CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 12-3

BILL 50 (2011), CD2

A BILL FOR AN ORDINANCE

TO AMEND THE WAIANAE SUSTAINABLE COMMUNITIES PLAN.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and Intent. The purpose of this ordinance is to amend Chapter 24, Article 9, Revised Ordinances of Honolulu and to replace the Waianae Sustainable Communities Plan (SCP) incorporated therein with the attached Waianae SCP, which has been prepared in accordance with the prescribed requirements of Section 6-1509 of the Revised Charter of the City and County of Honolulu 1973, as amended, relating to development plans, and is to be accorded force and effect as such for all Charter- and ordinance-prescribed purposes.

This development plan ordinance adopts a revised sustainable communities plan for Waianae that presents a vision for Waianae's future development consisting of policies, guidelines, and conceptual schemes that will serve as a policy guide for more detailed zoning maps and regulations and for public and private sector investment decisions.

This ordinance is enacted pursuant to the powers vested in the City and County of Honolulu by Chapter 46, and Section 226-58 Hawaii Revised Statutes.

SECTION 2. Article 9 of Chapter 24, Revised Ordinances of Honolulu 1990, as amended ("Waianae"), is repealed.

SECTION 3. Chapter 24, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Article 9 to read as follows:

"**Article 9. Waianae**

Sec. 24-9.1 Definitions.

Unless the context otherwise requires, the definitions contained in this section shall govern the construction of this article.

"Charter" or "Revised Charter" means the Revised Charter of the City and County of Honolulu 1973, as amended.

"City" means the City and County of Honolulu.

"Council" means the city council of the City and County of Honolulu.

"County" means the City and County of Honolulu.

"Department" or "department of planning and permitting" means the department of planning and permitting of the City and County of Honolulu.

"Development" means any public improvement project, or any public or private project requiring a zoning map amendment.

"Development plan" or "sustainable communities plan" means a plan document for a given geographic area which consists of conceptual schemes for implementing and accomplishing the development objectives and policies of the general plan for the several parts of the City and County of Honolulu.

"Director" means the director of the department of planning and permitting.

"Environmental assessment" or "EA" means a written evaluation prepared in compliance with the environmental council's procedural rules and regulations implementing Hawaii Revised Statutes Chapter 343 to determine whether an action may have a significant environmental effect.

"Environmental impact statement" or "EIS" means an informational document prepared in compliance with the environmental council's procedural rules and regulations implementing HRS Chapter 343; and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

"Finding of no significant impact" or "FONSI" means a determination based on an environmental assessment that the subject action will not have a significant effect and, therefore, will not require the preparation of an environmental impact statement.

"Functional plan" means the public facility and infrastructure plans prepared by public agencies to further implement the vision, policies and guidelines set forth in the Waianae SCP.

"General plan" means the general plan of the City and County of Honolulu as defined by Section 6-1508 of the Charter.

"Hawaii Revised Statutes" or "HRS" means Hawaii Revised Statutes, as amended.

"Planning commission" means the planning commission of the City and County of Honolulu.

"Project master plan" means a conceptual plan that covers all phases of a development project. The project master plan describes how the project conforms to the vision for Waianae, and the relevant policies and guidelines for the site, the surrounding lands, and the region.

"Revised Ordinances of Honolulu" or "ROH" means Revised Ordinances of Honolulu 1990, as amended.

"Significant zone change" means a zone change which involves at least one of the following:

(1) Changes in zoning of 10 or more acres of land to any zoning district or combination of zoning districts, excluding preservation or agricultural zoning districts;

(2) Any change in zoning of more than 5 acres to an apartment, resort, commercial, industrial, or mixed use zoning district; or

(3) Any development which would have a major social, environmental, or policy impact, or major cumulative impacts due to a series of applications in the same area.

"Special area" means a designated area within the Waianae Sustainable Communities Plan area that requires more detailed planning efforts beyond what is contained in the Waianae SCP.

"Special area plan" means a plan for a special area.

"Unilateral agreement" means a conditional zoning agreement made pursuant to Section 21-2.80 ROH or any predecessor provision that imposes conditions on a landowner or developer's use of the property at the time of the enactment of an ordinance for a zoning change.

"Vision" means the future outlook for the Waianae region extending out to the year 2035 and beyond that entails the planning and development of town centers and community gathering places, improvements of the transportation systems, restricting coastal urban, suburban, and resort development makai of Farrington Highway, preservation and restoration of streams, and protection of cultural sites and landscapes.

"Waianae SCP" means the Waianae Sustainable Communities Plan attached hereto as Exhibit A and made a part hereof.

Sec. 24-9.2 Applicability and intent.

(a) The Waianae SCP area encompasses the leeward coast of Oahu from Nanakuli to Kaena Point and is enclosed by the Leeward slopes of the Waianae mountain range.

(b) It is the intent of the Waianae SCP to provide a guide for orderly and coordinated public and private sector development in a manner that is consistent with applicable General Plan provisions, including the designation of Waianae as a rural area and the agricultural land along the Waianae coast for farming, livestock production, and other types of diversified agriculture.

(c) The provisions of this article and the Waianae SCP are not regulatory. Rather, they are established with the explicit intent of providing a coherent vision to guide all new public and private sector development within Waianae. This article shall guide development for Waianae, public investment in infrastructure, zoning and other regulatory procedures, and the preparation of the City's annual capital improvement program budget.

Sec. 24-9.3 Adoption of the Waianae sustainable communities plan.

(a) This article is adopted pursuant to the Revised Charter Section 6-1509 and provides a self-contained development plan document for Waianae. Upon enactment of this article, all proposed developments will be evaluated against how well they fulfill the vision for Waianae enunciated in the Waianae SCP and how closely they meet the policies and guidelines selected to implement that vision.

(b) The plan entitled, "Waianae Sustainable Communities Plan," attached as Exhibit A is hereby adopted by reference and made a part of Chapter 24, Article 9, Revised Ordinances of Honolulu.

(c) Chapter 24, Article 1, entitled "Development Plan Common Provisions," in its entirety is no longer applicable to the Waianae SCP area. This article and the Waianae SCP, as adopted by reference by this ordinance, supersede any and all common provisions previously applicable to the Waianae area.

Sec. 24-9.4 Existing zoning and subdivision ordinances, approvals, and applications.

(a) All existing subdivisions and zoning approved prior to the effective date of this ordinance for projects, including but not limited to those subject to unilateral agreements, shall continue to remain in effect following the enactment of this ordinance.

(b) Subdivision and zoning ordinances applicable to the Waianae SCP area enacted prior to the effective date of this ordinance shall continue to regulate the use of land within demarcated zones of the Waianae SCP area until such time as the subdivision and zoning ordinances may be amended to be consistent with the revised Waianae SCP.

(c) Notwithstanding adoption of the revised Waianae SCP, applications for subdivision actions and land use permits accepted by the department for processing prior to the effective date of this ordinance shall continue to be subject only to applicable ordinances and rules and regulations in effect at the time the application is accepted for processing.

Sec. 24-9.5 Consistency.

(a) The performance of prescribed powers, duties and functions by all city agencies shall conform to and implement the policies and provisions of this ordinance. Pursuant to Revised Charter Section 6-1511.3, public improvement projects and subdivision and zoning ordinances shall be consistent with the Waianae SCP, as adopted.

(b) Any questions of interpretation regarding the consistency of a proposed development with the provisions of the Waianae SCP and the objectives and policies of the general plan shall ultimately be resolved by the Council.

(c) In determining whether a proposed development is consistent with the Waianae SCP, the responsible agency shall primarily take into consideration the extent to which the development is consistent with the vision, policies, and guidelines set forth in the Waianae SCP.

(d) Whenever there is a question regarding consistency between existing subdivision or zoning ordinances, including any unilateral agreement, and the Waianae SCP, the existing subdivision or zoning ordinances shall prevail until such time as they may be amended to be consistent with the Waianae SCP.

Sec. 24-9.6 Review of development and other applications.

The review of applications for zone changes and other development approvals will be guided by the vision of the Waianae SCP. Decisions on all proposed developments shall be based on the extent to which the project enabled by the development approval supports the policies and guidelines of the Waianae SCP.

The director may review other applications for improvements to land to help the responsible agency determine whether a proposed improvement supports the policies and guidelines of the Waianae SCP.

Sec. 24-9.7 Zone change applications.

(a) All zone change applications relating to land in the Waianae SCP area will be reviewed by the department of planning and permitting for consistency with the general plan, the Waianae SCP, and any applicable special area plan provisions.

(1) The director will recommend either approval, approval with changes, or denial. The director's written review of the application shall become part of the zone change report which will be sent to the planning commission and the city council.

(2) A project master plan shall be part of an EA or EIS for any project involving 10 acres or more of land. The director shall review the project master plan for its consistency with the Waianae SCP.

(3) Any development or phase of development already covered by a project master plan which has been fully reviewed under the provisions of this article shall not require a new project master plan, provided the director determines that the proposed zone change is generally consistent with the existing project master plan for the affected area.

(4) If a final EIS has already been accepted for a development, including one accepted prior to the effective date of this ordinance, then a subsequent project master plan shall not be required.

