CHAPTER 25

ZONING

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*** Editor's Notes:**

1. On 12/21/1998, Judge Ronald Ibarra, of the State of Hawaiʻi Third Circuit Court ordered that Bill 250 Draft 4 be referred back to the County Council for ratification. The Council completed the ratification process by passing Bill 250 Draft 9 (Ordinance 96-160) on second and final reading on 4/6/1999.

2. A schedule of amendments to the zoning maps can be found in an annex to the zoning code, pursuant to section 25-3-3.

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CHAPTER 25

ZONING

Article 1. General Provisions.

Section 25-1-1. Title.

The provisions of this chapter, inclusive of any amendments, shall be known as the zoning code.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-1-2. Scope, purposes and applicability.

(a) This chapter shall be applied and administered within the framework of the general plan which is a long-range, comprehensive, general plan prepared to guide the overall future development of the County.
(b) For the purpose of promoting health, safety, morals, or the general welfare of the County, this chapter regulates and restricts the height, size of buildings, and other structures, the percentage of a building site that may be occupied, off-street parking, setbacks, size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. Should any conflict between this chapter and other parts of the Code exist, this chapter shall prevail.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-1-3. Severability.

If any portion of this chapter, or its application to any person or circumstance, shall be held unconstitutional or invalid because it violates any provision of the County Charter or for any other reason, the remainder of the chapter and the application of such portion to other persons or circumstances shall not be affected thereby.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-1-4. Adoption of rules.

The director and the commission may, as appropriate, each adopt rules, in accordance with chapter 91, Hawai‘i Revised Statutes, for the purpose of implementing the provisions of this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-1-5. Definitions.

(a) Building construction and development terms that are not defined in this chapter shall be given their respective definitions as found in the building code (chapter 5).

(b) The following words and phrases, unless the context otherwise requires, are defined as follows:

"Accessory building" means a building, no more than twenty feet in height, detached from and subordinate to a main building or main use on the same building site and used for the purposes customarily incidental to those of the main building or use.

"Accessory use" means a use which is customarily associated with and subordinate to the main or principal use and which is located on the same building site as the main or principal use.

"Adult day care home" means a private residence, approved by the state, providing supportive and protective care, without overnight accommodations, to a limited number of adult disabled or aged persons. The term shall not include day care centers for elderly, disabled and aged persons as defined by chapter 346, part IV, Hawaiʻi Revised Statutes, as amended.

"Agricultural activities" means income producing activities or uses as characterized by the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber; and farming or ranching activities or uses related to animal husbandry, aquaculture, or game and fish propagation.

"Agricultural products processing, major" means activities involving a variety of operations on crops or livestock which may generate dust, noise, odors, pollutants or visual impacts that could adversely affect adjacent properties. These uses include, but are not limited to, slaughterhouses, mills, refineries, canneries and milk processing plants.

"Agricultural products processing, minor" means activities used for crop production, which are not regulated as major agricultural products processing and which involve a variety of operations on crops after harvest to prepare them for market, or further processing and packaging at a distance from the agricultural area. Included activities are cleaning, milling, pulping, drying, roasting, hulling, storing, packing, honey processing, poi-making, selling and other similar activities. Also included are the facilities or buildings related to such activities.

"Agricultural tourism" means visitor-related commercial activities or periodic special events designed to promote agricultural activities conducted on a working farm, ranch, or agricultural products processing facility.

"Alley" means a narrow street through a block primarily for access by service vehicles to the back or side of properties fronting on another street.

"Amusement and recreation facility, indoor" means an establishment providing indoor amusement or recreation. Typical uses include: martial arts studios; billiard and pool halls; electronic and coin-operated game rooms; bowling alleys; skating rinks; health and fitness establishments; indoor tennis, handball and racquetball courts; auditoriums; theaters; and indoor archery and shooting ranges.

"Amusement and recreation facility, major outdoor" means a permanent facility providing outdoor amusement and entertainment, including theme and other types of amusement parks, stadiums, skateboard parks, go-cart and automobile race tracks, miniature golf and drive-in theaters.

"Apartment house" means a multiple-family dwelling.

"Aquaculture" means the production of aquatic plant or animal life for food or fiber within ponds and other bodies of water.

"Authorized personnel" means a police officer or a person or persons authorized in writing by the director.

"Automobile service station" means a retail establishment which primarily provides gasoline, automobile accessories and service, but not including tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or storage of automobiles, except for storage of vehicles for short periods pending repair or servicing on the site and pick-up by the owner.

"Bed and breakfast establishment" means any single-family dwellings and/or guest houses (pursuant to section 25-4-9), which have been permitted on a building site, in which overnight accommodations and only breakfast meals are provided to a maximum of ten guests, for compensation, for periods of less than thirty days.

"Beginning of construction" means placing of construction materials in their permanent position, fastened in a permanent manner.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building height" means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

(A) The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet above lowest grade.

(B) An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in (A) above is more than ten feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.

"Building line" means a line on a building site indicating the limit beyond which buildings or structures may not be erected.

"Building site" means a parcel of land which is occupied or is to be occupied by a principal use and accessory uses or a building or group of buildings, and includes a lot and a plot.

"Building site average width" means that figure obtained by dividing the total area of a building site by the maximum depth of the building site measured in the general direction of the side lines.

"Business service" means an establishment which primarily provides goods and services to other business, including but not limited to minor job printing, duplicating, binding and photographic processing, office security, maintenance and custodial services, and office equipment and machinery sales, rentals and repair.

"Care home" means a facility which is approved by the state pursuant to chapter 346, part IV or part VIII, Hawaiʻi Revised Statutes, as amended, to provide living accommodations and general or rehabilitative care in homes with not more than one kitchen, to accommodate unrelated children or elderly, handicapped, or disabled adults. The term includes adult residential care homes, group child care homes and other facilities for children, elderly, handicapped, developmentally disabled and totally disabled.

"Catering establishment" means an establishment primarily involved in the preparation and transfer of finished food products for immediate consumption upon delivery to off-premises destinations including, but not limited to, hotels, restaurants, airlines and social events.

"City of Hilo" means all of that portion of the district of South Hilo, County of Hawaiʻi, which is bounded on the south side by the district of Puna; bounded on the west side by the districts of Kaʻū and North Hilo; on the north by the ahupuaʻa of Paukaa in the district of South Hilo and on the east by the sea.

"Commercial excavation" means any excavation or removal of natural materials for profit which is not related to or not occasioned by an impending development of the site of such excavation.

"Commercial parking lot and garage" means any building or parking area designed or used for temporary parking of automotive vehicles, which is not accessory to another use on the same building site and within which no vehicles are repaired.

"Commission" means either the windward planning commission or the leeward planning commission, or both acting as a joint commission, as provided for in the Charter.

"Community building" means a public or privately-owned building for civic, social, educational, cultural, and recreational activities which is not operated primarily for financial gain.

"Conforming" means in compliance with the regulations of the pertinent zoning district.

"Convenience store" means a small retail establishment intended to serve the daily or frequent needs of the surrounding neighborhood population by offering for sale pre-packaged food products, household items, newspapers and magazines, and freshly prepared foods.

"Council" means the County council.

"County environmental report" means an informational document in a form prescribed by the director in accordance with rules adopted pursuant to chapter 91, Hawai'i Revised Statutes. The County environmental report shall contain a description of the physical, social, historical, economic, and natural resource consequences of a proposed action, including but not limited to a discussion of alternatives to the proposed action, any environmental effects which cannot be avoided should the proposal be implemented, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, any irreversible and irretrievable commitments of natural resources which would be involved in the proposed action, and an analysis of the proposed action. The term "County environmental report" does not include a State environmental impact statement prepared in compliance with chapter 343, Hawai'i Revised Statutes. Copies of the County environmental report shall be available to the public for inspection and written comment. Public comments on the document shall be made a part of the record of the application under consideration by the director, and made available to the council.

"Crematorium" means a business that contains a crematory or a place to incinerate a decedent. It may also contain a morgue or funeral home, and may provide funeral services.

"Crop production" means agricultural and horticultural uses, including, but not limited to, production of grains, field crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms.

"Day care center" means a facility which is licensed or approved by the State, pursuant to chapter 346, part IV or part VIII, Hawai'i Revised Statutes, as amended, where persons who are not members of the family occupying the premises are cared for without overnight accommodations. This term includes day nurseries, preschools, and kindergartens which are not licensed by the State department of education and adult day care centers.

"Data processing facility" means an establishment primarily involved in the compiling, storage and maintenance of documents, records and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services.

"De minimis structure position discrepancy" means a difference between the distance from a property boundary required by the zoning code for a yard or open space and the actual distance, of not more than the following:

(a) For property zoned Multiple-Family Residential (RM), Residential-Commercial Mixed Use (RCX), Resort-Hotel (V), Neighborhood Commercial (CN), General Commercial (CG), Village Commercial (CV), Industrial-Commercial Mixed (MCX), Limited Industrial (ML), General Industrial (MG), Downtown Hilo Commercial (CDH), or within a Planned Unit Development (PUD), Cluster Plan Development (CPD), or Project District (PD): 0.25 feet;

(b) For property zoned Single-Family Residential (RS) or Double-Family Residential (RD): 0. 5 feet;

(c) For property zoned Residential and Agricultural (RA), Family Agricultural (FA), Agricultural (A), Intensive Agricultural (IA), or Agricultural Project District (APD): 0.75 feet.

"Density" means the number of dwelling units or rentable units for a particular unit of gross land area.

"Director" means the director of the planning department.

"Duplex" and "double-family dwelling" means a building containing only two dwelling units.

"Dwelling" means a building or part thereof designed for or used for residential occupancy or both and containing one or more dwelling units, and includes double-family dwelling or duplex, mobile dwelling, multiple-family dwelling and single-family dwelling.

"Dwelling unit" means one or more rooms designed for or containing or used as the complete facilities for the cooking, sleeping and living area of a single-family only and occupied by no more than one family and containing a single kitchen.

"Energy-saving device" means any facility, equipment, apparatus or the like which makes use of nonfossil fuel sources for lighting, heating or cooling or which reduces the use of other types of energy dependent on fossil fuel for generation.

"Environmental impact statement" means an informational document prepared in compliance with chapter 343, Hawaiʻi Revised Statutes, and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and state, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

"Erected" means constructed, reconstructed, altered, placed, or moved.

"Family" means an individual or two or more persons related by blood, state-sanctioned adoption, foster parentage, guardianship or marriage, or a group of not more than five unrelated persons (excluding servants), occupying a dwelling unit.

"Family child care home" means a private residence licensed or approved by the state pursuant to chapter 346, part VIII, Hawaiʻi Revised Statutes, as amended, at which care or the responsibility for the supervision, development, safety and protection is provided for a limited number of children, who are living in the residence apart from the parent or guardian.

"Farm" means land used for the purpose of agricultural, livestock, poultry, or aquatic production.

"Farm dwelling" means a single-family dwelling located on or used in connection with a farm, or if the agricultural activity provides income to the family occupying the dwelling.

"Farmers market" means an area, open or partially enclosed, at which vendors gather to sell personal property. The activity may also be referred to as an "open or open air market."

"Flag lot" means a building site consisting of an access drive and a body in such a manner that the body would be landlocked from a public street or private way except for connection by the access drive.

"Floor area, gross" means the total area of all floors of a building including a basement measured along the exterior walls of such building.

"Floor area, net" means the total gross floor area of all buildings occupying a building site exclusive of floor area permanently allocated for parking or loading spaces.

"Food manufacturing and processing facility" means an establishment primarily involved in the manufacture and processing of food products, other than an animal products processing establishment. Typical activities include, but are not necessarily limited to, noodle factories, and coffee grinding.

"Frontage" means that portion of a building site which abuts a road, street, or highway.

"Funeral home" or "funeral parlor" means a business establishment where the bodies of the dead are prepared for burial or cremation and religious or memorial services can be held.

"Funeral services" means an assortment of services provided by mortuaries, crematoriums, and funeral homes that may provide for: the sale of pre-death final expenses insurance, sale of caskets or closed containers for cremains, coordination for burials of caskets and cremains, embalming, viewings, storage and transportation of the decedent or cremains, funeral planning, religious or memorial services, and completion of death certificates and other legal documents.

"Future width lines" means lines established on the zoning map, for purposes of future widening of an existing street and establishing the front property line of an affected building site. The area within these lines or between a future width line and an existing street right-of-way line, shall be deemed to be a street right-of-way, and cannot be considered in computing the minimum yard required on any building site.

"Group living facility" means a 24-hour residential facility licensed or certified, and monitored by the State of Hawai'i's Department of Health (DOH) or Department of Human Services (DHS), for persons covered under the Fair Housing Act, as amended, containing between six and eight unrelated adults and/or children, plus unrelated home operator or staff who shall not be included in the resident count.

(a) The purpose of this definition is to provide housing to protected and targeted populations that require therapeutic, medicinal, life skills training, or other support systems. These facilities shall be integrated into a variety of neighborhoods while maintaining the integrity and character of the neighborhood(s), to promote a non-institutional environment and provide the maximum therapeutic and beneficial value to residents of a group living facility.

(b) Unless a use permit or special permit is obtained:
  (1) A group living facility shall have no more than eight residents;
  (2) Only one group living facility per tax map key parcel;
  (3) No other such licensed or certified dwelling shall be located within 500 feet of the perimeter of any tax map key parcel containing any other group living facility, with the exception of an adult residential care home or an intermediate care facility/mental retardation community (ICF/MR-C).

(c) A group living facility in existence on the effective date of this ordinance may continue in operation despite non-compliance with the criteria contained in the definition of "group living facility" for a maximum of 15 months from the effective date of this ordinance to allow the group living facility to come into compliance with said criteria or to obtain a use permit or special permit.

"Guest house" means an accessory building used as sleeping quarters for guests of the occupants of the main dwelling and having no cooking facilities.

"Guest ranch" means an establishment with its surrounding land which offers recreational facilities for activities such as riding, swimming and hiking, and living accommodations.

"Home improvement center" means a single establishment primarily involved in providing a large variety of goods and services directly associated with building and home improvements.

"Home occupation" means any activity intended to provide income that is carried on within a dwelling, within an accessory structure to a dwelling, or on a portion of a building site used principally for dwelling purposes.

"Hospital" means an institution in which patients or injured persons are given medical or surgical care, and unless otherwise modified, the term is limited to the care of persons only.

"Hotel" means a building or group of buildings containing six or more rooms or suites which provides transient lodging accommodations, meals, entertainment, and various personal services for compensation, whether such establishment is called a hotel, motel, motor hotel, motor lodge, inn, or otherwise.

"Junkyard" means an outdoor or partially enclosed area, more than two hundred square feet in size, used for storage or keeping of junk, scrap, or nonhazardous waste materials, or for dismantling or wrecking vehicles or machinery or for storage of parts resulting therefrom.

"Kennel" means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. The term includes animal quarantine stations.

"Kitchen" means a room or a portion of a room designed to be used for the preparation of food and containing at least one item from both of the following categories:

(A) Fixtures, appliances or devices for heating or cooking food; and

(B) Fixtures, appliances or devices for washing utensils used for dining and food preparation and/or for washing and preparing food.

"Land use" means use of land, building use and use of any building.

"Livestock" means all animals generally associated with farming, which are raised or kept for food and other agricultural purposes. Such animals include horses, cattle, goats, sheep, chickens, ducks, geese and other poultry and swine.

"Livestock production" means a distinct agricultural operation or establishment which keeps, feeds, or raises livestock for commercial purposes and as a principal land use. These include piggeries, dairies, dairy and beef cattle ranching, feedlots, chicken, turkey and other poultry farms, rabbit farms, apiaries and aviaries.

"Lodge" means a building or group of buildings, under single management, containing transient lodging accommodations without individual kitchen facilities, and no more than forty guest rooms or suites, and generally located in agricultural, rural or other less populated areas.

"Lot" means a building site or a parcel of land shown as a unit on an approved subdivision map, or a survey map.

"Lot line" means any boundary of a building site or property line, and includes:

(A) "Interior lot line" which is any lot line other than the street frontage.

(B) "Rear lot line" which is the lot line that is generally opposite the street frontage.

"Lot width" means that figure obtained by dividing the total area of a building site by the maximum depth of the building site measured in the general direction of the side lines.

"Main building" means a building in which is conducted a principal or main use on the building site on which it is situated.

"Manufacturing, processing and packaging, general" means activities which are the main purpose of establishments primarily involved in the manufacture, processing, assembly, fabrication, refinement, alteration and/or other end products suitable for sale or trade. General manufacturing, processing and packaging establishments are those involving significant mechanical and chemical processes, large amounts of metal transfer, or extended shift operations. Typical activities include, but are not limited to: paper and textile milling; wood millwork and the production of prefabricated structural wood products; the manufacture of soaps and detergents; rubber processing and the manufacture of rubber products; the production of plastics and other synthetic materials; primary metals processes; the manufacture of vehicles; machinery and fabricated metal products; electroplating; cement making and the production of concrete; gypsum and related products; the production of chemical products; perfumes and pharmaceuticals; and the production of paving and roofing materials. General manufacturing does not include those activities associated with petroleum processing; the manufacture of explosives and toxic chemicals; waste disposal and processing; and/or the processing of salvage, scrap and junk materials.

"Manufacturing, processing and packaging, light" means activities which are the main purpose of establishments primarily involved in the manufacture, processing, assembly, fabrication, refinement, alteration and/or other end products suitable for sale or trade. Light manufacturing, processing and packaging establishments involve activities which are non-offensive to adjacent uses; involve no open storage or other types of outdoor accessory uses other than parking and loading; do not involve processes which generate significant levels of heat, noise, odors and/or particulates; and do not involve chemicals or other substances which pose a threat to health and safety. Typical activities include, but are not limited to, the production of handcrafted goods, electronics-intensive equipment, components related to instrumentation and measuring devices, bio-medical and telecommunications technologies, computer parts and software, optical and photographic equipment, and other manufacturing, processing and packaging uses meeting the criteria prescribed herein.

"Medical clinic" means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients. A "medical profession or occupation" is any activity involving the diagnosis, cure, treatment, mitigation or prevention of disease or which affects any bodily function, but does not include chiropractic and massage treatment and services.

"Meeting facility" means a permanent facility for nonprofit recreational, social or multi-purpose use, which has no overnight accommodations, and which may be for organizations operating on a membership basis for the promotion of members' mutual interests or may be primarily intended for community purposes. Typical uses include private clubs, union halls, community centers, and student centers.

"Mobile dwelling" means a structure or vehicle containing one or more dwelling units designed so as to be transportable either by being carried or towed or under its own power, whether or not the wheels, skids or other devices for transportability are actually in place.

"Mortuary" means a business used to prepare a decedent before burial or cremation. It may also contain a morgue, funeral home, or crematory, and may provide funeral services.

"Multiple-family dwelling" means a building containing more than two dwelling units.

"Nonconforming building or parcel" means a building or parcel lawfully in existence on September 21, 1966 or on the date of any amendment to this chapter, but which does not comply with the regulations for the zoning district in which it is located.

"Nonconforming use" means a use lawfully in existence on September 21, 1966 or on the date of any amendment to this chapter, but which does not conform to the regulations for the zoning district in which it is located.

"Ohana dwelling" means a second dwelling unit permitted to be built as a separate or an attached unit on a building site, but does not include a guest house or a farm dwelling.

"Pedestrian way" means a public right-of-way through a block between lots for pedestrian traffic, which may also be used as a utility easement and which has a maximum width of twenty feet.

"Personal services establishment" means an establishment which offers specialized goods and services purchased frequently by the consumer. Included are barbershops, beauty shops, massage facilities, chiropractic clinics, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair and other similar establishments.

"Piggery" means any parcel or premises where five or more weaned hogs are maintained.

"Plan approval" means the review and approval of plans for new structures and additions to existing structures, and certain uses in specified zoning districts in order to assure that the intent and purpose of this chapter are carried out.

"Plan lines for future streets" means lines established on the zoning map for the purpose of future street construction and establishing the front property line of the affected building site. The area within these lines shall be deemed to be the street right-of-way, and cannot be considered in computing the minimum yard required on any building site.

"Public use," "public building" and "public structure" mean a use conducted by or a structure or building owned or managed by the federal government, the State of Hawai'i or the County to fulfill a governmental function, activity or service for public benefit and in accordance with public policy. Excluded are uses which are not purely a function, activity or service of government and structures leased by government to private entrepreneurs or to nonprofit organizations.

"Recycling center" means an establishment on a building site, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products. A recycling collection point or an area which serves only as a drop-off point for temporary storage of recyclables shall not be considered a recycling center.

"Rentable unit" means a separate room or rooms for sleeping accommodations let, rented, or leased as a unit by the room or suite, except that in the case of sleeping accommodations let or rented by the bed, a rentable unit shall be two beds.

"Repair establishment, major" means an establishment which primarily provides restoration, reconstruction and general mending and repair services, and which includes any repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics. Major repair establishments include, but are not limited to:

(A) Blacksmith.
(B) Boat cleaning and repair.
(C) Electrical, gasoline and diesel motor repair and rebuilding.
(D) Furniture repair.
(E) Industrial machinery and heavy equipment repair.
(F) Vehicular repair, including repair of body and fender, and straightening of frame and body parts.

"Repair establishment, minor" means an establishment which primarily provides restoration, reconstruction and general mending and repair services, and which includes those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. Minor repair establishments include, but are not limited to:

(A) Automobile repair, including auto painting and motorized bicycle repair, provided all repair work is performed within an enclosed structure and does not include repair of body and fender, and straightening of frame and body parts.
(B) Eyeglasses, hearing aids and prosthetic devices, production and repair.
(C) Furniture upholstery.
(D) Garment repair.
(E) General repair shop.
(F) Non-motorized bicycle repair.
(G) Radio, television and other household appliance and equipment repair, except for those appliances with gasoline engines.
(H) Shoe repair.
(I) Watch, clock and jewelry repair.

"Resort area" means an area with facilities to accommodate the needs and desires primarily of visitors, tourists and transient guests.

"Restaurant" means an establishment which is regularly and in a bona fide manner used and kept open for the serving of meals to patrons for compensation and which has suitable kitchen facilities connected with the establishment, containing the necessary equipment and supplies for cooking an assortment of foods which may be required for ordinary meals. Additionally, at least thirty percent of the establishment's gross revenue must derive from the sale of foods.

"Retail establishment" means an establishment which sells commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include convenience stores, grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, tour, travel and ticket agencies and other similar retail activities. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals.

"School" means a place for teaching, demonstration, learning, or organized group instruction. Unless otherwise qualified, "school" means a place for primarily academic instruction equivalent to what is commonly known as pre-school, kindergarten, elementary school, intermediate school, high school, trade or vocational school, business school, college or a combination of any of them.

"Self-storage facility" means a structure or structures, containing individual locker compartments which allow individuals access to store possessions in these compartments. Each locker or storage area is self-contained and can be secured.

"Single-family dwelling" means a building containing only one dwelling unit.

"Street" means a right-of-way for vehicle purposes and pedestrian traffic, and the placement of utilities, or a private right-of-way for vehicular purposes, which provides access to building sites.

"Street frontage" means that portion of a building site that has a common line with a street right-of-way line. The street frontage is designated as the front property line.

"Structure" means anything above existing grade constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having or requiring a fixed location on the ground. The term "structure" includes the term "building."

"Surveyor" means a person duly registered as a professional land surveyor in the State.

"Telecommunications antenna" means an antenna, tower and other accessory structures for radio frequency (RF) transmissions intended for specific users who must have special equipment for transmission and/or reception. Also included are broadcasting facilities regulated by the Federal Communication Commission (FCC) under the Code of Federal Regulations, par. 74, which includes low power television. Included are land-mobile or two-way radio, and one-way radio paging service broadcasting. Also included are independent receiving facilities which do not qualify as accessory uses. Not included are portable, hand held and vehicular transceivers or radios; industrial, scientific and medical equipment operating at frequencies designated for that purpose by the Federal Communications Commission (FCC); marketed consumer products, such as microwave ovens, citizens band radios, ham radios and remote control toys; and facilities for the receiving of these transmissions, including individual radio and television appliances.

"Theater" means a facility which is used primarily for the performing arts or for the viewing of motion picture films. Included are performing arts centers, concert halls and other types of live theaters.

"Time share unit" means any multiple-family dwelling unit or hotel, which is owned, occupied or possessed, under an ownership and/or use agreement among various persons for less than a sixty-day period in any year for any occupant, and is regulated under the provisions of chapter 514E, Hawai'i Revised Statutes, as amended.

"University" means a nationally-accredited institution of higher learning, whether classified as a "university" or a "college" and whether public or private, including community colleges, providing facilities for teaching, research and group learning and authorized to grant academic degrees.

"Use" means the purpose to which land or any structure or improvement thereon or both are or may be put. The word "use" is synonymous with terms "land use" and "use of land" unless the context clearly indicates otherwise.

"Warehousing" means the storage of raw materials, finished products, merchandise and/or other goods, within a building for subsequent delivery, transfer and/or pickup.

"Wholesaling and distribution" means the sale and/or distribution of manufactured and/or processed products, merchandise or other goods in large quantities for subsequent resale to retail establishments, and/or industrial, institutional and commercial users.

"Yard" means an open space on the same building site with a building, which open space lies between the building and the bounding lot lines, and is unoccupied and unobstructed from the ground upward except for landscaping and except for fences, walls, architectural features, pools, porte cocheres, cornices, canopies, roof overhangs, eaves, porches, balconies, terraces, fire escapes, stairs, ramps and other similar features authorized under article 4, division 4 of this chapter, and includes:

(A) "Front yard" which is a yard lying between the street line on which the building site fronts or the future width line or the plan line for future street and a line parallel thereto which runs through the point of the building nearest to said street line, future width line or plan line. The depth of said yard is the distance between the parallel lines.

(B) "Rear yard" which is a yard lying between the rear lot line and a line parallel thereto extended to intersect the side lot lines, which line runs through the point of a main building nearest the rear lot line. The depth of said yard is the distance between the parallel lines.

(C) "Side yard" which is a yard lying between the front yard, the rear yard, the side lot line and a line parallel thereto which runs through the point of the building nearest to said lot line. The width of said yard is the distance between the parallel lines.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2000, ord 00-152, sec 1; am 2002, ord 02-70, sec 2; am 2007, ord 07-55, sec 1; ord 07-104, sec 2; am 2008, ord 08-155, sec 2; am 2009, ord 09-118, sec 17; am 2012, ord 12-28, sec 2.)

Article 2. Administration and Enforcement.

Division 1. General Administration.

Section 25-2-1. Duties of county officers.

(a) The building official shall enforce any provisions of this chapter relative to building construction and occupancy.

(b) The director shall enforce all other provisions of this chapter pertaining to land use.

(c) All law enforcement officers of the County shall enforce all the provisions of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-2. Issuance of permits or licenses in conformance with chapter.

All departments, officials, and public employees authorized to issue permits or licenses shall conform to the provisions of this chapter and no permit or license for any use, building, or other purpose shall be issued where the license or permit would be in conflict with the provisions of this chapter. Any permit or license, if issued in conflict with the provisions of this chapter, shall be void.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-3. Review and acceptance of applications.

(a) Any application filed with the director or the commission, pursuant to this chapter, including but not limited to a zoning amendment, variance, use permit, plan approval, ohana dwelling permit, planned unit development permit, or cluster plan development permit, shall be reviewed by the director for completeness within fifteen days from the date that the application was filed by the applicant. An application may be filed with the director or the commission either by hand or mail delivery to the Hilo or Kona department.

(b) All applications shall be accompanied by a certification of clearance from the director of finance that the real property taxes and all other fees relating to the subject parcel or parcels have been paid, and that there are no outstanding delinquencies. Any application not accompanied by such certification of clearance will be deemed defective.

(c) During the fifteen-day period, the director shall either determine that the application is complete and accept the application as of the date that the application was filed by the applicant or shall determine that the application is defective.

(d) If the director determines that the application is defective, the application shall be returned to the applicant together with a deficiency notice, to be postmarked within the fifteen-day review period, which lists the information missing from the application.

(e) Any application that is rejected as defective may be refiled together with a copy of the deficiency notice and the required additional information. The resubmitted application shall be accepted as complete as of the date of resubmission, provided that all required additional information has been submitted.

(f) If the director fails to act upon any application within the fifteen-day period, the application shall be deemed complete and shall be considered accepted as of the date that the application was filed.

(g) The director shall publish, on a semi-monthly basis, a list of all applications accepted under this section in at least two newspapers of general circulation in the County. Such list shall include the name of the property owner, tax map key number(s) of the property, the land area, and street address, if available.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1998, ord 98-29, sec 1; ord 98-26, sec 1.)

Section 25-2-4. Notice to property owners and lessees of record of pending application.

(a) Whenever any application under this chapter requires notice to owners and lessees of record interests of the surrounding properties:

(1) Such notice shall be served to the owners and lessees of record of all lots of which any portion is within three hundred feet of any point along the perimeter boundary of the building site affected by the application if the building site is located within the state land use urban or rural district;

(2) For applications other than those requesting a change of zoning district classification, such notice shall be served on the owners and lessees of record of all lots of which any portion is within five hundred feet of any point along the perimeter boundary of the building site affected by the application if the building site is located within the state land use agricultural district, except that if the surrounding lots are located within either the state land use urban or rural district, notice shall be served on the owners and lessees of record of all lots of which any portion is within three hundred feet of the building site; or

(3) For applications requesting a change of zoning district classification, such notice shall be served on the owners and lessees of record of all lots of which any portion is within one thousand feet of any point along the perimeter boundary of the building site affected by the application or the two contiguous lots in all directions, whichever distance is greater, if the building site is located within the state land use agricultural district or the County zoned agricultural district. For those adjoining properties located within either the state land use urban or rural district, notice shall be served on the owners and lessees of record of all lots of which any portion is within three hundred feet of the building site.

(b) The applicant shall first serve notice of the filing of the application on the surrounding owners and lessees within ten days after the director or commission has officially acknowledged receipt of the application, and shall again serve notice of the application and of any proposed action or public hearing on the surrounding owners and lessees, within ten days after receiving notice from the director or the commission of the date of the proposed action or hearing. The second notice shall be served not less than ten days prior to the date of the proposed action or hearing.

(c) In determining the names and addresses of the affected owners and lessees of record, as required by this section, the applicant shall utilize the data available from the real property tax office; provided, that where the director has received written notice of additional or subsequent owners or lessees of record and has so informed the applicant, the applicant shall also provide the required notice to such persons. The applicant shall also provide notice to such other owners and lessees of record when the applicant otherwise has actual knowledge of such other owners or lessees of record.

(d) The notice to the affected property owners and lessees shall include the following information:

(1) The name of the applicant;

(2) The precise location of the property involved;

(3) The nature of the application and the proposed use of the property;

(4) The date on which the application was filed with the director or the commission; and
(5) If the notice is for any proposed administrative action by the director or for any public hearing to be held by the commission, the date on which the administrative action by the director will be taken on the application or the date on which a public hearing will be held to consider the application.

(e) Prior to the director's proposed administrative action or prior to the commission's public hearing, the applicant shall submit to the director or the commission, as appropriate, proof of service or of good faith efforts to serve notice of the application on the designated property owners and lessees. Such proof may consist of certified mail receipts, affidavits, declarations, or the like. The failure of a property owner or lessee to receive written notice, as provided in this section, shall not invalidate any action by the director or proceeding by the commission, provided that good faith efforts were made by the applicant to serve notice on the affected property owner or lessee.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2010, ord 10-52, sec 2.)

Section 25-2-5. Public hearing notices.

(a) Unless otherwise provided, whenever published notice is required under this chapter prior to any commission public hearing, the commission shall publish notice of the hearing in at least two newspapers of general circulation in the County, at least ten days prior to the date of the public hearing, unless a longer time period is required by either statute or Charter provision, in which case, the notice period provided by statute or Charter provision shall apply. The notice shall specify the time, date and place of the hearing, its purpose and a description of the property, if any, involved.

(b) The commission may publish consolidated notices of any public hearings to be held on the same date; provided that the consolidated notices state specific information regarding the time, date and place, the purpose and a description of the property involved in each matter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-6. Waiting period after denial of application.

Unless otherwise provided in this chapter, whenever an application for an amendment to this chapter, or for a variance from this chapter, or for any other permit authorized under this chapter has been denied, no new application for the same relief, action or use covering all or any portion of the property involved in the original application shall be accepted by the director or the commission for a period of one year from the effective date of the final denial of the original application; provided, however, that upon a showing of a substantial change of circumstances, the director or commission may permit the filing of a new application prior to the expiration of the one-year period. Nothing contained in this section shall prevent the council or the director from initiating any proceedings at any time under this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-7. Utilization of approvals within two years.

Whenever any permit or approval issued under this chapter, not otherwise conditioned, except for any amendment of this chapter reclassifying a zoning district, has not been utilized within a period of two years from the date of the written permit or approval, the director shall initiate proceedings to invalidate the permit or approval. The proceeding to invalidate the permit or approval shall require written notice to the owner or person who has been issued the permit or approval prior to either the director or the commission taking action to invalidate the permit or approval. In the event that an appeal is filed regarding any permit or approval issued under this chapter, the two-year period provided for under this section shall not commence to run until a final decision is rendered in the appeal.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-8. Effect of changing districts on prior approvals.

Every administrative action for any given building site becomes void upon the changing of the district within which the building site lies unless the action is for the approval of an existing nonconforming use or structure, or such administrative action deals with a regulation which is precisely the same under the regulations of the new district or unless the administrative action is taken with full knowledge of a proposed or impending change of district, in which case the approval of such administrative action shall state that the action is equally acceptable under the existing and proposed or impending specified new district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-9. Applications including lesser actions; concurrent applications.

(a) An application for any administrative action, meaning any action requiring approval of only the director and not the commission, may include a request for a lesser action without payment of any additional filing fee provided that any notice of any required hearing shall contain information relating to the total requested or contemplated action.

(b) Two or more applications involving the same building site or the same project requiring commission action may be considered concurrently by the commission, provided that the commission decision on each application shall be issued separately by the commission.

(c) An action to amend this chapter may be considered concurrently with other administrative and commission actions, but an application to amend this chapter must be filed independently of other applications for administrative or commission action, and any decision on an application for an amendment to this chapter shall be issued separately from decisions on other administrative or commission requests.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-10. Privileges granted run with land.

All amendments to this chapter and all permits and approvals issued under this chapter shall apply to the applicable land, building, development, or use and shall not be granted if the action sought would not be equally acceptable under a variety of owners, and such privileges granted shall run with the land and shall not reside in any particular owner or occupant of any premises.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-11. Waiver of requirements in consolidation and resubdivision.

If the director finds that the public welfare and safety will not be violated, the director may waive portions or all of the requirements and standards of this chapter for consolidation and resubdivision action resulting in the creation of the same or less number of lots than that which existed prior to the consolidation or resubdivision action; provided, that prior to the granting of any waiver, the director shall confer with the director of public works and the manager-chief engineer of the department of water supply and other applicable government agencies.
(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 11.)

Section 25-2-12. Posting of signs for public notification.

(a) Within ten days of being notified of the acceptance of any application for a zoning amendment, project district, agricultural project district, variance except setback variance, use permit, planned unit development permit, or cluster plan development, the applicant shall post a sign on the subject property notifying the public of the following:
   (1) The nature of the application;
   (2) The proposed use of the property;
   (3) The size of the property;
   (4) The tax map key or keys of the property;
   (5) That they may contact the planning department for additional information; and
   (6) The address and telephone number of the planning department.
(b) The sign shall remain posted until the application has been granted, denied, or withdrawn. The applicant shall remove the sign promptly after such action.
(c) Notwithstanding any other provisions of law, the sign shall be not less than nine square feet and not more than twelve square feet in area, with letters not less than one inch high. No pictures, drawings, or promotional materials shall be permitted on the sign. The sign shall be posted at or near the property boundary adjacent to a public road bordering the property and shall be readable from said public road. If more than one public road borders the property the applicant shall post the sign to be visible from the more heavily traveled public road. The sign shall, in all other respects, be in compliance with chapter 3, Hawai`i County Code 1983 (2005 edition).

(d) The applicant shall file an affidavit with the planning department not more than five days after posting the sign stating that a sign has been posted in compliance with this section, and that the applicant and its agents will not remove the sign until the application has been granted, denied, or withdrawn. A photograph of the sign in place shall accompany the affidavit.

(2005, ord 05-136, sec 2.)

Division 2. Appeals.

Section 25-2-20. Persons who may appeal; procedure.

(a) Any person aggrieved by the decision of the director in the administration or application of this chapter, may, within thirty days after the date of the director's written decision, appeal the decision to the board of appeals.

(b) A person is aggrieved by a decision of the director if:

(1) The person has an interest in the subject matter of the decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and

(2) The person is or will be adversely affected by the decision.

(c) An appeal shall be in writing, in the form prescribed by the board of appeals, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of $250. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the board of appeals with the proof of service.

(d) The appellant, the owners of the affected property, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the board of appeals.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 3.)

Section 25-2-21. Performance of permit conditions pending appeal.

Whenever any appeal is filed after a permit or approval has been issued and the permit or approval contains conditions requiring performance within specified time periods, the time for performance of any such conditions shall not commence until after a final decision is rendered in the appeal by the board of appeals or by the courts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-22. Conduct of appeal hearing; costs.

(a) Within twenty days after receipt of a notice of appeal, the director or commission, as appropriate, shall transmit to the board of appeals the entire record or file of the proceeding being appealed. The entire record or file from the director or commission, as appropriate, shall be part of the board of appeals' record in an appeal, and shall be reviewed by the board of appeals in the appeal.

(b) A full hearing shall be held by the board of appeals, in any appeal, in accordance with chapter 91, Hawaiʻi Revised Statutes.

(c) A verbatim audio recording or stenographic record shall be made of the hearing and shall remain on file in the office of the board of appeals. Copies of such verbatim record of any hearing may be ordered by any party, with the cost thereof to be paid by the party ordering such copy or copies.
(d) The appellant has the burden of proof in an appeal before the board of appeals.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-23. Standard of review.

The board of appeals may affirm the decision of the director, or it may reverse or modify the decision or remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that:

(1) The director erred in its decision; or
(2) The decision violated this chapter or other applicable law; or
(3) The decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 4.)

Section 25-2-24. Adoption of rules.

The board of appeals shall adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the implementation of the provisions regarding appeals.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-25. Further appeal rights.

All actions of the board of appeals are final except that, within thirty days of the date of the board’s written decision, any person aggrieved by the decision of the board of appeals may appeal such action to third circuit court pursuant to chapter 91, Hawai‘i Revised Statutes.
(1999, ord 99-112, sec 2.)

Division 3. Violations, Penalties, Enforcement.

Section 25-2-30. Violations.

Any approval or permit issued pursuant to the provisions of this chapter shall comply with all applicable requirements of this chapter. Failure to comply with conditions imposed as part of any approval or permit, including variances from the provisions of this chapter, shall constitute a violation of this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-31. Criminal prosecution.

(a) Any person whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a violation, and upon conviction thereof shall be sentenced as follows:
   (1) For a first offense, by a fine not exceeding $500.
   (2) For a subsequent conviction which occurs within five years of any prior conviction for violation of this chapter, by a fine of not less than $500 but not exceeding $1,000.

(b) After a conviction for a first violation under this chapter, each further day of violation shall constitute a separate offense if the violation is a continuance of the subject of the first conviction.

(c) The imposition of a fine under this section shall be controlled by the provisions of the Hawaiʻi Penal Code relating to fines, sections 706-641 through 706-645, Hawaiʻi Revised Statutes.

(d) Any authorized personnel may issue a summons or citation to an alleged violator in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by penal summons, by complaint, by warrant or such other judicial process as is permitted by statute or rule of court.

(e) Any authorized personnel issuing a summons or citation for a violation of this chapter may take the name and address of the alleged violator and shall issue to the alleged violator a written summons or citation notifying the alleged violator to answer at a place and at a time provided in the summons or citation.

(f) There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of this chapter which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid under the laws and regulations of the State of Hawaiʻi and the County.

(g) In every case when a citation is issued, the original of the same shall be given to the violator, provided that the administrative judge of the district court may prescribe the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.

(h) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-32. Right of entry for authorized personnel.

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the authorized personnel has reasonable cause to believe that there exists upon a building or upon a premises or upon a building site a condition which is contrary to or in violation of this chapter which makes the building or premises or the building site unsafe, dangerous or hazardous, the authorized personnel may enter the building or premises or the building site at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if the building or premises is occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the authorized personnel shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the authorized personnel shall have recourse to the remedies provided by law to secure entry.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-33. Limited liability of authorized personnel.

The authorized personnel charged with the enforcement of this chapter, acting in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the authorized personnel because of such act or omission performed by the authorized personnel in the enforcement of any provision of this chapter or other pertinent laws or ordinances implemented through the enforcement of this chapter shall be defended by the County until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-34. Injunctive action.

The County may maintain an action for an injunction to restrain any violation of the provisions of this chapter and may take any other lawful action to prevent or remedy any violation.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-35. Administrative enforcement.

(a) In lieu of or in addition to enforcement pursuant to sections 25-2-31, 25-2-32, and 25-2-34, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder, or any permit issued pursuant thereto, the director may have the person served by personal service or by certified mail, with a notice of violation and order pursuant to this section. The director may also have a copy of the notice of violation and order posted at the building site.

(b) The notice of violation shall include at least the following information:
   (1) Date of the notice;
   (2) Name and address of the person noticed;

(3) Section number of the provision, or rule, or the permit which has been violated;
(4) Nature of the violation; and
(5) Location and time of the violation.

(c) The order may require the person to do any or all of the following:
(1) Cease and desist from the violation;
(2) Correct the violation at the person's own expense before a date specified in the order;
(3) Pay a civil fine not to exceed $500 in the manner at the place and before the date specified in the order;
(4) Pay a civil fine not to exceed $500 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(d) The order shall advise the person that the order shall become final thirty days after the person's receipt of the order, unless the director's decision is appealed to the board of appeals within the thirty-day period.

(e) The provisions of the order issued by the director under this section shall become final thirty days after the receipt of the order, unless the director's action is appealed to the board of appeals as provided in this section.

(f) Any person adversely affected by any order issued under this section, may within thirty days after the service of the order, appeal the order to the board of appeals as provided by section 6-9.2, County Charter and sections 25-2-20 through 25-2-24. An appeal to the board of appeals shall not stay the provisions of the director's order pending the final decision of the board of appeals.

(g) The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(h) Annually, on September 1, the director shall file with the bureau of conveyances, liens on all properties which have been the subject of fines levied under this section, which remain unpaid for one year or more after final adjudication and the expiration of the time for any further appeal.

(i) Fines, assessed under this section shall constitute a lien upon the subject property upon the filing of said lien with the bureau of conveyances. This lien shall be considered for purposes of authority, to be the equivalent liens which arise pursuant to the provisions of chapter 19 of this Code.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-66, sec 2; am 2011, ord 11-103, sec 12.)

Section 25-2-36. Remedies cumulative.

The remedies provided in this chapter shall be cumulative and not exclusive.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 4. Amendments.

Section 25-2-40. When zoning code may be amended.

This chapter may be amended by changing the boundaries of districts or by changing any other provision in this chapter whenever the public necessity and convenience and the general welfare require such amendment, and when such amendment would be consistent with the goals, policies and standards of the general plan.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-41. Who initiates amendment.

An amendment may be submitted by the council, the director, the owner of the property, or any other person with the property owner's authorized consent.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-42. Amendments initiated by property owners and other persons.

(a) An application for a change of zoning district by a property owner, or any other person with the property owner's consent, shall be on a form prescribed by the director and shall be accompanied by:
   (1) A filing and processing fee of $500 plus $25 per lot or unit proposed by the amendment.
   (2) A description of the property in sufficient detail to determine its precise location.
   (3) A plot plan of the property, drawn to scale with all existing and proposed structures shown thereon, and any other information necessary to a proper determination relative to the specific request.
   (4) A list of the names, addresses and tax map key numbers for those owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4.
   (5) A County environmental report. A County environmental report shall not be required for any amendment where either an environmental impact statement or an environmental assessment and negative declaration have been prepared and issued in compliance with chapter 343, Hawai'i Revised Statutes, as amended.
   (6) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawai'i Revised Statutes.

(b) The applicant shall serve notice of the application for zoning amendment on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) In considering an amendment initiated by a property owner or other person which proposes to change the district classification of any property, the director shall consider the purposes of the existing and proposed district and the purposes of this chapter and shall recommend a change in a district boundary only where it would result in a more appropriate land use pattern that will further the public necessity and convenience and the general welfare, and be consistent with the goals, policies and standards of the general plan.
   (1) The director shall recommend either the approval or denial of the proposed amendment to the commission subject to conditions which would further the intent of this chapter and the general plan and other related ordinances.
   (2) The director shall make the recommendation within one hundred twenty days after an application has been accepted by the director.
   (3) If the director fails to make a recommendation on the proposed amendment within the one-hundred-twenty-day period, the application shall be forwarded to the commission without any recommendation from the director, and the director's failure to act shall be considered a favorable recommendation on the application.

(d) The commission shall review any application initiated by a property owner or other person for a change of zone and shall forward its recommendation on the application to the council through the mayor for the council's consideration and action.
   (1) In reviewing the application, the commission shall hold at least one public hearing and shall provide reasonable notice of the date of the hearing to the applicant. The commission shall also provide notice by publication of the hearing, as provided in this chapter.
   (2) Within ten days after receiving notice of the date of the public hearing, the applicant shall serve notice of the hearing on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record interests in other properties which the commission may find to be directly affected by the proposed amendment.
   (3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed change of zone ordinance together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such application. In the event that the commission fails to act on the application within the ninety-day period, the application shall be considered an unfavorable recommendation by the commission, and the application shall be transmitted through the mayor to the council with such recommendation.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 3; am 2012, ord 12-90, sec 1.)

Section 25-2-43. Amendments initiated by the council and director.

(a) Any amendment initiated by the director shall be reviewed by the commission.

(1) The amendment shall be submitted to the commission with the director's justification and recommendation on the amendment.

(2) Upon receipt of a proposed amendment from the director, the commission shall hold at least one public hearing. Notice of the hearing by the publication shall be provided by the commission in accordance with section 25-2-5, except that when a proposed amendment involves a specific parcel of land, notice shall be provided by the commission in accordance with subsections (c) and (d).

(3) Within sixty days after receipt of the amendment from the director, the commission shall transmit the proposed amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the sixty-day period, such inaction shall be considered as unfavorable recommendation by the commission, and the amendment shall then be submitted through the mayor to the council with such recommendation.

(b) The council shall refer any proposed council-initiated amendment to this chapter to the director and the commission with requests for their respective comments and recommendations thereon, prior to the first reading of any such amendment. The director and the commission shall each submit comments and recommendations on the proposed amendment to the council within one hundred twenty days from the date that the amendment is transmitted by the council to the director and the commission.

(1) The director shall submit comments and any recommendations to both the commission and the council within the one-hundred-twenty-day review period.

(2) The commission shall hold at least one public hearing on the proposed amendment. Notice of the hearing by publication shall be provided by the commission in accordance with section 25-2-5, except that when a proposed amendment involves a specific parcel of land, notice shall be provided by the commission in accordance with subsections (c) and (d).

(3) The commission shall transmit the amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the one-hundred-twenty-day review period, such inaction shall be considered as an unfavorable recommendation by the commission.

(4) After the one-hundred-twenty-day review period has expired, the council may proceed to act on the proposed amendment as it deems appropriate.

(c) Notice by mail to surrounding owners and lessees of record of properties within the boundaries established by section 25-2-4, shall not be required for any amendment initiated by the council or the director. In lieu of mailing written notice to surrounding property owners and lessees of record, the director shall publish notice of the commission's public hearing in at least two newspapers of general circulation in the County, once a week for three consecutive weeks, with the last notice to be at least ten days prior to the hearing. The notice shall specify the time, date and place of the hearing, its purpose and a description of any property which may be involved.

(d) Notice to owners of any properties specifically subject to the proposed amendment shall be provided by mail from the director, no later than thirty days prior to the commission's public hearing on the amendment.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-44. Conditions on change of zone.

(a) Within any ordinance for a change of zone, the council may impose conditions on the applicant's use of the property subject to the change of zone provided that the council finds that the conditions are:
   (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
   (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
      (A) Protection of the public from the potentially deleterious effects of the proposed use, or
      (B) Fulfillment of the need for public service demands created by the proposed use.

(b) Changes or alterations of conditions of any change of zone ordinance shall be processed in the same manner as a zone change, unless the council authorizes the changes or alterations to be made by the director. A request for any change or alteration of conditions shall be submitted in writing to the director, in lieu of the application required for an applicant-initiated change of zone. The request shall be accompanied by a filing fee of $250.

(c) Failure to fulfill any conditions of the zone change within the specified time limitations, or any extensions thereto, may be grounds for the enactment of an ordinance making further zone changes or for rezoning the affected property back to its original zoning designation or a more appropriate zoning designation, upon initiation by either the director or the council in accordance with section 25-2-43.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-45. Nonsignificant zoning changes.

(a) The director may administratively grant any nonsignificant zoning change. A nonsignificant zoning change must comply with the designations for the property set forth in the general plan and any development plan adopted by ordinance, and not result in an increase or decrease in any zoning designation affecting more than five percent of the area, or one acre, of any lot, whichever is less.

(b) The applicant for a nonsignificant zoning change shall give notice to surrounding owners and lessees of record, pursuant to section 25-2-4, and shall post a sign for public notification as provided by section 25-2-12.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-48, sec 2.)

Section 25-2-46. Concurrency requirements.

(a) Purpose. In addition to requirements otherwise imposed, this section creates concurrency standards for roads, water supply, and civil defense sirens.

(b) Applicability. This section applies to any zoning amendment application, or for an application for extension of time to perform a condition of zoning amendment received by the planning department after the effective date of this ordinance.

(c) Definitions. As used in this section:

"Acceptable level of service" means that the level of service of a transportation facility at the a.m. and p.m. peak hour is "D" or better.

"Approved development" means development for which zoning has been granted by the County.

"Civil Defense siren" means a noisemaking mechanical or electronic device, generating sound to provide warning of approaching danger. The siren is one type of tsunami warning system and is linked to the Hawai'i State Civil Defense Outdoor Siren Warning System, activated by the County's civil defense system or by neighboring tsunami warning centers, in case of a potential life-threatening tsunami or other natural disaster.

"Critical road area" means a geographical area where any of the transportation facilities serving the area have been determined by the council to be worse than the acceptable level of service.

"Immediate vicinity of a project" means the area in which transportation facilities will be required to mitigate impacts caused primarily by the project.

"Level of service, or LOS" means a qualitative measure describing operational conditions within a traffic stream, and shall be determined using the procedures in the latest edition of the Highway Capacity Manual, Transportation Research Board.

"Mitigation" means specific actions to reduce traffic congestion. Mitigation is of two types: "local mitigation" which consists of improvements to roads and intersections that are in the immediate vicinity of a project, including channelization of intersections, turn lanes into a project and similar improvements. "Area mitigation" consists of improvements which increase the capacity of an arterial or other major road, such as additional lanes, in the general region containing the project, or construction of a new arterial or collector road in the general area containing the project, or improvements to public transportation such as buses or park and ride facilities, sufficient to offset the traffic demand generated by the project.

"Occupancy" means (1) the issuance of a certificate of occupancy for a commercial, multifamily, industrial building, hotel or other structure requiring a certificate of occupancy; (2) the issuance of a building permit for residential buildings that do not require a certificate of occupancy; or (3) final subdivision approval for subdivisions where dwellings are allowed, but dwellings are not being constructed before sale of any lot.

"Project area" means the area in which the project is expected to have an impact on the level of service of transportation facilities.

"Reasonable assumptions" means the percentage of full build-out that is expected to occur during the twenty-year period after the date of the application, as determined by the planning director.

"Transportation facilities" means State and County highways, roads, and public transportation facilities.

"Worse than the acceptable level of service" means that the level of service at the a.m. or p.m. peak is "E" or "F".

(d) Traffic impact analysis report required.

(1) A traffic impact analysis report (TIAR), prepared or updated within six months before the submission of the application, shall be included with the application for any zoning amendment that can generate fifty or more peak hour trips. The determination of peak hour trips shall be based on the Institute of Transportation Engineers, "Trip Generation Handbook", or any other nationally recognized source. When the number of trips depends upon the exact future uses of the site, and those are unknown at the time of zoning amendment (for example, the types of commercial uses), the determination shall be based upon a typical mix of uses found in that zoning type in the community. The TIAR shall be certified as having been conducted in accordance with best practices by a professional engineer licensed in the State of Hawaiʻi.

(2) The TIAR shall assess impacts to transportation facilities in the immediate vicinity and general area of the project, and to the transportation facilities serving the project area.

(3) The TIAR shall include projections for future growth in traffic, for a minimum of five, ten, and twenty years, and shall include other approved or proposed development that is expected to impact the project area, with reasonable assumptions about the build-out of such development.

(4) The TIAR shall present an assessment of the impacts of the project on LOS and an evaluation of alternative plans for mitigating those impacts. The evaluation shall include budgetary cost estimates for the capital and operating costs of promising alternative plans.

(e) Mitigation required.
   (1) If the LOS for any transportation facility in the project area is (A) currently worse than the acceptable level of service, or (B) projected to become worse than the acceptable level of service during the five year period of the TIAR, any rezoning of the property, if approved, shall contain conditions that require mitigation of adverse traffic effects before occupancy of the project is permitted, or that occupancy be delayed until the level of service has reached the acceptable level and is no longer projected to be worse than the acceptable level.
   (2) Where the LOS deficiency is due to roadway or intersection deficiencies in the immediate vicinity of the project, the conditions of zoning shall require local mitigation. Where the deficiency in LOS is due to insufficient capacity in the transportation facilities serving the project area, the conditions of zoning shall require area mitigation.
   (3) If there is more than one way to mitigate an adverse effect, the director shall present to the council the pros and cons of the alternatives.

(f) Mitigation requirements will be deemed satisfied when:
   (1) A public agency has committed funds for area mitigation that will remove the LOS deficiency. In the case of the State, commitment of funds means that the governor has released funds to complete the improvement. In the case of the County, commitment of funds means that the council has appropriated funds to complete the improvement; or
   (2) The private developer's commitment to implement mitigation has been secured by bond or equivalent security, or mandatory participation in an improvement district, community facilities district, or other equivalent means of guaranteeing performance.

(g) A developer's area mitigation expenses shall be credited against any fair share or similar fee requirement for roads. A developer's local mitigation expenses shall be credited against any fair share or similar fee requirement for roads if the council determines that the mitigation substantially benefits the general public and was not necessary primarily for the benefit of the project. In general, roads that are necessary for access to or within a development or turn lanes for a private project shall not qualify for fair share credit.

(h) The following types of zoning amendment applications shall be required to submit a TIAR when required by this section, but shall not be required to perform area mitigation:
   (1) Residential or other zoning amendment where the applicant commits, and the conditions of zoning require, that the project earn at least two times the number of affordable housing credits otherwise required under chapter 11, County affordable housing policy, provided further that the applicant shall be entitled to the full amount of "excess credits" under section 11-15, County affordable housing policy, based on the number of affordable housing credits normally required.

(2) Zoning amendment to CV, CN, MCX, PD, or ML where the council determines that the project will reduce regional traffic congestion by providing necessary commercial or light industrial opportunities to serve an area where there is a shortage of available space zoned for such uses, and substantial residential development has already been approved, provided that conditions of zoning shall ensure that any commercial development be of a scale consistent with the standards of a "neighborhood center" as described in the general plan.

(i) The restrictions on occupancy shall not apply to the construction of infrastructure such as water tanks, roads, sewage treatment plants, or other project elements that do not generate substantial traffic.

(j) The council may designate critical road areas by ordinance.

(k) In a critical road area, all rezonings shall be subject to local and area mitigation, except as stated in subsection (h).

(l) In order to determine whether a zoning amendment application meets the TIAR threshold of fifty or more peak hour trips, and to prevent applicants from going below the TIAR threshold by dividing a project into segments, the director shall review all development proposed on the same or adjacent properties, and shall include traffic that may be generated by any development application approved after the effective date of this ordinance, or by any other pending development application, if it is on a portion of the same lot or tax map key parcel, or an adjoining lot or tax map key parcel, or in the immediate vicinity of the development.

(m) A zoning amendment application shall not be granted unless: (1) the department of water supply has determined that it can meet the water requirements of the project and issue water commitments using its existing system; or (2) specific improvements to the existing public water system, or a private water system equivalent to the requirements of the department of water supply will be provided to meet the water needs of the project and conditions of zoning delay occupancy until the necessary improvements are actually constructed.

(n) To facilitate the development of village centers in rural areas that are not currently served by a public water system, the council may waive the water supply requirements for zoning amendments for commercial or light industrial uses in areas that do not currently have a public water system, and where the department of water supply has no plans to build a public water system, and which are (1) designated as an "urban and rural center" or "industrial area" on table 14-5 of the general plan and (2) designated for urban use on the land use pattern allocation guide map of the general plan; provided that conditions of zoning shall require water supply consistent with public health and safety needs such as sanitation and fire-fighting.

(o) A zoning amendment application or an application for an extension of time to perform a condition of zoning amendment shall not be granted for projects proposing:
  (1) Twenty-five or more residential units; or
  (2) Commercial space, industrial space, or a combination of commercial and industrial space equal to or greater than thirty thousand square feet of gross floor area; or
  (3) Any combination of residential units, commercial space and industrial space equal to or greater than thirty-five thousand square feet of gross floor area; unless existing civil defense sirens, as determined by the State Civil Defense, are available to provide adequate warning coverage across the entire project site or that the provision of civil defense sirens to provide such coverage is integrated as part of the zoning amendment or application for extension of time to perform a condition of zoning amendment.

(p) Nothing in this section shall limit the ability of the council to impose reasonable roadway, water, or civil defense siren improvement requirements on zoning amendments or to deny zoning amendment applications to the extent otherwise allowed by law.

(2007, ord 07-99, sec 2; am 2011, ord 11-71, sec 1.)

Division 5. Variances.

Section 25-2-50. Variances permitted.

Variances from the provisions of this chapter may be granted; provided that a variance shall not allow the introduction of a use not otherwise permitted within the district; and provided further that a variance shall not primarily effectuate relief from applicable density limitations.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-51. Grounds for variance.

A variance may only be granted if the following is found:

(a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of that property; and

(b) There are no other reasonable alternatives that would resolve the difficulty; and

(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-52. Application for variance; requirements.

Application for a variance shall be on a form prescribed for this purpose by the director and shall be accompanied by:

(1) A filing fee of $250;
(2) A description of the property in sufficient detail to determine the precise location of the property involved;
(3) A plot plan of the property, drawn to scale, with all existing and proposed structures shown thereon;
(4) A list of the names and addresses of all surrounding owners and lessees of record of property interests in property within the boundaries established by section 25-2-4; and
(5) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawai'i Revised Statutes.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-53. Notice of action on variance application.

(a) Upon acceptance of a variance application, the director shall fix a date for the director's action on the application. Within ten days after receiving notice of such date, the applicant shall serve notice of the application on surrounding owners and lessees of record, as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the director may find to be directly affected by the variance sought. Except for setback variances, the applicant shall also post a sign for public notification on the property as provided by section 25-2-12.
(b) The director shall publish notice of the date of the proposed decision by the director and the date by which written comments must be received by the director in at least two newspapers of general circulation in the County, at least ten days prior to the date of the director's proposed decision.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 4.)

Section 25-2-54. Actions by director on variance.

(a) The director shall, within sixty days after acceptance of a variance application, deny the application or approve it subject to conditions.
(b) The conditions imposed by the director shall bear a reasonable relationship to the variance granted. All actions shall contain a statement of the factual findings supporting the decision.
(c) If the director fails to act within the prescribed period, the application shall be considered as having been denied, and the director shall immediately inform the applicant of such denial.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-55. Repealed.

(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 5.)

Section 25-2-56. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 7.)

Section 25-2-57. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 8.)

Section 25-2-58. Appeals.
(a) If the director denies a variance application, such decision is final except, that, within thirty days after the date of the written decision, the applicant may appeal such action to the board of appeals, pursuant to the rules of practice and procedure of the board of appeals.
(b) Any person aggrieved by the decision of the director in the issuance of a variance decision may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the date of the director's written decision.
(1999, ord 99-112, sec 6.)

Division 6. Use Permits.

Section 25-2-60. Purpose.
Use permits are permits for certain permitted uses in zoning districts which require special attention to insure that the uses will neither unduly burden public agencies to provide public services nor cause substantial adverse impacts upon the surrounding community.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-61. Applicability; use permit required.
(a) The following uses shall be permitted within designated County zoning districts only if a use permit is obtained for the use from the commission:
    (1) Bed and breakfast establishments in RS, RA, FA, and A districts, provided that the property is within the state land use urban district.
    (2) Crematoriums, funeral homes, funeral services and mortuaries in RS, RD, RM, RCX, RA, FA, A and V districts.
    (3) Churches, temples and synagogues, including meeting facilities for churches, temples, synagogues and other such institutions, in RS, RD, RM, RA, FA and A districts; provided that a minimum building site area of ten thousand square feet is required within the RS, RD, RM, and RA districts.
    (4) Day care centers in RS, RD, RM, RA, FA and A districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.

(5) Golf courses and related golf course uses including golf driving ranges, golf maintenance buildings, and golf club houses in the RS, RD, RM, RCX, RA, FA, A, V, CG, CV, and O districts, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(6) Group living facilities that exceed the criteria in subsection 25-1-5(b), paragraph (b) of the definition of "group living facility" in the RS, RD, RM, RCX, RA, FA, A, CN, CG, CV, and V districts.

(7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes, and other similar uses devoted to the care or treatment of the aged, the sick, or the infirm in the RS, RD, RM, RCX, RA, FA, A, and V districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, RCX and RA districts.

(8) Major outdoor amusement and recreation facilities in RS, RD, RM, RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.

(9) Schools in RS, RD, RM, RA, FA, A, V, MCX, ML, and MG districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, and RA districts.

(10) Telecommunication antennas and towers in RS, RD, RM, RCX, RA, FA, A, IA and O districts.

(11) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.

(12) Wind energy facilities in the O district; provided that the property is within the state land use agricultural district.

(13) Other unusual and reasonable uses which are not specifically permitted in any zoning district with the approval of the director and the concurrence of the council by resolution.

(b) Any use which received an approval as a conditionally permitted use prior to September 25, 1984, or which received prior approval through the use permit process, is considered a legal use of the affected parcel and may be expanded or enlarged without obtaining another use permit, provided such expansion, enlargement or addition is in full compliance with this chapter and the applicable district regulations.

(c) A use permit shall not be required for any use described in subsection (a) above, if a special permit is obtained for that use, pursuant to section 205-6, Hawaiʻi Revised Statutes.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2007, ord 07-55, sec 2; am 2008, ord 08-2, sec 2; am 2010, ord 10-17, sec 2; am 2011, ord 11-25, sec 1; ord 11-26, sec 1; am 2012, ord 12-91, sec 2; ord 12-124, sec 2; am 2014, ord 14-86, sec 2.)

Section 25-2-62. Application for use permit; requirements.

(a) An application for a use permit shall be made to the commission, in accordance with its rules, on a form prescribed by the commission.

(b) The application shall be accompanied by:

(1) A filing fee of $500;

(2) A description of the property in sufficient detail to determine the precise location of the property involved;

(3) A plot plan of the property, drawn to scale, with all existing and proposed structures shown thereon;

(4) A list of names, addresses and tax map key numbers for those owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4; and

(5) A written description of the proposed use and a statement of objectives and reasons for the request, including an analysis of how the request satisfies each of the standards contained in section 25-2-65.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2011, ord 11-3, sec 2.)

Section 25-2-63. Procedure for use permit.

(a) Upon acceptance of a use permit application, the commission shall fix a date for a public hearing. The public hearing shall be commenced no later than ninety days after the acceptance of a use permit application by the director.

(b) The applicant shall serve notice of the use permit application on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record interests in other properties which the commission may find to be directly affected by the use permit sought. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) Prior to the public hearing, the commission shall publish notice of the public hearing in accordance with the requirements of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 9; am 2005, ord 05-136, sec 5; am 2010, ord 10-117, sec 2.)

Section 25-2-64. Action on use permit.

(a) Within ninety days after acceptance of a use permit application, the commission shall either deny or approve the application. The commission's decision shall be accompanied by a statement of factual findings supporting the decision, together with any conditions imposed upon a use permit approval.

(b) In approving any use permit application, the commission may issue the approval subject to conditions, including hours of daily operation and terms of the use permit. The conditions imposed by the commission shall bear a reasonable relationship to the use permit granted.

(c) If the commission fails to render a decision within the prescribed period, the application shall be considered as being approved, provided that no written objection to the use permit is received by the commission.
(d) Concurrent requests may be acted upon by the commission in conjunction with a use permit application.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-65. Criteria for granting a use permit.

A use permit may be granted by the commission upon finding that:

(1) The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of this chapter, and the general plan;
(2) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character, to surrounding properties; and
(3) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-66. Appeal of a use permit decision.

Within thirty days after the date of the commission's written decision, any person aggrieved by the decision may appeal the commission's action to the third circuit court pursuant to chapter 91, Hawaiʻi Revised Statutes.
(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 10.)

Section 25-2-67. Revocation of a use permit.

(a) A use permit shall be revoked by the commission at the request of any property owner who holds the use permit sought to be revoked or at the request of any other person with the property owner's consent upon the submission of a written statement to the commission verifying that the use approved under the use permit issued has either not been established or has been abandoned.
(b) The commission may revoke any use permit upon request of the director if:
    (1) There have been continual violations of the use permit; or
    (2) The use authorized under the use permit is creating a threat to the health or safety of the community; or
    (3) The use authorized under the use permit has been abandoned for a continuous period of two years.
(c) The proceeding to revoke a use permit, upon request of the director, shall require written notice to the property owner and to the person who has been issued the permit prior to the commission taking action to revoke the permit.

(d) A property owner or other person affected by the proposed revocation of a use permit ordered by the commission, may, within thirty days after the mailing of the commission's order, appeal the commission's action to the third circuit court pursuant to chapter 91, Hawai'i Revised Statutes.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 11.)

Division 7. Plan Approval.

Section 25-2-70. Purpose.

Plan approval provides a method of allowing closer inspection of certain development and inspection of all development in certain districts in order to ensure conformance with the general plan, to assure that the intent and purpose of this chapter are carried out, and to ensure pertinent conditions of previous approvals related to the development have been implemented.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-71. Applicability; plan approval required.

(a) Plan approval shall be required prior to the construction or installation of any new structure or development or any addition to an existing structure or development in all districts except in the RS, RA, FA, A and IA districts, and except for the construction of one single-family dwelling and any accessory buildings per lot, unless required elsewhere in this chapter.

(b) Plan approval shall be required in all districts prior to the change of the following uses in existing buildings:
   (1) Residential to commercial use;
   (2) Warehouse and manufacturing to retail use.

(c) Plan approval shall be required in all applicable districts prior to the construction or establishment of the following improvements and uses:
   (1) Public uses, structures and buildings and community buildings, as permitted under section 25-4-11.
   (2) Telecommunication antennas and towers, as permitted under section 25-4-12.
   (3) Temporary real estate offices and model homes, as permitted under section 25-4-8.
   (4) Utility substations, as authorized under section 25-4-11.

(d) Plan approval shall be required in the RA and FA district prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is to be used for minor agricultural products processing.

(e) Plan approval shall be required in the A district prior to the development of any trailer park or major agricultural products processing facility. The director shall determine whether an agricultural products processing facility shall be considered major or minor at the time of building permit review, or earlier at the applicant's request.

(f) Plan approval may be required as a condition of approval of any use permit, variance, or other action relating to a specific use, in which case the use or development so conditioned may not be established until plan approval has been secured.
(g) Plan approval shall be required for the establishment of any agricultural tourism activity, as permitted under section 25-4-15(b).
(h) Plan approval shall be required prior to the construction or installation of any new structure or development, any enlargement of an existing structure or development, or alterations to the exterior appearance of any existing structure or development in any special district established under this chapter for which design guidelines and/or standards have been adopted and as prescribed by the applicable special district requirements, excluding any special district having adopted design guidelines and/or standards established under this chapter prior to adoption of this sub-section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 2; am 2007, ord 07-56, sec 3; am 2008, ord 08-155, sec 3; am 2009, ord 09-16, sec 2; am 2012, ord 12-124, sec 3; am 2015, ord 15-45, sec 2.)

Section 25-2-72. Application for plan approval; requirements.

An application for plan approval shall be on a form approved for such purpose by the director and shall be accompanied by:

(1) A site plan, drawn to scale and fully dimensioned indicating clearly the following information:
    (A) The location and dimension of the building site;
    (B) The location, size, height, and use of all existing and proposed structures;
    (C) All yards and open spaces;
    (D) Location, height, and material of all fences and walls;
    (E) The standard of improvement and location, number, and size of parking spaces, arrangement and on-site circulation of all off-street parking and loading facilities including points of access thereto from adjoining streets;
    (F) The location, general nature, and type, and protection or shielding devices of all exterior lighting;
    (G) All proposed landscaping and planting; and
    (H) All proposed street dedication and improvement if any.
(2) Any other information required by rules adopted by the director in accordance with chapter 91, Hawaiʻi Revised Statutes.

(3) A site drainage plan [under section 27-20] approved by the director of public works, where plan approval is required under section 25-2-71(a), (c)(2) and (c)(5), (d), (e), or (f). The site drainage plan shall comply with section 27-20(a) and (b) and section 27-24, and shall include a storm water disposal system to contain runoff caused by the proposed development, within the site boundaries, up to the expected one-hour, ten year storm event, as shown in the department of public works "Storm Drainage Standards," dated October 1970, or any approved revision, unless those standards specify a greater recurrence interval. The amount of expected runoff shall be calculated according to the department of public works "Storm Drainage Standards," dated October 1970, or any approved revision, or by any nationally-recognized method meeting with the approval of the director of public works. Runoff calculations shall include the effects of all improvements. Storm water shall be disposed into drywells, infiltration basins, or other approved infiltration methods. The development shall not alter the general drainage pattern above or below the development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2007, ord 07-56, sec 3.)

Section 25-2-73. Plan approval application and processing requirements for special districts with design guidelines and/or standards.

(a) In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for the construction, installation, enlargement, or alteration to the exterior appearance of a building or structure that is subject to design guidelines and/or standards adopted by the council for any special district established under article 7 of this chapter shall include:

(1) Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures;

(2) A description of exterior siding, roofing, and finish materials;

(3) Exterior door and window specifications;

(4) Description, location, and renderings for any exterior signage;

(5) A streetscape rendering of the project site and adjacent properties suitable for evaluating the immediate spatial relationships. Photographic images may be substituted provided those images are adequate to serve the same purpose;

(6) Other descriptive information as the director finds necessary to determine consistency of the proposed project with the design guidelines and/or standards adopted for the special district in which the project building site is located.

(b) Within five days of acceptance of an application for plan approval the director shall provide the respective design review committee with a copy of the application and plans along with a request for their review and comments on the consistency of the project with the adopted design guidelines and/or standards.

(c) The written recommendations and plans stamped "Reviewed by" with the date and signature of the chair of the respective design review committee affixed shall be submitted to the director within twenty-five calendar days of receipt by the design review committee of the director's request for design review.
(d) Except as otherwise provided in this section, the director shall withhold rendering a decision on a plan approval application until having received the written recommendations and stamped and signed plans from the chair of the respective design review committee for the application.
(e) By written request to the director, the chair of the respective design review committee may request an extension of time to complete the design review and to submit the recommendations of the design review committee, which the director may grant only with the written approval of the applicant for plan approval.
(f) In the event that no design review committee is established, or if the design review committee, for whatever reason, fails to respond within the time limit prescribed in subsection (b), the director shall provide design review against the relevant design guidelines and/or standards as adopted by the council and waive the requirements under subsection (c).

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2000, ord 00-152, sec 2; am 2015, ord 15-45, sec 3.)

Section 25-2-74. Plan approval application requirements for telecommunication antennas.

In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for a telecommunication antenna or tower shall contain the following information:

(1) A plot plan showing the location of the proposed antenna or tower;
(2) Building plans for the tower, certified by a licensed structural engineer, verifying that the tower, together with the initial antennas and other equipment proposed to be installed thereon, will have a hard survivability for sustained winds of one hundred miles per hour;
(3) A statement from the Federal Aviation Administration that the application has not been found to be a hazard to air navigation; and
(4) A statement from the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-2-75. Plan approval application requirements for agricultural tourism.

In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for agricultural tourism operations shall include sufficient information to ensure the following provisions are met:

(1) A statement whether the operation will allow visits by buses;

(2) Adequate off street parking, loading/unloading, and turn-around space to accommodate all specified tour transportation modes, including buses, if they are allowed, shall be provided and shown on the site plan;
(3) The subject property must have an existing legal access to a public highway, which may be via a private road or easement, and new driveways shall meet applicable county or state standards;
(4) New and existing facilities to be utilized principally for the agricultural tourism activity shall be clearly indicated on the plot plan and shall not exceed one thousand square feet in total area, not including parking and vehicular accesses; and
(5) Proof, acceptable to the director, of income from agricultural activities and/or agricultural products processing, or investment, as required under section 25-4-15(d)(1).

(2008, ord 08-155, sec 4.)

Section 25-2-76. Action on plan approval application.

(a) The director may issue plan approval subject to conditions or changes in the proposal which, in the director's opinion, are necessary to carry out and further the purposes of this chapter and the considerations contained in section 25-2-77.
(b) The director may only issue plan approval for a telecommunication antenna or tower if the proposed use meets all of the conditions contained in sections 25-2-77 and 25-4-12, and if the applicant provides all verification required under section 25-2-74.
(c) The director may only issue plan approval for a temporary model home or real estate office if the proposed use meets all of the conditions in section 25-2-77 and 25-4-8.
(d) The director shall render a decision to either approve or deny a plan approval application, other than for an agricultural tourism facility or any special district with adopted design guidelines and/or standards, within thirty days after acceptance of the application. If the director fails to render a decision within the thirty-day period, the application shall be considered approved without further certification by the director. For an agricultural tourism facility, the department shall conduct a site inspection prior to issuing plan approval within sixty days after acceptance of the application. If the director fails to render a decision within the sixty-day period, the application shall be considered approved without further certification by the director. For any plan approval application within a special district with adopted design guidelines and/or standards, the director shall render a decision to either approve or deny the plan approval application within forty-five days after acceptance of the application. If the director fails to render a decision within the forty-five-day period, the application shall be considered approved without further certification by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 5; am 2012, ord 12-124, sec 4; am 2015, ord 15-45, sec 4.)

Section 25-2-77. Review criteria and conditions of approval.

(a) In reviewing a plan approval application, the director shall consider the proposed structure, development or use in relation to the surrounding property, improvements, streets, traffic, community characteristics, natural features, and may require conditions or changes to assure:
   (1) Adequate light and air, and proper siting and arrangements are provided for all structures and improvements;
   (2) Existing and prospective traffic movements will not be hindered;
   (3) Proper landscaping is provided that is commensurate with the structure, development or use and its surroundings;
   (4) Unsightly areas are properly screened or eliminated;
   (5) Adequate off-street parking is provided to serve the structure, development or use, regardless of the otherwise minimum requirements of this chapter;
   (6) Access to the parking areas will not create potential accident hazards;
   (7) Within reasonable limits, any natural and man-made features of community value are preserved;
   (8) Dust, noise, and odor impacts are mitigated; and
   (9) Compliance with any design guidelines or standards adopted by the council.

(b) The director shall require any conditions or changes in the proposal which, in the director's opinion, are necessary to carry out the purposes of this chapter and the considerations contained in subsection (a) above.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2007, ord 07-28, sec 2; am 2008, ord 08-155, sec 6; am 2015, ord 15-45, sec 5.)

Section 25-2-78. Construction in conformity with plan approval.

Every structure, development and change of use for which plan approval is issued shall be constructed and developed in accordance with the terms, specifications and conditions contained in the plan approval permit.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 7.)

Section 25-2-79. Appeal of a plan approval decision.

Any person aggrieved by the plan approval decision of the director may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after date of the director's written decision.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 8.)

Article 3. Establishment of Zoning Districts.

Section 25-3-1. Designation of districts.

(a) The zoning districts of the County shall consist of the following districts:
   (1) RS, single-family residential districts (article 5, division 1).
   (2) RD, double-family residential districts (article 5, division 2).

(3) RM, multiple-family residential districts (article 5, division 3).
(4) RCX, residential-commercial mixed use districts (article 5, division 4).
(5) RA, residential and agricultural districts (article 5, division 5).
(6) FA, family agricultural district (article 5, division 6).
(7) A, agricultural districts (article 5, division 7).
(8) IA, intensive agricultural districts (article 5, division 8).
(9) V, resort-hotel districts (article 5, division 9).
(10) CN, neighborhood commercial districts (article 5, division 10).
(11) CG, general commercial districts (article 5, division 11).
(12) CV, village commercial districts (article 5, division 12).
(13) MCX, industrial-commercial mixed use districts (article 5, division 13).
(14) ML, limited industrial districts (article 5, division 14).
(15) MG, general industrial districts (article 5, division 15).
(16) O, open districts (article 5, division 16).
(17) Special districts (articles 6 and 7).

(b) Any building site within the commercial office (CO) district as of December 7, 1996, shall automatically be redesignated as a general commercial (CG) district, with the same minimum land area required for each building site, and any building site within the unplanned (U) district as of December 7, 1996, shall automatically be redesignated as an agricultural (A) district with a minimum lot size of five acres (A-5a). Any building site within a combining district, which combines a safety (S) district or a safety, flood hazard (SF) district with another zoning district, as of December 7, 1996, shall be redesignated so that the safety or safety, flood hazard district designation, whichever is applicable, is removed as a zoning district designation for the building site. The redesignation provided for under this subsection shall occur immediately upon adoption of this section, without any action required on the part of any landowner. The director shall cause all zone maps and the zoning map to be corrected to reflect the redesignation described in this subsection.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-2. Designation of special districts.

The special zoning districts of the County shall consist of the following:

(1) Kailua Village design commission (article 7, division 1).
(2) CDH, Downtown Hilo commercial district (article 7, division 2).
(3) UNV, University district (article 7, division 3).
(4) PD, Project districts (article 6, division 4).
(5) APD, Agricultural project districts (article 6, division 5).
(6) PVD, Pāhoa Village Design district (article 7, division 4).

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-44, sec 2.)

Section 25-3-3. Method and effect of establishment of districts.

(a) Any of the districts listed in sections 25-3-1 and 25-3-2 are or may be established for any portion of the County by being described by metes and bounds and in map form. In case of conflict between a zoning map and metes and bounds description delineating district boundaries, the latter shall control. In case of conflict between a zoning map, and any summary of ordinances as provided by subsection (d) below on one hand, and duly enacted ordinance on the other, the provisions of the ordinance shall be authoritative. As between ordinances, the provisions of an ordinance enacted later in time shall control.

(b) The zone maps in article 8 of this chapter, adopted by ordinance numbers 74 (1967), 109 (1967), 110 (1967), 111 (1967), 187 (1968), and 190 (1969), and any amendments to these maps by ordinance shall constitute the zoning map of the County. An up-to-date copy of the zoning map shall be kept for public display in the office of the director.

(c) The zoning map and all notations, references, data and other information shown thereon are incorporated by reference and made a part of this chapter. The adoption of or the change in the boundary of any district shall be by ordinance and shall constitute an amendment to this chapter; provided, that nonsignificant changes to the boundary of any district may be administratively approved by the director as provided under section 25-2-45.

(d) The contents of an ordinance or any portion thereof concerning the adoption of or a change in the boundary of any district need not be set out in full in any codification or recodification of, or supplementation to this chapter so long as a summary of the ordinance is included in this chapter or in an appropriate annex to this chapter. The summary which shall be maintained and updated by the director shall include at a minimum the following information:

(1) Ordinance number and effective date;
(2) General location of land affected or tax map key;
(3) Original district designation; and
(4) Final district designation.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-4. Establishment of building lines, future width lines and plan lines for future streets.

Building lines, future width lines and plan lines for future streets may be established and shown on any section of the zoning map as provided in sections 25-3-3 and 25-8-1 of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-5. Application of district regulations.

(a) The provisions of this chapter for each district shall apply uniformly to each class or kind of structure or land within the district, except as provided in this chapter.

(b) Any building, structure, or land used or occupied after May 24, 1967, and any building or structure erected, constructed, reconstructed, moved or structurally altered after May 24, 1967, shall comply with all of the regulations specified in this chapter for the district in which such structure, land or premises is located.

(c) Any building or other structure erected or altered after May 24, 1967 shall not:
   (1) Exceed the height;
   (2) Accommodate or house a greater number of families;
   (3) Occupy a greater percentage of lot area, if provided by the zoning district;
   (4) Have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein permitted; or
   (5) In any other manner be contrary to the provisions of this chapter.

(d) No portion of a yard, other open space, off-street parking, or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, off-street parking, or loading space similarly required for any other building.

(e) Any yard or building site existing as of September 11, 1966, shall not be reduced in dimension or area below the minimum requirements set forth in this chapter. Any yard or building site created after May 24, 1967, shall meet at least the minimum requirements established by this chapter. Provided, however, that if the minimum building site in any zoning district was increased by an amendment to this chapter adopted on December 7, 1996, any parcel of land with minimum building site areas established by a zoning ordinance adopted predating December 7, 1996, may be developed utilizing yards, building site average width and minimum building site areas in accordance with the pre-existing ordinance.

(f) If any ordinance adopted prior to December 7, 1996, amended the zoning district for any building site and provided for a future effective date for the amendment, the ordinance shall be considered to predate this chapter and the building site may be developed in accordance with the ordinance and the conditions contained in the ordinance, notwithstanding the fact that provisions of this chapter adopted on December 7, 1996, conflict with the provisions of the ordinance.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-6. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

   (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines;
   (2) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;
   (3) Boundaries indicated as approximately following city limits shall be construed as following city limits;

(4) Boundaries indicated as following the shoreline shall be construed to follow high water lines, and in the event of change in the shoreline shall be construed as moving with the actual high water lines; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the center lines;
(5) Boundaries indicated as parallel to or extensions of features indicated in paragraphs (1) through (4) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the director scaling the distance on the zoning map.
(6) Where physical or cultural features existing on the ground vary from those shown on the zoning map or in other circumstances not covered by paragraphs (1) through (4) of this section, the director shall determine the location of such boundaries.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-7. District classification of streets.

Unless otherwise designated in this chapter, the area of any street, right-of-way or easement is considered to be and shall be classified within the immediately adjacent district and if there be more than one district then each shall extend to the center of the street, right-of-way or easement.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-3-8. Legal effect of establishment of building lines, future width lines, and plan line.

(a) Whenever a building line is established along any street on the zoning map, the minimum front yard for any affected property shall be equal to the distance between the street and the established building line.
(b) Whenever a future width line is established on the zoning map, the future width line shall be considered to be the front property line of the affected property. The area between the future width line and the street (if outside the right-of-way) shall be deemed to be the street right-of-way, and cannot be considered in computing the minimum yard required on any building site.
(c) Whenever plan lines for a future street have been established on the zoning map, the plan lines shall be considered to be the front property line, and the area between the plan lines shall be deemed to be street right-of-way. The minimum required yards of any building site shall be computed excluding any area within plan lines for future streets established on the zoning map.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Article 4. General Development Regulations.

Division 1. Use Regulations.

Section 25-4-1. Existing buildings.

Any building upon which construction was lawfully begun prior to December 7, 1996, or any subsequent amendments to this chapter may be completed and thereafter shall be considered an existing building at the time of the effective date of this chapter (December 7, 1996) or amendment.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-2. Conditions for construction of buildings designed for human occupancy.

(a) On any building site, no building designed or intended for human occupancy shall be constructed and no permit therefor shall be issued unless:
   (1) The building site is served by a County water system or a privately owned and operated water system, or other private, individual means of providing water to the building site is demonstrated; and
   (2) A wastewater treatment system for the proposed building has been approved by the State department of health.

(b) On any building site in any subdivision approved by the director under chapter 23 of this code, no building designed or intended for human occupancy shall be constructed and no permit issued therefor until either:
   (1) The streets, drainage improvements, water supply system, if any, and sewage disposal system, if any, have been constructed, inspected and approved by the appropriate County agencies; or
   (2) Final subdivision approval has been secured by the subdivider in accordance with chapter 23, by posting a surety bond or other security guaranteeing the construction of all of the subdivision improvements as shown on approved construction drawings and specifications, provided that final occupancy of any dwelling unit shall not be granted until the subdivision improvements for the particular increment in which such dwelling unit is situated have been constructed, inspected and approved by the appropriate County agencies.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-3. Establishment of permitted uses.

The permitted uses as listed in the regulations for each zoning district may be established within that district after compliance with the specific regulations of the district and the general regulations of this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-4. Uses prohibited.

Any use not listed among the permitted uses in a zoning district is a prohibited use within that district, except as otherwise provided in this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-5. Uses authorized by other permits.

In all districts, all land uses allowed in permits granted by the state land use commission or the commission pursuant to chapter 205, Hawaiʻi Revised Statutes, all land uses allowed in permits issued by the commission or the director pursuant to chapter 205A, Hawaiʻi Revised Statutes, and all land uses allowed in permits issued by the State board of land and natural resources pursuant to chapter 183C, Hawaiʻi Revised Statutes, or any amendment thereto, shall be deemed to be permitted uses.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-6. Use of streets.

Except as permitted by the council, no street shall be used for the display, sale, or private storage of any commodity or any material, nor shall any structure be placed therein other than a driveway, ramp or similar structure that is necessary for vehicular access to the adjoining property. This section shall not prohibit normal street improvements and those other facilities normally placed in streets.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-7. Bed and breakfast establishments.

(a) Bed and breakfast establishments shall be permitted in the RD, RM, RCX, V, CN, CG, CV and CDH districts. A bed and breakfast establishment may be permitted in the RS districts and RA, FA, A districts, within the State land use urban district, provided that a use permit is obtained for each such use. A special permit shall also be required for any bed and breakfast establishment located in either the State land use rural or agricultural districts.

(b) A bed and breakfast establishment shall be subject to the following standards:
   (1) The bed and breakfast establishment shall be subordinate and clearly or customarily incidental to the principal use as a residence by its operator and not alter or be detrimental to the character of the surrounding area.
   (2) The operator of the bed and breakfast establishment shall reside on the same building site as that being used for the bed and breakfast establishment.
   (3) The bed and breakfast establishment may be located on a building site, within any single-family dwellings, and/or guest houses (pursuant to section 25-4-9).
   (4) The bed and breakfast establishment shall contain no more than five guest bedrooms for rent to guests.
   (5) The maximum number of guests permitted within a bed and breakfast establishment at any one time shall be ten.

(6) Only breakfast meals may be offered to guests. The serving of breakfast meals on the building site, for a fee to individuals other than registered guests shall be prohibited. A bed and breakfast establishment shall not operate as a food service establishment (i.e. a restaurant), unless such use is a permitted use within the zoning district and the required permits have been acquired.

(7) One paved (with materials such as bricks, concrete, asphalt concrete surface or chip-seal, pavers, stones) off-street parking stall shall be provided for each guest bedroom, in addition to the required stall(s) for the dwelling unit, except that in the RS, RA, FA and A districts paved parking stalls shall not be required as long as the material used for the parking stalls will eliminate erosion, mud and standing water within the parking stall area.

(8) Exterior signage which advertises the dwelling as a bed and breakfast establishment shall comply with the requirements for residential signage as set forth in chapter 3 (advertising and signs), Hawai‘i County Code.

(c) Any bed and breakfast establishment which has not received the required permits shall be considered illegal under this chapter, unless otherwise noted herein.

(d) Any bed and breakfast establishment existing as of the effective date of this section and conforming to the standards contained in section 25-4-7(b) which has not received the permits required under section 25-4-7(a) may continue such use for twelve months following the effective date of this section. After this date, continued use without having submitted the necessary permit applications shall be considered illegal under this chapter.

(e) The conditions contained in any use permit issued for a bed and breakfast establishment prior to the adoption of this section shall continue to apply to the bed and breakfast establishment, notwithstanding provisions to the contrary contained in this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2000, ord 00-152, sec 3; am 2012, ord 12-124, sec 5.)

Section 25-4-8. Temporary real estate offices and model homes.

(a) Temporary real estate offices for new developments shall be permitted in all districts except for the A, IA and O districts, and model homes for new developments shall be permitted in all districts except for the A, IA, MCX, ML, MG and O districts, provided that final subdivision approval of the development has been granted by the director and plan approval for any temporary real estate office and/or model home is secured from the director prior to the establishment of such use.

(b) A temporary real estate office and model home shall also be subject to the following conditions:

(1) The development in which the temporary real estate office and/or model home is proposed to be situated must consist of six or more lots and/or units.

(2) The temporary real estate office and/or model home shall not be used for a period longer than twenty-four months from the date of plan approval by the director; provided that extensions may be granted by the director.

(3) If the temporary real estate office is established in a structure not otherwise permitted in the particular zoning district, the structure shall be removed co-terminus with the expiration of the temporary real estate office use.
(4) The temporary real estate office and/or model home shall be used exclusively for marketing of lots and/or units located within the development in which it is to be located. In multi-phased developments, a temporary real estate office or model home may be allowed for each development phase for a period not to exceed twenty-four months. Time extensions may be granted by the director.
(5) Parking for the temporary real estate office use shall be based on a minimum of one parking stall for each employee and a minimum of one parking stall for each four hundred square feet of gross floor area. The parking requirement may be satisfied off-site, provided that approval is secured from the director.
(6) The temporary real estate office and/or model home shall comply with the minimum setback and height requirements of the particular zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-9. Guest houses.

One guest house may only be established on a building site that is at least seven thousand five hundred square feet in area. A guest house shall not exceed five hundred square feet in gross floor area, shall not be more than twenty feet in height, and shall not have a kitchen.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-10. Mobile dwellings.

All mobile dwellings shall conform to the County building code (chapter 5 of this Code), and the Public Health Housing Code (chapter 2 of the State public health regulations), except:

(1) When parked in a licensed mobile home park; or
(2) When occupied for dwelling or sleeping purposes outside of a licensed mobile home park for less than thirty days in any one location.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-11. Power lines, utility substations, public buildings.

(a) Communication, transmission, and power lines of public and private utilities and governmental agencies are permitted uses within any district.
(b) Any substation used by a public or private utility for the purpose of furnishing telephone, gas, electricity, water, sewer, radio, or television shall be a permitted use in any district provided that the use is not hazardous or dangerous to the surrounding area and the director has issued plan approval for such use.
(c) Public uses, structures and buildings and community buildings are permitted uses in any district, provided that the director has issued plan approval for such use.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2006, ord 06-86, sec 2.)

Section 25-4-12. Telecommunication antennas or towers.

(a) A telecommunication antenna or tower shall be permitted in the V, CN, CG, CV, MCX, ML, MG and CDH districts; provided that the antenna, tower, and its use are not hazardous or dangerous to the surrounding area and the director has issued plan approval for such use. A telecommunication antenna or tower may be permitted in the RS, RD, RM, RCX, RA, FA, A, IA, and O districts if a use permit is obtained for such use. Where there is an existing telecommunication tower, co-location of additional antenna or equipment will be permitted provided the director has issued plan approval for such use.

(b) The minimum setbacks for a telecommunication antenna and tower are as follows:

(1) Freestanding antennas and towers shall be set back from every property line a minimum of one foot for every five feet of antenna or tower height.

(2) Telecommunication antennas and towers supported by guy wires shall be set back from every property line a minimum of one foot for every one foot of antenna or tower height.

(c) The tower, together with the initial antennas or other equipment proposed to be installed thereon, shall have a hard survivability for sustained winds of at least one hundred miles per hour.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2010, ord 10-17, sec 3; am 2011, ord 11-25, sec 2.)

Section 25-4-13. Home occupations.

(a) A home occupation shall be permitted as incidental and subordinate to the use of a dwelling in any district in which a dwelling is located, provided that the home occupation does not change the character and external appearance of the dwelling.

(b) All home occupations shall comply with the following standards:

(1) The home occupation shall be conducted either entirely within the dwelling or, if outside the dwelling, the activity shall be screened from public view.

(2) No exterior signs, symbols, displays or advertisements relating to the home occupation shall be displayed, nor shall any interior signs be visible from the public view.

(3) Any materials, supplies or products relating to the home occupation which are stored outside of the dwelling or other fully enclosed building shall be screened from the public view.

(4) Articles sold on the premises shall be limited to those produced by the home occupation, or to instructional materials pertinent to the home occupation, or to services provided by the home occupation.

(5) Only one employee shall be permitted in addition to household members under the home occupation.

(6) A minimum of one parking space shall be provided on the building site in addition to parking required for the dwelling use or other permitted uses if the home occupation involves customer or client visits or meetings. The director may require additional parking spaces where the director finds that such additional parking spaces may be reasonably necessary to avoid off-site or inappropriate parking locations. Any resident of a multiple-family dwelling may fulfill the parking requirement by the use of guest parking with the written approval of the building owner, manager or condominium association.

(c) A person desiring to engage in a home occupation that involves any of the following activities, shall file with the director, a declaration in the form designated by the director, verifying that the home occupation will comply with all of the conditions contained in subsection (b) and will not involve any of the activities listed under subsection (e):

(1) Frequent customer or client visits;

(2) Frequent deliveries or pickups;

(3) Storage of materials, supplies or products related to the home occupation outside of the dwelling or other fully enclosed building;

(4) Activities conducted outside of the dwelling; or

(5) Group instruction.

(d) A special permit shall be obtained for any home occupation on a building site that is situated within either the State land use rural or agricultural district.

(e) The following activities shall not be permitted as home occupations:

(1) Contractor storage yards, including without limitation, the storage, use, repair or fabrication of equipment designed or intended for use in land excavation or in the construction of buildings or other structures or other similar heavy equipment.

(2) Repair, fabrication or painting of automobiles or other motorized vehicles, except those owned by household members and which are not sold or made available for sale within one year of such activity regarding any particular vehicle.

(3) Care, treatment or boarding of animals in exchange for money, goods, services or other consideration.

(4) Any activities and uses which are only permitted in industrial districts.

(f) Any home occupation existing as of December 7, 1996, which involves any of the activities listed under subsection (c) may continue as a nonconforming use until September 30, 1997, at which time any such continued use without the filing of a declaration, as provided under subsection (c) shall be considered illegal under this chapter. Prior to September 30, 1997, any person may file a declaration for any home occupation existing as of December 7, 1996, which involves any of the activities listed under subsection (c), and upon the filing of such declaration, the use shall be considered a permitted use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-14. Flag lots.

A flag lot shall be permitted when sufficient street frontage is not available for more than one building site, provided the following conditions are met:

(1) The access drive connecting the building site with the street shall have a minimum width of fifteen feet.
(2) The access drive shall be the sole access for only one building site, unless dual access is approved by the director after consultation with the director of public works.
(3) The building site area, including the access drive, shall be the minimum building site area required for the zoning district.
(4) The minimum yards for a flag lot, excluding the access drive, shall be the minimum side yards required for a building site in the applicable zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-4-15. Agricultural tourism.

(a) Agricultural tourism is permitted as an accessory use to agricultural processing facilities in the CG, CDH, CV, CN, ML, MG, and MCX districts.
(b) Agricultural tourism is permitted as an accessory use to agricultural activities and agricultural processing facilities in the A, FA, IA, RA, and APD districts, subject to plan approval and in conformance with section 25-4-15(d).
(c) Agricultural tourism activities in A, FA, IA, RA, and APD districts that do not conform to section 25-4-15(d) shall obtain a special permit in the state land use agricultural or rural districts, or a use permit in the state land use urban district.
(d) Agricultural tourism operations shall comply with the following regulations:
    (1) The agricultural activity or agricultural products processing facility must have a minimum of $10,000 in verifiable gross sales, exclusive of any income from agricultural tourism activities or any other non-agricultural activities, for the year preceding the commencement of the agricultural tourism activity or, in the case of a new agricultural activity or agricultural products processing facility, provide evidence to the director's satisfaction that sufficient investment has been made in the planting of crops, acquisition of livestock, or construction of agricultural products processing facilities, that the agricultural activity or agricultural processing facility will achieve the minimum required gross sales;
    (2) Agricultural tourism activities shall not commence prior to 8:00 a.m. or continue past 6:00 p.m. daily;
    (3) The agricultural tourism operation shall have a maximum of thirty thousand visitors annually;
    (4) All visitor and employee parking, loading/unloading, and vehicular turn-around areas shall be located off-street;

(5) The total area of spaces, including covered decks, lanais, tents or canopies, and gazebos, whether newly constructed or within existing structures, to be utilized principally for the agricultural tourism activity, but not including parking and vehicular access areas, shall not exceed one thousand square feet;

(6) Gross revenues from agricultural tourism shall not exceed the gross revenues of the associated agricultural activity and/or agricultural products processing facility, including revenues from adjacent parcels under the same ownership, except where it can be demonstrated to the director's satisfaction that the gross agricultural products/processing income is less than fifty percent of the total income due to unforeseen environmental or economic conditions for not more than two consecutive years, or, in the case of a new agricultural activity or agricultural products processing facility, that sufficient investment has been made so that it is reasonable to project that the operation's gross revenues from agricultural tourism will not exceed fifty percent of gross revenues, and provided further, that the sale of all items which include agricultural products grown or processed by the associated agricultural activity or agricultural processing facility shall be included in the gross revenues of the associated agricultural activity or agricultural processing facility;

(7) Sales of agricultural products grown on the island of Hawaiʻi, and processed agricultural products where the main ingredient was grown on the island of Hawaiʻi shall be allowed as part of the agricultural tourism operation. Incidental sales of non-agricultural promotional items, including but not limited to, coffee mugs, tee shirts, etc., shall be permitted provided:

(A) The items are specifically promotional to the site's agricultural activities and/or product; and

(B) The gross revenues from the sale of non-agricultural promotional items shall be included with the gross revenues from the agricultural tourism activities;

(8) Agricultural tourism in the A, FA, IA, and RA districts shall not include weddings, parties, restaurants, schools, catered events, or overnight accommodations, unless allowed by special permit or use permit; and

(9) Annual events that promote an agricultural industry or agricultural area, and organized on a not-for-profit basis, are permitted in the A, FA, IA, RA, and APD districts without plan approval.

(e) Any agricultural tourism activity that is not in compliance with the regulations under section 25-4-15(d) or appropriately permitted as provided by section 25-4-15(c) shall be considered illegal under this chapter, unless otherwise noted herein.

(f) Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, existing prior to the effective date of this section and conforming to the standards contained in section 25-4-15(d) and that has not received plan approval, may continue such use until May 20, 2010. After this date, continued use without having received plan approval shall be considered illegal under this chapter.

(g) Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, that does not conform to the standards in section 25-4-15(d), and which has not previously received a special permit or use permit for such activity, may continue such use until May 20, 2010, and, if an application for a special permit or a use permit has been received and accepted by May 20, 2010, may continue such use until final action has been taken on the application. After May 20, 2010, or denial of the application, whichever occurs later, continued use shall be considered illegal under this chapter.
(h) Any agricultural tourism activity that is currently operated under a special permit may continue to operate under the terms and conditions of the special permit, or apply to void the special permit and, if the permit is voided, operate under the standards of section 25-4-15(d).
(i) An agricultural tourism activity that obtains plan approval, but becomes non-compliant with the standards of section 25-4-15(d) because of an increase in the number of visitors, shall apply for a special permit, but may continue to operate until a final decision is made on the special permit application.
(j) An agricultural tourism activity which has received plan approval shall submit financial records to the director on request to verify compliance and shall maintain a count of visitors which shall be furnished to the director on request.
(k) The director may use observations of visitor arrivals, including bus traffic, in estimating whether an agricultural tourism activity complies with section 25-4-15(d)(3), and may require that an activity allowed with plan approval apply for a special permit based on such observations. In that case, the activity may continue until a final decision is made on the special permit.

(2008, ord 08-155, sec 9; am 2009, ord 09-143, sec 2.)

Division 2. Heights.

Section 25-4-20. Height; general rules.

(a) No building or structure hereafter erected shall exceed the established zoning district height limit, except as hereinafter permitted or otherwise regulated.
(b) If any existing structure exceeds the established zoning district height limits, it shall not be further increased in height.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-21. Basements and underground structures.

In all districts, any number of floors below ground may be permitted.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-22. Exemptions from height limitations.

The following structures are exempt from zoning district height limits under the specified restrictions:

(a) Chimneys, spires, belfries, water tanks, monuments, steeples, antennae, flag poles, vent pipes, fans, structures housing or screening elevator machinery and other similar features, not to exceed ten feet above the governing height limit.
(b) Safety railings not to exceed forty-two inches above the governing height limit.
(c) Utility poles and lines and telecommunication antennas not to exceed five hundred feet from existing grade.
(d) One antenna for an amateur radio station operation per building site, not to exceed ninety feet above existing grade.
(e) Wind machines, where permitted, provided that each machine shall be set back from all property lines one foot for each foot of height, measured from the highest vertical extension of the system.
(f) Any energy savings device, including heat pumps and solar collectors, not to exceed eight feet above the governing height limit.
(g) Nonresidential agricultural structures in the A and IA districts, not to exceed one hundred feet, as approved by the director upon finding that the additional height above forty-five feet is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-23. Accessory structure height limitations.

An accessory structure shall not exceed twenty feet in height, unless otherwise specified in this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 3. Street Frontage, Lot Areas and Widths.

Section 25-4-30. Minimum street frontage.

The following minimum street frontage standards apply to every building site:

(a) Fifty percent of the required building site average width for any building site in a zoning district providing for a minimum building site of one acre or less, except for flag lots, any building site located at the end of a cul-de-sac, and any building site where the access to the building site is by means of a roadway easement.
(b) One hundred feet for any building site in a zoning district providing for a minimum building site of over one acre, except for flag lots, any building site located at the end of a cul-de-sac, and any building site where the access to the building site is by means of a roadway easement.
(c) The width of the pole or fifteen feet for any flag lot.
(d) Fifteen feet for any building site located at the end of a cul-de-sac.
(e) No street frontage shall be required for any building site where access to the building site is by means of a roadway easement.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-31. Minimum building site area; minimum average width.

(a) Unless otherwise specified in this chapter, each main building must be located on a building site having not less than the established zoning district minimum building site area.

(b) Any building site which has less area or width than that required by the established zoning district, may be used as a legal building site; provided that the owner of the building site owns no adjoining property at the same time.

(c) A building site shall be deemed to conform to the requirements for building site average width if any portion of the building site considered separately has the minimum building site area with the minimum average width.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-32. Reduction of building site below minimum area.

(a) A building site may not be reduced below the established zoning district minimum building site area, and an existing building site, which is below the minimum building site area, may not be further reduced in area, except as provided under section 25-3-5.

(b) Any legal building site reduced in area or average width by not more than twenty percent, by reason of the establishment of future width lines or plan lines for future streets or by the acquisition by a public agency for public purposes, shall be deemed to be a legal building site as to the remainder of the building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-33. Effect of delinquent tax sale; recordation of land.

Any parcel of land that is not otherwise a legal building site does not become a legal building site by virtue of being sold at a delinquent tax sale, or by reason of recordation of the parcel of land at the State bureau of conveyances.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-34. Waiver of minimum building site area for utilities.

The required minimum building site area may be waived by the director for public utility or public rights-of-way subdivisions, or both, and any resulting remnant parcels.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 4. Yards and Open Space.

Section 25-4-40. General requirements for yards and open space.

(a) On every building site, yards of the minimum width or depth as specified for the established zoning district shall be maintained open and unobstructed from the ground up, except as specified in sections 25-4-40 through 25-4-47.

(b) No required yard or open space may fulfill the requirement for more than one building, building site, or use.

(c) A building site shall have a front yard wherever it has a street frontage, except where the option of either a front or rear yard is allowed in CV and CG districts.

(d) In CV and CG districts, where the building site is bounded by two or more streets, a minimum of one front yard shall be required. Its location shall be determined by taking into account the relationship and impact of the development to the adjoining streets.
(e) Unless otherwise specified, yards, open spaces, and distances shall be measured horizontally.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-41. Triangular or irregular building sites.
(a) On any triangular-shaped building site, the rear yard shall be measured from the point most nearly opposite the street line and in the same manner as for a corner building site.
(b) In the event a building site is so irregular in shape that it is impossible to establish side and rear yards, the director shall view the relationship between the building site and surrounding property and shall specify the required yards.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-42. Corner building sites.
(a) On any corner building site, the interior lines shall be side lot lines and all rear yard regulations shall be inapplicable.
(b) On any corner building site in all zoning districts except in the CN district, within the area of a triangle formed by the street lines of such building site (ignoring any corner radius), and a line drawn between points on such street lines twenty-five feet from the intersection thereof, no fence, wall, hedge, or building shall be higher than three feet nor shall there be any obstruction to vision other than a post, column, or tree trunk clear of branches or foliage, between the height of three feet and eight feet above the level of the street or the level of the point of intersection if the streets are sloping.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-43. Fences and accessory structures.
(a) A perimeter boundary fence, wall or similar feature, six feet or less in height shall not be considered a structure and shall be permitted without any front, side or rear yard requirements. In addition, a fence which is constructed of strand material, such as barbed wire, hog wire, or chain link, which allows "see-through" visibility is permitted to a height of eight feet without any front, side, or rear yard requirements.
(b) No fence, wall, architectural feature, or other obstruction shall be placed or be without gates or openings so as to prohibit complete access around any main building at all times.
(c) Any accessory structure, including any fence, or wall over six feet in height, architectural feature or water tank, which is not connected to a building, may not extend into any required front, side or rear yard, but may be located next to any building without any open space requirement.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-44. Permitted projections into yards and open spaces.

(a) Except as may otherwise be restricted, roof overhangs, eaves, sunshades, sills, frames, beam ends, cornices, canopies, porches, balconies, terraces, fire escapes, stairs, ramps, above-grade pools and other similar features may extend four feet into any required yard or open space that is less than ten feet, five feet when required yard or space is from ten up to fifteen feet, and six feet when required yard is over fifteen feet; provided that:

(1) No cornice, canopy, eave, porch, balcony, terrace, fire escape, stair, ramp or other similar feature shall be enclosed above or below the extension except that there may be individual posts or beams for support and open or grill-type railings no higher than four feet.

(2) No chimney may extend more than two feet into any yard.

(3) No above-grade pool may extend into any required front, side or rear yard if the pool is over six feet in height.

(b) The extensions permitted in this section apply separately to each building.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-45. Projection of porte-cocheres.

An attractively designed porte-cochere may extend any distance into a front yard as a protection for arriving motorists and pedestrians.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-46. Projection of pools.

A pool constructed at-grade may extend any distance into a required yard or open space.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-47. Minimum distance between main buildings on same building site.

Unless otherwise specified, the minimum distance between main buildings on the same building site shall be fifteen feet, measured between the walls of the two buildings.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 5. Off-Street Parking and Loading.

Section 25-4-50. Off-street parking and loading: purpose.

(a) Parking and loading standards are intended to minimize street congestion and traffic hazards, and to provide safe and convenient access to residences, businesses, public services and places of public assembly.

(b) Off-street parking and loading spaces shall be provided in such number, at such location and with such improvements as required as set forth in this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-51. Required number of parking spaces.

(a) The number of parking spaces for each use shall be as follows:

(1) Agricultural tourism: one for each three hundred square feet of gross floor area used principally for the agricultural tourism activity, but not fewer than three spaces, plus bus parking if buses are allowed.

(2) Bed and breakfast establishments: one for each guest bedroom, in addition to one for the dwelling unit.

(3) Bowling alleys: four for each alley.

(4) Commercial uses, including retail and office uses in RCX, CN, CG, CV, MCX, V, RA, FA, A and IA districts: one for each three hundred square feet of gross floor area.

(5) Day care centers: one for each ten care recipients of design capacity or one for every two hundred square feet of gross floor area, whichever is greater.

(6) Dwellings, multiple-family: one and one quarter for each unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.

(7) Dwellings, single-family and double-family or duplex: two for each dwelling unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.

(8) Funeral homes, funeral services, mortuaries, and crematoriums: one for each seventy-five square feet of gross floor area.

(9) Golf courses: four for every hole.

(10) Hospitals: one for each bed.

(11) Hotels and lodges:

(A) For hotel guest units without a kitchen, one for every three units;

(B) For hotel guest units with a kitchen, one and one quarter for each unit.

(12) Industrial uses in ML, MG, MCX, RA, FA, A and IA districts: one for each four hundred square feet of gross floor area.

(13) Laundromats, cleaners (coin operated): one for every four machines.

(14) Major outdoor amusement and recreation facilities: one for each two hundred square feet of gross floor area within enclosed buildings, plus one for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.

(15) Meeting facilities, including churches: one for each seventy-five square feet of gross floor area.

(16) Nursing homes, convalescent homes, rest homes and homes for the elderly: one for every two beds.

(17) Parks: as determined by the director.

(18) Recreation facilities, outdoor or indoor, other than herein specified: one for each two hundred square feet of gross floor area, plus three per court (racquetball, tennis or similar activities).

(19) Rooming and lodging houses, religious, fraternal or social orders having sleeping accommodations: one for each two beds.

(20) Schools (elementary and intermediate): one for each twenty students of design capacity, plus one for each four hundred square feet of office floor space.
(21) Schools (high, language, vocational, business, technical and trade, college): one for each ten students of design capacity, plus one for each four hundred square feet of office floor space.
(22) Sports arenas, auditoriums, theaters, assembly halls: one for every four seats.
(23) Swimming pools (community): one for each forty square feet of pool area.
(24) Warehouse and bulk storage establishments where there is no trade or retail traffic: one for each one thousand square feet of gross floor area.

(b) No additional parking is required for any change of use in a building as long as the previous use of the building had the required number of parking stalls for that use; provided, that additional parking may be required for a change of use in any building where the building is converted from residential to commercial use or from warehouse and manufacturing use to retail or commercial use.

(c) Where uses and activities do not occur simultaneously, parking space requirements may be shared, provided that:
(1) The utilization of the combined parking is shown to the satisfaction of the director to be noncompeting as to time of use;
(2) The number of parking spaces is based on the largest parking requirement of those respective facilities;
(3) The parking areas are not more than one thousand feet from any of the buildings housing the activities; and
(4) The parking areas are encumbered for that use for the life of the facilities being served.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 10; am 2012, ord 12-91, sec 3; am 2013, ord 13-95, sec 1; am 2014, ord 14-85, sec 2.)

Section 25-4-52. Method of determining number of parking spaces.

(a) When computation of required parking spaces results in a fractional number, the number of spaces required shall be the next highest whole number.

(b) In stadiums, sports arenas, meeting facilities, and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four inches of width shall be counted as a seat for the purpose of determining requirements for off-street parking.

(c) If bicycle parking stalls are constructed on any building site, the total number of required parking spaces shall be reduced by one parking space for every five bicycle parking stalls constructed.

(d) At least sixty-seven percent of the required parking shall be standard-sized parking spaces, and thirty-three percent may be compact spaces.

(e) The director may increase the required number of parking spaces for any use during plan approval if the director reviews the proposed use and its impact to the immediate area and finds that the increase will further the public safety, convenience and welfare.

(f) If there is any doubt as to the requirements for off-street parking for any use not specifically mentioned or for any other reason, the director shall determine the required number of parking spaces for such use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-53. Minimum dimensions of parking spaces.

(a) Standard-sized automobile parking spaces shall be at least eighteen feet in length and eight feet six inches in width, with curbside parallel spaces at least twenty-two feet in length.

(b) Compact spaces shall be at least sixteen feet in length and seven feet six inches in width, with curbside parallel spaces at least eighteen feet in length.

(c) Minimum aisle widths for parking bays shall be provided in accordance with the following:

Angle of Parking to Curb	Minimum Width
to 0° (parallel)	12'
to 45°	14'
to 60°	18'
to 90° (perpendicular)	24'

(d) Parking spaces may have a three-foot unpaved car overhang area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-54. Standards and improvements to off-street parking spaces.

(a) All parking spaces shall be arranged so as to be individually accessible.

(b) Except for one duplex dwelling or two single-family dwellings on any single building site, access to any individual parking space shall not be directly from or to a street but must be reached from an on-site access driveway of proper design and width to allow for passage of vehicles and necessary turning movements.

(c) In V, CN, CG, CV, MCX, ML, MG, RD, RM and RCX districts, parking spaces shall be paved.

(d) For any permitted use in the RS, RA, FA, A or IA districts, the pavement of parking spaces is not required, and any material may be used for the parking spaces that will eliminate erosion, mud and standing water.

(e) For any parking space containing a building column, that column may intrude six inches into the required width, provided that the building column shall not be located at the entry of the parking space. A wall shall not be considered a building column.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-55. Parking for persons with disabilities.

Parking for persons with disabilities shall comply with all applicable federal and state requirements for the facility or site.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2016, ord 16-98, sec 1.)

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Section 25-4-56. Off-street loading requirements.

Off-street loading requirements shall apply to all buildings having a gross floor area of at least five thousand square feet, except for single-family residential units, in all zoning districts. The minimum number of off-street loading spaces shall be as follows:

Use or Use Category	Floor Area in Square Feet	Loading Space Requirements
1. Commercial and industrial uses, including retail and wholesale operations, eating and drinking establishments, business services, personal services, repair, manufacturing and self storage facilities, but excluding offices	5,000 — 10,000	1
	10,001 — 20,000	2
	20,001 — 30,000	3
	30,001 — 40,000	4
	40,001 — 60,000	5
	Each additional 50,000 or major fraction thereof	1
2. Hotels, hospital or similar institutions, and places of public assembly	5,000 — 10,000	1
	10,001 — 50,000	2
	50,001 — 100,000	3
	Each additional 100,000 or major fraction thereof	1
3. Offices or office buildings	20,000 — 50,000	1
	50,001 — 100,000	2
	Each additional 100,000 or major fraction thereof	1
4. Multiple-family dwellings	Number of Units	
	20 — 150	1
	151 — 300	2
	Each additional 200 or major fraction thereof	1

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-57. Method of determining number of loading spaces.

(a) The gross floor area of a building shall be used to determine the required number of loading spaces for that building.

(b) When a building is used for more than one use, and the gross floor area for each use is below the minimum requiring a loading space, and the aggregate gross floor area of the several uses exceeds the minimum floor area of the use category requiring the greatest number of spaces, at least one loading space shall be required.

(c) The number of loading spaces required may be adjusted to fifty percent of the required number when such spaces are assigned to serve two or more uses jointly, provided that each use has access to the loading zone without crossing public streets or sidewalks.
(d) When computation of required loading space results in a fractional number, the number of spaces required shall be the next highest whole number.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-58. Dimension of loading spaces.
(a) When only one loading space is required and the total gross floor area is not more than five thousand square feet, the horizontal dimensions of the loading space shall be ten feet wide and twenty-two feet long, and the vertical clearance shall be at least fourteen feet.
(b) When only one loading space is required and the total gross floor area is more than five thousand square feet, the horizontal dimensions of the loading space shall be twelve feet wide and fifty feet long, and the vertical clearance shall be at least fourteen feet.
(c) When more than one loading space is required or the total gross floor area is more than five thousand square feet, the minimum horizontal dimension of at least half of the required loading spaces shall be twelve feet wide and fifty feet long, and the vertical clearance shall be at least fourteen feet. The balance of the required loading spaces may have horizontal dimensions of ten feet wide and twenty-two feet long.
(d) The required apron space, or area provided for maneuvering trucks into or out of loading position, shall be forty-six feet if the loading space width is ten feet, forty-three feet if the loading space width is twelve feet, and thirty-nine feet if the loading space width is fourteen feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59. Location and improvement of loading spaces.
(a) All required loading spaces shall be located on the building site to which they are appurtenant. No loading spaces shall be permitted within any street or alley.
(b) Each required loading space shall be identified as such and shall be reserved for loading purposes.
(c) No loading space shall occupy required off-street parking space or restrict access.
(d) Access to any loading space shall not be directly from or to a street but must be reached from an on-site access driveway of proper design and width to allow for passage of trucks and necessary turning movements.
(e) All loading spaces and apron spaces or maneuvering areas shall be paved.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59.1. Director determination of parking and loading requirements.

(a) The director may increase any of the requirements in this chapter for parking spaces and loading spaces, after reviewing the proposed use and the use's impact to the immediate area, if the director makes a finding that the increase will further the public safety, convenience, and welfare.

(b) In case there is any doubt as to the requirements for parking or loading spaces for any use not specifically mentioned, or for any other reason, the director shall make such determination.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59.2. Exceptions to the off-street parking and loading requirements.

The off-street parking and loading requirements of this chapter shall not apply to the following:

(a) Non-residential uses located within that area in the City of Hilo, bounded by Kinoʻole Street, Ponahawai Street, and an imaginary straight line extension of Ponahawai Street into Hilo Bay and Wailuku River.

(b) Dwelling units with a maximum density of one thousand square feet of land area per unit or less, within that area in the City of Hilo, bounded by Kinoʻole Street, Ponahawai Street, and an imaginary straight line extension of Ponahawai Street into Hilo Bay and Wailuku River.

(c) That area immediately fronting either side of that portion of the Hawaiʻi Belt Highway which runs from the real property designated as tax map key no: 7-9-7-66 to the real property designated as tax map key no: 7-9-9:22, in Kainaliu, North Kona.

(d) Those lots in the PVD district having a total area of less than seven thousand five hundred square feet and that have frontage on Pāhoa Village Road between Post Office Road and the eastern intersection of Akeakamai Loop and Pāhoa Village Road; provided that any lot created through parcel consolidation does not result in a lot having a total area of seven thousand five hundred square feet or more, or a parcel consolidation and resubdivision that results in the creation of additional building sites after May 28, 2015 shall provide off-street parking in accordance with the requirements of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2013, ord 13-95, sec 2; am 2015, ord 15-44, sec 3.)

Section 25-4-59.3. Landscaping and screening for parking lots and loading spaces.

(a) To provide shade in open parking lots and minimize visibility of paved surfaces, parking lots with more than twelve parking stalls shall provide one canopy form tree with a minimum of two-inch caliper for every twelve parking stalls or major fraction thereof and having a planting area or tree well no less than thirty square feet in area. If wheel stops are provided, continuous planting areas with low groundcover centered at the corner of parking stalls may be located within the three-foot overhang space of parking stalls. Hedges and other landscape elements, including planter boxes over six inches in height, are not permitted within the overhang space of the parking stalls. Trees shall be sited so as to evenly distribute shade throughout the parking lot.

(b) Parking lots of five or more spaces shall be screened from adjoining lots in RS, RD, RM, RCX or RA districts by walls, continuous screening hedges, or earth berms a minimum of forty-two inches high on the abutting property line.

(c) All loading spaces shall be screened from adjoining lots in RS, RD, RM, RCX or RA districts by a wall six feet in height.

(d) Xeriscape and native Hawaiian plant species shall be encouraged.

(e) All landscaping shall be maintained by the property owner.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 6. Nonconforming Uses and Buildings.

Section 25-4-60. Nonconforming buildings; maintenance and repair.

(a) Any nonconforming building, except as otherwise regulated, may be repaired, maintained, or enlarged provided that any enlargement or addition shall conform in every respect to the regulations for the district in which it is located, except as provided in this division.

(b) If the portion of the building that is nonconforming should be destroyed it may only be rebuilt in compliance with all of the requirements under the County building code for reconstruction and repair of nonconforming buildings.

(1996, ord 96-160, sec 2; ratified April 6, 1999.; am 2002, ord 02-89, sec 1.)

Section 25-4-61. Continuance of nonconforming uses of land and buildings.

(a) Any nonconforming use of land or use of a building may continue to the extent it existed on December 7, 1996 or at the time of the adoption of any amendments to this chapter, provided that a nonconforming use may be enlarged within the building it occupies, but shall not be enlarged or increased to occupy a greater area of land, nor shall it or the portion of the building housing it be moved in whole or in part to any other portion of the building site occupied by such nonconforming use, except as provided in this division.

(b) Public buildings, public or private power and telephone facilities including offices and plants existing prior to May 24, 1967 may be enlarged or increased to occupy a greater area of land or building, notwithstanding the limitations contained in this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-62. Abandonment of nonconforming use.

If any nonconforming use ceases for any reason for a continuous period of twelve calendar months, or for one season if the use be seasonal, then such use shall not be resumed and any use of the land or building or both thereafter shall be in full conformity with the provisions of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-63. Destruction of building with nonconforming use.

Except as provided in this division, if the portion of any building within which a nonconforming use is conducted should be destroyed or damaged by any means to an extent equivalent to at least fifty percent of its replacement value, exclusive of foundations, then such damaged or destroyed portion may not be restored unless the use of the building is changed to a conforming use. If the damage or destruction is less than fifty percent of its replacement value, exclusive of foundation, then the building may be restored and such use may be resumed as it existed, provided that such restoration shall be completed within one year from the date of such damage or destruction. The department of public works shall determine the extent of damage to determine whether the building may be restored and resume its existing nonconforming use.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-64. Maintenance of building with nonconforming use.

Except as provided in this division, any building within which a nonconforming use is conducted may be maintained and repaired to the extent necessary to keep it in sound condition provided the work shall not exceed twenty-five percent of the current replacement value of such building, in any one calendar year as determined by the department of public works.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-65. Expansion of nonconforming use; changes to building with nonconforming use.

If a use of a building is nonconforming because of a particular requirement of the district within which it is located (e.g. parking, yards, height, distance between buildings), then the use may be enlarged and the building may be changed or added to, provided such enlargement, change or addition is itself in full compliance with the district regulations.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-65.1. Exceptions to nonconforming use and building provisions.

The following shall be exceptions to this division:

(1) A multiple-family building or use, when the non-conforming situation is the consequence of an amendment to the general plan and associated zoning, may be replaced, repaired or reconstructed to its as-built density, height and setbacks, if the applicable zoning would permit construction of a single-family residence, provided the repair or reconstruction otherwise complies with the current building code. Construction shall commence within five years from the date the building is damaged or destroyed; or

(2) A building made nonconforming with respect to the number of required parking spaces may be replaced or reconstructed if destroyed or damaged, to its prior condition, with the number of parking spaces required when it was built, provided that the director shall require additional parking be provided if it is feasible to do so, and construction shall commence within five years from the date the building is damaged or destroyed.

(2002, ord 02-89, sec 1; am 2007, ord 07-179, sec 2.)

Division 7. De Minimis Structure Position Discrepancy.

Section 25-4-66. Procedure for recognizing a de minimis structure position discrepancy.

An application for recognition of a de minimis structure position discrepancy shall be filed with the director and shall include:

(a) A description of the property in sufficient detail to determine the precise location of the property involved.

(b) A plot plan of the property, prepared by a licensed surveyor, showing existing improvements, and the improvement(s) and relevant distances for the de minimis structure position discrepancies.

(c) A description of the nature of the improvements involved in the de minimis structure position discrepancies.

(d) A statement by the landowner that to the best of the landowner's knowledge and information, the improvements were placed without actual knowledge that they did not meet the minimum yard or open space requirements.

(e) A filing fee of $25.

(2002, ord 02-70, sec 3.)

Section 25-4-67. Review by director.

Within fifteen days of receipt of the application, the director shall either accept the application as complete, or reject it as incomplete, in writing. Any rejection shall list the deficiencies in the application. The director shall approve or deny an application for recognition of a de minimis structure position discrepancy within twenty-five days after acceptance of the completed application. If the director does not approve or deny the application within twenty-five days of acceptance, the application shall be deemed approved.

(2002, ord 02-70, sec 3.)

Section 25-4-68. Grounds for approval or denial.

The director shall approve an application for recognition of a de minimis structure position discrepancy unless:

(a) The discrepancy is greater than the difference as allowed by the de minimis structure position discrepancy definition, or

(b) The director finds that the improvement was placed with knowledge that it would violate the minimum yard or open space requirements; or

(c) The improvement could be moved, or the discrepancy otherwise corrected, without significant expense, difficulty, or hardship to the applicant.

(2002, ord 02-70, sec 3.)

Section 25-4-69. Recognition of de minimis structure position discrepancy.

If the director accepts the application for recognition of de minimis structure position discrepancy, the director shall notify the applicant in writing that the discrepancy is not a violation of the zoning code and that it may remain in place without a variance.

(2002, ord 02-70, sec 3.)

Section 25-4-70. Disclosure.

A de minimis structure position discrepancy shall be disclosed by the owner to subsequent purchasers of the property in question.

(2002, ord 02-70, sec 3.)

Section 25-4-71. Appeals.

The director's decision with respect to a de minimis structure position discrepancy is appealable to the board of appeals.

(2002, ord 02-70, sec 3.)

Article 5. Zoning District Regulations.

Division 1. RS, Single-Family Residential Districts.

Section 25-5-1. Purpose and applicability.

The RS (single-family residential) district provides for lower or low and medium density residential use, for urban and suburban family life. It applies to areas having facilities, and to carry out the above stated purpose.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-2. Designation of RS districts.

Each RS (single-family residential) district shall be designated on the zoning map by the symbol "RS" followed by a number which specifies the required minimum building site area in thousands of square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-3. Permitted uses.

(a) The following uses shall be permitted in the RS district:
  (1) Adult day care homes.
  (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Crop production.
  (5) Dwellings, single-family.
  (6) Family child care homes.
  (7) Group living facilities.
  (8) Home occupations, as permitted under section 25-4-13.
  (9) Meeting facilities.
  (10) Model homes, as permitted under section 25-4-8.
  (11) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
  (12) Public uses and structures, as permitted under section 25-4-11.
  (13) Temporary real estate offices, as permitted under section 25-4-8.
  (14) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RS district, provided that a use permit is issued for each use:
  (1) Bed and breakfast establishments as permitted under section 25-4-7.
  (2) Care homes.
  (3) Churches, temples and synagogues.
  (4) Crematoriums, funeral homes, funeral services, and mortuaries.
  (5) Day care centers.
  (6) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
  (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
  (8) Major outdoor amusement and recreation facilities.
  (9) Schools.
  (10) Telecommunication antennas and towers.
  (11) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RS district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 3; am 2014, ord 14-86, sec 3.)

Section 25-5-4. Height limit.

The height limit in the RS district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-5. Minimum building site area.

The minimum building site area in the RS district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-6. Minimum building site average width.

Each building site in the RS district shall have a minimum average width of sixty feet, plus two feet for each five hundred square feet of required building site area in excess of seven thousand five hundred square feet, except that no building site shall be required to have an average width of more than one hundred fifty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-7. Minimum yards.

The minimum yards in the RS district shall be as follows:

(1) On a building site with a required area of seven thousand five hundred square feet to and including nine thousand nine hundred ninety-nine square feet:
   (A) Front and rear yards, fifteen feet; and
   (B) Side yards, eight feet.
(2) On a building site with a required area of ten thousand square feet to and including nineteen thousand nine hundred ninety-nine square feet:
   (A) Front and rear yards, twenty feet; and
   (B) Side yards, ten feet.
(3) On a building site with a required area of twenty thousand square feet or more:
   (A) Front and rear yards, twenty-five feet; and
   (B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 1.)

Section 25-5-8. Other regulations.

(a) There may be more than one single-family dwelling on each building site in an RS district provided there is not less than the required minimum building site area for each dwelling.
(b) One guest house, in addition to a single-family dwelling, may be located on any building site in the RS district.
(c) An ohana dwelling may be located on any building site in the RS district, as permitted under article 6, division 3 of this chapter.
(d) If a legal building site in the RS district has less area or average width than is required, then the yard requirements for the building site shall be the same as in the RS district having the largest requirements for which the building site can comply.
(e) Exceptions to the regulations for the RS district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development, or by the director within a cluster plan development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 3.)

Division 2. RD, Double-Family Residential Districts.

Section 25-5-20. Purpose and applicability.

The RD (double-family residential) district provides for moderate density use characterized by the establishment of single or double-family dwellings on each building site. It applies to areas with developed community facilities. It may occupy a transitional area between RS districts and those districts having a more intense use of land.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-21. Designation and density of RD districts.

Each RD (double-family residential district) shall be designated on the zoning map by the symbol "RD" followed by the number "3.75" which requires that the minimum land area for each dwelling unit shall be three thousand seven hundred fifty square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-22. Permitted uses.

(a) The following uses shall be permitted in the RD district:
  (1) Adult day care homes.
  (2) Bed and breakfast establishments as permitted under section 25-4-7.
  (3) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (4) Community buildings, as permitted under section 25-4-11.
  (5) Crop production.
  (6) Dwellings, double-family or duplex.
  (7) Dwellings, single-family.
  (8) Family child care homes.
  (9) Group living facilities.
  (10) Home occupations, as permitted under section 25-4-13.
  (11) Meeting facilities.
  (12) Model homes, as permitted under section 25-4-8.
  (13) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
  (14) Public uses and structures, as permitted under section 25-4-11.
  (15) Temporary real estate offices, as permitted under section 25-4-8.
  (16) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RD district, provided that a use permit is issued for each use:
  (1) Care homes.
  (2) Churches, temples and synagogues.
  (3) Crematoriums, funeral homes, funeral services, and mortuaries.
  (4) Day care centers.

(5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(7) Major outdoor amusement and recreation facilities.
(8) Schools.
(9) Telecommunication antennas and towers.
(10) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted under this section shall also be permitted in the RD district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 4; am 2014, ord 14-86, sec 4.)

Section 25-5-23. Height limit.

The height limit in the RD district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-24. Minimum building site area.

The minimum building site area in the RD district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-25. Minimum building site average width.

Each building site in the RD district shall have a minimum average width of sixty feet, plus two feet for each five hundred square feet of required building site area in excess of seven thousand five hundred square feet, except that no building site shall be required to have an average width of more than one hundred fifty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-26. Minimum yards.

The minimum yards in the RD district shall be as follows:

(1) On a building site with a required area of seven thousand five hundred square feet to and including nine thousand nine hundred ninety-nine square feet:
    (A) Front and rear yards, fifteen feet; and
    (B) Side yards, eight feet.
(2) On a building site with a required area of ten thousand square feet to and including nineteen thousand nine hundred ninety-nine square feet:
    (A) Front and rear yards, twenty feet; and
    (B) Side yards, ten feet.

(3) On a building site with a required area of twenty thousand square feet or more:
(A) Front and rear yards, twenty-five feet; and
(B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 2.)

Section 25-5-27. Other regulations.

(a) There may be more than one double-family dwelling or more than two single-family dwellings or any combination thereof on each building site in the RD district; provided that the minimum land area requirement for each dwelling unit is met.
(b) There shall be at least fifteen feet between the exterior walls of each main structure on the same building site in the RD district.
(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RD district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RD district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 3; am 2015, ord 15-33, sec 4.)

Division 3. RM, Multiple-Family Residential Districts.

Section 25-5-30. Purpose and applicability.

The RM (multiple-family residential) district provides for medium and high density residential use. It covers areas with full community facilities and services. It may occupy transition areas between commercial or industrial areas and other districts of less intense land use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-31. Designation and density of RM districts.

(a) Each RM (multiple-family residential) district shall be designated on the zoning map by the symbol "RM" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses.
(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RM district.
(c) The maximum density designation in the RM district shall be .75 or seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
(d) In the RM district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-32. Permitted uses.

(a) The following uses shall be permitted in the RM district:
- (1) Adult day care homes.
- (2) Bed and breakfast establishments, as permitted under section 25-4-7.
- (3) Boarding facilities, rooming, or lodging houses.
- (4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (5) Commercial or personal service uses, on a small scale, as approved by the director, provided that the total gross floor area does not exceed one thousand two hundred square feet and a maximum of five employees.
- (6) Community buildings, as permitted under section 25-4-11.
- (7) Crop production.
- (8) Dwellings, double-family or duplex.
- (9) Dwellings, multiple-family.
- (10) Dwellings, single-family.
- (11) Family child care homes.
- (12) Group living facilities.
- (13) Home occupations, as permitted under section 25-4-13.
- (14) Meeting facilities.
- (15) Model homes, as permitted under section 25-4-8.
- (16) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (17) Public uses and structures, as permitted under section 25-4-11.
- (18) Temporary real estate offices, as permitted under section 25-4-8.
- (19) Time share units situated in any of the following:
  - (A) Areas designated as resort under the general plan land use pattern allocation guide (LUPAG) map.
  - (B) Areas determined by the director to be within resort areas identified by the general plan land use element, except for retreat resort areas.
  - (C) Areas determined for such use by the council, by resolution.
- (20) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
- (1) Care homes.
- (2) Churches, temples and synagogues.
- (3) Crematoriums, funeral homes, funeral services, and mortuaries.
- (4) Day care centers.
- (5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(7) Major outdoor amusement and recreation facilities.
(8) Schools.
(9) Telecommunication antennas and towers.
(10) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RM district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 5; am 2014, ord 14-86, sec 5.)

Section 25-5-33. Height limit.

(a) In areas in the County outside of the City of Hilo, the height limit in the RM district shall be forty-five feet.
(b) In the City of Hilo, the height limit in the RM district shall be one hundred twenty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-34. Minimum building site area.

The minimum building site in the RM district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-35. Minimum building site average width.

Each building site in the RM district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-36. Minimum yards.

Minimum yards in the RM district shall be as follows:

(1) Front and rear yards, twenty feet; and
(2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified 1999, ord 96-160, sec 1.)

Section 25-5-37. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RM district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999, am 2005, ord 05-155, sec 4.)

Section 25-5-38. Other regulations.

(a) There may be more than one main building on any building site in the RM district.
(b) Distance between main buildings on the same building site in the RM district shall be at least fifteen feet.
(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RM district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RM district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 5; am 2015, ord 15-33, sec 4.)

Division 4. RCX, Residential-Commercial Mixed Use Districts.

Section 25-5-40. Purpose and applicability.

The RCX (residential-commercial mixed use) district provides for the mixing of some small-scale service type commercial uses in a district that is primarily residential in character. The intent of this district is to allow a residential area to have certain convenience type of commercial uses so as to provide more of a neighborhood character to the residential area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-41. Designation and density of RCX districts.

(a) Each RCX (residential-commercial mixed use) district shall be designated on the zoning map by the symbol "RCX" followed by a number which indicates the required land area, in thousands of square feet for each dwelling unit, or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses, or for each commercial unit.
(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RCX district.
(c) The maximum density designation in the RCX district shall be .75 which means seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
(d) In the RCX district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-42. Permitted uses.

(a) The following uses shall be permitted in the RCX district:
    (1) Adult day care homes.
    (2) Bed and breakfast establishments, as permitted under section 25-4-7.
    (3) Boarding facilities, rooming, or lodging houses.

(4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(5) Churches, temples and synagogues.
(6) Commercial or personal service uses, on a small scale, as approved by the director.
(7) Community buildings, as permitted under section 25-4-11.
(8) Convenience stores.
(9) Crop production.
(10) Day care centers.
(11) Dwellings, double-family or duplex.
(12) Dwellings, multiple-family.
(13) Dwellings, single-family.
(14) Family child care homes.
(15) Group living facilities.
(16) Home occupations, as permitted under section 25-4-13.
(17) Medical clinics.
(18) Meeting facilities.
(19) Model homes, as permitted under section 25-4-8.
(20) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(21) Public uses and structures, as permitted under section 25-4-11.
(22) Restaurants.
(23) Schools.
(24) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RCX district, provided that a use permit is issued for each use:
(1) Care homes.
(2) Crematoriums, funeral homes, funeral services, and mortuaries.
(3) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(4) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(5) Major outdoor amusement and recreation facilities.
(6) Telecommunication antennas and towers.
(7) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the above uses shall also be permitted in the RCX district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 6; am 2014, ord 14-86, sec 6.)

Section 25-5-43. Height limit.

The height limit in the RCX district shall be forty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-44. Minimum building site area.

The minimum building site area in the RCX district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-45. Minimum building site average width.

Each building site in the RCX district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-46. Minimum yards.

Minimum yards in the RCX district shall be as follows:

(1) Front and rear yards: twenty feet; and

(2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-47. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RCX district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 6.)

Section 25-5-48. Commercial use restrictions.

(a) Where commercial uses are integrated with residential uses in the RCX district, pedestrian access to the dwelling shall be independent from other uses and shall be designed to enhance privacy for residents.

(b) No floor of any building in the RCX district shall be used for both dwelling and commercial purposes.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-49. Other regulations.

(a) There may be more than one main building on any building site in the RCX district.

(b) Distance between main buildings on the same building site in the RCX district shall be at least fifteen feet.

(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RCX district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RCX district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 7; am 2015, ord 15-33, sec 4.)

Division 5. RA, Residential and Agricultural Districts.

Section 25-5-50. Purpose and applicability.

The RA (residential and agricultural) district provides for activities or uses characterized by low density residential lots in rural areas where "city-like" concentrations of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots. The RA district is intended to be only within areas designated as being in the State land use rural or urban districts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-51. Designation of RA districts.

Each RA (residential and agricultural) district shall be designated on the zoning map by the symbol "RA" followed by a number and the lower case letter "a" which indicates the required or minimum number of acres for each building site. For example RA-1a means a residential agricultural district with a minimum building site area of one acre.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-52. Permitted uses.

(a) The following uses shall be permitted in the RA district:
  (1) Adult day care homes.
  (2) Agricultural products processing, minor, provided that the site or buildings used for such processing, shall be located at least seventy-five feet from any street bounding the building site.
  (3) Agricultural tourism as permitted under section 25-4-15.
  (4) Animal hospitals.
  (5) Aquaculture.
  (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
  (7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (8) Crop production.
  (9) Dwelling, single-family, one per building site.

(10) Family child care homes.
(11) Group living facilities.
(12) Kennels, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
(13) Livestock production (excluding pigs), provided that:
  (A) The requirements of the department of health are met;
  (B) Approval of the director is obtained; and
  (C) Any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animal shall be located at least seventy-five feet from any lot line.
(14) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
(15) Public uses and structures, as permitted under section 25-4-11.
(16) Roadside stands for the sale of agricultural products grown on the premises.
(17) Stables, commercial or boarding, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
(18) Utility substations, as permitted under section 25-4-11.
(19) Veterinary establishments.

(b) The following uses may be permitted in the RA district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the RA district, provided that if a building site is located within the State land use rural district, the following uses may be permitted if a special permit is obtained for such use:
(1) Bed and breakfast establishments, as permitted under section 25-4-7.
(2) Community buildings, as permitted under section 25-4-11.
(3) Country clubs, tennis clubs and other similar recreational facilities which include buildings or indoor recreational features.
(4) Drive-in theaters.
(5) Guest ranches.
(6) Home occupations, as permitted under section 25-4-13.
(7) Lodges.
(8) Meeting facilities.
(9) Model homes, as permitted under section 25-4-8.
(10) Temporary real estate offices, as permitted under section 25-4-8.
(11) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the RA district, provided that either a use permit is issued for each use if the building site is within the State land use urban district or a special permit is issued for each use if the building site is within the State land use rural district:
   (1) Bed and breakfast establishments, as permitted under section 25-4-7.
   (2) Crematoriums, funeral homes, funeral services, and mortuaries.
   (3) Churches, temples and synagogues.
   (4) Day care centers.
   (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
   (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
   (7) Schools.
   (8) Yacht harbors and boating facilities.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the RA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 11; am 2010, ord 10-17, sec 4; am 2012, ord 12-28, sec 7; ord 12-124, sec 6; am 2014, ord 14-86, sec 7.)

Section 25-5-53. Height limit.

The height limit in the RA district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-54. Minimum building site area.

The minimum building site area in the RA district shall be one-half acre. RA districts having larger areas may be designated in increments of one-half acre up to a recommended maximum of three acres. The recommended maximum does not specify an absolute upper limit for any building site in the RA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-55. Minimum building site average width.

Each building site in the RA district shall have a minimum average width of one hundred feet for the first one-half acre of required area, plus twenty feet for each additional one-half acre of required area; provided that no building site shall be required to have an average width greater than three hundred feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-56. Minimum yards.

Minimum yards in the RA district shall be as follows:
   (1) Front and rear yards, twenty-five feet; and
   (2) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-57. Other regulations.

(a) If any legal building site in the RA district has an area less than one-half acre, then the yard and height requirements for the building site shall be the same as the yard requirements for the RS district.

(b) Plan approval shall be required prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is used for minor agricultural products processing.

(c) An ohana dwelling may be located on any building site in the RA district, as permitted under article 6, division 3 of this chapter.

(d) Exceptions to the regulations for the RA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development pursuant to article 6, division 1 of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 6. FA, Family Agricultural Districts.

Section 25-5-60. Purpose and applicability.

The FA (family agricultural) district provides for a blend of small-scale agricultural operations associated with residential activities and which may be characterized by farm estates, small acreage farms, or subsistence lots. The FA district is intended to be in areas designated as being within the State land use agricultural district, where public services and infrastructure are appropriate to support the very low density residential needs of a rural community and where substantial number of parcels are less than five acres in size, and where a mix of uses will not conflict with or be detrimental to existing agricultural uses in the surrounding area.

In addition, this district is intended to be primarily comprised of agricultural lands less than five acres in area, which are not classified as A or B lands under the land study bureau's master productivity rating, or classified as prime, unique, or other important agricultural lands. Provided, that this district may include lands so classified if the lands are situated within an urban expansion or other urban designation under the general plan land use pattern allocation guide (LUPAG) map.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-61. Designation of FA districts.

Each FA (family agricultural) district shall be designated on the zoning map by the symbol "FA" followed by a number and the lower case letter "a" which indicates the required number of acres for each building site. For example, FA-1a means a family agricultural district with a minimum building site area of one acre.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-62. Permitted uses.

(a) The following uses shall be permitted in FA districts:

(1) Agricultural products processing, minor, provided that the area or buildings used for such processing, shall be located at least seventy-five feet from any street.

(2) Agricultural tourism as permitted under section 25-4-15.

(3) Animal hospitals.

(4) Aquaculture.

(5) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.

(6) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.

(7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.

(8) Crop production.

(9) Dwelling, single-family, as permitted under chapter 205, Hawaiʻi Revised Statutes and as permitted under section 25-5-67(b).

(10) Farm dwellings, as permitted under section 25-5-67(b) and (c).

(11) Game and fish propagation.

(12) Group living facilities.

(13) Kennels.

(14) Livestock, grazing; provided that any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animals shall be located at least seventy-five feet from any lot line.

(15) Public uses and structures, necessary for agricultural practices.

(16) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest.

(17) Riding academies, and rental or boarding stables.

(18) Roadside stands for the sale of agricultural products grown on the premises.

(19) Utility substations, as permitted under section 25-4-11.

(20) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, and livestock grazing.

(21) Veterinary establishments.

(b) The following uses may be permitted in the FA district, provided that a use permit is issued for each use:

(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the FA district, provided that a special permit is obtained for such use if the building site is located within the State land use agricultural district:
  (1) Adult day care homes.
  (2) Bed and breakfast establishments, as permitted under section 25-4-7.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Family child care homes.
  (5) Home occupations, as permitted under section 25-4-13.
  (6) Meeting facilities.
  (7) Model homes, as permitted under section 25-4-8.
  (8) Public uses and structures, other than those necessary for agricultural practices, as provided under section 25-4-11.
  (9) Temporary real estate offices, as permitted under section 25-4-8.
  (10) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the FA district, provided that a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
  (1) Bed and breakfast establishments, as permitted under section 25-4-7.
  (2) Churches, temples and synagogues.
  (3) Crematoriums, funeral homes, funeral services, and mortuaries.
  (4) Day care centers.
  (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
  (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
  (7) Schools.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the FA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 12; am 2010, ord 10-17, sec 5; am 2012, ord 12-28, sec 8; ord 12-124, sec 7; am 2014, ord 14-86, sec 8.)

Section 25-5-63. Height limits.

The height limit in FA districts shall be thirty-five feet for any residential structure, including any single-family dwelling or farm dwelling, and forty-five feet for all other structures.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-64. Minimum building site area.

The minimum building site area in the FA district shall be one acre. Other FA districts having larger areas may be designated in increments of one acre up to a recommended maximum of five acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-65. Minimum building site average width.

Each building site in the FA district must have a minimum average width of one hundred twenty feet for the initial one acre of required area plus twenty feet for each additional acre of required area; provided that no building site shall be required to have an average width greater than three hundred feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-66. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards in the FA district shall be thirty feet for front and rear yards and twenty feet for side yards.
(b) In the FA district, accessory buildings and enclosures (other than fences under eight feet high) for the shelter and confinement of any livestock shall be at least thirty feet from the side and rear property lines.
(c) Appropriate additional setbacks from adjacent residential zoned lands may be required by the director for those facilities and uses which may include more frequently used machinery and equipment in order to minimize potential lighting, odor, vector and air and water quality impacts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-67. Other regulations.

(a) If any legal building site in an FA district has an area of less than one acre, then the yard and height requirements for the building site shall be the same as the yard and height requirements in the RA district.
(b) One single-family dwelling or one farm dwelling shall be permitted on any building site in the FA district. A farm dwelling is a single-family dwelling located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
(c) Additional farm dwellings may be permitted in the FA district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.
    (2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.
(d) An ohana dwelling may be located on any building site in the FA district, as permitted under article 6, division 3 of this chapter.

(e) Exceptions to the regulations for the FA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
(f) Plan approval shall be required prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is used for minor agricultural products processing.
(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 7. A, Agricultural Districts.

Section 25-5-70. Purpose and applicability.

The A (agricultural) district provides for agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-71. Designation of A districts.

Each A (agricultural) district shall be designated on the zoning map by the symbol "A" followed by a number together with the lower case letter "a" which indicates the required or minimum number of acres for each building site. For example, A-10a means an agricultural district with a minimum building site area of ten acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-72. Permitted uses.

(a) The following uses shall be permitted in the A district:
  (1) Agricultural parks.
  (2) Agricultural products processing, major and minor.
  (3) Agricultural tourism as permitted under section 25-4-15.
  (4) Animal hospitals.
  (5) Aquaculture.
  (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
  (7) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.
  (8) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (9) Crop production.
  (10) Dwelling, single-family, as permitted under chapter 205, Hawai'i Revised Statutes and as permitted under section 25-5-77(b).
  (11) Farm dwellings, as permitted under section 25-5-77(b) and (c).

(12) Fertilizer yards utilizing only manure and soil, for commercial use.
(13) Forestry.
(14) Game and fish propagation.
(15) Group living facilities.
(16) Kennels.
(17) Livestock production, provided that piggeries, apiaries, and pen feeding of livestock shall only be located on sites approved by the State department of health and the director, and must be located no closer than one thousand feet away from any major public street or from any other zoning district.
(18) Public uses and structures which are necessary for agricultural practices.
(19) Retention, restoration, rehabilitation, or improvement of building or sites of historic or scenic interest.
(20) Riding academies, and rental or boarding stables.
(21) Roadside stands for the sale of agricultural products grown on the premises.
(22) Utility substations, as permitted under section 25-4-11.
(23) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, livestock grazing and livestock production.
(24) Veterinary establishments.
(25) Wind energy facilities.

(b) The following uses may be permitted in the A district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf course driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the A district, provided that a special permit is obtained for such use if the building site is located within the State land use agricultural district:
(1) Adult day care homes.
(2) Airfields, heliports, and private landing strips.
(3) Bed and breakfast establishments, as permitted under section 25-4-7.
(4) Community buildings, as permitted under section 25-4-11.
(5) Excavation or removal of natural building material or minerals, for commercial use.
(6) Family child care homes.
(7) Guest ranches.
(8) Home occupations, as permitted under section 25-4-13.
(9) Lodges.
(10) Meeting facilities.
(11) Model homes, as permitted under section 25-4-8.
(12) Public dumps.

(13) Public uses and structures, other than those necessary for agricultural practices, as provided under section 25-4-11.
(14) Temporary real estate offices, as permitted under section 25-4-8.
(15) Trailer parks with density of three thousand five hundred square feet of land area per trailer, provided that plan approval is secured prior to commencing such use.
(16) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the A district, provided that a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
(1) Bed and breakfast establishments, as permitted under section 25-4-7.
(2) Crematoriums, funeral homes, funeral services, and mortuaries.
(3) Churches, temples and synagogues.
(4) Day care centers.
(5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(6) Major outdoor amusement and recreation facilities.
(7) Schools.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the A district.

(f) No building site shall be established after December 1, 1996 which shall in any way restrict or limit aquaculture, horticulture, production of crops, keeping of livestock, game and fish propagation, or the processing, sale or other commercial use of the products of such uses.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 13; am 2010, ord 10-17, sec 6; am 2012, ord 12-28, sec 9; ord 12-124, sec 8; am 2014, ord 14-86, sec 9.)

Section 25-5-73. Height limit.

The height limit in the A district shall be thirty-five feet for any residential structure, including any single-family dwelling, or farm dwelling, and forty-five feet for all other structures. The director may, however, permit by plan approval, any nonresidential agricultural structures to be constructed to a height of one hundred feet, if the director determines that the additional height above the forty-five foot height limit is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-74. Minimum building site area.

The minimum building site area in the A district shall be five acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-75. Minimum building site average width.

Each building site in the A district shall have a minimum average width of two hundred feet for the first five acres of required area plus twenty feet for each additional acre of required area. Provided that no building site shall be required to have an average width greater than one thousand feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-76. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards in the A district shall be thirty feet for front and rear yards, and twenty feet for side yards.
(b) For accessory uses such as shade cloth structures used in controlling the amount of sunlight in the raising of plants and flowers, rear, side and front yards in the A district shall be at least ten feet, except where the A district shares common boundaries with urban zones and main government roads.
(c) For accessory uses such as plastic roofed and shade cloth wooden or metal framed structures used in controlling the amount of sunlight, rainfall, wind and other elements of nature in the raising of fruits, vegetables and similar agricultural products, rear, side and front yards shall be at least ten feet except where:
    (1) Exterior walls of any type other than shade cloth are added to the wooden or metal framed structure;
    (2) The specific use allowed is abandoned; and
    (3) The A district shares common boundaries with urban zones and main government roads.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-110, sec 1.)

Section 25-5-77. Other regulations.

(a) If any legal building site in the A district has an area of less than five acres, then the yard, minimum building site average width and height requirements for the building site shall be the same as the yard and height requirements in the FA district.
(b) One single-family dwelling or one farm dwelling shall be permitted on any building site in the A district. A farm dwelling is a single-family dwelling that is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
(c) Additional farm dwellings may be permitted in the A district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

(2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.

(d) An ohana dwelling may be located on any building site in the A district, as permitted under article 6, division 3 of this chapter.

(e) Exceptions to the regulations for the A district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 8. IA, Intensive Agricultural Districts.

Section 25-5-80. Purpose and applicability.

The IA (intensive agricultural) district provides for the preservation of important agricultural lands as provided for in the general plan and characterized by a mix of small and large scale commercial farms and other agricultural operations which may include residential use in the form of farm dwellings closely tied to intensive agricultural use. The lands in the IA district are those lands which have the soil, quality, growing season, and moisture supply needed to sustain high yields of crops generally or of specific crops of statewide or local importance when managed according to modern farming methods. All IA districts shall be located within the State land use agricultural or conservation district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-81. Designation of IA districts.

The IA (intensive agricultural) district shall be designated by the symbol "IA" followed by a number together with the lower case letter "a" which indicates the required or minimum number of acres for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-82. Permitted uses.

(a) The following uses shall be permitted in the IA district:

(1) Agricultural parks.
(2) Agricultural products processing, major and minor.
(3) Agricultural tourism as permitted under section 25-4-15.
(4) Aquaculture.
(5) Cemeteries, as permitted under chapter 6, article 1 of this Code.
(6) Crop production.
(7) Farm dwellings, as permitted under sections 25-5-87(b) and (c).
(8) Forestry.

(9) Livestock production, provided that piggeries, apiaries and pen feeding of livestock shall not be closer than one thousand feet to any major road or to any district other than the A district on building sites approved by the State department of health and the director.
(10) Public uses and structures which are necessary for agricultural practices.
(11) Utility substations, as permitted under section 25-4-11.

(b) The following uses may be permitted in the IA district, provided that a use permit is obtained for such use:
(1) Telecommunication antennas and towers.

(c) The following uses may be permitted in the IA districts, provided that a special permit is obtained for such use:
(1) Crematoriums, funeral homes, funeral services, and mortuaries.
(2) Churches, temples, or synagogues.
(3) Community buildings as permitted under section 25-4-11.
(4) Day care centers.
(5) Hospitals.
(6) Public uses and structures, other than those necessary for agricultural purposes, as permitted under section 25-4-11.
(7) Uses other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai'i Revised Statutes.

(d) In IA districts in areas with over thirty percent slope, in gullies, and where rough terrain discourages intensive agricultural uses, the director may approve any other uses which are permitted in the RA, FA, or A districts.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the IA district.

(f) No building site shall be established in the IA district which shall in any way restrict or limit the uses permitted under this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 14; am 2010, ord 10-17, sec 7; am 2012, ord 12-28, sec 10.)

Section 25-5-83. Height limit.

The height limit in the IA district shall be thirty-five feet for any residential structure, including any farm dwelling, and forty-five feet for all other structures. The director may, however, permit by plan approval, any nonresidential agricultural structures to be constructed to a height of one hundred feet, if the director determines that the additional height above the forty-five foot height limit is necessary.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-84. Minimum building site area.

The minimum building site area in the IA district shall be five acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-85. Minimum building site average width.

Each building site in the IA district shall have a minimum average width of two hundred feet for the first five acres of required area, plus twenty feet for each additional acre of required area. Provided that no building site shall be required to have an average width greater than one thousand feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-86. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards required in the IA district shall be thirty feet for front and rear yards, and twenty feet for side yards.
(b) For accessory uses such as shade cloth structures used in controlling the amount of sunlight in the raising of plants and flowers, rear, side and front yards in the IA district shall be at least ten feet, except where the IA district shares common boundaries with urban zones and main government roads.
(c) For accessory uses such as plastic roofed and shade cloth wooden or metal framed structures used in controlling the amount of sunlight, rainfall, wind and other elements of nature in the raising of fruits, vegetables and similar agricultural products, rear, side and front yards shall be at least ten feet except where:
    (1) Exterior walls of any type other than shade cloth are added to the wooden or metal framed structure;
    (2) The specific use allowed is abandoned; and
    (3) The IA district shares common boundaries with urban zones and main government roads.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-110, sec 2.)

Section 25-5-87. Other regulations.

(a) If any building site in the IA district has an area of less than five acres, then the minimum yards shall be the same as the yards in an FA district having an area requirement nearest to that of the subject building site in the IA district.
(b) One farm dwelling shall be permitted on any building site in the IA district, if it is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling. In the case where agricultural activity has not been established, a farm dwelling agreement shall be entered into with the County to insure that agricultural activity will be established by the applicant within three years from the date that the building permit for the farm dwelling is issued.
(c) Additional farm dwellings may be permitted in the IA district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

(2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.

(d) Exceptions to the regulations for the IA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 9. V, Resort-Hotel Districts.

Section 25-5-90. Purpose and applicability.

The V (resort-hotel) district applies to areas to accommodate the needs and desires of visitors, tourists and transient guests. It applies to specific areas where public roads and public utilities are available or where suitable alternate private facilities are assured. It may apply to a single isolated hotel or resort with or without a commercial mall or shopping section.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-91. Designation and density of V districts.

(a) Each V (resort-hotel) district shall be designated on the zoning map by the symbol "V" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of hotels, resorts, inns, lodges, motels, motor hotels, motor lodges, or other similar rentable units.

(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the V district.

(c) Maximum density designation in the V district shall be .75 or seven hundred fifty square feet of land area for each dwelling unit or separate rentable unit.

(d) In the V district, no limitation shall be placed on the increments used between the various density designations; however, the recommended incremental density designations are: .75, 1, 1.25, 1.5 and upward in 0.25 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-92. Permitted uses.

(a) The following uses shall be permitted in the V district:

(1) Adult day care homes.

(2) Amusement and recreational facilities, indoor.

(3) Art galleries, museums.

(4) Automobile service stations.

(5) Bars, night clubs and cabarets.

(6) Bed and breakfast establishments, as permitted under section 25-4-7.
(7) Business services.
(8) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(9) Churches, temples, and synagogues.
(10) Commercial parking lots and garages.
(11) Community buildings, as permitted under section 25-4-11.
(12) Day care centers.
(13) Dwellings, double-family or duplex.
(14) Dwellings, multiple-family.
(15) Dwellings, single-family.
(16) Family child care homes.
(17) Financial institutions.
(18) Group living facilities.
(19) Home occupations, as permitted under section 25-4-13.
(20) Hotels.
(21) Lodges.
(22) Medical clinics.
(23) Meeting facilities.
(24) Major outdoor amusement and recreation facilities.
(25) Model homes, as permitted under section 25-4-8.
(26) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
(27) Personal services.
(28) Photography studios.
(29) Public uses and structures, as permitted under section 25-4-11.
(30) Restaurants.
(31) Retail establishments.
(32) Telecommunication antennas, as permitted under section 25-4-12.
(33) Temporary real estate offices, as permitted under section 25-4-8.
(34) Theaters.
(35) Time share units.
(36) Utility substations, as permitted under Section 25-4-11.
(37) Visitor information centers.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the V district, provided that a use permit is issued for each use:
(1) Crematoriums, funeral homes, funeral services, and mortuaries.
(2) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(3) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(4) Schools.
(5) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the V district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2011, ord 11-26, sec 2; am 2012, ord 12-28, sec 11; am 2014, ord 14-86, sec 10.)

Section 25-5-93. Height limit.

(a) The height limit in the V district shall be forty-five feet, except in those areas designated in subsections (b) and (c) below.
(b) The height limit in the V district in the City of Hilo shall be one hundred twenty feet.
(c) The height limit in the V district at Keauhou Bay and Kahaluu Bay shall be ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-94. Minimum building site area.

The minimum building site in the V district shall be fifteen thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-95. Minimum building site average width.

Each building site in the V district shall have a minimum average width of ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-96. Minimum yards.

The minimum yards in the V district shall be as follows:

(1) Front and rear yards, twenty feet; and
(2) Side yards, eight feet for one story, and an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-97. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the V district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 8.)

Section 25-5-98. Other regulations.

(a) More than one main building may be situated on any building site in the V district.
(b) The distance between main buildings on one building site in the V district shall be at least fifteen feet.

(c) Plan approval shall be required for all new structures and additions to existing structures in the V district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the V district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 9; am 2015, ord 15-33, sec 4.)

Division 10. CN, Neighborhood Commercial Districts.

Section 25-5-100. Purpose and applicability.

The CN (neighborhood commercial) district applies to strategically located centers suitable for commercial activities which shall be of such size and shape as will accommodate a compact shopping center which supplies goods and services to a residential or working population on a frequent need or convenience basis. This district is distinguished from a central commercial district which provides general business and broad services to a city or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-101. Designation of CN districts.

Each CN (neighborhood commercial) district shall be designated by the symbol "CN" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-102. Permitted uses.

(a) The following uses shall be permitted in the CN district:
  (1) Adult day care homes.
  (2) Automobile service stations.
  (3) Bed and breakfast establishments, as permitted under section 25-4-7.
  (4) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
  (5) Business services.
  (6) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (7) Churches, temples and synagogues.
  (8) Community buildings, as permitted under section 25-4-11.
  (9) Convenience stores.
  (10) Crematoriums, funeral homes, funeral services, and mortuaries.
  (11) Crop production.
  (12) Day care centers.

(13) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(14) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(15) Dwellings, single-family.
(16) Family child care homes.
(17) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(18) Financial institutions.
(19) Group living facilities.
(20) Home occupations, as permitted under section 25-4-13.
(21) Medical clinics.
(22) Meeting facilities.
(23) Model homes, as permitted under section 25-4-8.
(24) Museums.
(25) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(26) Offices.
(27) Personal services.
(28) Photography studios.
(29) Public uses and structures, as permitted under section 25-4-11.
(30) Repair establishments, minor.
(31) Restaurants.
(32) Retail establishments.
(33) Schools.
(34) Telecommunication antennas, as permitted under section 25-4-12.
(35) Theaters.
(36) Utility substations as permitted under Section 25-4-11.

(b) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the CN district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 12.)

Section 25-5-103. Height limit.

The height limit in the CN district shall be forty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-104. Minimum building site area.

The minimum building site area in the CN district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-105. Minimum building site average width.

Each building site in the CN district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-106. Minimum yards.

The minimum yards in the CN district shall be as follows:

(1) Front and rear yards, fifteen feet; and

(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM, RCX or V district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM, RCX or V district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-107. Landscaping of yards.

(a) All front yards in the CN district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(b) Where any required side or rear yard in the CN district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 10.)

Section 25-5-108. Other regulations.

(a) In conjunction with plan approval, the director may require the construction of a continuous eave overhanging the front property line in the CN district. The director may also require that the eave be of similar height and design in any one block of the CN district.

(b) Plan approval shall be required for all new structures and additions to existing structures in the CN district, except for construction of one single-family dwelling and any accessory buildings per lot.

(c) Exceptions to the regulations for the CN district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 11; am 2015, ord 15-33, sec 4.)

Division 11. CG, General Commercial Districts.

Section 25-5-110. Purpose and applicability.

(a) The CG (general commercial) district applies to an area suitable for commercial uses and services on a broad basis to serve as the central shopping or principal downtown area for a city or a region.

(b) No CG district shall be established until there is a demonstrated need for such action and no two CG districts shall be established in such relationship to each other that they cannot act as one center and yet are too close together to serve two distinct regions.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-111. Designation of CG districts.

Each CG (general commercial) district shall be designated by the symbol "CG" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-112. Permitted uses.

(a) The following uses shall be permitted uses in the CG district:

(1) Adult day care homes.
(2) Amusement and recreation facilities, indoor.
(3) Art galleries, museums.
(4) Art studios.
(5) Automobile service stations.
(6) Automobile sales and rentals.
(7) Bars, nightclubs and cabarets.
(8) Bed and breakfast establishments, as permitted under section 25-4-7.
(9) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(10) Broadcasting stations.
(11) Business services.
(12) Car washing, provided that if it is mechanized, sound attenuated structures or sound attenuated walls shall be erected and maintained on the property lines.
(13) Catering establishments.
(14) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.

(15) Churches, temples and synagogues.
(16) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleansing agent.
(17) Commercial parking lots and garages.
(18) Community buildings, as permitted under section 25-4-11.
(19) Convenience stores.
(20) Crematoriums, funeral homes, funeral services, and mortuaries.
(21) Crop production.
(22) Day care centers.
(23) Display rooms for products sold elsewhere.
(24) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(25) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(26) Dwellings, single-family.
(27) Equipment sales and rental yards, and other yards where retail products are displayed in the open.
(28) Family child care homes.
(29) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(30) Financial institutions.
(31) Group living facilities.
(32) Home occupations, as permitted under section 25-4-13.
(33) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(34) Hotels.
(35) Ice storage and dispensing facilities.
(36) Laboratories, medical and research.
(37) Laundries.
(38) Light manufacturing, processing and packaging, where the only retail sales outlet for products produced is on the premises where produced.
(39) Medical clinics.
(40) Meeting facilities.
(41) Model homes, as permitted under section 25-4-8.
(42) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(43) Offices.

(44) Personal services.
(45) Photography studios.
(46) Public uses and structures, as permitted under section 25-4-11.
(47) Printing shops, cartographing and duplicating processes such as blueprinting or photostating shops.
(48) Repair establishments, minor.
(49) Restaurants.
(50) Retail establishments.
(51) Schools.
(52) Telecommunication antennas, as permitted under section 25-4-12.
(53) Theaters.
(54) Time share units.
(55) Utility substations, as permitted under section 25-4-11.
(56) Veterinary establishments.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CG district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Major outdoor amusement and recreation facilities.
(3) Yacht harbors and boating facilities.

(c) Residential uses in connection with the operation of any permitted use shall be permitted in the CG district.

(d) Buildings and uses normally considered accessory to the uses permitted in this section shall also be permitted in the CG district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 13; am 2014, ord 14-86, sec 11.)

Section 25-5-113. Height limit.

(a) The height limit in the CG district shall be forty-five feet, except in those areas designated in subsection (b) below.

(b) The height limit in the City of Hilo shall be one hundred twenty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-88, sec 2.)

Section 25-5-114. Minimum building site area.

The minimum building site area in the CG district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-115. Minimum building site average width.

Each building site in the CG district shall have a minimum building site average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-116. Minimum yards.

The minimum yards in the CG district shall be as follows:

(1) Front or rear yards, fifteen feet; and

(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-117. Landscaping of yards.

(a) All front yards in the CG district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(b) Where any required side or rear yard in the CG district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 12.)

Section 25-5-118. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the CG district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) Exceptions to the regulations for the CG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 13; am 2015, ord 15-33, sec 4.)

Division 12. CV, Village Commercial Districts.

Section 25-5-120. Purpose and applicability.

The CV (village commercial) district provides for a broad range or variety of commercial and light industrial uses that are necessary to serve the population in rural areas where the supplementary support of the general business uses and activities of a central commercial district is not readily available.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-121. Designation of CV districts.

Each CV (village commercial) district shall be designated by the symbol "CV" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-122. Permitted uses.

(a) The following uses shall be permitted in the CV district:
- (1) Adult day care homes.
- (2) Amusement and recreation facilities, indoor.
- (3) Art galleries, museums.
- (4) Automobile sales and rentals.
- (5) Automobile service stations.
- (6) Bars.
- (7) Bed and breakfast establishments, as permitted under section 25-4-7.
- (8) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (9) Business services.
- (10) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (11) Churches, temples and synagogues.
- (12) Commercial parking lots and garages.
- (13) Community buildings, as permitted under section 25-4-11.
- (14) Convenience stores.
- (15) Crematoriums, funeral homes, funeral services, and mortuaries.
- (16) Crop production.
- (17) Day care centers.
- (18) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (19) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (20) Dwellings, single-family.
- (21) Family child care homes.
- (22) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
- (23) Financial institutions.

(24) Group living facilities.
(25) Home occupations, as permitted under section 25-4-13.
(26) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(27) Hotels, when the design and use conform to the character of the area, as approved by the director.
(28) Laboratories, medical and research.
(29) Lodges.
(30) Manufacturing, processing and packaging light and general, except for concrete or asphalt products, where the products are distributed to retail establishments located in the immediate community, as approved by the director.
(31) Medical clinics.
(32) Meeting facilities.
(33) Model homes, as permitted under section 25-4-8.
(34) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(35) Offices.
(36) Personal services.
(37) Photography studios.
(38) Public uses and structures, as permitted under section 25-4-11.
(39) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops, which are designed to primarily serve the local area.
(40) Repair establishments, major, when there are not more than five employees, as approved by the director.
(41) Repair establishments, minor.
(42) Restaurants.
(43) Retail establishments.
(44) Schools.
(45) Telecommunication antennas, as permitted under section 25-4-12.
(46) Temporary real estate offices, as permitted under section 25-4-8.
(47) Theaters.
(48) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CV district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Major outdoor amusement and recreation facilities.
(3) Yacht harbors and boating facilities.

(c) Residential uses in connection with the operation of any permitted uses shall be permitted in the CV district.
(d) Buildings and uses similar to the permitted uses listed in subsection (a) above shall be permitted in the CV district, as approved by the director.
(e) Buildings and uses normally considered accessory to the uses permitted in this section shall also be permitted in the CV district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 14; am 2014, ord 14-86, sec 12.)

Section 25-5-123. Height limit.

The height limit in the CV district shall be thirty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-124. Minimum building site area.

The minimum building site area in the CV district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-125. Minimum building site average width.

Each building site in the CV district shall have a minimum building site average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-126. Minimum yards.

The minimum yards in the CV district shall be as follows:

(1) Front or rear yards, fifteen feet; and
(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-127. Landscaping of yards.

(a) All front yards in the CV district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.
(b) Where any required side or rear yard in the CV district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 14.)

Section 25-5-128. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the CV district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) Exceptions to the regulations for the CV district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 15; am 2015, ord 15-33, sec 4.)

Division 13. MCX, Industrial-Commercial Mixed Districts.

Section 25-5-130. Purpose and applicability.

The purpose of the MCX (industrial-commercial mixed use) district is to allow mixing of some industrial uses with commercial uses. The intent of this district is to provide for areas of diversified businesses and employment opportunities by permitting a broad range of uses, without exposing nonindustrial uses to unsafe and unhealthy environments. This district is intended to promote and maintain a viable mix of light industrial and commercial uses.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-131. Designation of MCX districts.

Each MCX (industrial-commercial mixed use) district shall be designated by the symbol "MCX" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-132. Permitted uses.

(a) The following uses shall be permitted in the MCX district:

(1) Agricultural products processing, minor.
(2) Amusement and recreation facilities, indoor.
(3) Art galleries, museums.
(4) Art studios.
(5) Automobile sales and rentals.
(6) Automobile service stations.
(7) Bars, nightclubs and cabarets.
(8) Broadcasting stations.
(9) Business services.
(10) Car washing.
(11) Catering establishments.
(12) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(13) Churches, temples and synagogues.

(14) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleaning agent.
(15) Commercial parking lots and garages.
(16) Community buildings, as permitted under section 25-4-11.
(17) Convenience stores.
(18) Crematoriums, funeral homes, funeral services, and mortuaries.
(19) Data processing facilities.
(20) Display rooms for products sold elsewhere.
(21) Equipment sales and rental yards.
(22) Farmers markets.
(23) Financial institutions.
(24) Food manufacturing and processing.
(25) Home improvement centers.
(26) Ice storage and dispensing facilities.
(27) Kennels in sound-attenuated buildings.
(28) Laboratories, medical and research.
(29) Laundries.
(30) Manufacturing, processing and packaging establishments, light.
(31) Medical clinics.
(32) Meeting facilities.
(33) Model homes.
(34) Motion picture and television production studios.
(35) Offices.
(36) Personal services.
(37) Photographic processing.
(38) Photography studios.
(39) Plant nurseries.
(40) Public uses and structures, as permitted under section 25-4-11.
(41) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(42) Repair establishments, minor.
(43) Restaurants.
(44) Retail establishments.
(45) Sales and service of machinery used in agricultural production.
(46) Schools, business.
(47) Schools, photography, art, music and dance.
(48) Schools, vocational.
(49) Self-storage facilities.
(50) Telecommunications antennas, as permitted under section 25-4-12.
(51) Temporary real estate offices, as permitted under section 25-4-8.
(52) Theaters.
(53) Utility substations, as permitted under section 25-4-11.
(54) Veterinary establishments in sound-attenuated buildings.

(55) Warehousing.
(56) Wholesaling and distribution operations.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the MCX district, provided that a use permit is issued for each use:
(1) Major outdoor amusement and recreation facilities.
(2) Schools.
(3) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MCX district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2003, ord 03-113, sec 1; am 2011, ord 11-26, sec 3; am 2012, ord 12-28, sec 15.)

Section 25-5-133. Height limit.

The height limit in the MCX district shall be forty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-134. Minimum building site area.

The minimum building site area in the MCX district shall be twenty thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-135. Minimum building site average width.

Each building site in the MCX district shall have a minimum building site average width of ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-136. Minimum yards.

The minimum yards in the MCX district shall be as follows:
(1) Front yards, twenty feet; and
(2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX zoned district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-137. Landscaping of yards.

(a) All front yards in the MCX district shall be landscaped, except for necessary access drives and walkways.

(b) Any required side or rear yard in the MCX district adjoining a building site in an RS, RD, RM or RCX district, shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-138. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the MCX district.

(b) Exceptions to the regulations for the MCX district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 14. ML, Limited Industrial Districts.

Section 25-5-140. Purpose and applicability.

The ML (limited industrial) district applies to areas for business and industrial uses which are generally in support of but not necessarily compatible with those permissible activities and uses in other commercial districts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-141. Designation of ML districts.

Each ML (limited industrial) district shall be designated by the symbol "ML" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-142. Permitted uses.

(a) The following uses shall be permitted in the ML district:

(1) Agricultural products processing, minor.
(2) Airfields, heliports and private landing strips.
(3) Animal hospitals.
(4) Animal quarantine stations.
(5) Aquaculture activities.
(6) Automobile and truck storage facilities.
(7) Automobile and truck sales and rentals.
(8) Automobile service stations.
(9) Bakeries.
(10) Bars.
(11) Broadcasting stations.
(12) Car washing.
(13) Carpentry, hardwood products and furniture manufacturing and storage establishments.
(14) Catering establishments.
(15) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(16) Churches, temples and synagogues.
(17) Cleaning and dyeing plants.

(18) Commercial parking lots and garages.
(19) Community buildings, as permitted under section 25-4-11.
(20) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
(21) Crematoriums, funeral homes, funeral services, and mortuaries.
(22) Day care centers.
(23) Financial institutions.
(24) Food manufacturing and processing facilities.
(25) Greenhouses, plant nurseries.
(26) Heavy equipment sales, service and rental.
(27) Home improvement centers.
(28) Junkyards, provided that the building site is not less than one acre in area.
(29) Laboratories, medical and research.
(30) Laundries.
(31) Lumberyards and building material yards, but not including concrete or asphalt mixing and the fabrication by riveting or welding of steel building frames.
(32) Manufacturing, processing and packaging establishments, light.
(33) Motion picture and television production studios.
(34) Photographic processing.
(35) Plumbing, electrical, air conditioning and heating establishments.
(36) Public uses and structures, as permitted under section 25-4-11.
(37) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(38) Recycling centers, which do not involve the processing of recyclable materials.
(39) Repair establishments, minor.
(40) Restaurants.
(41) Self storage facilities.
(42) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
(43) Telecommunication antennas, as permitted under section 25-4-12.
(44) Temporary real estate offices, as permitted under section 25-4-8.
(45) Transportation and tour terminals.
(46) Truck, freight and draying terminals.
(47) Utility facilities, public and private, including offices or yards for equipment, material, vehicle storage, repair or maintenance.
(48) Utility substations, as permitted under section 25-4-11.
(49) Veterinary establishments.
(50) Vocational schools.
(51) Warehousing, which does not include retail sales or discount houses or establishments open to the general public or defined members.
(52) Wholesaling and distribution, including the storage of incidental materials and equipment, except for highly flammable or explosive products.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the ML district, provided that a use permit is issued for each use:
  (1) Major outdoor amusement and recreation facilities.
  (2) Schools.
  (3) Yacht harbors and boating facilities.
(c) The following uses may be permitted in the ML district as incidental and subordinate to any permitted use:
  (1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
  (2) Retail sales.
  (3) Services for persons working in an ML district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.
(d) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the ML district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2011, ord 11-26, sec 4; am 2012, ord 12-28, sec 16.)

Section 25-5-143. Height limit.

The height limit in the ML district shall be forty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-144. Minimum building site area.

The minimum building site area in the ML district shall be ten thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-145. Minimum building site average width.

Each building site in the ML district shall have a minimum building site average width of seventy-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-146. Minimum yards.

Minimum yards in the ML district shall be as follows:
  (1) Front yard, fifteen feet; and
  (2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-147. Other regulations.

(a) All front yards in the ML district shall be landscaped, except for drives and walkways.

(b) Where any required side or rear yard in the ML district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, along the side or rear property lines so adjoining, except for necessary drives and walkways.

(c) Plan approval shall be required for all new structures and additions to existing structures in the ML district.

(d) Exceptions to the regulations for the ML district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 15. MG, General Industrial Districts.

Section 25-5-150. Purpose and applicability.

The MG (general industrial) district applies to areas for uses that are generally considered to be offensive or have some element of danger.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-151. Designation of MG districts.

Each MG (general industrial) district shall be designated by the symbol "MG" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site, or if the number is followed by the symbol "a," by the minimum number of acres required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-152. Permitted uses.

(a) The following uses shall be permitted in the MG district:

(1) Agricultural products processing, major and minor.
(2) Airfields, heliports and private landing strips.
(3) Animal hospitals.
(4) Animal quarantine stations.
(5) Animal sales, stock, and feed yards.
(6) Aquaculture activities and facilities.
(7) Automobile and truck storage facilities.
(8) Automobile body and fender establishments.
(9) Automobile service stations.
(10) Bakeries.
(11) Bars.
(12) Breweries, distilleries, and alcohol manufacturing facilities.
(13) Broadcasting stations.

(14) Bulk storage of flammable products and bulk storage of explosive products.
(15) Car washing.
(16) Catering establishments.
(17) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(18) Churches, temples and synagogues.
(19) Cleaning and dyeing plants.
(20) Commercial parking lots and garages.
(21) Community buildings, as permitted under section 25-4-11.
(22) Concrete or asphalt batching and mixing plants and yards.
(23) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
(24) Crematoriums, funeral homes, funeral services, and mortuaries.
(25) Day care centers.
(26) Dumping, disposal, incineration, or reduction of refuse or waste matter.
(27) Expansion of an existing commercial excavation operation, provided that plan approval is secured from the director.
(28) Fabricating establishments.
(29) Fertilizer manufacturing plants.
(30) Financial institutions.
(31) Food manufacturing and processing facilities.
(32) Freight movers.
(33) Greenhouses, plant nurseries.
(34) Heavy equipment sales, service and rental.
(35) Home improvement centers.
(36) Junkyards.
(37) Kennels.
(38) Laboratories, medical and research.
(39) Laundries.
(40) Lava rock or stone cutting or shaping facilities.
(41) Lumberyards and building material yards.
(42) Machine, welding, sheet metal, and metal plating and treating establishments.
(43) Manufacturing, processing and packaging establishments, light and general.
(44) Marine railways, drydocks, and ship or boat yards.
(45) Motion picture and television production studios.
(46) Photographic processing.
(47) Public dumps.
(48) Public uses and structures, as permitted under section 25-4-11.
(49) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(50) Recycling centers.
(51) Reduction, refining, smelting, or alloying of metals, petroleum products or ores.

(52) Repair establishments, major and minor.
(53) Restaurants.
(54) Saw mills.
(55) Self storage facilities.
(56) Slaughterhouses.
(57) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
(58) Storage, curing, or tanning of raw, green, or salted hides or skins.
(59) Telecommunication antennas, as permitted under section 25-4-12.
(60) Temporary real estate offices, as permitted under section 25-4-8.
(61) Transportation and tour terminals.
(62) Truck, freight and draying terminals.
(63) Utility facilities, public and private, including power plants, offices or yards for equipment, material, vehicle storage, repair or maintenance.
(64) Utility substations, as permitted under section 25-4-11.
(65) Veterinary establishments.
(66) Warehousing.
(67) Wholesaling and distribution, including the storage of incidental materials and equipment.
(68) Yacht harbors and boating facilities.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the MG district, provided that a use permit is issued for each use:
(1) Commercial excavation.
(2) Major outdoor amusement and recreation facilities.
(3) Schools.

(c) Any other use not otherwise permitted in subsection (a) that relates to the manufacturing, transportation, processing, assembling, distributing, repairing, and storage of goods, products, or materials, shall be permitted in the MG district.

(d) The following uses shall be permitted in the MG district as incidental and subordinate to any permitted use:
(1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
(2) Retail sales.
(3) Services for persons working in an MG district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.

(e) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MG district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-68, sec 2; am 2011, ord 11-26, sec 5; am 2012, ord 12-28, sec 17.)

Section 25-5-153. Height limit.

The height limit in the MG district shall be fifty feet. An industrial structure may be built to a height of one hundred feet, provided the extra height is determined by the director to be functionally necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-154. Minimum building site area.

The minimum lot area in the MG district shall be twenty thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-155. Minimum building site average width.

Each building site in the MG district shall have a minimum building site average width of one hundred feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-156. Minimum yards.

The minimum yards in the MG district shall be as follows:

(1) Front yard, twenty feet; and

(2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-157. Other regulations.

(a) All front yards in the MG district shall be landscaped, except for drives and walkways.

(b) Where any required side or rear yard in the MG district adjoins a building site in an RS, RD, RM or RCX district, a solid wall six feet in height shall be erected and maintained along the side and rear property lines so adjoining.

(c) Plan approval shall be required for all new structures and additions to existing structures in the MG district.

(d) Exceptions to the regulations for the MG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 16. O, Open Districts.

Section 25-5-160. Purpose and applicability.

The O (open) district applies to areas that contribute to the general welfare, the full enjoyment, or the economic well-being of open land type use which has been established, or is proposed. The object of this district is to encourage development around it such as a golf course and park, and to protect investments which have been or shall be made in reliance upon the retention of such open type use, to buffer an otherwise incompatible land use or district, to preserve a valuable scenic vista or an area of special historical significance, or to protect and preserve submerged land, fishing ponds, and lakes (natural or artificial tide lands).
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-161. Designation of O districts.

Each O (open) district shall be designated by the symbol "O."
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-162. Permitted uses.

(a) The following uses shall be permitted in the O district:
  (1) Aquaculture activities and facilities.
  (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Existing churches and temples of historical significance.
  (5) Forestry.
  (6) Game preserves.
  (7) Growing of plants provided such growth does not impair a view intended to be preserved in the O district.
  (8) Heiaus, historical areas, structures, and monuments.
  (9) Natural features, phenomena, and vistas as tourist attractions.
  (10) Private recreational uses involving no aboveground structure except dressing rooms and comfort stations.
  (11) Public parks.
  (12) Public uses and structures, as permitted under section 25-4-11.
  (13) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the O district, provided that a use permit is issued for each use:
  (1) Crematoriums, funeral homes, funeral services, and mortuaries.
  (2) Golf courses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(3) Yacht harbors and boating facilities; provided that the use, in its entirety, is compatible with the stated purpose of the O district.
(4) Wind energy facilities; provided that the property is within the state land use agricultural district.
(5) Telecommunication antennas.

(c) Uses considered directly accessory to the uses permitted in this section shall also be permitted in the O district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-2, sec 3; ord 08-46, sec 1; am 2011, ord 11-25, secs 3 and 4; am 2012, ord 12-28, sec 18; am 2014, ord 14-86, sec 13.)

Section 25-5-163. Height limit.

There shall be no height limit in the O district, except as specified as a condition of approval attached to any use permit or plan approval. For this purpose, the height limit in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-164. Minimum building site area.

There shall be no minimum building site area in the O district, except as a condition of approval attached to any plan approval. For this purpose, the minimum building site area regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-165. Minimum building site average width.

There shall be no minimum building site average width in the O district, except as specified as a condition of approval attached to any plan approval. For this purpose the minimum building site average width regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-166. Minimum yards.

There shall be no minimum yards in the O district, except as specified as a condition of approval attached to any plan approval. For this purpose, the minimum yard regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-167. Other regulations.

Plan approval shall be required for all new structures and additions to existing structures in the O district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Article 6. Optional Development Regulations.

Division 1. Planned Unit Development (P.U.D.).

Section 25-6-1. Purpose.

The purpose of planned unit development (P.U.D.) is to encourage comprehensive site planning that is compatible with the surrounding community and that adapts the design of development to the land, by allowing diversification in the relationships of various uses, buildings, structures, open spaces and yards, building heights, and lot sizes in planned building groups, while still insuring that the intent of this chapter is observed.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-2. Minimum land area required.

The minimum land area required for a P.U.D. shall be two acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-3. Application for P.U.D. permit; requirements.

An application for a P.U.D. permit shall be on a form prescribed for this purpose by the director on behalf of the commission and shall be accompanied by:

(1) A filing fee of $500.

(2) A written description of the proposed project, including the following information:

  (A) A description of the property in sufficient detail to determine the precise location of the property involved;

  (B) A statement of objectives and reasons for the requested P.U.D. permit, including an analysis of how the request satisfies the standards contained in section 25-6-10;

  (C) A list of all requested deviations from the requirements of chapter 23 (subdivisions) and chapter 25 (zoning), Hawai‘i County Code;

  (D) A schedule for the timetable of the proposed development; and

  (E) An analysis of the relationship of the proposed development to the general plan, any adopted community development plan, other adopted master plan, and if applicable, any other adopted design guidelines and/or standards affecting the project area.

(3) Drawings and plans comprising a general development plan covering the entire area of the P.U.D., and providing the following information:

  (A) Uses, dimensions, and locations of proposed structures;

  (B) Widths, alignments, and improvements of proposed streets and pedestrian and drainage ways;

  (C) Any proposed subdivision of property for individual parcel sale;

  (D) Parking areas;

(E) Public areas and uses; and
(F) Landscaping and open spaces.

(4) Architectural drawings for all buildings demonstrating the design and character of the proposed buildings and uses. If the project area is within a district established under article 7 of this chapter for which design guidelines and/or standards have been adopted that are applicable to single-family dwellings, architectural drawings shall be required for all buildings including single-family dwellings.

(5) A list of the names, addresses and tax map key numbers of all surrounding owners and lessees of property interests in property within the boundaries established by section 25-2-4.

(6) Any other information or plans required by rules adopted by the commission in accordance with chapter 91, Hawaiʻi Revised Statutes.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2; ord 15-45, sec 6.)

Section 25-6-4. Notice of action on P.U.D. application.

(a) Upon acceptance of a P.U.D. application, the commission, through the department, shall fix a date for action on the application. Within ten days after receiving notice of such date, the applicant shall serve notice of the application on surrounding owners and lessees of record, as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the P.U.D. permit sought. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(b) The public hearing shall be commenced no later than ninety days after the acceptance of a P.U.D. application by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 6; am 2015, ord 15-33, sec 2.)

Section 25-6-5. Procedure for processing application when use not permitted in district.

An application for a P.U.D. permit that proposes a use not permitted either directly or as a conditional use within a district may be considered by the commission only if a separate application for a change of zone is filed concurrently with or prior to the P.U.D. permit application. The P.U.D. permit application and the change of zone application shall be considered concurrently, and any P.U.D. approved by the commission shall be effective only when the change of zone ordinance becomes effective.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-6. Actions by commission on P.U.D. permit applications.

(a) Within ninety days after acceptance of a P.U.D. permit application or within a longer time period as may be agreed to or requested by the applicant, the commission shall conduct a public hearing(s), and within sixty days following the close of such public hearing(s), either deny or approve the application, subject to conditions as imposed by the commission.

(b) The conditions imposed by the commission shall bear a reasonable relationship to the P.U.D. permit issued, and to the approved uses, and plans of district standards; provided, however, that no improvements or alterations off-site of the project shall be required as a condition of a P.U.D. permit. The conditions may include, but not be limited to the following:

(1) Commencement and completion time frame for the project;
(2) Boundary and density reallocations approved for the project;
(3) Uses that are prohibited or limited;
(4) Specifications for the minimum development standards;
(5) Specifications for street improvement and dedication;
(6) Utilities to be furnished;
(7) The extent and limitations upon the uses permitted; and
(8) Compliance with representations made by the applicant.

(c) If the commission fails to render a decision within the prescribed sixty-day period, the application shall be considered as being approved, provided that no written objection to the P.U.D. permit application is received by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-7. P.U.D. permit application and processing requirements located within special districts with design guidelines and/or standards.

(a) In addition to the application requirements for a P.U.D. contained in section 25-6-3, an application for a P.U.D. in any special district established under article 7 of this chapter for which design guidelines or standards have been adopted by the council, excluding any special district having adopted design guidelines and/or standards established under this chapter prior to adoption of this subsection, shall include:

(1) Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures;
(2) A description of exterior siding, roofing, and finish materials;
(3) Exterior door and window specifications;
(4) Description, location, and renderings for any exterior signage;
(5) A streetscape rendering of the project site and adjacent properties suitable for evaluating the immediate spatial relationships. Photographic images may be substituted provided those images are adequate to serve the same purpose;

(6) Other descriptive information as the director, on behalf of the commission, finds necessary to determine consistency of the proposed project with the design guidelines and/or standards adopted for the special district in which the project building site is located.

(b) The P.U.D. application and plans shall be subject to review and comment by the design review committee established under the respective special district section under article 7 for consistency with the adopted design guidelines and/or standards.

(c) The director, on behalf of the commission shall, within five days of acceptance of a P.U.D. application, provide the respective design review committee with a copy of the application and plans along with a request for their review and comments on the consistency of the project with the adopted design guidelines and/or standards.

(d) The written recommendations and plans stamped "Reviewed by" with the date and signature of the chair of the respective design review committee affixed shall be submitted to the director, on behalf of the commission within twenty-five calendar days of receipt by the design review committee of the final plans for any partial or full approval of a P.U.D. application as provided in subsections 25-6-6(c) or (d) above.

(e) Except as otherwise provided in this section, the director shall withhold providing a recommendation to the commission on any partial or full approval of a P.U.D. application until having received the written recommendations and stamped and signed plans from the chair of the respective design review committee for the application.

(f) By written request to the director on behalf of the commission, the chair of the respective design review committee may request an extension of time to complete the design review and to submit the recommendations of the design review committee, which the director on behalf of the commission may grant only with the written approval of the applicant for P.U.D.

(g) In the event that no design review committee is established, or if the design review committee, for whatever reason, fails to respond within the time limit prescribed in subsection (d), the director shall provide design review against the relevant design guidelines and/or standards as adopted by the council.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 12; am 2015, ord 15-45, sec 7.)

Section 25-6-8. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 14.)

Section 25-6-9. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 15.)

Section 25-6-10. Criteria for granting a P.U.D. permit.

A P.U.D. permit may be granted by the commission upon finding that:

(a) The construction of the project can begin and be completed within a reasonable period of time from the date of full approval.

(b) The proposed development substantially conforms to the general plan, any adopted community development plan, other adopted master plan, and if applicable, any adopted design guidelines and/or standards affecting the project area.

(c) Any residential or agricultural development shall constitute an environment of sustained desirability and stability for the district that is in harmony with the character of the surrounding area, that results in an intensity of land use no higher than that otherwise specified for the district, and that maintains the standards of open space at least as high as that otherwise specified for the district in which the development occurs.

(d) Any commercial development shall not create traffic congestion which exceeds that which would have been produced under conventional development patterns, practices and standards in the district or interfere with any projected public improvements, shall provide for proper entrances and exits along with proper provisions for internal traffic and parking, and be an attractive center which does not adversely impact upon adjacent and surrounding existing or prospective developments.

(e) Any industrial development shall be in conformity with desirable performance standards and shall constitute an efficient and well organized development with adequate provisions for freight service and necessary storage, and shall not adversely impact upon adjacent and surrounding existing or prospective development.

(f) The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of this chapter, and the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2; ord 15-45, sec 8.)

Section 25-6-11. Height exceptions authorized.

(a) A building approved under a P.U.D. permit may exceed the height limit specified under the zoning district of the property and the height limits under section 25-4-22; provided, that the maximum height of the building shall not exceed seventy-five feet.

(b) A building approved under a P.U.D. permit and situated within a zoning district which exceeds the height limits specified under subsection (a) may be permitted at the higher height limits prescribed for that zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-12. Approvals issued under P.U.D. permit.

(a) No separate or additional permit or use permit shall be required for any use approved under a P.U.D. permit, and any use approved under a P.U.D. permit shall be considered to be in compliance with the required procedures for obtaining a use permit.

(b) Plan approval shall be considered issued when completed drawings are approved under a P.U.D. permit, and no further action is required for the issuance of plan approval under this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-13. Effect of P.U.D. permit on other zoning provisions.

Any P.U.D. permit issued shall be subject to all of the conditions imposed in the permit and shall be exempted from other provisions of this chapter only to the extent specified in the permit.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-14. Time extensions and amendments.

(a) A P.U.D. permit holder may apply to the commission through the department for an amendment to the permit or any condition or conditions imposed therein.

(b) In the case of time extensions, the P.U.D. permit holder shall file the request not less than ninety days prior to the expiration date of the applicable time condition or conditions, setting forth:

(1) The affected condition or conditions;

(2) The length of time requested; and

(3) The reasons for the request.

If the commission fails to act on a properly filed time extension request prior to the expiration date, the activity granted under P.U.D. permit may be continued, unless the commission specifically disallows the activity during the interim period.

(c) In the case of additions, modifications, and/or deletions of conditions of the P.U.D. permit, the P.U.D. permit holder shall set forth in writing:

(1) The affected condition or conditions;

(2) The specific amendment or amendments requested; and

(3) The reasons for the request.

(d) Any such request shall be accompanied by a $250 filing and processing fee, along with the original and twenty copies of the request.

(e) The hearing and notice procedures and action shall be the same as under sections 6-6 and 6-8 of the Planning Commission Rules of Practice and Procedure, provided further that the commission shall conduct a hearing within a period of ninety days from the date of receipt of a properly filed request, or within a longer period as may be agreed to by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-15. Appeals.

Any decision of the commission so made within the context of this article shall be appealable to the Third Circuit Court.

(1999, ord 99-112, sec 13; am 2015, ord 15-33, sec 2.)

Division 2. Cluster Plan Development (C.P.D.).

Section 25-6-20. Purpose.

The purpose of cluster plan development (C.P.D.) is to provide exceptions to the density requirements of the single-family residential (RS) district so that permitted density of dwelling units contemplated by the minimum building site requirements is maintained on an overall basis and desirable open space, tree cover, recreational areas, or scenic vistas are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-21. Minimum land area required.

The minimum land area required for a C.P.D. shall be two acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-22. Application for C.P.D.

(a) An application for a C.P.D. permit shall be on a form prescribed by the director and shall be accompanied by a filing and processing fee as set forth under chapter 23, the subdivision control code.

(b) The procedure for processing an application for a C.P.D. permit shall be the same as that prescribed for a subdivision application under chapter 23, the subdivision control code.

(c) The applicant shall post a sign for public notification on the property as provided by section 25-2-12.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 7.)

Section 25-6-23. Computation of maximum number of lots.

(a) The maximum number of building sites that may be created in a C.P.D. shall be computed by subtracting ten percent of the total area proposed for the C.P.D. for street rights-of-way, and dividing the remaining area by the minimum building site area requirement of the single-family residential district(s) in which the C.P.D. is to be located.

(b) The method of computation prescribed in subsection (a) shall apply whether or not ten percent of the total land area is actually required for street rights-of-way.

(c) Land utilized by utilities for easements for major facilities, such as electric transmission lines and water mains, where such land is not available to the owner for development because of the easements, shall not be considered as part of the gross acreage in computing the maximum number of building sites that may be created in a C.P.D.

(d) Land normally subjected to being submerged in water or with slopes in excess of thirty percent shall not be considered as part of the gross acreage in computing the maximum number of building sites that may be created in a C.P.D.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-24. Minimum lot size in C.P.D.

(a) Building sites in a C.P.D. may be reduced in area below the minimum area required in the district in which the C.P.D. is located, provided that the average building site of the area created in the C.P.D. is not below the minimum building site area required in the district for C.P.D.

(b) No building site in an RS district shall be reduced in area below the following minimum standards:

Area Requirement	C.P.D. Minimum Standard
1 acre	20,000 square feet
30,000 square feet	15,000 square feet
20,000 square feet	12,000 square feet
15,000 square feet	10,000 square feet
10,000 square feet	7,500 square feet
7,500 square feet	6,000 square feet

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-25. Common land in a C.P.D.

(a) The location, extent and purpose of common land proposed to be set aside for open space or for recreational use within any C.P.D. must be approved by the director. A private recreational use such as a golf course or a swimming pool, which use is limited to the owners or occupants of building sites located within the C.P.D. may be approved as common land. Other uses or sites which may qualify as common land include historic buildings or sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, land along usable shoreline areas, and low land along streams or areas of rough terrain where such areas are extensive and have natural features worthy of preservation and are usable for normal recreational pursuits.

(b) The method of maintenance of common land for open space or recreational use shall be approved by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-26. Appeal of a C.P.D. decision.

Within thirty days after the date of the director's written decision regarding a C.P.D., any person aggrieved by the decision may appeal the director's action to the board of appeals in accordance with this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 3. Ohana Dwellings.

Section 25-6-30. General provisions, applicability.

Ohana dwellings shall be permitted on a building site within the RS, RA, FA and A districts; provided that:

(a) The building site is a legal lot of record as determined by the director;

(b) Any building site which is within the State land use agricultural district shall be subject to agricultural requirements for farm dwellings as established by ordinance or by rule of the director, adopted pursuant to chapter 91, Hawai‘i Revised Statutes;

(c) All applicable provisions of this chapter are met, including but not limited to, height limits, minimum yards and parking; and

(d) The following public facilities are adequate to serve the ohana dwelling unit:

(1) Sewage Disposal System. The building site shall be served by a public or private sewage disposal system. An adequate public sewage disposal system shall meet with the requirements of the department of public works and an adequate private sewage disposal system, cesspool or septic tank shall meet with the requirements of the State department of health.

(2) Potable Water Supply. The building site shall be served by an approved public or private water system meeting with the requirements of the department of water supply which system can accommodate the ohana dwelling and the main dwelling unit. An ohana dwelling that is not served by an approved public or private water system may use a water catchment system provided that the director determines that there is sufficient annual rainfall in the area to accommodate a water catchment system and water catchment system meets the requirements of the department of health and the department of water supply.

(3) Fire Protection. The building site shall be served by adequate fire protection measures meeting with the requirements of the fire department.

(4) Streets. The building site shall gain access to a public or private street meeting with the requirements of the department of public works.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-31. Eligibility for ohana dwelling permit.

(a) An application for an ohana dwelling permit on any building site shall only be accepted by the director after the completion of all subdivision improvements required by chapter 23 (subdivisions), for the subdivision in which the building site is located. For purposes of this subsection, “completion” means the construction of all of the subdivision improvements including the subdivision roads, drainage, water, and if applicable, wastewater systems, in accordance with approved construction plans, which improvements have been completed to the satisfaction of the director of public works.

(b) Only one permit application for an ohana dwelling unit may be active for any one applicant at any time. Any applicant who has obtained an ohana dwelling permit shall not be eligible or apply for a subsequent ohana dwelling permit on any building site for a period of two years from the date on which the first ohana dwelling unit was completed to the satisfaction of the director of public works. For purposes of this subsection, each titleholder and person named in an application for an ohana dwelling permit, pursuant to section 25-6-39(a)(2), shall be considered the applicant. The director shall maintain and keep readily available for public reference a current list of applicants for ohana dwelling units, including the dates of application and approval or denial.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-6-32. Prohibited areas.

Ohana dwelling units shall be prohibited in the following areas:

(a) Any building site within the State land use conservation district;

(b) Any building site developed under an affordable housing project approved by the State housing finance and development corporation (HFDC) and/or the County housing agency which has been granted preemptions from the requirements of this Code;

(c) Any building site developed as a planned unit development (P.U.D.) or a cluster plan development (C.P.D.);

(d) Any building site where more than one dwelling unit is permitted in the zoning district, including building sites that permit more than one dwelling unit in the RS district, building sites with duplex and multiple-family dwellings, care homes, family child care homes, group living facilities, and single-family dwellings which are transient vacation units;

(e) Any building site which is the subject of an approved variance from the provisions of this chapter or chapter 23 (subdivisions);

(f) Any building site on which the construction of an ohana dwelling or a second dwelling unit is specifically prohibited by a change of zone ordinance.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-33. Designation of the ohana dwelling unit.

(a) Regardless of the size of a building site, not more than one ohana dwelling unit shall be permitted on the same building site with the first single-family dwelling unit.

(b) The director may designate an existing, first single-family dwelling unit as an ohana dwelling unit in order to allow permitting of a new first single-family dwelling unit when such existing dwelling is the only dwelling unit on the building site and the dwelling unit complies or will be modified to comply with all the requirements of this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-34. Height limit.

Except when the living areas of the ohana dwelling unit and the first dwelling unit are joined by a common wall, floor, or ceiling, the height limit for an ohana dwelling unit shall be twenty-five feet, regardless of whether a greater height limit is provided for the zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-35. Minimum building site area and yards.

(a) The minimum building site area for a building site containing both the first dwelling and the ohana dwelling unit shall be ten thousand square feet.

(b) The minimum front, rear, and side yard requirements for a detached ohana dwelling unit shall be the minimum yard requirements for the zoning district in which the building site is situated plus an additional five feet.

(c) An ohana dwelling unit and a single-family dwelling unit may be constructed as a duplex (i.e., there is a common wall or floor/ceiling).

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-36. Guest houses.

A guest house, as described in section 25-4-9, shall not be permitted on any building site where an ohana dwelling unit has been permitted or constructed. If an existing guest house is situated on a building site, an ohana dwelling unit shall not also be permitted on the building site. Provided, that an existing guest house may be converted into an ohana dwelling unit in accordance with the requirements of this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-37. Off-street parking spaces.

