

CHAPTER 20

REFUSE

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CHAPTER 20**REFUSE****Article 1. Littering.****Section 20-1. Definitions.**

As used in this article:

- (1) "Handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.
- (2) "Litter" means any waste material including, but not limited to, any animal and vegetable wastes, and any other solid waste such as dirt, ashes, street cleanings, dead animals or parts of dead animals, market and industrial wastes, bagasse, cane trash, paper, wrappings, cigarettes, cardboards, tin cans, yard clippings, leaves, wood, tree trimmings, glass, bedding, crockery, furniture, appliances, scrap metal and any other waste material commonly or ordinarily regarded as being garbage, rubbish, refuse, trash or swill.
- (3) "Newspaper" means a public print of general circulation issued for compensation at daily or weekly intervals reporting the news or happenings of local, national, or foreign interest, such as social, religious, political, moral, business, professional, editorial, and other kindred subjects, as well as trade, market, money reports, advertisements and announcements.
- (4) "Private premises" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to a dwelling, house, building, or other structure.
- (5) "Public place" means any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

(1983 CC, c 20, art 1, sec 20-1.)

Section 20-2. Littering prohibited; use of public receptacles.

- (a) No person shall scatter, throw, drop, deposit, or place or cause to be scattered, thrown, dropped, deposited, or placed any litter on any highway, street, road, alley, sidewalk, sea beach, public park, or other public place in the County.
- (b) Any person placing litter in a public receptacle or in an authorized private receptacle shall do so in a manner which prevents the litter from being carried or deposited by the elements upon any street, sidewalk, or other public place, or upon private property.

(1983 CC, c 20, art 1, sec 20-2.)

Section 20-3. Sweeping into streets and sidewalks prohibited.

- (a) No person shall sweep into or deposit in any gutter, street, or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
 - (b) Any person owning or occupying property shall keep the sidewalk in front of that person's premises free of litter.
- (1983 CC, c 20, art 1, sec 20-3.)

Section 20-4. Merchant's duty to keep sidewalk clean of litter.

- (a) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
 - (b) Any person owning or occupying a place of business shall keep the public walking and parking areas in front of that person's business premises free of litter.
- (1983 CC, c 20, art 1, sec 20-4.)

Section 20-5. Litter prohibited on occupied private property.

No person shall throw or deposit litter on any occupied private property, whether owned by that person or not, except that the owner or person in control of private property may maintain any authorized private receptacle for collection in a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

(1983 CC, c 20, art 1, sec 20-5.)

Section 20-6. Distributing handbills at inhabited private premises.

- (a) No person shall throw, deposit, or distribute any handbill in or upon private premises which are inhabited, except by handling or transmitting any handbill directly to the owner, occupant, or other person then present in or upon the private premises; provided that the person distributing the handbill, unless requested not to do so by owner, occupant, or other person lawfully on the premises, may place or deposit any handbill in or upon the inhabited premises if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, except that mailboxes may not be used when prohibited by Federal postal law or regulations.
 - (b) Subsection (a) shall not apply to the distribution of mail by the United States, nor of any newspaper, except that a newspaper shall be placed on private property in a manner which prevents the newspaper from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.
- (1983 CC, c 20, art 1, sec 20-6.)

Section 20-7. Summons or citation for violation.

A police officer shall use a form of summons or citation provided by the County in citing a violator of any provision of this article.

(1983 CC, c 20, art 1, sec 20-7.)

Section 20-8. Penalty.

- (a) Any person who violates the provision of this article shall, upon conviction, be sentenced to pay of fine of not more than \$1,000 and/or not more than 200 hours of community service or both for each offense and shall be required to remove their litter or shall be liable for the costs of removing that litter.
- (b) Each day of violation shall constitute a separate offense.
(1983 CC, c 20, art 1, sec 20-8; am 1984, ord 84-37, sec 1; am 1986, ord 86-119, sec 2; am 1988, ord 88-7, sec 5; am 1994, ord 94-44, sec 1; am 2007, ord 07-23, sec 2.)

Article 2. Clearing Occupied and Unoccupied Lots.**Section 20-20. Definitions.**

As used in this article:

“Refuse” means any discarded or disposable matter, including garbage, rubbish, and swill as defined in section 20-31.

“Undergrowth” means any bush, small tree, or other vegetation.

“Unsafe flora” means any or any part of a tree, bush, vine, or grass that poses an imminent danger for fire, health, safety, property damage, or criminal threat to persons or adjacent property and structures including buildings, roofs, rain gutters, antennae, driveways, landscaping, privacy structures (including gates, fencing, and stone walls), tents, garages, automobiles, power lines, phone lines, playground equipment, water catchment tanks, swimming pools, or any other structures and property not identified here.

(2013, ord 13-108, sec 3.)

Section 20-21. Removal of refuse, undergrowth, and unsafe flora required.

Every owner of any occupied or unoccupied lot the frontage of which abuts or adjoins any public street or highway within the County, shall clear the lot of all refuse, uncultivated undergrowth, and unsafe flora thereon to a depth of not exceeding one hundred feet from any street or highway adjoining, whenever on the lot there is refuse, uncultivated undergrowth, or unsafe flora to an extent that the lot poses or is likely to pose an imminent danger for fire, health, safety, property damage, or crime hazard.

(1983 CC, c 20, art 2, sec 20-21; am 1984, ord 84-19, sec 1; am 2013, ord 13-108, sec 4.)

Section 20-22. Complaint by adjacent or abutting owner(s); request to clear.

- (a) If a majority of all the adult residents within a radius of five hundred feet from any boundary of, or the property owner of a property adjacent to or abutting, any occupied or unoccupied lot, in writing to the mayor requests that the lot be cleared of refuse, uncultivated undergrowth, or unsafe flora, the mayor shall investigate the complaint. If the mayor certifies that there is refuse, uncultivated undergrowth, or unsafe flora on the lot complained about to an extent that the lot poses or is likely to pose an imminent danger for fire, health, safety, property damage, or crime hazard, the mayor shall notify the owner of the lot to clear the occupied or unoccupied lot of the refuse, uncultivated undergrowth, or unsafe flora.
- (b) If the offending uncultivated undergrowth or unsafe flora is registered as an endangered or protected species or is listed as “exceptional” pursuant to chapter 14, article 10 of this Code, or if the owner wants to keep the offending uncultivated undergrowth or unsafe flora, the owner shall submit in writing a treatment plan for its continued safe existence to the mayor’s office, the department of public works, the arborist advisory committee, the offended property owner(s), and, if applicable, the homeowners association. The treatment plan shall be approved by the department of public works and, if applicable, the homeowners association.
- (c) If a building is constructed in close proximity to an existing stand of trees used for wind block, boundary markers or ornamentals, the property owner may not file a complaint under this section and may seek other legal remedies should an emergency situation arise.
- (d) If a person files three unsubstantiated complaints about the same refuse, uncultivated undergrowth, or unsafe flora, that person may not file a complaint for that same property, providing that property is under the same ownership at the time that the three unsubstantiated complaints were filed.

(1983 CC, c 20, art 2, sec 20-22; am 1984, ord 84-19, sec 1; am 2013, ord 13-108, sec 4.)

Section 20-23. Clearance by County; costs.

- (a) If any owner, after notice to clear any occupied or unoccupied lot has been mailed to the owner and posted by the mayor, fails or refuses to comply with the order within thirty days after the notice, the County may proceed to clear the lot of the refuse, uncultivated undergrowth, or unsafe flora at the expense of the owner.
- (b) The collection of any expense that has been unpaid by the property owner for clearing any unoccupied lot shall be a lien on the property so cleared, and the County may recover the amount of the lien and the expense and costs of the clearing by action at law in assumpsit, or by any action allowed by law in equity, or that may be prescribed by statute, including any proceeding allowed for the foreclosure of tax liens.

- (c) The collection of recoverable expenses that has been unpaid by the property owner for clearing any occupied lot shall proceed as follows:
- (1) The department of public works shall keep an itemized record of recoverable expenses. Promptly after completion of the lot clearing, the department shall certify those expenses to the office of the corporation counsel.
 - (2) 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 to the responsible person or persons and a written notice stating 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.
 - (3) 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 imminent danger.
- (d) For the purposes of this section, “recoverable expenses” means those expenses that are reasonable, necessary, and allocable to the clearing of an occupied lot of refuse, uncultivated undergrowth, and unsafe flora pursuant to this article. 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 lot clearing.
 - (2) Compensation of employees for the time and efforts devoted specifically for the purpose of the lot clearing.
 - (3) Rental or leasing of equipment used specifically for the lot clearing, such as protective equipment or clothing, bulldozers, or backhoes.
 - (4) Repair costs for equipment owned by the County that is damaged during the lot clearing.
 - (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 lot clearing.
 - (6) Special technical services specifically required for the lot clearing, 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 lot clearing.
 - (8) Medical expenses that may be incurred as a result of the lot clearing.
 - (9) Legal expenses that may be incurred as a result of the lot clearing, including efforts to recover expenses pursuant to this article.
- (e) Nothing in this section shall be construed to create any liability to the County for any damages incurred as a cause of action or inaction.

(1983 CC, c 20, art 2, sec 20-23; am 1984, ord 84-19, sec 1; am 2013, ord 13-108, sec 4.)

Section 20-24. Service of notice.

The notice to the property owner required under section 20-23 shall be sent to the property owner by mailing it to the owner's last known address and by posting a copy of the notice upon the lot that requires the clearing.
(1983 CC, c 20, art 2, sec 20-24.)

Article 3. Refuse Disposal.**Section 20-31. Definitions.**

As used in this article:

“Abandoned vehicle” means a vehicle that is unlawfully parked and left unattended for a continuous period of more than twenty-four hours on any public highway, public property, or private roads that are located within any ungated subdivision, where roads are open to and used by members of the public.

“Business” means a sole proprietorship, partnership, firm or corporation.

“Commercial cooking oil waste” means cooking oil which, because of prior use, potency loss, or contamination, is no longer usable or salable by a business engaged in cooking food or selling cooking oil. The term does not mean the residue remaining after the conversion of commercial cooking oil waste into a marketable product.

“Commercial FOG waste” means animal/vegetable fat, oil and grease and other waste that is retained in or removed from a commercial pretreatment device. The term does not mean the residue remaining after the conversion of commercial FOG waste into a marketable product of grease and other waste removed from a commercial pretreatment device.

“Commission” means the environmental management commission of the County.

“Department” means the department of environmental management.

“Derelict vehicle” means the definition in chapter 290-8, Hawaii Revised Statutes.

“Director” means the director of the department of environmental management, or the director's authorized representative.

“Garbage” means any organic waste that is not fit for animal consumption.

“Household rubbish” means all rubbish, including any material not exceeding four feet in length at its longest dimension, which is normally generated by a family's activities at their place of residence.

“Private road” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, including private roads open to the public.

“Prohibited materials” include, but are not limited to, paint thinner or solvents; oil base paint waste; automotive waste oil, antifreeze or lead acid batteries; pesticides, herbicides or rodent and insect control chemicals; household cleaner, polish or wax; contaminated soil; medical waste; propane, oxygen or acetylene tanks; diesel, gasoline or alcohol; liquids or sludges in containers five gallons or larger unless mixed with a bulking agent so that it solidifies; and hazardous wastes as defined in 40 Code of Federal Regulations parts 257, 258 and 261. Notwithstanding the foregoing, commercial cooking oil waste and commercial FOG waste are considered prohibited materials in any amount and any form.

“Public highway” means all roads, highways, alleys, streets, ways, lanes, bikeways, and bridges open to the use of the public for purposes of vehicular travel that is acquired or built by the government.

