

Kauai County Ag Zoning

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Sec. 8-1.5 Definitions.

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

(1) "Accessory Building" or "Structure" means a building or structure which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot or parcel.

(2) "Accessory Use" means a use customarily incidental, appropriate and subordinate to the main use of the parcel or building.

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

(11) "Aquaculture" means the growing and harvesting of plant or animal organisms in a natural or artificial aquatic situation which requires a body of water such as a pond, river, lake, estuary or ocean.

(14) "Building" means a roofed structure, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The word "building" includes the word "structure".

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

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

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

(50) "Forestry" means the growing or harvesting of trees for timber or wood fibre purposes.

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

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

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

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

(78) "Land Use" and "Use of Land" includes "building use" and "use of building".

(79) "Livestock" means domestic animals of types customarily raised or kept on farms for profit or other productive purposes.

(91) "Nursery" means the growing, collecting or storing of plants for the purpose of selling to others for transplanting.

(93) "Open Space" means the portion or portions of a parcel unoccupied or unobstructed by buildings, paving or structures from the ground upward.

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

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

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

(128) "Specialized Agriculture" means the growing, collection or storing of any plant for ornamental or non-food use such as flowers and pot plants.

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

Sec. 8-5.4 Uses And Structures In Commercial Districts That Require A Use Permit.

(6) Diversified agriculture

(7) Food processing and packaging

(b) General Commercial. The following uses and structures in general commercial districts require a use permit:

- (7) Diversified agriculture
- (8) Food processing and packaging

Sec. 8-6.4 Uses And Structures In Industrial Districts That Require A Use Permit.

- (4) Diversified agriculture
- (7) Livestock and poultry yards

(b) General Industrial. The following uses and structures in general industrial districts shall require a use permit:

- (2) Diversified agriculture

ARTICLE 7. AGRICULTURE DISTRICTS (A)

Sec. 8-7.1 Purpose.

(a) To protect the agriculture potential of lands within the County of Kauai to insure a resource base adequate

to meet the needs and activities of the present and future.

(b) To assure a reasonable relationship between the availability of agriculture lands for various agriculture uses and the feasibility of those uses.

(c) To limit and control the dispersal of residential and urban use within agriculture lands. (Ord. No. 164, August 17, 1972; Sec. 8-7.1, R.C.O. 1976)

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Sec. 8-7.2 Generally Permitted Uses And Structures.

The following uses and structures are permitted in agriculture districts:

- (1) Accessory structures and uses
- (2) Aquaculture
- (3) Diversified agriculture
- (4) Forestry
- (5) Grazing
- (6) Historic sites
- (7) Intensive agriculture
- (8) Livestock, poultry, and piggeries, except as provided in Sec. 8-7.3
- (9) Minor food processing related to agricultural products
- (10) Orchards and nurseries
- (11) Outdoor recreation
- (12) Pet keeping and raising, except as provided in Sec. 8-7.3
- (13) Public parks and monuments
- (14) Resource management
- (15) Single family detached dwellings

- (16) Specialized agriculture
 - (17) Undeveloped campgrounds
 - (18) Warehousing, storage and packing of plant products
 - (19) Wildlife management
- (Ord. No. 164, August 17, 1972; Sec. 8-7.2, R.C.O. 1976)

Sec. 8-7.3 Uses And Structures That Require A Use Permit.

(a) The following uses and structures in agricultural districts shall require a use permit:

- (1) Animal hospitals
- (2) Cemeteries
- (3) Churches, temples and monasteries
- (4) Commercial recreation
- (5) Construction and worker temporary housing
- (6) Development campgrounds
- (7) Golf courses
- (8) Mineral extraction and quarries
- (9) Pet keeping and raising proposed within five hundred (500) feet of any Residential District
- (10) Poultry and piggeries when to be located within three thousand (3000) feet of any Use District
- (11) Private and public utility facilities
- (12) Schools and day care centers

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but not more than fifty (50) acres, may be subdivided into parcels not less than five (5) acres in size.

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(E) parcels larger than fifty (50) acres, but not more than three hundred (300) acres may be subdivided into ten (10) or fewer parcels, none of which may be smaller than five (5) acres.

(2) Contiguous lots or parcels of record in common ownership existing prior to or on September 1, 1972, larger than three hundred (300) acres may be subdivided only in accordance with the following criteria:

(A) a maximum of seventy-five (75) acres may be subdivided into not more than ten (10) parcels, none of which shall be smaller than five (5) acres.

