

In the Matter of the)	
Incorporation)	
)	CORPORATE BYLAWS
of)	
)	
KAILUA VILLAGE BUSINESS)	
IMPROVEMENT DISTRICT,)	
INC.)	
_____)	

CORPORATE BYLAWS

Pursuant to the provisions of the Hawaii Nonprofit Corporation Act, Hawaii Revised Statutes, Chapter 414D, and the Articles of Incorporation filed herein on 01/29/2007, the following are adopted as the Bylaws for the corporation:

ARTICLE I
(Corporate Name)

The name of the corporation shall be:

KAILUA VILLAGE BUSINESS IMPROVEMENT DISTRICT, INC.

ARTICLE II
(Corporate Address)

The location of the principal office of the corporation shall be Kailua-Kona, County and State of Hawaii, and the specific address of its initial office shall be at:

Territorial Center, Suite 202
75-5751 Kuakini Highway
Kailua-Kona, Hawaii 96740

with an initial mailing address at:

Territorial Center, Suite 202
75-5751 Kuakini Highway
Kailua-Kona, Hawaii 96740

or at such other location in the State of Hawaii as the Board of Directors may designate.

ARTICLE III
(Purpose and Powers)

Section 3.01. Public Benefit. This corporation is organized as a nonprofit corporation under Chapter 414D, Hawaii Revised Statutes, as amended. The purposes for which this corporation is organized and its powers in connection therewith are exclusively for the development of a Kailua Village Improvement District, including for such purposes, making distributions to organizations under Section 501(c)(3) of the Internal Revenue Code. Additional purposes for which this corporation is organized and its powers in connection therewith are as follows:

To undertake and carry on any business, investment, transaction, venture or enterprise which may be lawfully undertaken or carried on by a nonprofit corporation under the laws of the State of Hawaii from time to time and the rules and regulations of any regulating agency concerned.

Section 3.02. Nonstock Corporation. The corporation is organized for the purposes set forth in this Article III only and is not organized for profit. It will not issue any stock and no part of its assets, income or earnings shall be distributed to its members, directors or officers, except that the corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered to the corporation and to make payments and distributions in furtherance of the purposes set forth in this Article III.

Section 3.03. General Powers. And in furtherance of said purposes, the corporation shall have all powers, rights, privileges and immunities and shall be subject to all of the

liabilities conferred or imposed by law upon corporations of this nature, and shall be subject to and have all the benefits of all general laws with respect to corporation. Subject to and without limiting the generality of the foregoing, the corporation shall have the following powers:

- (a) To have succession by its corporate name perpetually;
- (b) To sue and be sued in any court;
- (c) To make and use a common seal, and alter it at its pleasure;
- (d) To hold, purchase and convey such property as the purposes of the corporation require, without limit, and to mortgage, pledge and hypothecate the same to secure any debt of the corporation;
- (e) To appoint such subordinate officers and agents as the business of the corporation requires;
- (f) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;
- (g) To purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;
- (h) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issues its notes, bonds and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchise and income;

- (i) To invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so loaned or invested;
- (j) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any state, territory, district or possession of the United States, or in any foreign country;
- (k) To elect or appoint officers and agents of the corporation, and define their duties;
- (l) To make and alter bylaws, not inconsistent with the Articles of Incorporation or with the laws of the State of Hawaii;
- (m) To make donations for the public welfare or for charitable, scientific or educational purposes;
- (n) To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation, against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceedings if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The

termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(o) To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, the person is fairly and reasonably entitled to the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court deems proper.

(p) To purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at

the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation of another enterprise at the request of such predecessor corporation, against any liability asserted against or incurred by such person in any such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of this Article.

(q) To cease its corporate activities and surrender its corporate franchise;

(r) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

(s) Carrying out activities of the business improvement district as prescribed in the district plan.

ARTICLE IV (Members)

The corporation shall have members who shall be the fee simple owners and lessees of land within the district and shall be governed by its Board of Directors which shall be selected in the manner provided in Article V, below. The Board of Directors may provide for associates who share an interest in the purposes of the corporation but shall have no right to vote or power to affect the corporation's business.

ARTICLE V (Board of Directors)

Except for the initial directors, the corporation shall have a Board of Directors of at least three but not more than seventeen (17) members selected by the district members.

Section 5.01. Voting Directors. There shall be 11 voting directors. The voting directors unless otherwise noted herein shall represent the fee simple owners and lessees of land within the district. The district board shall be composed of representatives of fee simple owners, lessees of land, and tenants of commercial space within the district; provided, however, that not less than a majority of the district board members shall represent fee simple owners and lessees of land; and provided further that tenants of commercial space within the district shall also be represented on the district board. The district board shall also include the following, all of whom shall serve as the incorporators of the association pursuant to the Hawaii Nonprofit Corporations Act.

- (1) The director of public works or the director's designated representative, who shall be a nonvoting member;
- (2) The director of finance or the director's designated representative, who shall be a nonvoting member;
- (3) The mayor or the mayor's designee, who shall be a voting member; and
- (4) The council member of the district within which the majority of the land area within which the district is located or the council member's designated representative who shall be a voting member.

Section 5.02. Increase in Number of Directors. The size or numbers of members of the Board of Directors may be increased without an amendment to the Articles of Incorporation. The increase may be made by the adoption of a Bylaw provision to that effect by the Board of Directors.

Section 5.03. Powers of Directors. Subject to the limitations of law, or the Articles of Incorporation and of the Bylaws as to action to be authorized or approved by the members, all corporate powers shall be exercised by or under authority of, and the business and affairs of this corporation shall be controlled by a Board of Directors.

The Board of Directors shall have full power to control and direct the business affairs of the corporation and to provide for any and every lawful act, whether in the ordinary course of business of the corporation or otherwise, including specifically, but without limitation to the generality of the foregoing, the power to provide for the purchase by the corporation of such property as the purposes of the corporation shall require, without limit as to amount, the power to provide for the incurring by the corporation of debts, without limit as to amount, and the issuance of notes and other evidence of such debts, the power to provide for the mortgage, pledge and/or hypothecation of all or any part of the assets of the corporation, including after-acquired assets, as security or any debt or debts of the corporation, the power to create such committees (including an executive committee or committees) and to designate as members of such committees such persons as it shall determine, and to confer upon such committees, such powers and authorities as may by resolution be set forth for that purpose of carrying on or exercising any of the powers of the corporation, and the power to remove or suspend any officer.

In addition to such other powers as are conferred to it by law or this section, the district board shall have the power to carry out the activities prescribed in the district plan, including but not limited to:

- (1) Determining the scope and specifications for the performance standards;
- (2) Letting contracts for the supplemental service or for the management of operations of the district;
- (3) Entering into contracts for the development of plans, design, construction and/or renovation of supplemental improvements; and
- (4) Adopting the annual budget for the district.

Section 5.04. Election and Tenure of Office. The initial Board of Directors shall be as stated in the Articles of Incorporation and such directors shall hold office until the first special meeting of the members and until their successors are elected and qualified. Thereafter, the directors shall be elected by ballot at the annual meeting of the corporation. Each director

shall serve a term of two years. Any director may be re-elected and shall be entitled to serve for three consecutive terms after which such director shall be ineligible to serve for a period of two years. There shall be no restrictions on prior directors being re-elected after being off the board for a two year period.

Section 5.05. Vacancies. Vacancies in the Board of Directors may be filled by a majority of the remaining directors, though less than a quorum, or by a sole remaining director, and each director so elected shall hold office until that director's successor is elected at a regular meeting of members or at a special meeting called for that purpose. Upon tender of a resignation by a director, the Board shall have power to elect a successor to take office at such time as the resignation becomes effective.

Section 5.06. Place of Meetings. Meetings of the Board of Directors shall be held at the principal office of the corporation in the State of Hawaii, or such other place as designated for meetings of the Board of Directors from time to time by resolution of the Board of Directors or written consent of all of the members of the Board of Directors.

Section 5.07. Notice of Meetings. Notice of each meeting of the Board of Directors whether annual or special, specifying the date, time and place of the meeting shall be given by or under direction of the Secretary or by the person calling the meeting to each member of the Board of Directors, by advising the member in writing, email or other electronic method or by word of mouth of the meeting, or by leaving written or oral notice of the meeting at the member's residence or usual place of business, or by mailing written notice of the meeting postage prepaid, addressed to the member at the member's residence or usual place of business five (5) days prior to the time set for the meeting. Non-receipt of notice of any meeting by any member of the Board of Directors shall not invalidate the meeting or any proceedings taken or any business done at the meeting. No notice of any meeting need be given to any member of the Board of Directors who at the time of the meeting is absent from the state of Hawaii. Any member of the Board of Directors may waive notice of any meeting either prior to or at or after the meeting, with the same effect as though notice of the meeting has been given to the member. The presence of any member of the Board of Directors at a meeting shall be the equivalent of a waiver by the member of

notice of the meeting, unless the member attends the meeting for the express purpose of objecting to the meeting.

Section 5.08. Consent to Directors' Meetings or Directors' Actions. The transaction of any meeting of the directors, however called and noticed and wherever held, shall be valid as though had at a meeting duly held after regular call and notice if a quorum be present and if either before or after the intended effective date of the action, all of the directors entitled to vote at any meeting sign a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Any action which may be taken at a meeting of the directors may be taken without a meeting if authorized by a writing signed by all of the directors and filed with the Secretary of the corporation.

Section 5.09. Meeting by Conference Telephone. Members of the Board of Directors of the corporation, or any committee designated by such Board, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in such manner shall constitute presence in person at such meeting.

Section 5.10. Quorum and Vote. A majority of the voting directors (present either in person or by means of a conference telephone or electronic means) shall be necessary to constitute a quorum for the transaction of business, and the action of a majority of the directors present at any meeting at which there is a quorum, when duly assembled, is valid as a corporate act; provided that a minority of the directors, in the absence of a quorum, may adjourn from time to time, but may not transact any business.

Section 5.11. Compensation of Directors. No director shall receive compensation for any service the director may render to the corporation. However, any director may be reimbursed for the director's actual expenses incurred in the performance of the director's duties.

ARTICLE VI
(Officers)

Section 6.01. Appointment; Term. The officers of the corporation shall be a President, a Vice President, a Secretary and a Treasurer, who shall be elected by the Board of Directors and who shall remain in office for a period of one year or until their successors are appointed and qualified. So far as is permitted by law, any two offices may be held by the same person. In addition to the duties and powers herein set forth, each officer shall have such duties and powers as are commonly incident to the office and such duties and powers as the Board of Directors shall from time to time designate. In all cases where the duties of any officer, agent or employee are not specifically prescribed by the Bylaws or by the Board of Directors, such officer, agent or employee shall obey the orders and instructions of the President.

Section 6.02. President. Subject to the control of the Board of Directors, the President shall be the chief executive officer of the corporation and shall exercise general supervision and direction over the management and conduct of the affairs and business of the corporation. Unless the Board of Directors otherwise directs, the President shall preside at all meetings of the members and the Board of Directors. The President shall be ex-officio a member of all the standing committees, including the executive committee, if any.

Section 6.03. Vice President. The Vice President shall assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. The Vice President shall have such other powers and duties as may be given to the Vice President by law or in these Bylaws and as may be assigned from time to time by the Board of Directors or by the President.

Section 6.04. Secretary. The Secretary shall have charge of all documents pertaining to the title to all real property owned or held by the corporation, and all rules, regulations, and other documents required to be filed with the corporation or in the office of the corporation, an original or duplicate of each of which shall at all times during the usual hours of business be open to the examination at the principal office or place of business of the corporation. The Secretary

shall record all proceedings of the meetings of the directors in a book which shall be the property of the corporation, to be kept for that purpose at the principal office of the corporation and perform such other duties as shall be assigned to the Secretary. In the absence of the Secretary from any such meeting, a temporary Secretary shall be chosen who shall record the proceedings of such meeting in the aforesaid book. The Secretary shall give notice in conformity with these Bylaws of meetings of members and where required of the Board of Directors.

Section 6.05. Treasurer. Subject to the direction and under the supervision of the Board of Directors, and the provisions of the Bylaws, the Treasurer shall have the care and custody of the funds and valuable papers of the corporation, shall have power to endorse for deposit or collection all notes, checks, drafts and other obligations for the payment of money to the corporation or its order, and shall keep or cause to be kept accurate financial books and accounts of the corporation and to render statements of the same in such form and as often as required by the Board of Directors.

Section 6.06. Executive and Other Committees. The Board of Directors may appoint an executive committee, and such other committees as may be necessary from time to time, consisting of such number of its members and with such powers as it may designate, consistent with the Articles of Incorporation and Bylaws and the laws of the state of Hawaii. Such committees shall hold office at the pleasure of the Board of Directors.

Section 6.07. Removal; Resignation; Vacancies. The Board of Directors may at any meeting called for the purpose, by vote of a majority of their entire number, remove from office any officer of the corporation, for or without cause. The Board of Directors may at any meeting, by vote of a majority of the directors present at such meeting, accept the resignation of any officer or director of the corporation, or remove or accept the resignation of any agent or any member of any committee appointed by the Board of Directors, or by any officer, agent or factor of the corporation. Any vacancy occurring in the office of President, Vice President, Secretary, Treasurer or any other office shall be filled by the Board of Directors, and the officers so chosen shall hold office for the unexpired term in respect of which the vacancy occurred and until their successors shall be duly appointed and qualified.

