

A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, ARTICLE 4 OF THE
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO OUTDOOR SIGNS

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF
 HAWAII:

SECTION 1. The section titles of Article 4, which are listed
 in Chapter 15 of the Kauai County Code 1987, as amended, are
 amended as follows:

"Sec. 15-4.1 Purpose
 Sec. 15-4.2 Declaration of Intent
 Sec. 15-4.3 Definitions
 Sec. 15-4.4 Prohibited signs
 Sec. 15-4.5 Signs Requiring a Permit
 Sec. 15-4.6 Signs Not Requiring a Permit
 Sec. 15-4.7 Construction and Location of Signs
 Sec. 15-4.8 Permits and Fees
 Sec. 15-4.9 Enforcement and Administration
 Sec. 15-4.10 Violation and Penalty
 Sec. 15-4.11 Appeal
 Sec. 15-4.12 Variance"

SECTION 2. Article 4, Chapter 15, as contained in the Kauai
 County Code 1987, as amended, and any ordinances amending said
 Article are hereby amended as follows:

"ARTICLE 4. OUTDOOR SIGNS

Sec. 15-4.1 Purpose.

To regulate and control the location, construction, erection,
 maintenance and use of outdoor signs; to provide for enforcement of
 this Article and an appeal procedure; and to specify penalties for
 any violation of this Article.

Sec. 15-4.2 Declaration of Intent.

The County Council finds and declares that the people of the
 County of Kauai have an interest in regulating and controlling the
 location, construction, erection, maintenance and use of outdoor
 signs so as to protect the public health, safety and welfare, and
 the natural and scenic beauty of Kauai, while acknowledging the
 necessity to identify businesses, organizations or persons through the
 use of signs. This need for regulation and control stems from
 the recognition that the indiscriminate location, construction,
 erection, maintenance, use or illumination of outdoor signs can
 negatively affect highway and pedestrian safety, firefighting, the
 natural and scenic beauty of Kauai, and the visitor industry.

Sec. 15-4.3 Definitions.

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

(1) "Aerial sign" means any sign or advertising device which uses any type of aircraft or other self-propelled or buoyant airborne object to display in any manner or for any purpose any sign or device. For the purpose of this definition, an aerial sign or advertising device includes a poster, symbol, or any other form of advertising sign or device.

Exceptions: (a) The display of an identifying mark, trade insignia, or trademark on the exterior of an aircraft or self-propelled or buoyant airborne object if the display item is under the ownership or registration of the aircraft's or airborne object's owner shall not be prohibited.

(b) The display of a sign or advertising device placed wholly and visible only within the interior of an aircraft or self-propelled or buoyant airborne object shall not be prohibited.

(2) "Authorized Representatives" means all building inspectors, building plans examiners and their supervisors.

(1)(3) "Banner" means a sign made of cloth or similarly pliable material, and supported at its corners and/or edges by rope, wire or similar material.

(2)(4) "County Engineer" means the County Engineer, Department of Public Works, County of Kauai or his authorized representative.

(3)(5) "Directional Sign" means a single- or double-faced sign containing the name of a commercial entity, and either its distance from the sign or a directional symbol.

(6) "Double-faced sign" means any sign with two parallel surfaces which are physically connected to each other.

(4)(7) "Flashing Sign" means any lighted sign, as defined below, which, while in use, changes its light intensity or color.

(5)(8) "Ground Sign" means a single- or double-faced sign which is a completely self-supported structure, permanently attached to the ground, and not attached or affixed in any way to a building or structure.

(6)(9) "Lighted Sign"

(a) "Directly Lighted Sign" means any sign which has characters, letters, figures, designs, itself or its outline illuminated by internal electric lights or lighting, or has lights or lighting as part of the sign.

(b) "Indirectly Lighted Sign" means any sign illuminated with an external light which is directed at the face of the sign or its background.

(c) "Neon Sign" means any sign which has gas-filled, or other types of luminous tubes as part of itself.

[(7)](10) "Lighter Box Sign" means any gasoline service station sign, unlighted, or indirectly or directly lighted, as provided by an oil company, not exceeding thirty-six (36) square feet in area and containing only the company logo.

[(8)](11) "Marquee" means a canopy or covered structure projecting from and supported by a building when the canopy or covered structure extends beyond the building, building line or property line.

[(9)](12) "Marquee [Facial] Fascade Sign" means a sign attached to or painted on the face of a marquee and not projecting above or beneath said marquee face.

[(10)](13) "Marquee Sign" means any sign attached to, or hung from a marquee.

[(11)](14) "Moving Sign" means any sign which is designed to exhibit physical movement of itself or its parts.

[(12)](15) "Off-Premises Sign" means any sign identifying a business or activity not conducted on the property upon which the sign is located.

[(13)](16) "Office Building" means a building which contains only offices in which persons transact business or engage in a stated occupation.

[(14)](17) "Pennant" means a series of commonly attached triangular, rectangular or square flags.

[(15)](18) "Portable Sign" means any outdoor sign which has no permanent attachment to a building or the ground, including, but not limited to, A-frame signs, pole attachments, search lights and stands.