(B) an additional twenty percent (20%) of the total parcel area or three hundred (300) acres, whichever is less, may be subdivided into parcels, none of which shall be smaller than twenty-five (25) acres.

(C) the balance of the parcel area, shall not be subdivided.

(c) Limitations on Resubdivision of any Parcel in an Agriculture District Subsequent to September 1, 1972. Except as provided herein, no parcel resulting from a subdivision

approved after September 1, 1972, shall be resubdivided unless the parcel is transferred to the Urban or Rural Districts under the provisions of the State Land Use Law and is transferred to a use district other than Agriculture or Open, under the provisions of this Ordinance. The restriction in this subsection shall not apply to any lot resulting from:

- (1) Subdivision requested by any governmental agency;
- (2) Subdivision resulting from the construction of public improvements by governmental action;
- (3) Subdivision requested for public utility purposes;
- (4) Consolidation and resubdivision of properties where no additional lots or parcels are created provided that the resulting properties would not permit greater density.

However, any parcel of record thirty acres or less existing prior to August of 1972 and subsequently subdivided which has not maximized density as prescribed in Subsection 8-7.4(b)(1), may be further subdivided in accordance with said subsection.

(d) Automatic Review of the Provisions of This Section. The provisions of this Article and the boundaries of the Agriculture District shall be comprehensively reviewed by the Planning Commission in accordance with the requirements and procedures of Sec. 8-7.4(d) no later than two (2) years after the effective date of this Ordinance and every succeeding five (5) years thereafter. (Ord. No. 164, August 17, 1972; Ord. No. 186, July 17, 1973; Sec. 8-7.4, R.C.O. 1976; Ord. No. 559, November 27, 1989)

(13) Transportation terminals

(14) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this section and appropriate to the District. (Ord. No. 164, August 17, 1972; Sec. 8-7.3, R.C.O. 1976)

Sec. 8-7.4 Limitations On Subdivisions Of Parcels In Agriculture Districts.

(a) Purpose:

(1) To limit, retard and control subdivision of agriculture land that will destroy agriculture stability and potential.

(2) To avoid the dissipation of agriculture lands by excessive or premature parceling for other than agriculture uses.

(3) To establish and maintain a proportionate mix of parcel sizes to accommodate optimum sizes for existing or potential agricultural uses.

(4) To establish a relationship between the size of the parcel to be subdivided and the size of the smaller parcels created by the subdivision, in order to maintain large parcels for agricultural uses and activities best carried out on large parcels and to maintain and provide smaller parcels of various sizes for agricultural uses that can be carried out most efficiently on smaller parcels.

(b) Method of Calculating Allowable Subdivision of Agriculture Lands.

(1) Contiguous lots or parcels of record in common ownership existing prior to or on September 1, 1972, no larger than three hundred (300) acres may be subdivided only in accordance with the following criteria:

(A) parcels not more than ten (10) acres may be subdivided into parcels not less than one (1) acre in size.

(B) parcels larger than ten (10) acres, but not more than twenty (20) acres, may be subdivided into parcels not less than two (2) acres in size, except that not more than four (4) lots in the parcel may be one (1) acre in size.

(C) parcels larger than twenty (20) acres, but not more than thirty (30) acres, may be subdivided into parcels not less than three (3) acres in size, except that not more than four (4) lots in the parcel may be one (1) acre in size.

(D) parcels larger than thirty (30) acres,

Sec. 8-7.5 Permitted Residential Densities.

Permitted residential densities shall be calculated as follows:

(1) One (1) dwelling unit for each parcel one (1) acre or larger.

(2) One (1) additional dwelling unit for each

additional three (3) acres in the same parcel, provided that no more than five (5) dwelling units may be developed on any one (1) parcel.

(3) A parcel or contiguous parcels in common ownership of record existing prior to or on September 1, 1972, which is smaller than one (1) acre, may develop one (1) dwelling unit. (Ord. No. 164, August 17, 1972; Sec. 8-7.5, R.C.O. 1976)

Sec. 8-7.6 Development Standards For Construction And Use.

Subject to the density, parcel and other requirements of Sec. 8-7.4 and Sec. 8-7.5, the development standards applicable in an Agriculture District shall be the same as those established in Secs. 8-3.5 and 8-3.7 of this Chapter, except that:

The minimum average lot width shall be one hundred and fifty (150) feet.

