

**Kaua'i County Code**

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**Article 2. North Shore Development Plan**

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**Sec. 10-2.1 Title, Purpose, and General Provisions.**

- (a) This Article shall be known and may be cited as “the North Shore Development Plan Ordinance.” It is hereby adopted:
- (1) To implement the intent and purpose of the adopted General Plan and to amend certain portions of the General Plan which are found to be necessary in order to recognize more detailed information and more precise community goals and objectives.
  - (2) To establish development plans, Zoning Maps and design criteria to guide and regulate future development and protect certain physical and social characteristics which are found to be of particular public value.
  - (3) To establish exceptions, modifications or additions to the provisions of the Comprehensive Zoning Ordinance and the Subdivision Ordinance of the County of Kaua'i in order to more specifically provide for the regulation of land use, subdivision and development practices within the North Shore special planning area.
  - (4) For said purposes, the North Shore special planning area includes the District of Hanalei as described in Section 4-1(4) of Hawai'i Revised Statutes and portions of other districts located within natural watershed areas draining to the ocean between Moloa'a Stream and the Na Pali Coast, as established by the Planning Commission and designated on the Zoning Maps of the County of Kaua'i, pursuant to Section 8-9.6 of the Comprehensive Zoning Ordinance.
- (b) Nature of North Shore Development Plan Ordinance. This Article supplements the Comprehensive Zoning and Subdivision Ordinances in regulating use and development practices and, in addition, provides a framework and guidelines to direct the physical locations and relationships of major improvements, buildings and landscape within the North Shore special planning area.
- The administrative guidelines of this Article include:
- (1) Development plans establishing future and existing locations, by parcel, of major or critical circulation systems, access points, building areas, setbacks, heights and type.
  - (2) Design control plans establishing critical design features, such as existing vegetation, historic and archaeological sites, views, lighting location and future landscape requirements.
  - (3) The North Shore Improvement Advisory Committees to serve as a continuing group for citizen participation in design review and the recommendation of proposed developments.
- (c) Goals and Objectives. The goals and objectives as contained in the North Shore Development Plan Update Report are hereby adopted by the ordinance codified in this Article. Copies of the development plan report are on file at the Office of the Planning Department, County of Kaua'i.
- (d) Application of Regulations.
- (1) In administering and applying the provisions of this Article, unless otherwise stated, they shall be held to be the minimum requirements necessary to accomplish the purpose of this Article.

- (2) Unless otherwise expressly prohibited by law, the provisions of this Article shall apply to all areas within the North Shore special planning area.
- (3) The regulations and procedures established in the Comprehensive Zoning and Subdivision Ordinances shall apply within the North Shore special planning area, except to the extent that such regulations or procedures are changed or modified by the provisions of this Article. When the provisions of this Article differ from the provisions of the Comprehensive Zoning Ordinance or the Subdivision Ordinance with respect to a particular subject matter of regulation, the provisions of this Article shall apply. (Ord. No. 239, December 27, 1974; Sec. 10-2.1, R.C.O. 1976; Ord. No. 476, June 27, 1985)

**Sec. 10-2.2 Definitions.**

The definitions contained in Section 8-1.5 of the Comprehensive Zoning Ordinance are incorporated herein except to the extent as herein modified.

- (a) “Immediate family” means legally married couples, their children, brothers, sisters and parents.
- (b) “Public utility carriers” means motorized vehicles such as buses and limousines; and trailers or trains towed by a motorized vehicle.
- (c) “Utility structures” means power facilities such as poles, transformers, substations or wires, sewage facilities such as treatment plants and lift stations; domestic water facilities such as reservoirs, wells and pumping stations; communication facilities such as telephone poles and wires, television antennae, microwave stations, etc. (Ord. No. 239, December 27, 1974; Sec. 10-2.2, R.C.O. 1976; Ord. No. 476, June 27, 1985)

**Sec. 10-2.3 Designation of Zoning Maps.**

- (a) The maps designated in this Section are hereby established as the Zoning Maps for those portions of the North Shore special planning area included within the boundaries of such maps; provided, however, that the constraint district maps established by Section 8-2.1(8) of the Comprehensive Zoning Ordinance shall remain in full force and effect.
- (b) In order to carry out the purpose of this Chapter, the following maps as amended in Attachment “B” of Ordinance No. 476, and as amended herein, and on file with the Planning Department are hereby created and designated as the Zoning Maps of the North Shore special planning area.

<b>Zoning Map</b>	<b>Scale</b>
ZM-KI600 (Kīlauea Town)	1" = 400'
ZM-AI700 (Anini Beach)	1" = 200'
ZM-PR700 (Princeville)	1" = 400'
ZM-HA700 (Hanalei Town)	1" = 200'
ZM-WN-HN700 (Wainiha/Hā‘ena)	1" = 200'
ZM-WV700 (Wainiha Valley)	1" = 400'

(Ord. No. 239, December 27, 1974; Sec. 10-2.3, R.C.O. 1976; Ord. No. 476, June 27, 1985; Ord. No. 770, June 19, 2001)

**Sec. 10-2.4 Use Districts.**

The following modifications and changes to the provisions of the Comprehensive Zoning Ordinance shall apply to development within the North Shore special planning area, in accordance with Section 10-2.1(d)(3) of this Article.

(a) Residential District Modifications. Single-family attached and multiple-family dwellings are prohibited in the R-1, R-2, R-4 and R-6 residential density districts except under the following conditions:

- (1) When developed pursuant to a Federal, State or County housing program; or
- (2) When located within the Princeville Visitor Destination Map identified under Article 17 (relating to Transient Vacation Rentals; Time Share Units and Time Share Plans); or
- (3) When permitted by the Planning Commission through a use permit procedure in order to implement the housing objectives of the County.

(b) Commercial District Modifications. Subject to health, safety and building codes, commercial facilities may be carried on concurrently with residential uses within the same structure; provided, however, that the two (2) activities occupy physically separated portions of the building and that the residential unit has visual privacy from the commercial activity.

(c) Agriculture District Modifications.

(1) Purpose. For the purposes of protecting and perpetuating agriculture uses within the North Shore special planning area because of the unique cultural, economic, historic, and scenic value to the general public, the following exceptions and amendments to the Comprehensive Zoning Ordinance are found necessary.

(2) Lands Within the Agriculture District Except Kuleanas. The provisions of the Comprehensive Zoning Ordinance shall apply to all lands within the agriculture district; provided, however, that:

(A) No more than one (1) dwelling unit may be permitted on any parcel of record on December 27, 1974 smaller than five (5) acres;

(B) The minimum lot size for subdivision shall be five (5) acres.

(3) Agricultural Restrictions Applicable to Lumahai Valley. In order to preserve the agricultural viability and resources of Lumahai Valley, all agriculture subdivisions shall be subject to the following requirements prior to approval:

(A) A use permit application for review by the Planning Commission.

(B) Together with the use permit application, an agriculture master plan for the valley including but not limited to proposed irrigation system, market study describing proposed crops and methods of marketing, and sale or lease arrangements for the lots including selling and lease prices.

(d) Open District Modifications Except Kuleanas.

(1) No parcel within the State Land Use Commission's agricultural district and zoned open district by the County within the planning area shall be subdivided into more than ten (10) lots, none of which may be smaller than five (5) acres. Parcels so subdivided shall not be further resubdivided unless reclassified into the urban district by the State Land Use Commission.

(2) Commercial Uses Within the Open District (O). Existing commercial uses and structures within the open district (O) may be allowed to continue and if it is damaged or destroyed, such use or structures may be resumed if restoration or reconstruction is completed within one (1) year from the date of such damage or destruction and provided that the general appearance and design of the building in which the use and structure or activity is conducted is maintained, the use and structure are not changed, the existing floor area is not expanded, and no other accessory commercial buildings are constructed. If reconstruction, restoration, and/or re-establishment of the use and structure are not completed within one

(1) year from the date of such damage or destruction, such use of the land and structure hereafter shall be in full conformity with the provisions of the Comprehensive Zoning Ordinance.

(e) Special Regulations Applicable to All Districts.

(1) Heights. Except as provided under Ordinance No. 416 (Flood Hazard Areas) Section 15-1.5(c)(4), height limits shall be as established in the Comprehensive Zoning Ordinance; provided, however, that no structure shall be higher than twenty-five (25) feet unless a greater height is authorized by the Planning Commission pursuant to a use permit after review (and recommendation) by the North Shore Improvement Advisory Committee.

(2) Setbacks.

(A) Unless as otherwise provided in this Section, setbacks shall be as established on the appropriate development plan. The Planning Director may allow minor deviations from such standards; provided, however, that:

(i) The deviations are not inconsistent with the requirements of the Comprehensive Zoning Ordinance; and

(ii) The deviation does not substantially alter the open space and building relationships established by the development plan.

(B) The building setback distances for all oceanfront property shall not be less than twice the height of the building or structure measured from the oceanside grade to the highest exterior wall plate line. Such setback shall be measured from the legal shoreline as defined under the State Shoreline Setback Law. On sloping oceanfront property, greater setback may be required to avoid the intrusion of buildings onto significant view plains or vistas. No building or parking area shall be set back less than forty (40) feet from the legal shoreline in any case except that single-family detached residences are exempt from this Section but must comply with the Shoreline Setback Rules and Regulations of the County of Kaua'i.

(C) Within the residential and resort district, front yard building setbacks shall not be less than one-half (1/2) the height of the building measured at the grade to the highest exterior wall plate line at the side of the building facing the street or front of the property. In no case shall the front setback be less than ten (10) feet.

(3) Access. Driveway access from public thoroughfares shall be at the general locations indicated on the development plan, or as approved by the Planning Director when local conditions require a different location.

(4) Subdivision. Subdivisions shall be designed in accordance with applicable provisions, if any, of development plans. Where so indicated on development plans, the planning, design and construction of more than two (2) dwelling units on any one (1) parcel shall be in accordance with the requirements and procedures of a project development as established in Article 18 of the Comprehensive Zoning Ordinance.

(5) Utility Structures. The location and routes of all future utility structures other than poles not more than forty (40) feet high and distribution lines that are to be placed above ground level shall be approved by the Planning Commission prior to installation. The Planning Commission shall not approve such structures which:

(A) Substantially affect the scenic quality of public thoroughfares, or

(B) Street lights and lighting of public spaces shall be located as indicated on the development plans and shall be of type and design approved by the Department of Public Works and the Planning

Commission.

The installation, replacement or repair of existing structures shall not require such approval.

(6) Circulation and Transportation.

(A) Alignment, right-of-way and pavement width of all public and private streets shall be as indicated on the development plans. All other provisions of the Comprehensive Zoning Ordinance and Subdivision Ordinance relating to public and private streets shall remain in effect.

(B) Pedestrian and bicycle trails indicated on the development plans adjacent to public streets shall be included in any subsequent improvement of such streets. Rights-of-way for other indicated pedestrian and bicycle trails may be acquired in lieu of dedication of park lands and facilities as provided for in the Subdivision Ordinance.

(C) Access points of private streets, parking lots and common driveways serving more than two (2) dwelling units shall be located as indicated on the development plans unless otherwise permitted by the Planning Commission.

(D) Public utility carriers with a capacity in excess of ten (10) passengers shall park on public thoroughfares only at locations designated on the development plans, and shall travel only on those routes indicated on the development plans.

(E) No helicopter or oceangoing craft shall land at any area of land within County jurisdiction except as approved by the Planning Commission except in cases of emergency. Any application for such landings shall be sent to the appropriate North Shore Improvement Advisory Committee for comments prior to action being taken, except in cases of emergency.

(F) It is desirable that the one (1) lane Hanalei Bridge be restored and maintained, and the County shall take this into consideration when taking any action which might affect the one (1) lane Hanalei Bridge.

(7) Recreational Uses.

(A) A use permit shall be required for the development of any campsite, recreation vehicle park, day use picnic area, undeveloped campground, or private recreation area intended for the use of persons other than the owners of the lands upon which such facilities are located and their guests. A use permit for such facility shall not be issued in connection with a parcel located in an area designated as "urban" by the State Land Use Commission that is smaller than one (1) acre in size. Such uses, where permitted, shall be served by adequate sanitary and domestic water facilities as determined by the Department of Public Works, Water Department, and Health Department.

(B) No commercial recreational use or facility shall be allowed within a residential district which increases the ambient noise level of the neighboring residential areas.

(C) The issuance and renewal of a use permit for recreational activities specified in Paragraph (7) (A) of this Subsection shall require a public hearing. Such a use permit shall be valid for one (1) year.

(8) Design Standards Applicable to Commercial Districts.

(A) Exterior Colors. The color of the exterior surfaces of all future structures, shall be consistent with color samples approved by the North Shore Improvement Advisory Committees. Such samples shall be available for inspection by the public. Roof colors shall be non-reflective.

(B) Concrete Block Masonry. The exposed surfaces of all concrete block masonry shall be painted.

(C) Landscaping.