[(16)](19) "Projecting Sign" means any sign which is attached to, supported solely by, and extends more than fifteen (15) inches from a building wall.

[(17)](20) "Roof Sign" means a sign located on or over the roof of any building.

[(18)](21) "Shopping Center" means an integrated commercial development, planned, developed, owned and managed as a unit, which contains within it businesses such as retail stores and shops, personal services establishments, professional business offices, banks, post offices, restaurants and auditoriums, all sharing common facilities such as off-street customer parking, pedestrian walkways, truck loading and unloading areas, utilities and sanitary facilities.

[(19)](22) "Sign" means any structure, billboard, marquee, awning, canopy, street clock, announcement, declaration, demonstration, display, flag, pennant, banner, balloon, illustration, or insignia used to identify, advertise, attract, or promote the interests of any business, organization, or person when such sign is located so as to be visible from any public roadway, park, or other public place. It shall include words or symbols written, drawn, or attached to the inside of windows, which are intended to be seen or read from the outside; provided that a window advertisement, display of merchandise, [or] landscaping, [or] decoration, or description of merchandise for sale shall not be considered to be a sign.

[(20)](23) "Wall" means any building surface, at least 60 degrees to the horizontal, which comprises one of the exterior sides of the building, to include columns and other supporting members, and which connects the foundation and roof. The area of a wall shall be measured by its exterior boundaries and shall include windows, doors, and other objects within the exterior boundaries.

[(21)](24) "Wall Sign" means any sign affixed to a wall of any building or structure, and which does not project more than fifteen (15) inches from, nor extend above, the building wall or structure.

[(22)](25) "Wind Sign" means any moving sign which obtains such movement by wind or air currents.

[(23)] "Window Sign" means any gasoline service station sign, unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet in area, which consist of a framed area to accommodate company-provided posters announcing product/service promotions.]

Sec. 15-4.4 Prohibited Signs.

It shall be unlawful to erect or maintain:

- (1) Any sign which obstructs the vision of drivers, obstructs or detracts from the visibility of any official traffic control device, or is in violation of any provision of this Article;
- (2) Any sign which is obscene;
- (3) Any aerial flashing, moving, [neon] or roof sign;
- (4) Any portable, wind, [lighted] or off-premises sign, except as specifically permitted under this Article; and
- (5) Any other sign which is not permitted or not exempted under this Article, except if a variance for such has been obtained pursuant to Section 15-4.12.

Sec. 15-4.5 Signs Requiring a Permit.

(a) Temporary Signs.

(1) Project Sign. Any sign which contains, among other things, the names of architects, engineers, contractors, financiers or developers involved in the construction, structural alteration or repair of a structure. A project sign shall not exceed thirty-two (32) square feet and only one such sign shall be allowed per street frontage upon which the structure is located. Such sign may be posted upon the commencement of the work and shall be removed within fifteen (15) days after issuance of Certificate of Occupancy.

(2) Subdivision Construction Sign. Any sign which contains information regarding the subdivision and improvement of real property. A subdivision sign shall not exceed thirty-two (32) square feet, and only one such sign shall be allowed for each mile or fraction thereof of subdivision real property which fronts a street or highway. Any subdivision sign shall not be erected prior to the date that all appropriate County agencies have approved commencement of construction of the subdivision, nor remain erected for a period longer than one (1) year from the date of such approval; provided that the Planning Director, after the passage of such one (1) year period, may extend for up to one (1) year, at any one time, the period during which the sign can remain erected; and provided, further, that the sign must be removed upon the selling and recording of ninety percent (90%) of the available lots in the subdivision, or upon the completion of the subdivision site improvements, whichever is later.

(3) Banner [or Pennant]. Any banner [or pennant] advertising a special event or promotion may be displayed not more than [four (4)] ~~ten (10)~~ days prior to the date of the event or promotion, and [must] ~~shall~~ be removed within one (1) working day after the event or promotion[.]. ~~provided however, no banner shall be displayed for more than a total of thirty (30) consecutive days.~~ No banner shall exceed [fifty (50)] ~~thirty-two (32)~~ square feet[, and no individual flag of a pennant shall exceed eleven (11) inches by eighteen (18) inches].

(b) Permanent Signs. Only signs of each type as are prescribed in this Section, and which conform with the provisions of this Article, shall be permitted to be erected or maintained upon any building, lot or parcel of land located in the following zoned districts, as defined by the Comprehensive Zoning Ordinance of the County of Kauai:

(1) Open, Agriculture or Residential R-1 through R-6.

(A) One (1) wall or ground sign, unlighted or indirectly lighted, made of wood or nonreflective metals, not exceeding six (6) square feet in area, containing matters related to a business conducted on the premises. The top of the ground sign shall not be higher than eight (8) feet from the ground.

(B) Subdivision Identification Sign. One (1) unlighted sign of not more than twenty-four (24) square feet in area, or two (2) unlighted signs, each not to exceed twelve (12) square feet, located at each entrance to a subdivision or tract, containing only the subdivision or tract name. The top of the sign shall not be higher than eight (8) feet from the ground.