“Public property” means all real property owned by the County.

“Refuse” means any discarded or disposable matter, including garbage, rubbish and swill.

“Rubbish” means solid waste or rejected material including paper and cardboard cartons, straw, excelsior, rags, clothes, shoes, bottles, tin cans, china, glass, metalware, leaves, grass, tree branches, and any other material of similar character but not including material such as tree stumps, lumber or iron pipes exceeding five feet in length, concrete blocks and tiles, cement, acids, iceboxes, refrigerators, ranges, radios, television sets, phonographs, bedsteads, bed springs, tables, sofas, chairs, and other furniture, water heaters, water tanks, sinks, and other similar material or equipment of a weighty or bulky nature.

“Swill” means any food waste which is fit for animal consumption.

“Transfer station” means a facility designed to collect household rubbish from the surrounding community and to transport this refuse to a suitable disposal facility. (1983 CC, c 20, art 3, sec 20-31; am 1988, ord 88-160, sec 1; am 1994, ord 94-87, sec 2; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, secs 1, 2 and 3; am 2012, ord 12-155, secs 1 and 2; am 2018, ord 18-82, sec 1.)

Section 20-32. Removal required; disposal; drainage of liquids.

- (a) Every owner or occupant of any residence or business building or premises within the County shall remove or cause to be removed to the County dumping grounds any refuse from any residence or business building or premises.
- (b) This section shall not prevent any owner or occupant from disposing of refuse within the owner’s premises by burning, burying, or destroying the refuse in compliance with any applicable statute, ordinance, and rule and regulations.
- (c) Any garbage or swill, prior to its removal to the County dumping grounds, shall be drained of all liquid.

(1983 CC, c 20, art 3, sec 20-32.)

Section 20-33. Receptacle specifications.

Any garbage or swill shall be contained in a leak-proof metal or plastic receptacle and shall be securely covered at all times so as to exclude insects and animals. Any rubbish, except hedge cuttings, stumps, branches, banana leaves, palm and coconut leaves or other similar material, shall be contained in a metal or wood receptacle, or in a paper or a cardboard carton of sufficient strength to adequately contain the contents therein.

(1983 CC, c 20, art 3, sec 20-33.)

Section 20-34. Location of receptacles; placement for collection.

- (a) Any refuse and receptacle shall be kept on private premises and shall not be placed upon any sidewalk or government right-of-way for collection purposes, except any refuse receptacle that may be placed and affixed on any sidewalk or government right-of-way for public use.

- (b) For the purpose of collection, any refuse and receptacle may be placed in that area of the private premises adjacent to the sidewalk or the government right-of-way. The refuse and the receptacle placed adjacent to the sidewalk or the government right-of-way shall be situated so as not to create a hazard to any pedestrian or traffic.

(1983 CC, c 20, art 3, sec 20-34.)

Section 20-35. [Former] Repealed.

(1983 CC, c 20, art 3, sec 20-35; am 1988, ord 88-160, sec 2; rep 1994, ord 94-87, sec 3.)

Section 20-35. Permit required for refuse disposal.

- (a) No business, Federal or State agency, religious entity or nonprofit organization shall dispose of refuse at any County solid waste facility without first obtaining a disposal permit issued by the director and making payment of the permit fee as required herein.
- (b) No person shall dispose of refuse at any county landfill without first obtaining a disposal permit issued by the director. Persons not representing any business, Federal or State agency, religious entity or nonprofit organization need not obtain a permit to dispose of refuse at a County transfer station.
- (c) An application for a disposal permit shall be submitted to the director on a form furnished by the department.
- (1) For businesses, Federal or State agencies, religious entities and nonprofit organizations, the following information is required:
- (A) Name, address and telephone number of the business, Federal or State agency, religious entity or nonprofit organization.
- (B) Make, model, tare weight, carrying capacity in cubic yards and license number of the vehicle(s) which would be used to dispose refuse.
- (C) Approximate volume and frequency of refuse to be disposed.
- (D) Other information as deemed necessary by the director.
- (2) Persons not acting as or on behalf of any business, public agency, religious entity or nonprofit organization shall provide their name, residence and mailing address, residence and employer telephone numbers, drivers license number and any other information deemed necessary by the director for billing and collection purposes.
- (d) The disposal permit shall be effective for a period of one year from the date of issuance.
- (e) The director may suspend or revoke a disposal permit for the following reasons:
- (1) Failure to pay any disposal charges or special handling fees when due.
- (2) Failure to comply with the provisions of this chapter.
- (3) Failure to comply with disposal procedures and/or conditions established by the department.

- (f) The suspension or revocation procedure shall be as follows:
- (1) Upon determination that sufficient reasons exist to revoke or suspend a disposal permit, the director shall inform the permit holder by registered mail of the director's decision to suspend or revoke said permit;
 - (2) The letter shall also inform the permit holder of the effective date of the suspension or revocation and the specific reason for suspension or revocation of the disposal permit;
 - (3) The permit holder shall be given a period of ten working days to cure the complaint. At the end of the ten-day period, the County shall notify the permit holder in writing either that the complaint has been remedied or that the permit is still to be revoked or suspended. If the permit is still to be revoked or suspended said letter shall describe the process by which the permit holder may request a hearing before the director;
 - (4) If the permit holder requests a hearing before the director, one shall be scheduled within two working days of the request. The decision of the director or a designated representative shall stand unless after a hearing the original decision is shown to be clearly erroneous;
 - (5) A request for a hearing shall not act to stay the director's decision to revoke or suspend.
- (g) There shall be a fee of \$25 for the issuance of a refuse disposal permit to a business, Federal or State agency, religious entity or nonprofit organization, payable with the application therefor. There shall be no fee for the issuance of a permit to persons not acting as or on behalf of a business, public agency, religious entity or nonprofit organization.