ARTICLE VII
(Manager)

Section 7.01. Appointment and Compensation. The Board of Directors shall have the power to hire a Manager, who shall have such duties and responsibilities as the Board shall determine. The Manager shall be paid reasonable compensation for his or her services in an amount to be determined from time to time by the Board of Directors, and shall to the greatest extent practicable, be invited to attend and to participate in all meetings of the Board. The Manager may be an officer or member of the Board of Directors and the fact that the Manager may also hold such office shall not disqualify the Manger from service or constitute a conflict of interest.

ARTICLE VIII
(Corporate Records and Reports)

Section 8.01. Records. The corporation shall maintain adequate and correct accounts, books and records of its business and properties, minutes of the proceedings of its Board of Directors and any committee having any authority of the Board of Directors, and a record of the names and addresses of its members entitled to vote. All of such books, records, accounts and minutes shall be kept at its principal place of business in the state of Hawaii, as fixed by the Board of Directors from time to time.

Section 8.01.1. Financial Records.

- (a) The district board shall maintain financial records regarding the operation of the district and the contracts for supplemental services and improvements.
- (b) The district board shall make such financial records available to the public during regular business hours upon reasonable notice to the district board.
- (c) The council, by the ordinance establishing the district, may have the financial records audited by a certified public accountant and the audit report made available to the council and the public.

Section 8.02. Inspection of Books and Records. As provided by law, all books and records of the corporation may be inspected by any member of the Board of Directors, officer, Manager and Field Director for any proper purpose at any reasonable time.

Section 8.03. Signing of Checks. All checks, drafts, or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the corporation, shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board of Directors.

Section 8.04. Execution of Contracts. The Board of Directors, except as otherwise provided in the Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power of authority to bind the corporation by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or to any amount.

Section 8.05. Annual Reports. The Board of Directors shall cause an annual report to be delivered to the Director of the Department of Commerce and Consumer Affairs for filing as provided by Hawaii Revised Statutes, Sections 415B-11 and 415B-12.

ARTICLE IX
(Corporate Existence)

The corporation shall have succession by its corporate name in perpetuity and shall have all the powers herein enumerated or implied herefrom and the powers now provided (or which may be hereafter provided) by law for incorporated companies.

ARTICLE X
(Service of Process)

Service of legal process may be made upon the corporation in a manner provided by law.

ARTICLE XII
(No Liability)

No director, officer or employee shall be liable for the debts or the obligations of the corporation.

ARTICLE XIII

The corporation intends to qualify for nonprofit, tax-exempt status under the laws of the United States and the State of Hawaii, and to that extent the Board of Directors may adopt such resolutions or Bylaw provisions which may be necessary to obtain and to maintain such tax-exempt status and to qualify for the receipt of any funds which are made conditional upon or subject to the corporation's tax-exempt status and compliance with applicable law or other governmental policies. The following provisions shall be in addition to any such Bylaw provisions or resolutions, as well as any provision of these Articles, or amendments made thereto:

Section 13.01. Anti-Nepotism. Any persons hired or employed by the corporation shall be hired or employed on the basis of merit and not on the basis of their relationship to the members of the Board of Directors or officer of the corporation.

Section 13.02 No-Smoking Policy. No smoking shall be allowed within the public, indoor portions of any building owned or occupied by the corporation.

Section 13.03 No Discrimination. The corporation shall comply with and enforce all laws of the federal and state government which prohibit discrimination based on race, religion, sex, age, physical disability or other subject described in such laws.

Section 13.04 No-Lobbying or Disqualifying

Activity. The corporation shall not afford pecuniary gain, incidentally or otherwise to its Board of Directors. No part of the net earnings of this corporation shall inure to the benefit of any member of the Board of Directors of this corporation, except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes. Such net earnings, if any, of this corporation shall be used to carry out the nonprofit corporation purposes.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision, the corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.

Section 13.05. Distribution on Dissolution. Upon dissolution of the corporation, assets of the corporation shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding future sections, to an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding future sections, or to a state or local government for a public purpose.

ARTICLE XIV
(Amendments to Bylaws)

Method of Amendment. The Bylaws of the corporation may from time to time be repealed, amended or altered or new Bylaws may be adopted, subject to repeal or change by action of the members, by a majority vote of the Board of Directors.

DATED: Kailua-Kona, Hawaii, March 6th, 2006.

By: 

Its: _____

President

By: _____

Its: _____