

## CHAPTER 2

### ADMINISTRATION

#### Article 1. General Provisions.

- Section 2-1. Purpose of chapter.
- Section 2-2. Bonds of officials required; amount; filing; payment of premiums.
- Section 2-3. Issuance of commissions.
- Section 2-4. Subpoenas.
- Section 2-5. Inspections; charges for overtime.
- Section 2-5.1. Hawaiian language; spelling.

#### Article 2. Executive Branch.

- Section 2-6. Office of the mayor.
- Section 2-7. Organization of executive branch.
- Section 2-8. Order of succession to office of mayor.

#### Article 3. Office of the Corporation Counsel.

- Section 2-9. Settlement of claims.
- Section 2-10. Settlement of land acquisitions.

#### Article 3A. Office of the Prosecuting Attorney.

- Section 2-10A. Appointment of personnel.

#### Article 4. Department of Finance.

- Section 2-11. Issuance of warrants.
- Section 2-12. Refund of permit fees.
- Section 2-12.1. Encumbrances.
- Section 2-12.2. Lien parity.
- Section 2-12.3. Change orders and contract supplements; notification to the council.
- Section 2-12.4. Fund balance.
- Section 2-12.5. Temporary positions; notification to the council.

#### Article 5. Fire Department.

- Section 2-13. Fire chief; appointment; qualifications.
- Section 2-14. Powers, duties and functions.
- Section 2-15. Fire commission. \*
- Section 2-15.1. Powers, duties and functions.

## **Article 6. Volunteer Fire Department.**

- Section 2-16. Volunteer fire department created.
- Section 2-16.1. Volunteer fire stations.
- Section 2-17. Head of volunteer fire department.
- Section 2-18. Appointment of other personnel.
- Section 2-19. Volunteer personnel.
- Section 2-20. Mileage reimbursements for volunteer fire personnel.
- Section 2-21. Coordination of volunteer and regular fire departments.
- Section 2-22. Use of County fire-fighting equipment.
- Section 2-23. Benefits.
- Section 2-24. Extent of coverage.
- Section 2-25. Computation of wages.
- Section 2-26. Volunteers not members of volunteer fire department.

## **Article 7. Planning Department.**

- Section 2-27. Windward and leeward planning commissions.
- Section 2-28. Quorum; meetings.
- Section 2-28.1. Community development plan.
- Section 2-29. Records of findings required; location of office.
- Section 2-30. Publication of notice.
- Section 2-31. General plan; contents; location.
- Section 2-32. Subdivision regulations.
- Section 2-33. Zoning regulations; amendments.
- Section 2-34. Application for changes or new provisions.
- Section 2-35. Repealed.
- Section 2-35.1. Urban renewal.

## **Article 8. Department of Research and Development.\***

- Section 2-36. Purpose.
- Section 2-37. Sustainability Action Committee.
- Section 2-37.1. Duties of the committee.
- Section 2-37.2. Guidelines for committee recommendations.

## **Article 9. Department of Public Works.**

### **Division 1. Organization.**

- Section 2-38. Director of public works as department head.
- Section 2-39. Duties of director of public works.
- Section 2-40. Duties and functions of department.
- Section 2-41. Divisions within department.

## **Division 2. Repealed.**

### **Article 10. Junior Police Officers.**

- Section 2-51. Financial aid to parents.
- Section 2-52. Reporting of injury; investigation.

### **Article 11. Department of Parks and Recreation.**

- Section 2-53. Powers and authority.
- Section 2-54. Powers and duties of director.
- Section 2-55. Deputy director.
- Section 2-56. Full-time employees.
- Section 2-57. Part-time and temporary employees.
- Section 2-58. Cooperation with other agencies and organizations.
- Section 2-59. Authority to levy charges and fees.
- Section 2-60. Power to adopt rules and regulations; penalty.

### **Article 12. Central Coordinating Agency.**

- Section 2-61. Designation of agency.
- Section 2-62. Duties.
- Section 2-63. Adoption of rules.
- Section 2-64. Cooperation with other agencies.
- Section 2-65. Appeals.

### **Article 13. Housing Administration.**

#### **Division 1. Hawai'i County Housing Agency.**

- Section 2-66. Created; scope of authority.
- Section 2-67. Purpose of the housing agency.
- Section 2-68. Powers of the housing agency.

#### **Division 2. Office of Housing and Community Development.**

- Section 2-69. Housing administrator created; office of housing and community development established.
- Section 2-70. Powers of housing administrator.
- Section 2-71. Duties of housing administrator.

### **Division 3. Funds and Contracts.**

- Section 2-72. Federal funds.
- Section 2-73. Signing of contracts.
- Section 2-74. Revolving fund created.
- Section 2-75. Use of revolving fund.
- Section 2-75.1. Housing special funds.

### **Article 14. Mass Transit Agency.**

- Section 2-76. Creation.
- Section 2-77. Mass transit administrator created.
- Section 2-78. Duties of mass transit administrator.
- Section 2-78.1. Authority to adopt rules and regulations.

### **Article 15. Code of Ethics.**

- Section 2-79. Purpose.
- Section 2-80. Interpretation of article.
- Section 2-80.1. Distribution of mass mailings prohibited during campaign.
- Section 2-81. Applicability.
- Section 2-82. Definitions.
- Section 2-83. [Former] Repealed.
- Section 2-83. Fair treatment.
- Section 2-84. Conflicts of interests.
- Section 2-85. Contracts.
- Section 2-85.1. Contracts voidable.
- Section 2-86. Informal advisory opinions.
- Section 2-87. Formal opinions.
- Section 2-88. Disposition after issuance of formal opinion.
- Section 2-89. Cooperation with County agencies.
- Section 2-90. Confidentiality.
- Section 2-91. Appointing authority's power to discipline.
- Section 2-91.1. Financial disclosures and disclosures of interest.
- Section 2-91.2. Post-employment.
- Section 2-91.3. Lobbyist registration.
- Section 2-91.4. Gifts.
- Section 2-91.5. Reporting of gifts.
- Section 2-91.6. Confidential information.

## **Article 16. Travel and Other Expenses.**

- Section 2-92. Entitlement.
- Section 2-93. Travel status.
- Section 2-94. Travel authorization.
- Section 2-95. Overnight travel expenses.
- Section 2-96. Repealed.
- Section 2-97. Other allowable expenses.
- Section 2-98. Adjustments and exceptions.
- Section 2-99. Funds for travel expenses.
- Section 2-100. Reports.
- Section 2-101. Compensation for use of private automobile.
- Section 2-101.1. Mileage and meal reimbursements for volunteer police personnel.
- Section 2-102. Conflicts with employee contracts.

## **Article 17. Public Records Fee Schedule.**

- Section 2-103. Administered by clerk.
- Section 2-104. Fees for copies of public records.
- Section 2-105. Charges for publications.
- Section 2-106. Applicability.
- Section 2-107. Exemption from payment of fees and charges.

## **Article 18. Uncollectible Accounts.**

- Section 2-108. Definitions.
- Section 2-109. Uncollectible accounts; procedure; records.

## **Article 19. Real Property Disposition.**

- Section 2-110. Definitions.
- Section 2-111. Powers of council.
- Section 2-112. Disposition by auction.
- Section 2-113. Sale or lease by sealed bids.
- Section 2-114. Sale or lease by negotiation.
- Section 2-115. Exchange of real property.
- Section 2-116. Notice.
- Section 2-117. Appraisals.
- Section 2-118. Remnants.
- Section 2-119. Licenses and permits.
- Section 2-120. Disposition to government, governmental agencies, nonprofit organizations, and affordable housing developers.
- Section 2-120.1. Minimum provisions and clauses.
- Section 2-120.2. Central repository.

## **Article 20. Voter Registration.**

- Section 2-121. Definitions.
- Section 2-122. Release of voter registration data.
- Section 2-123. Restriction as to release of information by clerk.
- Section 2-124. Condition for accessing voter registration data.
- Section 2-125. Charges for voter registration data.
- Section 2-126. Penalty.

## **Article 21. Repealed.**

- Section 2-127. Repealed.
- Section 2-128. Repealed.
- Section 2-129. Repealed.
- Section 2-130. Repealed.

## **Article 22. Disposal of County Equipment.**

- Section 2-131. Director of finance; powers and duties.
- Section 2-132. Disposition of proceeds.

## **Article 23. Federal Revenue Sharing Fund.**

- Section 2-133. Federal revenue sharing fund.

## **Article 24. Payment to County, Subsequently Dishonored.**

- Section 2-134. Service charge assessed.

## **Article 25. Appropriation of Funds to Nonprofit Organizations.**

- Section 2-135. Purpose.
- Section 2-136. Definitions.
- Section 2-137. Eligible organizations.
- Section 2-138. Conditions for grants.
- Section 2-139. Procedure for awarding grants.
- Section 2-140. Repealed.
- Section 2-141. Applicability to noncounty funds; cosponsored activities.
- Section 2-142. Records, reporting, and fiscal accountability requirements.
- Section 2-142.1. Rules.
- Section 2-142.2. Repealed.

**Article 26. Salaries for Deputies in the Office of the  
Corporation Counsel and the Office of the Prosecuting Attorney.**

- Section 2-143. Definitions.
- Section 2-144. Salary schedule.
- Section 2-145. Repealed.
- Section 2-146. Repealed.
- Section 2-147. Repealed.
- Section 2-148. Repealed.
- Section 2-149. Repealed.
- Section 2-150. Repealed.

**Article 27. Numbering, Form, Revision of Ordinances;  
Supplementation of Hawai'i County Code.**

- Section 2-151. Numbering of ordinances.
- Section 2-152. Form of ordinances amending the Hawai'i County Code.
- Section 2-153. Revision of ordinances; supplementation of Hawai'i County Code.

**Article 28. County Seal.**

- Section 2-154. County seal description.
- Section 2-155. Unauthorized use of seal and penalties.

**Article 29. Self-Insurance Fund.**

- Section 2-156. Creation of fund.
- Section 2-157. Funding.
- Section 2-158. Expenditures from the self-insurance fund.
- Section 2-159. Dissolution of the fund.
- Section 2-160. Administration of the fund.

**Article 30. Gifts or Donations; Dedications.**

- Section 2-161. Gifts or donations.
- Section 2-162. Procedures of acceptance; money, securities, or personal property.
- Section 2-162.1. Procedures for accepting money, securities, personal property or real property derived from community benefit assessments or conditions of land use approvals.
- Section 2-162.2. Procedures for acceptance; other real property.

**Article 31. Sister City Relationships.**

- Section 2-163. Purpose.
- Section 2-164. Criteria.
- Section 2-165. Establishment of sister city relationship.
- Section 2-166. Protocol officer.

### **Article 32. Recovery of Rescue Expenses.**

- Section 2-167. Definitions.
- Section 2-168. Gross negligence.
- Section 2-169. Recovery of expenses.

### **Article 33. Development Agreement with the State for Mass Transportation Programs.**

- Section 2-170. Authorization to executive branch.

### **Article 34. Fees and Charges for Special Duty Services of the Hawai'i County Police Department.**

- Section 2-171. Definition.
- Section 2-172. Administration.
- Section 2-173. Fees for special duty requests.
- Section 2-174. Waiver.
- Section 2-175. Rules and regulations.
- Section 2-175.1. Employment of staff; funding.

### **Article 35. Geothermal Asset Fund.**

- Section 2-176. Creation of fund.

### **Article 36. Geothermal Relocation and Community Benefits Program.**

- Section 2-177. Establishment.
- Section 2-178. Purchase and sale of affected properties.
- Section 2-179. Creation of geothermal relocation and community benefits fund.
- Section 2-180. Funding.
- Section 2-181. Expenditures from fund.
- Section 2-182. Promulgation authority.

### **Article 37. Family Violence Advisory Commission.**

- Section 2-183. Organization.
- Section 2-184. Membership and tenure.
- Section 2-185. Oath of affirmation.
- Section 2-186. Rules of procedure; quorum; meetings.
- Section 2-187. Powers and duties of the commission.



**Article 38. Claims and Actions Against County Officers,  
Employees and Former Employees.**

Section 2-188. Defense by the County; punitive damages.

**Article 39. Workforce Innovation and Opportunity Act Program.**

Section 2-189. Established.  
Section 2-190. Purpose.  
Section 2-191. Powers and duties.  
Section 2-192. Workforce innovation and opportunity board.  
Section 2-193. Creation of fund.  
Section 2-194. Funding.  
Section 2-195. Expenditures from fund.  
Section 2-196. Impairment of Federal funds.  
Section 2-197. Termination of fund.

**Article 40. Department of Environmental Management.**

Section 2-198. Definitions.  
Section 2-199. Composition of department.  
Section 2-200. Statement of policy.  
Section 2-201. Appointment and qualifications of department head.  
Section 2-202. Powers, duties and functions.  
Section 2-203. Divisions within department.  
Section 2-204. Enforcement.  
Section 2-205. Penalties.  
Section 2-206. Administrative penalties.  
Section 2-207. Environmental management commission.

**Article 41. Disaster and Emergency Fund.**

Section 2-208. Creation of fund; purpose.  
Section 2-209. Funding.  
Section 2-210. Expenditures from the disaster and emergency fund.  
Section 2-211. Dissolution of the fund.  
Section 2-212. Reimbursement from grants.  
Section 2-213. Administration of the fund.

**Article 42. Public Access, Open Space, and Natural Resources Preservation.**

- Section 2-214. Repealed.
- Section 2-214.1. Public access, open space, and natural resources preservation fund.
- Section 2-214.2. Public access, open space, and natural resources preservation maintenance fund.
- Section 2-215. Public access, open space, and natural resources preservation commission.
- Section 2-216. Oath of affirmation.
- Section 2-217. Duties and responsibilities of the commission.
- Section 2-218. Prioritized list of qualifying lands worthy of preservation.

**Article 43. Budget Stabilization Fund.**

- Section 2-219. Creation of fund; purpose.
- Section 2-220. Funding.
- Section 2-221. Expenditures.
- Section 2-222. Appropriations.
- Section 2-223. Prohibitions.
- Section 2-223.1. Dissolution of the fund.

**Article 44. Hawai'i County Cultural Resources Commission.**

- Section 2-224. Purpose.
- Section 2-225. Definitions.
- Section 2-226. Commission established.
- Section 2-227. Officers and expenses.
- Section 2-228. Meetings and voting.
- Section 2-229. Powers and duties.
- Section 2-230. Nominations to the Hawai'i or national register of historic places.
- Section 2-231. Guidelines.
- Section 2-232. Administration.

**Article 45. Transportation Surcharge.**

- Section 2-233. Establishment of surcharge.
- Section 2-234. General excise tax fund.
- Section 2-235. Use of funds.
- Section 2-236. Termination of surcharge.

**CHAPTER 2**

**ADMINISTRATION**

**Article 1. General Provisions.**

**Section 2-1. Purpose of chapter.**

The purpose of this chapter is to set forth the complete plan of administrative organization under the executive branch of the County government pursuant to section 4-2, Hawai'i County Charter. (1983 CC, c 2, art 1, sec 2-1.)

**Section 2-2. Bonds of officials required; amount; filing; payment of premiums.**

(a) In accordance with the provisions of section 13-6, Hawai'i County Charter, bonds in the following amounts shall be furnished by the following officers and employees:

<b>Officers and Employees</b>	<b>Bonds</b>
Mayor .....	\$25,000
Councilmember (each) .....	10,000
Prosecuting attorney .....	20,000
Director of finance .....	25,000
Corporation counsel.....	20,000
Deputy director of finance.....	20,000
Controller.....	20,000
Treasurer.....	20,000
Purchasing agent.....	10,000
Cashier.....	10,000
County clerk .....	15,000

(b) Officers and employees of the legislative branch shall file their bonds with the clerk. Officers and employees of the executive branch shall file their bonds with the director of finance.

(c) The premium on the bonds shall be paid by the County. (1983 CC, c 2, art 1, sec 2-2.)

**Section 2-3. Issuance of commissions.**

Whenever any ordinance of the County authorizes the issuance of a commission for the appointment of any officer within the County, such commission shall be filed in the office of the clerk who shall furnish certified copies to persons entitled thereto. The commissions so issued shall be the sole evidence of the appointment of the officers for whom they are issued.

(1983 CC, c 2, art 1, sec 2-3.)

**Section 2-4. Subpoenas.**

- (a) The chair of the council is authorized when countersigned by the clerk, and over the Seal of the County duly affixed, to summon or to subpoena persons to appear before the council, upon the request in writing of and by parties interested in the matter then pending before the council to the clerk, or to the chair of the council stating that such persons are necessary for the full understanding and legal determination of the matters before the council.
  - (b) The person summoned shall be paid from the general fund of the County, upon claims duly certified as by ordinance provided and regulated at the rate of 10 cents a mile, going and coming, and \$1 a day during actual attendance before the council.
  - (c) Any person who fails to appear or otherwise violates this section shall be fined a sum not to exceed \$100.
- (1983 CC, c 2, art 1, sec 2-4.)

**Section 2-5. Inspections; charges for overtime.**

- (a) When an applicant requests that an inspection be made, other than during normal working hours or on a Saturday, Sunday, or legal holiday, the applicant shall bear the cost of such inspection, and shall pay the cost to the County, prior to receiving final approval of the project. Moneys so realized shall be credited to the proper accounts of the respective agencies to cover the cost of such overtime inspections. Such moneys are hereby appropriated and shall be expended for inspection costs without further action of the council.
  - (b) As used in this section:
    - (1) "Applicant" means any person requesting inspectional services from the County.
    - (2) "Cost" means the amount to be charged by the County for overtime inspection at the per hour rate, including overhead and administrative charges, to be established by the director of public works, commensurate with the changes in salary and applicable fringe benefits and overhead expenses.
  - (c) "Inspection" shall include all inspections provided for by law.
- (1983 CC, c 2, art 1, sec 2-5; am 2001, ord 01-108, sec 1.)

**Section 2-5.1. Hawaiian language; spelling.**

The County shall encourage the proper use and correct spelling of words or terms in the Hawaiian language in documents prepared by or for County agencies or officials, including the use of macrons and glottal stops. Any rule, order, policy, or other act, official or otherwise, that prohibits or discourages the use of these symbols shall be void.

(1997, ord 97-159, sec 2.)

**Article 2. Executive Branch.**

**Section 2-6. Office of the mayor.**

The office of the mayor shall be composed of the mayor and the managing director.  
(1983 CC, c 2, art 2, sec 2-6; am 2001, ord 01-107, sec 1.)

**Section 2-7. Organization of executive branch.**

The executive branch of the County is organized into the following agencies/departments:

- (1) Agency and agency heads under direct supervision of the managing director:

<b>AGENCY</b>	<b>AGENCY HEAD</b>
(A) Civil defense.....	Civil defense administrator
(B) Office of aging .....	County executive on aging
(C) Office of housing and community development .....	Housing administrator
(D) Mass transit .....	Mass transit administrator

- (2) Departments and heads under direct supervision of the managing director:

<b>DEPARTMENT</b>	<b>DEPARTMENT HEAD</b>
(A) Office of management .....	Managing director
(B) Corporation counsel .....	Corporation counsel
(C) Department of finance .....	Director of finance
(D) Planning department.....	Planning director
(E) Department of environmental management.....	Director of environmental management
(F) Department of research and development .....	Director of research and development
(G) Department of public works .....	Director of public works
(H) Department of parks and recreation .....	Parks and recreation director
(I) Department of information technology .....	Director of information technology

- (3) Departments and administrative heads under commissions and administrative supervision of the managing director:

<b>DEPARTMENT</b>	<b>ADMINISTRATIVE HEAD</b>
(A) Department of human resources .....	Director of human resources
(B) Police department .....	Chief of police
(C) Department of liquor control .....	Director, department of liquor control
(D) Hawai'i fire department.....	Fire chief
(E) Department of water supply.....	Manager-chief engineer

(1983 CC, c 2, art 2, sec 2-7; am 1989, ord 89-48, sec 1; am 2001, ord 01-106, sec 1; ord 01-108, sec 1; am 2002, ord 02-56, secs 1 and 2; am 2004, ord 04-58, sec 2; am 2009, ord 09-105, sec 2; am 2011, ord 11-103, sec 2.)

**Section 2-8. Order of succession to office of mayor.**

In the event of civil, military or natural disaster, during the temporary absence or disability of the mayor, the managing director shall act as mayor. If the office of managing director is vacant, or during such periods as the managing director is unable to so act, the director of finance shall then act as mayor. If the office of director of finance is vacant, or during such periods as the director of finance is unable to so act, then the planning director, director of research and development, director of human resources, and director, department of liquor control, shall succeed to the office of mayor in the order specified herein.

(1983 CC, c 2, art 2, sec 2-8; am 2009, ord 09-105, sec 3.)

**Article 3. Office of the Corporation Counsel.****Section 2-9. Settlement of claims.**

The corporation counsel shall have the power to settle, compromise, or otherwise resolve any claim now existing or which may hereafter arise, not involving or requiring payment in excess of \$10,000, provided the money to settle claims generally has been appropriated and is available; and provided further that a quarterly report of all settlements by the corporation counsel which require payment of County funds shall be filed with the council. Any settlement which requires payment of County funds in excess of \$10,000 shall require council authorization.

(1983 CC, c 2, art 3, sec 2-9; am 2013, ord 13-129, sec 2.)

**Section 2-10. Settlement of land acquisitions.**

The corporation counsel shall have the power to adjust, compromise, settle, or submit to arbitration, any land acquisition requests referred to him by other County agencies or eminent domain actions, causes of eminent domain actions in favor of or against the County, or in which the County is concerned as purchaser, seller, condemnor, or condemnee, now pending or which may hereafter arise, not involving or requiring payment in excess of \$2,500, provided the money to settle any matter generally has been appropriated and is available; and provided further that a quarterly report of all settlements shall be filed with the council.

(1983 CC, c 2, art 3, sec 2-10.)

**Article 3A. Office of the Prosecuting Attorney.****Section 2-10A. Appointment of personnel.**

There shall be an office of the prosecuting attorney as provided by Charter. The prosecuting attorney may appoint deputy prosecuting attorneys and necessary staff, including investigators. The investigators shall have all of the powers and privileges of a police officer for the County of Hawai'i. The office of the prosecuting attorney shall adopt policies and standards for training and use of these powers consistent and in conformance with those adopted by the Hawai'i County police department. All investigations relating to the discharge of a firearm by an investigator shall be conducted by the Hawai'i County police department. All investigators must have the minimum qualifications for the class as established by the department of human resources.

(1992, ord 92-105, sec 1; am 2009, ord 09-105, sec 4.)

**Article 4. Department of Finance.****Section 2-11. Issuance of warrants.**

- (a) Any person entitled to a warrant upon the County treasury may file a written order for the same with the director of finance authorizing the person named in the order to receipt the warrant. When so receipted, signed in the name of the claimant by the person named in the order so that both names appear upon the receipt, the director of finance may deliver the warrant to the person named in the order.
- (b) In like manner as provided in subsection (a), an order may be filed with the treasurer covering the presentation and payment of the warrants. The orders may cover all warrants issued or to be issued to the person signing the same during the year in which the order is dated but not later. The orders may be renewed from year to year.
- (c) With reference to warrants addressed under this part, the controller may, with the approval of the director of finance, issue checks drawn from, or make electronic funds transfers from, depositories of County treasury moneys in lieu of warrants drawn from the County treasury and may accept remittance by electronic funds transfer or credit or debit card pursuant to standards established by the director of finance.

(1983 CC, c 2, art 4, sec 2-11; am 2003, ord 03-101, sec 1.)

**Section 2-12. Refund of permit fees.**

- (a) The director of finance is authorized to grant the refund of permit fees according to and in compliance with the following provisions in any case not covered specifically by any other law or ordinance:

- (1) Any person who has paid a fee established by the County for the issuance of any permit shall be entitled to a refund of that fee, provided that the person first submits a written request to the head of the issuing department or agency identifying the issue date, amount, and nature of the permit and the request is received by the head of the issuing department or agency within ninety days from the issue date of the permit.
  - (2) The issuing department or agency shall record the date of receipt thereupon, and shall confirm or deny the information contained in the request pertaining to the issue date, amount and type of permit. If the applicant is entitled to a refund after the verification of the information contained in the request, and the request was received within ninety days from the issue date of the permit, the issuing department or agency shall prepare a request for payment and forward it to the director of finance for processing.
  - (3) If the director of finance is satisfied that the request was received within the ninety day time limit specified in subsection (a)(1), the director of finance shall refund to the applicant the applicant's permit fee less the greater of the amount of ten percent of the fee or \$50.
- (b) No refund shall be granted for any fee of \$50 or less.
  - (c) Notwithstanding the ninety day time limitation for requests and the amount of refund, the director of finance may refund the full amount of a permit that was inadvertently issued in duplicate.
  - (d) The director of finance may refund the full amount of any monies paid as security deposits, bid bonds and performance bonds after all stipulations of a contract have been completed.
- (1983 CC, c 2, art 4, sec 2-12; am 1994, ord 94-19, sec 2.)

**Section 2-12.1. Encumbrances.**

“Encumbrance” means an obligation to pay funds from an appropriation, or a legal claim against an appropriation. When a contract is certified as to availability of funds, the amount certified is encumbered as of the date of certification. An appropriation by the council of State, Federal or private funds which are legally restricted by the terms of the grant or agreement to specific purposes shall be considered encumbered until the purposes of the grant or agreement are accomplished or abandoned.

(1991, ord 91-57, sec 1.)

**Section 2-12.2. Lien parity.**

- (a) Payment on liens that are authorized by this code or by State statute and establish parity as to other liens shall be made as nearly as practical pro rata based on the respective unpaid amounts of all parity liens, including principal, penalty, interest, fees, and costs; provided that payments billed and collected separately with respect to any particular parity lien shall be applied separately to the unpaid amount of such parity lien.



- (b) In the event of delinquencies, parity liens may be foreclosed together or in separate foreclosures and the amounts realized by foreclosure, together or separately, as applicable, shall be applied in the manner provided above for payments billed and collected together or separately.
  - (c) Notwithstanding any provision of this code to the contrary, foreclosure of any parity lien or liens shall not extinguish or otherwise affect any parity lien or liens for amounts that are not satisfied by such foreclosure.
- (2008, ord 08-157, sec 2.)

**Section 2-12.3. Change orders and contract supplements;  
notification to the council.**

The director of finance shall notify the council of all change orders and contract supplements executed by the County no later than thirty days after authorization of the change order or contract supplement. Notification shall be provided by submitting a report to be placed on the council committee agenda designated to handle matters of finance. The report shall include the following: job number; contract number; project title; contract type; contracting agency, office, or department of the County; project manager; contractor or contractors; original contract amount; date the contract was awarded; number of change orders or contract supplements; total amount of the change order or contract supplement; percentage of increase or decrease; and the status of the project.

(2011, ord 11-2, sec 2.)

**Section 2-12.4. Fund balance.**

- (a) Definitions.

“Unassigned fund balance” means the residual classification for the general fund and includes all amounts not contained in the other classifications, such as non-spendable, restricted, committed, and assigned fund balances. Unassigned amounts are technically available for any purpose.

- (b) If a governmental fund has a fund balance deficit, then it shall be reported as a negative amount in the unassigned classification in that fund. Positive unassigned amounts will be reported only in the general fund.
- (c) The director of finance shall provide the budgetary fund balance and the fund balance designated for a future year, as separate line items, in a written report to the council no later than October 15 for the preceding fiscal year. This report shall be presented to the committee designated to review financial matters as soon as practicable after its receipt. In the absence of council committees, the report shall be sent to the council in the same time frame.
- (d) The director of finance shall provide the Comprehensive Annual Financial Report (CAFR) containing the audited, unassigned fund balance to the council no later than December 31 for the preceding fiscal year. This report shall be presented to the committee designated to hear financial matters, or in the absence of council committees, the report shall be sent to the council as soon as practicable after its receipt.

- (e) If a report may be late, the director of finance shall submit a written communication to the council with an explanation of the reason for being late before the deadlines in (c) and (d) above. The communication shall be placed on the agenda in the committee charged with financial issues or in the absence of council committees, the communication shall be sent to the council as soon as practicable. (2011, ord 11-37, sec 2.)

**Section 2-12.5. Temporary positions; notification to the council.**

- (a) The director of human resources shall notify the council about any person employed under a contract for less than ninety days if:
- (1) The salary is \$2,500 or more per month; and
  - (2) The temporary position is unrelated to a state of emergency declaration.
- (b) A quarterly report shall be submitted and placed on the council committee agenda designated to handle matters of finance. The report shall contain the contractor's name, the duration of the contract, the cost of the contract, and the service to be performed. (2017, ord 17-42, sec 1.)

**Article 5. Fire Department.**

**Section 2-13. Fire chief; appointment; qualifications.**

The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the fire chief must be allowed to respond to the statement of reasons before being removed. The fire chief shall have a minimum of five years of training and experience in fire control, including at least three years of experience in a responsible administrative capacity. (1983 CC, c 2, art 5, sec 2-13; am 2001, ord 01-109, sec 1.)

**Section 2-14. [Former] Repealed.**

(1983 CC, c 2, art 5, sec 2-14.)

**Section 2-14. Powers, duties and functions.**

The fire chief shall:

- (1) Perform firefighting and emergency services in order to save lives and property from fires and from emergencies arising on land, or the sea and hazardous terrain;
- (2) Train, equip, maintain and supervise a force of firefighting and emergency services personnel;
- (3) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety;
- (4) Provide educational programs related to fire prevention and life safety;

- (5) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief;
- (6) Appoint members of the department under established personnel rules and regulations, and statutes; and
- (7) Have such other powers, duties and functions as may be required by ordinance.

(2001, ord 01-109, sec 1.)

This page intentionally left blank.

**Section 2-15. Fire commission. \***

There shall be a fire commission, which shall consist of nine members. One member shall be a resident of each council district. The commission may appoint such staff and engage such consultants as necessary for the performance of its duties. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4, Hawai'i County Charter 2000.

(2001, ord 01-109, sec 2.)

\* **Editor's Note:** Section 2-15, formerly entitled "Duties," was renumbered section 2-14 and renamed "Powers, Duties and Functions" by Ordinance 01-109. Section number 2-15 was assigned to a new section named, "Fire commission".

**Section 2-15.1. Powers, duties and functions.**

The fire commission shall:

- (1) Adopt rules necessary for the conduct of its business and review rules for the administration of the department;
- (2) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council;
- (3) Review the department's operations as deemed necessary, for the purposes of recommending improvements to the fire chief;
- (4) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council;
- (5) Review personnel actions within the department for conformance with the policies under section 7-4.2, Hawai'i County Charter;
- (6) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions; and
- (7) Submit an annual report to the mayor, managing director and the council on its activities.

Except for purposes of inquiry or as otherwise provided in the Hawai'i County Charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

(2001, ord 01-109, sec 2; am 2011, ord 11-103, sec 3.)

**Article 6. Volunteer Fire Department.****Section 2-16. Volunteer fire department created.**

There is created and established for and within the County a department to be known as the Hawai'i volunteer fire department to train volunteers in the prevention of fires and to aid in the control of fires. The department shall have its principal office in the Hilo fire station.

(1983 CC, c 2, art 6, sec 2-16.)

**Section 2-16.1. Volunteer fire stations.**

In accordance with provisions of section 46-13.1, Hawaii Revised Statutes, the following volunteer fire stations are established in the County of Hawaii to be sited and operated by the head of the volunteer fire department pursuant to powers granted under this article:

- (1) Pepe'ekeo volunteer fire station.
- (2) Kūlani volunteer fire station.
- (3) Volcano volunteer fire station.
- (4) Hawaiian Acres volunteer fire station.
- (5) Fern Forest volunteer fire station.
- (6) Fern Acres volunteer fire station.
- (7) Miloli'i volunteer fire station.
- (8) Kona Paradise volunteer fire station.
- (9) Kona Village volunteer fire station.
- (10) Ka'ū pūlehu volunteer fire station.
- (11) Four Seasons volunteer fire station.
- (12) Pa'auilo volunteer fire station.
- (13) Waiki'i volunteer fire station.
- (14) Hawaiian Beaches volunteer fire station.
- (15) Wa'awa'a volunteer fire station.
- (16) Nā'alehu volunteer fire station.
- (17) Hawaiian Ocean View Estate volunteer fire station.
- (18) Discovery Harbor volunteer fire station.
- (19) Pāhala volunteer fire station.
- (20) North Kohala Coast volunteer fire station.
- (21) Waikoloa volunteer fire station.
- (22) Laupāhoehoe volunteer fire station.
- (23) Paradise Park volunteer fire station.
- (24) Ainaloa volunteer fire station.
- (25) Pu'uanaulu volunteer fire station.

(2004, ord 04-22, sec 2; am 2005, ord 05-116, sec 1; ord 05-137, sec 1.)

**Section 2-17. Head of volunteer fire department.**

- (a) The fire chief of the County fire department shall be the head of the volunteer fire department. The head of the volunteer fire department shall:
- (1) Be vested with the management and control of the affairs, personnel, and property of the department, subject to the general authority and control of the council;
  - (2) With the consent and approval of the council, make expenditures of moneys appropriated by the council for the department;
  - (3) Not contract any debt on behalf of the department, not dispose of any property belonging to the department without the consent of the council;

- (4) Make periodic reports to the council concerning the affairs and activities of the department; and
- (5) Perform and discharge such other duties as may be assigned to the head of the volunteer fire department by the council.

(1983 CC, c 2, art 6, sec 2-17; am 2004, ord 04-22, sec 3.)

**Section 2-18. Appointment of other personnel.**

The council may provide for the appointment of other personnel as it deems necessary to carry out this article. All such appointees shall be paid monthly salaries as may be fixed in accordance with the provisions of the personnel classification laws.

(1983 CC, c 2, art 6, sec 2-18.)

**Section 2-19. Volunteer personnel.**

The organization of the volunteer fire department shall be patterned as closely as is practicable after that of the fire department. The head of the volunteer fire department shall appoint, with the approval of the council, such volunteer personnel as the head of the volunteer fire department deems necessary to fill the membership of the department. The qualifications for membership shall be as prescribed by the rules and regulations governing the conduct of the department. These rules and regulations shall be formulated by the department head and presented to the council for its approval.

(1983 CC, c 2, art 6, sec 2-19.)

**Section 2-20. Mileage reimbursements for volunteer fire personnel.**

All volunteer fire personnel residing in a district other than the district where a fire occurs and who are duly authorized to participate and aid in the control of that fire shall be reimbursed at such rates prescribed by, and subject to, the requirements set forth in section 2-101(b), for each mile actually and necessarily traveled, in the performance of their volunteer activities.

(1983 CC, c 2, art 6, sec 2-20; am 1989, ord 89-28, sec 1; am 2006, ord 06-100, sec 2.)

**Section 2-21. Coordination of volunteer and regular fire departments.**

In the event of a fire occurring at any place within the County, the head of the volunteer fire department shall place the personnel of this department under the direction and control of the County fire department, which may utilize the service of the personnel of the volunteer fire department to the fullest extent to aid in bringing such fire under control and to perform such other duties as may be necessary to provide for the maximum safety of the inhabitants of the area threatened by such conflagration.

(1983 CC, c 2, art 6, sec 2-21.)

**Section 2-22. Use of County fire-fighting equipment.**

The fire-fighting apparatus and facilities of the County fire department, necessary to carry out the purpose of this article shall be made available to the volunteer fire department when the chief engineer, County fire department, is satisfied that the efficiency of this department will not be seriously impaired.

(1983 CC, c 2, art 6, sec 2-22.)

**Section 2-23. Benefits.**

All persons who are members of the volunteer fire department while engaged in the training and performance of volunteer fire fighting shall be entitled to benefits as provided by this article.

(1983 CC, c 2, art 6, sec 2-23.)

**Section 2-24. Extent of coverage.**

In case of injury or death arising out of and in the performance of volunteer fire fighting or training, all persons included in section 2-23, shall be entitled to benefits as prescribed by chapter 386, Hawaii Revised Statutes. No person shall be excluded from receiving such benefits by reason of being an elected official, employer, or having an occupation which is excluded from coverage under chapter 386.

(1983 CC, c 2, art 6, sec 2-24.)

**Section 2-25. Computation of wages.**

For the purposes of the benefits under this article, average weekly wages or earnings shall be computed from the usual employment or occupation of the person upon the basis set forth in section 386-51, Hawaii Revised Statutes, or upon the basis of earnings at the rate of \$20 per week, whichever is most favorable to the claimant.

(1983 CC, c 2, art 6, sec 2-25.)

**Section 2-26. Volunteers not members of volunteer fire department.**

- (a) All persons not members of the volunteer fire department who volunteer their services at fires and whose services are accepted by authorized persons and whose injuries or death arise out of and in the performance of volunteer fire fighting shall be paid their reasonable hospital and medical expenses as authorized by section 386-171, Hawaii Revised Statutes, and funeral expenses not to exceed \$300.
- (b) "Authorized persons" as used in this section means such persons in the County fire department or volunteer fire department who are supervising or directing the fire-fighting operations.

(1983 CC, c 2, art 6, sec 2-26.)

**Article 7. Planning Department.****Section 2-27. [Former] Repealed.**

(1983 CC, c 2, art 7, sec 2-27; rep 1995, ord 95-62, sec 1.)

**Section 2-27. Windward and leeward planning commissions.**

- (a) There shall be a windward planning commission and a leeward planning commission, each made up of seven members as provided for by Charter. The windward and leeward planning commissions shall:
- (1) Perform such duties as are prescribed by the Charter.
  - (2) Perform such other duties as are assigned to it by state law or this Code.



- (b) The windward planning commission shall administer, adjudicate and authorize payment from the Geothermal asset fund and claims made against the Geothermal asset fund, provided that no payments shall be made nor obligation incurred for any claim for which there are insufficient funds in the Geothermal asset fund to satisfy. No claim made pursuant to this subsection will be deemed a claim against the County nor will the payment of any claim be construed as an admission of fault by the County or its officers, employees or agents.
- (c) These commissions may incur expenses as are necessary to carry out these duties for which an appropriation has been made by the council. The planning director shall provide the windward and leeward planning commissions with such administrative support as is necessary.

(1995, ord 95-62, sec 2; am 2009, ord 09-118, sec 2.)

**Section 2-28. Quorum; meetings.**

- (a) The majority of the voting members of the windward planning commission shall constitute a quorum for the transaction of business and for the exercise of the powers and authority conferred upon this commission. All actions of the windward planning commission shall require the affirmative vote of a majority of its members.
- (b) The majority of the voting members of the leeward planning commission shall constitute a quorum for the transaction of business and for the exercise of the powers and authority conferred upon this commission. All actions of the leeward planning commission shall require the affirmative vote of a majority of its members.
- (c) For those matters requiring a joint meeting of the windward and leeward planning commissions, as provided for in the Charter, a majority of each commission's voting members shall constitute a quorum. All actions of a joint meeting of these commissions shall require the affirmative vote of a majority of their combined membership.
- (d) The windward and leeward planning commissions shall each hold at least one meeting in each month.
- (e) Pursuant to the Charter, a uniform body of rules of practice and procedure, except for meeting places and times, shall be adopted by a majority vote of the combined membership of the windward planning commission and leeward planning commission, meeting jointly. Any rule adopted for the transaction of business shall be consistent with the laws of the State and the ordinances of the County.

(1983 CC, c 2, art 7, sec 2-28; am 2009, ord 09-118, sec 3.)

**Section 2-28.1. Community development plan.**

Within sixty days after receipt of the planning director's recommendation on a draft community development plan or any amendment thereof, either the windward or leeward planning commission, or both meeting as a joint commission as provided for in the Charter, shall transmit the draft community development plan or any amendment with its recommendation through the mayor to the County council. The designated commission, or joint commission, shall recommend approval in whole or in part, with or without modifications, or rejection of the community development plan or any amendment. In the event the designated planning commission, or joint commission, fails to act on the community development plan or amendment within the sixty-day period, such inaction shall be considered as an unfavorable recommendation by that commission, and the community development plan or amendment shall then be submitted through the mayor to the County council with such recommendation. (2008, ord 08-71, sec 2; am 2009, ord 09-118, sec 4.)

**Section 2-29. Records of findings required; location of office.**

- (a) The windward and leeward planning commissions shall keep public records of their findings and determinations, whether acting independently or jointly.
- (b) The office of the windward and leeward planning commissions shall be in the planning department, or such other place designated by a consensus of both commissions determined by an affirmative vote of a majority of the combined membership, with the approval of the council. Any such vote shall occur only during a joint meeting of both commissions.

(1983 CC, c 2, art 7, sec 2-29; am 2009, ord 09-118, sec 5.)

**Section 2-30. Publication of notice.**

Whenever published notice of either a windward or leeward planning commission meeting is required, it shall be provided in accordance with state law. This section shall also apply to any joint meeting of the windward and leeward planning commissions. (1983 CC, c 2, art 7, sec 2-30; am 1995, ord 95-62, sec 3; am 2009, ord 09-118, sec 6.)

**Section 2-31. General plan; contents; location.**

- (a) The general plan shall include a map of the County and shall contain a statement of:
  - (1) Development objectives, standards and principles with respect to the most desirable use of land within the County for residential, recreational, agricultural, commercial, industrial, and other purposes;
  - (2) The most desirable density of population in the several parts of the County; a system of principal thoroughfares, highways, streets, and other public open spaces; the general location, relocation, and improvement of public buildings;
  - (3) The general location and extent of public utilities and terminals, whether publicly or privately owned, for water, sewers, light, power, transit, and other purposes;
  - (4) The extent and location of public housing projects;

- (5) Adequate drainage facilities and control; and
  - (6) Such other matters as may, in the council's judgment, be beneficial to the social, economic, and governmental conditions and trends, and which are designed to assure the coordinated development of the County and to promote the general welfare and prosperity of its people.
- (b) The general plan shall be kept on file at the planning department.  
(1983 CC, c 2, art 7, sec 2-31; am 2009, ord 09-118, sec 7.)

**Section 2-32. Subdivision regulations.**

Regulations provided for under this section and as codified in chapter 23 of this Code shall coordinate streets within subdivisions with other existing or planned streets, or with other features of the general plan for the adequate and convenient placing of open spaces for traffic, utilities, access for fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots, and for a proper distribution of population and traffic which will tend to create conditions favorable to public health, safety, and morals. All such regulations shall be enacted as ordinances of the County and published as provided by law. Pursuant to the Charter, the windward and leeward planning commissions shall meet separately and provide separate recommendations on any amendment to subdivision regulations.

(1983 CC, c 2, art 7, sec 2-32; am 2009, ord 09-118, sec 8.)

**Section 2-33. Zoning regulations; amendments.**

- (a) Regulations provided for under this section and as codified in chapter 25 of this Code shall regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, and to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses or creating districts for any such purposes. The regulations shall be enacted as ordinances of the County and published as provided by law. Pursuant to the Charter, the windward and leeward planning commissions shall meet separately and provide separate recommendations on any amendment to zoning regulations.
- (b) The director, with the approval of either the windward or leeward planning commission, or both acting jointly, as provided in the Charter, may initiate at any time or upon application as provided in section 2-34 and recommend to the council the adoption of an ordinance amending or repealing any zoning regulation or the enactment of a new ordinance regulating land uses after a public hearing is held. Published notice of the hearing shall be given in the manner provided in section 2-30.
- (c) Notwithstanding any provision in this section, any ordinance regulating land use and affecting lands in a redevelopment project area shall be amended without the necessity of a public hearing to conform to the approved redevelopment plan upon acquisition of the lands by the Hawai'i redevelopment agency in accordance with section 53-6, Hawai'i Revised Statutes.

(1983 CC, c 2, art 7, sec 2-33; am 2009, ord 09-118, sec 9.)

**Section 2-34. Application for changes or new provisions.**

- (a) Any application for a change, amendment or other modification or addition to any zoning ordinance may be filed with the director by the owner or lessee holding under a recorded lease of any real estate affected by any such ordinance or to be affected by the proposed changes, upon depositing with the director the sum of \$100 to cover all necessary costs.
- (b) When all the preliminary procedures have been complied with, the director shall refer the application to either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The designated commission, or both commissions if so required by Charter, shall consider and act upon the application by holding a public hearing, published notice of which shall be given in the manner provided by law.

(1983 CC, c 2, art 7, sec 2-34; am 1994, ord 94-14, sec 2; am 2009, ord 09-118, sec 10.)

**Section 2-35. Repealed.**

(1983 CC, c 2, art 7, sec 2-35; rep 2009, ord 09-118, sec 11.)

**Section 2-35.1. Urban renewal.**

The planning department is hereby determined to be the lead agency in enabling the County to directly exercise its powers as provided for in parts I and II of chapter 53, Hawaii Revised Statutes. As the lead agency, the planning department shall delegate the responsibilities of the Hawaii redevelopment agency to the appropriate departments, commissions and agencies to insure that the procedures of compliance are adhered to.

(1992, ord 92-37, sec 2.)

**Article 8. Department of Research and Development.\*****Section 2-36. Purpose.**

It is the purpose of this article to provide the necessary leadership to anchor the department of research and development's planning, policies, goals and actions in sustainable economic, societal and environmental practices. The adoption and employment of sustainable practices as a framework for business as usual through systematic change processes which shall result in concrete outcomes, changes in multiple functions or portions of the system, and institutionalization of these changes on an on-going basis to address sustainable agriculture; alternative energy, fuel and waste management; ecological education, business development, green housing and buildings; and protection of biodiversity.

(2007, ord 07-161, sec 1.)

**Section 2-37. Sustainability Action Committee.**

- (a) There shall be designated within the department of research and development a sustainability action committee, which shall sit in an advisory capacity to the director of the department on matters that support a sustainable economy, society and environment and are within the department's purview to include energy, business development, agriculture, tourism, film, community development, and other related subjects. The department shall provide support service to the committee.
- (b) Membership and term. The committee shall be composed of five members, who shall be appointed by the mayor and confirmed by the council. Any member of the committee may be removed upon recommendation of the mayor and the approval of the council. Members shall serve a term of five years. However, for the initial appointment of members, one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. In addition to the five members, the director or the director's designee will serve as an ex-officio member of the committee.
- (c) The members shall be broadly representative of the County and shall be selected on the basis of their knowledge, expertise, proven innovative and technical skills and ability to network and source cutting edge technologies, with interests in one or more of the following areas: agriculture, business, energy, tourism, community, economics, planning, architectural design, community facilitation and Hawaiian culture.
- (d) No member shall be eligible for a second appointment to the committee prior to the expiration of two years, provided that members appointed for a term of one year or two years shall be eligible to succeed themselves for an additional term.
- (e) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (f) Any vacancy occurring in the committee shall be filled for the unexpired term.
- (g) Not more than a bare majority of the members shall belong to the same political party.
- (h) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance pursuant to chapter 2, article 16 of the Hawai'i County Code.
- (i) A chairperson shall be elected from its membership annually.
- (j) The affirmative vote of a majority of those members present shall be necessary to make any action valid.
- (k) The committee shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the committee is entitled.

- (l) No person shall, by reason of occupation alone, be barred from serving as a member of this committee.
  - (m) The council shall act to confirm or reject any appointment made to the committee by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
- (2007, ord 07-161, sec 1.)

**Section 2-37.1. Duties of the committee.**

- (a) The sustainability action committee shall make recommendations and support the department's integration of planning and implementation of sustainable principles in its work with communities, businesses and other agencies.
- (b) The sustainability action committee shall support and make recommendations to:
  - (1) Raise awareness of what the term sustainability represents and the guiding principles of sustainability;
  - (2) Conduct environmental scans to assess current conditions as they relate to the guiding principles of sustainability;
  - (3) Identify a vision for sustainability and recommend solutions; and
  - (4) Support the development of sustainability actions plans.
- (c) The sustainability action committee shall support, monitor and comment on the department's efforts to effectuate sustainable planning, policies, programs, projects and operations.

(2007, ord 07-161, sec 1.)

**Section 2-37.2. Guidelines for committee recommendations.**

- (a) The sustainability action committee shall apply guiding principles of sustainability as a framework for identification of issues, research and innovative actions. These principles shall include:
  - (1) Reduced dependence upon fossil fuels, extracted underground metals and minerals;
  - (2) Reduced dependence on chemicals and other manufactured substances that can accumulate in nature;
  - (3) Reduced dependence on activities that harm life-sustaining ecosystems; and
  - (4) Meeting the hierarchy of human needs fairly and efficiently.
- (b) The sustainability action committee shall employ a "systems approach" to identify upstream root causes and outcomes and shall recommend appropriate research, planning and implementation initiatives; outcome measures and indicators; engagements and partnerships as may be necessary to guide the department to innovative and successful sustainable models that effectuate the purpose of this article.

- (c) The sustainability action committee shall consider the recommendations provided in the general plan, community development plan ordinances, community visioning processes and other agencies' planning documents. Additionally, the committee shall seek innovative solutions, programs and initiatives based upon sustainable precepts of native Hawaiian culture and other local, national and international resources to advance the purpose of this article and seek the necessary technical and other support required for implementation by the department, other agencies and the community. The committee shall encourage and participate in the internal and external network opportunities at the local, state, national and international levels.

(2007, ord 07-161, sec 1.)

**\*Editor's Note:** Article 8 was repealed in its entirety and replaced by Ordinance 07-161.

## **Article 9. Department of Public Works.**

### **Division 1. Organization.**

#### **Section 2-38. Director of public works as department head.**

There shall be a department of public works headed by a director of public works. (1983 CC, c 2, art 9, sec 2-38; am 2001, ord 01-108, sec 1.)

#### **Section 2-39. Duties of director of public works.**

The director of public works shall be charged with the supervision, direction, and control of:

- (1) The construction, repair, maintenance, and operation of all County buildings, structures, and grounds, not otherwise delegated to any other department of the County;
- (2) The administration and enforcement of the building code, electrical code, housing code, plumbing code, and all ordinances and statutes related to the responsibilities assigned to the department of public works; and
- (3) The administration, control, and operation of all divisions and bureaus of the department of public works and the appointment, transfer, promotion, demotion, or dismissal of all necessary personnel.

(1983 CC, c 2, art 9, sec 2-39; am 2001, ord 01-108, sec 1.)

#### **Section 2-40. Duties and functions of department.**

The department shall be responsible for:

- (1) The performance of all matters relating to engineering;
- (2) Public and private building construction and inspection;
- (3) Public improvements;
- (4) Construction, inspection, and maintenance of public highways, bridges, streets, and sidewalks;
- (5) Acquisition of public and private property for public purposes;

- (6) Design and maintenance of a system of traffic control and devices;
- (7) Floodplain management; and
- (8) Construction and inspection of all other County projects, except for matters relating to the department of water supply.

(1983 CC, c 2, art 9, sec 2-40; am 2002, ord 02-56, sec 3; am 2018, ord 18-25, sec 2.)

**Section 2-41. Divisions within department.**

The department of public works shall be divided under the director into the following divisions:

- (1) **Engineering Division.** The engineering division is responsible for coordinating the planning, engineering, and implementation of the highway and drainage capital improvement projects, coordinating all land surveying, conducting necessary land rights acquisition, and providing construction inspectional services.
- (2) **Traffic Division.** The traffic division determines the location, installs, maintains, and repairs all traffic control facilities and devices and street lighting systems; is responsible for all traffic engineering in the County; maintains a traffic education program; and is responsible for the installation, maintenance, and repair of on- and off-street parking meters.
- (3) **Building Division.** The building division is responsible for public building construction and inspection; plans, specifications and applications for private building and construction; plumbing, electrical and building permits; and the enforcement of all County ordinances related to building, construction and inspection.
- (4) **Highway Maintenance Division.** The highway maintenance division shall be responsible for the construction and maintenance of all roads, streets, highways, footpaths, storm drains, bridges, flood channels, and certain cemeteries.
- (5) **Automotive Division.** The automotive division shall:
  - (A) Be responsible for the repair and maintenance of all garage, shop, and automotive equipment of the County, except such equipment as may be more practically maintained by the department having control thereof as determined by the director of public works;
  - (B) Furnish parts, accessories, gasoline, lubricants, and tires necessary for the repair for automobiles, trucks, shovels, cranes, graders, sweepers, compressors, and other such machinery or equipment; and
  - (C) Be authorized to bill any department, agency, or special fund for supplies, services, and use of equipment.

(1983 CC, c 2, art 9, sec 2-41; am 1983, ord 83-26, sec 1; am 1985, ord 85-54, sec 2; am 1986, ord 86-119, sec 2; am 1988, ord 88-7, sec 2; am 2001, ord 01-108, sec 1; ord 01-110, sec 1.)

**Division 2. Repealed.**

(1983 CC, c 2, art 9, div 2; rep 1983, ord 83-26, sec 2.)



**Article 10. Junior Police Officers.****Section 2-51. Financial aid to parents.**

Upon the contingencies and conditions under this section the parents, or the parent, guardian or custodian of any member of the junior police of the County, shall be entitled to financial aid in the manner specified:

- (1) In the event that a member of the junior police officers of the County receives any injury arising out of and in the course of the performance of the member of the junior police officer's duties as a junior police officer directing traffic in the County, including but not limited to the preparation to go on duty such as changing into uniform or procuring necessary equipment, as well as returning such equipment, the County shall pay for the cost of necessary medical care and hospitalization of any such member of the junior police officers of the County so injured, but in any case not to exceed the sum of \$10,000.
- (2) In the event that a member of the junior police officers of the County receives any injury resulting in death arising out of and in the course of the performance of the member of the junior police officer's duties as a junior police officer directing traffic in the County, including but not limited to the preparation to go on duty, changing into uniform or procuring necessary equipment, as well as returning such equipment, the County shall pay for the member of the junior police officer's funeral expenses, but in any case not to exceed the sum of \$750.

(1983 CC, c 2, art 10, sec 2-51.)

**Section 2-52. Reporting of injury; investigation.**

Every injury shall be reported immediately or as soon thereafter as practicable by the injured junior police officer (hereinafter JPO) or the JPO in charge or the parents or guardian of the injured JPO or the school authorities in charge of the JPO and to the police department. The police department shall conduct an investigation and submit a report of the circumstances surrounding the injury or death and the resulting claims to the mayor. Where the services of a County physician are available, the County physician's services shall be utilized.

(1983 CC, c 2, art 10, sec 2-52.)

**Article 11. Department of Parks and Recreation.****Section 2-53. Powers and authority.**

The department of parks and recreation shall be responsible for all public parks, recreational facilities and playgrounds in the County, owned by the County or in its possession or control, together with all equipment, supplies, and paraphernalia used in connection with them. The department shall care for the recreational needs in the County and provide such organized and supervised games and recreation as may be conducive to the mental, physical and moral development of the people of the County. Wherever and whenever feasible, the department shall use public school property and buildings by agreement with the State department of education to the extent that such property and buildings may be adaptable and available for use in County recreational programs and purposes.

(1983 CC, c 2, art 11, sec 2-53.)

**Section 2-54. Powers and duties of director.**

The director of parks and recreation shall have and enjoy all the powers and duties conferred upon the department by ordinance.

(1983 CC, c 2, art 11, sec 2-54.)

**Section 2-55. Deputy director.**

The deputy director of the department of parks and recreation shall be appointed by the director and may be removed by the director.

(1983 CC, c 2, art 11, sec 2-55.)

**Section 2-56. Full-time employees.**

The director shall employ such full-time employees including professional, clerical, and others, subject to the availability of appropriated funds, as may be necessary to carry out the provisions of this article. Full-time employees of the department shall be employed in accordance with the civil service and personnel compensation laws.

(1983 CC, c 2, art 11, sec 2-56.)

**Section 2-57. Part-time and temporary employees.**

The director is empowered to appoint, promote, demote, and terminate the employment and fix the salaries and wages of such part-time or temporary personnel as are necessary to carry out the purposes of this article.

(1983 CC, c 2, art 11, sec 2-57.)

**Section 2-58. Cooperation with other agencies and organizations.**

The department of parks and recreation, in the planning, development, and conduct of its program of public recreation and in scheduling the use of publicly owned lands or buildings for the conduct of its programs, shall cooperate to the fullest extent possible with all other duly recognized and generally accepted agencies, groups and organizations who may desire to use the lands or buildings.

(1983 CC, c 2, art 11, sec 2-58.)

**Section 2-59. Authority to levy charges and fees.**

The department of parks and recreation may charge and collect reasonable fees and charges for the use of parks and recreational grounds, facilities, and equipment, and for special licenses, permits, concessions, and admissions in accordance with duly promulgated rules and regulations.

**(a) Refunds.**

- (1) Fees, Charges, and Permits. The department of parks and recreation may refund fees and charges charged and collected in advance of the time of use provided that:
    - (A) The department receives request for refund not less than one working day before the time of such use.
    - (B) The request for refund is in writing accompanied by the appropriate license, permit or other document issued by the department of parks and recreation authorizing such use.
    - (C) The amount to be refunded exceeds \$2.
    - (D) The department of parks and recreation may, by contract, require more stringent provisions for refunds than are contained in this section.
  - (2) Deposits. The department of parks and recreation may refund surety, performance, security, clean up, and any other deposits imposed to assure compliance with State or Federal law, the County Charter, County Code or County rules and regulations provided that:
    - (A) The activity is conducted in compliance with provisions of the agreement, permit or contract.
    - (B) The facility or equipment is left or returned in a condition substantially equal to that existing prior to the use.
    - (C) The deposit or portions thereof may be retained by the department of parks and recreation to cover the cost of repairing or restoring the facility or equipment damaged or despoiled as a result of the activity for which the deposit was imposed.
- (b) Notwithstanding any other provisions in this section, the department of parks and recreation may refund fees, charges and deposits charged and collected in advance of the time of use where there is no use made of the parks, recreational grounds, facilities, or equipment because the park, recreational grounds, facilities, or equipment were unavailable under circumstances beyond the control of the person who paid such fees, charges or deposits. Requests for refund under this provision must be made in writing within ten working days of the date that the use was to have occurred.

(1983 CC, c 2, art 11, sec 2-59.)

**Section 2-60. Power to adopt rules and regulations; penalty.**

- (a) The director is authorized to adopt reasonable rules and regulations as the director deems necessary for the conduct of the department's business as authorized and prescribed, including rules and regulations for fees and charges, special licenses, permits, concessions, and admissions for the use of parks and recreational grounds, facilities and equipment, and for the conduct of all persons while on or using parks and recreational grounds. All rules and regulations shall be promulgated in accordance with the Administrative Procedures Act, chapter 91, Hawai'i Revised Statutes, and section 13-7, Hawai'i County Charter and shall have the force and effect of law.
- (b) Any person who violates any rule or regulation promulgated under authority of this section shall, upon conviction, be fined not more than the sum of \$250. Prosecution in such case shall be as provided by law for the prosecution of misdemeanors.
- (1983 CC, c 2, art 11, sec 2-60.)

**Article 12. Central Coordinating Agency.****Section 2-61. Designation of agency.**

Pursuant to section 46-18, Hawai'i Revised Statutes, the planning department is hereby designated the central coordinating agency for the County.

(1983 CC, c 2, art 12, sec 2-61.)

**Section 2-62. Duties.**

The central coordinating agency shall:

- (1) Maintain and continuously update a repository of all laws, rules and regulations, procedures, permit requirements, and review criteria of all Federal, State, and County agencies having control or regulatory powers over land development projects within the County and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular proposed project within the County.
  - (2) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a general plan, change in zoning, special management area permit, and other permits and procedures required for land development projects in the County to the extent practicable with one master application.
  - (3) Maintain and continuously update a master file for the County of all applications for building permits, subdivision maps, and land use designations of the State and County.
  - (4) When requested by the applicant, the central coordinating agency shall endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings, or any public hearings with those held by other Federal, State and/or County commissions or agencies pursuant to existing laws pertaining to the County.
- (1983 CC, c 2, art 12, sec 2-62.)

**Section 2-63. Adoption of rules.**

The central coordinating agency shall adopt necessary rules pursuant to chapters 46 and 91, Hawai'i Revised Statutes, by December 31, 1977.

(1983 CC, c 2, art 12, sec 2-63.)

**Section 2-64. Cooperation with other agencies.**

(a) All State and County departments, divisions, agencies, and commissions with control or regulatory powers over land development projects within the County shall cooperate with the central coordinating agency in making available and updating information regarding laws, rules and regulations, procedures, permit requirements, and review criteria they enforce upon land development projects.

(b) The term "agency" shall have the same meaning as it does in chapter 91, Hawai'i Revised Statutes.

(1983 CC, c 2, art 12, sec 2-64.)

**Section 2-65. Appeals.**

Appeals from actions by the director of planning in the administration of the rules and regulations adopted pursuant hereto shall be appealable to the planning board of appeals. An appeal shall be sustained only if the planning board of appeals finds that the director's action was based on an erroneous finding of material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused the director's discretion.

(1983 CC, c 2, art 12, sec 2-65)

**Article 13. Housing Administration.****Division 1. Hawai'i County Housing Agency.****Section 2-66. Created; scope of authority.**

(a) An agency to be known as the Hawai'i County housing agency (hereinafter "housing agency") is created to provide adequate housing in the County as it deems necessary.

(b) The housing agency shall consist of all of the members of the council. When the council acts as the housing agency, its role is limited to public housing policy formulation and is not charged with the duties of administering housing programs.

(c) The housing agency may apply for rental payment assistance funds from private, state, or federal sources.

(1983 CC, c 2, art 13, sec 2-66; am 2014, ord 14-8, sec 1.)

**Section 2-67. Purpose of the housing agency.**

The purpose of the housing agency is to make housing available in those areas of the County where the housing agency finds that adequate housing accommodations are not available.

(1983 CC, c 2, art 13, sec 2-67; am 2014, ord 14-8, sec 1.)

**Section 2-68. Powers of the housing agency.**

The housing agency shall have the following powers subject to applicable limitations of State law:

- (1) Obtain loans, insurance and guarantees from the State or the United States, or subsidies from either as applicable; and
- (2) Enter into agreements, as applicable, with appropriate officials of any agency or instrumentality of the United States in order to induce such official to make, insure, or guarantee mortgage loans under the provisions of the National Housing Act, as amended.

(1983 CC, c 2, art 13, sec 2-68; am 2014, ord 14-8, sec 1.)

**Division 2. Office of Housing and Community Development.****Section 2-69. Housing administrator created; office of housing and community development established.**

- (a) There shall be a housing administrator who shall be appointed by the mayor and may be removed by the mayor.
- (b) The office of housing and community development shall consist of the housing administrator and necessary staff. The housing administrator shall oversee and supervise the operations of the office of housing and community development.

(1983 CC, c 2, art 13, sec 2-69; am 2014, ord 14-8, sec 1.)

**Section 2-70. Powers of housing administrator.**

In order to carry out the purposes of this article, the housing administrator may:

- (1) Develop and construct dwelling units, alone or in partnership with developers;
- (2) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating old housing for the elderly of low income, other persons of low income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (3) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low income;
- (4) Make a direct loan to any qualified buyer for the down payment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;
- (5) Sell or lease completed dwelling units;
- (6) Assist in the leasing of private and public dwellings;
- (7) Acquire and utilize public and private lands for the purposes of this article;
- (8) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of Federal assistance for persons of low income;
- (9) Prepare documents for the housing agency to apply for and utilize private, Federal, and State rental payment assistance funds;

(10) Provide County funds for rental payment assistance for private and public dwellings; and

(11) Adopt such rules pursuant to chapter 91, Hawai'i Revised Statutes, as are necessary to carry out the purposes of this article.

(1983 CC, c 2, art 13, sec 2-70; am 2014, ord 14-8, sec 1.)

**Section 2-71. Duties of housing administrator.**

(a) The housing administrator shall have direct responsibility for the administration and operation of the County housing programs and shall be under the direct supervision and control of the mayor. The housing administrator shall have the authority and responsibility to staff the office of housing and community development with necessary personnel to carry out the purposes of this article. It shall be the duty of the housing administrator to coordinate operations and programs of the office of housing and community development with the applicable housing plans and programs of the State and Federal governments.

(b) All programs and contracts with the Federal government to carry out the purposes of this article shall be prepared by the housing administrator and transmitted to the council for approval.

(c) The housing administrator shall provide clerical support for meetings of the housing agency.

(1983 CC, c 2, art 13, sec 2-71; am 2014, ord 14-8, sec 1.)

**Division 3. Funds and Contracts.**

**Section 2-72. Federal funds.**

If, in exercising any of its powers, the housing agency or office of housing and community development acquires funds from the Federal government, a separate account for such funds shall be established and no commingling of such funds with other funds shall take place.

(1983 CC, c 2, art 13, sec 2-72; am 2014, ord 14-8, sec 1.)

**Section 2-73. Signing of contracts.**

All instruments and documents relating to the housing programs of the County shall be signed by the mayor as authorized by the Charter. Any and all contracts with the United States department of housing and urban development shall be submitted to the housing agency for its approval and any such contract shall be executed by the mayor as authorized by the Charter.

(1983 CC, c 2, art 13, sec 2-73; am 2014, ord 14-8, sec 1.)

**Section 2-74. Revolving fund created.**

There is established a special revolving fund entitled the County housing program revolving fund to be maintained by the director of finance.

(1983 CC, c 2, art 13, sec 2-74.)

**Section 2-75. Use of revolving fund.**

The revolving fund shall be utilized to pay for items such as: (a) the development of housing, and (b) to exercise the buy-back option running in favor of the County contained in any conveyance document and to pay the costs of maintaining, repairing, renting, or reselling units purchased by the County pursuant thereto. Any interest earned by the fund and any advanced costs that are recovered from housing project funds shall be returned to the revolving fund.

(1983 CC, c 2, art 13, sec 2-75; am 1993, ord 93-33, sec 1; am 2014, ord 14-68, sec 2.)

**Section 2-75.1. Housing special funds.**

- (a) There are created and established housing special funds to be known as the:
  - (1) Kula'imano Elderly Rental Housing Special Fund.
  - (2) 'Ōuli Ekahi Rental Housing Special Fund.
- (b) All income generated from each rental housing project shall be deposited into its respective housing special fund to be expended by the housing administrator solely for the operation, maintenance and improvement of that particular rental housing project.
- (c) The housing administrator shall be responsible for the administration of all housing special funds in accordance with prescribed laws and procedures applicable to the expenditure of County funds.

(1995, ord 95-149, sec 1.)

**Article 14. Mass Transit Agency.****Section 2-76. Creation.**

For the purpose of providing mass transit service in the County whether directly, jointly, or under contract with private parties, an agency to be known as the mass transit agency is created in order to implement chapter 51, Hawai'i Revised Statutes.

(1983 CC, c 2, art 14, sec 2-76; am 2004, ord 04-58, sec 3.)

**Section 2-77. Mass transit administrator created.**

There shall be a mass transit administrator. The position of mass transit administrator shall be in the civil service and shall be filled through civil service recruitment procedures based on merit.

(1983 CC, c 2, art 14, sec 2-77; am 2004, ord 04-58, sec 3.)

**Section 2-78. Duties of mass transit administrator.**

The mass transit administrator shall have direct responsibility for the administration and operation of County mass transit service, whether such service is provided directly, jointly, or under contract with private parties. The mass transit administrator shall be under the direct supervision and control of the managing director and shall have the authority to staff the agency with necessary personnel to carry out the purposes of the agency.

(1983 CC, c 2, art 14, sec 2-78; am 2004, ord 04-58, sec 3.)



**Section 2-78.1. Authority to adopt rules and regulations.**

The agency is authorized to adopt reasonable rules and regulations as the agency deems necessary for the administration of the conduct of the agency's business, including rules and regulations for fees and charges for permits for interior advertisements on buses. Rules shall be promulgated pursuant to Chapter 91, Hawai'i Revised Statutes, as amended.

(2007, ord 07-85, sec 1.)

**Article 15. Code of Ethics.****Section 2-79. Purpose.**

The purposes of this article are to:

- (1) Prescribe standards of conduct for the guidance of County officers and employees;
- (2) Prohibit certain conduct involving County officers and employees; and
- (3) Set forth the procedure for the interpretation of ethics problems of County officers and employees.

(1983 CC, c 2, art 15, sec 2-79.)

**Section 2-80. Interpretation of article.**

This article shall be liberally construed to promote high standards of ethical conduct in County government.

(1983 CC, c 2, art 15, sec 2-80.)

**Section 2-80.1. Distribution of mass mailings prohibited during campaign.**

(a) Newsletters, brochures, legislative summaries, or other mass mailings of material designed to support a candidate's nomination, including electioneering communications as defined in section 11-341, Hawai'i Revised Statutes, shall not be circulated at public expense by:

- (1) An incumbent council member within six months prior to any County election, or after any member has filed nomination papers, whichever comes first;
- (2) Any current employee or official of the County within six months prior to any County election, or after filing nomination papers, whichever comes first;
- (3) The incumbent mayor within six months prior to an election which the mayor may be re-elected, or after the incumbent mayor has filed nomination papers, whichever comes first; or
- (4) The incumbent prosecuting attorney within six months prior to an election which the prosecuting attorney may be re-elected, or after the incumbent prosecuting attorney has filed nomination papers, whichever comes first.

This excludes public funds received by candidates from the Hawai'i election campaign fund, pursuant to section 11-421, Hawai'i Revised Statutes.

- (b) Any violation of this section constitutes use of government funds for campaign purposes, and shall be subject to any penalty, as authorized by law, including an administrative fine not to exceed \$1,000, for each violation, as the board of ethics may determine.

(2008, ord 08-49, sec 1; am 2012, ord 12-43, sec 1.)

**Section 2-81. Applicability.**

This article shall apply to every officer or employee of the County. For the purposes of this article, any person nominated for elected office or appointed but not confirmed as administrative head of any agency or as a member of any board or commission shall be considered an officer.

(1983 CC, c 2, art 15, sec 2-81.)

**Section 2-82. Definitions.**

As used in this article:

“Agency” means the County of Hawai‘i and any other governmental unit of the County.

“Board” means the board of ethics.

“Business” includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or other individual organization carrying on a business, whether or not operated for profit.

“Compensation” means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by oneself or another.

“Controlling interest” means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty percent.

“Employee” means any person, except an officer, employed by the County or any agency thereof but the term shall not include an independent contractor.

“Financial interest” means an interest held by an individual, the individual’s spouse, or dependent children which is:

- (1) An ownership interest in a business.
- (2) A creditor interest in an insolvent business.
- (3) An employment, or prospective employment for which negotiations have begun.
- (4) An ownership interest in real or personal property.
- (5) A loan or other debtor interest.
- (6) A directorship or officership in a business.

“Immediate family” means the employee’s or officer’s spouse, siblings, children, grandchildren, or parents.

“Officer” includes the following:

- (1) The mayor, members of the council, and all other elected officials of the County;
- (2) Any person appointed as the administrative head of any agency of the County;
- (3) The first deputy or first assistant to the administrative head of any agency of the County;

- (4) Any person appointed as a member of a board or commission specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
- (5) Any person appointed as a member of any board or commission not specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
- (6) The managing director and deputy managing director.

“Official act” or “official action” means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

“Official authority” includes administrative or legislative powers of decision, recommendation, approval, disapproval, or other discretionary action.

(1983 CC, c 2, art 15, sec 2-82; am 2002, ord 02-109, sec 2; am 2007, ord 07-132, sec 1; am 2015, ord 15-103, secs 1 and 2.)

**Section 2-83. [Former] Repealed.**

(1983 CC, c 2, art 15, sec 2-83; rep 2002, ord 02-109, sec 3.)

**Section 2-83. Fair treatment.**

- (a) Officers and employees of the County, while discharging their duties and dealing with the public, shall adhere to the following precepts:
  - (1) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for personal purposes without proper consent.
  - (2) No person in a supervisory capacity shall engage in personal or business relationships with subordinates, which might intimidate said subordinates in the discharge of their official duties.
  - (3) All persons shall be treated in a courteous, fair, and impartial manner.
- (b) No officer or employee shall use or attempt to use the officer’s or employee’s official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others, including but not limited to the following:
  - (1) Seeking other employment or contract for services for oneself by the use or attempted use of the officer’s or employee’s office or position.
  - (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the officer’s or employee’s official duties or responsibilities except as provided by law.
  - (3) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the officer or employee inspects or supervises in the officer’s or employee’s official capacity.
  - (4) Using County property, facilities, equipment, time, or personnel for private business, campaign purposes, or for any purpose other than for a public purpose.

- (c) An officer or employee of the County, or a business in which an officer or employee or the officer or employee's immediate family has a controlling interest, may contract for goods or services with any County agency provided that:
- (1) The nature of the relationship between the officer or employee and the County is provided in full disclosure to the agency seeking goods or services as part of the bid for a contract or response to a request for proposals; and
  - (2) The officer or employee has obtained an opinion from the board that there is no conflict of interest resulting from the officer or employee's position with the County. A board opinion shall continue to satisfy this requirement until a change occurs in the financial interest or role of the County officer, employee, or the officer or employee's affected immediate family member, in the business or undertaking with which the contract is concerned. In the event an opinion by the board was not obtained in advance of submitting a bid, the officer or employee shall instead submit a copy of a letter or petition requesting review by the board.

A contract shall be void if an officer or employee fails to comply with these disclosure requirements or if the board finds there is a conflict of interest or any preferential treatment involved.

- (d) Nothing herein shall be construed to prohibit an officer from introducing bills and resolutions, serving on committees or from making statements or taking action in the exercise of the officer's legislative functions. Every officer shall file a full and complete public disclosure of the nature and extent of the interest or transaction which the officer believes may be affected by legislative action.

(2002, ord 02-109, sec 4; am 2015, ord 15-103, sec 3.)

**Section 2-84. [Former] Repealed.**

(1983 CC, c 2, art 15, sec 2-84; rep 1983, ord 83-7, sec 2.)

**Section 2-84. Conflicts of interests.**

- (a) No officer or employee shall take any official action directly affecting:
- (1) A business or other undertaking in which that officer or employee has a substantial financial interest;
  - (2) A private undertaking in which the officer or employee is engaged as legal counsel, advisor, consultant, or representative, or other agency capacity; or
  - (3) A business or undertaking in which the employee knows or has reason to know that a brother, a sister, a parent, an emancipated child, or a household member has a substantial financial interest, provided that the financial interests of these individuals shall not include those of any spouse or child.

A department head who is unable to be disqualified on any matter described in items (1), (2), and (3) above will not be in violation of this subsection if the department head has complied with the disclosure requirements of section 2-91.1.

A person whose position on a board, commission, or committee is mandated by statute, charter, code, or resolution to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which that person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

- (b) No officer or employee shall acquire financial interests in any business or other undertaking which that officer or employee has reason to believe may be directly involved in official action to be taken by the officer or employee.
- (c) No officer or employee shall represent private interests in any legal action or proceeding against the County or appear on behalf of private interests before any agency, except as otherwise provided by law; provided:
  - (1) This prohibition shall not apply to a County employee or officer who is an architect, landscape architect, surveyor, or engineer registered as such under the provisions of chapter 464, Hawai'i Revised Statutes, with respect to the affixing by such registered professional of such person's registered stamp to any plans, specifications, drawings, etc., to be submitted to the County for permits for such person's principal residence or that of members of such person's immediate family; provided, that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under such person's supervision; and provided further, that the registered professional may not, in the capacity of a County employee or officer, review, approve or otherwise act upon the plans, specifications, drawings, etc., such person has stamped; and
  - (2) No officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's personal rights, privileges, or property, including real property.
- (d) Notwithstanding any provision of this article to the contrary, a member of any board, commission, or committee may appear on behalf of private interests before agencies other than the board, commission, or committee on which such person serves.

(2002, ord 02-109, sec 4; am 2015, ord 15-103, sec 4.)

**Section 2-85. [Former] Repealed.**

(1983 CC, c 2, art 15, sec 2-85; rep 2002, ord 02-109, sec 3.)

**Section 2-85. Contracts.**

- (a) A County agency may enter into a contract involving services or property or to procure or dispose of goods or services, or for construction, with an officer, an employee, or a business in which an officer or an employee or the officer or employee's immediate family has a controlling interest, provided the provisions in section 2-83, subsection (c) have been met, and further provided:
  - (1) The contract is awarded by competitive sealed bidding pursuant to the state public procurement code; or

(2) The contract is awarded by competitive sealed proposal pursuant to the state public procurement code.

Upon award of any such contract, the director of finance shall post notice of the award, which notice shall include the information provided pursuant to section 2-83, subsection (c).

(b) A County agency shall not enter into a contract with any person or business which is represented by a person who was an employee of the agency within the preceding two years and who participated while in County office or employment in the matter with which the contract is directly concerned or who personally participated in a decision making capacity in similar matters before the agency.

(2002, ord 02-109, sec 4; am 2015, ord 15-103, sec 5.)

**Section 2-85.1. Contracts voidable.**

In addition to any other penalty provided by law, any contract entered into by the County in violation of this article is voidable on behalf of the County; provided that in any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this article. The corporation counsel shall have the authority to enforce this provision.

(2002, ord 02-109, sec 4.)

## ADMINISTRATION

This page intentionally left blank.

**Section 2-86. Informal advisory opinions.**

- (a) **Inquirer's Conduct.** Any County officer or employee may petition the board for an informal advisory opinion concerning their own conduct by writing to the board. This opinion shall be informal in nature and all proceedings involving the investigation and deliberation of such inquiry shall, upon the request of the County officer or employee involved, be confidential, provided, the board determines that personal matters affecting the privacy of the County officer or employee are to be considered.

Upon receipt of the petition, the board:

- (1) May investigate the matter on a confidential basis. The officer or employee involved shall comply with the informal advisory opinion issued by the board.
  - (2) Through its chairman, shall notify the County officer or employee involved and shall request a statement indicating whether or not the officer or employee wishes a closed hearing.
- (b) **Alleged Conduct of Someone Other than Inquirer.** Any person or the board itself may petition the board for an informal advisory opinion on an alleged violation of the code of ethics by an officer or employee. The petition shall be filed within six years of the alleged violation. A petition shall be deemed to have been filed when it is received by the board or when a majority of the members to which the board is entitled sign the petition. Nothing herein shall bar proceedings against a person who, by fraud or other device, prevents the discovery of a violation of the code of ethics. This opinion shall be informal in nature and all proceedings involving the investigation and deliberation of such inquiry shall, upon the request of the County officer or employee involved, be confidential, provided, the board determines that personal matters affecting the privacy of the County officer or employee are to be considered.

Upon receipt of the petition, the board:

- (1) Through its chairman, shall notify the County officer or employee involved and shall request a statement indicating whether or not the officer or employee wishes a closed hearing.
  - (2) Shall notify the officer or employee against whom a charge is received and afford the officer or employee an opportunity to explain the conduct alleged to be in violation of this article. The board may investigate, after compliance with this section, such charges and render an informal advisory opinion on the alleged conduct. The officer or employee involved shall comply with the informal advisory opinion issued by the board.
- (c) Any petition filed under this section shall be submitted in duplicate and shall contain:
- (1) The name, address and telephone number of the petitioner;
  - (2) A statement of the nature of petitioner's interest including reasons for the submission of the petition;
  - (3) The specific provision of the code of ethics in question;
  - (4) A complete statement of facts;
  - (5) A statement of the position or contention of the petitioner; and



- (6) A memorandum of authorities, containing a full discussion of the reasons in support of such position or contention.

Any petition which does not substantially comply with the foregoing requirements may be rejected. In addition, the board may, for good cause, reject any petition. (1983 CC, c 2, art 15, sec 2-86; am 1997, ord 97-29, sec 1.)

**Section 2-87. Formal opinions.**

- (a) If the officer or employee fails to comply with the informal advisory opinion mentioned in section 2-86, the board may, in its discretion, institute proceedings for a formal opinion. It may institute such proceedings by serving a copy of the charge and a further statement of the alleged violation by certified mail upon the alleged violator. The officer or employee shall have twenty days after service thereof to respond in writing to the charge and statement.
- (b) The board shall set a time and place for a hearing, giving notice to the complainant and the alleged violator. All parties shall have an opportunity:
- (1) To be heard;
  - (2) To subpoena witnesses and require the production of any books or papers relative to the proceedings;
  - (3) To be represented by counsel; and
  - (4) To have the right of cross-examination.
- (c) All witnesses shall testify under oath and the hearings shall be closed to the public upon the request of the County officer or employee involved, for closed hearing. The board shall not be bound by the strict rules of evidence but the board's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded. Copies of transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the County's general fund.
- (d) Prior to any hearing, the board, through its chairman, shall notify the County officer or employee involved and shall request of the County officer or employee a statement indicating whether or not the County officer or employee wishes a closed hearing.
- (e) After the hearing the board shall issue a formal opinion on the alleged conduct which shall be given to the alleged violator. A decision of the board pertaining to the conduct of any officer or employee shall be in writing and signed by three or more of the members of the board.

(1983 CC, c 2, art 15, sec 2-87.)

**Section 2-88. Disposition after issuance of formal opinion.**

- (a) With respect to officers removable only by impeachment, if there is no compliance of a formal opinion issued against an officer removable only by impeachment, the board shall issue a complaint and refer the matter to the council. The complaint must contain a statement of the facts alleged to constitute the violation. If within thirty days after the referral the council has neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the board shall make public the nature of the charges but it shall make clear that the merits of the charges have never been formally determined.

- (b) With respect to employees and officers other than officers removable only by impeachment, if there is no compliance of a formal opinion against an employee and officer other than an officer removable only by impeachment, the board shall issue a complaint and refer the matter to the appointing authority having the power to discipline the employee. The complaint must contain a statement of the facts alleged to constitute the violation. Hearings shall be in accordance with chapter 91, Hawai'i Revised Statutes, except that every hearing shall be private, and no record of the proceedings shall be released to the public prior to its conclusion. Judicial review of decisions, orders and rulings adverse to the employee shall be in accordance with chapter 91, Hawai'i Revised Statutes.
- (c) If it is found that no violation of subsection (b) of this section has occurred, the appointing authority shall not make the record of the proceedings public. If it is found that a violation has occurred, the appointing authority may make its findings and the record of the proceedings public, taking into account the seriousness of the violation.

(1983 CC, c 2, art 15, sec 2-88.)

**Section 2-89. Cooperation with County agencies.**

The commission may request and shall receive from every department, division, board, bureau, commission or other agency of the County cooperation and assistance in the performance of its duties. In addition, if the board's decision requires action by any agency, the board may request that such agency report its action within thirty days from the date of the request for action.

(1983 CC, c 2, art 15, sec 2-89.)

**Section 2-90. Confidentiality.**

- (a) Any board member, including the individual making the charge, who divulges information concerning the charge prior to the issuance of the complaint by the board mentioned in section 2-88 and section 2-89 or if the investigation discloses that the complaint should not be issued by the board, at any time divulges any information concerning the original charge, or divulges the contents or disclosures except as permitted by the board, shall be guilty of a misdemeanor which shall be punishable by a fine of not more than \$500. If a board member is in violation of this section, the board member may be subject to dismissal from this board.
- (b) This prohibition shall not apply to meetings open to the public.

(1983 CC, c 2, art 15, sec 2-90.)

**Section 2-91. Appointing authority's power to discipline.**

In addition to any other powers the appointing authority may have to discipline employees, the appointing authority may reprimand, put on probation, demote, suspend or discharge an employee found to have violated the standards of this article.

(1983 CC, c 2, art 15, sec 2-91.)

**Section 2-91.1. Financial disclosures and disclosures of interest.**

- (a) Definitions. The following words used in this section shall have the respective meanings in this section:
- (1) "Candidate" has the meaning given it by section 11-191(3),\* Hawai'i Revised Statutes;
  - (2) "Elective" means all elective offices of the County of Hawai'i;
  - (3) "Income" means gross income defined by section 61 of the Internal Revenue Code of 1954;
  - (4) "Regulatory employee" means:
    - (A) Supervisors of inspectors employed by the department of public works and department of environmental management;
    - (B) Inspectors employed by the department of public works and department of environmental management;
    - (C) Supervisors of liquor control investigators;
    - (D) Liquor control investigators;
    - (E) Buyers and purchasing agents;
    - (F) Supervisors of real property tax appraisers;
    - (G) Real property tax appraisers;
    - (H) Planners employed by the planning department;
    - (I) Supervisors of inspectors employed by the department of water supply;
    - (J) Inspectors employed by the department of water supply;
    - (K) The legislative auditor.
- (b) Filing of financial disclosures.
- (1) Candidates to Office. All candidates for elective office for the County of Hawai'i shall file a financial disclosure as provided herein within ten working days after the deadline for filing as a candidate for office.
  - (2) Officers. All officers shall file a financial disclosure as provided herein within twenty working days after taking the oath of office or within twenty working days after the effective date of this section and annually thereafter on or before January 31 of each year until the end of the term of office.

If an officer is re-elected to office or reappointed to office for a new term, the foregoing requirement for filing financial disclosures shall be observed.
  - (3) Regulatory Employees. All regulatory employees shall file a financial disclosure as provided herein on or before January 31, 1984, and thereafter biennially on or before January 31 of the biennium year. Persons becoming regulatory employees on or after January 31, 1984, shall file the initial financial disclosure as provided herein within thirty working days of commencement of employment or term of office.
- (c) The disclosure of financial interests shall state the financial interests of the person disclosing, whether held in the person's name or by any other person for the person disclosing's use and benefit, and shall include:
- (1) The source, nature, and amount of all income of \$1,000 or more received during the preceding calendar year; provided that information that may be privileged by law need not be disclosed.

- (2) The name of each creditor to whom the value of \$3,000 or more was owed during the preceding calendar year and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.
  - (3) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business having a value of \$5,000 or more, or interest equal to ten percent or more of the ownership of the business and, if the interest was transferred during the preceding calendar year, the date of the transfer; provided that an interest in the form of an account in a Federal or State regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed.
  - (4) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the preceding calendar year, the term of office and the annual compensation.
  - (5) A description of all real property in which the person now holds, or held during the preceding calendar year, an interest valued at \$5,000 or more, its tax map key, street address, and fair market value, and, if the interest was acquired or transferred during the preceding calendar year, the consideration paid or received for the interest and the name of the person or entity paying or receiving the consideration.
  - (6) The amount and identity of all creditor interests in an insolvent business held during the preceding calendar year having a value of \$5,000 or more.
  - (7) The names of clients personally represented before County agencies, except in ministerial matters, for a fee or compensation during the preceding calendar year and the names of the County agencies involved.
  - (8) On any item which calls for the stating of a dollar amount, this value may be reported by using an appropriate letter code as follows:
    - (A) Less than \$1,000;
    - (B) At least \$1,000 but less than \$10,000;
    - (C) At least \$10,000 but less than \$50,000;
    - (D) At least \$50,000 but less than \$100,000;
    - (E) At least \$100,000 but less than \$300,000;
    - (F) At least \$300,000 but less than \$700,000;
    - (G) At least \$700,000 but less than \$1,000,000;
    - (H) More than \$1,000,000.
- (d) Filing requirements.
- (1) All public financial disclosures shall be filed with the office of the County clerk. All confidential disclosures shall be filed with County board of ethics.
  - (2) The form for all public financial disclosures shall be as prescribed by the County clerk. The forms for confidential disclosures shall be as prescribed by the County board of ethics.

- (3) Any officer or regulatory employee of the County shall file a financial disclosure as prescribed herein ten working days before an officer is to leave office or a regulatory employee is to terminate employment with the County. This requirement will also include transfer of an officer or regulatory employee from the County to either the State or Federal governments, or the transfer of an officer or regulatory employee to a County position for which financial disclosure is not required.
- (e) The financial disclosure statements of the following persons shall be public record and may be opened for inspection by the public during office hours of the County clerk:
- (1) All candidates for elective office.
  - (2) All elected officers.
  - (3) The administrative heads of the County agencies and their first deputies.
  - (4) The managing director and deputy managing director.
- All other financial disclosure statements required to be filed under this section shall be confidential and accessible only by action of the board of ethics.
- (f) Penalty.
- (1) Officers and regulatory employees subject to section 2-91.1(b).  
Any officer or regulatory employee of the County who fails to file a financial disclosure as required in this section shall be subject to the provisions of section 2-91 hereof relating to noncompliance.
  - (2) Any candidate who fails to file a financial disclosure as prescribed herein shall be guilty of a misdemeanor and subject to a fine of \$1,000 and imprisonment of one year.
- (g) Notwithstanding any other disclosures filed under this section, it shall be incumbent upon all employees or officers of the County to make a full disclosure in writing to their appointing authority or to the council in the case of an elective officer, whenever the employee or officer possesses or acquires any interests, financial or otherwise, that might reasonably tend to create a conflict with the public interest in the performance of the public duties and responsibilities of the officer or employee. Any member of the council who knows he or she has a personal interest, direct or indirect, in any action proposed or pending before the council shall immediately disclose such interest.
- A copy of any disclosure of interest filed under this subsection shall be filed by the employee or officer with the County clerk which shall be a matter of public record.

(1983 CC, c 2, art 15, sec 2-91.1; am 1983, ord 83-7, sec 1; am 1985, ord 85-35, sec 1; am 1999, ord 99-54, sec 1; am 2002, ord 02-109, sec 5; am 2005, ord 05-41, sec 1; am 2007, ord 07-131, sec 1; am 2008, ord 08-50, sec 2.)

\* **Editor's Note:** Section 11-191, Hawai'i Revised Statutes, was repealed.

**Section 2-91.2. Post-employment.**

- (a) No former officer or employee shall disclose any information which by law is not available to the general public and which the officer or employee acquired in the course of this person's official duties, nor shall the former officer or employee use such information for this person's personal gain or for the benefit of any other person. A former officer or employee may, however, disclose such information if requested by authorized governmental personnel, for official purposes.
- (b) No former officer or employee shall, within twelve months after the termination of the former officer or employee's employment or term of office with the County, assist and/or represent any person or business or act in a representative capacity for a fee, compensation, or other consideration, or otherwise act for the former officer or employee's own personal economic gain, in relation to any specific case, proceeding, contract, application, or pending legislation with which the former officer or employee, in the course of the former officer or employee's official duties with the County:
  - (1) Had been directly concerned;
  - (2) Had under active consideration; or
  - (3) Had obtained information which by law is not available to the general public.

For the purposes of this section, "represent" means to engage in direct communication on behalf of any person or business with a councilmember, a council employee, a particular County board, commission or agency, or their employees.

A former officer or employee may, however, assist a governmental entity in relation to such matters if requested by authorized governmental personnel for official purposes.

- (c) Nothing in this section shall prohibit any agency of the County from contracting with the former officer or employee to act on matters on behalf of the County.
- (d) Any fee, gift, profit, or other compensation received by a former officer or employee in violation of (a) or (b) above shall be forfeited to the County. The corporation counsel is authorized to take all measures necessary to recover such compensation.
- (e) In addition to any other penalty provided by law, whenever any former officer or employee has obtained, or assisted any other person to obtain, favorable County action and the former officer or employee violated (a) or (b) above in the course of the obtaining of such action, the County may void such action, provided that the County shall act to void the action within sixty days of its discovery of the violation and shall, insofar as possible, avoid damaging the interests of innocent third parties.
- (f) The board of ethics is hereby empowered to receive petitions from, and render informal and formal advisory opinions to:
  - (1) Former officers or employees who request advisory opinions regarding their own conduct in relation to this section. A former officer or employee whose employment may violate the provisions of this section shall request an informal advisory opinion from the board prior to accepting or engaging in such employment; or

- (2) Any member of the public concerning the conduct of a former officer or employee.

The board may initiate an investigation to determine whether the conduct of a former officer or employee is in violation of this section.

- (g) A former officer or employee shall not be deemed in violation of this section with respect to conduct which conforms to an advisory opinion of the board, and none of the sanctions of this section may be applied to such conduct.

(1984, ord 84-55, sec 1; am 1996, ord 96-69, sec 1.)

**Section 2-91.3. Lobbyist registration.**

- (a) Definitions. When used in this section:

- (1) "Administrative action" means the proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any matter pending or proposed before the administrative agency, except ministerial matters.
- (2) "Administrative agency" means a commission, board, agency, or other body, or official in the County government that is not a part of the legislative branch.
- (3) "Contribution" means a gift, subscription, forgiveness of a loan, advance, or deposit of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.
- (4) "Expenditure" means a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. It does not include the expenses of preparing written testimony and exhibits for a hearing before the council or an administrative agency.
- (5) "Legislative action" means the sponsorship, drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, appointment, or any other matter pending or proposed in the council.
- (6) "Lobbyist" means any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.
- (7) "Lobbying" means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of influencing any legislative or administrative action.
- (8) "Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization, or a representative of a group of persons acting in concert.

- (b) Registration of Lobbyists, Requirements.

- (1) Every lobbyist shall file a registration form with the County clerk within five days of becoming a lobbyist.

- (2) Each lobbyist shall provide and certify the following information:
  - (A) The name, mailing address, and business telephone number of the lobbyist.
  - (B) The name and principal place of business of each person by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears or works and a written authorization to act as a lobbyist from each person by whom the lobbyist is employed or with whom the lobbyist contracts.
  - (C) The subject areas on which the lobbyist expects to lobby.
- (3) A lobbyist shall report any change in any of the information contained in the registration statement within ten days after the change has occurred.
- (4) A lobbyist shall file a notice of termination within ten days after the lobbyist ceases the activity which required the lobbyist's registration. The lobbyist and the employer of the lobbyist shall remain subject, however, to the requirements of this article for the period during which the registration was effective.
- (5) This section shall not apply to:
  - (A) Any individual who represents him or herself and not any other person before the council or administrative agency;
  - (B) Any Federal, State, or County official or employee acting in the official or employee's official capacity;
  - (C) Any elected public official acting in the official or employee's official capacity;
  - (D) Any newspaper or other regularly published periodical or radio or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station) while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action; and
  - (E) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of County government, and who is appearing at the request of the council or an administrative agency, even though receiving reimbursement for the appearance.
- (c) Each lobbyist shall file a statement of expenditures with the County clerk on July 31 and January 31 of each year.
- (d) The July 31 report shall cover the period from January 1 through June 30 of the year of the report; and the January 31 report shall cover the period from July 1 through December 31 of the calendar year preceding the January 31 report.
  - (1) The statement shall contain the following information:
    - (A) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day were made by the person filing the statement during the statement period and the amount or value of such expenditure;



- (B) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more were made by the person filing the statement during the statement period and the amount or value of such expenditures;
  - (C) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement period in excess of \$275 during the statement period;
  - (D) The name and address of each person making contributions to the person filing the statement for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of such contributions; and
  - (E) The subject area of the legislative and administrative action which was supported or opposed by the person filing the statement during the statement period.
- (2) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section.
- (e) All statements and forms required by this section to be filed with the County clerk:
- (1) Shall be deemed properly filed when delivered or deposited in an established post office within the prescribed time, duly stamped, registered, or certified, and directed to the County clerk; provided, however, in the event it is not received, a duplicate of the statement shall be promptly filed upon notice by the County clerk of its nonreceipt; and
  - (2) Shall be preserved by the County clerk and shall constitute part of the public records of the County clerk, and shall be open to public inspection pursuant to section 92-51,\* Hawai'i Revised Statutes.
- (f) No lobbyist shall accept or agree to accept compensation in any way contingent on the enactment, defeat, or outcome of any proposed legislative or administrative action.
- (g) The board of ethics is empowered to render advisory opinions with respect to the application of this section to any person. No person who conforms their conduct to an advisory opinion of the board regarding this section shall be subject to the penalties provided herein.
- (h) Any person who wilfully fails to file any statement or report required by this section or who wilfully files a statement or report containing false information or material omission of any fact, who engages in activities prohibited by this section, or who fails to provide any information required by this section shall be guilty of a petty misdemeanor.
- (1984, ord 84-77, sec 1; am 1986, ord 86-44, sec 1; am 2006, ord 06-71, sec 1.)

\* **Editor's Note:** Sections 92-50 to 92-52, Hawai'i Revised Statutes, were repealed and replaced with chapter 92F.

**Section 2-91.4. Gifts.**

No officer or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official duties or is intended as a reward for any official action on the officer's or employee's part

(1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 7.)

**Section 2-91.5. Reporting of gifts.**

- (a) Every officer and employee shall file a gifts disclosure statement with the County board of ethics on June 30 of each year if all the following conditions are met:
- (1) The officer or employee, or spouse or dependent child of an officer or employee, received directly or indirectly from one source any gift or gifts valued singly or in the aggregate in excess of \$100, whether the gift is in the form of money, service, goods, or in any other form;
  - (2) The source of the gift or gifts have interests that may be affected by official action or lack of action by the officer or employee; and
  - (3) The gift is not exempted by subsection (d) from reporting requirements under this subsection.
- (b) The report shall cover the period from June 1 of the preceding calendar year through May 31 of the year of the report.
- (c) The gifts disclosure statement shall contain the following information:
- (1) A description of the gift;
  - (2) A good faith estimate of the value of the gift;
  - (3) The date the gift was received; and
  - (4) The name of the person, business entity, or organization from whom, or on behalf of whom, the gift was received.
- (d) Excluded from the reporting requirements of this section are the following:
- (1) Gifts received by will or intestate succession;
  - (2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
  - (3) Gifts from a spouse, fiancé, fiancée, any relative within four degrees of consanguinity or the spouse, fiancé, or fiancée of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for any person not covered by this paragraph;
  - (4) Political campaign contributions that comply with state law;
  - (5) Anything available to or distributed to the public generally without regard to the official status of the recipient;
  - (6) Gifts that, within thirty days after receipt, are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as a charitable contribution for tax purposes; and

- (7) Exchanges of approximately equal value on holidays, birthday, or special occasions.
  - (e) Failure of an officer or employee to file a gifts disclosure statement as required by this section shall be a violation of this article.
- (1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 7.)

**Section 2-91.6. Confidential information.**

No officer or employee shall disclose information which by law or practice is not available to the public and which the officer or employee acquires in the course of the officer's or employee's official duties, or use the information for the officer's or employee's personal gain or for the benefit of anyone.

(1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 8.)

**Article 16. Travel and Other Expenses.**

**Section 2-92. Entitlement.**

All officers and employees of the County, including members of boards, committees and commissions, shall be entitled to travel and other necessary expenses connected with the performance of their official duties in accordance with the provisions of this section and subject to procedures prescribed by the director of finance and approved by the mayor.

(1983 CC, c 2, art 16, sec 2-92.)

**Section 2-93. Travel status.**

Personnel shall be considered to be on travel status only during the time they are conducting official business away from their regular place of business and while traveling to and from the place at which such business is regularly transacted.

(1983 CC, c 2, art 16, sec 2-93.)

**Section 2-94. Travel authorization.**

- (a) All in-State travel for employees of the executive branch shall be approved by the mayor; except that the prosecuting attorney is authorized to approve in-State travel for employees of the prosecuting attorney's department. Likewise, all in-State travel for employees of the legislative branch shall be approved by the council chairman. The authority to approve such travel may be delegated.
- (b) For out-of-State travel, a written request shall be prepared and shall be approved by the mayor for members of the executive branch and the council chairman for employees of the legislative branch. A travel itinerary shall be attached to the request. The authority to approve such travel may be delegated. A copy of the approved request must be attached to the requisition for air transportation.
- (c) The department head shall assure that travel is necessary, that funds are available, and that expenses to be incurred are proper and reasonable under the circumstances.

- (d) Travel for training purposes shall also conform with the training policy administered by the department of human resources.  
(1983 CC, c 2, art 16, sec 2-94; am 1993, ord 93-51, sec 1; am 2009, ord 09-105, sec 5.)

**Section 2-95. Overnight travel expenses.**

A traveler may accept either of the following methods of payment for personal expenses incident to overnight travel.

- (a) The actual cost of lodging, meals (including tips) and laundry over the entire period of travel, supported by receipts and/or affidavit; or
- (b) Per diem allowance for overnight travel at rates equal to the highest allowance for such expenses payable to any County employee in a bargaining unit; provided that in the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight.
- (c) Per diem allowance for less than a full day shall be payable only for travel to other islands. For nonovernight travel within the County, employees shall be entitled to meal allowance and other allowed expenses.  
(1983 CC, c 2, art 16, sec 2-95.)

**Section 2-96. Repealed.**

(1983 CC, c 2, art 16, sec 2-96; am 2003, ord 03-1, sec 1; rep 2011, ord 11-41, sec 2.)

**Section 2-97. Other allowable expenses.**

- (a) Other allowable expenses include airfare, ground transportation (including tips), airport parking, business telephone calls, secretarial fees, registration fees, mileage claim for use of a private automobile and any expense relating to the conduct of official business.
- (b) Rental cost of U-drive cars and parking charges shall not exceed \$75 a day. U-drive cars may be used for personal business incidental to official travel; e.g., driving to restaurant for meals. The department head shall assure that funds are available and that rental is necessary and cost is reasonable.
- (c) Air travel shall be on commercial airlines at the economy class by the most direct route to and from the points specified in the travel authorization; provided that inter-island and intra-county travel by noncommercial and nonscheduled private aircraft (owned or rented) is authorized under the following conditions:
- (1) The pilot must possess a current private pilot's certificate issued by the Federal Aviation Administration;
  - (2) The aircraft must possess a current certificate of airworthiness issued by the Federal Aviation Administration;
  - (3) The aircraft must carry the following liability insurance:
    - (A) Bodily injury liability (excluding passenger) — \$100,000 for each person and \$300,000 for each occurrence.
    - (B) Property damage liability — \$100,000 for each occurrence.

- (C) Passenger bodily injury insurance — \$100,000 for each person.
  - (D) The County of Hawai'i shall be named as additional insured under the policy.
- (4) Payment for such travel by private aircraft shall be made at rates that traveler would have had to pay had the traveler traveled on scheduled, commercial airlines. Additional passengers will be paid the difference between the first traveler's payment and the operating cost of the privately owned aircraft or rental cost of a rented aircraft.
- (1983 CC, c 2, art 16, sec 2-97; am 1989, ord 89-139, sec 1; am 1992, ord 92-47, sec 1; am 2004, ord 04-83, sec 2.)

**Section 2-98. Adjustments and exceptions.**

- (a) When government quarters and/or meals are furnished at no cost or at low cost, the amount of per diem allowance shall be reduced by the director of finance.
- (b) The mayor or council chairman, for their respective branches of government, may disallow any unauthorized, improper, or unreasonable expense. The mayor or council chairman may also authorize expenses in excess of the established limits or may authorize meals with business meetings, awards and recognition events, and entertainment of important persons, or may approve exceptions with good cause to any provision relating to travel and expenses, provided:
  - (1) No exception involving public funds shall be authorized without a public purpose;
  - (2) A written request for authorization is made and approved in writing;
  - (3) Documentation establishing that the expenditure will be for a public purpose is attached to the written request;
  - (4) The purchase of alcoholic beverages is prohibited unless provided by authorized exception;
  - (5) The purchase of gifts in an amount of over \$100 per person receiving the gift is prohibited unless provided by authorized exception;
  - (6) To receive reimbursement for the authorized exception, the following documentation must be submitted to the employee's or officer's department head and to the director of finance within seven days of the expenditure:
    - (A) A memorandum setting forth the reasons for the exceptional expenditure along with a copy of the written request for authorization; and
    - (B) Any additional documentation submitted with the written request for authorization; and
  - (7) The director of finance shall maintain a record log of all travel expenditures that are authorized through an exception as permitted by this subsection, which log shall be available for public inspection.
- (c) The mayor may delegate the authority granted under this section to any department or agency head within the executive branch.

- (d) Meals may also be provided to employees who do not otherwise qualify under this section or under any negotiated employee contract while attending workshops, conferences, or training sessions at the request or direction of the department head and to the benefit of the County.

(1983 CC, c 2, art 16, sec 2-98; am 1993, ord 93-51, sec 2; am 2015, ord 15-95, sec 1.)

**Section 2-99. Funds for travel expenses.**

Funds for traveling expenses at the specified per diem rates or meal allowance plus other known or determinable expenses may be secured by way of a cash advancement from the treasurer's petty cash fund or by way of reimbursement upon completion of travel.

- (a) Per diem allowance for travel exceeding five days in duration shall be obtained through the requisition process unless time will not allow use of this method.
- (b) Any excess funds advanced for travel must be returned not later than five working days after completion of travel.

(1983 CC, c 2, art 16, sec 2-99.)

**Section 2-100. Reports.**

- (a) Upon return from travel, but not later than five working days after return, a certificate of travel and claim for expense form shall be completed and filed with the director of finance.
- (b) In addition, after attendance at conferences, workshops, seminars, or educational meetings, a written report shall be prepared. This report shall discuss the subject matter covered and benefits of attendance. It may be an individual or group report and shall be filed with the mayor or council chairman, as the case may be, within thirty days after return.
- (c) This reporting requirement shall not apply to travel for in-service training sponsored by the department, or training that is approved in accordance with the County training policy.

(1983 CC, c 2, art 16, sec 2-100.)

**Section 2-101. Compensation for use of private automobile.**

- (a) Mileage Allowance. A department head may authorize any officer or employee over whom the department head has administrative supervision to use privately owned automobiles on official business on a mileage allowance basis when publicly owned vehicles are not available or are impractical to use.
- (b) Rate. Employees who are excluded from the various bargaining units shall be paid the same rates provided for in negotiated contracts of bargaining units that these employees would have belonged to had they not been excluded. All other officers and employees of the County not covered by collective bargaining including County councilmembers and duly authorized volunteer police and fire personnel, shall be entitled to mileage reimbursement at a rate equal to the highest rate payable to any County employee in a bargaining unit.

- (c) Flat Monthly Allowance. The mayor may for the executive branch and the council chairman for the legislative branch authorize payment of monthly automobile allowance to any councilmember, officer or employee for the regular use of a privately owned automobile.

(1983 CC, c 2, art 16, sec 2-101; am 1985, ord 85-31, sec 1; am 1986, ord 86-130, sec 1; am 2006, ord 06-100, sec 3.)

**Section 2-101.1. Mileage and meal reimbursements for volunteer police personnel.**

- (a) All duly authorized volunteer police personnel, including but not limited to reserve police officers and police chaplains, shall be reimbursed at such rates prescribed by, and subject to, the requirements set forth in section 2-101(b), for each mile actually and necessarily traveled in the performance of their assigned duties.
- (b) Except as modified by subsection (b) of section 2-98, meal allowance (including tax and tips) for non-overnight travel (not covered by collective bargaining agreements) shall not exceed the following rates:

Breakfast.....	\$ 5
Lunch.....	8
Dinner.....	15

Breakfast will be allowed when travel time begins before 6:00 a.m. Lunch will be allowed for travelers when travel time begins before 11:00 a.m. and ends after 1:00 p.m. Dinner will be allowed for travelers when travel time begins before 6:00 p.m. and ends after 8:00 p.m.

- (c) Meal allowance for non-overnight travel shall be payable for travel that extends beyond the boundaries of the adjacent geographic district from the geographic district where an employee’s baseyard, station, or usual place of work is located. For purposes of this section, the geographic districts are: Puna; South Hilo; North Hilo; Hāmākua; North Kohala; South Kohala; North Kona; South Kona; and Ka‘ū.
- (d) Payment for meal expenses must be supported by receipt or affidavit. Any excess cash advanced for meal expenses must be returned not later than five working days after completion of travel.

(1989, ord 89-28, sec 2; am 2006, ord 06-100, sec 4; am 2011, ord 11-57, sec 2.)

**Section 2-102. Conflicts with employee contracts.**

If there are any conflicts between any provision of this section on travel expenses and any provision in a negotiated contract between the County and an exclusive representative and any provision of chapter 89C, Hawai‘i Revised Statutes, the latter provisions shall prevail.

(1983 CC, c 2, art 16, sec 2-102.)

**Article 17. Public Records Fee Schedule.**

**Section 2-103. Administered by clerk.**

The provisions of this section shall be administered by the clerk. The clerk shall be authorized to determine the specific organizations and agencies which shall be exempt from the payment of fees for public records and charges for publications, and to determine the specific records or publications for which no fees or charges shall be required.

(1983 CC, c 2, art 17, sec 2-103.)

**Section 2-104. Fees for copies of public records.**

Except as otherwise provided, a copy or extract of any public document or record which is open to inspection of the public shall be furnished to any person applying for the same by the public officer having custody or control thereof pursuant to the following schedule of fees:

- (a) Duplicated copy of any record (by duplicating machines, including, but not limited to, microfilm printer, Thermofax, Verifax, Xerox, Offset, Mimeograph, etc.):
  - For the first page of each document or record.....\$1.00
  - Each additional page or copy thereof ..... .10
- (b) Abstract of information from public record:
  - First page ..... 1.00
  - Each additional page ..... .10
- (c) Ordinances, resolutions and chapters of the Hawai'i County Code:
  - 1 -- 20 pages ..... 1.00
  - 21 -- 50 pages ..... 2.00
  - 51 -- 100 pages ..... 5.00
  - 101 -- 250 pages ..... 8.00
  - 251 -- 500 pages ..... 20.00
  - 501 and over pages..... 30.00
- (d) Typewritten copy of any record:
  - Per page or fraction thereof..... 1.00
- (e) Copy of street map, plan, diagram:
  - Sheet sizes over 8½" x 13" to 10" x 15" ..... 1.00
  - Sheet sizes over 10" x 15" to 22" x 36" ..... 2.00
  - Larger than 22" x 36" size; per square foot ..... .50
- (f) Photograph:
  - For use of negative only..... 2.00
- (g) County clerk's Certificate of Voter Registration..... 2.00



- (h) Voter Registration List (in printed forms as may be available):
  - For each State representative district..... 12.00 per list
  - For each State senatorial district ..... 24.00 per list
  - For each precinct:
    - First page ..... 2.00
    - Each additional page ..... .10
- (i) Certified statement attesting to veracity of information obtained from public records:
  - Per 100 words of statement or fraction thereof..... 1.00
- (j) Certification by public officer or employees as to correctness (or in attestation that document is a true copy) of any document, including maps, plans and diagrams:
  - Per page..... 1.00
- (k) Hawai'i County Code (includes zoning annexes and traffic schedules) .....200.00
  - Semiannual supplements..... 25.00
  - Zoning Annexes ..... 20.00
    - Semiannual supplements ..... 10.00
  - Traffic Schedules ..... 8.00
    - Semiannual supplements ..... 4.00

Compact discs of the above are available upon request at the time of purchase.

When compact discs are requested exclusive of the above:

  - Hawai'i County Code .....20.00
  - Zoning Annexes..... 5.00
  - Traffic Schedules..... 5.00
  - Semiannual supplements ..... 5.00
- (l) Hawai'i County Charter ..... 3.00
- (m) Charges for real property tax records and tax searches. Duplicated copy of the real property assessment rolls or tax rolls from computer tape files. Requester provides blank tape.
  - Per computer tape listing .....500.00

Real property tax searches shall be conducted and statements furnished to persons requesting this service upon the payment of a fee; provided however, the fee will not be applicable to an owner or lessee making an inquiry concerning such person's own property or property leased to such person; further provided, that this search be limited to the records of the current tax year. Tax searches will include preparation of statements of title history, assessment information, taxes due, and other similar record searches.

  - Per hour or fraction thereof ..... 15.00
  - Minimum charge ..... 15.00

Duplicated copy of any record pertinent to the field history sheets, notice of assessment, transfer sheets, exemption claims, tax bills, tax ledgers, and tax clearances.

- For the first page of a specific tax key..... 1.00
- Each additional page or copy thereof ..... .10
- (n) Building permit monthly printouts..... 1.00 per page  
(1983 CC, c 2, art 17, sec 2-104; am 1983, ord 83-31, sec 1; ord 83-33, sec 1; am 1988, ord 88-52, sec 1; ord 88-181, sec 1; am 1990, ord 90-89, sec 1; am 2005, ord 05-101, sec 1.)

**Section 2-105. Charges for publications.**

- (a) Charges for publications shall be based on cost, including reproduction costs, mailing and other handling charges attributable to making the publication available to the public; except that reasonable charges in excess of cost may be made for copies of records to be used for commercial purposes.
- (b) The term “publication” refers to copies of documents which are reproduced on a volume basis for general distribution and shall include, but not be limited to, such items as: County Charter, ordinances, engineering and construction standards, directories, manuals, and handbooks. The term “publications” shall not apply to resolutions or bills pending final adoption or enactment into ordinance by the County council.  
(1983 CC, c 2, art 17, sec 2-105.)

**Section 2-106. Applicability.**

The fees established in this article shall have no application to the furnishing of copies or extracts of public documents or records for which fees have been established by statutory provisions where such statutory provisions have not been superseded.  
(1983 CC, c 2, art 17, sec 2-106.)

**Section 2-107. Exemption from payment of fees and charges.**

- (a) The following agencies and organizations may be exempted from the payment of fees established in this section, as well as charges to cover mailing and other handling costs by the public officer having custody or control of the records involved:
  - (1) Government agencies requiring the records or publications for official purposes;
  - (2) News media; provided, however, that exemption from payment of fees and/or charges shall be limited to one copy or one set of such records or publications;
  - (3) Organizations which have arranged reciprocal agreement with a County agency for mutual exchange of records and publications.
- (b) The clerk may waive fees or charges for the following:
  - (1) Educational materials necessary for carrying out an agency program; or
  - (2) Distribution of records and publications when such distribution is of benefit and interest to the County; or

- (3) Records or publications required by a student engaged in studying County operations as part of the student's school assignment; provided, however that exemption from payment of fees or charges shall be limited to one copy or one set of such records or publications.
  - (c) Political parties shall be furnished without charge, three copies of the voter registration lists of all precincts. Candidates who have filed for public elective offices shall be furnished, without charge, one copy of such current voter registration lists as may be requested by the candidate, provided that such lists are available for distribution. Additional copies in excess of the number to be furnished without charge as hereinabove stated shall be furnished upon payment of the fees specified in this article.
- (1983 CC, c 2, art 17, sec 2-107.)

### **Article 18. Uncollectible Accounts.**

#### **Section 2-108. Definitions.**

- (a) As used in this article:
  - (1) "Uncollectible account" means an account for which:
    - (A) The debtor or party causing damage to property belonging to the County is no longer within the jurisdiction of the State;
    - (B) The debtor or party causing damage to property belonging to the County cannot be located;
    - (C) The party causing damage to the property belonging to the County is unknown or cannot be identified;
    - (D) The debtor has filed bankruptcy and has listed the County as a creditor;
    - or
    - (E) Such other account as may be deemed by the corporation counsel to be uneconomical or impractical to collect.

(1983 CC, c 2, art 18, sec 2-108.)

#### **Section 2-109. Uncollectible accounts; procedure; records.**

Agency heads may from time to time prepare and submit for review by the corporation counsel a list of all uncollectible accounts in their agency. Such accounts as the corporation counsel finds to be uncollectible shall be entered in a special record to be maintained by the director of finance and be deleted from the accounts receivable records of the agency which shall thereupon be relieved from any further accountability for their collection. Any account entered in the special record shall be transferred back to the current accounts receivable if the corporation counsel finds that the facts as alleged and presented to the corporation counsel were not true, or that the account has become collectible.

(1983 CC, c 2, art 18, sec 2-109; am 2003, ord 03-105, sec 1.)

**Article 19. Real Property Disposition.**

**Section 2-110. Definitions.**

As used in this article, unless the context clearly requires otherwise:

- (1) "Lease" means the right to possess and use real property for a term of one year or more.
- (2) "Real property" includes lands and structures or fixtures permanently attached thereto, owned by the County of Hawai'i.
- (3) "Remnant" means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics. A remnant may be:
  - (A) Land acquired which is in excess of the needs for which acquired;
  - (B) Vacated, closed, abandoned, or discontinued road, street or alley or walk, ditch, or other right-of-way.
- (4) "Nonprofit organization" means an organization organized for other than profit-making purposes and which is exempted from the Federal income tax by the Internal Revenue Service.
- (5) "Affordable housing developer" means an individual or business entity which develops low and moderate income housing as certified by the housing administrator.

(1983 CC, c 2, art 19, sec 2-110.)

**Section 2-111. Powers of council.**

Except as otherwise provided by law and subject to other provisions of this article, the council may, by resolution approved by a majority of its members, direct the finance director or director of public works:

- (1) To dispose of real property in fee simple by lease, license, or permit; provided that any lease, license, or permit whose term is for less than one hundred eighty days may be granted, without the necessity of council action, by the finance director or director of public works through direct negotiation and without recourse to public auction;
- (2) To grant easement for particular purposes, subject, however, to revert to the County upon termination or abandonment of the specific purpose for which it was granted, provided that any easement may be granted by direct negotiation and without recourse to public auction when the sale price of such easement is less than \$1,000;
- (3) To exchange real property for private property.

(1983 CC, c 2, art 19, sec 2-111; am 2001, ord 01-108, sec 1.)

**Section 2-112. Disposition by auction.**

Unless the council finds substantial reasons to dispose of real property in some other manner, all disposition of real property shall be made at public auction, after public notice as provided in section 2-111. All such auctions shall be held at the main entrance of the County building in which the main office of the department of finance is located or at such other place as is convenient in the district in which the real property is located, and shall be conducted by the finance director or by the finance director's authorized representative.

(1983 CC, c 2, art 19, sec 2-112.)

**Section 2-113. Sale or lease by sealed bids.**

Whenever real property are to be sold or leased by call for sealed bids, the finance director shall notify by publication for a call for bids as provided in section 2-116 with such details concerning the call for bids as the finance director shall deem necessary and desirable. All bids shall be sealed and delivered to the finance director and shall be opened by the finance director at the time and place stated in the call for bids. The finance director may reject any or all bids and waive any defects when in the finance director's opinion such rejection or waiver will be for the best interest of the public.

(1983 CC, c 2, art 19, sec 2-113.)

**Section 2-114. Sale or lease by negotiation.**

- (a) Real property may be sold or leased through negotiation upon a finding by the council that the public interest demands it and upon approval of the minimum conditions and selection criteria of the council.
- (b) After a determination is made to negotiate the disposition, the finance director shall:
  - (1) Give public notice, in accordance with the procedure set forth in section 2-116 of the County's intention to sell or lease real property through negotiation setting forth the minimum conditions thereunder.
  - (2) Establish reasonable criteria for the selection of the buyer or lessee.
  - (3) Determine the applicants who meet the criteria for selection, and notify all applicants of the determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established were followed; provided that if any applicant does not notify the finance director of the applicant's objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the finance director to follow the conditions and criteria.
- (c) If only one applicant meets the criteria for selection of the buyer or lessee, the finance director may, after notice as provided in subsection (b)(3) of this section, dispose of the real property by negotiation. If two or more applicants meet the criteria for the selection of the buyer or lessee, the finance director shall select the buyer or lessee who submits the highest offer contained in a sealed bid deposited with the finance director.

- (d) The council may require in the initial resolution that the negotiated agreement be accepted by the council.  
(1983 CC, c 2, art 19, sec 2-114; am 2003, ord 03-156, sec 2.)

**Section 2-115. Exchange of real property.**

- (a) No exchange of real property for private property shall be made except for public purposes, including, but not limited to:
- (1) Consolidation of holdings of real property;
  - (2) Straightening of boundaries of real property;
  - (3) Acquisition of adequate access for landlocked real property which has development potential; or
  - (4) Straightening roadways or acquisition of encroachment right-of-way.
- (b) Exchanges shall be effected without public auction. Public notice of any proposed exchange shall be given in accordance with the applicable provisions set forth in section 2-116.
- (c) The real property exchanged shall be of substantially equal value to that of private land. Except as otherwise provided for in subsection (d) below, in any exchange, the fair market value of the private land and the County-owned land shall be separately determined by a disinterested qualified appraiser or appraisers and the cost thereof shall be borne equally between owner and the County.
- (d) Appraisal requirements may be waived where the County seeks to acquire private property upon which County roadways encroach into private property, where this land will be exchanged for the County's unused rights-of-way.

(1983 CC, c 2, art 19, sec 2-115; am 2003, ord 03-50, sec 1.)

**Section 2-116. Notice.**

- (a) Auctions. Notice of any proposed disposition by auction shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County, the last publication to be not less than five days before the date of the auction. Notice of the auction shall contain the following:
- (1) Time and place of auction;
  - (2) General description of the real property, including the address and tax map key;
  - (3) Specific use for which the disposition is intended; and
  - (4) Upset price or lease rental to be charged. The maps showing the metes and bounds description and the classification of the land shall be kept in the office of the finance director and shall be open for inspection at all reasonable hours.
- (b) Sealed Bids. Notice of any proposed disposition by sealed bids shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County, the last publication to be not less than five days before the date set for the receipt of proposals. Notice of the call for sealed bids shall contain the following:
- (1) Time and place for opening of sealed bids;

- (2) General description of the real property, including the address and tax map key;
- (3) Location where bid blanks and specifications may be secured.

When deemed necessary by the finance director, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of bid deposits when the finance director has required such. A successful bidder shall forfeit any bid deposit required by the finance director upon failure on the bidder's part to enter into a required contract within ten days after the award.

- (c) Negotiation. Notice of a proposed disposition by negotiation shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County. Such notice shall invite proposals and state in general terms the size, location, and prices or lease rental of real property to be sold or leased, the terms of sale or lease, and the last date on which application will be received by the finance director, which date shall not be less than thirty days after the last date of publication of the notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons.
- (d) Exchanges. Public notice of disposition of real property by a proposal to exchange real property for private property pursuant to section 2-115 shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County. The notice shall state in general terms the size and location of the public lands proposed to be disposed.
- (e) Notices are not required for license, permits, disposition of remnants, and disposition to government agencies.

(1983 CC, c 2, art 19, sec 2-116.)

**Section 2-117. Appraisals.**

- (a) Public Auction and Sealed Bids. The appraisal of real property for sale or lease at public auction or by sealed bids for the determination of the upset price may be performed by an employee of the County qualified to appraise lands, or by a disinterested appraiser whose services shall be contracted for by the County. No such real property shall be sold or leased for a sum less than the value fixed by appraisal; provided, that for any sale or lease at public auction or by sealed bids, the finance director may establish the upset sale or lease rental price at less than the appraisal value and the real property may be sold or leased at that price.
- (b) Negotiation. The sale price or lease rental of real property to be disposed of by negotiation shall be no less than the value determined by a disinterested appraiser whose services shall be contracted for by the County.
- (c) Whenever more than one appraiser is appointed each shall prepare and submit an independent appraisal.

(1983 CC, c 2, art 19, sec 2-117.)

**Section 2-118. Remnants.**

- (a) No parcel shall be disposed of as a remnant solely for the reason that it lacks an adequate access.
- (b) Notwithstanding any other provision of this article, remnants or portions thereof may be disposed of without recourse to public auction in the manner set forth herein. Any remnant or portion thereof to be disposed of shall be first offered for sale to the abutting owner for a reasonable period of time at a reasonable price based on appraised value, provided in cases involving parcels of less than two thousand five hundred square feet, the finance director may establish a price which is based on the square foot value used for determining real property tax valuations of the abutting owner(s). The director shall take into consideration the limited market for the remnant and/or the resulting enhancement to an abutting owner's property by the addition of the remnant as outlined in subsection (c). For those parcel(s) utilizing the square foot value of the real property tax valuation process, the final disposition shall be approved by resolution of the County council. If there is more than one abutting owner who is interested in purchasing the remnant, the remnant may be subdivided and a portion thereof sold to each abutting owner at the appraised or established value.
- (c) Except for those parcel(s) comprising less than two thousand five hundred square feet whose values are based on similar square foot values utilized by the real property tax office, the value of the remnant or portion thereof shall be appraised by an independent appraiser, which appraisal shall take into consideration the limited market for the remnant and/or the resulting enhancement to an abutting owner's property by the addition of the remnant.
- (d) In any case, disposition costs including but not limited to appraisal, survey work, preparation of environmental assessments and preparation and recordation of documents may be added to the established sale price. However, a buyer may provide for the independent appraisal, survey work and preparation of environmental assessment at the buyer's expense, subject to review and agreement by the County.

(1983 CC, c 2, art 19, sec 2-118; am 1996, ord 96-35, sec 2.)

**Section 2-119. Licenses and permits.**

- (a) The council may, after consulting with the director of public works, direct the finance director to issue licenses and permits through negotiation and without public auction for the temporary occupancy of County-owned lands or interest therein under such conditions which will serve the best interests of the County, subject, however, to such restrictions as may from time to time be expressly provided by law. Such permit on a month-to-month basis may continue for a period not to exceed one year from the date of its issuance; provided, that the finance director may allow the permit to continue on a month-to-month basis for additional one year periods.



- (b) The council may, after consulting with the chief of police, direct the director of public works to issue licenses and permits through negotiation and without public auction to enter and occupy public highways and other rights-of-way owned, maintained and/or under the jurisdiction of the County, subject, however, to such restrictions, conditions and terms which will best serve the interests of the County and the general public.

(1983 CC, c 2, art 19, sec 2-119; am 2001, ord 01-108, sec 1.)

**Section 2-120. Disposition to government, governmental agencies, nonprofit organizations, and affordable housing developers.**

- (a) Notwithstanding any limitations to the contrary, the council may, by resolution approved by a majority of its members, direct the finance director to negotiate the disposition of real property by:
- (1) Selling it in fee simple at such price and on such terms and conditions deemed proper to governments and governmental agencies authorized to hold lands in fee simple, to nonprofit organizations to develop affordable housing, or to affordable housing developers;
  - (2) Leasing it to governments, governmental agencies, nonprofit organizations, or affordable housing developers at such rentals and on such terms and conditions as deemed proper;
  - (3) Exchanging it for real property owned by governments, governmental agencies, nonprofit organizations, or affordable housing developers;
  - (4) Granting licenses, permits, and easements to governments, governmental agencies, nonprofit organizations, or affordable housing developers on such terms and conditions as deemed proper.
- (b) A disposition of real property to governments, governmental agencies, nonprofit organizations, or affordable housing developers may be made without the notice or appraisal required in this article.

(1983 CC, c 2, art 19, sec 2-120; am 2000, ord 00-151, sec 2.)

**Section 2-120.1. Minimum provisions and clauses.**

All real property agreements shall include provisions that, at the minimum, address the following:

- (1) Breach
- (2) Compliance with laws
- (3) Condition of premise
- (4) Current tax-exempt status designation, if applicable
- (5) Premise description, including a tax map key number
- (6) Duration including the commencement and termination dates
- (7) Fire and liability insurance stipulations, including naming the County as an additionally insured and requiring County notification in case of policy cancellation
- (8) Hazardous materials

- (9) Improvements
- (10) Indemnification of the County of Hawai'i
- (11) Lessee reporting requirements
- (12) Liens
- (13) Payment and renewal provisions
- (14) Permitted use
- (15) Public purpose
- (16) Repair and maintenance responsibilities
- (17) Utilities.

(2003, ord 03-156, sec 1.)

**Section 2-120.2. Central repository.**

- (a) All executed real property documents wherein the County is a party, including but not limited to, leases, rental agreements, licenses, permits and memorandums of agreement, shall be filed with the department of finance.
- (b) The finance director shall transmit a County tenancy report annually to the council by July 31. The County tenancy report shall list the name of the tenant, purpose, location by address and tax map key number, type of tenancy, term of tenancy, payment fee, status of reporting and payments, significant improvements by tenant, and any other information the council or finance director may request.

(2003, ord 03-156, sec 1.)

**Article 20. Voter Registration.**

**Section 2-121. Definitions.**

The following definitions shall apply to the provisions contained in this article:

- (1) "Candidate" means an individual as defined under chapter 11, part XII(B), "Election Campaign Contributions and Expenditures," Hawai'i Revised Statutes, as amended.
- (2) "Political party" means any party which was on the ballot at the last general election and any political group which shall hereafter undertake to form a political party in the manner provided for in chapter 11, part V, "Parties," Hawai'i Revised Statutes, as amended.
- (3) "Committee" means any person as defined under chapter 11, part XII(B), "Election Campaign Contributions and Expenditures," Hawai'i Revised Statutes, as amended.
- (4) "Service bureau" means a firm registered to do business in the State and whose principal business is furnishing data processing services.

(1983 CC, c 2, art 20, sec 2-121.)

**Section 2-122. Release of voter registration data.**

The clerk or the clerk's designated representative shall release voter registration data on computer tapes or in printed form to candidates, political parties, committee, or service bureaus, as provided in this article. Voter registration data shall be used only for election or government purposes.

(1983 CC, c 2, art 20, sec 2-122; am 1996, ord 96-44, sec 2.)

**Section 2-123. Restriction as to release of information by clerk.**

The only voter registration information that the clerk or a designated representative may release are the name, residence address, mailing address, and representative district and precinct of a voter.

(1983 CC, c 2, art 20, sec 2-123.)

**Section 2-124. Condition for accessing voter registration data.**

The following conditions shall be met before voter registration data is released:

- (1) The applicant obtains the written permission of the clerk or the clerk's designated representative;
- (2) The applicant agrees in writing that the applicant will not use, sell or otherwise release the voter registration data computer tapes or the duplicate for other than election or government purposes; and
- (3) Applicants requesting voter registration data on computer tapes must provide tapes as specified by the election division.

(1983 CC, c 2, art 20, sec 2-124; am 1996, ord 96-44, sec 3.)

**Section 2-125. Charges for voter registration data.**

\$100 shall be charged for voter registration data of Hawai'i County voters requested on computer tape. Fees for a printed copy or extract of this data shall be in accordance with section 2-104.

(1983 CC, c 2, art 20, sec 2-125; am 1992, ord 92-43, sec 1; am 1996, ord 96-44, sec 3.)

**Section 2-126. Penalty.**

- (a) Any person who uses information found on the voter registration computer tapes for any purpose other than for electioneering purpose shall be guilty of a misdemeanor.
- (b) Any person convicted of a misdemeanor under this article shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(1983 CC, c 2, art 20, sec 2-126.)

**Article 21. Repealed.****Section 2-127. Repealed.**

(1983 CC, c 2, art 21, sec 2-127; rep 1993, ord 93-20, sec 1.)

**Section 2-128. Repealed.**

(1983 CC, c 2, art 21, sec 2-128; rep 1993, ord 93-20, sec 1.)

**Section 2-129. Repealed.**

(1983 CC, c 2, art 21, sec 2-129; rep 1993, ord 93-20, sec 1.)

**Section 2-130. Repealed.**

(1983 CC, c 2, art 21, sec 2-130; rep 1993, ord 93-20, sec 1.)

**Article 22. Disposal of County Equipment.**

**Section 2-131. Director of finance; powers and duties.**

- (a) The director of finance shall consider requests from any agency of the County which desires to dispose of any equipment, material, or supply not needed by such agency. The director of finance shall determine whether such equipment, material, or supply should be disposed of, and shall determine the manner and method by which any sale, exchange, or other disposition shall be made.
- (b) In performing the duties set forth in subsection (a), the director may request the agency involved to provide information concerning the property to be disposed. Such information may include, but is not limited to:
  - (1) The kind of property and full description thereof;
  - (2) Purposes for which the property is used;
  - (3) Estimated value of the property;
  - (4) Reasons for disposition; and
  - (5) Offers, if any, made for the property.

(1983 CC, c 2, art 22, sec 2-131.)

**Section 2-132. Disposition of proceeds.**

All moneys received from the sale or other disposition of any personal property shall be credited to the fund from which the purchase of the property was made, or to any other fund designated at the discretion of the director of finance.

(1983 CC, c 2, art 22, sec 2-132.)

**Article 23. Federal Revenue Sharing Fund.**

**Section 2-133. Federal revenue sharing fund.**

A special trust fund entitled "Federal revenue sharing fund" is hereby created for proper accounting of receipts and disbursements of funds received pursuant to State and Local Assistance Act of 1972 (Title 1, P.L. 92-512), effective October 20, 1972, by which Act the County will be receiving revenue sharing funds from January 1, 1972 to December 31, 1976, and is required to establish a trust fund for deposit of these funds.

(1983 CC, c 2, art 23, sec 2-133.)

**Article 24. Payment to County, Subsequently Dishonored.****Section 2-134. Service charge assessed.**

In all instances where money due the County of Hawai'i is dishonored when presented for payment, the County may assess and collect a service charge in the amount of \$20 against the payor. Payment of this \$20 service charge shall be made in U.S. currency or other form acceptable to the director of finance. All fees collected pursuant to this section shall be placed in the custody of the finance director for deposit in the general fund.

(1983 CC, c 2, art 24, sec 2-134; am 2003, ord 03-104, sec 1.)

**Article 25. Appropriation of Funds to Nonprofit Organizations.****Section 2-135. Purpose.**

The purpose of this article is to establish standards for the appropriation of funds to nonprofit organizations providing programs and services which the County has determined to be in the public interest.

(1983 CC, c 2, art 25, sec 2-135; am 2014, ord 14-43, sec 1.)

**Section 2-136. Definitions.**

As used in this article, unless the context otherwise requires:

- (1) "Conflict of interest" means a substantial probability that action taken by an individual will result in measurable direct benefits accruing to the individual as opposed to benefits accruing in general to an industry.
- (2) "Director" means the director of finance of the County.
- (3) "Grant" means an appropriation of public funds to a nonprofit organization for a public purpose.
- (4) "Nepotism" means appointing persons to positions on the basis of their blood or marital relationship to the appointing authority, rather than on merit or ability.
- (5) "Nonprofit organization" means an organization organized for other than profit-making purposes and which has a current 501(c)3 tax-exemption from the Internal Revenue Code.
- (6) "Perquisite" means a privilege furnished or a service rendered by an organization to an employee, officer, director, or member of that organization to reduce the individual's personal expenses.

(1983 CC, c 2, art 25, sec 2-136; am 1986, ord 86-52, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 2; am 2012, ord 12-136, sec 1.)

**Section 2-137. Eligible organizations.**

All grant payments made by the County to nonprofit organizations are to be made in accordance with these standards so that the funded nonprofit programs yield direct benefits to the public and accomplish public purposes. No grant to a nonprofit organization shall be made unless the nonprofit organization meets the following criteria:

- (1) The nonprofit organization is chartered or otherwise authorized to do business in the State for charitable purposes and exempted from the Federal income tax by the Internal Revenue Service.
- (2) The purposes for which the nonprofit organization is organized provide benefits to the people of the County.
- (3) The service or activity to be provided by the nonprofit organization, and funded by the County, shall address educational concerns, culture and the arts, the needs of the poor, youth, the aged, those with physical or emotional disabilities, victims of crimes, victims of health or social crises, or public health and welfare of the people and the environment, as may be determined by the County.
- (4) The nonprofit organization has a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit organization.
- (5) The nonprofit organization has bylaws or policies which describe the manner in which business is conducted, including management, audit, and fiscal policies and procedures, policies on nepotism, and policies on management of potential conflict of interest.
- (6) The nonprofit organization has at least one year's experience with the service or activity for which the appropriation is sought or can otherwise demonstrate to the satisfaction of the County sufficient expertise to successfully carry out the service or activity.
- (7) The nonprofit organization must be licensed and accredited in accordance with applicable requirements of Federal, State and County laws.

(1983 CC, c 2, art 25, sec 2-137; am 1986, ord 86-52, sec 2; am 2012, ord 12-136, sec 1.)

**Section 2-138. Conditions for grants.**

Nonprofit organizations to whom a grant has been awarded shall agree to comply with the following conditions before receiving the grant:

- (1) Employ and appoint persons on the basis of merit and ability;
- (2) Comply with applicable Federal and State laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or handicap;
- (3) Agree not to use any public funds for purposes of entertainment or perquisites;
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the nonprofit organization with Federal, State, and County laws, and established standards for fiscal and program management;

- (5) Allow the director, the committees of the council and their staffs, and the legislative auditor access to facilities, personnel, records, reports, files, and other related documents in order that the program, management, and fiscal practices of the nonprofit organization may be monitored and evaluated to assure the proper and effective expenditure of public funds; and
- (6) Each nonprofit organization shall submit a disclosure form along with its grant application which lists any board member, officer, director or administrator that may have a conflict of interest or potential conflict of interest, including any familial relationship with any of the following:
  - (A) A member or members of the council;
  - (B) Staff appointed by a member of the council;
  - (C) The mayor;
  - (D) The managing director;
  - (E) The director of finance; or
  - (F) The corporation counsel, the assistant corporation counsel, or a deputy corporation counsel.

The disclosure form shall specify any and all mitigation measures to avoid, in fact or appearance, any conflict of interest.

(1983 CC, c 2, art 25, sec 2-138; am 1986, ord 86-52, sec 2; am 2012, ord 12-136, sec 1.)

**Section 2-139. Procedure for awarding grants.**

- (a) All grant awards made to a nonprofit organization by the County shall be made in accordance with one of the following procedures:
  - (1) Grants-in-aid awarded annually in operating budget:
    - (A) Annually, before November 30, the director shall, for the purpose of soliciting applications, establish a sum of at least \$1,000,000 to be available in the ensuing fiscal year for funding requests by nonprofit organizations. The director shall publish a notice soliciting applications in two newspapers of general circulation within the County by November 30.
    - (B) All applications for grants shall be submitted to the director on or before January 31 preceding the County's fiscal year, which begins on July 1. Applications shall be prepared on forms provided by the director. Applications not in conformance with the requirements of this Code may be rejected. All application forms shall include detailed information on specific, measurable outcomes and public benefits to be derived from the expenditure of County funds.
    - (C) The director shall submit to the council all qualifying applications as provided in sections 2-137 and 2-138 for its review and appropriation of funds. Site visitations of nonprofit organizations submitting complete applications may be conducted by the council and its designated staff, as deemed necessary by the chair of the appropriate committee, after

January 31 but prior to final action on the operating budget by the council. Any site visitations shall be publicly noticed and conducted in a manner that allows flexible councilmember participation and designated staff support.

- (D) Upon favorable action by the council to appropriate funds for the grant, a written contract shall be prepared with the nonprofit organization which shall meet all legal requirements of the County and shall include program, fiscal, and audit reporting requirements sufficient to allow the director, the legislative auditor, or council to effectively monitor and evaluate the use of the grant funds. Agencies shall be notified by the director of their funding or lack thereof by August 31.
- (2) Grants From District Contingency Relief Funds:
- (A) Appropriations from the district contingency relief account shall be transferred to an accepting County department/agency via resolution identifying the nonprofit organization and the specific program, project, event, activity, service, equipment, materials, or supplies for which the grant shall be used.
  - (B) Any equipment purchased by a nonprofit organization shall be domiciled with that nonprofit organization, which shall assume any and all liability for such equipment.
  - (C) A contract shall be prepared with the nonprofit organization which shall meet all legal requirements of the County and shall include program, fiscal, and audit reporting requirements sufficient to allow the legislative auditor or council to effectively monitor and evaluate the use of the grant funds.
- (3) Other Grants:
- (A) Grant awards in excess of \$25,000 to nonprofit organizations shall specifically identify the organization receiving the grant funds and the purpose for which the grant funds shall be used in an ordinance or resolution.
  - (B) Grant awards in excess of \$25,000 to organizations that do not qualify as nonprofit organizations shall specifically identify the purpose for which the funds shall be used in an ordinance or resolution and be subject to competition in compliance with chapter 103D of the Hawai'i Revised Statutes.
  - (C) Grant awards of \$25,000 or less may be authorized by the finance director for public purpose projects or programs upon written request of a funding agency or department. Such grant awards shall not be limited to nonprofit organizations but shall specifically identify the organization and program, project or event for which the grant funds shall be used and comply with the rules and regulations of the director of finance.



- (b) In the event that a grantee organization is unable or unwilling to provide the public service(s) for which grant funds were appropriated, the following procedures shall apply:
- (1) For grant awards authorized as prescribed in 2-139(a)(1), the mayor may direct the finance director to solicit applications from eligible nonprofit organizations to fulfill the specific public purpose(s) for which the funds were originally appropriated for the remainder of the fiscal year. The director shall forward recommended application(s) and appropriation measure(s) to the council for its decision. Funds appropriated to a successor nonprofit organization shall not exceed the balance of unexpended County funds awarded to the original nonprofit organization.
  - (2) For grant awards from the district contingency relief, the council may direct the return of the full appropriation or the balance of unexpended funds.
  - (3) For other grant awards authorized as prescribed in 2-139(a)(3), the finance director may direct the return of the full grant amount or balance of the unexpended funds.

(1983 CC, c 2, art 25, sec 2-139; am 1986, ord 86-52, sec 2; am 1992, ord 92-151, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 3; am 1999, ord 99-56, sec 1; ord 99-103, sec 2; am 2001, ord 01-16, sec 2; am 2007, ord 07-52, sec 2; am 2012, ord 12-136, sec 1; am 2014, ord 14-43, sec 2.)

**Section 2-140. Repealed.**

(1983 CC, c 2, art 25, sec 2-140; am 1992, ord 92-151, sec 3; am 1995, ord 95-138, sec 2; am 2007, ord 07-52, sec 3; rep 2012, ord 12-136, sec 1.)

**Section 2-141. Applicability to noncounty funds; cosponsored activities.**

Nothing in this article shall be construed to apply to the appropriation of funds:

- (1) Provided to the County for a stated purpose by any person, private entity, or governmental entity; or
- (2) Made to an agency for any activity or program co-sponsored by the agency and a private or governmental entity or entities.

(1983 CC, c 2, art 25, sec 2-141.)

**Section 2-142. Records, reporting, and fiscal accountability requirements.**

- (a) The nonprofit organization shall follow generally accepted accounting procedures and practices and shall maintain books, records, documents, and other evidence which sufficiently and properly account for the expenditure of County funds. The books, records and documents shall be subject at all reasonable times to inspection, reviews, or audits by the County expending agency, the director, and the legislative auditor, or by their representatives.
- (b) The County expending agency, director of finance, or County council may request periodic written reports on the use of County funds.

- (c) For grants awarded pursuant to section 2-139(a)(1), the nonprofit organization shall submit a written report to the council within sixty days after June 30 of the contractual year. The report shall include, but not be limited to, a detailed description focusing on specific, measureable outcomes of how the County funds were used, public benefits derived from their use, and a breakdown of other funding sources and their expenditures.
- (d) In addition to any other remedy provided by law, if the nonprofit organization fails to submit the written report due within sixty days after June 30 of the contractual year within the allotted time, the County shall require the nonprofit organization to return all grant funds awarded and deem the nonprofit ineligible to receive future grant awards for at least the following fiscal year, and for all subsequent fiscal years until such time as that written report is submitted to, and accepted by, the council.
- (e) Should the written report due within sixty days after June 30 of the contractual year be deemed by the County to contain insufficient information, the nonprofit organization shall be notified of the deficiencies and shall provide the additional information within thirty days of notice or the nonprofit organization will be deemed to be in violation of this section.

(1986, ord 86-52, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 4; am 1999, ord 99-103, sec 3; am 2007, ord 07-148, sec 2; am 2012, ord 12-136, sec 1.)

**Section 2-142.1. Rules.**

- (a) The director shall adopt rules as may be necessary to meet the requirements of this article.
- (b) All application forms shall include a right to audit clause.
- (c) All application forms shall include, "As part of this application, you acknowledge that any funds awarded will be restricted for the purposes stated in the application except for a maximum ten percent for administrative and overhead costs."

(1986, ord 86-62, sec 2; am 2012, ord 12-136, sec 1.)

**Section 2-142.2. Repealed.**

(1995, ord 95-138, sec 2; rep 2012, ord 12-136, sec 1.)

**Article 26. Salaries for Deputies in the Office of the  
Corporation Counsel and the Office of the Prosecuting Attorney.**

**Section 2-143. Definitions.**

- (a) "Deputies" means deputies in the office of the corporation counsel and the office of the prosecuting attorney.
  - (b) "Appointing authority" means the corporation counsel or the prosecuting attorney.
- (1983 CC, c 2, art 26, sec 2-143.)

**Section 2-144. [Former] Repealed.**

(1983 CC, c 2, art 26, sec 2-144; rep 1997, ord 97-81, sec 1.)

**Section 2-144. Salary schedule.**

The appointing authorities shall set the salaries for deputies within their offices; provided no deputy shall be compensated at a rate which is less than fifty percent nor more than ninety percent of the salary which has been established for the prosecuting attorney or corporation counsel, whichever is higher. The department head shall set the salary for the individual deputies based upon the individual's professional experience and performance.

(1997, ord 97-81, sec 1.)

**Section 2-145. Repealed.**

(1983 CC, c 2, art 26, sec 2-145; rep 1997, ord 97-81, sec 1.)

**Section 2-146. Repealed.**

(1983 CC, c 2, art 26, sec 2-146; rep 1997, ord 97-81, sec 1.)

**Section 2-147. Repealed.**

(1983 CC, c 2, art 26, sec 2-147; rep 1997, ord 97-81, sec 1.)

**Section 2-148. Repealed.**

(1983 CC, c 2, art 26, sec 2-148; am 1988, ord 88-57, sec 2; rep 1997, ord 97-81, sec 1.)

**Section 2-149. Repealed.**

(1983 CC, c 2, art 26, sec 2-149; am 1988, ord 88-57, sec 3; rep 1997, ord 97-81, sec 1.)

**Section 2-150. Repealed. \***

(1983 CC, c 2, art 26, sec 2-150; rep 1997, ord 97-81, sec 1.)

\* **Editor's Note:** Section 2-150, "Salary Schedule," was renumbered 2-144 by Ordinance 97-81 and consequently no longer exists.

**Article 27. Numbering, Form, Revision of Ordinances;  
Supplementation of Hawai'i County Code.**

**Section 2-151. Numbering of ordinances.**

All ordinances of the County shall receive a number assigned by the County clerk consisting of the last two digits of the calendar year during which the ordinance was adopted, followed by a hyphen and a number corresponding to the order in which the ordinance was adopted during the calendar year.

(1983, ord 911, sec 1.)

**Section 2-152. Form of ordinances amending the Hawai'i County Code.**

All bills and ordinances amending the Hawai'i County Code shall refer to the chapter, article, division, section, and subsection to be amended and shall be written in the form prescribed by the corporation counsel.

(1983, ord 911, sec 1.)

**Section 2-153. Revision of ordinances; supplementation of Hawai'i County Code.**

- (a) Semiannually, the County clerk shall prepare for publication a loose-leaf supplement to the Hawai'i County Code. The supplement shall contain all ordinances of a general and permanent nature enacted subsequent to the last revision, republication, or supplement to the Hawai'i County Code.
- (b) In preparing the supplement to the Hawai'i County Code or the republication of a new edition, the County clerk shall review all ordinances to be included and may:
  - (1) Number and renumber chapters, sections, and parts of sections;
  - (2) Rearrange sections;
  - (3) Change reference numbers to agree with renumbered chapters, divisions, or sections;
  - (4) Substitute the proper section or chapter numbers for the terms "the preceding section," "this ordinance," and like terms;
  - (5) Strike out figures where they are merely a repetition of written words;
  - (6) Change capitalization for the purpose of uniformity;
  - (7) Correct manifest clerical or typographical errors;
  - (8) Correct the spelling of Hawaiian words and names;
  - (9) Change any male or female gender term to a term which is neutral in gender when it is clear that the ordinance is not applicable only to members of one sex without altering the sense, meaning, or effect of any act; and
  - (10) Make such other changes in any ordinance incorporated in the supplements as shall be necessary to conform the style thereof as near as may be with that of the last revision of the Hawai'i County Code; provided that the changes shall not alter the sense, meaning or effect of any ordinance.

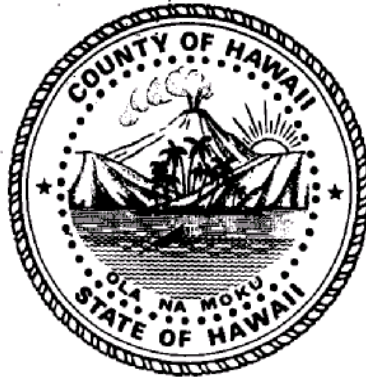
The matter set forth in the supplements shall be prima facie evidence of the law.

- (c) The County clerk shall prepare and publish a June 30, 2005 edition of the Hawai'i County Code. After republication, the County clerk and the director of information technology shall ensure that the Hawai'i County Code is posted on the county's website and is updated as soon as possible at the end of each quarter. Use of the Code on the county website, however, is at the sole risk of the user. The County makes no warranty or representation of any kind regarding its content and shall not be held responsible for any unintentional omission, addition, or error in or loss of service or data; or for any breakdown, interruption, or delay in service.

(1983, ord 911, sec 1; am 2005, ord 05-69, sec 2; am 2011, ord 11-103, sec 4.)

**Article 28. County Seal.****Section 2-154. County seal description.**

- (a) The seal of the County shall be circular in shape, approximately two inches in diameter, and the design being described as follows:
- (1) Description — A Hawaiian scene showing the mountain, the sun, coconut trees and a canoe on the ocean.
  - (2) Supporters — In the center of the seal, coconut trees are shown below an erupting mountain, flanked on the right by the sun with beaming rays. The lower half of the seal shows the ocean with a man in an outrigger canoe. The outside of the seal is surrounded by the legend “County of Hawai‘i — State of Hawai‘i.”
  - (3) Motto — “Ola Na Moku,” meaning the Islands Prosper, is also shown on the seal.
- (b) A line drawing or replica of the County seal described in subsection (a) is shown as follows:



- (c) The impress of the County seal described in subsection (a) is shown as follows:



(1985, ord 85-28, sec 1; am 1990, ord 90-52, sec 2.)

**Section 2-155. Unauthorized use of seal and penalties.**

- (a) Whoever knowingly displays any facsimile of the seal of the County in, or in connection with, any advertisement, poster, or circular, for the purpose of conveying, or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the County or by any department, agency, or instrumentality thereof, shall be guilty of a misdemeanor.

The preceding provision shall not be construed to apply to the use of a facsimile of the seal in any newspaper, periodical, book, pamphlet, or stationery where the facsimile of the seal is printed for informational purposes only to indicate that any article or printed matter therein originated from authorized sources of the County.

- (b) Whoever, except when authorized in writing by the County council for official use of the County, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any facsimile of the seal of the County, or any substantial part thereof, shall be guilty of a misdemeanor.

The word “sell” shall be broadly construed to include transactions involving cash donations to the seller and/or the seller’s agent or representative.

- (c) The word “facsimile,” as used in this section, shall be the use of the seal as described or impressed or the gold color replica or any combination thereof found in section 2-154 of this article.

(1985, ord 85-28, sec 1.)

**Article 29. Self-Insurance Fund.****Section 2-156. Creation of fund.**

Pursuant to section 10-12, Hawai‘i County Charter, a special fund to be known as the self-insurance fund is hereby created.

(1986, ord 86-35, sec 2.)

**Section 2-157. Funding.**

The self-insurance fund shall be funded by an initial appropriation of \$500,000. Thereafter, there shall be an annual appropriation to the self-insurance fund in an amount to be determined by the mayor and County council.

(1986, ord 86-35, sec 2.)

**Section 2-158. Expenditures from the self-insurance fund.**

Subject to approval by the County council, the moneys in the self-insurance fund shall only be utilized as follows:

- (1) When the amount in the self-insurance fund is less than \$3,000,000, the fund shall only be used to pay claims, settlements, and judgments, exclusive of workers’ compensation claims, against the County where the amount of such claim, settlement, or judgment is in excess of \$1,000,000.

- (2) When the amount in the self-insurance fund is more than \$3,000,000, the fund shall be used to pay all claims, settlements, and judgments against the County, exclusive of workers' compensation claims.

(1986, ord 86-35, sec 2.)

**Section 2-159. Dissolution of the fund.**

The self-insurance fund may not be dissolved or used for any purpose not specified in section 2-158, unless such dissolution or nonspecified use is approved by the unanimous vote of the County council.

(1986, ord 86-35, sec 2.)

**Section 2-160. Administration of the fund.**

The director of finance shall administer the special self-insurance fund which shall include investment of the fund.

(1986, ord 86-35, sec 2.)

**Article 30. Gifts or Donations; Dedications.**

**Section 2-161. Gifts or donations.**

For the purposes of this article, gifts and donations as accepted on behalf of the County shall mean money, securities, or other personal property or real estate (hereinafter referred to as "real property") or any interest in real property.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

**Section 2-162. Procedures of acceptance; money, securities, or personal property.**

- (a) Except as otherwise provided in this article, gifts or donations of money, securities, or personal property which fall within the capitalization procedures of the department of finance may be accepted by resolution approved by the council.
- (b) A gift or donation of money, securities, or personal property not covered by the capitalization procedures shall be submitted to the council by letter for its approval.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

**Section 2-162.1. Procedures for accepting money, securities, personal property or real property derived from community benefit assessments or conditions of land use approvals.**

- (a) Except as provided under the park dedication code, a gift or donation of money, securities, personal property or real property which is to be derived or acquired as a result of a community benefit assessment or by any condition of land use approval issued by the County or any of its agencies (including the council) shall only be accepted after consultation with and approval by the County council pursuant to this section. Likewise, any in-lieu determinations by the planning director shall be subject to the review and approval of the council.

The planning department shall maintain a listing of all community benefit assessments and exactions on permit or approval conditions, and shall submit an annual report on the same to the council on or before the first day of March for the council's review and use in the formulation of the capital budget and long-term strategic plan for the County. The report shall include, as a minimum, the following information:

- (1) The name of the relevant parties, landowners, donors, contributions;
  - (2) The identification of the permit or approval name and number;
  - (3) The nature and extent of the assessments or exactions, and the method by which any undetermined assessments or exactions are to be determined, valued and applied;
  - (4) The deadlines and other timetables in which the assessments or exactions are to be determined and delivered or performed;
  - (5) Financial impact statements for the assessment or exaction reported.
- (b) The dedication of roads and/or other infrastructure required as part of land use approvals shall be transmitted by resolution to the council using the procedure set forth in section 2-162.2, provided the department(s) or agency(ies) having oversight and maintenance of the infrastructure to be dedicated has been consulted, performed all necessary inspections, and recommends approval pursuant to the Hawai'i County Code.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

**Section 2-162.2. Procedures for acceptance; other real property.**

A gift or donation of real property, which is not derived from a community benefit assessment or condition of land use approval, shall be processed in the following manner:

- (1) An offer to donate real property shall be submitted in writing from the donor to the director of finance (hereinafter referred to as the "director").
- (2) The offer shall state the purpose of the donation and shall include a copy of the recorded deed, any maintenance or association agreements, conditions, covenants and restrictions (CC&R's), and any reservation and encumbrances attached to the real property.
- (3) The donor shall also provide any other information or documentation regarding the real property as the director may request.
- (4) The director shall transmit the offer to appropriate departments and agencies, including but not limited to the departments of public works, planning, and water supply, and real property tax office, for their review and comment. The director shall then forward to the council a status of real property taxes due, including delinquencies, interest and penalties, a recommendation and a proposed resolution.



- (5) The council may not accept the donation of real property unless there is a finding that the acceptance of the subject real property is in the public interest.
- (6) If the real property is accepted, transfer documents shall be prepared by the County.

(2003, ord 03-148, sec 2.)

### **Article 31. Sister City Relationships.**

#### **Section 2-163. Purpose.**

The purpose of this article is to establish criteria and formal procedures for the establishment and maintenance of sister city relationships.

(1993, ord 93-31, sec 1.)

#### **Section 2-164. Criteria.**

The County of Hawai'i may consider the establishment of a sister city relationship with a city or county that:

- (a) Shares a direct historical, cultural, or ethnic relationship with the people of the County of Hawai'i;
- (b) Offers reciprocative educational, technological, or economic benefits, including special knowledge, know-how or expertise that is beneficial to the County of Hawai'i's businesses, industries, and labor force;
- (c) Is similar in population size or character to the County of Hawai'i which makes for analogous problems and concerns and the opportunity to exchange meaningful ideas and applicable solutions for either or both places; or
- (d) Recognizes other common bonds that are mutually beneficial to the citizens of both places and serve as a liaison for the exchange of information and other lifestyle and practical values.

(1993, ord 93-31, sec 1; am 2003, ord 03-117, sec 2.)

#### **Section 2-165. Establishment of sister city relationship.**

- (a) The sister city relationship shall be established by the adoption of a council resolution approving the establishment of the sister city tie and the signing of a formal agreement between the mayor of the County of Hawai'i and the appropriate public official of the proposed sister city that such ties exist. The agreement shall contain a proposed program, developed by the office of the mayor and the proposed sister city, that will be instituted by both places to make these ties lasting and purposeful.
- (b) County funds shall be appropriated to provide for the exchange of gifts or goodwill missions to promote the newly established sisterhood and the concept of mutual understanding. Such goodwill missions may include student exchanges, art, cultural or industrial exhibits and athletic team visits.
- (c) Any sister city relationship in which there is a failure to implement the agreement or to exchange gifts or goodwill missions within a five year period may result in the termination of the agreement and relationship by council resolution.

- (d) Existing sister cities which have been active during the five years prior to the enactment of this article, and which continue to be active, shall not be required to comply with this article. An existing sister city shall be deemed to be active if there has been an exchange of gifts or goodwill missions within a five year period.  
(1993, ord 93-31, sec 1; am, ord 93-102, sec 1; am 2003, ord 03-117, sec 2.)

**Section 2-166. Protocol officer.**

- (a) A protocol officer, who shall be designated by the mayor, shall be responsible for the implementation and monitoring of the formal agreement signed by the County of Hawai'i and the sister city. The protocol officer serves at the discretion of the mayor for the term of office of the mayor and may be removed by the mayor.
- (b) The protocol officer shall be responsible for informing the County of Hawai'i's existing sister cities of the terms and conditions of this article.
- (c) The protocol officer shall submit an annual report by July 31 to the council covering the prior period July 1 to June 30 summarizing the activities conducted with the County of Hawai'i's sister cities and identifying the sister cities for which no activity has occurred within five years.
- (d) Upon the recommendation of the protocol officer that a sister city relationship should be terminated pursuant to section 2-165(c), the mayor may submit a resolution to the council terminating the sister city relationship. Prior to initiating the termination resolution, the protocol officer shall notify, in writing, principals involved in the sister city relationship, such as local business and cultural groups, about the county's intent to terminate the sister city relationship. This subsection shall not preclude the council from initiating a termination resolution.  
(1993, ord 93-31, sec 1; am, ord 93-102, sec 1; am 2003, ord 03-117, sec 2.)

**Article 32. Recovery of Rescue Expenses.**

**Section 2-167. Definitions.**

As used in this article the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (a) "County" means the County of Hawai'i.
- (b) "Gross negligence" means conduct which is either intentional or committed under circumstances exhibiting a reckless disregard for the safety of oneself or of others.
- (c) "Person" means any individual, corporation, association, partnership, firm, trustee, or legal representative.
- (d) "Recoverable expenses" means those expenses that are reasonable, necessary and allocable to the rescue operation. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine fire fighting. Expenses allowable for recovery may include, but are not limited to:
- (1) Materials and supplies acquired, consumed and expended specifically for the purpose of the rescue operation.
  - (2) Compensation of employees for the time and efforts devoted specifically for the purpose of the rescue operation.

- (3) Rental or leasing of equipment used specifically for the rescue operation such as protective equipment or clothing, scientific and technical equipment, helicopters, boats or bulldozers.
  - (4) Repair costs for equipment owned by the County that is damaged during the rescue operation.
  - (5) Replacement costs for equipment owned by the County that is damaged beyond use or repair, if the equipment was a total loss and the loss occurred during the rescue operation.
  - (6) Special technical services specifically required for the rescue operation such as costs associated with the time and efforts of technical experts or specialists not otherwise provided by the County.
  - (7) Other special services specifically required for the rescue operation.
  - (8) Medical expenses incurred as a result of the rescue operation.
  - (9) Legal expenses that may be incurred as a result of the rescue operation, including efforts to recover expenses pursuant to this article.
- (e) "Rescue operation" means the effort to free or remove an individual or individuals placed in a situation of distress or peril from any confinement, violence or danger. (1993, ord 93-77, sec 1.)

**Section 2-168. Gross negligence.**

Any and all persons who, because of gross negligence, cause or contribute to the placement of an individual or individuals in a situation of distress or peril which results in a rescue operation shall be liable to the County for all recoverable expenses resulting from the rescue operation. This shall be in addition to any and all penalties provided by law.

(1993, ord 93-77, sec 1.)

**Section 2-169. Recovery of expenses.**

- (a) County personnel and departments involved in a rescue operation shall keep an itemized record of recoverable expenses resulting from the rescue operation. Promptly after completion of the rescue operation, the appropriate department shall certify those expenses to the office of the corporation counsel.
- (b) Submission of Claim. The office of the corporation counsel, on behalf of the County, shall submit a written itemized claim for the total recoverable expenses incurred by the County for the rescue operation to the responsible person or persons and a written notice that unless the amounts are paid in full within thirty days after receipt of the claim and notice, the County will file a civil action seeking recovery for the stated amount.
- (c) Civil Suit. The County may bring a civil action for the recovery of all recoverable expenses against any and all persons causing or responsible for the placement of the individual or individuals in a situation of distress or peril which results in a rescue operation.

(1993, ord 93-77, sec 1.)

**Article 33. Development Agreement with the State  
for Mass Transportation Programs.**

**Section 2-170. Authorization to executive branch.**

The executive branch, with the concurrence of the council by resolution, shall be authorized to enter into a development agreement with the governor of the State of Hawai'i pursuant to section 51D-5\*, Hawai'i Revised Statutes, for the purposes of the support and/or development of mass transportation programs. The development agreement shall:

- (1) Describe the type of mass transportation project, the areas to be served, and anticipated ridership;
- (2) Provide a breakdown of costs and identify the anticipated funding sources, including the amount being requested from the transit fund and the source of County matching funds, together with a phasing schedule of both costs and funding sources, and a breakdown of actions taken or required to be taken in order to provide for such matching funds;
- (3) Provide a schedule of disbursements from the transit fund which shall be allowed;
- (4) Provide a timetable for the development of the mass transportation project; and
- (5) Provide for amendment at any subsequent time by mutual consent of the parties, subject to legislative disapproval as provided for in this section.

(1992, ord 92-10, sec 2.)

\* **Editor's Note:** Chapter 51D, Hawai'i Revised Statutes, was repealed.

**Article 34. Fees and Charges for Special Duty Services  
of the Hawai'i County Police Department.**

**Section 2-171. Definition.**

"Special duty" means the performance of a service for a person, organization, or governmental entity, other than the police department, by an officer of the Hawai'i County police department acting in a police capacity, in return for which the officer receives a direct or indirect payment or compensation of some kind.

(1994, ord 94-86, sec 1.)

**Section 2-172. Administration.**

The chief of police shall be responsible for the administration of the processing of requests for the services of special duty police officers of the Hawai'i County police department.

(1994, ord 94-86, sec 1.)

**Section 2-173. Fees for special duty requests.**

Any person or entity requesting the services of a special duty police officer shall be assessed an administrative fee in accordance with the rules established by the chief of police. This fee shall be assessed by the police department and shall be in addition to any charge assessed for the services of the special duty police officer.

(1994, ord 94-86, sec 1.)

**Section 2-174. Waiver.**

The chief of police may waive the administrative fee when the special duty services are for an event or activity mandated by law or conducted by the Federal, State, or County government.

The chief of police shall not waive the administrative fee when special duty services are provided to a private person or entity performing pursuant to a government contract or to the renting or leasing of a government facility for a nongovernmental event.

(1994, ord 94-86, sec 1.)

**Section 2-175. Rules and regulations.**

The chief of police shall adopt rules and regulations in accordance with chapter 91, Hawai'i Revised Statutes governing the processing of requests for special duty police officers, including the fees assessed for services of special duty police officers.

(1994, ord 94-86, sec 1.)

**Section 2-175.1. Employment of staff; funding.**

The chief of police is empowered to employ personnel to carry out the purpose of this article. All employee costs, including fringe benefits, shall be provided from fees collected pursuant to section 2-173 of this article. Employment of such personnel shall be contingent on an adequate level of funding being generated by the fees collected to cover all costs.

(1996, ord 96-11, sec 1.)

**Article 35. Geothermal Asset Fund.****Section 2-176. Creation of fund.**

- (a) Pursuant to section 10-12, Hawai'i County Charter, a special fund to be known as the geothermal asset fund is created.
- (b) The Geothermal asset fund shall be funded by payments made by Puna Geothermal Venture, a Hawai'i Partnership, its successors or assigns and the State of Hawai'i for the purpose of compensating persons impacted by geothermal energy development activities pursuant to the provisions incorporated in Geothermal Resource Permit No. 2.
- (c) Payments from the asset fund shall be administered and expended in accordance with rules, regulations, and procedures developed for that purpose and adopted by the windward planning commission in accordance with chapter 91, Hawai'i Revised Statutes.

- (d) Expenses incurred by the windward planning commission such as administrative costs related to geothermal resource permits, geothermal development compliance activity, and processing of claims against the asset fund shall not be charged to the asset fund.
  - (e) All interest and earnings accrued from the money and assets deposited in the asset fund shall be expended for the purposes for which this fund has been created.
  - (f) No claim made pursuant to this section will be deemed a claim against the county, nor will the payment of any claim be construed as an admission of fault by the county or its officers, employees or agents.
  - (g) The denial of any claim made under this Geothermal Asset Fund, in whole or in part, shall not prevent the claimant from pursuing any other remedy at law against the geothermal permittee and State of Hawai'i.
- (1995, ord 95-74, sec 1; am 2009, ord 09-118, sec 12.)

### **Article 36. Geothermal Relocation and Community Benefits Program.**

#### **Section 2-177. Establishment.**

The planning department is hereby authorized to establish a geothermal relocation and community benefits program for the relocation of owner-occupants residing near the Puna Geothermal Venture's plant and who want to be permanently relocated, and to fund expenditures for the benefit of Lower Puna, as defined herein, including, but not limited to, road improvements, water infrastructure development, land acquisition, parks and recreational facility needs, civil defense and mass transit improvements.

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

#### **Section 2-178. Purchase and sale of affected properties.**

Notwithstanding any other provision of this Code, the planning director is hereby authorized to purchase the affected properties by negotiation for not more than one hundred thirty percent of the assessed value, as determined by the real property tax division of the department of finance and dispose of the affected properties by public auction or pursuant to article 19 of chapter 2, with the exception of the requirement for council resolution found in section 2-111(1).

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

#### **Section 2-179. Creation of geothermal relocation and community benefits fund.**

Pursuant to section 10-12, Hawai'i County Charter, the special fund known as the geothermal relocation revolving fund is hereby renamed the geothermal relocation and community benefits fund. This fund shall be administered by the planning department.

(1996, ord 96-2, sec 1; am 1998, ord 98-25, sec 1; am 2008, ord 08-37, sec 1.)

**Section 2-180. Funding.**

The geothermal relocation and community benefits program shall be funded by proceeds from the following sources:

- (1) Geothermal royalties received from the department of land and natural resources.
- (2) Proceeds from the sale of properties purchased under this program.
- (3) Rental fees from any of the properties purchased under this program.

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

**Section 2-181. Expenditures from fund.**

The proceeds from the fund shall be used for the necessary expenses in administering and carrying out the purposes of the geothermal relocation and community benefits program. A minimum balance of \$1,000,000 shall be maintained in the fund for expenditures relating to geothermal relocation. Expenditures relating to the geothermal relocation and community benefits program include, but are not limited to:

- (1) The costs of any necessary appraisals required under this program;
- (2) The payment of necessary fees and expenses;
- (3) The costs for the purchase of an affected dwelling and property in accordance with this chapter, if necessary;
- (4) The costs necessary to dispose of or rent affected dwelling and property; and
- (5) Expenditures for public purposes including road improvement, water infrastructure, land acquisition, parks and recreational facility needs, civil defense, and mass transit improvements.
  - (A) Funds shall be expended in Lower Puna, which is defined as extending from Hawaiian Paradise Park subdivision to Kalapana and including Orchidland Estates, Ainaloa, Hawaiian Beaches, Hawaiian Shores, Kapoho, Pāhoa, Nānāwale, Leilani Estates, and other communities proximate to Pāhoa.
  - (B) Expenditures under this subsection shall be made in accordance with appropriations adopted by the Hawai'i County Council after receiving recommendations from the planning director.

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

**Section 2-182. Promulgation authority.**

The planning director is authorized to promulgate rules and regulations for implementation of the relocation program.

(1996, ord 96-2, sec 1.)

**Article 37. Family Violence Advisory Commission.****Section 2-183. Organization.**

There shall be a commission composed of a minimum of nine but not to exceed fifteen members who shall be appointed by the mayor and may be removed by the mayor. The commission shall:

- (1) Prevent and reduce family violence in the County of Hawai'i by addressing island-wide issues and ramifications of family violence.
- (2) Promote public awareness and education about family violence in the County of Hawai'i.
- (3) To act to improve upon services offered to victims and their families.
- (4) Promote and facilitate inter-agency training on the dynamics of family violence.
- (5) Identify community concerns and assist with the study and investigation of resources, activities and political attitudes in the community that would assist the commission to address family violence.
- (6) Enhance communication, promote cooperation and coordinate services between member agencies.
- (7) Offer judicial and inter-agency training to provide the impetus for preventive measures and education directed at the community-at-large with emphasis on our children and youth.

(1997, ord 97-111, sec 1.)

**Section 2-184. Membership and tenure.**

- (a) All members shall be appointed by the mayor and shall serve terms co-terminus with that of the mayor, which automatically ends at 12:00 noon on the first Monday of December following any mayoral election.
- (b) At the discretion of the mayor, reappointments are permissible.
- (c) Ex officio membership shall be permitted but these members shall not have voting privileges or qualify for mileage and other financial reimbursements. Ex officio members shall be selected according to their knowledge and experience in dealing with family and domestic violence.
- (d) Any vacancy may be filled upon the recommendation of the commission and approval of the mayor.
- (e) Members shall receive no compensation but shall be reimbursed mileage and other expenses as preapproved by the commission.

(1997, ord 97-111, sec 1.)

**Section 2-185. Oath of affirmation.**

Before entering upon the duties of their office, each member shall subscribe to an oath of affirmation before some person duly qualified to administer oaths.

(1997, ord 97-111, sec 1.)



**Section 2-186. Rules of procedure; quorum; meetings.**

The commission shall have the authority to establish its rules of procedure for the conduct of its business. It shall specify that a quorum shall be at least fifty percent of the total commission's membership. All proceedings of the commission shall be in conformation to the requirements of chapter 92, Hawai'i Revised Statutes, Public Agency Meetings and Records (Sunshine Law).

(1997, ord 97-111, sec 1.)

**Section 2-187. Powers and duties of the commission.**

- (a) It shall be the duty of the commission to act in an advisory capacity to the mayor concerning matters pertaining to the subject of domestic and family violence and the commission's effort to reduce and prevent domestic and family violence in the County of Hawai'i, to act to improve upon the services to victims and their families, to increase public awareness and education about family violence throughout the island of Hawai'i, to recommend and assist in the implementation of procedural and other changes within the agencies and organizations to further the goals of the commission and to recommend and assist in the creation of such entities as it finds necessary to implement and carry out those goals. The commission shall enhance communication, promote cooperation and coordinate services between member agencies in order to seek overall improvement of services to the public and avoid costly duplication of services. The commission shall, from time to time, inquire of agencies as to their goals and objectives in furthering the purposes of the commission.
- (b) The commission shall initiate and pursue efforts to secure Federal, State, County and private sector grants and funding to carry out its goals and objectives.
- (1) It shall serve as the repository of said funds or shall provide a mechanism to do so and shall be responsible for the timely accounting of same.

(1997, ord 97-111, sec 1.)

**Article 38. Claims and Actions Against County Officers,  
Employees and Former Employees.**

**Section 2-188. Defense by the County; punitive damages.**

- (a) Notwithstanding any other provision of law, if a civil complaint is filed against an officer, employee or former employee and exemplary or punitive damages are requested, the County is authorized to pay that part of a judgment that is for punitive or exemplary damages upon adoption of a resolution by the council, which finds all of the following:
- (1) The act or omission of the officer, employee or former employee was done within the course and scope of that person's employment as an employee of the County, unless that determination has already been made pursuant to State law.

- (2) At the time of the act giving rise to the liability, the action or failure to act of the officer, employee or former employee was in good faith, without actual malice, to serve the County and in the apparent best interests of the County.
  - (3) Payment of the claim or judgment would be in the best interests of the County.
  - (4) It is in the public interest to indemnify the officer, employee or former employee for all damages that may be assessed, including punitive damages, so that the corporation counsel may represent such named officer, employee or former employee.
- (b) Representation by the corporation counsel of such officer, employee or former employee is not an admission of liability by the council of the County of Hawai'i.
  - (c) Nothing in this article shall affect any code or judicially established decree prohibiting the award of punitive damages against the County nor shall it be construed as a waiver of any immunity the County might possess, including a waiver of the County's immunity from liability for punitive damages under section 1981, 1983, or 1985 of title 42 of the United States Code.
- (1998, ord 98-86, sec 2.)

**Article 39. Workforce Innovation and Opportunity Act Program.**

**Section 2-189. Established.**

There is established, within the County of Hawai'i, a Workforce Innovation and Opportunity Act program which shall be under the direction and supervision of the mayor.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-190. Purpose.**

The purpose of this program is to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy by implementing the Workforce Innovation and Opportunity Act of 2014.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-191. Powers and duties.**

The County shall have, without limitation, all powers necessary and appropriate to carry out its duties and functions under the Workforce Innovation and Opportunity Act of 2014.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-192. Workforce innovation and opportunity board.**

(a) A workforce innovation and opportunity board, subject to certification by the governor of the State, is established. Pursuant to the Workforce Innovation and Opportunity Act of 2014, its:

- (1) Members shall be appointed by the mayor.

- (2) Membership shall include representatives of government agencies, education, labor, and business and satisfy the Act's requirements.
- (3) Chairperson must be elected from among the business representatives.
- (b) The board shall have all powers, duties, and functions required to implement within the Island of Hawai'i, in partnership with the mayor, the Workforce Innovation and Opportunity Act of 2014.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-193. Creation of fund.**

Pursuant to section 10-12, Hawai'i County Charter, a special fund to be known as the Workforce Innovation and Opportunity Act program fund is established.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-194. Funding.**

The Workforce Innovation and Opportunity Act program shall be funded by Federal grants, County funds, State funds, or a combination thereof.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2; am 2018, ord 18-34, sec 2.)

**Section 2-195. Expenditures from fund.**

The proceeds from the fund shall be used for the necessary expenditures of administering and carrying out the Workforce Innovation and Opportunity Act of 2014. Every expenditure shall comply with the requirements of that law.

The administrator of the office of housing and community development is authorized to promulgate rules and regulations, if necessary, for the implementation of the Workforce Innovation and Opportunity Act program.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-196. Impairment of Federal funds.**

If any part of the Charter, this Code, or this article is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the County, under the Workforce Innovation and Opportunity Act of 2014, the conflicting part of the Charter, this Code, or this article is inoperative to the extent of the conflict and with respect to the agencies directly affected. This finding shall not affect the operation of the remainder of these laws in their application to the agencies concerned.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Section 2-197. Termination of fund.**

Upon either the termination of the Workforce Innovation and Opportunity Act of 2014, or the withdrawal of the County from participation in the program, the Workforce Innovation and Opportunity Act program fund shall be terminated. Prior to termination, any remaining proceeds in the fund shall be disposed of in accordance with federal requirements.  
(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

**Article 40. Department of Environmental Management.****Section 2-198. Definitions.**

- (a) "Director" means the director of the department of environmental management.
  - (b) "Department" means the department of environmental management.
  - (c) "Commission" means the environmental management commission.
- (2005, ord 05-22, sec 1.)

**Section 2-199. Composition of department.**

There shall be a department of environmental management consisting of a director, the necessary staff and an environmental management commission.

(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

**Section 2-200. Statement of policy.**

The department of environmental management is established to protect, preserve, and enhance our environment by promoting the wise management of our waste.

(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

**Section 2-201. Appointment and qualifications of department head.**

The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five years' administrative experience in a related field.

(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

**Section 2-202. Powers, duties and functions.**

The department of environmental management shall manage solid waste, wastewater, and recycling programs of the County, and exercise other functions prescribed by ordinance.

The department shall administer this article as well as chapters 20 and 21 through the director. The director may delegate to any person such power and authority vested in the director as the director deems reasonable and proper for the effective administration of these chapters, except the power to make rules. The director may adopt, amend and repeal rules relating to solid waste, wastewater and recycling.

(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

**Section 2-203. Divisions within department.**

- (a) The department of environmental management shall be divided under the director into the following divisions:
    - (1) Wastewater Division. The wastewater division shall be responsible for the construction, maintenance, and operation of all sewage programs and facilities operated by and for the County.
    - (2) Solid Waste Division. The solid waste division shall be responsible for the construction, maintenance, and operation of all solid waste programs and facilities operated by and for the County.
- (2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

**Section 2-204. Enforcement.**

- (a) If the director determines that any person has violated or is violating any provision of this article or chapters 20 or 21 or any rule adopted pursuant to these chapters, the director may do any one or more of the following:
  - (1) Issue an order assessing an administrative penalty for any past or current violation;
  - (2) Require compliance immediately or within a specified time; and
  - (3) Commence a civil action in the circuit court for appropriate relief, including a temporary, preliminary, or permanent injunction, the imposition and collection of civil penalties, or other relief.
- (b) Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with section 2-206.
- (c) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the commission for a hearing at a time and place specified in the notice and answer the charges complained of.
- (d) Any hearing conducted under this section shall be conducted as a contested case under chapter 91. If after a hearing held pursuant to this section, the commission finds that a violation or violations have occurred, the commission shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the violation or disposals involved, or for the taking of such other corrective action as may be appropriate. If, after a hearing on an order or penalty contained in a notice, the commission finds that no violation has occurred or is occurring, the commission shall rescind the order or penalty. Any order issued after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or disposals.
- (e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the County to collect the administrative penalty which shall be a government realization. In any proceeding to collect the administrative penalty imposed, the director need only show that:
  - (1) Notice was given;

- (2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;
- (3) The administrative penalty was imposed; and
- (4) The penalty remains unpaid.

(2005, ord 05-22, sec 1.)

**Section 2-205. Penalties.**

Any person who violates this chapter or chapters 20 or 21, any rule adopted pursuant to these chapters, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(2005, ord 05-22, sec 1.)

**Section 2-206. Administrative penalties.**

In addition to any other administrative or judicial remedy, the director is authorized to impose by order the penalties specified in section 2-205. If any party is aggrieved by the decision of the commission, the party may appeal in the manner provided in chapter 91 to the circuit court; provided that the operation of a cease and desist order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction.

(2005, ord 05-22, sec 1.)

**Section 2-207. Environmental management commission.**

There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in section 13-4 of the Hawai'i County Charter. The environmental management commission shall advise the department on solid waste and wastewater programs, waste reduction strategies, recycling, litter control, community involvement, and other issues, including any pilot project or program, related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance. The commission shall also provide its comments and recommendations on these matters to the council. The commission shall hear and determine appeals from decisions of the director, including orders and denials of variances.

The director and commission shall each submit comments and recommendations on all legislation relating to the functions and duties of the department, including any ordinance to amend chapter 20 or chapter 21 of this Code, to the council prior to council action. Comments and recommendations shall be provided to the council within forty five days of receipt. In the event that the commission fails to act within the forty-five-day review period, such inaction shall be considered as an unfavorable recommendation. (2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1; am 2012, ord 12-114, sec 1.)

**Article 41. Disaster and Emergency Fund.****Section 2-208. Creation of fund; purpose.**

- (a) Pursuant to section 10-12, Hawai'i County Charter 2010, a special fund to be known as the disaster and emergency fund is created.
- (b) The purpose of the disaster and emergency fund is to accumulate sufficient supplemental financial resources to respond to public health and safety emergencies, and to rebuild, repair, or replace County facilities and infrastructure damaged by natural or human-caused disasters or emergency events.

(2004, ord 04-4, sec 2; am 2011, ord 11-130, sec 2.)

**Section 2-209. Funding.**

- (a) Each fiscal year, the minimum amount to be appropriated into the disaster and emergency fund shall be \$250,000.
- (b) The council hereby establishes a policy for the disaster and emergency fund to have a targeted funding amount of \$10,000,000. This policy does not preclude the use of the funds for any reason listed in section 2-210 even if the targeted amount is not met.
- (c) Additional funds may be deposited in the disaster and emergency fund from state or federal grants, the Federal Emergency Management Agency, private sources, and any other source of revenue.

(2004, ord 04-4, sec 2; am 2006, ord 06-98, sec 1; am 2011, ord 11-130, sec 3.)

**Section 2-210. Expenditures from the disaster and emergency fund.**

The money in the disaster and emergency fund shall only be utilized for the following purposes:

- (1) To repair County facilities and infrastructure damaged by a natural or human-caused disaster or emergency.
- (2) To clean up County property, including roads, drainage, and sewage systems, damaged by a natural or human-caused disaster or other emergencies when such action serves a public purpose.
- (3) To provide immediate response for services to deal with public health and safety risks due to a natural or human-caused disaster or emergency in the form of personnel, equipment, materials, supplies, and service contracts.
- (4) To match federal, state, or private grants-in-aid individually or in any combination to develop or restore public property to a safe and useable condition.
- (5) To pay for operational expenses of the County after a disaster or emergency when the County is unable to realize revenue at sufficient levels due to the disaster or emergency.
- (6) To pay for administrative expenses, which shall not exceed five percent of this fund except as indicated in (5) above. For the purposes of this section, administrative expenses are defined as staff or contracted salaries, and related fringe benefits.

(2004, ord 04-4, sec 2; am 2006, ord 06-98, sec 2; am 2011, ord 11-130, sec 4.)

**Section 2-211. Dissolution of the fund.**

The disaster and emergency fund shall not be dissolved unless such dissolution is approved by a two-thirds vote of the County council.

(2004, ord 04-4, sec 2.)

**Section 2-212. Reimbursement from grants.**

If the County should receive reimbursement for money advanced by the disaster and emergency fund, the grant money shall return to the disaster and emergency fund.

(2004, ord 04-4, sec 2.)

**Section 2-213. Administration of the fund.**

The director of finance shall administer the disaster and emergency fund, which shall include investment of the fund.

(2004, ord 04-4, sec 2.)

**Article 42. Public Access, Open Space, and Natural Resources Preservation.****Section 2-214. Repealed.**

(2005, ord 05-85, sec 2; am 2005, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; rep 2015, ord 15-97, sec 3.)

**Section 2-214.1. Public access, open space, and natural resources preservation fund.**

- (a) A public access, open space, and natural resources preservation fund is hereby established. This special fund shall be administered and managed by the finance department. Monies deposited shall be invested in a conservative interest-bearing account that will allow monies to be available for property acquisition and prevent any erosion of the fund's principal amount.
- (b) The fund shall consist of monies from:
  - (1) The proceeds from the sale of any general obligation bonds, authorized and issued for the purposes of this section;
  - (2) Council appropriations for the purposes of this section;
  - (3) Any source of revenue dedicated by the Charter or the Code for the purposes of this section;
  - (4) Grants and private contributions intended for the purposes of this section;
  - (5) Two percent of Hawai'i County real property tax revenues collected annually (including penalties and interest). Deposits will be made to the Fund on June 30, 2007 and then again on December 31, 2007, and on December 31 and June 30, in successive years, with deposits being calculated on all real property tax payments (including penalties and interest) received in the prior six months. Additional deposits and adjustments may be made at the discretion of the director of finance;



- (6) Monies from items numbered (1), (2), (3), and (4) above, shall be deposited as received; and
  - (7) Notwithstanding (b)(5) of this section, for the period from July 1, 2009 to June 30, 2011, no payments relating to this section shall be allocated or deposited, provided, however, that all payments accrued through June 30, 2009 shall be allocated and deposited by July 31, 2009.
- (c) The fund shall be used for acquiring lands or property entitlements in the County of Hawai'i for the following purposes:
- (1) Public outdoor recreation and education, including access to beaches and mountains;
  - (2) Preservation of historic or culturally important land areas and sites;
  - (3) Protection of natural resources, including buffer zones;
  - (4) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
  - (5) Protection of watershed lands to preserve water quality and water supply.
- (d) The director of finance shall ensure that the following covenant is written and duly recorded as part of the deed of any property acquired pursuant to this section:
- “This land/easement was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai'i County and may not be sold, mortgaged, traded or transferred in any way.”

The director of finance shall select either “land” or “easement” based on the type of property acquired.

(2005, ord 05-85, sec 2; am, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; am 2015, ord 15-97, sec 3-5.)

**Section 2-214.2. Public access, open space, and natural resources preservation maintenance fund.**

- (a) Pursuant to section 10-16(c) of the Charter, a special fund known as the public access, open space, and natural resources preservation maintenance fund is established. The purpose of this special fund is to accrue and use moneys for maintenance of lands and easements acquired in full or in part by the public access, open space, and natural resources preservation fund.
- (b) Pursuant to section 10-16(c) of the Charter, the maintenance fund shall be administered and managed by the department of parks and recreation. Adequate staff to carry out the provisions of this article and section 10-16 of the Charter shall be provided in the department of parks and recreation.
- (c) The financial aspects of the maintenance fund shall be handled by the department of finance. Pursuant to sections 10-16(d), (e), and (f) of the Charter, deposits shall occur, and accounting, reports and financial statements from the department of finance shall be made.

- (d) Pursuant to section 10-16(g) of the Charter, this maintenance fund shall be used solely for expenditures directly related to its purpose.
- (e) Pursuant to section 10-16(h) of the Charter, and article 25 of this chapter, stewardship grants may be provided to 501(c)(3) nonprofit organizations or an organization operating under the umbrella of a 501(c)(3) nonprofit organization. (2015, ord 15-97, sec 6.)

**Section 2-215. Public access, open space, and natural resources preservation commission.**

- (a) There is established a public access, open space, and natural resources preservation commission. There shall be nine members on this commission, appointed by the mayor and confirmed by the council. The members may be removed upon recommendation by the mayor and the approval of the council. One member shall reside in each County council district. The members shall serve staggered terms of five years. Upon initial appointment of the commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Staff support shall be provided by the finance department.
- (b) No member shall be eligible for a second appointment to the commission prior to the expiration of two years, provided that members initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term.
- (c) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (d) Any vacancy occurring in the commission shall be filled for the unexpired term.
- (e) Not more than a bare majority of the members shall belong to the same political party.
- (f) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance pursuant to article 16.
- (g) A chairperson shall be elected from its membership annually.
- (h) The affirmative vote of a majority of those members present shall be necessary to make any action valid.
- (i) The commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the commission is entitled.
- (j) No person shall, by reason of occupation alone, be barred from serving as a member of this commission.

- (k) The council shall act to confirm or reject any appointment made to the commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
  - (l) The redrawing of the council district boundaries during a member's term shall not affect a member's eligibility to represent the district to which the member was appointed.
- (2005, ord 05-166, sec 2.)

**Section 2-216. Oath of affirmation.**

Before beginning their duties, each member appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths:

"I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as a member of the public access, open space, and natural resources preservation commission to the best of my ability."

(2005, ord 05-166, sec 3.)

**Section 2-217. Duties and responsibilities of the commission.**

The duties and responsibilities of this commission are:

- (1) To develop and submit to the mayor an island-wide prioritized list of qualifying lands worthy of preservation. The commission shall give emphasis to land acquisitions where the County's contribution can be leveraged to obtain State, Federal, and/or private lands. Priorities shall be listed on an island-wide rather than district basis. The list shall include the significance of each parcel or entitlement identified, the reason for its priority, and its anticipated use after acquisition;
- (2) To update this list at any time, but at least annually by December 31 of each year;
- (3) To explore methods of funding land acquisition and make recommendations to the mayor;
- (4) To review, evaluate, and make recommendations to the director of the department of parks and recreation regarding applications for stewardship grants from the maintenance fund, within six months of receipt of each application. Recommendations shall address whether grant applicants have the ability to complete their proposed projects according to the project plan, on time, and within cost estimates, in accordance with section 10-16(h) of the Charter;
- (5) To review stewardship grant applications, business plans, agreements, and other documentation accompanying grant applications. The commission may also conduct interviews and perform site visits and other activities necessary to formulate a recommendation; and

- (6) To review stewardship grant recipient performance reports, conduct interviews, and perform site visits and other activities necessary to verify that grant objectives are being met. The commission shall forward its findings to the director of parks and recreation.

(2005, ord 05-166, sec 4; am 2015, ord 15-97, sec 7.)

**Section 2-218. Prioritized list of qualifying lands worthy of preservation.**

- (a) The prioritized list developed by the commission shall be submitted to the mayor for comments and recommendation. Within sixty days after receipt, the mayor will submit the list to the council with comments and recommendations. The council shall, by resolution, select the land or lands to be preserved. Under no circumstances shall the purchase price paid for a property exceed the appraised value as prepared by an independent appraiser engaged by the County. Where there are multiple lands under consideration at any one time, priority shall be given to coastal lands and lands where matching funding is available to leverage the County contribution.
- (b) Negotiations for acquisition of lands to be preserved shall occur between the County and the seller or its commissioned agent, or a licensed broker only. The commission shall have no role in the negotiations other than in its advisory capacity.
- (c) Appraisals, title reports, surveying and other costs incidental to the acquisition of land shall be permitted uses of the public access, open space, and natural resources preservation fund.
- (d) Adequate staff to carry out the provisions of this article and to manage the land acquired shall be provided in the department of finance to maximize the use of available funds by minimizing the payment of commission to outside agents to put together funding plans and to ensure that the County is a good steward of any land that comes under its control through this article.

(2005, ord 05-166, sec 5; am 2007, ord 07-21, sec 2; am 2015, ord 15-97, sec 8.)

**Article 43. Budget Stabilization Fund.**

**Section 2-219. Creation of fund; purpose.**

- (a) Pursuant to section 10-12, Hawaii County Charter 2000, a special fund to be known as the budget stabilization fund is created.
- (b) The purpose of the budget stabilization fund shall be a temporary, supplemental source of funds for the County to use during times of financial hardships while a plan for cost reduction or revenue enhancement is developed. Additionally, the fund may be used to insulate general fund programs and current service levels from:
- (1) Revenue shortfalls to minimize the need for budget cuts or tax increases;
  - (2) A revenue reduction due to a change in state or federal legislation; or
  - (3) Slower revenue growth that typically occurs during an economic recession.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

**Section 2-220. Funding.**

- (a) Each fiscal year, the minimum amount transferred into the budget and stabilization fund shall be \$250,000.
- (b) The council hereby establishes a policy to accumulate between five to fifteen percent of the general fund total expenditures based on a combination of the fund balance and the budget stabilization fund. This policy does not preclude the use of the funds for any reason listed in section 2-219 even if the targeted percentage is not met.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

**Section 2-221. Expenditures.**

The budget stabilization fund may be used only when there is a reduction in budgeted revenue and the director of finance determines that such use is necessary to prevent a reduction in the level of public services.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

**Section 2-222. Appropriations.**

Appropriations from the budget stabilization fund may occur only upon the following:

- (1) Written determination by the director of finance that such appropriations are necessary; and
- (2) Passage of an appropriations ordinance by two-thirds vote of the council.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

**Section 2-223. Prohibitions.**

Appropriations from the budget stabilization fund to fund the acquisition, construction or alteration of a facility as part of a general capital improvement program or balance the budget for an upcoming year shall be prohibited.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

**Section 2-223.1. Dissolution of the fund.**

The budget stabilization fund shall not be dissolved unless such dissolution is approved by the finance director and a two-thirds vote of the County council.

(2011, ord 11-128, sec 2.)

**Article 44. Hawai'i County Cultural Resources Commission.****Section 2-224. Purpose.**

The Council finds that preservation of historic properties enhances the educational, cultural, economic and general welfare of the County. It is deemed essential that the history and culture of Hawai'i County be preserved through comprehensive historic

preservation planning. Implementation of chapter 6E, historic preservation, Hawai'i Revised Statutes, and the Hawai'i County General Plan provide a means to accomplish this outcome.

It is, therefore, the intent of this article to provide for:

- (1) Protecting and preserving historic properties and artifacts in the County and encourage, where appropriate, their adoption for appropriate and feasible use;
- (2) Encouraging the restoration, rehabilitation and continued functional use of historic properties;
- (3) Encouraging the identification, preservation, promotion and enhancement of those historic properties which represent or reflect distinctive elements of cultural, social, economic, political and architectural history, and to encourage the designation of historic properties, thereby ensuring that our cultural and historic heritage will be imparted to present and future generations of residents and visitors; and
- (4) Formulating County-wide comprehensive, historic preservation policies, programs and plans.

(2008, ord 08-42, sec 1.)

#### **Section 2-225. Definitions.**

For purposes of this article, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are defined as follows:

“Council” means the council of the County.

“County” means the County of Hawai'i, a political subdivision of the State.

“Department” means the planning department of the County.

“Director” means the planning director of the County.

“Historic preservation” means the research, protection, restoration, rehabilitation and interpretation of districts, sites, buildings, structures, areas or objects, significant to the history, architecture, archaeology or culture of the County, State or Nation.

“Historic properties” means any prehistoric or historic district, site, building, structure, area or object significant in the history, architecture, archaeology, or culture of the County, State and Nation, which is over fifty years old, including those listed on the Hawai'i or national registers.

“Mayor” means the mayor of the County.

“Professional” means a person with those qualifications enumerated in the code of federal regulations 36CFR61, appendix A.

“State” means the State of Hawai'i.

(2008, ord 08-42, sec 1.)

#### **Section 2-226. Commission established.**

- (a) There is established a commission to be known as the “Hawai'i County Cultural Resources Commission,” hereinafter referred to as the “commission.”
- (b) The commission shall consist of nine appointed members. The members shall be appointed by the mayor with the approval of the Council, with representation from the following professionals and persons with special interest in: architecture, history, archaeology, planning, architectural history, Hawaiian culture, traditional

Native Hawaiian burial practices as practiced prior to foreign contact, and ethnic history and culture of Hawai'i County. The mayor shall solicit lists of two or more persons, recommended by community and professionals, such as the historic societies, architects, and the state Office of Hawaiian affairs, for consideration in making commission appointments. Commission members should have a demonstrated interest, competence and/or knowledge in historic preservation. The commission shall be comprised of members from different areas of the County who possess a knowledge and interest in local area history, and shall include at least one representative selected on the basis of that person's understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians.

- (c) Commission members shall serve staggered five-year terms. Upon the initial appointment of the commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Members initially appointed for a term of one or two years shall be eligible to succeed themselves for an additional full term.
- (d) A member may be removed upon recommendation by the mayor and the approval of the council.
- (e) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (f) Any vacancy occurring in the commission shall be filled for the unexpired term.
- (g) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance.
- (h) The affirmative vote of a majority of those present shall be sufficient to make any action valid.

(2008, ord 08-42, sec 1; am 2013, ord 13-9, sec 1.)

**Section 2-227. Officers and expenses.**

- (a) The commission shall annually elect from its membership a chairperson and vice chairperson.
- (b) The commission may incur such expenses as may be necessary and proper and for which appropriations have been made by the Council or any other appropriate person or agency.

(2008, ord 08-42, sec 1.)

**Section 2-228. Meetings and voting.**

- (a) All meetings shall be open to the public, except as may be provided by law; and any person or a representative thereof shall be entitled to appear and be heard on any matter before the commission.
- (b) Special meetings may be called by the chairperson, director, or by any three members of the commission.

(2008, ord 08-42, sec 1.)

**Section 2-229. Powers and duties.**

- (a) The commission shall advise and assist Federal, State and County government agencies in carrying out their historic preservation responsibilities. The commission shall provide public information, education, training and technical assistance relating to the National, State and County historic preservation programs.
- (b) The commission shall initiate, accept, review and recommend to the State historic preservation officer, historic properties nominations for inclusion on the Hawai'i and National registers.
- (c) The commission shall maintain a system for the survey, inventory and nomination of historic properties and archaeological sites within the County, as well as a system of site monitoring, that is compatible with that of the State historic preservation office.
- (d) The commission shall administer the certified local government program of federal assistance for historic preservation within the County.
- (e) The commission shall provide design review for projects affecting any building or structure, site or district eligible for listing on the National or Hawai'i register of historic places and shall request and consider the State historic preservation officer's review and comment on all County undertakings, including the granting of permits. In its review, the commission shall consider the cultural significance of the site and its surroundings along with the secretary of the United States Department of the Interior's standards for rehabilitation, as amended.
- (f) The commission shall use the State Historic Preservation Plan to develop and implement a comprehensive County-wide historic preservation planning process, which includes the submitting of information pertaining to the State inventory of historic places to the State historic preservation officer.
- (g) The commission shall make recommendations to the Council for the expenditure of gifts and grants accepted by the Council for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith.
- (h) The commission shall adopt rules and regulations of procedure and conduct, pursuant to chapter 91, Hawai'i Revised Statutes.
- (i) The commission may review and comment on archaeological reports submitted as part of development proposals to various County agencies.
- (j) The commission may make recommendations to the State historic preservation officer and the Hawai'i island burial council on the appropriate management, treatment, and protection of Native Hawaiian burial sites, which are customary with traditional Native Hawaiian burial practices.
- (k) The commission may undertake any other action or activity necessary or appropriate towards the implementation of its powers or duties or towards implantation of the purpose of this article. More specifically these may include, but not be limited to, the following:
  - (1) Recommend new ordinances establishing special treatment districts and archaeological districts;



- (2) Review and recommend amendments to current policies and laws on the enforcement of existing codes relating to historic sites;
- (3) Continually reevaluate building code requirements and enact amendments that are more sympathetic to preservation or provide exemptions for historic properties;
- (4) Encourage the County, State, and Federal governments, and the private sector, to implement appropriate management strategies, curatorships and meaningful interpretive programs at significant historical and archaeological structures, sites, and districts; and
- (5) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications and other educational means which increase public awareness and participation in preserving the past.

(2008, ord 08-42, sec 1; am 2013, ord 13-9, sec 2.)

**Section 2-230. Nominations to the Hawai'i or national register of historic places.**

- (a) Any person or organization including the commission may submit nominations to the Hawai'i or National register by submitting a completed nomination form to the State historic preservation officer.
- (b) The commission shall hold a public hearing after receiving notification from the State historic preservation officer of nominated historic properties within the County. At least ten days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the County. Oral or written testimony concerning the significance of the proposed nomination shall be taken at the public hearing from any person.
- (c) The commission shall forward its report to the mayor within forty-five days after receiving notice from the State historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and a recommendation that the State historic preservation officer either nominate or reject the proposed nomination.
- (d) The mayor shall have fifteen days after receiving the report of the commission to send this report and a recommendation to the State historic preservation officer. The mayor's recommendation may, but need not, concur with the recommendation contained in the commission's report.
- (e) A determination by the commission and mayor that the application for nomination does not meet nomination criteria is not a final administrative decision. Appeals must be filed with the State historic preservation officer in writing, within thirty days after the nomination has been denied.

(2008, ord 08-42, sec 1.)

**Section 2-231. Guidelines.**

The following documents on file in the planning department shall be used as guidance in matters pertaining to the review functions of the commission:

- (1) "Hawai'i County General Plan" and any adopted community development plans for the island.

- (2) “State historic preservation plan” prepared by the State of Hawai‘i department of land and natural resources.
- (3) “Historic Preservation Program Guidelines” prepared by the National Park Service.
- (4) “Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Values in Historic Preservation Review,” dated 1988.
- (5) Other reports, plans, studies, issue papers and memos as may be adopted by the commission.

(2008, ord 08-42, sec 1.)

**Section 2-232. Administration.**

The director shall appoint a professional from the disciplines of planning, archaeology, architecture, architectural history, Hawaiian culture, history or historic preservation, to serve as the liaison with the State historic preservation office pertaining to matters which deal with the purpose and intent of this article. The liaison may be an employee of the planning department or a member of the commission. The director shall provide technical, clerical, administrative functions, and any other duties delegated by the commission.

(2008, ord 08-42, sec 1.)

**Article 45. Transportation Surcharge.**

**Section 2-233. Establishment of surcharge.**

Pursuant to Act 11, Session Laws of Hawai‘i 2018, codified as section 46-16.8, Hawai‘i Revised Statutes, as amended, it is hereby established a 0.25 per cent general excise and use tax surcharge to be used for purposes of funding the operating or capital costs of public transportation within the County of Hawai‘i. The excise and use tax surcharge shall be levied beginning January 1, 2019.

(2018, ord 18-74, sec 2.)

**Section 2-234. General excise tax fund.**

Pursuant to article X, section 10-12, Hawai‘i County Charter 2016, the director of finance is authorized to create a special fund to be known as the “general excise tax fund.” All moneys received from the State derived from the imposition of the surcharge established under this article shall be deposited into the general excise tax fund.

(2018, ord 18-74, sec 2.)

**Section 2-235. Use of funds.**

- (a) Pursuant to sections 46-16.8 and 248-2.6, Hawai‘i Revised Statutes, moneys received from the State derived from the imposition of the surcharge established under this article will be a general fund realization. Moneys received from the surcharge shall be expended for:
  - (1) Operating or capital costs of public transportation within the County for public systems, including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks or bicycle paths, and

- (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to paragraph (1).
- (b) “Capital costs” in this section means nonrecurring costs required to construct a transit facility or system, including debt service, costs of land acquisition and development, acquiring rights-of-way, planning, design and construction, and including equipping and furnishing the facility or system.
- (c) Any balance remaining in the general excise tax fund at the end of any fiscal year shall not lapse, but shall remain in the fund accumulating from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section, or as allowed by any amendments to sections 46-16.8 and 248-2.6, Hawai‘i Revised Statutes.
- (2018, ord 18-74, sec 2.)

**Section 2-236. Termination of surcharge.**

Unless otherwise extended by ordinance, this article will be repealed on December 31, 2020; provided that this general excise and use tax surcharge shall not extend beyond December 31, 2030, pursuant to Act 11, Session Laws of Hawai‘i, codified as section 46-16.8, Hawai‘i Revised Statutes, as amended.

(2018, ord 18-74, sec 2.)

This page intentionally left blank.