturing, processing and packaging establishments, light and general.
- (45) Marine railways, drydocks, and ship or boat yards.
- (46) Motion picture and television production studios.
- (47) Photographic processing.
- (48) Primary airports, provided that plan approval is secured from the director.
- (49) Public dumps.
- (50) Public uses and structures, as permitted under section 25-4-11.
- (51) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
- (52) Recycling centers.
- (53) Reduction, refining, smelting, or alloying of metals, petroleum products or ores.
- (54) Repair establishments, major and minor.
- (55) Restaurants.
- (56) Saw mills.
- (57) Self storage facilities.
- (58) Slaughterhouses.
- (59) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
- (60) Storage, curing, or tanning of raw, green, or salted hides or skins.
- (61) Telecommunication antennas and towers, as permitted under section 25-4-12.

SECTION 17. Chapter 25, article 5, division 16, section 25-5-162, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-5-162. Permitted uses.

- (a) The following uses shall be permitted in the O district:
 - (1) Aquaculture activities and facilities.
 - (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (3) Community buildings, as permitted under section 25-4-11.
 - (4) Existing churches and temples of historical significance.
 - (5) Forestry.
 - (6) Game preserves.
 - (7) Growing of plants provided such growth does not impair a view intended to be preserved in the O district.

- (8) Heiaus, historical areas, structures, and monuments.
- (9) Natural features, phenomena, and vistas as tourist attractions.
- (10) Private recreational uses involving no aboveground structure except dressing rooms and comfort stations.
- (11) Public parks.
- (12) Public uses and structures, as permitted under section 25-4-11.
- (13) Telecommunication antennas and towers, as permitted under section 25-4-12.
- ~~[(13)]~~(14) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the O district, provided that a use permit is issued for each use:
 - (1) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (2) Golf courses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (3) Yacht harbors and boating facilities; provided that the use, in its entirety, is compatible with the stated purpose of the O district.
 - (4) Wind energy facilities; provided that the property is within the state land use agricultural district.
 - ~~[(5) Telecommunication antennas.]~~

SECTION 18. Chapter 25, article 7, division 2, section 25-7-22, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

Section 25-7-22. Permitted uses.

- (a) The following uses shall be permitted uses in the CDH district:
 - (1) Adult day care homes.
 - (2) Amusement and recreation facilities, indoor.
 - (3) Art galleries.
 - (4) Automobile service stations or garages, excluding body and fenderworks, electric tire rebuilding or battery rebuilding and provided that all work is conducted wholly within a completely enclosed building.
 - (5) Bakeries.
 - (6) Bars, cocktail lounges and night clubs.
 - (7) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (8) Boarding facilities, rooming, or lodging houses.
 - (9) Broadcasting stations or studios (radio and television).
 - (10) Business services.
 - (11) Car washing, provided that the facilities are not detrimental to the character of the district.
 - (12) Commercial parking lots and garages.
 - (13) Community buildings, as permitted under section 25-4-11.
 - (14) Crop production.
 - (15) Display rooms for products sold elsewhere.
 - (16) Dwellings, double-family or duplex, with a maximum density of five

- hundred square feet of land area per rentable unit or dwelling unit.
- (17) Dwellings, multiple-family, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
 - (18) Dwellings, single-family.
 - (19) Family child care homes.
 - (20) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
 - (21) Financial institutions.
 - (22) Group living facilities.
 - (23) Home occupations, as permitted under section 25-4-13.
 - (24) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (25) Hotels and apartment hotels with a maximum density of five hundred square feet of land area per rentable unit.
 - (26) Laundries other than those utilizing steam cleaning equipment, provided that the facilities are not detrimental to the character of the district.
 - (27) Manufacturing, processing and packaging, light, provided that the activities are not detrimental to the character of the district.
 - (28) Medical clinics.
 - (29) Meeting facilities.
 - (30) Model homes, as permitted under section 25-4-8.
 - (31) Modeling agencies.
 - (32) Museums and libraries.
 - (33) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
 - (34) Offices.
 - (35) Personal services.
 - (36) Photography and artist studios.
 - (37) Public uses and structures, as permitted under section 25-4-11.
 - (38) Publishing plants for newspapers, books and magazines, printing shops, cartographing and duplicating processes such as blueprinting or photostating.
 - (39) Repair establishments, minor.
 - (40) Restaurants.
 - (41) Retail establishments, provided that they are not detrimental to the character of the district.
 - (42) Schools, business.
 - (43) Schools, photography, art, music, dance or other similar studios or academies.
 - (44) Schools, vocational.
 - (45) Telecommunication antennas and towers, as permitted under section 25-4-12.

SECTION 19. New material is underscored and material to be repealed is bracketed stricken. In printing this ordinance, the underscoring, brackets, and bracketed and stricken text need not be included.

SECTION 20. 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 21. This ordinance shall take effect upon approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI‘I

_____, Hawai‘i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date: