

NATIVE FOREST DEDICATIONS Information and Requirements

Chapter 10, Article 8, Section 19-59 of the Hawai'i County Code, establishes a special land reserve and allows a landowner to dedicate his land for native forest. Native forest means lands which have a minimum of 60% native species forest cover. Native species are defined as those indigenous to the Hawaiian Islands. Indigenous in this context shall mean plants that became established or evolved in the Hawaiian Islands without the aid of human hands.

REQUIRED CRITERIA FOR NATIVE FOREST DEDICATION

1. The parcel shall be three (3) acres or larger with at least 2.75 acres intact and contiguous acres of native forest.
2. The land shall be within agricultural, residential and agricultural, family agricultural, intensive agricultural, agricultural project district, or open district zoning as determined by the County Planning Dept.
3. The land shall have at least 60% native forest species forest cover which is either in tree cover, understory cover, or a combination of the two; provided a minimum or 25% of the forest cover shall be tree cover.
4. The 60% native forest species cover shall be certified by a recognized professional in the field of natural resources or forestry, or a government agency with relevant expertise in the fields of natural resources or forestry.
5. The native forest area shall have a sound forest management plan indicating acreage and specific management practices to maintain and/or improve the forest.

INFORMATION TO BE INCLUDED WITH THE PETITION

1. A map of the parcel showing the area to be dedicated, any homesite area, and any non-dedicated areas.
2. Written certification that the dedicated area meets the 60% minimum native forest species cover criteria.
3. A forest management plan that includes target dates and goals.

CONSEQUENCES OF THE DEDICATION

1. The dedication must be recorded to openly declare the intentions of the owner(s).
2. For the dedication period of twenty (20) years, a portion of the owner's right to change the use of the dedicated area shall be forfeited.
3. The dedicated area will be assessed at preferential rates based on the lowest agricultural rates the parcel could have qualified for.
4. The owner(s) must report any changes in the petition to the Real Property Tax Office in writing.
5. Failure to comply with the terms of the dedication and the provisions of the applicable sections of the Hawai'i County Code shall constitute a breach in the dedication and result in the imposition of rollback taxes.

BREACH OF DEDICATION

The dedication shall be deemed breached and the tax assessment privilege cancelled retroactive to the date of the dedication, or the latest renewal period, and all differences in the amount of taxes that were paid and those that would have been due from assessment at market value shall be payable with a ten percent penalty and the native forest classification shall be rescinded with the cancellation being recorded, upon any of the following:

1. Failure of the owner(s) to observe the restrictions on the use of the land; or
2. The cover of native forest species falls below sixty percent; or
3. The property is re-zoned to a higher use at the owner's request; or
4. The property is subdivided into parcels less than three acres; or
5. A condominium property regime is declared for the property having condominium units with an area equivalent to less than three acres. Each unit shall be treated as a subdivision into lots of like size; or
6. The dedicated property or any portion thereof is sold by way of a conveyance which is subject to conveyance tax under the terms of Chapter 247, Hawai'i Revised Statutes, unless a notarized affidavit signed by the new owner(s) is submitted in which the owner(s) assume all remaining obligations under the existing dedication to include the full liability for future rollback taxes and penalties imposed due to a breach of the dedication. And a document is recorded to put on notice this assumption of the dedication; or
7. The dedicated property is not maintained according to sound land management practices such that soil erosion is minimized, foreign species are controlled, and the watershed is protected.

COMPLETION OF THE DEDICATION

1. During the nineteenth (19th) year dedication the owner may reapply to renew the dedication by filing a new petition with the director of finance on or before the statutory deadline of September 1st. The renewal petition must include the same requirements of the previous petition and shall be processed in the same manner as the previous petition.
2. Failure to reapply by the September 1st deadline will cause the dedication to end beginning with the subsequent tax year.