

A BILL FOR AN ORDINANCE TO  
ESTABLISH A NEW ARTICLE 5, CHAPTER 23, KAUA'I COUNTY CODE 1987  
RELATING TO THE CREATION OF A "KAUA'I MADE" DESIGNATION  
FOR QUALIFYING KAUA'I PRODUCTS

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Chapter 23, Kaua'i County Code 1987, is hereby amended by adding a new Article 5 as follows:

**"ARTICLE 5. "KAUA'I MADE" PROGRAM ORDINANCE**

**Sec. 23-5.1 Purpose.**

(a) The Island of Kaua'i has a population of roughly 63,000 residents and an average of 18,000 visitors per day. In a recent survey of departing visitors by the Kaua'i Visitors Bureau, more than 80 percent of respondents stated that shopping for Kaua'i products was one of the top three activities during their stay. Kaua'i has a variety of high quality products to offer, but no central marketing vehicle through which to promote them. Furthermore, the worldwide web creates a customer base for Kaua'i products beyond residents and visitors to Kaua'i.

(b) In the Kaua'i Economic Development Plan 2005-2015, created by the County of Kaua'i in partnership with the Kaua'i Economic Development Board, two of the six industry clusters targeted for growth were "Food and Agriculture" and "Arts and Culture." Focus groups for both of these clusters identified a centralized brand and marketing effort for Kaua'i products was needed in order for the industry to grow.

(c) The goal of the "Kaua'i Made" logomark program is to increase the sale of products grown, created or manufactured in and by the people of Kaua'i, to increase the number and variety of products available on Kaua'i and elsewhere, to increase the visibility of Kaua'i products in retail establishments and on the worldwide web, and to deliver information on how to purchase Kaua'i products to visitors, residents and others through a variety of marketing vehicles.

(d) Because it is administered by the County of Kaua'i, this program certifies and identifies vendors and retailers of Kaua'i Made products and provides a certain level of credibility for the consumer. The creation of the "Kaua'i Made" program is supported by a grant from the Hawai'i Tourism Authority and by County general fund moneys.

**Sec. 23-5.2 Definitions.**

"Agent" shall mean an entity contracted by OED for the purpose of coordination and/or administration of any or all elements of the Kaua'i Made Program.

"Category" shall mean a specifically defined division in a system of classification of Kaua'i Made products, to be used for ease of reference in Kaua'i Made marketing materials such as websites and brochures (e.g., apparel, food products, craft items).

"Consumer" shall mean a person that acquires goods or services for direct use or ownership rather than for resale or use in production and manufacturing.

“Fee” shall mean a fixed charge, assessed on an annual basis, to a vendor or retailer who meets qualifications for utilization of the logomark.

“Handicraft” shall mean a product that is created for sale by a skilled craftsperson, usually as a home occupation or in a small shop; each product requires individual attention, is produced in relatively small quantities, and uses a minimum of power tools.

“Kaua‘i Made Program” shall mean a program established by the County of Kaua‘i to promote qualified products.

“Listing” shall mean the identification of a permitted vendor or retailer in a Kaua‘i Made Program marketing vehicle, such as a website or brochure.

“Logomark” shall mean the official emblem for the “Kaua‘i Made” program, which depicts a “Ho‘okupu” or traditional Hawaiian gift wrapped in ti leaves, with the words “Kaua‘i Made” underneath.

“OED” shall mean the Office of Economic Development, County of Kaua‘i.

“Permit” shall mean an annual written authorization from OED for a qualified vendor or retailer to utilize the logomark according to rules and regulations created by this ordinance and otherwise established as necessary by OED.

“Point of purchase materials” shall mean promotional materials (such as signs, banners, tabletents) that are displayed in a retail establishment which are utilized to draw attention to one or more products for sale.

“Product” shall mean an item that is grown, built, formed, fabricated or assembled from raw or semi-finished material, to include a collection of intellectual property, which is offered for sale.

“Product line” shall mean a product or group of products that is manufactured utilizing similar materials and manufacturing processes and producing a finished product that is similar in form, content, and use.

“Retailer” shall mean any business establishment whose primary activity involves the selling of commodities directly to consumers.

“Total value” shall mean the total cost of preparing a product for sale to the consumer.

“Value added process” shall mean a process that changes a raw material or basic industrial material into a more finished product or alters the function, shape or appearance resulting in a product with increased value.

“Vendor” shall mean any person or entity properly registered to conduct business in the State of Hawai‘i that manufactures a product or handicraft on Kaua‘i and offers it for sale.

### **Sec. 23-5.3 Program Administration.**

(a) OED is responsible for the administration of the provisions of this ordinance relating to the logomark including:

- (1) the supervision of the use of the logomark;
- (2) the design, issuance, and control of logomark;
- (3) the issuance and revocation of permits to use the logomark;

(4) the authorization of agents to perform administrative and operational duties related to the Kaua'i Made program;

(5) the adjustment of fees as necessary to defray costs of the program; and

(6) the promulgation of additional rules as necessary for the operation of the program.

#### **Sec. 23-5.4 Application Procedures.**

(a) Except as provided in (f) and (g) of this section, a vendor who makes or manufactures a product or produces a handicraft in the County of Kaua'i may apply to OED, or an agent authorized by OED, for a permit to use the logomark on the product.

(b) A permit to use the logomark may be issued to a vendor who meets one or more of the following requirements, and meets all requirements listed under (d):

(1) locates and maintains the handicraft or product making or manufacturing operation within the County of Kaua'i and uses substantial Kaua'i resources and materials in the manufacturing or production of the product or handicraft;

(2) produces a handicraft or product within the County of Kaua'i in which the value-added processes were accomplished within the County of Kaua'i and uses substantial Kaua'i resources and/or materials in the manufacturing or production of the product or handicraft;

(c) A permit to use the logomark may be issued to a retailer who meets all of the following requirements, and meets all requirements under (d):

(1) owns or leases a retail establishment on the island of Kaua'i or elsewhere which complies with all local, state and federal governmental regulations;

(2) offers one or more products using the Kaua'i Made logomark for sale in their retail outlets;

(3) provides prominent visibility for Kaua'i Made products and/or the logomark, within 10 feet of the retail outlet's main entrance, and utilizes Kaua'i Made point of purchase materials authorized by OED or its agent.

(d) A permit to use the logomark will not be issued to a vendor or retailer unless the following requirements are met:

(1) vendor/retailer submits a completed application on a form approved by OED and the required annual fees;

(2) vendor/retailer permits the inspection of the production, manufacturing or retail site by OED or a Kaua'i Made agent;

(3) vendor/retailer agrees to comply with all conditions of the Kaua'i Made Program as set forth in this ordinance and any additional rules as established by OED;

(4) vendor/retailer has a current Hawai'i general excise tax license, and a tax clearance certificate from the Department of Taxation, State of Hawai'i;

(5) vendor/retailer is able to respond to customer and OED email and telephone requests in a timely manner (within 48 hours);

(6) vendor/retailer agrees to participate in an annual questionnaire documenting the program results;

(7) vendor/retailer complies with additional requirements as may be established by OED; and

(e) OED or an authorized logomark agent must approve or disapprove an application or renewal application to use the logomark within 30 days of the date of receipt of a completed application. In the case that an application is denied, the applicant may request reconsideration by the Director of the Office of Economic Development. The request for reconsideration must specify grounds that would support reversal of the denial. Within 30 days after receipt of a completed request for reconsideration, the Director will issue a written decision. The Director's decision on reconsideration constitutes final administrative action by the Office of Economic Development.

(f) The printing industry is not eligible for a permit to use the logomark for routine printing projects which involve printing or duplication of items or writings not created by the printer.

(g) For agricultural products, vendor may be requested to provide proof of acquisition of the Seal of Quality designation, if available, from the Department of Agriculture, State of Hawai'i.

#### **Sec. 23-5.5 Logomark Use and Authorization.**

(a) The logomark authorized under this ordinance may not be used without receiving a permit from OED or from an agent authorized by OED, or without a licensing agreement authorized by OED.

(b) OED shall establish application materials and other documents and forms for the administration of the Kaua'i Made program and issuance of permits.

(c) Before issuing a permit for an article under this section, OED or its agent shall determine that the product or handicraft is eligible for use of the logomark in accordance with the provisions of this ordinance.

(d) Usage and printing guidelines for the logomark will be included in program application materials and permit agreements, to be developed by OED, and must be adhered to by all permit holders.

(e) The permit holder may obtain Kaua'i Made logomark from authorized sources that conform to design requirements provided by OED. All reproduction costs are the responsibility of the permit holder. The representation of the emblem may be in the form of tags, stickers, rubberstamps, etc. A permit holder may use a representation of that emblem on labels, letterheads, business cards, in-store and other advertising, and for other similar purposes.

(f) The Kaua'i Made seal or a representation of that logomark may not be used in a manner that is false or misleading. The Kaua'i Made seal or a representation of that logomark may only be used without any modification to the design.

(g) The Kaua'i Made logomark or any representation thereof may not be incorporated into any business, company, or product logo or label.

(h) The Kaua'i Made logomark or any representation thereof may not be sold as art or as a dominant feature of a product logo or label unless approved by OED in writing.

#### **Sec. 23-5.6 Permits and Fees.**

(a) The annual fees for permit applications for the logomark will be due annually on or before January 1. No prorating of fees will be allowed if a permit holder is accepted into the program after January 1 of any given year.