(1994, ord 94-87, sec 4; am 1995, ord 95-41, sec 1; am 2002, ord 02-66, sec 4.)

Section 20-36. Refuse removal business; restrictions.

- (a) Any vehicle used for the collection and removal of refuse shall be kept in a clean, inoffensive, and sanitary condition.
- (b) All refuse shall be handled and hauled in such a manner so as to prevent the scattering, spilling, or leaking of the refuse.
- (c) Certain transfer stations will be designated and determined to be incompatible for use by businesses or commercial activities. Use of these designated transfer stations by business or commercial activities shall be prohibited after July 1, 1989, except as authorized by written permit with conditions set forth by the director.
- (d) No person, business, Federal or State agency, religious entity or nonprofit organization shall, at any County solid waste facility, dispose of any rubbish, prohibited materials or refuse which has been brought into the County of Hawai'i as rubbish, prohibited materials or refuse from outside of the County of Hawai'i. This subsection shall not apply to refuse generated en route in the ordinary course of business by aircraft or maritime passengers or crew, incidental to operations of aircraft or maritime traffic arriving in the County.

- (e) Violation of these restrictions will be subject to the penalties of this article as well as revocation of the businesses' baggage and freight license.
(1983 CC, c 20, art 3, sec 20-36; am 1988, ord 88-160, sec 3; am 2001, ord 01-108, sec 1; ord 01-91, sec 1; am 2002, ord 02-66, sec 5.)

Section 20-37. Disposal of dead animals and other organic wastes.

- (a) The disposal of dead cattle, horses, mules, goats, dogs, cats and similar animals is the responsibility of the owner. If no owner can be identified, the disposal of the dead animal is the responsibility of the landowner or land occupant or both upon whose land the dead animal is found. Any dead animal shall be properly buried, burned, or disposed of in accordance with applicable rules, regulations, and standards of the State department of health within a reasonable time after death, or before the dead animal becomes a nuisance.
- (b) Any small animal, such as dogs and cats, shall be accepted for disposal at the South Hilo or Kona landfill area only in accordance with applicable provisions of this article.
(1983 CC, c 20, art 3, sec 20-37; am 1988, ord 88-160, sec 4.)

Section 20-38. Prohibition; disposition of abandoned or derelict vehicles.

- (a) No person shall leave, abandon, or place any wrecked or nonoperational automobile or construction equipment or part or portion of a wrecked or nonoperational automobile or construction equipment, or scrap iron, or other similar material, upon any part of a public highway, public property, or private property of another.
- (b) The department shall take into custody and dispose of abandoned or derelict vehicles in accordance with chapter 290, Hawai'i Revised Statutes.
- (c) The removal of abandoned or derelict vehicles shall be subject to the following:
- (1) The department shall only remove abandoned or derelict vehicles that are located on or within ten feet from the edge of any public or private road;
 - (2) The department shall not remove abandoned or derelict vehicles from any area, if the director determines that the area is unsafe for a tow truck to traverse; and
 - (3) All decisions to tow shall be subject to the discretion of the director.
- (d) The director shall develop and implement a public outreach program to educate residents, community associations, road corporations, tow companies, and the public about the disposition of abandoned or derelict vehicles including the procedures for reporting abandoned or derelict vehicles.
- (e) The department shall adopt rules regarding the disposition of abandoned or derelict vehicles, that are in accord with chapter 290, Hawai'i Revised Statutes.
(1983 CC, c 20, art 3, sec 20-38; am 2018, ord 18-82, sec 2.)

Section 20-39. Abandoned refrigerators; removal of lock required.

No person shall abandon any refrigerator, ice box, wardrobe trunk, or any other container, equipment or appliance having a self-locking door without first removing and detaching the door or cover from the same.
(1983 CC, c 20, art 3, sec 20-39.)

Section 20-40. Explosives, radioactive wastes and other prohibited materials.

- (a) No person shall dump, place, or remove to any County disposal facility, including transfer stations, any prohibited materials as defined in this article or by the State department of health rules, regulations and standards, including any radioactive or chemical waste, any pesticides, explosives, blasting materials, fuses, live ammunition, or other substances that may explode upon contact with heat or fire.
- (b) Prohibited wastes which have been rendered nonhazardous by chemical neutralization or stabilization in accordance with applicable rules, regulations and standards of the State department of health may be delivered directly to a landfill for disposal.
- (c) Any law, rule, or regulation to the contrary notwithstanding, no person shall dump, place, or remove to any County disposal facility, including transfer stations, in any amount or any form, commercial cooking oil waste or commercial FOG waste, as defined in section 20-31. The foregoing prohibition shall apply only to the extent that there are recyclers who are willing and able to accept such materials for recycling, by way of either pick-up at the place of generation, or drop-off within driving distance from the place of generation which is less than to the nearest County landfill.

(1983 CC, c 20, art 3, sec 20-40; am 1988, ord 88-160, sec 5; am 2012, ord 12-155, sec 3.)

Section 20-41. Dumping refuse prohibited.

No person shall dump or place refuse in or upon any vacant lot, public place, or in or upon the premises of another.

(1983 CC, c 20, art 3, sec 20-41.)

Section 20-42. Salvage of refuse restricted.

Any material delivered or deposited at the County dumping ground shall become the property of the County. No person shall separate, collect, carry off, or dispose any article from any County dumping ground unless authorized to do so by the director or the director's representative.

(1983 CC, c 20, art 3, sec 20-42; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 6.)

Section 20-43. Acceptance of refuse for disposal; restrictions.

- (a) Acceptance at landfills or other similar disposal areas.
 - (1) Any person having any nonprohibited rubbish, unburnable material, or refuse, excluding garbage, in the County, which is not acceptable at a transfer station, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill on any day during the normal working hours of the landfill. All permitted materials, when properly deposited, shall be accepted by the department.

- (2) Any person having any large or bulky material, such as a car, water heater or properly altered stove or refrigerator which does not contain any garbage, refuse, swill or any other rubbish at the time of disposal, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill on any weekday during the normal working hours of the landfill. All permitted materials, when properly deposited, shall be accepted by the department.
 - (3) Any person having any small dead animal, such as a dog or cat, as well as garbage, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill from 7:00 a.m. to 3:00 p.m. Permitted small dead animals and garbage, when properly deposited, shall be accepted by the department.
 - (4) Any unauthorized person entering into the landfill during nonworking hours or for purposes other than that permitted in this section shall be considered to be a trespasser, and shall be subject to the penalties of this article.
- (b) Acceptance at transfer stations.
- (1) All acceptable household refuse, including shrubbery and yard trimmings, deposited into the transfer station solid waste container shall be accepted by the County for disposal on any day during normal working hours of the station. No item shall exceed four feet in any dimension or weigh more than fifty pounds.
 - (2) Prohibited materials shall include all commercially hauled rubbish, garbage, swill or refuse, prohibited materials as defined by the State department of health and partially listed herein, refuse generated by a business, Federal or State agency, religious entity or nonprofit organization, construction or demolition wastes, abandoned vehicles, dead animals, animal carcasses and other similar organic wastes.
- (c) Except as permitted by the director, no material resulting from construction, land clearing, wrecking of any building or structure, or wastes generated by manufacturing, industrial, or agricultural processes such as meat, fish, poultry, vegetable, or fruit processing shall be acceptable for disposal in any County disposal facility.
- (d) Improper depositing of any material in any County landfill or transfer station is considered to be littering, and violators will be subject to the penalties of this article.

(1983 CC, c 20, art 3, sec 20-43; am 1988, ord 88-160, sec 6; am 1994, ord 94-87, sec 5; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 7.)

Section 20-44. Burning on County dumping ground regulated.

No person shall set fire to or burn any paper, trash, or garbage deposited within a dumping ground used by the County for the depositing or dumping of trash or garbage without obtaining the permission of the superintendent authorizing and directing the burning.

(1983 CC, c 20, art 3, sec 20-44.)

Section 20-45. Penalty.

- (a) Any violation of this article is a petty misdemeanor.
- (b) In addition to the penalties in subsection (a), any person who violates the provisions of this article shall, upon conviction, be required to remove their refuse or shall be liable for the costs of removing that refuse.
- (c) Each day of violation shall constitute a separate offense.
(1983 CC, c 20, art 3, sec 20-45; am 1984, ord 84-15, sec 1; am 2007, ord 07-23, sec 3.)

Article 4. Solid Waste Fees.**Section 20-46. Disposal fees.**

- (a) Any refuse, except for prohibited materials, delivered by a business, Federal or State agency, religious entity, nonprofit organization or private citizen to the working face of a County landfill or the East Hawai'i Regional Sort Station shall be charged by the ton or fraction thereof at rates as set forth herein.
- (b) In addition to the per ton charge or volume charge, items which cannot be disposed in the working face of the landfill or the East Hawai'i Regional Sort Station in accordance with usual disposal practices or which require special handling and/or arrangements by landfill or East Hawai'i Regional Sort Station personnel shall be assessed a special handling charge at rates as set forth herein. Such items shall include but may not be limited to asbestos and confidential document destruction or other disposal requiring a witness. Tires, whether whole, cut, sliced, chipped or shredded, will not be accepted at any County landfill, the East Hawai'i Regional Sort Station, or transfer station. All wire or cable must be cut to four-foot lengths prior to disposal at any County landfill, the East Hawai'i Regional Sort Station, or transfer station.
- (c) Administrative rules shall provide partial credit to commercial haulers for residential waste. The amount of the credit shall be no less than \$2 per month for each single-family household from which the hauler collects refuse, provided the hauler's account is current. The annual credit shall be equal to the landfill disposal fee multiplied by one and one-half tons per year per single-family household. The residential credit shall not exceed the total landfill tipping fees charged to the residential hauler for the month for which the credit is being claimed.

Commercial haulers who claim this credit shall provide documentation to the solid waste division including customer name, mailing address, and service address for each credit claimed. Claims for the residential credit must be submitted on or before the last day of the month following the month for which the credit is being claimed and the hauler's account must be current for the credit to be applied.

Names, mailing addresses, and service addresses of customers of residential haulers are subject to the disclosure limitations in section 92F, Hawai'i Revised Statutes, as disclosure would cause substantial harm to the competitive position of the person from whom the information was obtained.

- (d) The mayor, with the approval of the council, may temporarily rescind the solid waste disposal fees for a specified period.
 - (e) The mayor may waive solid waste disposal fees when it is in the best interest of the County. Fees may be waived for one-time events for community organizations, nonprofit organizations, or private property owners who are remediating illegal dump sites which were not of their creation. The mayor will give notice to the council when tip fees are waived.
- (1994, ord 94-87, sec 6; am 1995, ord 95-41, sec 2; am 1996, ord 96-21, sec 2; ord 96-45, sec 2; am 2003, ord 03-102, sec 2; am 2005, ord 05-21, sec 2; am 2005, ord 05-138, sec 2; am 2008, ord 07-182, sec 2; am 2018, ord 18-5, sec 2.)

Section 20-47. Collection of fees.

- (a) All charges shall be collected by the solid waste division of the department. Billings shall be made monthly. Payments are due before the end of the month following the month in which charges are incurred. A finance charge of one percent monthly (annual rate of twelve percent) shall be charged on all balances which are past due. In addition to this, access to County solid waste facilities may be denied until the account is current.
- (1994, ord 94-87, sec 6; am 1997, ord 97-46, sec 1; am 2018, ord 18-5, sec 2.)

Section 20-48. Solid waste fund designation.

- (a) There is hereby created and established a special fund to be known as the “solid waste fund.”
 - (b) All funds received from the collection of fees authorized by this chapter shall be deposited with the director of finance and shall be accounted for and be known as the “Solid Waste Fund” and shall be expended for the purpose of operating, maintaining, and administering the County’s solid waste management, collection, and disposal systems.
- (1994, ord 94-87, sec 6; am 2018, ord 18-5, sec 2.)

Section 20-49. Fee schedule.

(a) Charge rates shall be established as follows:

(1) Landfill disposal.

(A) Rate by weight: Dollars per ton prorated accordingly.

| Year beginning on July 1 of each calendar year. | | | | |
|---|-------|-------|-------|-------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$108 | \$110 | \$112 | \$114 | \$116 |

(B) When and if it is impossible or impractical due to power outage, disaster, or other emergency to determine an accurate weight, rates by vehicle size and volume shall be used:

TYPE I: Light trucks or other vehicles with a gross vehicle weight of less than 10,000 pounds with no more than three cubic yards of refuse charged as dollars per truck.

| Year beginning on July 1 of each calendar year. | | | | |
|---|------|------|------|------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$65 | \$66 | \$67 | \$68 | \$70 |

TYPE II: Medium trucks or other vehicles with a gross vehicle weight from 10,000 pounds to 19,999 pounds with no more than six cubic yards of refuse charged as dollars per truck.

| Year beginning on July 1 of each calendar year. | | | | |
|---|-------|-------|-------|-------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$109 | \$111 | \$113 | \$115 | \$117 |

TYPE III: Large trucks or other vehicles with a gross vehicle weight from 20,000 pounds to 25,999 pounds with no more than nine cubic yards of refuse charged as dollars per truck.

| Year beginning on July 1 of each calendar year. | | | | |
|---|-------|-------|-------|-------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$194 | \$198 | \$202 | \$205 | \$209 |

TYPE IV: All other trucks or vehicles with a gross vehicle weight of 26,000 pounds including commercial refuse hauling trucks or all other vehicles not qualifying as a Type I, II, or III:

1. Compacted. Dollars per cubic yard.

| Year beginning on July 1 of each calendar year. | | | | |
|---|------|------|------|------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$36 | \$36 | \$37 | \$38 | \$38 |

2. Not compacted. Dollars per cubic yard.

| Year beginning on July 1 of each calendar year. | | | | |
|---|------|------|------|------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$22 | \$22 | \$22 | \$23 | \$23 |

(C) Special handling: Dollars per truck load or fraction thereof.

| Year beginning on July 1 of each calendar year. | | | | |
|---|-------|-------|-------|-------|
| 2018 | 2019 | 2020 | 2021 | 2022 |
| \$108 | \$110 | \$112 | \$114 | \$116 |

(2) Greenwaste and Organics Diversion.

- (A) All clean greenwaste and acceptable organics must be delivered to a permitted County greenwaste and organics collection facility.
- (B) The greenwaste and organics disposal fee is set at 25% of the landfill disposal fee as described in section 20-49(a)(1)(A).
- (C) The greenwaste and organics disposal fee is set at 65% of the landfill disposal fee as described in section 20-49(a)(1)(B) at a County greenwaste and organics collection facility without scales. These facilities are able to accept Type I and Type II trucks only.
- (D) Greenwaste and organics must be separated from other solid waste in order to qualify for the reduced greenwaste and organics disposal fee.
- (E) The greenwaste and organics disposal fee may be suspended by the director if the greenwaste and organics facilities are not operating.

(1994, ord 94-87, sec 6; am 1995, ord 95-41, sec 3; am 2003, ord 03-102, sec 2; am 2005, ord 05-27, sec 2; am 2018, ord 18-5, sec 2.)

Article 5. Disposal of Materials Collected by the County at Transfer Stations.

Section 20-50. Definitions.

As used in this article:

“Compostables” means recyclable materials typically originating from plant or animal sources, which may be broken down by other living organisms. Compostables include, but are not limited to, green waste, pre-consumer produce, food scraps, biodegradable plastic, and soiled paper. The term does not include non-biodegradable plastics, foamed polystyrene (styrofoam), human waste, biosolids (sewage sludge), and slaughterhouse waste.

“Materials” means those items legally deposited by the public at County transfer stations to be taken to a County landfill for final disposal.

“Recyclables” are discarded materials, other than compostables, that can be reused or remade into other useable material.

“Transport” means to cause the relocation of materials from a County transfer station to a County landfill.

(2012, ord 12-92, sec 1; am 2015, ord 15-144, sec 2.)

Section 20-51. Transportation of materials to landfill.

(a) All materials collected at the following County transfer stations shall be transported to the South Hilo Sanitary Landfill for disposal:

- (1) Honomū Transfer Station.
- (2) Pāpa‘ikou Transfer Station.
- (3) Hilo Transfer Station.
- (4) Kea‘au Transfer Station.
- (5) Glenwood Transfer Station.
- (6) Pāhoa Transfer Station.
- (7) Volcano Transfer Station.
- (8) Kalapana Transfer Station.

(b) All materials collected at the following County transfer stations shall be transported to the Pu‘uanahulu Sanitary Landfill for disposal:

- (1) Laupāhoehoe Transfer Station.
- (2) Pa‘auilo Transfer Station.
- (3) Honoka‘a Transfer Station.
- (4) Waimea Transfer Station.
- (5) Kaauhuhu (Hāwī) Transfer Station.
- (6) Puakō Transfer Station.
- (7) Kailua Transfer Station.
- (8) Keauhou Transfer Station.
- (9) Ke‘ei (Kealekekua) Transfer Station.
- (10) Waiea Transfer Station.

- (11) Miloli'i Transfer Station.
 - (12) Ocean View Transfer Station.
 - (13) Wai'ōhinu Transfer Station.
 - (14) Pāhala Transfer Station.
- (2012, ord 12-92, sec 1.)

Section 20-52. Exemptions.