(2) The average length of any lot shall not be greater than four (4) times its width.

(3) The maximum height of any building, other than one intended primarily for residential use, shall be fifty (50) feet.

(4) Public Access. The Planning Commission may require the dedication of adequate public access-ways not less than ten (10) feet in width to publicly-owned land or waters and may require the preservation of all historic and archaeological sites, known or discovered on the parcel subject to development. (Ord. No. 164, August 17, 1972; Sec. 8-7.6, R.C.O. 1976)

Sec. 8-7.7 Permits Required.

No construction or other development for which standards are established in this Chapter shall be undertaken within any Agriculture District except in accordance with a valid zoning permit. The following zoning permits, in accordance with Article 19, shall be required for the following activities:

(1) Class I Permit. A Class I Permit shall be obtained for construction or development on a parcel where:

(A) the parcel is not located in a Constraint District or a Special Treatment District and is not large enough to qualify for more than one (1) dwelling unit under the density provisions of this Article; and

(B) the construction or development does not require a Use Permit or a Variance Permit.

(2) Class II Permit. A Class II Permit shall be obtained for construction or development on a parcel where:

(A) the parcel is not located in a Constraint District or a Special Treatment District and is qualified for more than one (1) dwelling unit; and

(B) the construction or development does not require a Use Permit or a Variance Permit.

(3) Class III Permit. A Class III Permit shall be obtained for construction or development on a parcel where:

(A) for construction or development of a parcel for which a Class I or Class II Permit would otherwise be obtainable except that the parcel is located in a Constraint District or a Special Treatment District.

(4) Class IV Permit. A Class IV Permit shall be obtained for construction or development on a parcel where:

(A) for construction or development for which a Class I, II, or III Permit would otherwise be obtainable except that a variance or a use permit is required.

(5) To obtain any permit, the applicant shall show compliance with the Standards established in this Article and shall submit a plot plan and other information as required by Sec. 8-3.8(d). (Ord. No. 164, August 17, 1972; Sec. 8-7.7, R.C.O. 1976)

Sec. 8-7.8 Application To Agricultural Development In Other Districts.

All agricultural construction, development or use permitted by, or in accordance with, this Chapter in any other Use District shall be carried out in accordance with the Standards established in this Article. (Ord. No. 164, August 17, 1972; Sec. 8-7.8, R.C.O. 1976)

ARTICLE 8. OPEN DISTRICTS (O)

Sec. 8-8.1 Purpose.

(a) To preserve, maintain or improve the essential characteristics of land and water areas that are:

- (1) of significant value to the public as scenic or recreational resources;
- (2) important to the overall structure and organization of urban areas and which provide accessible and usable open areas for recreational and aesthetic purposes;

(3) necessary to insulate or buffer the public and places of residence from undesirable environmental factors caused by, or related to, particular uses such as noise, dust, and visually offensive elements.

(b) To preserve, maintain or improve the essential functions of physical and ecological systems, forms or forces which significantly affect the general health, safety and welfare.

(c) To define and regulate use and development within areas which may be potentially hazardous.

(d) To include areas indicated on the County General Plan as open or as parks.

(e) To provide for other areas which because of more detailed analysis, or because of changing settlement

characteristics, are determined to be of significant value to the public. (Ord. No. 164, August 17, 1972; Sec. 8-8.1, R.C.O. 1976)

Sec. 8-8.2 Generally Permitted Uses And Structures.

- (1) Accessory uses and structures
- (2) Day-use areas
- (3) Diversified agriculture
- (4) Livestock and grazing, except as provided in Sec. 8-8.3

- (5) Outdoor recreation
- (6) Parks and monuments
- (7) Private recreation areas
- (8) Resource management
- (9) Single family detached dwellings
- (10) Undeveloped campgrounds

(Ord. No. 164, August 17, 1972; Sec. 8-8.2, R.C.O. 1976)

Sec. 8-8.3 Uses And Structures For Which A Use Permit Is Required.

- (1) Communications facilities
- (2) Day care centers
- (3) Developed campgrounds
- (4) Home businesses
- (5) Intensive agriculture
- (6) Livestock and grazing within the Urban District as established by the State Land Use Commission
- (7) Organized recreation camps
- (8) Outdoor recreation concessions
- (9) Police and fire facilities
- (10) Quarries
- (11) Recreation vehicle parks
- (12) Religious facilities
- (13) Utility installations
- (14) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District.