- (i) All development proposals shall include plans and specifications for the landscape development of the entire site.
  - (ii) Landscape development approved by the Planning Director shall be installed prior to the final inspection required under the building permit procedures.
- (D) Parking Areas.
- (i) Where the parking area is between the building and the front property line, a minimum width of five (5) feet of planting shall be provided along the side and front property boundaries, and a minimum of three (3) feet of planting between the parking area and the building.
  - (ii) Where there are two (2) parallel rows of parking with ten (10) or more spaces in each row, there shall be a planting island containing a shade tree at the end of each row and at intervals from five (5) to seven (7) parking spaces within the rows.
- (E) The Planning Commission may enact other rules and regulations related to design and aesthetics for the purpose of achieving the intent of this Article, the development plans and the design criteria plans, and shall authorize the North Shore Improvement Advisory Committees to jointly formulate rules and regulations for the same purposes by town areas inclusive of Paragraphs (8)(A) through (E) of this Subsection. Any rules and regulations formulated by the North Shore Improvement Advisory Committees will require adoption by the Planning Commission in order to take effect. (Ord. No. 239, December 27, 1974; Sec. 10-2.4, R.C.O. 1976; Ord. No. 349, July 1, 1978; Sec. 10-2.4, 1978 Cumulative Supplement; Ord. No. 476, June 27, 1985; Ord. No. 493, November 24, 1986)

### **Sec. 10-2.5 North Shore Improvement Advisory Committees.**

- (a) Purpose. To insure continuity of community participation in decisions affecting the future of the North Shore, to provide for the review of development proposals and to implement the intent of the plans and regulations governing development within the North Shore planning area.
- (b) Composition. There is hereby established two (2) North Shore Improvement Advisory Committees. The Committees shall consist of at least five (5) members to be appointed by the Mayor and confirmed by the Council. Members shall serve only for the term of the appointing authority and members shall not serve consecutive terms. Members may not be removed during their term of office. The Planning Director and the County Engineer shall be ex-officio members. For the North Shore planning area, there shall be two (2) Improvement Advisory Committees; the first representing Moloa‘a to Kalihiwai, to be called the Kīlauea Improvement Advisory Committee, and the second representing Kalihiwai to Hā‘ena, to be called the Hanalei-Princeville Improvement Advisory Committee.
- (c) Duties. To review and render advisory opinions on all matters referred to the Committees or matters considered by the Committees on their own initiative relative to the North Shore Development Plan area. Such matters shall include General Plan amendments, zoning amendments, and State land use boundary amendments.
- (d) Standards and Criteria. The review and recommendation by the North Shore Improvement Advisory Committees shall be based upon the intent and requirements of the General Plan, the Comprehensive Zoning Ordinance, the development plan, and design plans applicable within the North Shore planning area.
- (e) Procedures. The Committees shall meet at their own discretion at a time and place selected by the Committees. The time and place shall be public information. The meeting shall be open to the public and

actions or recommendations of the Committees shall be public information.

(f) **Time Limitation for Review.** When a matter is referred for review and recommendation to the North Shore Improvement Advisory Committees, or when the Committees provide written notification of their intent to review matters not so referred, the applicable time limits for action established by law shall remain in effect. The time limit may be extended only upon written consent of the applicant and only for such period to which the applicant agrees. (Ord. No. 239, December 27, 1974; Ord. No. 256, June 25, 1975; Sec. 10-2.5, R.C.O. 1976; Sec. 10-2.5, 1978 Cumulative Supplement; Ord. No. 461, June 21, 1984; Ord. No. 476, June 27, 1985)

### **Sec. 10-2.6 Permits.**

(a) **Requirements and Procedures.** Unless otherwise provided, the permit requirements and procedures established in the Comprehensive Zoning and Subdivision Ordinance shall apply to development regulated by this Article and located in the North Shore special planning area.

(b) **Exemptions from this Article.**

(1) **Building Permits and Zoning Permits.** Any building or structure authorized by a valid building or zoning permit still in force issued prior to the effective date of the ordinance codified in this Article may be constructed if substantial construction activities related to such building or structure carried out on the site have been commenced, or are commenced within six (6) months after the effective date of said ordinance.

(2) **Subdivisions.** Proposed subdivisions that do not conform to the requirements of this Article may be treated as subdivisions existing at the effective date of the ordinance codified in this Article provided that the preliminary subdivision map was approved prior to the effective date of said ordinance and a final map of such subdivision is approved and recorded within one (1) year after the effective date of said ordinance. (Ord. No. 239, December 27, 1974; Sec. 10-2.6, R.C.O. 1976; Ord. No. 476, June 27, 1985)

### **Sec. 10-2.7 Enforcement, Legal Procedures, and Penalties.**

Except as otherwise provided in this Article, the provisions of Article 24 of the Comprehensive Zoning Ordinance shall be applicable to the enforcement of this Article. (Ord. No. 239, December 27, 1974; Sec. 10-2.7, R.C.O. 1976; Ord. No. 476, June 27, 1985)

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