

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
BACKGROUND AND RECOMMENDATION

COUNTY COUNCIL INITIATED BILL NO. 29 (PL-CCI-2025-000010)
AMENDMENT TO CHAPTER 25, ARTICLE 3, SECTION 25-3-3, OF THE
HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
RELATED TO THE ESTABLISHMENT OF ZONING DISTRICTS

The County Council has referred a bill for an ordinance to amend Chapter 25 (Zoning), Article 3, Section 25-3-3 of the Hawai‘i County Code 1983 (2016 Edition, as Amended), relating to the establishment of zoning districts. The Zoning Code currently requires the boundaries of Special Districts to be defined with a metes and bounds description and a map. The purpose of this bill is to grant the Planning Director the authority to designate alternative methods for defining Special District boundaries, when deemed appropriate.

PURPOSE OF BILL 29

1. The Hawai‘i County Council has introduced Bill No. 29 (**Planning Department Exhibit 1**), which seeks to amend Chapter 25 (Zoning), Article 3, Section 25-3-3 (a) of the Hawai‘i County Code 1983 (2016 Edition, as Amended) (hereinafter HCC) as follows (material to be added is underlined and material to be removed is bracketed and struck-through):

“(a) Any of the districts listed in sections 25-3-1 and 25-3-2 are or may be established for any portion of the County by being described by metes and bounds and in map form [-]; except that, when deemed appropriate by the director, other means of description may be used in lieu of metes and bounds to establish any district under section 25-3-2. In case of conflict between a zoning map and metes and bounds description delineating district boundaries, the latter shall control. In case of conflict between a zoning map, and any summary of ordinances as provided by subsection d) below on one hand, and duly enacted ordinance on the other, the provisions of the ordinance shall be authoritative. As between ordinances, the provisions of an ordinance enacted later in time shall control.”

According to the Bill’s introducer, the Zoning Code currently requires a metes and bounds description and map to establish a zoning district (as articulated

in HCC section 25-3-1) or special zoning district (as articulated in HCC section 25-3-2) (**Planning Department Exhibit 2 – HCC Sections 25-3-1 and 25-3-2**).

This bill would amend the Zoning Code to give the Planning Director the authority to determine alternative methods to establish special zoning districts when deemed appropriate.

Bill No. 29 was introduced to address challenges in establishing special zoning districts within Hawai‘i County, particularly in revitalizing older downtown areas like Pāhoa village. According to the Bill’s introducer, the existing requirement to define these districts using metes and bounds, which can be a detailed and costly surveying method, is a significant obstacle, especially in areas with numerous properties.

Instead, the bill seeks to allow the use of alternative methods, such as general geographic references like roads or landmarks, to define district boundaries. This approach mirrors the earlier creation of the Kailua Village Design Commission Special District and Downtown Hilo Commercial District, which did not rely on metes and bounds, but rather reference landmarks as discussed above.

AGENCIES COMMENTS PROVIDED

2. No agency comments were requested or received.

PUBLIC COMMENTS PROVIDED

3. None as of the date of this writing.

PLANNING ANALYSIS OF THE IMPACTS OF BILL 29

An application for a change of zone for an individual property includes a metes and bounds description and map prepared by a licensed surveyor. This information is then included in the draft ordinance that is eventually approved by the County Council.

Metes and bounds surveys provide a precise and legally recognized description of property boundaries and help ensure regulatory compliance, prevent boundary disputes, and support accurate record-keeping. They are especially important when subdividing land, adjusting parcel lines, or changing land use, as they offer the clarity needed for zoning authorities, developers, lenders, and title companies. This is particularly important for individual property rezonings. However, when establishing special districts that can include tens to hundreds of properties, metes and bounds surveys can be cost prohibitive and time-consuming.

Alternatively, special districts can be established by using specific Tax Map Keys (TMKs) and general geographic references such as streets, shorelines, and other landmarks instead of metes and bounds. Successful examples of such an approach include the creation of the Kailua Village Design Commission special district in 1975 (**Planning Department Exhibit 3 – HCC Section 25-7-1 (b)**) and the Downtown Hilo Commercial District (CDH) in 1988 (**Planning Department Exhibit 4 – HCC Section 25-7-20 & CDH Map**).

Additionally, with the advancement of Geographic Information System (GIS) mapping technology, a special district map shapefile could be created and approved by reference in a Council ordinance and added as an overlay in the Planning Department GIS system to ensure applicability in future land use actions.

While reviewing Bill 29, it appears that the current Zoning Code does not explicitly require a metes and bounds description for the establishment of zoning or special districts. Specifically, the current language in HCC 25-3-3(a) states that such districts “*are or may be established*” by metes and bounds and maps, which reads as optional rather than mandatory. To our knowledge, there has not been a formal interpretation from Corporation Counsel or the County Clerk confirming whether the existing language constitutes a legal requirement. Despite this, the Planning Department has consistently required the submission of a metes and bounds survey and map prepared by a licensed surveyor as part of change of zone applications in order to clearly define the rezone area boundaries and avoid creating split-zoned lots.

The Planning Director fully supports the intent of Bill No. 29 and based on the preceding, suggests a friendly amendment to the bill to further amend the Zoning Code to explicitly require a metes and bounds description and a map prepared by a licensed surveyor for the establishment of all zoning districts, with the proposed exception, by adding “shall” and “by a licensed surveyor” as follows (proposed changes bolded):

*“Any of the districts listed in sections 25-3-1 and 25-3-2 are or ~~may~~ **shall** be established for any portion of the County by being described by metes and bounds and in map form **by a licensed surveyor**[-]; except that, when deemed appropriate by the director, other means of description may be used in lieu of metes and bounds to establish any district under section 25-3-2. In case of conflict between a zoning map and metes and bounds description delineating district boundaries, the latter shall control. In case of*

conflict between a zoning map, and any summary of ordinances as provided by subsection (d) below on one hand, and duly enacted ordinance on the other, the provisions of the ordinance shall be authoritative. As between ordinances, the provisions of an ordinance enacted later in time shall control.”

Finally, the language in Bill 29, along with the Planning Director’s proposed friendly amendment, does not eliminate the requirement for a metes and bounds description when creating a special district. Instead, it provides the Planning Director with the flexibility to use alternative methods of identifying a special district when appropriate. This approach allows the Director to consider the unique circumstances of each case and determine whether a metes and bounds description or another method is most suitable.

PLANNING DIRECTOR’S RECOMMENDATION

Based on the preceding discussion, the Planning Director recommends that both the Windward and Leeward Planning Commissions forward a favorable recommendation on Bill 29 to the County Council, including the proposed language outlined in the Planning Director’s friendly amendment.

PLANNING COMMISSION ACTION

The Windward and Leeward Planning Commissions (commissions) are required to take action on Bill 29 as described in Section 25-2-43(b) of the Zoning Code (**Planning Department Exhibit 5- HCC Section 25-2-43(b)**). This bill was transmitted by the County Council to the Department on February 26, 2025, which means the commissions are required to transmit their recommendations to the council by June 26, 2025. The commissions shall recommend approval in whole or in part, with or without modifications, or rejection of the proposed bill. Each commission’s recommendation will be forwarded separately, but at the same time, to the County Council for their consideration and decision. In the event the commissions fail to act on the proposed bill by this date, such inaction shall be considered as an unfavorable recommendation by the commissions.

Ashley L. Kierkiewicz
County Council District IV

*Policy Committee on Planning
Land Use and Development – Chair*



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*Policy Committee on Infrastructure
and Assets – Vice Chair*

HAWAI'I COUNTY COUNCIL

Hawai'i County Building
25 Aupuni Street • Hilo, Hawai'i 96720

TO: Jeff Darrow, Director
Planning Department

FROM: Ashley L. Kierkiewicz, Council Member 

DATE: February 26, 2025

SUBJECT: Referral of Bill 29; an Ordinance amending Chapter 25, Article 3, Section 25-3-3 of the Hawai'i County Code 1983 (2016 Edition, As Amended), relating to the establishment of zoning districts

Pursuant to Section 25-2-43(b) of the Hawai'i County Code, I am submitting Bill 29, enclosed for your comment and recommendation. I also request that you forward the same to the Windward and Leeward Planning Commissions for their comment and recommendation.

