

COUNTY OF HAWAI'I PLANNING DEPARTMENT BACKGROUND AND RECOMMENDATION

PLANNING DIRECTOR INITIATED

AMENDMENT TO CHAPTER 23, ARTICLE 4, ARTICLE 5, AND ARTICLE 6 AND CHAPTER 25, ARTICLE 2, ARTICLE 5, AND ARTICLE 6 OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO PROCESSING OF SUBDIVISION AND ZONING APPLICATIONS AND MAKING CLERICAL REVISIONS TO PERMITTED USES IN THE FAMILY AGRICULTURAL ZONING DISTRICT

The Planning Director has initiated the following amendments to Chapter 23 (Subdivision Code), Articles 4, 5 and 6, and to Chapter 25 (Zoning Code), Articles 2, 5 and 6 of the Hawai'i County Code 1983 (2016 Edition, as amended), relating to processing of subdivision and zoning applications for the impending administrative implementation of the EnerGov system, which will change the process for submitting applications to the Planning Department. Additionally, Section 8 of this ordinance corrects a drafting error contained in Ordinance No. 21-26 that inadvertently revised the administrative intent of Section 25-5-62 of the Hawai'i County Code.

BACKGROUND

The launch of the proposed EnerGov system is scheduled for July 26, 2021. With the implementation of this system, amendments need to be initiated in the Subdivision and Zoning Codes to remove references requiring the submittal of multiple copies of an application to the Planning Department, as the public will be able to submit one copy of the application through the Energov system. Additionally, a certification of tax clearance will no longer need to be provided by the applicant, and instead Planning Department staff will be able to verify real property tax payment status on the County website. The Department will continue to not accept an application when real property taxes for the property are delinquent, except as authorized by the Director of Finance in certain situations. Lastly, the Director seeks to correct a drafting error to the Family Agricultural zoning district section of the Zoning Code contained in Ordinance No. 21-26, which the Council recently adopted.

RECOMMENDATION

The Planning Director recommends that the Leeward and Windward Planning Commissions send a **favorable recommendation to the Hawai'i County Council regarding this bill relating to the processing of subdivision and zoning applications for the impending**

administrative implementation of the EnerGov system and the clerical revisions to permitted uses in the Family Agricultural zoning district.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. _____
< PLANNING DEPT. >

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 23, ARTICLE 4, ARTICLE 5, AND ARTICLE 6 AND CHAPTER 25, ARTICLE 2, ARTICLE 5, AND ARTICLE 6 OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO PROCESSING OF SUBDIVISION AND ZONING APPLICATIONS AND MAKING CLERICAL REVISIONS TO PERMITTED USES IN THE FAMILY AGRICULTURAL ZONING DISTRICT.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the Subdivision Code and the Zoning Code to provide language that is in alignment with the impending administrative implementation of the EncrGov system, which will change the process for submitting applications to the Planning Department. Additionally, Section 8 of this ordinance corrects a drafting error contained in Ordinance No. 21-26 that inadvertently revised the administrative intent of Section 25-5-62 of the Hawai'i County Code.

SECTION 2. Chapter 23, article 4, division 1, section 23-58, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

“(a) The subdivider shall submit a written application for subdivision, a preliminary plat prepared, stamped and signed by a surveyor, and other supplementary material required to describe the nature and objectives of the proposed subdivision, and shall submit ~~[ten copies, or more if requested by the director, of]~~ the preliminary plat and other supplementary material ~~[to the director.]~~ in a format prescribed by the director.”

SECTION 3. Chapter 23, article 5, section 23-70, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended to read as follows:

“Section 23-70. Supplemental information with final plat.