(Ord. No. 164, August 17, 1972; Sec. 8-8.3, R.C.O. 1976)

Sec. 8-8.4 Special Standards For Issuance Of Use Permits.

Where a parcel is adjacent to, or within one thousand (1,000) yards of, a Use District or Districts other than an Open District, no use permit shall be issued for uses and structures on parcels which are not generally permitted, or permitted under a use permit, in all adjacent or proximate Districts. (Ord. No. 164, August 17, 1972; Sec. 8-8.4, R.C.O. 1976)

Sec. 8-8.5 Development Standards For Construction And Use Within An Open District.

- (a) Land Coverage:
 - (1) The amount of land coverage created, including

buildings and pavement, shall not exceed ten per cent (10%) of the lot or parcel area.

(2) No existing structure, use or improvement shall be increased in size, or any new structure, use or

(d) Development standards. Subject to the density and subdivision restrictions in Sec. 8-8.5(c), the development requirements for use development or subdivision within an Open District shall be:

(1) The same as the requirements for the District in which the proposed use would be permitted under other provisions of this Chapter.

(2) The same as the requirements of Secs. 8-3.6 and 8-3.7 of the Residential District if no use is indicated or if the use proposed is not readily

improvement undertaken so as to exceed the ten per cent (10%) land coverage limitation.

(3) At least three thousand (3,000) square feet of land coverage shall be permissible on any parcel of record existing prior to or on September 1, 1972.

(b) Residential Densities. Except as otherwise provided in this Article, no more than one (1) single family detached dwelling unit per three (3) acres of land shall be permitted when the parcel is located within an area designated "Urban" or "Rural" by the State Land Use Commission, and no more than one (1) single family detached dwelling unit per five (5) acres of land shall be permitted when the parcel is located within an area designated as "Agriculture" by the State Land Use Commission, provided that

the provisions of this Article shall not prohibit the construction or maintenance of one (1) single family detached

dwelling with necessary associated land coverage on any legal

parcel or lot existing prior to or on September 1, 1972.

(1) Where the parcel is located within an area designated "Urban" by the State Land Use Commission, one (1) single family detached dwelling unit per one (1) acre of land shall be permissible if the existing average slope of the parcel is no greater than ten percent (10%).

(c) Subdivision.

(1) No parcel or lot shall be created which is less than three (3) acres in size within an area designated as "Urban" or "Rural" by the State Land Use Commission, or less than five (5) acres in size within an area designated as "Agriculture" by the State Land Use Commission, except within an "Urban" area a lot or parcel may be created which is one (1) acre or more in size if the existing average slope of the lot or parcel thus created is no greater than ten per cent (10%).

(2) No parcel or lot shall be subdivided when the improvements on the parcel meet or exceed the density and land coverage requirements of this Article.

(3) No portion of any parcel previously used as the basis for the calculation of allowable density or subdivision in any other District shall subsequently be subdivided or used as the basis for any other density or land coverage calculation.

assignable to any other Use District.

(3) Public Access. The Planning Commission may require the dedication of adequate public access-ways not less than ten (10) feet in width to publicly owned land or waters and may require the preservation of all historic and archaeological sites, known or discovered on the parcel subject to development. (Ord. No. 164, August 17, 1972; Sec. 8-8.5, R.C.O. 1976)

Sec. 8-8.6 Calculation Of Densities And Land Coverage.

(a) The area in connection with which the permissible densities shall be calculated shall consist of that lot or lots, or parcel owned or controlled by the applicant designated in the permit application as part of the land development for which the permit is sought.

(b) When an area is included in the Open District because it is within the Constraint District, the precise boundary of the Open District shall be established to reflect the physical or ecological considerations upon which the particular Constraint District is based, regardless of lot or parcel boundaries. In those cases, that portion of the lot or parcel included in Open District may be included in any calculation of permitted densities and land coverage to be carried out on that portion of the parcel that is not within the Open District, provided that the total amount of density and land coverage shall be no more than one and one-half (1-1/2) that which would be permissible if the Open District portion of the lot or parcel was excluded from the calculation. (Ord. No. 164, August 17, 1972; Sec. 8-8.6, R.C.O. 1976)

Sec. 8-8.7 Permits Required.

No construction or other development for which Standards are established in this Chapter shall be undertaken within any Open District except in accordance with a valid zoning permit. The requirements for zoning permits shall be the same as those established in Sec. 8-7.7 of this Chapter. Where no definite Class Permit is specified for any use application, Class II Zoning Permit procedure shall apply. (Ord. No. 164, August 17, 1972; Sec. 8.8-7, R.C.O. 1976)

Sec. 8-8.8 Review Of Open District Designations In Particular Cases.

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In some cases, lands have been included in the Open District that are designated for Residential or other use in the County General Plan. Such Open District zoning reflects a judgment that such lands are not now needed for the uses indicated in the General Plan. To assure timely consideration of whether such need has arisen, the Planning Commission shall review the status of such lands no later than five (5) years after the effective date of this Ordinance, and every succeeding five (5) years thereafter. (Ord. No. 164, August 17, 1972; Sec. 8-8.8, R.C.O. 1976)

ARTICLE 9. SPECIAL TREATMENT DISTRICTS (ST)

Sec. 8-9.1 Purpose.

(a) To designate and guide development of County areas which because of unique or critical cultural, physical or locational characteristics have particular significance or value to the general public.

(b) To insure that development within those areas recognize, preserve, maintain and contribute to the

enhancement of those characteristics which are of particular significance or value to the general public. (Ord. No. 164, August 17, 1972; Sec. 8-9.1, R.C.O. 1976)

Sec. 8-9.2 Types Of Special Treatment Districts.

(a) There are three (3) Special Treatment Districts as follows:

(1) Public Facilities (ST-P). All public and quasi-public facilities, other than commercial, including schools, churches, cemeteries, hospitals, libraries, police and fire stations, government buildings, auditoriums, stadiums, and gymnasiums, which are used by the general public or which tend to serve as gathering places for the general public; and those areas which because of their unique locations are specially suited for such public and quasi-public uses.

(2) Cultural/Historic (ST-C). Communities and land or water areas which have a particular and unique value to the general public because of significant historic background, structures, or land forms.

(3) Scenic/Ecologic Resources (ST-R). Land and water areas which have unique natural forms, biologic systems, or aesthetic characteristics which are of particular significance and value to the general public.

(Ord. No. 164, August 17, 1972; Sec. 8-9.2, R.C.O.

Sec. 8-9.3 Generally Permitted Uses, Structures And Development.

All uses, structures, or development shall require a Use Permit, except repairs or modifications of land and existing

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or appearance of three (3) dimensional structures or land.

In addition, such repairs or modifications do not require a Zoning Permit. (Ord. No. 164, August 17, 1972; Sec. 8-9.3, R.C.O. 1976)

Sec. 8-9.4 Uses, Structures And Development Requiring A Use Permit.

(a) Any use, structure or development permitted with or without a Use Permit in the underlying Use District in which the parcel or lot is located that is consistent with an approved plan for development in accordance with Sec. 8-9.5.

(b) Repairs or modifications of land and existing structures that substantially change the exterior form or appearance of the structures or land in a manner inconsistent

with the surrounding area within the Special Treatment District. (Ord. No. 164, August 17, 1972; Sec. 8-9.4, R.C.O. 1976)

Sec. 8-9.5 Applications For Use Permits.

(a) The procedures are in addition to those established in Articles 19 and 20.

(b) Before making an application, the applicant shall

be informed of the particular reasons for the establishment of the Special Treatment District in which the applicant's land is located.

(c) Applications shall be accompanied by plans and three (3) dimensional drawings or models which clearly indicate the relation of the proposed development to other uses and structures within the Special Treatment District and the ways in which the proposed development is consistent with

the reasons for the establishment of the District. Plans shall indicate the location of all existing and proposed topography, buildings, walks, driveways, and utilities and plant material within the boundaries of the applicant's parcel and the existing or proposed streets, sidewalks, driveways, trees, buildings, and topography on adjacent lands

as required by the Planning Director, but no less than two hundred (200) feet from property lines of the parcel which abut a public thoroughfare, park or facility and one hundred (100) feet from the property lines of the parcel which abut privately owned property. Aerial photography may be utilized to meet these requirements if approved by the Planning Director.

(d) In addition to the foregoing, the applicant may be required to provide:

(1) Cross sections, elevations, perspectives or models of any of the areas defined in this Article in order to illustrate the proposed development's three (3) dimensional relationship to surrounding areas;

(2) Information concerning color, form, mass or
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shape of the structures in the proposed development and concerning the proposed development's impact on environmental characteristics such as sun and shadow, wind, noise, ecology, traffic and visual appearance; and

(3) Information concerning the impact of the proposed development on public services or utilities and social and economic structure or cultural characteristics.

(e) The Planning Director may waive any of the requirements established in this Section for proposals involving parcels of less than one (1) acre in the Residential, Agriculture, or Open Districts, or less than ten

thousand (10,000) square feet in the Commercial or Industrial

Districts. (Ord. No. 164, August 17, 1972, Sec. 8-9.5, R.C.O. 1976)

Sec. 8-9.6 Special Planning Areas.

(a) The Planning Commission may formulate Development Plans for any Special Treatment District or for any regional

or subregional areas which are of particular county, state or federal value because of unique physical, ecologic or cultural characteristics or are determined to be critical areas of concern to the general economic, social or physical development of the County.

(b) The District or areas shall be designated as Special Planning Areas. The boundaries of the areas shall be established by the Planning Commission and recorded on the zoning maps.

(c) Development Plans for Special Planning Areas shall include, whenever appropriate and practical, the following:

(1) A review of existing physical characteristics, including public and private improvements, ownership, use and factors concerning geographic, ecologic, scenic, and resources features;

(2) A review of the social, economic, cultural and historic characteristics of the area;

(3) A statement concerning community goals, values, and objectives and the methods for involving the community in the planning process;

(4) A statement of the goals and objectives of the Development Plan and their relationship to the goals and objectives established in the General Plan, and an analysis of the specific problems inhibiting the accomplishment of the goals and objectives based on an analysis of existing conditions;

(5) A program of specific activities, improvements and modifications necessary to accomplish the stated goals and objectives;

(6) A physical development plan at scale of detail appropriate to the existing conditions and to feasible methods of implementation, that indicates the location and nature of programmed activities and improvements,

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including:

(A) housing by density and type of dwelling units;

(B) transportation and circulation by type, including pedestrian, bicycle, parking and related facilities;

(C) recreation and open space by activity and function;

(D) agricultural uses and structures;

(E) commercial, industrial and resort uses and structures.

(7) The establishment of specific subdivision and development criteria, including setbacks, heights, permitted uses, and other design standards necessary for the implementation of the physical plan. The criteria may be more detailed than, or may vary from the requirements of the Use, Special Treatment and Constraint Districts within which a Special Planning Area has been located.

(8) A phasing and action priority program in four (4) five (5)-year increments with an Estimated Capital Improvement Program decreasing in detail with each increment.

(d) The Planning Department shall review each Development Plan formulated under this Article no less than every five (5) years after its adoption and shall revise and update all plan elements consistent with the conditions that prevail at the time of the review.

(e) Upon adoption by the Council, the provisions of the Development Plan shall constitute regulations and shall supersede conflicting regulations applicable in the Use, Special Treatment and Constraint Districts within which the Special Planning Area is located. Regulations and requirements not so superseded shall remain in force.

(f) After the Council adopts a Development Plan for a Special Planning Area, no development, use or activity may be undertaken in the area that is contrary to the Development Plan. (Ord. No. 164, August 17, 1972; Sec. 8-9.6, R.C.O. 1976)

Sec. 8-9.7 Scenic Corridors And Points.

(a) Purpose. To preserve, maintain and improve visual access and quality from major public thoroughfares or areas of public value and to define criteria and procedures necessary to achieve those ends.

(b) Land Included. Scenic corridors shall be as indicated on the General Plan and the Zoning maps and shall include by reference all land and water areas visible from the center line of the corridor or the scenic point, or to a lesser distance as the Planning Director shall determine.

(c) Requirements of Development and Structures Within a Scenic Corridor.

(1) The Planning Director may require the applicant to furnish graphic or pictorial material sufficient to indicate the nature of the proposed use, development or structure and its relation to the view from that portion of the corridor or point which may be affected.

(2) The Planning Director or his designee shall ascertain whether the proposed development, structure, or use proposed will block, disrupt, or significantly change the visual accessibility or quality of the scenic corridor.

(3) The Planning Director may approve, approve with conditions, or refer the application to the Planning Commission with recommendations. Upon reference, the Planning Commission shall, in such case, approve, with conditions, or deny the permit.