(b) Projects which involve a significant zone change shall be required to submit an environmental assessment to the department of planning and permitting prior to an application for a zone change being accepted. Any development or phase of a development which has already been assessed under the National Environmental Policy Act (NEPA), HRS Chapter 343 (Hawaii Environmental Policy Act, HEPA), ROH Chapter 25, or the provisions of this article, and for

which a FONSI has been filed or a required EIS has been accepted, shall not be subject to further EA or EIS requirements under this chapter unless otherwise required by NEPA or HEPA.

(c) The environmental assessment shall be reviewed by the department of planning and permitting. Based on review of the environmental assessment, the director will determine whether an environmental impact statement will be required or whether a FONSI should be issued.

(d) If an environmental impact statement is required, the environmental impact statement must be accepted by the director before a zone change application shall be initiated.

(e) Zone changes shall be processed in accordance with this section, Section 5.5 of the Waianae SCP and ROH Chapter 21.

Sec. 24-9.8 Annual capital improvement program review.

Annually, the director shall work jointly with the director of the department of budget and fiscal services and the city agencies to review all projects in the city's capital improvement program and budget for compliance and consistency with the general plan, the Waianae SCP and other development plans, any applicable special area plan provisions, and the appropriate functional plans. The director of planning and permitting will prepare a written report of findings to be submitted to the council in accordance with Revised Charter Section 6-1503.

Sec. 24-9.9 Five year review.

(a) The department of planning and permitting shall conduct a comprehensive review of the Waianae SCP, adopted by reference in Section 24-9.3(b), every five years subsequent to the plan's adoption and shall report its findings and recommended revisions to the council.

(b) The Waianae SCP will be evaluated to assess the appropriateness of the plan's regional vision, policies, guidelines, and implementing actions, as well as its consistency with the general plan.

(c) Nothing herein contained shall be construed as prohibiting the processing of a revision to the Waianae SCP in the event either the biennial report of the director or council recommends consideration of such a revision, pursuant to the Revised Charter of the City and County of Honolulu.

Sec. 24-9.10 Authority.

Nothing in this article shall be construed as an abridgement or delegation of the responsibility of the director, or of the inherent legislative power of the council, to review or revise the Waianae SCP pursuant to the city charter and the above procedures.

Sec. 24-9.11 Severability.

If any provision of this article or the application thereof to any person or property or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Sec. 24-9.12 Conflicting provisions.

Any provision contained in this article shall prevail should there be any conflict with the common provisions or any other provisions under Chapter 24."

A BILL FOR AN ORDINANCE

SECTION 4. Effective Date of Waianae Sustainable Communities Plan. The City Clerk is hereby directed to date the Waianae Sustainable Communities Plan with the effective date of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Ernest Martin (BR)

DATE OF INTRODUCTION:

August 2, 2011
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this 2nd day of March, 2012.

PETER B. CARLISLE, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 12-3

BILL 50 (2011), CD2

Introduced: 08/02/11 By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

Title: A BILL FOR AN ORDINANCE TO AMEND THE WAIANAE SUSTAINABLE COMMUNITIES PLAN.

Links: BILL 50 (2011) EXHIBIT A
BILL 50 (2011), CD1 EXHIBIT A
BILL 50 (2011), CD2 EXHIBIT A
CR-315
CR-75 (2012)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

COUNCIL	08/17/11	BILL PASSED FIRST READING AND WAS REFERRED TO COMMITTEE ON ZONING AND PLANNING.									
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y		
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y				
ZONING AND PLANNING	09/29/11	CR-315 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN CD1 (EXHIBIT A) FORM AND SCHEDULING OF A PUBLIC HEARING.									
PUBLISH	10/22/11	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.									
COUNCIL/PUBLIC HEARING	11/02/11	CR-315 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING.									
ANDERSON	Y	BERG	Y*	CACHOLA	Y	CHANG	Y	GABBARD	Y*		
GARCIA	Y	HARIMOTO	Y*	KOBAYASHI	Y*	MARTIN	Y*				
PUBLISH	11/16/11	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.									
ZONING AND PLANNING	02/09/12	CR-75(12) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 (EXHIBIT A) FORM.									
COUNCIL	02/15/12	CR-75(12) ADOPTED AND BILL 50 (2011), CD2 PASSED THIRD READING AS AMENDED.									
ANDERSON	Y	BERG	N	CACHOLA	Y	CHANG	Y*	GABBARD	N		
GARCIA	Y	HARIMOTO	N	KOBAYASHI	Y	MARTIN	Y				

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

BERNICE K. N. MAU, CITY CLERK

ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER