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Director of Council Services
David M. Raatz, Jr., Esq.

Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

October 4, 2024

Mr. Edwin Sniffen, Director
State of Hawai'i
Department of Transportation
Ali'i'aimoku Building
869 Punchbowl Street
Honolulu, Hawai'i 96813

Via Email: edwin.h.sniffen@hawaii.gov

Dear Mr. Sniffen:

**SUBJECT: BILL 21 (2023), RELATING TO CONDITIONAL
ZONING FOR EMERGENCY AIRSTRIP OPERATIONS
AT KAPALUA AIRPORT (DRIP-3)**

Thank you for participating in the Maui County Council's Disaster, Resilience, International Affairs, and Planning Committee's meeting of August 7, 2024, on Bill 21 (2023), entitled "A BILL FOR AN ORDINANCE TO AMEND ORDINANCE 2924 (CONDITIONAL ZONING) FOR EMERGENCY AIRSTRIP OPERATIONS AT KAPALUA AIRPORT," and for your response to my correspondence dated June 21, 2024.

Exhibit "B," attached to Ordinance 2924, entitled "AMENDMENT TO UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL USE," amended Condition 4. This amendment became valid only if Section 19-13-8.1, Hawai'i Administrative Rules, was also amended, and both the amendment to the Unilateral Agreement and the administrative rule were effective on the same date. The Council's Land Use Committee report 002-230, Ordinance 2924, and HAR Section 19-1-8.1 are attached for your reference.

Further, HAR Section 19-13-8.1 was amended and compiled on January 14, 2002, and subsection (3) reads: "Aircraft operations shall be from one-half hour after sunrise to 6:30 p.m."

Mr. Edwin Sniffen
October 4, 2024
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The DRIP Committee's recommendation is that Condition 4 in Exhibit "B" be amended to read:

"4. That the airstrip operations [shall be] are limited to one-half hour after sunrise to 6:30 p.m., unless extended for emergency airstrip operations. "Emergency airstrip operations" are defined as any occasion or instance that warrants action to save lives and protect property and public health."

In addition, a new Condition 17 is recommended for inclusion:

"17. That installation and use of runway lights at Kapalua Airport are permitted for emergency airstrip operations only. The State Department of Transportation is not responsible for providing funding for the installation of runway lights."

In light of these recommendations, and if you agree, will your Department be amending HAR Section 19-13-8.1 for consistency with Bill 21 should it pass? If so, what is the anticipated timeline for the HAR amendment?

May I request you transmit your response to drip.committee@mauicounty.us by **October 18, 2024**. To ensure efficient processing, please include the Committee item number in the subject line.

Thank you for your prompt attention to this matter. Should you have any questions, please contact me or the Committee staff (Jarret Pascual at 808-270-7141, or Megan Moniz at 808-270-7145).

Sincerely,



TAMARA PALTIN, Chair
Disaster, Resilience, International
Affairs, and Planning Committee

drip:ltr:003adot04:jpp

Attachments

cc: Curt Otaguro, Deputy Director of Transportation for Airports
Ford Fuchigami, Airports Administrator
Marvin Moniz, Maui District Airports Manager

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 17, 2000

Committee

Report No. 00-230

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on August 14, 2000, makes reference to County Communication No. 00-172, from the Planning Director, transmitting pertinent documents and a draft bill entitled "A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. 1535 (CONDITIONAL ZONING) TO AMEND CONDITION NUMBER 4 FOR PROPERTY LOCATED AT KAHANA AND MAHINAHINA, LAHAINA, MAUI, HAWAII".

The purpose of the draft bill is to amend condition no. 4 of Ordinance No. 1535, pertaining to the hours of operation at the Kapalua Airport located at 4050 Honoapiilani, Mahinahina, Lahaina, Maui, Hawai'i, identified for real property tax purposes as TMK No. 4-3-001:068, 073, 074 and 075.

The applicant, Neil Takekawa, on behalf of Island Air, is requesting the amendment to the conditional zoning to change the hours of operation from daylight hours (one-half hour after sunrise and one-half hour before sunset) to one-half hour after sunrise to 6:30 p.m. Condition no. 4 granted under Ordinance No. 1535 will read as follows:

- "4. That the airstrip operations shall be limited to one-half hour after sunrise to 6:30 p.m."

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the change in zoning request on February 8, 2000 and March 28, 2000. The Commission received 1 letter in opposition to and 13 letters in support of the project. No oral testimony was offered. After reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION FEBRUARY 8, 2000 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION FEBRUARY 8, 2000 MEETING", the Maui Planning Commission voted to recommend approval

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 17, 2000
Page 2

Committee
Report No. 00-230

of the application to amend the conditional zoning granted under Ordinance No. 1535.

Your Committee further notes that the recommendation of the Maui Planning Commission was based upon the following findings.

1. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county.
2. The proposed request is consistent with the applicable community plan land use map of the county.
3. The proposed request meets the intent and purpose of the district being requested.
4. The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements.
5. The application, if granted, would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.
6. The proposed request does not involve the establishment of an agricultural district.
7. The proposed amendment will continue to protect the public from the potentially deleterious effects of the existing use.
8. The need for the public service created by the Airport use shall be fulfilled.

By memorandum dated June 26, 2000, the Council Chair transmitted a letter from the Planning Director dated June 20, 2000, attaching the minutes of the February 8, 2000 and March 28, 2000 Maui Planning Commission meetings.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

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Report No. 00-230

At its meeting, your Committee met with the Planning Director; a Planner from the Department of Planning; a Deputy Corporation Counsel; and Richard Hee, representing the applicant.

There being no testimony, the Planner gave a brief overview of the subject application including a short video of the property.

Mr. Hee informed your Committee that the proposed change would result in Island Air being able to have a flight arrive or depart approximately 50 minutes later than what is currently allowed in the existing ordinance. This would be in keeping with the Federal Air Regulations. Mr. Hee also indicated that the Kapalua Airport is the only airport in the State that currently regulates its flights according to sunrise and sunset.

Your Committee inquired as to why commuter passengers are required to check in one hour prior to their scheduled flights. Mr. Hee informed your Committee that this is due to passenger profiling that is conducted and the requirement for identification confirmation.

Your Committee also discussed the roles of airlines as a means of public transportation. Mr. Hee indicated Island Air looks at both convenience to the public and profitability when deciding its flight schedules.

Your Committee discussed a legal issue including liability and home rule. Your Committee noted that a Hawaii Administrative Rule (HAR) also governs the operating hours of Kapalua Airport. Your Committee discussed whether the County should change its regulations first or wait for the State to change the HARs. The Deputy Corporation Counsel indicated as an exercise in home rule, the County could change its ordinance subject to a change in the HARs by adding language to the draft bill. Any unilateral agreement executed by the State as the landowner would contain language conditioning its validity on a change in the HARs.

Your Committee agreed to recommend approval of the subject application with a revision to the draft bill that would add language indicating that the ordinance would take effect once an amendment to the HARs is approved.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

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Committee
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Your Committee is in receipt of a unilateral agreement executed by the applicant, entitled "AMENDMENT TO UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL USE". The purpose of the unilateral agreement is to amend the property's original unilateral agreement in order to execute the conditions of the Maui Planning Commission, and your Committee.

Your Committee is in receipt of a revised proposed bill approved as to form and legality by the Department of the Corporation Counsel, which incorporates the applicant's unilateral agreement as Exhibit "B".

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. 106 (2000), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. 1535 (CONDITIONAL ZONING) TO AMEND CONDITION NUMBER 4 FOR PROPERTY LOCATED AT KAHANA AND MAHINAHINA, LAHAINA, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT;
2. That the County Clerk RECORD the amendment to unilateral agreement; and
3. That County Communication No. 00-172 be FILED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 17, 2000
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Committee
Report No. 00-230

J. KALANI ENGLISH Chair

Charmaine Tavares
CHARMAINE TAVARES Vice-Chair

Michael A. Davis
MICHAEL A. DAVIS Member

John Wayne Enriquez
JOHN WAYNE ENRIQUES Member

G. Riki Hokama W/R
G. RIKI HOKAMA Member

Dain P. Kane Member

Patrick S. Kawano Member

Dennis Y. Nakamura
DENNIS Y. NAKAMURA Member

Wayne K. Nishiki Member

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that COMMITTEE REPORT NO. 00-230 was adopted by the Council of the County of Maui, State of Hawaii, on the 17th day of November, 2000, by the following vote:

MEMBERS	Patrick S. KAWANO Chair	Dain P. KANE Vice-Chair	Robert CARROLL	Michael A. DAVIS	John Wayne ENRIQUES	G. Riki HOKAMA	Dennis Y. NAKAMURA	Wayne K. NISHIKI	Charmaine TAVARES
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye


DEPUTY COUNTY CLERK

ORDINANCE NO. 2924

BILL NO. 106 (2000)

A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. 1535
(CONDITIONAL ZONING) TO AMEND CONDITION NUMBER 4 FOR
PROPERTY LOCATED AT KAHANA AND MAHINAHINA, LAHAINA, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.510, Maui County Code, Ordinance No. 1535 (Conditional Zoning) is hereby amended for that certain parcel of land located at Kahana and Mahinahina, Lahaina, Maui, Hawaii, identified for real property tax purposes by Tax Map Key Nos. 4-3-001:068, 073, 074, and 075 (formerly 4-3-001:por. of 031), comprised of approximately 50 acres, and more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof.

SECTION 2. Condition 4 of the conditional zoning ordinance as set forth in Section 2 of Ordinance No. 1535 is hereby amended to read as follows:

"4. That the airstrip operations shall be limited to [daylight hours] one-half [(1/2)] hour after sunrise [and 1/2 hour before sunset)] to 6:30 p.m."

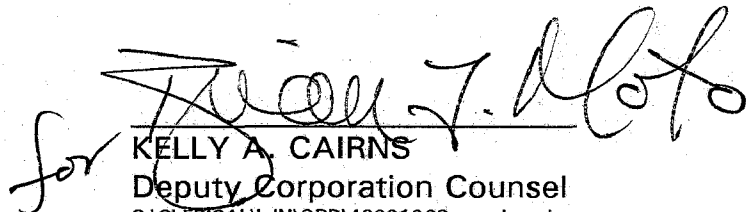
SECTION 3. New material is underscored. Material to be repealed is bracketed.

SECTION 4. All other conditions set forth in Section 2 of Ordinance No. 1535 shall remain in full force and effect.

SECTION 5. Pursuant to Section 19.510, Maui County Code, the amendment to condition number 4 established by this ordinance is subject to the Amendment to the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto as Exhibit "B" and by this reference made a part hereof.

SECTION 6. This ordinance shall take effect on the effective date of an amendment to Section 19-13-8.1, Hawaii Administrative Rules, limiting Kapalua Airport operations to one-half hour after sunrise to 6:30 p.m..

APPROVED AS TO FORM
AND LEGALITY:


KELLY A. CAIRNS

Deputy Corporation Counsel

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ORDINANCE NO. 1535

BILL NO. 18 (1986)

A BILL FOR AN ORDINANCE CHANGING ZONING FROM
AGRICULTURAL TO CONDITIONAL ZONING (AIRPORT DISTRICT) FOR
PROPERTY LOCATED IN KAHANA AND MAHINAHINA, LAHAINA, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. That portion of property situated at Kahana and Mahinahina, Lahaina, Maui, Hawaii, as herein described, is designated Airport District.

All of that certain parcel of land (being a portion of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop) situated at Kahana and Mahinahina 1-2-3, Lahaina, Island and County of Maui, State of Hawaii, and being more particularly described as follows:

Beginning at a point, at the Southwest corner of this lot, the coordinates of which referred to Government Survey Triangulation Station "MANINI" being 10,644.90 feet North and 9,297.51 feet West and running by azimuths measured clockwise from True South:

1. 208° 00' 1,170.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
2. 118° 00' 585.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
3. 208° 00' 850.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
4. 298° 00' 585.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;

5. 208° 00' 2,180.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
6. 298° 00' 400.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
7. 28° 00' 4,200.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop;
8. 118° 00' 400.00 feet along the remainder of Grant 1166 to D. Baldwin, J. F. Pogue and S. E. Bishop to the point of beginning and containing an area of 49.983 acres; as per survey of Robert T. Tanaka, Registered Professional Engineer & Land Surveyor No. 1754, dated April 29, 1985.

And further identified as Tax Map Key 4-3-1: portion of parcel 31 containing 50 acres, more or less, and as shown more particularly on the map entitled "Land Zoning Map No. 961" on file in the office of the Department of Planning of the County of Maui.

SECTION 2. The zoning established by this ordinance is subject to the following conditions imposed in accordance with Chapter 19.42, Maui County Code:

1. That said approval shall be based on revised plans, as amended December 1985, and identified as Amended Exhibits 1 through 5, and upon all other documentation submitted with the subject application (including, but not limited to the "Petition for District Boundary Amendment for Hawaiian Airlines, Inc."). No material and/or substantive changes shall be made without the approval of the Maui County Council.
2. That the runway, runway apron and other facilities shall not be expanded, nor shall any portion of the runway safety area be paved or utilized for displaced landing or takeoff thresholds.
3. That the concession area shall be limited to the 5040 square feet designated in the revised plans and shall not contain

more than one cocktail lounge, one snack bar, one restaurant and one newsstand.

4. That the airstrip operations shall be limited to daylight hours (1/2 hour after sunrise and 1/2 hour before sunset).
5. That there shall not be more than three car rental booths.
6. That onsite parking or storage of rental cars shall not be allowed.
7. That the Mayor of the County of Maui or his designated representative shall be designated a member of any Users' Committee which may be established to oversee flight scheduling, operations, and management of the facility.
8. That the applicant shall submit and enforce a comprehensive sign program subject to review and approval by the Planning Department. In addition, the applicant shall provide street and highway directional signs as may be required by the State or County.
9. That a final landscape planting plan shall be submitted to the Planning Department for review and approval.
10. That the applicant shall comply with all requirements of the State Department of Transportation, Highways Division.
11. That construction of the project shall be initiated within one year of the final approval of said Change in Zoning.
12. That appropriate measures shall be taken during construction to mitigate the short term impacts of the project relative to soil erosion from wind and rain, and increased ambient noise levels.
13. That the applicant, its successors and assigns, shall protect, defend, indemnify and hold harmless the County of Maui from and against any loss, liability, claim, or demand arising out of this ordinance.
14. That full compliance with all federal, state and county requirements shall be rendered.
15. That all aircraft operated at the airstrip, including without limitation applicant's aircraft, and aircraft of licensees of applicant, shall have a current "Aircraft Type" or "Airworthiness" certificate or its equivalent issued by the Federal Aviation Administration ("FAA") certifying that such aircraft generates noise levels no greater than the following:

(1) For propeller-driven aircraft of 12,500 pounds or less maximum FAA certificated takeoff weight only: The maximum allowable noise levels for "propeller-driven small airplanes" under Appendix F to Part 36, "Noise Standards: Aircraft Type Airworthiness Certifications," Title 14, Code of Federal Regulations (January 1, 1978), as the same may be amended from time to time, with noise levels measured and corrected as provided in such appendix, but in no event in excess of a noise level of 80dB(A) measured pursuant to said Appendix F; and

(2) For all other aircraft: The "Effective Perceived Noise Levels," as that term is defined in said Part 36, under conditions of "Takeoff," "sideline," and "approach," as those terms are defined in said Part 36, in units of "EPNdB," as that term is defined in said Part 36, measured as provided in said Part 36, as follows:


- (a) for takeoff: 80.5 EPNdB;
- (b) for sideline: 84 EPNdB; and
- (c) for approach: 91.6 EPNdB.

16. That if, and only to the extent such changes to the intersection of Lower Honoapiilani Road and Akahahele Street are required to be made as a result of applicant's airstrip operations, applicant will participate with the County of Maui in (a) the signalization of the intersection and (b) the design and planning of any required street widening of Akahahele Street within 100 feet of the intersection.

SECTION 3. Should any section, clause, or phrase of this ordinance be for any reason held invalid by a court of competent jurisdiction, such decision(s) shall not affect the validity of the remaining portion of this chapter.

SECTION 4. This ordinance shall take effect upon approval.

APPROVED AS TO FORM
AND LEGALITY:


H. RODGER BETTS
Corporation Counsel
County of Maui

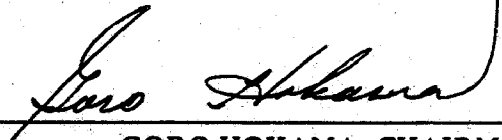
WE HEREBY CERTIFY that the foregoing BILL NO. 18 (1986)

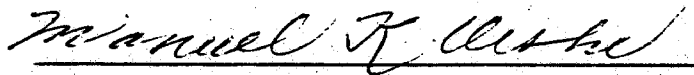
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 21st day of March, 1986, by the following votes:

COUNCIL MEMBERS								
Abraham AIONA	Goro HOKAMA Chairman	Howard S. KIHUNE Vice-Chairman	Linda LINGLE	E. Lee LIU	Robert H. NAKASONE	Wayne K. NISHIKI	Charles S. OTA	Velma M. SANTOS
Aye	Aye	No	No	Aye	Aye	No	No	Aye

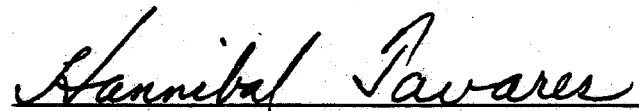
2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 21st day of March, 1986.

DATED AT WAILUKU, MAUI, HAWAII, this 21st day of March, 1986.

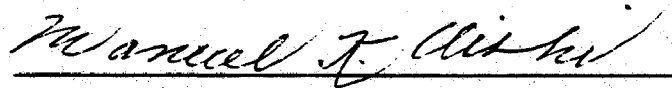

GORO HOKAMA, CHAIRMAN,
Council of the County of Maui


MANUEL K. OISHI, COUNTY CLERK,
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 24th DAY OF March, 1986.


HANNIBAL TAVARES, MAYOR,
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 1535 of the County of Maui, State of Hawaii.


MANUEL K. OISHI, COUNTY CLERK,
County of Maui

Passed First Reading on February 21, 1986.
Effective Date of Ordinance March 24, 1986.

RECEIVED

MAR 24 1986

COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 1535, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE **DEC 01 2000** TIME **168906**
DOCUMENT NO. **2000**

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation Return by Mail (x) Pickup ()
To:

Office of the County Clerk
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

TOTAL NUMBER OF PAGES: 5

Affects Tax Map Key (Maui) 4-3-1:68, 73, 74, and 75

AMENDMENT TO UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL USE

THIS AGREEMENT, made on October 18, 2000, by
STATE OF HAWAII, through its DIRECTOR OF TRANSPORTATION, whose
place of business is at 869 Punchbowl Street, Honolulu, Hawaii
96813, hereinafter referred to as "DECLARANT", and who is the
owner of that certain parcel located at Mahinahina, Maui, Hawaii,
and identified for real property tax purposes by Tax Map Key Nos.
4-3-1:68, 73, 74, and 75; and formerly known as Tax Map Key No.
4-1-1:31 (unsubdivided).

W I T N E S S E T H

WHEREAS, in and under that certain recorded Unilateral
Agreement and Declaration for Conditional Use, dated December 16,
1985, and recorded in the Bureau of Conveyances of the State of
Hawaii in Liber 19309, Page 785; between MAUI LAND & PINEAPPLE
COMPANY, INC. a Hawaii corporation and HAWAIIAN AIRLINES, a
Hawaii corporation, requested from the Council of the County of
Maui, State of Hawaii, a change in zoning of the Property from
Agricultural District to the Airport District; and

WHEREAS, ISLAND AIR is a tenant of DECLARANT and ISLAND AIR
requested from the Council of the County of Maui, State of

EXHIBIT "B"

Hawaii, hereinafter referred to as "Council", an amendment to Zoning Ordinance No. 1535, Bill No. 18 (Section 2, Point 4) to read "That the operational hours be ½ hour after sunrise to 6:30 p.m."; and

WHEREAS, DECLARANT desires to amend Exhibit B" therein in its entirety, and replace said Exhibit "B" with Exhibit "1" attached hereto and made a part hereof.


NOW, THEREFORE, the DECLARANT hereby amends the said Unilateral Agreement and Declaration for Conditional Use dated December 16, 1985, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19309, Page 785, by deleting in its entirety Exhibit "B" therein and replacing said Exhibit "B" with the Exhibit "1" attached hereto and made a part hereof. This amendment, however, shall be valid only if §19-13-8.1, Hawaii Administrative Rules, is amended to read as such, and the amendment to the Unilateral Agreement shall be effective as of the date the amendment to the administrative rule is effective.

All of the remaining terms and conditions of said Unilateral Agreement and Declaration for Conditional Use, dated December 16, 1985, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19309, Page 785, which pertain to the subject premises shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Declaration the day and year first above written.

Declarant:

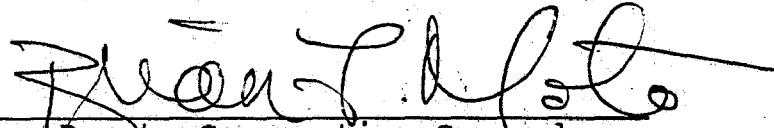
STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION

By 
Its Director of Transportation

APPROVED AS TO FORM:


Deputy Attorney General

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

)

SS.

CITY & COUNTY OF HONOLULU

)

On this 18th day of October, 2000, before me personally appeared Glenn M. Okimoto, to me personally known, who, being by me duly sworn, did say that he is the Acting Director of the DEPARTMENT OF TRANSPORTATION, and that said instrument was signed in behalf of said agency, and the said Office acknowledged said instrument to be the free act and deed of said agency.



Sonnet K Francisco Sonnet K Fran
Notary Public, State of Hawaii
My Commission expires: 05-19-2003

EXHIBIT "1"

1. That said approval shall be based on revised plans, as amended December 1985, and identified as Amended Exhibits 1 through 5, and upon all other documentation submitted with the subject application (including, but not limited to the "Petition for District Boundary Amendment for Hawaiian Airlines, Inc."). No material and/or substantive changes shall be made without the approval of the Maui County Council.
2. That the runway, runway apron and other facilities shall not be expanded, nor shall any portion of the runway safety area be paved or utilized for displaced landing or takeoff thresholds.
3. That the concession area shall be limited to the 5040 square feet designated in the revised plans and shall not contain more than one cocktail lounge, one snack bar, one restaurant and one newsstand.
4. That the airstrip operations shall be limited to one half hour after sunrise to 6:30 p.m.
5. That there shall not be more than three car rental booths.
6. That onsite parking or storage of rental cars shall not be allowed.
7. That the Mayor of the County of Maui or his designated representative shall be designated a member of any User's Committee which may be established to oversee flight scheduling, operations, and management of the facility.
8. That the applicant shall submit and enforce a comprehensive sign program subject to review and approval by the Planning Department. In addition, the applicant shall provide street and highway directional signs as may be required by the State or County.
9. That a final landscape planting plan shall be submitted to the Planning Department for review and approval.
10. That the applicant shall comply with all requirements of the State Department of Transportation, Highways Division.
11. That construction of the project shall be initiated within one year of the final approval of said Change in Zoning.
12. That appropriate measures shall be taken during construction to mitigate the short term impacts of the project relative to soil erosion from wind and rain, and increased ambient noise levels

13. That the applicant, its successors and assigns, shall protect, defend, indemnify and hold harmless the County of Maui from and against any loss, liability, claim, or demand arising out of this ordinance.
14. That full compliance with all federal, state, and county requirements shall be rendered.
15. That all aircraft operated at the airstrip, including without limitation applicant's aircraft, and aircraft of licensees of applicant, shall have a current "Aircraft Type" or "Airworthiness" certificate or its equivalent issued by the Federal Aviation Administration ("FAA") certifying that such aircraft generates noise levels no greater than the following:

(1) For propeller-driven aircraft of 12,500 pounds or less maximum FAA certificated takeoff weight only: The maximum allowable noise levels for "propeller-driven small airplanes" under Appendix F to Part 36, "Noise Standards: Aircraft Type Airworthiness Certifications," Title 14, Code of Federal Regulations (January 1, 1978), as the same may be amended from time to time, with noise levels measured and corrected as provided in such appendix, but in no event in excess of a noise level of 80dB(A) measured pursuant to said Appendix F; and

(2) For all other aircraft: The "Effective Perceived Noise Levels," as that term is defined in said part 36, under conditions of "Takeoff," "sideline," and "approach," as those terms are defined in said Part 36, in units of "EPNdB," as that term is defined in said Part 36, measured as provided in said Part 36, as follows:

- (a) for takeoff: 80.5 EPNdB;
 - (b) for sideline: 84 EPNdB; and
 - (c) for approach: 91.6 EPNdB.
16. That if, and only to the extent such changes to the intersection of Lower Honoapiilani Road and Akahele Street are required to be made as a result of applicant's airstrip operations, applicant will participate with the County of Maui in (a) the signalization of the intersection and (b) the design and planning of any required street widening of Akahele Street within 100 feet of the intersection.

WE HEREBY CERTIFY that the foregoing BILL NO. 106 (2000)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 12th day of January, 2001, by the following votes:

Patrick S. KAWANO Chair	Dain P. KANE Vice-Chair	Alan M. ARAKAWA	Robert CARROLL	G. Riki HOKAMA	Jo Anne JOHNSON	Michael J. MOLINA	Wayne K. NISHIKI	Charmaine TAVARES
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye


2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 12th day of January, 2001.

DATED AT WAILUKU, MAUI, HAWAII, this 12th day of January, 2001.


PATRICK S. KAWANO, CHAIR
Council of the County of Maui


DIANE A. WAKAMATSU, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 17 DAY OF JANUARY, 2001.


JAMES H. APANA JR., MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 2924 of the County of Maui, State of Hawaii.


DIANE A. WAKAMATSU, COUNTY CLERK
County of Maui

Passed First Reading on November 17, 2000.

Effective date of Ordinance is pursuant to the effective date of an amendment to Hawaii Administrative Rules, Section 19-13-8.1.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2924, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
2001 JAN 12 PM 2:12
OFFICE OF THE MAYOR

RECEIVED
2001 JAN 17 PM 2:25
OFFICE OF THE
COUNTY CLERK

DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-13
Hawaii Administrative Rules
January 14, 2002

SUMMARY

1. §19-13-8.1 is amended.
2. Chapter 19-13 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 13

AIRCRAFT OPERATIONS AT PUBLIC AIRPORTS

§19-13-1	Purpose
§19-13-2	Definitions
§19-13-3	Uses and activities; prohibitions; restrictions; limitations; requirements
§19-13-3.1	Lifts used to board airline passengers with mobility impairments ("lifts")
§19-13-4	Starting, taxiing, and towing of aircraft
§19-13-5	Repealed
§19-13-5.1	Repealed
§19-13-6	Aircraft parking
§19-13-7	Helicopters
§19-13-8	Motorless aircraft
§19-13-8.1	Kapalua Airport
§19-13-9	Enforcement
§19-13-10	Penalty
§19-13-11	Severability
§19-13-12	Repeal

Historical note. This chapter is based substantially on part III of the rules and regulations pertaining to airports. [Eff 8/1/73; R 8/10/81]

§19-13-1 Purpose. The purpose of this chapter is to insure, to the general public and air carriers, safe and orderly aircraft operations at public airports in the State of Hawaii. [Eff 8/10/84; comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-2 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Air carrier" means any person engaged for hire in the business of carrying passengers or cargo, or mail, by air.

"Aircraft" means any and all airplanes, airships, dirigibles, helicopters, gliders, amphibians and seaplanes and any other contrivances now or hereafter used for the navigation of or flight in air space.

"Aircraft parking and storage areas" mean any portion of a public airport, designated temporarily or permanently by the director, that may be used for the parking and storing of aircraft, for the servicing of aircraft with fuel, lubricants and other supplies and for the making of minor or emergency repairs to aircraft.

"Cargo ramp and apron areas" means any portion of a public airport, designated temporarily or permanently by the director, that may be used for the loading and unloading of cargo, mail and supplies on or off aircraft; for the servicing of aircraft with fuel and lubricants; for the performing of the operations commonly known as "ramp service" for the performing of inspection, minor maintenance and other services upon or in connection with aircraft incidental to performing "ramp service," and for the parking of mobile equipment when actively used in connection with such operations.

"Controlled airport" means any public airport at which there is a control tower which directs traffic movements within the operational area and in the air.

"Department" means the department of transportation of the State.

"Director" means the director of the department of transportation or his duly authorized representative.

"Enforcement officer" means the director of transportation, officers and employees of the department of transportation, and every state and county officer charged with the enforcement of state laws and ordinances.

"Jet-powered aircraft" means an aircraft powered by a jet engine. Turboprop-powered aircraft are not considered jet-powered aircraft for purposes of this chapter.

"NOTAM" means the notices to airmen disseminated by the Federal Aviation Administration.

"Operational area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or

demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

"Operator" means the owner, pilot or driver of an aircraft, motor vehicle or motorless vehicle or any person who has rented or otherwise has the use of such aircraft motor vehicle or motorless vehicle for the purpose of operation by himself or his agents.

"Passenger ramp and apron areas" means any portion of a public airport, designated temporarily or permanently by the director, that may be used for the loading and unloading of passengers, baggage, cargo, mail and supplies on or off aircraft; for the servicing of aircraft with fuel and lubricants; for the performing of the operations commonly known as "ramp service"; for the performing of inspection, minor maintenance and other services upon or in connection with aircraft incidental to performing "ramp service"; and for the parking of mobile equipment when actively used in connection with such operations.

"Permission," "permit," "authorization" or "authorize" means written consent granted by the director, except verbal consent that may be granted under special circumstances where the obtaining of a written consent would not be practicable.

"Person" means any individual, firm, partnership, co-partnership, corporation, trust, association, company, joint venture, or any other legal entity (including any assignee, receiver, trustee or similar representative thereof), or the United States of America or any state or political subdivision thereof, or any foreign government, or the United Nations.

"Public airport" means any area of land or water under public or governmental ownership or jurisdiction which is used, or intended for use, for the landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon; provided, that federally owned facilities shall be included in this definition only to the extent of their

use by non-military persons who hold a contract, lease, license, or other right granted by the department.

[Eff 8/10/81; am 9/18/87; am and comp 6/19/00;
comp FEB 15 2002] (Auth: HRS §262-12) (Imp: HRS §261-12)

§19-13-3 Uses and activities; prohibitions; restrictions; limitations; requirements. (a) Aircraft operations. No person shall land, taxi or fly aircraft, or conduct any aircraft operations upon or from a public airport other than in conformity with Federal Aviation Regulations and this chapter. No experimental flight shall be conducted on, above, or in the vicinity of a public airport without the permission of the director.

(b) Clearing runways. The operator of an aircraft landing at a public airport shall clear the active runway as expeditiously as possible.

(c) Aircraft maintenance. Washing, cleaning and maintenance of aircraft shall be conducted only in areas designated for these purposes by the director.

(d) Uses of designated areas. The use of any area of a public airport for any purpose other than the use designated by the director is prohibited.

(e) Abandoned or unattended aircraft. Any aircraft abandoned or left unattended in any area at a public airport or which is parked in an unauthorized manner or area, may be removed and stored by the director at the owner's risk and expense, without liability on the part of the director for damages resulting from such moving and storing. Thirty days following such removal and storage, the director shall have the right to dispose of the aircraft in accordance with Act 25, Session Laws of Hawaii, 1981.

(f) Removal of aircraft. Upon notification by the director, the operator of any aircraft parked or stored at a public airport shall move said aircraft from the place where it is parked or stored. If the operator refuses to comply with such order, the director may have the aircraft moved or cause to be moved at the owner's risk and expense and without liability for any damage which may result from such moving.

(g) Aircraft accidents. No person shall disturb or remove aircraft wreckage or records unless permission is granted by the director after the director consults with

the proper Federal authority except where necessary to give aid and assistance to persons injured or trapped in aircraft wreckage, or to protect such wreckage or records from further damage, or to protect the public from injury or death.

- (1) Disabled aircraft. Aircraft operators shall be responsible for the prompt removal of disabled aircraft and parts except as noted above. In the event of failure to comply, the director may remove the disabled aircraft, at the owner's risk and expense, at any location without liability for any damage which may result because of such removal or storage.
- (2) Accident reports. (A) The operator of any aircraft involved in an accident on or within a public airport and all persons involved in such accident shall provide their names and addresses and written report of the accident to the director as soon after the accident as possible. (B) In the event a written report of the accident is required by Federal regulations, a copy of that report may be provided to comply with this paragraph.

(h) Director's power to restrict aircraft operations. The director may close all or any portion of a public airport, prohibit or delay landings, takeoffs or any other operations or movement of aircraft at any time he deems such action is necessary in the interest of safety to persons or property. Notice and details of such action will be publicized through the control tower or through the issuance of appropriate NOTAMS. The director may deny the use of a public airport to any aircraft, operator, or pilot, violating or in violation of departmental or Federal rules and regulations.

(i) No smoking. No persons shall smoke or carry a lighted cigarette, cigar, pipe, match, or any naked flame in or upon the operational area.

(j) Non-payment of airport charges, fees, or rentals. The director may deny departure clearance to any aircraft owner or operator who has not made payment on charges incurred or owed to the State. [Eff 8/10/81; comp 6/19/00; comp **FEB 15 2002**] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-3.1 Lifts used to board airline passengers with mobility impairments ("lifts"). (a) The following lift requirements established in conformance with the Federal Aviation Act, 49 USC, Appx §1374(c), is adopted and is applicable to all public airports in the State.

- (1) All air carriers certificated under Part 121, FAR, whose aircraft are not compatible with, or whose aircraft are not utilizing ramps, loading bridges, mobile lounges or other suitable devices for the enplaning and deplaning of airline passengers with mobility impairments shall have available a lift to board passengers with mobility impairments.
- (2) Air carriers utilizing the services of the lift shall insure that personnel operating the lift shall have completed the training specified by the lift manufacturer for the safe, proper and efficient use of the lift.

(b) Air carriers operating or utilizing lifts, shall indemnify and hold harmless the department and the State from any action or claim for compensation arising out of the use of any lift at public airports.

[Eff 8/28/95; comp 6/19/00; comp FEB 15 2000]

(Auth: HRS §261-12) (Imp: HRS §261-7)

§19-13-4 Starting, taxiing, and towing of aircraft. (a) Aircraft may be operated only by qualified persons and only at the places or areas designated for such purposes by the director.

(b) No person shall taxi or tow an aircraft on a public airport in a careless or reckless manner.

(c) No person shall start or run an engine in an aircraft on a public airport unless there is a competent and qualified person in the aircraft at the engine controls, and unless blocks have been placed in front of the wheels or the aircraft has properly operating parking brakes.

(d) No person shall operate an aircraft parked on a public airport in any manner which may cause damage to any other property or aircraft, or in any manner endanger the safety of any person on a public airport.

(e) Each person operating an aircraft on a part of a public airport that is not under the direction of air traffic control shall be subject to, and comply with the

orders, signals, and directions of the authorized representative of the director.

(f) No aircraft shall be taxied into or out of a hangar under its own power. [Eff 8/10/81; comp 6/19/00; comp FEB 10 2002 (Auth: HRS §261-12) (Imp: HRS §261-12)]

§19-13-5 Repealed. [R 2/26/93]

§19-13-5.1 Repealed. [R 2/26/93]

§19-13-6 Aircraft parking. (a) Designated parking areas. Aircraft shall be parked only in the areas designated for such purposes by the director. When parked in such areas, each aircraft shall be firmly secured to the ground by acceptable tiedowns, or otherwise properly secured or attended. The main landing wheels of every parked aircraft shall be chocked with wheel blocks or other approved devices. Aircraft stored on a public airport shall be subject to storage charges as may be prescribed by the director.

(b) Gate positions.

- (1) No person shall use an aircraft gate position on a public airport without authorization.
- (2) Except in an emergency, the loading and unloading of passengers to or from an air carrier's aircraft at a public airport shall be at the gate positions or in an area designated for that purpose by the director.

(c) Ramp and apron areas. Aircraft not engaged in the loading or unloading of passengers, cargo, baggage, or mail shall not remain on the passenger ramp, apron area or cargo ramp for more than fifteen (15) minutes. The operator of any aircraft parked beyond its allotted time shall be subject to charges as may be established by the director.

Apron parking positions adjacent to the various terminal buildings shall be restricted to passenger carrying aircraft and passenger loading and unloading activities only. Aircraft used for the transportation of cargo shall be parked and operated at apron areas designated by the director for such activity.

(d) Parking lights. Aircraft parked on a passenger ramp and apron area, or cargo ramp and apron area shall have running lights or acceptable hazard lights turned on during the hours between sunset and sunrise, and at such other times as may be required by the director or the air traffic control tower. [Eff 8/10/81; comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-7 Helicopters. (a) Operators. Only helicopter pilots certificated by the Federal Aviation Administration or those issued military licenses shall be authorized to conduct helicopter taxiing operations at a public airport.

(b) Taxiing. The operators of helicopters shall not taxi, tow or otherwise move unless there is a clear area of at least ten (10) feet from the outer tip of each rotor.

(c) Flight. There shall be no helicopter takeoffs from or landings into congested areas of the apron or ramp. All such operations shall be conducted from open taxiways and runways.

(d) Parking. When parked, helicopters shall have braking devices or rotor mooring blocks applied to the rotor blades.

(e) Kapalua Airport. As specified in section 19-13-8.1, no helicopter operations shall be permitted at Kapalua Airport. [Eff 8/10/81; am 2/21/92; am and comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-8 Motorless aircraft. Except in an emergency, motorless aircraft such as gliders and sailplanes may not land or takeoff at a public airport without first obtaining permission from the director. [Eff 8/10/81; comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-8.1 Kapalua Airport. In addition to the other applicable provisions of this chapter, the following provisions shall apply to aircraft operations at Kapalua Airport:

- (1) No person shall land, taxi or fly aircraft, or conduct any aircraft operations upon or from this airport unless he or she has received prior written permission for the operation from the director.
- (2) Landings by operators of aircraft will be restricted to those operators having a valid certificate issued by the Federal Aviation Administration under authorization of the Federal Aviation Regulations parts 121 or 135.
- (3) Aircraft operations shall be from one-half hour after sunrise to 6:30 p.m.
- (4) Daily flights to this airport shall not exceed a maximum of thirty-five aircraft with seating capacities of twenty-five passengers or less and thirty-five aircraft with seating capacities of between twenty-six and fifty passengers.
- (5) Aircraft noise. All aircraft operating at this airport shall have a current Aircraft Type or Airworthiness Certificate or its equivalent issued by the FAA certifying that such aircraft generates noise levels that do not exceed the following:
 - (A) For propeller-driven aircraft of 12,500 pounds or less maximum FAA-certificated takeoff weight only: The maximum allowable noise levels for "propeller-driven airplanes" under Appendix F of Title 14, Code of Federal Regulations ("CFR"), Part 36, "Noise Standards: Aircraft Type Airworthiness Certifications," dated January 1, 1978, as amended, with noise levels measured and corrected as provided in Appendix F, but in no event in excess of a noise level of 80dB(A) measured pursuant to Appendix F; and
 - (B) For all other aircraft: As specified in Title 14, CFR, Part 36, the "Effective Perceived Noise Levels," under conditions of "takeoff", "sideline" and "approach", in units of "EPNdB", measured as follows:
 - (i) for takeoff: 80.5 EPNdB;
 - (ii) for sideline: 84 EPNdB; and
 - (iii) for approach: 91.6 EPNdB.

- (6) The following activities shall be prohibited at Kapalua Airport:
 - (A) Helicopter or jet-powered aircraft operations;
 - (B) Practice or training flights; and
 - (C) Parking or storage of rental cars.
- (7) Parking of aircraft shall:
 - (A) Be limited to the loading and unloading of passengers and cargo; and
 - (B) Not exceed forty-five minutes.

[Eff and comp 6/19/00; am and comp FEB 15 2002] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-13-9 Enforcement. This chapter may be enforced by an enforcement officer or by any person deputized pursuant to §261-17, Hawaii Revised Statutes.

When, in the opinion of the person enforcing this chapter, arrest (rather than citation) is clearly indicated to be in the public interest or necessary for public safety, the person shall seek, by the most expeditious means available, the assistance of the appropriate county police department and, if possible, deliver the alleged violator into its custody.
[Eff 8/10/81; comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-17)

§19-13-10 Penalty. Penalties for violation of this chapter shall be as set forth in §261-12, Hawaii Revised Statutes. [Eff 8/10/81; comp 6/19/00; comp FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-21)

§19-13-11 Severability. The provisions of this chapter are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of this chapter shall not be affected.
[Eff 8/10/81; comp 6/19/00; FEB 15 2002] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-13-12 Repeal. The rules pertaining to airports effective August 1, 1973, and all other rules in effect prior to the effective date of this chapter relating to aircraft operations at public airports are repealed. [Eff 8/10/81; comp 6/19/00; comp FEB 15 2001]
(Auth: HRS §261-12) (Imp: HRS §261-12)

DEPARTMENT OF TRANSPORTATION

Amendments to and compilation of Chapter 19-13, Hawaii Administrative Rules, on the Summary Page dated January 14, 2002, were adopted on January 14, 2002, following public hearings held on November 13 and 14, 2001, after public notice was given in the Honolulu Star-Bulletin, MidWeek, Maui News, Hawaii Tribune-Herald, West Hawaii Today and Garden Island on October 1, 2001.

These amendments to and compilation of Chapter 19-13, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



BRIAN K. MINNAI
Director of Transportation

APPROVED:



BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 2-04-02

APPROVED AS TO FORM:


Deputy Attorney General

FEB 06 2002

Filed

02 FEB -5 PM 29

LIEUTENANT GOVERNOR'S
OFFICE