- (a) During a time of declared emergency the mayor may, by executive order, direct the transportation of materials from a transfer station to a landfill as deemed practicable and necessary.
 - (b) For purposes of island-wide efficiency, the director may direct the transport of refuse, other than compostables and recyclables, from any transfer station to either landfill under, but not limited to, the following conditions:
 - (1) When transport to the alternative landfill would avoid penalty fees;
 - (2) When transport to the alternative landfill would meet designated minimum volumes to qualify for discounted fees; or
 - (3) When repairs or improvements are being made at the designated landfill.
- (2012, ord 12-92, sec 1; am 2015, ord 15-144, sec 3.)

**Article 6. Polystyrene Foam Food Container and
Food Service Ware Reduction.**

Division 1. General Provisions.

Section 20-60. Findings and purpose.

Solid waste that is nondegradable or nonrecyclable poses unique problems for an island in the middle of the Pacific Ocean. Disposal of such waste either takes up valuable air space in existing landfills or ends up as litter, sometimes in our marine environment.

Polystyrene foam, sometimes incorrectly referred to as "Styrofoam," is neither degradable nor compostable. It is made from non-renewable fossil fuels and synthetic chemicals that can leach out over time into the environment, especially after contact with hot, greasy, or acidic foods. When discarded, polystyrene foam often breaks into tiny pieces, is mistaken for food and ingested by land and marine animals, including birds and fish. This is detrimental not only to wildlife but to other life forms in the food chain.

In view of the detrimental impacts of this substance in Hawai'i County, it is the purpose of this article to: reduce the use of polystyrene foam food containers and food service ware by supermarkets and other vendors; eliminate the use of polystyrene foam for packaging prepared and unprepared food; and thereby promote the use of environmentally preferable alternatives.

Although foods packaged outside of the limits of Hawai'i County are excluded from the provisions of this article, the purveyors of foods prepackaged outside of the limits of Hawai'i County are encouraged to follow these provisions and thereby support the County's policy goal to eliminate the use of polystyrene foam disposable food service ware.

Implementation of this ban will maximize diversion of compostables, including compostable foodware, from the waste stream to be available as compost to farmers, landscapers, and residents. Accordingly, this ordinance is being implemented in tandem with the County's full-scale compost program.

Through these measures, it is the Council's intent to improve environmental quality on the island and in the neighboring marine environment. Reduction of the amount of nondegradable and nonrecyclable waste that enters the waste stream is consistent with and furthers the goals and policies expressed in this County's general plan, integrated resource and solid waste management plan, and its adopted zero waste policy as well as promotes the health, safety, and welfare of the County and its residents.

(2017, ord 17-63, sec 1.)

Section 20-61. Administration.

The director of the department of environmental management shall administer this article.

(2017, ord 17-63, sec 1.)

Section 20-62. Definitions.

As used in this article, unless otherwise specified:

"ASTM standard" means the standards of the American Society for Testing and Materials International Standards D6400 or D6868 for biodegradable and compostable plastics.

"Biodegradable" means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal. It is the ability of organic matter to break down from a complex to a more simple form.

"Compostable" means all materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in an appropriate composting program or facility. Compostable disposable food service ware includes ASTM-standard bio-plastics (plastic-like) products that are clearly labeled so that any compost collector and processor can easily distinguish the ASTM-standard compostable plastic from non-ASTM standard compostable plastic.

"County facility" means any building, structure, or vehicle owned and operated by the County, its agents, agencies, and departments and includes County buildings, structures, parks, recreation facilities, or property.

“County facility users” means all persons, societies, associations, organizations, or special event promoters who require a permit to reserve or rent a County facility or a permit or contract to use a sidewalk or roadway. County facility users also include concession contracts with the County, County managed concessions, County sponsored events and food services provided at County expense.

“Customer” means a person obtaining prepared food from a food provider.

“Director” means the director of the department of environmental management or the director’s authorized representative.

“Disposable food service ware” means disposable food containers that are commonly disposed of after a single use, that are used, or are intended to be used, to serve or transport prepared, ready-to-consume food or beverages. This includes, but is not limited to:

- (1) Service ware for takeout foods and/or leftovers from partially consumed meals prepared by a food vendor; and
- (2) Containers that are intended for single use, such as cups; bowls; plates; trays; cartons; or containers that are hinged, lidded, or clamshell.

For the purpose of this article, “disposable food service ware” excludes straws, cup lids, utensils, and packaging for unprepared food.

“Food packaging” means all food-related wrappings, bags, boxes, containers, bowls, plates, trays, cartons, cups, lids, or drinking utensils, in which food or beverage is placed or packaged on the retail food establishment’s premises, and which are not intended for reuse. Food packaging does not include forks, spoons, knives, straws, stirrers, or single-service condiment packages.

“Food provider” means any vendor, business, organization, entity, group, or individual operating in the County which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, caterer, catering truck or vehicle; and any organization, group or individual which provides food in conjunction with services.

“Food service ware” includes plates, bowls, cups, lids, straws, stirrers, forks, spoons, knives, napkins, trays, and other items primarily designed for use in consuming food.

“Food vendor” means any retail food establishment.

“Polystyrene foam” means a thermoplastic petrochemical material utilizing the styrene monomer, which may be marked with resin symbol #6, processed by any number of techniques including, but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene), sometimes referred to as “Styrofoam,” a Dow Chemical Company trademarked form of polystyrene foam insulation. In food service, polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons intended for a single use. “Polystyrene foam” does not include solid hard polystyrene.

“Prepared food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption by a retail consumer on the premises of a retail food establishment, including, but not limited to, beverages, ready to eat, and takeout food. “Prepared food” does not include raw, butchered meats, fish and/or poultry unless provided for consumption without further food preparation. For example, sashimi and poke shall be considered to be prepared food.

“Recyclables” means material that has reached the end of its current use and is processed into material utilized in the production of new products. For the purpose of this article, recyclable materials will include only those types of plastic being accepted in the Hawai'i County Recycling program.

“Retail food establishment” means any sales outlet, store, shop, vehicle, or other place of business which sells or conveys foods or beverages to consumers, which foods or beverages are contained, wrapped, or held in or on food packaging. “Retail food establishment” shall include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured, and sold or offered for sale, including, but not limited to a: restaurant; drive-in; coffee shop; cafeteria; short-order café; delicatessen; luncheonette; grill; sandwich shop; soda fountain; bed and breakfast; inn; tavern; bar; cocktail lounge; nightclub; roadside stand; take-out prepared food place; industrial feeding establishment; catering kitchen; mobile food preparation unit; commissary; grocery store; public food market; produce stand; food stand; or any other place in which food and drink is prepared for sale or for service on the premises or elsewhere; and any other establishment or operation where food is processed, prepared, served, or provided to or for consumers for charge.

(2017, ord 17-63, sec 1.)

Section 20-63. Construction and preemption.

Any provision of this article shall be null and void upon the adoption of any state or federal law or regulation imposing the same, or essentially the same, limits on the use of prohibited products as set forth in this article. This article is intended to be a proper exercise of the County's police power, to operate only upon its own officers, agents, employees and facilities and other persons acting within its boundaries, and not to regulate inter-county or inter-state commerce. It shall be construed with that intent.

(2017, ord 17-63, sec 1.)

Division 2. Prohibitions and Requirements.

Section 20-64. Prohibitions.

Food vendors are prohibited, as of July 1, 2019, from providing food to a customer in disposable food service ware that is made from polystyrene foam.

(2017, ord 17-63, sec 1.)

Section 20-65. Required use of recyclable or compostable food service ware.

- (a) As of July 1, 2019, all food vendors using any disposable food service ware shall use a suitable recyclable or compostable product.
 - (b) As of July 1, 2019, all County facility users shall use a suitable recyclable or compostable product for disposable food service ware.
- (2017, ord 17-63, sec 1.)

Section 20-66. Exemptions.

- (a) The following are exempt from the provisions of this article:
 - (1) Foods packaged outside the limits of the County of Hawai'i;
 - (2) Coolers and ice chests that are intended for reuse; and
 - (3) Packaging for raw meat, fish, and eggs that have not been further processed.
- (b) County facility users and food vendors.
 - (1) The director may exempt a food vendor or County facility user from the provisions of this article, in a situation where compliance with the terms of this article would result in undue hardship. The exemption shall be in place for a period of time not to exceed one hundred eighty days.
 - (2) Undue hardship includes, but is not limited to, situations unique to the food vendor or County facility user that generally do not apply to other persons in similar circumstances.
 - (3) Food vendors and County facility users seeking an exemption from the requirements of this article shall provide all required information on an application for exemption, including but not limited to, documentation supporting the applicant's claim that compliance with this article will result in undue hardship.
 - (4) The director may approve or deny an exemption request in whole or in part. Applicants may appeal the director's decision to the environmental management commission.
 - (5) All exemptions shall be promptly posted on the County website for the department of environmental management as a notice of temporary exemption.
- (c) Emergency supplies or services procurement.

The mayor may exempt County facility users and food vendors from the provisions of this article, in a situation deemed by the mayor to be an emergency that necessitates such exemption in order to preserve the public peace, health, and safety. The exemption shall be in place until the mayor determines that the emergency situation has ceased and the exemption is no longer needed to preserve the public peace, health, and safety.

(2017, ord 17-63, sec 1.)

Division 3. Enforcement.

Section 20-67. Enforcement process.

If the director determines that a violation of this article has occurred, the director shall take appropriate enforcement action. Enforcement actions, including the holding of contested case hearings, shall be conducted pursuant to section 2-204 of this Code and chapter 91 of the Hawai'i Revised Statutes.

(2017, ord 17-63, sec 1.)

Section 20-68. Penalties.

- (a) A fine may be imposed upon findings made by the director that any food vendor or County facility user has used polystyrene-based disposable food service ware in violation of this article. Each day on which any food vendor or County facility user has sold or transferred disposable food service ware made from polystyrene foam shall constitute a separate violation of this article.
- (b) Food vendors shall be subject to an administrative fine for each separate violation as follows:
 - (1) A fine of \$10 for a first violation;
 - (2) A fine of \$50 for a second violation; and
 - (3) A fine not exceeding \$200 for a third and any subsequent violation.
- (c) Food vendors and County facility users who violate this article in connection with commercial or non-commercial special events shall be assessed fines for each special event as follows:
 - (1) A fine of \$10 for a first violation;
 - (2) A fine of \$50 for a second violation; and
 - (3) For a third and any subsequent violation:
 - (A) A fine not to exceed \$100 for an event of one to 200 persons;
 - (B) A fine not to exceed \$200 for an event of 201 to 400 persons;
 - (C) A fine not to exceed \$400 for an event of 401 to 600 persons; and
 - (D) A fine not to exceed \$600 for an event of 600 or more persons.
- (d) Failure to pay fine.
Fines not paid within thirty days from the date appearing on the notice of the fine or of the notice of determination of the director after the hearing, shall be collected in compliance with section 2-204(e) of this Code.

(2017, ord 17-63, sec 1.)

Section 20-69. Other relief.

- (a) The County corporation counsel may seek legal, injunctive, or other equitable relief to enforce this article.
- (b) The remedies provided herein are cumulative and not exclusive.
- (c) All fines and other enforcement actions may be appealed as provided in sections 2-204 and 2-207 of this Code.

(2017, ord 17-63, sec 1.)

Section 20-70. Education.

On or before January 1, 2019, the director shall establish an education program for businesses, nonprofit organizations, and the general public regarding compostable alternatives to polystyrene foam disposable food service ware.

(2017, ord 17-63, sec 1.)