The following data shall be submitted with the final plat:

- (1) A complete title report issued by a licensed title company in the name of the owner of the land, showing all parties whose consents are necessary and their interests in the premises when required by the director;
- (2) ~~[Five copies]~~ A copy of any deed restrictions applicable to the subdivision;
- (3) Written proof that all taxes and assessments on the tract are paid to date; and

- (4) For nondedicable streets in a resort subdivision, the subdivider shall submit a recordable document with the director which shall describe all nondedicable streets, the ownership thereof and access rights thereon for all lots in the subdivision and the maintenance rights and responsibilities thereof. The document shall contain statements as follows: that nondedicable streets within the resort subdivision have not been built to the standards required for streets which are dedicable to the County of Hawai‘i; that such streets will accordingly not be accepted for dedication unless they are brought into compliance with the requirements for dedication as of the time they are offered for dedication; and that the County is not responsible for maintenance of such nondedicable streets. The document shall be in a form acceptable to the director of public works and corporation counsel. For subdivided land within the jurisdiction of the land court, such document shall be recorded with the land court. For all other subdivided land, the document shall be recorded with the State bureau of conveyances.”

SECTION 4. Chapter 23, article 5, section 23-72, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

- “(a) Within one year after tentative approval of the preliminary plat by the director, the subdivider shall have the subdivision surveyed and shall prepare a final plat which conforms with the preliminary plat as tentatively approved. The subdivider shall submit to the director [~~eight copies~~] a copy of the final plat, prepared in conformity with these regulations, together with [~~four additional copies~~] a copy of a general layout map, which was originally attached to the construction drawings and specifications (where required) showing the location of lots, streets, water mains and storm drainage systems.”

SECTION 5. Chapter 23, article 5, section 23-74, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (b) to read as follows:

- “(b) Upon final approval, the director shall stamp [~~three copies of~~] the final plat:

“SUBDIVISION NUMBER _____ APPROVED FOR RECORDATION
WITH THE BUREAU OF CONVEYANCES, STATE OF HAWAI‘I.”

The approval shall bear the signature of the director. The planning department shall then retain one copy of the final plat, and forward one copy of the final plat to the County real property tax office, and one copy of the final plat to the subdivider. The approval of the final plat by the director shall not be deemed to constitute or effect an acceptance by the County of the dedication of any street or other easement shown on the plat.”

SECTION 6. Chapter 23, article 6, division 1, section 23-79, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (b) to read as follows:

- “(b) The subdivider shall submit ~~[six copies]~~ a copy of the construction plans and specifications to the director for examination and submission to the director of public works, the manager, the sanitary engineer and the district engineer as required under section 23-61, for their respective consideration and approval. Such construction plans and specifications shall be considered approved for construction purposes when the construction plan tracings and specifications bear the approval of the director of public works, the manager, the sanitary engineer, the district engineer and the director as required under section 23-61.”

SECTION 7. Chapter 25, article 2, division 1, section 25-2-3, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsections (a) and (b) to read as follows:

- “(a) Any application filed with the director or the commission, pursuant to this chapter, including but not limited to a zoning amendment, variance, use permit, plan approval, ohana dwelling permit, planned unit development permit, or cluster plan development permit, shall be reviewed by the director for completeness within fifteen days from the date that the application was filed by the applicant. An application may be filed with the director or the commission [either by hand or mail delivery to the Hilo or Kona department.] in a format prescribed by the director.
- (b) ~~[All applications shall be accompanied by a certification of clearance from the director of finance that the real property taxes and all other fees relating to the subject parcel or parcels have been paid, and that there are no outstanding delinquencies. Any application not accompanied by such certification of clearance will be deemed defective.]~~ Prior to the acceptance of any application, all real property taxes and other fees relating to the subject parcel or parcels shall be paid and there shall be no outstanding delinquencies, except in cases of bankruptcy or similar matters as authorized by the director of finance.”

SECTION 8. Chapter 25, article 5, division 6, section 25-5-62, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (d) to read as follows:

- “(d) The following uses may be permitted in the FA district, provided that either a use permit is issued for each use if the building site is ~~[within]~~ outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
- (1) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (2) Churches, temples and synagogues.

- (3) Crematoriums, funeral homes, funeral services, and mortuaries.
- (4) Day care centers.
- (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
- (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
- (7) Medical clinics.
- (8) Schools.”

SECTION 9. Chapter 25, article 6, division 1, section 25-6-14, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (d) to read as follows:

“(d) Any such request shall be accompanied by a \$250 filing and processing fee[; ~~along with the original and twenty copies of the request.~~] and an application and documentation in a format prescribed by the director.”

SECTION 10. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 11. 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 12. This ordinance shall take effect upon its approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI‘I

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