(4) The Planning Director and the Planning Commission shall not deny an application if the denial would create undue hardship on the applicant, but shall

nevertheless impose constructive and reasonable requirements on the development to protect the scenic quality of the corridor.

(d) The Planning Commission may require that visually disruptive or offensive activities, facilities, or structures

that are within three hundred (300) feet of the public right-of-way be screened from view from the thoroughfare by an acceptable structural or plant screen. (Ord. No. 164, August 17, 1972; Sec. 8-9.7, R.C.O. 1976)

ARTICLE 10. CONSTRAINT DISTRICTS (S)

Sec. 8-10.1 Purpose.

(a) To implement the objectives of the six (6) Development Restriction Zones established in the General Plan.

(b) To identify those areas where particular physical, biologic and ecologic characteristics of the land, water and atmosphere indicate that standard requirements for development, modification or use may be inadequate to insure the general health, safety or welfare of the public or the maintenance of established physical, geologic and ecologic forms and systems.

(c) To insure that development, modification or use will not create substantial threats to health, safety and welfare of people, or to the maintenance of established physical, biologic, and ecologic forms and systems.

(d) To permit development, modification or use when it can be shown, within the limits of available knowledge, that ecologic interrelationship will be improved or not significantly depreciated. (Ord. No. 164, August 17, 1972; Sec. 8-10.1, R.C.O. 1976)

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Sec. 8-10.2 Types Of Constraint Districts And Application.

(a) There are six (6) Constraint Districts as follows:

- (1) Drainage Districts S-DR
- (2) Flood Districts S-FL
- (3) Shore Districts S-SH
- (4) Slope Districts S-SL
- (5) Soils Districts S-SO
- (6) Tsunami Districts S-TS

(b) The standards established in each Constraint District shall apply to all modifications, development or uses which are undertaken on lands within the boundaries of the Districts and shall be in addition to the development standards applicable to lands in the underlying Use and Special Treatment Districts in which the lands are located.

(c) When land is located in more than one (1) Constraint District, the more restrictive standard concerning

any subject matter of regulation shall apply.

(d) Applications for Zoning or Use Permits for uses, structures and development in Constraint District shall include the information required by, and shall establish

conformity to the standards established for, the Constraint District or Districts in which the lands in question are located. (Ord. No. 164, August 17, 1972; Sec. 8-10.2, R.C.O. 1976)

ARTICLE 11. DRAINAGE DISTRICTS (S-DR)

Sec. 8-11.1 Purpose.

(a) To protect the function of natural and existing water courses as a part of the system for surface water collection and dispersal.

(b) To maintain the quality of surface and marine water as a valuable public resource.

(c) To regulate the modification of water. (Ord. No. 164, August 17, 1972; Sec. 8-11.1, R.C.O. 1976)

Sec. 8-11.2 Lands Included In The Drainage District.

(a) The Drainage District includes all rivers, streams, storm water channels, and outfall areas indicated in the Development Restriction Zones of the General Plan and other areas of similar physical characteristics and conditions.

(b) Within two (2) years after the date of adoption of this Ordinance, the Department of Public Works on the basis of available information, shall prepare a master drainage plan for the County that shall include:

(1) The boundaries of watershed areas one hundred (100) acres or larger.

(2) A classification of all rivers, streams, and water carrying channels based on calculated existing carrying capacities and potential carrying capacities.

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(3) The limitations on increased quantities of water by watershed which may be added to any channel.

(4) Water quality control standards and criteria for all constant flowing rivers and streams and marine outfalls.

(5) Proposed and anticipated channel revisions, new channels, and all required structural appurtenances or conditioning to channels, with estimated costs and projected scheduling of improvements.

(6) Standards, regulations and procedures concerning drainage practices in connection with development that effects water quality and quantity.

(c) Upon approval by the Planning Commission and adoption by the Council, this master drainage plan shall supplement the requirements of this Article. (Ord. No. 164, August 17, 1972; Sec. 8-11.2, R.C.O. 1976)

Sec. 8-11.3 Requirements For Development Within A Drainage District.

Prior to the adoption of a master drainage plan, no zoning, building or use permit shall be issued, nor shall any

use requiring the development, grading or alteration of any portion of the Drainage District be permitted, unless the applicant establishes conformity with the requirements of this Article.

