



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 25 AND CHAPTER 14, ARTICLE 4, SECTION 14-20, OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO THE REPEAL OF BED AND BREAKFAST AS A PERMITTED USE.**

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

**SECTION 1.** Chapter 25, article 1, section 25-1-5, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by repealing the definition of "Bed and breakfast establishment":

~~"["Bed and breakfast establishment" means any single-family dwellings and/or guest houses (pursuant to section 25-4-9), which have been permitted on a building site, in which overnight accommodations and only breakfast meals are provided to a maximum of ten guests, for compensation, for periods of less than thirty days.]"~~

**SECTION 2.** Chapter 25, article 2, division 6, section 25-2-61, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

- “(a) The following uses shall be permitted within designated County zoning districts only if a use permit is obtained for the use from the commission:
  - ~~[(1) Bed and breakfast establishments in RS, RA, FA, and A districts, provided that the property is within the state land use urban district.~~
  - (2)(1) Crematoriums, funeral homes, funeral services and mortuaries in RS, RD, RM, RCX, RA, FA, A and V districts.
  - ~~[(3)]~~(2) Churches, temples and synagogues, including meeting facilities for churches, temples, synagogues and other such institutions, in RS, RD, RM, RA, FA and A districts; provided that a minimum building site area of ten thousand square feet is required within the RS, RD, RM, and RA districts.
  - ~~[(4)]~~(3) Day care centers in RS, RD, RM, RA, FA and A districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
  - ~~[(5)]~~(4) Golf courses and related golf course uses including golf driving ranges, golf maintenance buildings, and golf club houses in the RS, RD, RM, RCX, RA, FA, A, V, CG, CV, and O districts, provided that the property is within the state land use urban or

- rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
- ~~[(6)]~~(5) Group living facilities that exceed the criteria in subsection 25-1-5(b), paragraph (b) of the definition of “group living facility” in the RS, RD, RM, RCX, RA, FA, A, CN, CG, CV, and V districts.
  - ~~[(7)]~~(6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes in the RS, RD, RM, RCX, RA, FA, A, and V districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, RCX and RA districts.
  - ~~[(8)]~~(7) Major outdoor amusement and recreation facilities in RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.
  - ~~[(9)]~~(8) Medical clinics in RS, RD, RM, RA, FA, and A districts.
  - ~~[(10)]~~(9) Schools in RS, RD, RM, RA, FA, A, V, MCX, ML, and MG districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.
  - ~~[(11)]~~(10) Telecommunication antennas and towers in RS, RD, RM, RCX, RA, FA, A, IA and O districts.
  - ~~[(12)]~~(11) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.
  - ~~[(13)]~~(12) Wind energy facilities in the O district; provided that the property is within the state land use agricultural district.
  - ~~[(14)]~~(13) Other unusual and reasonable uses which are not specifically permitted in any zoning district with the approval of the director and the concurrence of the council by resolution.”

**SECTION 3.** Chapter 25, article 4, division 1, section 25-4-7, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is repealed.

~~“[Section 25-4-7. Bed and breakfast establishments.-~~

- ~~(a) Bed and breakfast establishments shall be permitted in the RD, RM, RCX, V, CN, CG, CV and CDH districts. A bed and breakfast establishment may be permitted in the RS districts and RA, FA, A districts, within the State land use urban district, provided that a use permit is obtained for each such use. A special permit shall also be required for any bed and breakfast establishment located in either the State land use rural or agricultural districts.~~
- ~~(b) A bed and breakfast establishment shall be subject to the following standards:~~
  - ~~(1) The bed and breakfast establishment shall be subordinate and clearly or customarily incidental to the principal use as a residence by its operator and not alter or be detrimental to the character of the surrounding area.~~
  - ~~(2) The operator of the bed and breakfast establishment shall reside on the same building site as that being used for the bed and breakfast establishment.~~
  - ~~(3) The bed and breakfast establishment may be located on a building site, within any single family dwellings, and/or guest houses (pursuant to section 25-4-9).~~
  - ~~(4) The bed and breakfast establishment shall contain no more than five guest bedrooms for rent to guests.~~
  - ~~(5) The maximum number of guests permitted within a bed and breakfast establishment at any one time shall be ten.~~