Bill 29 was referred for comment and recommendation to the Planning Director and the Windward and Leeward Planning Commissions by the Hawai'i County Council's Committee on Planning on February 18, 2025.

After your and the Commissions review, please forward your comments and recommendations to Council Chairperson Dr. Holeka Goro Inaba.

Thank you for your attention to this matter.

Enc.
AK/kj

Planning Dept.
Exhibit 1

Hawai'i County Is an Equal Opportunity Provider and Employer

REC'D HAND DELIVERED

COH PLANNING DEPT
FEB 26 2025 PM 2:16

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 29

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 25, ARTICLE 3, SECTION 25-3-3, OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO THE ESTABLISHMENT OF ZONING DISTRICTS.

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

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

“(a) Any of the districts listed in sections 25-3-1 and 25-3-2 are or may be established for any portion of the County by being described by metes and bounds and in map form[-]; except that, when deemed appropriate by the director, other means of description may be used in lieu of metes and bounds to establish any district under section 25-3-2. In case of conflict between a zoning map and metes and bounds description delineating district boundaries, the latter shall control. In case of conflict between a zoning map, and any summary of ordinances as provided by subsection (d) below on one hand, and duly enacted ordinance on the other, the provisions of the ordinance shall be authoritative. As between ordinances, the provisions of an ordinance enacted later in time shall control.”

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

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall 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 declared to be severable.

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

INTRODUCED BY:

KJ for



COUNCIL MEMBER, COUNTY OF HAWAII

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

REFERENCE Comm. 142

Section 25-2-77. Review criteria and conditions of approval.

- (a) In reviewing a plan approval application, the director shall consider the proposed structure, development or use in relation to the surrounding property, improvements, streets, traffic, community characteristics, natural features, and may require conditions or changes to assure:
- (1) Adequate light and air, and proper siting and arrangements are provided for all structures and improvements;
 - (2) Existing and prospective traffic movements will not be hindered;
 - (3) Proper landscaping is provided that is commensurate with the structure, development or use and its surroundings;
 - (4) Unsightly areas are properly screened or eliminated;
 - (5) Adequate off-street parking is provided to serve the structure, development or use, regardless of the otherwise minimum requirements of this chapter;
 - (6) Access to the parking areas will not create potential accident hazards;
 - (7) Within reasonable limits, any natural and man-made features of community value are preserved;
 - (8) Dust, noise, and odor impacts are mitigated; and
 - (9) Compliance with any design guidelines or standards adopted by the council.
- (b) The director shall require any conditions or changes in the proposal which, in the director's opinion, are necessary to carry out the purposes of this chapter and the considerations contained in subsection (a) above.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2007, ord 07-28, sec 2; am 2008, ord 08-155, sec 6; am 2015, ord 15-45, sec 5.)

Section 25-2-78. Construction in conformity with plan approval.

Every structure, development and change of use for which plan approval is issued shall be constructed and developed in accordance with the terms, specifications and conditions contained in the plan approval permit.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 7.)

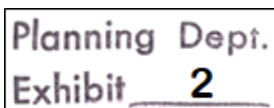
Section 25-2-79. Appeal of a plan approval decision.

Any person aggrieved by the plan approval decision of the director may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after date of the director's written decision.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 8.)

Article 3. Establishment of Zoning Districts.**Section 25-3-1. Designation of districts.**

- (a) The zoning districts of the County shall consist of the following districts:
- (1) RS, single-family residential districts (article 5, division 1).
 - (2) RD, double-family residential districts (article 5, division 2).



- (3) RM, multiple-family residential districts (article 5, division 3).
 - (4) RCX, residential-commercial mixed use districts (article 5, division 4).
 - (5) RA, residential and agricultural districts (article 5, division 5).
 - (6) FA, family agricultural district (article 5, division 6).
 - (7) A, agricultural districts (article 5, division 7).
 - (8) IA, intensive agricultural districts (article 5, division 8).
 - (9) V, resort-hotel districts (article 5, division 9).
 - (10) CN, neighborhood commercial districts (article 5, division 10).
 - (11) CG, general commercial districts (article 5, division 11).
 - (12) CV, village commercial districts (article 5, division 12).
 - (13) MCX, industrial-commercial mixed use districts (article 5, division 13).
 - (14) ML, limited industrial districts (article 5, division 14).
 - (15) MG, general industrial districts (article 5, division 15).
 - (16) O, open districts (article 5, division 16).
 - (17) Special districts (articles 6 and 7).
- (b) Any building site within the commercial office (CO) district as of December 7, 1996, shall automatically be redesignated as a general commercial (CG) district, with the same minimum land area required for each building site, and any building site within the unplanned (U) district as of December 7, 1996, shall automatically be redesignated as an agricultural (A) district with a minimum lot size of five acres (A-5a). Any building site within a combining district, which combines a safety (S) district or a safety, flood hazard (SF) district with another zoning district, as of December 7, 1996, shall be redesignated so that the safety or safety, flood hazard district designation, whichever is applicable, is removed as a zoning district designation for the building site. The redesignation provided for under this subsection shall occur immediately upon adoption of this section, without any action required on the part of any landowner. The director shall cause all zone maps and the zoning map to be corrected to reflect the redesignation described in this subsection.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-2. Designation of special districts.

The special zoning districts of the County shall consist of the following:

- (1) Kailua Village design commission (article 7, division 1).
- (2) CDH, Downtown Hilo commercial district (article 7, division 2).
- (3) UNV, University district (article 7, division 3).
- (4) PD, Project districts (article 6, division 4).
- (5) APD, Agricultural project districts (article 6, division 5).
- (6) PVD, Pāhoa Village Design district (article 7, division 4).

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-44, sec 2.)

Section 25-6-66. Review and approval of applications.

After adoption of a scenic corridor enabling ordinance and corridor management plan, all approvals including, but not limited to sign permits, grading and grubbing permits, building permits, and subdivision approvals shall conform to the standards and conditions contained in the scenic corridor enabling ordinance.

(2007, ord 07-36, sec 1.)

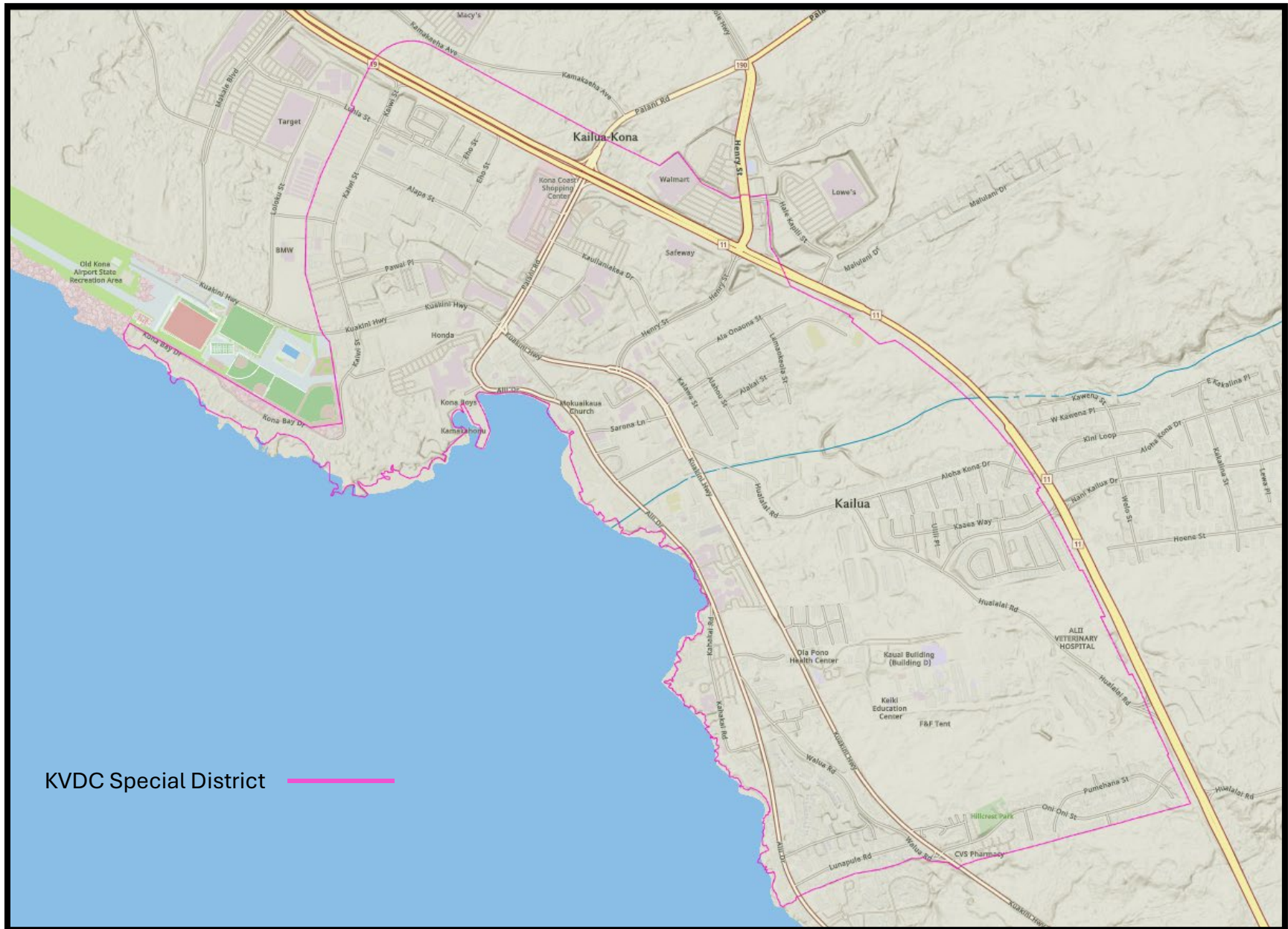
Article 7. Special District Regulations.**Division 1. Kailua Village Design Commission.****Section 25-7-1. Purpose and applicability; boundaries.**