(b) Fees may be adjusted by OED in accordance with the financial needs of the program. An annual review of the fee structure shall be completed by the Director of OED and any adjustment in fees shall be communicated to current permit holders no later than November 1 of any given year.

(c) Fees collected under this ordinance will be utilized solely for the purpose of the operation and promotion of the "Kaua'i Made" program.

(d) Fee structure shall be as follows:

(1) Vendors: \$50.00 per annum per product or product line, which entitles the vendor to one category listing on the Kaua'i Made website and one category listing on the Kaua'i Made brochure. Listings in additional categories are available for an additional annual fee of \$15 each; and

(2) Retailers: \$75.00 per annum per retail outlet.

(e) A "Kaua'i Made" permit is valid for one year from the date that the permit is approved, or until January 1 of the following year if the application is made after January 1. A "Kaua'i Made" permit may be renewed by:

(1) submitting, on or before January 1, a completed permit renewal application to OED, on a form approved by the department; and

(2) paying, on or before January 1, the required annual fee(s) as established in (d) or otherwise by OED.

(f) OED will approve or disapprove an application or renewal application to be a logomark permit holder within 30 days from the receipt of a completed application.

(g) OED may require that "Kaua'i Made" applicants or permit holders attend a training session provided by the department prior to issuance or renewal of a permit.

(h) Once a permit is issued to a vendor, said vendor shall be entitled to the following:

(1) Access to the logomark files for product labeling;

(2) 500 complimentary stickers for use on product labels and the usage of files to create additional stickers;

(3) One (1) complimentary listing on the Kaua'i Made website under one (1) category; and

(4) One (1) complimentary listing on or within the Kaua'i Made brochure product listing.

(i) Once a permit is issued to a retailer, said retailer shall be entitled to the following:

(1) A supply of complimentary point of purchase materials and the usage of files to create additional point of purchase materials with the authorization of OED at the retailer's expense;

(2) One (1) complimentary listing on the Kaua'i Made website; and

(3) One (1) complimentary listing on or within the Kaua'i Made brochure.

### **Section 23-5.7 Penalties for Unauthorized Use of the Logomark.**

Any person who fails to obtain a permit for use of the Kaua'i Made logomark and/or Kaua'i Made program materials, or after having obtained a permit, fails to use the Kaua'i Made logomark and/or program materials for purposes authorized in this ordinance, or fails to comply with any other requirements in this ordinance shall be guilty of a petty misdemeanor punishable by a fine of up to one thousand dollars or imprisonment of up to thirty days in jail, or both. Conviction shall also include prohibition from obtaining a permit for twelve months or, if a permit had been issued, revocation of said permit for twelve months."

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstances 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 3. This ordinance shall take effect upon its approval.

Introduced by: /s/ Jay Furfaro  
(By Request)

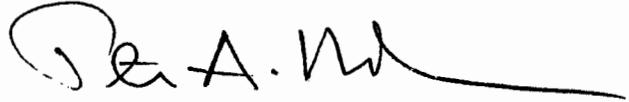
DATE OF INTRODUCTION:  
November 17, 2005  
Lihu'e, Kaua'i, Hawai'i

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2161, Draft 2, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on December 14, 2005, by the following vote:

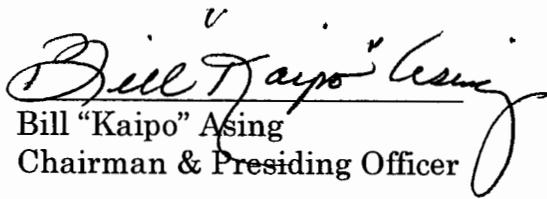
FOR ADOPTION: Furfaro, Kaneshiro, Rapozo, Yukimura, Asing	TOTAL - 5,
AGAINST ADOPTION: None	TOTAL - 0,
EXCUSED & NOT VOTING: Iseri-Carvalho, Tokioka	TOTAL - 2.

Līhu'e, Hawai'i  
December 15, 2005



Peter A. Nakamura  
County Clerk, County of Kaua'i

ATTEST:



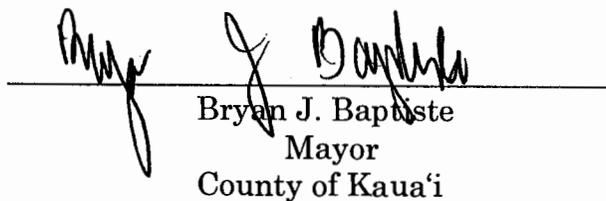
Bill "Kaipo" Asing  
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

December 20, 2005

Approved this 20<sup>th</sup> day of

December, 2005.



Bryan J. Baptiste  
Mayor  
County of Kaua'i