- ~~(6) Only breakfast meals may be offered to guests. The serving of breakfast meals on the building site, for a fee to individuals other than registered guests shall be prohibited. A bed and breakfast establishment shall not operate as a food service establishment (i.e. a restaurant), unless such use is a permitted use within the zoning district and the required permits have been acquired.~~
- ~~(7) One paved (with materials such as bricks, concrete, asphalt concrete surface or chip-seal, pavers, stones) off-street parking stall shall be provided for each guest bedroom, in addition to the required stall(s) for the dwelling unit, except that in the RS, RA, FA and A districts paved parking stalls shall not be required as long as the material used for the parking stalls will eliminate erosion, mud and standing water within the parking stall area.~~
- ~~(8) Exterior signage which advertises the dwelling as a bed and breakfast establishment shall comply with the requirements for residential signage as set forth in chapter 3 (advertising and signs), Hawai'i County Code.~~
- ~~(e) Any bed and breakfast establishment which has not received the required permits shall be considered illegal under this chapter, unless otherwise noted herein.~~
- ~~(d) Any bed and breakfast establishment existing as of the effective date of this section and conforming to the standards contained in section 25-4-7(b) which has not received the permits required under section 25-4-7(a) may continue such use for twelve months following the effective date of this section. After this date, continued use without having submitted the necessary permit applications shall be considered illegal under this chapter.~~
- ~~(e) The conditions contained in any use permit issued for a bed and breakfast establishment prior to the adoption of this section shall continue to apply to the bed and breakfast establishment, notwithstanding provisions to the contrary contained in this section.]"~~

**SECTION 4.** Chapter 25, article 4, division 5, section 25-4-51, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by amending subsection (a) to read as follows:

- “(a) The number of parking spaces for each use shall be as follows:
- (1) Agricultural tourism: one for each three hundred square feet of gross floor area used principally for the agricultural tourism activity, but not fewer than three spaces, plus bus parking if buses are allowed.
  - (2) ~~[Bed and breakfast establishments: one for each guest bedroom, in addition to one for the dwelling unit.~~
  - ~~(3)]~~ Bowling alleys: four for each alley.
  - ~~[(4)](3)~~ Commercial uses, including retail and office uses in RS, RD, RM, RCX, CN, CG, CV, MCX, V, RA, FA, A and IA districts: one for each three hundred square feet of gross floor area.
  - ~~[(5)](4)~~ Day care centers: one for each ten care recipients of design capacity or one for every two hundred square feet of gross floor area, whichever is greater.
  - ~~[(6)](5)~~ Dwellings, multiple-family: one and one quarter for each unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.

- ~~[(7)]~~(6) Dwellings, single-family and double-family or duplex: two for each dwelling unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.
- ~~[(8)]~~(7) Dwellings, single-family and double-family or duplex that are occupied for any period of less than one hundred eighty days: one space for each rented bedroom in addition to one space for the dwelling unit if rooms in the dwelling unit are rented individually, or two spaces if the dwelling unit is rented as a whole.
- ~~[(9)]~~(8) Funeral homes, funeral services, mortuaries, and crematoriums: one for each seventy-five square feet of gross floor area.
- ~~[(10)]~~(9) Golf courses: four for every hole.
- ~~[(11)]~~(10) Hospitals: one for each bed.
- ~~[(12)]~~(11) Hotels and lodges:
- (A) For hotel guest units without a kitchen, one for every three units;
  - (B) For hotel guest units with a kitchen, one and one quarter for each unit.
- ~~[(13)]~~(12) Industrial uses in ML, MG, MCX, RA, FA, A and IA districts: one for each four hundred square feet of gross floor area.
- ~~[(14)]~~(13) Laundromats, cleaners (coin operated): one for every four machines.
- ~~[(15)]~~(14) Major outdoor amusement and recreation facilities: one for each two hundred square feet of gross floor area within enclosed buildings, plus one for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
- ~~[(16)]~~(15) Meeting facilities, including churches: one for each seventy-five square feet of gross floor area.
- ~~[(17)]~~(16) Nursing homes, convalescent homes, rest homes and homes for the elderly: one for every two beds.
- ~~[(18)]~~(17) Parks: as determined by the director.
- ~~[(19)]~~(18) Recreation facilities, outdoor or indoor, other than herein specified: one for each two hundred square feet of gross floor area, plus three per court (racquetball, tennis or similar activities).
- ~~[(20)]~~(19) Rooming and lodging houses, religious, fraternal or social orders having sleeping accommodations: one for each two beds.
- ~~[(21)]~~(20) Schools (elementary and intermediate): one for each twenty students of design capacity, plus one for each four hundred square feet of office floor space.
- ~~[(22)]~~(21) Schools (high, language, vocational, business, technical and trade, college): one for each ten students of design capacity, plus one for each four hundred square feet of office floor space.
- ~~[(23)]~~(22) Sports arenas, auditoriums, theaters, assembly halls: one for every four seats.
- ~~[(24)]~~(23) Swimming pools (community): one for each forty square feet of pool area.
- ~~[(25)]~~(24) Warehouse and bulk storage establishments where there is no trade or retail traffic: one for each one thousand square feet of gross floor area.”

**SECTION 5.** The following provisions of the Hawai‘i County Code 1983 (2016 Edition, as amended):

- Chapter 25, article 5, division 1, section 25-5-3, subsection (b), (relating to RS, single-family residential districts);
- Chapter 25, article 5, division 2, section 25-5-22, subsection (a), (relating to RD, double-family residential districts);
- Chapter 25, article 5, division 3, section 25-5-32, subsection (a), (relating to RM, multiple-family residential districts);
- Chapter 25, article 5, division 4, section 25-5-42, subsection (a), (relating to RCX, residential-commercial mixed use districts);
- Chapter 25, article 5, division 5, section 25-5-52, subsection (c) and subsection (d), (relating to RA, residential and agricultural districts);
- Chapter 25, article 5, division 6, section 25-5-62, subsection (c) and subsection (d), (relating to FA, family agricultural districts);
- Chapter 25, article 5, division 7, section 25-5-72, subsection (c) and subsection (d), (relating to A, agricultural districts);
- Chapter 25, article 5, division 9, section 25-5-92 subsection (a), (relating to V, resort-hotel districts);
- Chapter 25, article 5, division 10, section 25-5-102, subsection (a), (relating to CN, neighborhood commercial districts);
- Chapter 25, article 5, division 11, section 25-5-112, subsection (a), (relating to CG, general commercial districts);
- Chapter 25, article 5, division 12, section 25-5-122, subsection (a), (relating to CV, village commercial districts); and
- Chapter 25, article 7, division 2, section 25-7-22, subsection (a), (relating to CDH, downtown Hilo commercial district),

are amended by repealing the paragraphs containing the use “Bed and breakfast establishments as permitted under section 25-4-7” or “Bed and breakfast establishments, as permitted under section 25-4-7.”

**SECTION 6.** In printing this ordinance, the list of permitted uses contained in subsections 25-5-3(b), 25-5-22(a), 25-5-32(a), 25-5-42(a), 25-5-52(c) and (d), 25-5-62(c) and (d), 25-5-72(c) and (d), 25-5-92(a), 25-5-102(a), 25-5-112(a), 25-5-122(a), 25-5-162(a), and 25-7-22(a) may be reordered and renumbered as appropriate.

**SECTION 7.** Chapter 14, article 4, section 14-20, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by amending the definition of “Hotel” to read as follows: subsection (a) to read as follows:

““Hotel” means a transient [~~vacation~~] accommodation rental [~~, other than a bed and breakfast home containing lodging or dwelling units~~].”

**SECTION 8.** Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

**SECTION 9.** Severability. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 10.** This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
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COUNCIL MEMBER, COUNTY OF HAWAI'I

  
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COUNCIL MEMBER, COUNTY OF HAWAI'I

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

REFERENCE Comm. 676