- (a) The purpose of the Kailua Village design commission is to advise the director in matters concerning the design of buildings and structures and all public and private improvements within Kailua Village.
- (b) "Kailua Village" as used in sections 25-7-1 through 25-7-5 means that area bounded by the following:
 - (1) Beginning at a point on the shoreline approximately four thousand feet west of the old Kailua wharf, mauka along the west boundary of TMK: 7-5-05:10 and 68 to the northwest corner of TMK: 7-5-05:68;
 - (2) Southeast and east along the mauka boundary of the existing RS-15 zone to the west boundary of Kaiwi Street extension, mauka crossing Kuakini Highway along the west side of the Kailua Industrial Subdivision crossing Queen Kaahumanu Highway, approximately three hundred feet mauka running parallel and going east recrossing the Queen Kaahumanu Highway to the eastern end of Kalani Street;
 - (3) Southwest along the makai side of the Queen Kaahumanu Highway and its extension to the south side of the Kona Hillcrest Subdivision;
 - (4) Makai along the south side of the Kona Hillcrest Subdivision and along the south side of the parcels described as TMK: 7-5-30:23 and 24 to Kuakini Highway;
 - (5) Makai, crossing Kuakini Highway along the south side of the parcels described as TMK: 7-5-18:1,4, and 61, and TMK: 7-5-19:18 to the shoreline;
 - (6) North along the shoreline to the point of beginning and containing an area of approximately eight hundred twenty-five acres and as delineated on the map attached to Ordinance No. 628 (1974), as amended by Ordinance No. 630 (1974).

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Planning Dept.
Exhibit <u>3</u>

Kailua Village Design Commission (KVDC) Special District Map



- (c) The design commission shall provide an architectural and design review of all planned public improvements such as street widening, street lights, and so forth, as well as all private improvements such as landscaping, structural painting, or any activity which will alter the physical appearance of Kailua Village. The recommendations shall be forwarded to the director within thirty days from the design commission's receipt of the proposal. If a recommendation is not received within the allotted period, the director shall continue to process the proposed activity.
 - (d) All of the design commission's advice and recommendations to the director shall be consistent with the provisions of the County Charter, general plan, zoning and all other related ordinances and any publicly funded master plan developed for Kailua Village.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2009, ord 09-118, sec 20.)

Section 25-7-5. Amendment of district boundaries.