(C) Directional Sign. One (1) directional sign, not to exceed eight (8) square feet in area and the top of which shall not be higher than four (4) feet from the ground, if the entity to which the sign pertains is not readily visible from a public roadway. The sign must be located on the same parcel of property of which the entity is a part, to include a private access road which is utilized for purposes associated with the entity and is either an integral part of the property upon which the entity is located or an exclusive easement serving such property.

(2) Residential R-10 through R-20 and Resort.

(A) Marquee or Wall Sign. One (1) wall or marquee sign per building wall which faces a street, unlighted or indirectly lighted, not exceeding twenty-four (24) square feet in area, containing only the name and/or nature of the business. The bottom of any marquee sign shall be at least seven and one-half [(7)] [7-1/2] feet above the ground or any walking area beneath the sign.

(B) Ground Sign. One (1) ground sign, unlighted or indirectly unlighted, not exceeding twenty-four (24) square feet in area, not more than eight (8) feet in height from the ground to the top of the sign, identifying a business conducted on the premises.

[(C) Corporate Logo Flag. One (1) corporate logo flag, not to exceed fifty (50) square feet, to be displayed on its own staff only when the United States and/or Hawaii State Flag(s) is(are) displayed on its(their) own staff(s).]

[(D)](C) Directional Sign. One (1) directional sign, not to exceed fifteen (15) square feet in area and the top of which shall not be higher than eight (8) feet from the ground, if the entity to which the sign pertains is not readily visible from a public roadway. The sign must be located on the same parcel of property of which the entity is a part, to include a private access road which is utilized for purposes associated with the entity and is either an integral part of the property upon which the entity is located or an exclusive easement serving such property.

[(E)](D) Subdivision Identification Sign. One (1) unlighted sign of not more than twenty-four (24) square feet in area, or two (2) unlighted signs, each not to exceed twelve (12) square feet, located at each entrance

to a subdivision or tract, containing only the subdivision or tract name. The top of the sign shall not be higher than eight (8) feet from the ground.

(3) Commercial.

(A) Any shopping center or office building complex that is identifiable by single name shall be permitted only one (1) ground, marquee or wall sign, along each street front of the premises, which identifies the shopping center or office building complex. Each sign shall be unlighted, or indirectly or directly lighted, and shall not exceed twenty-four (24) square feet in area. The top of any ground sign shall not be higher than eight (8) feet from the ground and shall be set back a minimum of eight (8) feet from the property line. As an alternative to identifying the shopping center or office building complex, each sign may list the businesses conducted in the shopping center or office building complex, but shall not exceed thirty-two (32) square feet in area.

(B) Any individual business within a shopping center or office building complex:

(i) Only one of the following types of signs shall be permitted along each building wall of the business which is exposed to public view, which merely identifies the business:

(a) Marquee Sign. One (1) sign, unlighted, or indirectly or directly lighted, not exceeding nine (9) square feet in area, attached to the underside of a marquee, provided that the lowest part of the sign shall be at least seven and one-half (7-1/2) feet above the surface of the ground; or one (1) marquee [facial fascia sign not to exceed three (3) feet in height and nine (9) square feet in area for individual businesses conducted in a building.

(b) Projecting Sign. One (1) sign, unlighted, or indirectly or directly lighted, not exceeding nine (9) square feet in area.

(c) Wall Sign for Walls 1,600 square feet or less. One (1) wall sign, unlighted, or indirectly or directly lighted, not exceeding forty-eight (48) square feet in area or twenty percent (20%) of the area of the wall on which the sign shall be displayed, whichever is less.

(d) Wall Sign for Walls Greater than 1,600 square feet. One (1) wall sign, unlighted, or indirectly or directly lighted, not exceeding three percent (3%) of the area

of the wall on which the sign shall be displayed.

(C) Any business not part of a shopping center or office building complex shall be permitted only two (2) signs of the following types on each street frontage of the business:

(i) Any type of sign permissible under Section 15-4.5(b)(3)(B)(i), i.e., a Marquee, Projecting or Wall Sign; and

(ii) A ground sign that is unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet in area nor eight (8) feet in height from the ground to the top of the sign, relating to the business conducted on the premises; and

(iii) Only one of the following types of signs shall be permitted if the conditions allowing these types of signs are met:

(a) Directional Sign. One (1) unlighted directional sign, not to exceed eight (8) square feet in area and the top of which shall not be higher than four (4) feet from the ground, if the entity to which the sign pertains is not readily visible from a public roadway. The sign must be located on the same parcel of property of which the entity is a part, to include a private access road which is utilized for purposes associated with the entity and is either an integral part of the property upon which the entity is located or an exclusive easement serving such property.

(D) Gasoline Service Stations. A gasoline service station may have the following types of signs:

(i) One (1) ground sign, unlighted, or indirectly or directly lighted, as provided by an oil company, not exceeding sixteen (16) feet in height nor thirty-six (36) square feet in area;

(ii) One (1) "lighter box" sign, unlighted, or indirectly or directly lighted, as provided by an oil company, not exceeding sixteen (16) feet in height nor thirty-six (36) square feet in area and containing only the company logo; and.