(1) No water course or outfall of a water course shall be modified, constricted, altered, piped, lined or substantially changed in any way unless first approved by the Department of Public Works.

(2) Development shall not be allowed on land adjacent to water courses which increases the flow at peak discharge above the capacity of its present channel, or materially increases the flood plain of downstream water courses.

(3) Pollutants shall not be discharged into any natural water course that are considered harmful or dangerous by state, federal or county health or water control authorities to the public or to vegetation and wildlife.

(4) Development shall not be allowed that causes discharge or runoff of substantial amounts of silt, construction materials, trash, solid waste or other deleterious material.

(5) The Department of Public Works shall require that detailed plans and calculations accompany applications for development or modifications of any water course or of any development, grading or clearing of any land area. (Ord. No. 164, August 17, 1972; Sec. 8-11.3, R.C.O. 1976)

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Sec. 8-11.4 Modification Of Requirements.

The requirements of this Article shall not apply to any area within the Drainage District where the applicant demonstrates to the satisfaction of the Department of Public Works, that the area in question should not have been included in the Drainage District under the criteria established in Sec. 8-11.2. (Ord. No. 164, August 17, 1972; Sec. 8-11.4, R.C.O. 1976)

ARTICLE 12. FLOOD DISTRICT (S-FL)

Sec. 8-12.1 Purpose.

(a) To minimize the threat to public health and safety due to periodic inundation by storm water.

(b) To maintain the characteristics of flood plain areas which contribute to ground water recharge, storm water storage, silt retention and marine water quality. (Ord. No. 164, August 17, 1972; Sec. 8-12.1, R.C.O. 1976)

Sec. 8-12.2 Lands Included.

All lands subject to flooding and identified as flood fringe, floodway, and general flood plain areas by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the County of Kauai", dated March 9, 1987, with accompanying Flood Insurance Rate Maps. (Ord. No. 164, August 17, 1972; Sec. 8-12.2, R.C.O. 1976; Ord. No. 416, October 28, 1981; Ord. No. 500, March 31, 1987)

Sec. 8-12.3 Requirements For Development Within A Flood District.

No zoning, building, or use permit shall be issued, nor

shall any use requiring the development, grading or alteration of any portion of the Flood District be permitted, unless the applicant establishes conformity with the requirements of this Article.

(a) Applications shall include:

(1) Development plans indicating:

(A) The location, size, nature, and intended use of all buildings, roads, walkways and other impervious surfaces;

(B) Limits and extent of all clearing and grading operations; grading plans showing existing and revised contour lines; cross sections showing cuts and fills anticipated; angles of slopes and structural appliances such as retaining walls and cribbing;

(C) Sizes and locations of existing and proposed surface and subsurface drainage with expected quantities, velocities, and treatment of outfalls;

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(D) Provisions for siltation and erosion control during construction and plans for revegetation of all cleared or graded areas not covered by impervious surfaces;

(E) Identification of flood hazards on the site, including the delineation of the floodways and base flood elevations.

(2) When required by the Department of Public Works, hydrologic and geologic reports showing the effects of the development on ground water recharge, storm water retention and marine water quality shall be submitted.

(3) When required by the Planning Director, an environmental impact study indicating critical areas of concern and the effects of the proposed development on physical, geologic, ecologic and environmental forms and systems such as downstream water quality, flood plains, wildlife, vegetation and marine ecologies, visual and historic amenities, and air or ground water pollution.

(b) The use, structure and development, if required, shall be subject to additional construction and development standards provided in Sec. 15-1, relating to Flood Plain Management.

(c) The applicant shall demonstrate to the satisfaction of the Planning Director, the Department of Public Works, and the Manager and Chief Engineer of the County Water Department

that the proposed development will not have a detrimental effect on the ecology of the area and that the potential damage to public utility, traffic service systems, as a result of the development, has been substantially eliminated.

(Ord. No. 164, August 17, 1972; Sec. 8-12.2, R.C.O. 1976; Ord. No. 416, October 28, 1981; Ord. No. 500, March 31, 1987)

Sec. 8-12.4 Modification Of Requirements.

The requirements of this Article shall not apply where the applicant demonstrates to the satisfaction of the Department of Public Works that the area in question should not have been included in the Flood District under the criteria established in Sec. 8-12.2. (Ord. No. 164, August 17, 1972; Sec. 8-12.4, R.C.O. 1976; Ord. No. 416, October 28, 1981)