The Kailua Village boundaries as described in section 25-7-1 shall be subject to review in 1979 and every five years thereafter by the council, and may be amended as appropriate.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 2. CDH, Downtown Hilo Commercial District.

Section 25-7-20. Purpose and applicability.

The CDH (downtown Hilo commercial) district is established to reinforce and promote downtown Hilo's role as a compact high density area for retail shopping, professional and administrative activities, cultural and arts activities, other supportive business and commercial services, and multiple-family housing. The zoning requirements of this district are applicable to all building sites, except those designated as "O" (open) districts, within the area bounded by the western development area limits of Kapiolani Street/Kaiulani Street, the Wailuku River, Hilo Bay and Ponahawai Street.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-21. Designation of CDH district.

The CDH (downtown Hilo commercial) district shall be designated by the symbol "CDH."

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

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) Apiaries.
 - (4) Art galleries.

- (3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed change of zone ordinance together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such application. In the event that the commission fails to act on the application within the ninety-day period, the application shall be considered an unfavorable recommendation by the commission, and the application shall be transmitted through the mayor to the council with such recommendation.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 3; am 2012, ord 12-90, sec 1; am 2024, ord 24-87, sec 1.)

Section 25-2-43. Amendments initiated by the council and director.

- (a) Any amendment initiated by the director shall be reviewed by the commission.
- (1) The amendment shall be submitted to the commission with the director's justification and recommendation on the amendment.
- (2) Upon receipt of a proposed amendment from the director, the commission shall hold at least one public hearing. Notice of the hearing by the publication shall be provided by the commission in accordance with section 25-2-5, except that when a proposed amendment involves a specific parcel of land, notice shall be provided by the commission in accordance with subsections (c) and (d).
- (3) Within sixty days after receipt of the amendment from the director, the commission shall transmit the proposed amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the sixty-day period, such inaction shall be considered as unfavorable recommendation by the commission, and the amendment shall then be submitted through the mayor to the council with such recommendation.
- (b) The council shall refer any proposed council-initiated amendment to this chapter to the director and the commission with requests for their respective comments and recommendations thereon, prior to the first reading of any such amendment. The director and the commission shall each submit comments and recommendations on the proposed amendment to the council within one hundred twenty days from the date that the amendment is transmitted by the council to the director and the commission.
- (1) The director shall submit comments and any recommendations to both the commission and the council within the one-hundred-twenty-day review period.

- (2) The commission shall hold at least one public hearing on the proposed amendment. Notice of the hearing by publication shall be provided by the commission in accordance with section 25-2-5, except that when a proposed amendment involves a specific parcel of land, notice shall be provided by the commission in accordance with subsections (c) and (d).
 - (3) The commission shall transmit the amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the one-hundred-twenty-day review period, such inaction shall be considered as an unfavorable recommendation by the commission.
 - (4) After the one-hundred-twenty-day review period has expired, the council may proceed to act on the proposed amendment as it deems appropriate.
 - (c) Notice by mail to surrounding owners and lessees of record of properties within the boundaries established by section 25-2-4, shall not be required for any amendment initiated by the council or the director. In lieu of mailing written notice to surrounding property owners and lessees of record, the director shall publish notice of the commission's public hearing in at least two newspapers of general circulation in the County, once a week for three consecutive weeks, with the last notice to be at least ten days prior to the hearing. The notice shall specify the time, date and place of the hearing, its purpose and a description of any property which may be involved.
 - (d) Notice to owners of any properties specifically subject to the proposed amendment shall be provided by mail from the director, no later than thirty days prior to the commission's public hearing on the amendment.
- (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-44. Conditions on change of zone.

- (a) Within any ordinance for a change of zone, the council may impose conditions on the applicant's use of the property subject to the change of zone provided that the council finds that the conditions are:
 - (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed, with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use; or
 - (B) Fulfillment of the need for public service demands created by the proposed use.

Within any ordinance for a change of zone that includes any such conditions, except for ordinances reverting zoning to a previous zoning district designation or to an open zoning designation, the director shall specify the time by which all conditions shall be completed. The time during which required plans, reports, studies, or relevant permit applications are under review for approvals by