[(iii) One (1) window sign, unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet in area, which can consist of a framed area to accommodate company-provided posters announcing product/service promotions.]

(E) Theaters. Two (2) marquee [facial fascia signs, unlighted, or indirectly or directly lighted, each not exceeding one hundred (100) square feet, which identifies an act, attraction or motion picture being or to be shown at the theater.

(F) Corporate Logo Flag. One (1) corporate logo flag, not to exceed fifty (50) square feet, to be displayed on its own staff only when the United States and/or Hawaii State Flag(s) is(are) displayed.]

(G)(1)(E) Subdivision Identification Sign. One (1) unlighted sign of not more than twenty-four (24) square feet in area, or two (2) unlighted signs, each not to exceed twelve (12) square feet, located at each entrance to a subdivision or tract, containing only the subdivision or tract name. The top of the sign shall not be higher than eight (8) feet from the ground.

(4) Industrial.

(A) Any shopping center or office building complex that is identifiable by a single name shall be permitted only one (1) ground, marquee or wall sign, along each street front of the premises, which identifies the shopping center or office building complex. Each sign shall be unlighted, or indirectly or directly lighted, and shall not exceed twenty-four (24) square feet in area. The top of any ground sign shall not be higher than eight (8) feet from the ground and shall be set back a minimum of eight (8) feet from the property line. As an alternative to identifying the shopping center or office building complex, each sign may list the businesses conducted in the shopping center or office building complex, but shall not exceed thirty-two (32) square feet in area.

(B) Any individual business within a shopping center or office building complex:

(i) Only one of the following types of signs shall be permitted along each building wall of the business which is exposed to public view, which merely identifies the business:

(a) Marquee Sign. One (1) sign, unlighted, or indirectly or directly lighted, not exceeding nine (9) square feet in area, attached to the underside of a marquee, provided that the lowest part of the sign shall be at least seven and one-half (7-1/2) feet above the surface of the ground; one (1) marquee [facial fascia sign not to exceed three (3) feet in height and nine (9) square feet in area for individual businesses conducted in a building.

(b) Projecting Sign. One (1) sign, unlighted, or indirectly or directly lighted, not exceeding nine (9) square feet in area.

(c) Wall Sign. One (1) wall sign per building wall which faces a street, unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet for each business located therein.

(C) Any business not part of a shopping center or office building complex shall be permitted only two (2) signs of the following types on each street frontage of the business:

(i) Any type of sign permissible under Section 15-4.5(b)(3)(B)(i), i.e. a Marquee, Projecting or Wall Sign; and

(ii) A ground sign that is unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet in area nor eight (8) feet in height from the ground to the top of the sign, relating to the business conducted on the premises; and

(iii) Only one of the following types of signs shall be permitted if the conditions allowing these types of signs are met:

(a) Directional Sign. One (1) unlighted directional sign, not to exceed eight (8) square feet in area and the top of which shall not be higher than four (4) feet from the ground, if the entity to which the sign pertains is not readily visible from a public roadway. The sign must be located on the same parcel of property of which the entity is a part, to include a private access road which is utilized for purposes associated with the entity and is either an integral part of the property upon which the entity is located or an exclusive easement serving such property.

(D) Gasoline Service Stations. A gasoline service station may have the following types of signs:

(i) One (1) ground sign, unlighted, or indirectly or directly lighted, as provided by an oil company, not exceeding sixteen (16) feet in height nor thirty-six (36) square feet in area;

(ii) One (1) "lighter box" sign, unlighted, or indirectly or directly lighted, as provided by an oil company, not exceeding sixteen (16) feet in height nor thirty-six (36) square feet in area and containing only the company logo[; and].

[(iii) One (1) window sign, unlighted, or indirectly or directly lighted, not exceeding twenty-four (24) square feet in area, which can consist of framed area to accommodate company-provided posters announcing product/service promotions.]

(E) Theaters. Two (2) marquee [facia] fascia signs, unlighted, or indirectly or directly lighted, each not exceeding one hundred (100) square feet, which identifies an act, attraction or motion picture being or to be shown at the theater.

[(F) Corporate Logo Flag. One (1) corporate logo flag, not to exceed fifty (50) square feet, to be displayed on its own staff only when the United States and/or Hawaii State Flag(s) is(are) displayed.]

[(G)](F) Subdivision Identification Sign. One (1) unlighted sign of not more than twenty-four (24) square feet in area, or two (2) unlighted signs, each not to exceed twelve (12) square feet, located at each entrance to a subdivision or tract, containing only the subdivision or tract name. The top of the sign shall not be higher than eight (8) feet from the ground.

Sec. 15-4.6 Signs Not Requiring a Permit.

The following types of signs are exempt from the permit requirements of this Article, but must comply with the requirements of Section 15-4.4; Section 15-4.7[(a) (obstructing free ingress and egress), (b) (interfering with public alarms, signals or signs), (c) (proper construction) and (i) (measurement of signs)]; and Section 15-4.10 [(penalties)].

(a) Temporary Signs.

(1) Real Estate Sign. Any sign which contains information regarding the sale, rental or lease of premises and/or the real property upon which the sign is located. A real estate sign shall not exceed six (6) square feet; and only one such shall be allowed per street frontage of the premises or real property.

(2) Political Campaign Sign. Any sign which:

(A) Identifies the headquarters of a political candidate. Only one sign per candidate shall be allowed, and it shall not exceed twenty-four (24) square feet., and shall not exceed the size limitation set forth in Section 15-4.5(b).

(B) Identifies and/or provides information about a political candidate or issue to be voted upon. It shall not exceed three (3) square feet, nor be posted more than forty-five (45) days prior to the date of the election to which it pertains, or be posted within the street right-of-way boundary, or be visible from, any

federal-aid or state highway, nor remain posted more than ten (10) days after the election to which it pertains:] of any public road or highway and shall not block, obstruct or impede, partially or completely, any public sidewalk or pedestrian walkway and shall not exceed the size limitations set forth in Section 15-4.5(b).

(b) Permanent Signs.

(1) Institutional Sign. Any sign or bulletin board which sets forth or denotes the name of any public, charitable or religious institution. Any institutional sign shall not exceed twenty-four (24) square feet and shall be located on the premises of the institution.

(2) Public or Informational Sign. Any sign of a noncommercial nature, such as a safety, danger, no trespassing, [parking] or other informational sign, any sign which indicates a scenic or historical point of interest[, or any sign erected by a public officer in the performance of a public duty]; provided that any such sign[, except those erected by a public officer,] shall not exceed nine (9) square feet in area and shall be located on the real property to which it pertains.

(3) Gateway Sign. One (1) identification ground sign, single- or double-faced, unlighted or indirectly lighted, per entrance to a town or Resort District not to exceed two (2) signs. Each sign shall not exceed eight (8) feet in height from the top of the sign to the ground or twenty-four (24) square feet in area.

(4) Flag. Any official flag of a governmental jurisdiction [to include any flag which indicates weather condition.] or a corporate logo flag, not to exceed fifty (50) square feet, to be displayed only when the United States and/or Hawaii state flag(s) is(are) displayed.

(5) Address Sign. A sign which indicates a street address. It shall not exceed one (1) square foot and shall comply with provisions set forth in Chapter 15, Article 3, Kauai County Code 1987, as amended, "Numbering of Houses."

(6) Ingress-Egress and Parking Signs. Any single- or double-faced sign located at each driveway entrance or exit, denoting such. Each sign face shall not exceed two (2) square feet and shall only contain the words "In", "Entrance", "Out", "Parking", "No Parking" or "Exit" and a symbol designating the appropriate direction.

(7) Pennant. Any individual pennant shall not exceed 11 inches x 18 inches.

(8) Permanently Mounted Signs. Any sign intended to be read only by persons on the premises, which does not exceed twenty-four (24) square feet in total area and is not visible from any public roadway, including menu signs, complex directory, and store hours signs.

(9) Display Lamppost Banners. Any banner that does not exceed sixteen (16) square feet in total area; is affixed to a lamppost from the top and the bottom of the banner or attached on one edge; the top of the banner is not higher than sixteen (16) feet above ground level; is decorative only but may contain the name and logo of the shopping center, resort or office building complex; and shall not protrude into or over public property. The lamppost shall not be a government or public utility lamppost.

Sec. 15-4.7 Construction and Location of Signs.

(a) Free Ingress and Egress. No sign or support or hangings therefor shall be erected so as to obstruct the doors or windows of any building, or to prevent free ingress and egress to or from any window, door or fire escape of any building; nor shall any sign be attached to any part of a fire escape or upon or to any standpipe or fire escape support, or be placed nearer than two (2) feet from any fire escape platform. All signs shall be so arranged as to swing away from a fire escape or platform.

(b) Interference With Public Alarms, Signals, or Signs. No sign or supports or hangings therefor shall be placed in a position or manner so as to obstruct or interfere with any fire alarm, police alarm, sign or any device maintained by or under public authority.

(c) Structure. Every sign, together with its framework, braces, angles or other supports, shall be maintained in a safe condition, properly secured, supported and braced and shall be kept in good structural condition.

(d) Support. Every sign shall be constructed to withstand wind pressure of not less than thirty (30) pounds per square foot of sign area exposed to wind pressure, shall be rigidly and firmly braced, and where applicable, be securely attached to the building or structure by metal bolts, anchors, chains, cables, or guys.

(e) Wood. All wood permitted to be used either for new signs or replacement of existing signs, or for any part thereof, shall be rot and termite resistant through open-cell preservation methods as specified by the American Wood Preservation Association, or by any other open-cell preservation treatment approved by the County Engineer.

(f) Projection From Building Line. Except for marquee signs, no sign or portion thereof shall project over any public area or way more than five (5) feet from the boundary of the property upon which is located the building or structure to which the sign is attached; provided, that no sign shall project over any public highway, or interfere with vehicular traffic.

(g) Distance Above Ground. The lower edge of all signs projecting over any public area, except marquee signs, shall have a vertical clearance of at least nine (9) feet from such public area. The highest point of any permissible sign attached to part of a building or structure shall not exceed twenty-five (25) feet above the ground directly below.

(h) Distance Above the Building. The highest point on any sign attached to the side of a building or structure shall not extend more than two (2) feet above the part of the building or structure to which it is attached, or two (2) feet above the lowest edge of the roof, whichever is the higher.

(i) Determination of Size of Signs. This size of all signs shall be measured and determined in the following manner:

(1) When signs are framed on a plate, all of the plate or frame shall be included in the dimensions;

(2) When signs are not on a plate or framed but are partly or entirely outlined by a painted border, or if on a plate or frame and circumscribed by a painted border, all of the area circumscribed by the painted border shall be included in the dimensions;

(3) When a sign consists only of letters, designs, or figures, engraved, painted, projected or fixed on a wall, the total area of the sign shall include the entire area within a single, continuous perimeter or regular geometric form enclosing the extreme limits of writing, representation, emblem or any fixture of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. Where a sign has two (2) or more faces, the area shall be computed as the largest area projected on the vertical plane for each face exceeding two (2).

(4) Height of Ground Signs. When not specifically permitted under this Article, the top of any ground sign shall not be higher than eight (8) feet from the ground.

Sec. 15-4.8 Permits and Fees.

(a) Except as otherwise provided in this Article, it shall be unlawful for any person to install, construct, erect, alter, relocate, reconstruct [or] cause or permit to be installed, constructed, erected, altered, relocated, or reconstructed after May 15, 1987, any sign without first having obtained a permit in writing from the County Engineer, and making payment of the fees required in this Section.

(b) How Obtained. Any applicant for a permit shall file with the County Engineer an application, furnished by the Department of Public Works, which must be signed by the owner of the property and owner of the sign, or [his] their duly authorized agent. The application shall contain the following information:

- (1) The name and address of the applicant, and of the person, persons or organizations by whom the sign is to be constructed, erected, altered, relocated, or reconstructed.
- (2) An accurate description of the actual or proposed location of the sign.

(3) A plan or design of the sign showing its weight, dimensions, lighting equipment, material, composition, details of its attachment to any building or structure, and position relative to the nearest roadway or walkway.

(4) Any electrical permits required and issued for the sign.

(5) Other information pertinent to the application as may be required by the County Engineer.

(c) Illuminated Signs; Approval by [Electrical Inspector] County Engineer. The application for a permit for a sign in which electrical wiring and connections are to be used shall be first submitted by the applicant to the [Electrical Inspector of the County] County Engineer. The [Electrical Inspector] County Engineer shall examine the plans and specifications to determine if the electrical wiring and connections comply with the Electrical Code of the County of Kauai. He shall approve or disapprove the application accordingly.

(d) Fees. Every applicant, before being granted a permit shall pay to the County Engineer for each sign to which the permit is applicable, a fee which shall be determined as follows:

TOTAL ESTIMATED
VALUATION OF WORK

From \$0.01 to \$500.00
From \$500.01 and above

SEE TO BE CHARGED

[\$10.00] \$20.00
[\$10.00 plus \$2.00]
\$20.00 plus \$3.00 per
\$100.00 or fraction
thereof of the total
estimated valuation of
work.

(e) Disposition of Fees. The County Engineer shall record, in a form approved by the Auditor, all fees received, and shall deposit such fees with the Treasurer to the credit of the General Fund.

(f) Permit Issued If Application In Order. It shall be the duty of the County Engineer, upon the filing of an application for a permit under this Section, to examine the plans, specifications, other relevant data and/or the premises upon which the sign is located or is to be erected. If the proposed sign will be in conformity with all requirements of this Article, applicable statutes and ordinances, he shall issue a permit within thirty (30) calendar days of the date that the application was filed. If the permit is not issued or denied within the thirty (30) day period the applicant may install, construct or erect the sign, subject to, however, the sign's actually being in compliance with all applicable provisions of this Article and provided that the applicant continue the process to obtain, and does obtain a permit.

(g) Revocation of Permit. A permittee shall notify the County Engineer immediately of the completion of the installation,

construction, erection, relocation or alteration of any sign for which a permit was issued. The County Engineer shall thereupon cause an inspection to be made of such work. The County Engineer shall revoke any permit for the failure of the permit holder to comply with any applicable provision of this Article.

(h) Nullification of Permit. If the work authorized under a permit has not been completed within six (6) months after the date of issuance, then the permit shall become void and any sign installed, constructed, erected, relocated, or altered thereafter shall be in violation of this Article.

(i) Work Without a Permit. Except when the sign work may be commenced without a permit, (Sec. 15-4.6) the fee for work commenced without a permit shall be [Twenty-Five] Fifty Dollars [(\$25.00)] (\$50.00) plus the fee specified in subsection (d) of this Section.

Sec. 15-4.9 Enforcement and Administration.

(a) County Engineer. The County Engineer is charged with the enforcement and administration of this Article. Whenever necessary, and upon request of the County Engineer, the officials of the other departments of the County of Kauai shall render assistance, as is consistent with the usual duties of their respective departments.

(b) Nonconforming Signs. Any sign erected prior to May 15, 1987, in compliance with all of the then existing statutes, ordinances and regulations, shall be permitted to be maintained as a nonconforming sign, subject to the following conditions.

(1) Safe Condition. Nonconforming signs shall be maintained in a safe condition and shall not in any manner be dangerous to the public or to property.

(2) Alteration or Relocation. Upon the alteration or relocation of any nonconforming sign or the discontinuance or removal from the premises of the activity to which the sign relates, the sign shall cease to be a nonconforming sign and shall thereafter be permitted to be maintained only upon compliance with all requirements of this Article. The term "alteration" shall not mean repairs and maintenance for the purpose of keeping the sign in a clean and safe condition.

(c) Abatement and Removal of Unlawful Signs. Whenever it appears to the County Engineer that any sign has been constructed, erected, or is being maintained in violation of any of the terms of this Article, or that a permit therefor has been revoked or become void, or that a sign is unsafe or insecure or in a condition so as to be a menace to the safety of the public, he shall issue a notice in writing to the owner of the sign, or] and the owner [or tenant] of the premises upon which the sign is erected or maintained, informing such person of the violation or dangerous condition of the sign and directing him to make the alteration or repair or do the things or acts necessary to make the sign comply with the requirements of this Article. The notice shall specify that compliance or removal of the sign shall be effected within

five (5) working days of receipt of the notice. The notice may be given by personal service, or by depositing a copy thereof in the U.S. mail in a postage prepaid wrapper addressed to the street address of the premises upon which the sign is erected or maintained, or by posting a copy thereof on the premises upon which the sign is erected or maintained. Upon failure to comply with the notice within the time mentioned therein, the County Engineer shall cause the sign, or any part thereof as is constructed or maintained in an unsafe condition or otherwise in violation of this Article, to be removed, altered, or repaired so as to make it a conforming sign and shall charge the expense thereof to the person so notified. Notwithstanding any other provision of this Article, when any sign is in a condition so as to present an imminent danger to the safety of the public or to property, the County Engineer may remove or cause the sign to be removed summarily and without notice.

(d) Enforcement. The County Engineer shall have the police power to do all acts necessary to ensure that the provisions of this Article are not violated, including but not limited to, the issuance of citations for violations of any provision of this Article and the institution of a civil action in any court of competent jurisdiction to bring the violator in compliance with this Article.

Sec. 15-4.10 Violation and Penalty.

(a) Notice of Violation. Whenever there is a violation of this code, the County Engineer shall serve a notice of violation to the owner of the business that is advertised by the noncomplying sign, with a copy to the owner of the property on which the noncomplying sign is located, to make the sign or portion thereof comply with the requirements of the code. Such notice of violation shall include:

- (1) The date of the notice;
- (2) The name and address of the person noticed, and the location of the violation;
- (3) The section number of the ordinance, code or rule which has been violated;
- (4) The nature of the violation; and
- (5) The deadline for compliance with the notice.

The notice of violation may be served in person or by registered or certified mail or in any other manner provided by law.

(b) Administrative Fine.

(1) Any owner of the business that is advertised by the noncomplying sign, who has not complied with the notice of violation, shall be issued a citation and shall pay to the County of Kauai an administrative fine in an amount as follows:

Violation Fine:

\$50.00

(2) All fines shall be due and payable within thirty (30) calendar days from the date of the citation.

(3) A separate offense is committed upon each day during on or which a violation occurs or continues.

(4) Any owner of the business that is advertised by the noncomplying sign, who is issued a citation and is subject to the administrative fine as provided for herein, may appeal to the Building Board of Appeals of the County of Kauai.

(A) The filing of a notice of appeal does not stay the alleged violator's obligation to pay the applicable administrative fines. The payment of the applicable fines shall be paid prior to the acceptance of the notice of appeal.

(B) The notice of appeal shall be filed within thirty (30) calendar days after the issuance of the citation.

(C) In the event the Building Board of Appeals finds that no violation has occurred, the County shall refund the fines paid.

(5) The decision of the Building Board of Appeals may be appealed to the Circuit Court of the Fifth Circuit as provided for in Chapter 91 (Hawaii Administrative Procedure Act) of the Hawaii Revised Statutes, as amended.

(c) Criminal fines. Any person convicted of violating the requirements set forth in the written notice issued pursuant to Section 15-4.9(c) shall be punishable by a fine not exceeding five hundred dollars (\$500.00). A separate offense is committed upon each day during or on which a violation occurs or continues.

Sec. 15-4.11 Appeal.

An applicant may challenge any requirement, decision or determination by the County Engineer regarding this Article by filing a notice of appeal with the Board of Appeals of the County of Kauai within twenty-one (21) calendar days after notification of the challenged action. The notice shall state the provisions of this Article from which the appeal is taken and the reasons for the appeal. The Board of Appeals shall apply the standards established in this Article when it reviews and hears the appeal.

Sec. 15-4.12 Variance.

(a) An applicant may apply for a variance by filing a request with the Board of Appeals of the County of Kauai.

(b) A variance may be granted by the Board of Appeals from the provisions of this Article if the Board finds that each of the following criteria has been met:

(1) Because of special circumstances applicable to the building or property, including size, shape, topography,

location or surroundings, the strict application of this Article deprives the property of privileges enjoyed by other property in the vicinity and within the same Zoning District, and the applicant shows that he cannot make a reasonable use of the property if this Article is applied. The fact that another property in the vicinity has a nonconforming sign shall not, in and of itself, be a sufficient basis for granting a variance. In no case shall a variance be granted that will provide the applicant with any special privileges not enjoyed by other properties in the vicinity.

(2) The strict application of the provision being appealed from would result in practical difficulty or unnecessary hardship, except that financial hardship to the applicant shall not be a permissible basis for the granting of a variance.

(3) Safety to life, limb, and property will not be jeopardized.

(4) The granting of a variance would not be injurious to any adjoining lot and any building thereon, would not create additional fire hazards, and would not be contrary to the purpose of this Article and the public interest.

(5) A variance shall not be granted to allow any sign prohibited by Sec. 15-4.4(1)-(4) of this Article.

(6) A variance shall not be granted to allow any type of sign within a zoned district which is not permitted in such district by this Article.

(7) A variance shall not be granted to allow an existing nonconforming sign unless all of the criteria in Sec. 15-4.12 are met.

In making its determination, the board shall take into account the character, use and type of occupancy and construction of an adjoining lot and any building involved.

(c) When these criteria are met, the variance permitted shall be the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use, and which will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences.

(d) The Board shall indicate in writing, the particular evidences that support the granting of the variance.

(e) Notwithstanding Section 15-4.12(b)(6), the Board may grant a variance for portable signs in Commercial and Industrial Districts if the above findings are made. If the Board grants such a variance for a portable sign, the following minimum requirements shall be imposed:

(1) Only one (1) single or double-faced unlighted portable sign containing only the name of a commercial entity, and void of any advertisement, shall be allowed.

(2) The portable sign shall be set back a minimum of eight (8) feet from the property line of the commercial entity or contiguous business area of which such entity is a part.

(3) The portable sign shall be located not more than five hundred (500) feet from the commercial entity.

[(4) The portable sign face shall be not more than two (2) feet high and four (4) feet wide, and the top of the sign shall not be higher than four (4) feet from the ground.]

(4) The portable sign face shall be not more than four (4) feet high and two (2) feet wide, and the top of the sign shall not be higher than four (4) feet from the ground.

(5) The portable sign shall not be painted with, or made from any reflective or fluorescent material, and shall be in compliance with all applicable safety provisions of this Article.

(6) The frontage of the commercial or industrial entity shall be located more than seventy-five (75) feet from the nearest public roadway.

(7) The portable sign shall not be placed within the street right of way boundary of any public road or highway and shall not block, obstruct or impede, partially or completely, any public sidewalk or pedestrian walkway.

SECTION 3. Ordinance material to be repealed is bracketed. New ordinance material is underscored.

SECTION 4. This Ordinance shall take effect 60 days after the date of approval, but nothing in this Ordinance shall be construed to prohibit any person from complying with the provisions contained herein prior to such time of effectuation.

INTRODUCED BY:


BRYAN BAPTISTE
(By Request)

DATE OF INTRODUCTION:

February 11, 1998
Lihue, Kauai, Hawaii

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 1860, which was passed on second and final reading by the Council of the County of Kauai at its meeting held on March 23, 1998, by the following vote:

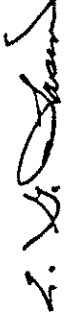
FOR ADOPTION: Asing, Baptiste, Kouchi,
Tokioka, Valenciano, Thronas

AGAINST ADOPTION: None

EXCUSED & NOT VOTING: Tehada

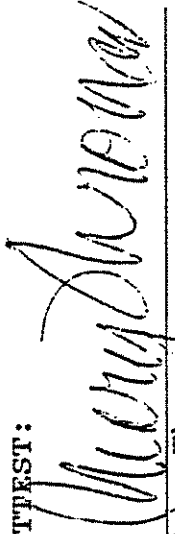
TOTAL - 6,
TOTAL - 0,
TOTAL - 1.

Lihue, Hawaii
March 23, 1998



Ernesto G. Pasion
Deputy County Clerk, County of Kauai

ATTEST:



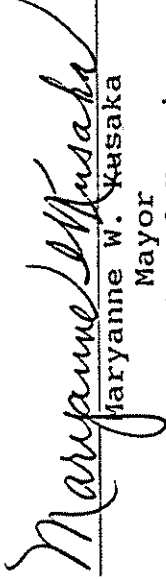
Mary Thronas
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

March 23, 1998

Approved this 27th day of

March _____ 1998.


Maryanne W. Kusaka
Mayor
County of Kauai