The number of parking spaces for an ohana dwelling unit shall be as provided under section 25-4-51.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-38. Variances prohibited.

No variance from either this chapter or chapter 23 (subdivisions), shall be granted to permit the construction or placement of an ohana dwelling unit on a building site. In addition, an ohana dwelling unit shall not be permitted on a building site for which a variance from either this chapter or chapter 23 (subdivisions), has already been granted.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39. Application for ohana dwelling permit; requirements.

(a) An application form for an ohana dwelling permit shall be filed with the director on a form prescribed for this purpose by the director, and shall be accompanied by:

(1) A filing fee of $25;

(2) The names and addresses of all the owners of the building site, provided that when the property is owned by a corporation, association, partnership or trust, the names and addresses of all partners, director, officers, shareholders or beneficiaries holding an ownership or beneficial interest of at least ten or more percent shall be included; and

(3) An affidavit, in the form prescribed by the director, verifying that there is no restriction or covenant applicable to the building site, contained in any deed, lease, or other recorded document, which prohibits the construction or placement of an ohana dwelling or a second dwelling unit on the building site.

(b) The applicant shall serve notice of the ohana dwelling permit application on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on all owners of the property identified in the application who did not execute the application, and any known association of property owners which has jurisdiction or authority over the subdivision in which the building site is situated. Proof of service of the notice, in the manner provided under section 25-2-4, shall be submitted together with the ohana dwelling permit application.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.1. Action on ohana dwelling permit.

(a) Upon acceptance of an ohana dwelling permit application, the director shall forward the application to appropriate agencies for review and comment on the adequacy of those infrastructure facilities required for the ohana dwelling unit, under section 25-6-30.

(b) Within a period of at least thirty days but not more than sixty days after acceptance of an ohana dwelling permit application, the director shall either approve or deny the application.

(c) If the director fails to render a decision within the prescribed sixty-day period, the application shall be considered as being approved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.2. Building permit for an ohana dwelling.

(a) A building permit for the construction of an ohana dwelling unit shall be secured within one year from the date that the ohana dwelling unit permit was issued. A thirty-day time extension may be granted by the director if it can be demonstrated by the applicant that nonperformance was not the result of the applicant's fault or negligence. In the event that the applicant fails to secure a building permit for the construction of the ohana dwelling unit within the one-year time period, or any extension granted by the director, the ohana dwelling unit permit shall be void.

(b) The time extension provided for an ohana dwelling permit under subsection (a) above shall be the only time extension available to an applicant, and no further time extension shall be allowed. Further, the failure to obtain any further time extension of an ohana dwelling permit shall not be cause to petition the director, the commission or the board of appeals for relief from the time limitation for an ohana dwelling permit as provided under this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.3. Nontransferability of permit.

(a) A permit for an ohana dwelling unit shall be personal to the applicant and shall not be transferable or assignable to any other person until construction of the ohana dwelling unit has been completed and final approval has been issued by the director of public works.

(b) No person shall advertise or represent to the public that a permit to construct an ohana dwelling unit is transferable with the sale of the property on which the permit has been granted.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-6-39.4. Pending applications.

All pending applications for ohana dwellings filed with the director prior to May 4, 1996 shall be processed in accordance with this division, with the exception of the filing fee. The director may require the applicant to submit additional information to comply with this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.5. Illegally constructed ohana dwellings.

In the event that an ohana dwelling unit is constructed contrary to the provisions of this division, with or without a permit therefor having been issued, the ohana dwelling unit, shall be considered unlawful and a public nuisance, and action or proceedings for abatement, removal and enjoinment of the unlawful ohana dwelling shall immediately be commenced in accordance with this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.6. Revocation of an ohana dwelling permit.

(a) The director may initiate proceedings to revoke a permit for an ohana dwelling unit if:
   (1) The applicant intentionally misrepresented a material fact in the permit application, including all attachments; or
   (2) The applicant transferred or attempted to transfer an ohana dwelling unit permit issued by the director prior to completion of the construction of the ohana dwelling unit and final approval by the director of public works.

(b) The director shall serve written notice of the proposed revocation on the applicant by registered or certified mail with return receipt.

(c) The applicant may, within thirty days after receipt of the proposed revocation notice, appeal the revocation notice to the board of appeals as provided by section 6-9.2, County Charter and sections 25-2-20 through 25-2-24. An appeal to the board of appeals shall stay the provisions of the director's order pending the final decision of the board of appeals.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 13.)

Section 25-6-39.7. Appeals.

Any person aggrieved by the decision of the director in the issuance of an ohana dwelling permit decision, except for a decision regarding the duration of a permit under section 25-6-39.2, may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the date of the director's written decision.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 4. Project Districts (PD).

Section 25-6-40. Purpose and applicability.

The project district (PD) development is intended to provide for a flexible and creative planning approach rather than specific land use designations, for quality developments. It will also allow for flexibility in location of specific uses and mixes of structural alternatives. The planning approach would establish a continuity in land uses and designs while providing for a comprehensive network of infrastructural facilities and systems. A variety of uses as well as open space, parks, and other project uses are intended to be in accord with each individual project district objective. A project district is an amendment to this chapter which changes the district boundaries in accordance with the individual project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-41. Criteria for establishing a project district.

A project district may be established as an amendment to this chapter whenever the public necessity and convenience and the general welfare require that a comprehensive planning approach for an area should be adopted in order to establish a continuity in land uses and designs while providing a comprehensive network of infrastructural facilities and systems. In addition, a project district may only be established if the proposed district:

(1) Is consistent with the intent and purpose of this chapter and the County general plan; and

(2) Will not result in a substantial adverse impact upon the surrounding area, community or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-42. Minimum land area required.

The minimum land area required for a project district shall be fifty acres. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-43. Permitted uses.

Any uses permitted either directly or conditionally in the RS, RD, RM, RCX, CN, CG, CV or V districts shall be permitted in a project district; provided, that each of the proposed uses and the overall densities for residential and hotel uses shall be contained in a master plan for the project district and in the project district enabling ordinance. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-44. Application for project district; requirements.

(a) An application for a project district may be filed by a property owner or any other person with the property owner's consent. The application shall be on a form prescribed for this purpose by the director and shall be accompanied by:
   (1) A filing fee of $5,000.
   (2) A description of the property in sufficient detail to determine its precise location.
   (3) A master conceptual plan of the property, showing the project district boundaries and the land uses and acreage of land involved.
   (4) A description of the proposed project district, including land uses, densities, infrastructural requirements, and development standards.
   (5) A description of each of the open space areas proposed for the project district for cultural and/or environmental purposes, including those open space areas preserved because of natural hazards.
   (6) A metes and bounds description of the property prepared by a surveyor.
   (7) A list of the names, addresses and tax map key numbers for those property owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4.
   (8) A County environmental report; provided that a County environmental report shall not be required where an environmental impact statement or an environmental assessment and negative declaration have been prepared and issued in compliance with chapter 343, Hawai‘i Revised Statutes, as amended.
   (9) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawai‘i Revised Statutes.

(b) The applicant shall serve notice of the application for project district on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) Within one hundred twenty days after a project district application has been accepted by the director, the director shall forward the application to the commission, together with the director's recommendation on the proposed project district, and together with a proposed project district ordinance which establishes the project district and provides project district standards and conditions, including permitted land uses, accessory uses, densities, heights, setbacks, and variances from the requirements of this chapter, and from chapter 23 (subdivision control), if applicable, as contained in the master conceptual plan for the project district.

(d) The commission shall review any project district application and shall forward its recommendation on the application to the council through the mayor for the council's consideration and action.

(1) In reviewing the application, the commission shall hold at least one public hearing in the district in which the proposed project district is located. The commission shall provide reasonable notice of the date of the hearing to the applicant. The commission shall also publish notice of the hearing in accordance with the requirements of this chapter.

(2) Within ten days after receiving notice of the date of the public hearing, the applicant shall serve notice of the hearing on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the proposed project district.

(3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed project district ordinance together with its recommendation thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such proposal.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 8; am 2012, ord 12-90, sec 2.)

Section 25-6-45. Conditions imposed on project district.

(a) The council may impose conditions on the use of the property subject to the project district, provided the council finds that the conditions are:

(1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

(2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the potentially deleterious effects of the proposed uses, or fulfillment of the need for public service demands created by the proposed uses.

(b) In addition to the conditions described in subsection (a), the council shall include the following conditions in any project district ordinance:

(1) A description of each of the uses proposed in the project district;

(2) The overall densities for the residential and hotel uses established in the project district;

(3) Any infrastructure requirements for the project district; and
(4) Any open space requirements for the project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-46. Review and approval of site plans.

(a) After adoption of a project district enabling ordinance, the applicant shall submit to the director detailed site plans for the project district development. The site plans shall conform to the project district enabling ordinance and shall include the following:
   (1) Plans for required infrastructure improvements;
   (2) All items required for a plan approval application, as provided by section 25-2-72; and
   (3) Any other information required by rules adopted by the director in accordance with chapter 91, Hawai‘i Revised Statutes.
(b) Within sixty days after acceptance of the site plans, the director shall either deny or approve the plans.
(c) The director may approve site plans for a project district only if the applicant has complied with all of the conditions contained in the project district enabling ordinance and the site plans conform to the standards contained in the project district enabling ordinance. The director may approve the site plans subject to conditions, or the director may approve the site plans subject to certain changes when, in the director's opinion, such conditions or changes are necessary to carry out the purposes of the project district, this chapter and the considerations contained in section 25-6-47.
(d) If the director fails to render a decision on the site plans within the prescribed period, the site plans shall be considered approved without further certification by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-47. Review criteria and conditions of approval.

In reviewing site plans for a project district, the director shall consider the proposed development and uses in relation to the surrounding properties, improvements, streets, traffic, community characteristics, and natural features, and may require conditions or changes to assure:

(1) Adequate light and air, proper siting and arrangements of all structures and improvements are provided;
(2) Existing and prospective traffic movements will not be hindered;
(3) Proper landscaping is provided that is commensurate with the development or use and its surroundings;
(4) Unsightly areas are properly screened or eliminated;
(5) Adequate off-street parking is provided to serve the development or use;

(6) Access to the parking areas will not create potential accident hazards; and
(7) Within reasonable limits, any natural and man-made features of community value are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-48. Construction in conformity with approved site plans.

Every structure, development and use contained in site plans for a project district approved by the director shall be constructed and developed in accordance with the terms, specifications and conditions of approval for those site plans.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49. Plan approval issued by approval of site plans.

Plan approval shall be considered issued when site plans for a project district are approved by the director, as provided by sections 25-6-46 and 25-6-47, and no further action is required for the issuance of plan approval under this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49.1. Amendments.

Any amendment to the conditions and standards contained in a project district enabling ordinance shall be processed in the same manner as the project district enabling ordinance, unless the council in the project district enabling ordinance authorizes the amendments to be made by the director. A request for any amendment shall be submitted in writing to the director, in lieu of the application required for a project district. The request shall be accompanied by a filing fee of $250.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49.2. Appeal of director's actions on project district site plans.

Any person aggrieved by the decision of the director in the issuance of a decision regarding project district site plans may appeal the director's action to the board of appeals, in accordance with its rules, within thirty days after the written decision is issued by the director.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 5. Agricultural Project Districts (APD).

Section 25-6-50. Purpose and applicability.

The agricultural project district (APD) development is intended to provide a flexible and creative planning approach for developments within the agricultural zoning districts, in lieu of specific land use designations. It will allow for flexibility in the location of specific types of agricultural uses and variations in lot sizes. Under this planning approach, opportunities will be provided for a mix of small scale agricultural activities and associated residential uses, as well as larger agricultural projects. This district will also provide a vehicle to satisfy the demand for a rural lifestyle on marginal agricultural land, while decreasing the pressure to develop important agricultural land for this purpose. The planning approach would establish a continuity in land uses and designs, while providing for the needed infrastructural facilities and systems to support the various types of agricultural developments. An agricultural project district is an amendment to this chapter which changes the district boundaries in accordance with the individual agricultural project district.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-51. Criteria for establishing a project district.

An agricultural project district may be established as an amendment to this chapter whenever the public necessity and convenience and the general welfare require that a comprehensive planning approach for an agricultural area should be adopted in order to establish a continuity in land uses while providing the required infrastructural facilities and systems. In addition, an agricultural project district may only be established if the proposed district:

(1) Is consistent with the intent and purpose of this chapter and the County general plan; and
(2) Will not result in a substantial adverse impact upon the surrounding area, community or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-52. Minimum land area required.

The minimum land area required for an agricultural project district shall be five acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-53. Permitted uses; overall density.

Any uses permitted either directly or conditionally in the A or IA districts shall be permitted in an agricultural project district, and the overall density permitted in an agricultural project district shall not be greater than one acre per building site. Each of the proposed uses and the overall densities for dwelling uses shall be contained in a master conceptual plan for the agricultural project district and in the agricultural project district enabling ordinance.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-54. Application for agricultural project district; requirements.

(a) An application for an agricultural project district may be filed by a property owner or any other person with the property owner's consent. The application shall be on a form prescribed for this purpose by the director and shall be accompanied by:
   (1) A filing fee of $100 per acre up to a maximum filing fee of $5,000.
   (2) A description of the property in sufficient detail to determine its precise location.
   (3) A master conceptual plan of the property, showing the agricultural project district boundaries and the land uses and acreage of land involved.
   (4) A description of the proposed agricultural project district, including land uses, densities, infrastructural requirements, and development standards.
   (5) A description of each of the open space areas proposed for the agricultural project district for cultural and/or environmental purposes, including those open space areas preserved because of natural hazards.
   (6) A metes and bounds description of the property prepared by a surveyor.
   (7) A list of the names, addresses and tax map key numbers for those property owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4.
   (8) A County environmental report; provided that a County environmental report shall not be required where an environmental impact statement or an environmental assessment and negative declaration have been prepared and issued in compliance with chapter 343, Hawaiʻi Revised Statutes, as amended.
   (9) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawaiʻi Revised Statutes.

(b) The applicant shall serve notice of the application for agricultural project district on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) Within one hundred twenty days after an agricultural project district application has been accepted by the director, the director shall forward the application to the commission, together with the director's recommendation on the proposed agricultural project district, and together with a proposed agricultural project district ordinance which establishes the agricultural project district and provides standards and conditions for the district, including permitted land uses, accessory uses, densities, heights, setbacks, and variances from the requirements of this chapter, and from chapter 23 (subdivision control), if applicable, as contained in the master conceptual plan for the agricultural project district.

(d) The commission shall review any agricultural project district application and shall forward its recommendation on the application to the council through the mayor for the council's consideration and action.
   (1) In reviewing the application, the commission shall hold at least one public hearing in the council district in which the proposed agricultural project district is located. The commission shall provide reasonable notice of the date of the hearing to the applicant. The commission shall also publish notice of the hearing in accordance with the requirements of this chapter.
   (2) Within ten days after receiving notice of the date of the public hearing, the applicant shall serve notice of the hearing on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the proposed agricultural project district.
   (3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed agricultural project district ordinance together with its recommendation thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such proposal.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 9; am 2012, ord 12-90, sec 3.)

Section 25-6-55. Conditions imposed on agricultural project district.

(a) The council may impose conditions on the use of the property subject to the agricultural project district, provided the council finds that the conditions are:
   (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
   (2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the potentially deleterious effects of the proposed uses, or fulfillment of the need for public service demands created by the proposed uses.

(b) In addition to the conditions described in subsection (a), the council shall include the following conditions in any agricultural project district ordinance:
   (1) A description of each of the uses proposed in the agricultural project district;
   (2) The overall and average densities for dwelling uses established in the agricultural project district;
   (3) Any infrastructure requirements for the agricultural project district; and
   (4) Any open space requirements for the agricultural project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-56. Review and approval of site plans.

(a) After adoption of an agricultural project district enabling ordinance, the applicant shall submit to the director detailed site plans for the agricultural project district development. The site plans shall conform to the agricultural project district enabling ordinance and shall include the following:
   (1) Plans for required infrastructure improvements;
   (2) All items required for a plan approval application, as provided by section 25-2-72; and
   (3) Any other information required by rules adopted by the director in accordance with chapter 91, Hawaiʻi Revised Statutes.

(b) Within sixty days after acceptance of the site plans, the director shall either deny or approve the plans.

(c) The director may approve site plans for an agricultural project district only if the applicant has complied with all of the conditions contained in the agricultural project district enabling ordinance and the site plans conform to the standards contained in the agricultural project district enabling ordinance. The director may approve the site plans subject to conditions, or the director may approve the site plans subject to certain changes in the proposed site plans when, in the director's opinion, such conditions or changes are necessary to carry out the purposes of the agricultural project district, this chapter and the considerations contained in section 25-6-57.

(d) If the director fails to render a decision on the site plans within the prescribed period, the site plans shall be considered approved without further certification by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-57. Review criteria and conditions of approval.

In reviewing site plans for an agricultural project district, the director shall consider the proposed development and uses in relation to the surrounding properties, improvements, streets, traffic, community characteristics, and natural features, and to the agricultural and accessory residential uses contemplated, and may require conditions or changes to assure:

(1) Adequate light and air, proper siting and arrangements of all structures and improvements are provided;
(2) Existing and prospective traffic movements will not be hindered;
(3) Adequate off-street parking is provided to serve the development or use;
(4) Access to the parking areas will not create potential accident hazards; and
(5) Within reasonable limits, any natural and man-made features of community value are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-58. Construction in conformity with approved site plans.

Every structure, development and use contained in site plans for an agricultural project district approved by the director shall be constructed and developed in accordance with the terms, specifications and conditions of approval for those site plans. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59. Plan approval issued by approval of site plans.

Plan approval shall be considered issued when site plans for an agricultural project district are approved by the director, as provided by sections 25-6-56 and 25-6-57, and no further action is required for the issuance of plan approval under this chapter. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59.1. Amendments.

Any amendment to the conditions and standards contained in an agricultural project district enabling ordinance shall be processed in the same manner as the agricultural project district enabling ordinance, unless the council in the agricultural project district enabling ordinance authorizes the amendments to be made by the director. A request requiring an amendment of the enabling ordinance shall be submitted in writing to the director, in lieu of the application required for an agricultural project district. The request shall be accompanied by a filing fee of $250. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59.2. Appeal of director's actions on agricultural project district site plans.

Any person aggrieved by the decision of the director in the issuance of a decision regarding agricultural project district site plans may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the written decision is issued by the director.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 6. Scenic Corridor Program.

Section 25-6-60. Purpose and applicability.

In the County of Hawai'i, there are certain segments of public roads, or portions thereof, that expose traveling residents and visitors to notable and/or unique resources. As established by the national and/or state scenic byways program, the identification of these portions of public roads as scenic corridors is intended to provide for the enhancement of important scenic, historic, recreational, cultural and/or natural resources accessed from such a transportation corridor. This planning approach establishes the opportunity for continuity and/or enhancement of land uses and designs for natural, cultural, historic, recreational and/or scenic resources located along a transportation corridor and provides a diversity of regulatory and non-regulatory tools and techniques to apply to a variety of circumstances for a corridor identified by ordinance as a scenic corridor in the County of Hawai'i.

The Hawaiʻi County council may, by ordinance, establish all or portions of public roadways and an appropriate portion of the adjacent property as a scenic corridor. Within such an area, all permitted uses defined by the underlying zoning classification will remain in place unless otherwise specified by the scenic corridor enabling ordinance. Any standards and conditions not included in the underlying zoning related, but not limited, to signage, lighting, design standards, access management, landscaping, parking, height, historic and cultural preservation, view planes, and/or setbacks must be included as part of the scenic corridor management plan and adopted by scenic corridor enabling ordinance by the County council. The scenic corridor management plan must demonstrate the need for the adoption of special standards and conditions in order to preserve, maintain, protect, or enhance the intrinsic character of the corridor consistent with the purposes of this chapter.
(2007, ord 07-36, sec 1.)

Section 25-6-61. Criteria for establishing a scenic corridor.

A scenic corridor may be adopted as an amendment to this chapter whenever the public necessity, convenience, general welfare, and/or the public trust require that a comprehensive planning approach for a transportation corridor be adopted in order to establish continuity in land uses while providing the required infrastructural facilities and systems. A scenic corridor may only be established if the proposed district meets the following criteria:

(1) Is consistent with the intent and purpose of this chapter and the County general plan.
(2) Will not result in a substantial adverse impact upon the surrounding area, community and/or region.
(3) Will enhance Hawaiʻi County's significant natural, visual, recreation, historic and/or cultural qualities.
(4) Will protect and enhance the attractiveness of Hawaiʻi County to make it a better place to live, work, visit, and/or play.
(5) Will improve Hawaiʻi County's economic vitality by enhancing and protecting our unique natural, scenic, historic, cultural, and/or recreational resources.
(6) Is located on a major or minor arterial highway, or collector road.
(7) Significantly possesses at least one of the following intrinsic qualities:
    (A) Scenic;
    (B) Natural;
    (C) Historic;
    (D) Cultural;
    (E) Archaeological;
    (F) Recreational; or
    (G) Demonstrates local, private, and public support and participation.

(2007, ord 07-36, sec 1.)

Section 25-6-62. Permitted uses.

Within a scenic corridor all zoning code regulations applicable to the zoning district or districts in question remain in effect unless differing regulations are contained within the corridor management plan as adopted by ordinance, in which case the corridor management plan shall apply.
(2007, ord 07-36, sec 1.)

Section 25-6-63. Initiation of a scenic corridor; requirements.

(a) The director or council by resolution must initiate the establishment of a scenic corridor. The resolution must demonstrate that the proposed scenic corridor meets the requirements of 25-6-61. The resolution must include:
   (1) A description and general location of the proposed corridor.
   (2) The length of the section of road to be included in the scenic corridor.
   (3) A description of the corridor's intrinsic quality or qualities.
   (4) A list of names, addresses and tax map key numbers for those property owners and lessees of record of lots within three hundred feet of the public road being proposed to be designated as a scenic corridor.
   (5) Any other plans or information required by rules adopted by the director in accordance with chapter 91 of the Hawai'i Revised Statutes.

(b) Within thirty days of the adoption by the council of the resolution, the director shall serve notice of the proposed scenic corridor upon all owners and lessees of lots, and utility companies with easements and/or other property rights, whose properties are either (1) within the proposed scenic corridor, or (2) within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall give a general description of the scenic corridor and describe the opportunity for public comment.

(c) Corridor management plan.
   Within twenty-four months after the adoption of the resolution, the director shall complete a corridor management plan and enabling ordinance, which will be forwarded to the commission for its recommendation to the Hawai'i County council. A scenic corridor management plan is a written document that assesses the intrinsic qualities of the corridor and specifies actions, procedures, controls, and administrative as well as community strategies that will be pursued to maintain those qualities. Special conditions and standards developed for an individual scenic corridor shall be included as part of the enabling ordinance. Elements of the corridor management plan will include:
   (1) Vision and goals statement.
   (2) A map identifying scenic corridor boundaries and the location of intrinsic qualities and different land uses within the scenic corridor.
   (3) An assessment of such intrinsic qualities and their context.
   (4) An assessment of needs and expectations.
   (5) An assessment of anticipated transportation, economic, environmental, and social impacts.
   (6) Strategies for economic development and marketing of the scenic corridor.
   (7) Strategies for maintaining and enhancing the corridor's intrinsic qualities.

(8) Strategies for community participation.
(9) Identification of organizations, agencies and individuals to be consulted in the planning process.
(10) Identification of regulatory and non-regulatory tools recommended that could aid in the implementation of the scenic corridor management plan. The evaluation and selection of tools needed to protect and/or enhance the corridor should be based on the following criteria:
(A) The ability to insure that new development is consistent with the conditions and standards established for the scenic corridor, while maintaining the property owner's rights to reasonable use of the property;
(B) The ability to provide the appropriate degree of development and aesthetic control needed to preserve and enhance quality of the corridor; and
(C) The ability to provide flexible, diverse, and suitable regulatory and non-regulatory tools and techniques to a variety of circumstances.
(11) Specific time schedules for plan implementation.
(12) Standards for building design, signage, and roadway elements. In the case where the transportation corridor has not been built, the corridor management plan may include special design standards for the corridor development.
(13) Methods for interpreting and protecting significant resources.
(14) Identification of potential funding sources.
(15) Provisions for termination of the corridor management plan if it is not implemented.

(d) The director shall forward the corridor management plan and a proposed scenic corridor enabling ordinance to the commission together with the director's recommendation on the proposed scenic corridor. The purpose of the scenic corridor enabling ordinance is to establish the scenic corridor as well as any conditions and/or standards recommended by the corridor management plan that may differ from those within the underlying zoning. Any conditions and/or standards that differ from the underlying zoning must be defined through the use of a table that illustrates how standards and/or conditions in the enabling ordinance differ from those within the underlying zoning.

(e) The commission shall review the scenic corridor enabling ordinance and the corridor management plan and forward its recommendation to the council through the mayor for the council's consideration and action.
(1) In reviewing the corridor management plan, the commission shall hold at least one public hearing in the council district in which the proposed scenic corridor is located.

(2) Within ten days after receiving notice of the date of the public hearing, the director shall serve notice of the public hearing on owners, and lessees of record, and utility companies with easements or other property interests, whose properties are within the proposed scenic corridor, or within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall otherwise conform to section 25-2-4(c) and (d).

(3) Within one hundred twenty days after receipt of the corridor management plan from the director, the commission shall transmit the proposed scenic corridor ordinance and corridor management plan together with its recommendation thereon through the mayor to the council. If no recommendation is made within one hundred twenty days, the scenic corridor management plan and enabling ordinance shall be forwarded to the council with no recommendation.

(2007, ord 07-36, sec 1; am 2009, ord 09-118, secs 18 and 19.)

Section 25-6-64. Corridor advocacy groups.

(a) A corridor advocacy group is a non-profit community-based organization formed to promote, plan, or otherwise support a scenic corridor or corridors.

(b) The council may designate, by resolution, an official corridor advocacy group for a scenic corridor, or proposed scenic corridor.

(c) The council may delegate the preparation of the corridor management plan to the officially-designated corridor advocacy group. In that case, the corridor advocacy group shall provide the notices required under section 25-6-63(b) and prepare a corridor management plan conforming to section 25-6-63(c). The director shall prepare an enabling ordinance and the procedure shall thereafter follow section 25-6-63(d) and (e).

(2007, ord 07-36, sec 1.)

Section 25-6-65. Conditions and standards imposed on a scenic corridor.

(a) The council may impose conditions on the use of the property directly adjacent to the transportation corridor provided that the council finds that the conditions are:

(1) Necessary to prevent circumstances which may be adverse to public health, safety and welfare,

(2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the deleterious effects of the proposed uses, or fulfillment of the need for the public service demands created by the proposed uses and

(3) Necessary to protect, preserve, and enhance the environmental, historic, cultural, scenic, archaeological, and/or recreational resources and intrinsic qualities identified within the scenic corridor.

(b) In addition to the conditions in subsection (a), the council shall include conditions and standards as part of the proposed scenic corridor enabling ordinance needed to implement the intent of the corridor management plan.

(2007, ord 07-36, sec 1.)

Section 25-6-66. Review and approval of applications.

After adoption of a scenic corridor enabling ordinance and corridor management plan, all approvals including, but not limited to sign permits, grading and grubbing permits, building permits, and subdivision approvals shall conform to the standards and conditions contained in the scenic corridor enabling ordinance.
(2007, ord 07-36, sec 1.)

Article 7. Special District Regulations.

Division 1. Kailua Village Design Commission.

Section 25-7-1. Purpose and applicability; boundaries.

(a) The purpose of the Kailua Village design commission is to advise the director in matters concerning the design of buildings and structures and all public and private improvements within Kailua Village.

(b) "Kailua Village" as used in sections 25-7-1 through 25-7-5 means that area bounded by the following:

(1) Beginning at a point on the shoreline approximately four thousand feet west of the old Kailua wharf, mauka along the west boundary of TMK: 7-5-05:10 and 68 to the northwest corner of TMK: 7-5-05:68;

(2) Southeast and east along the mauka boundary of the existing RS-15 zone to the west boundary of Kaiwi Street extension, mauka crossing Kuakini Highway along the west side of the Kailua Industrial Subdivision crossing Queen Kaahumanu Highway, approximately three hundred feet mauka running parallel and going east recrossing the Queen Kaahumanu Highway to the eastern end of Kalani Street;

(3) Southwest along the makai side of the Queen Kaahumanu Highway and its extension to the south side of the Kona Hillcrest Subdivision;

(4) Makai along the south side of the Kona Hillcrest Subdivision and along the south side of the parcels described as TMK: 7-5-30:23 and 24 to Kuakini Highway;

(5) Makai, crossing Kuakini Highway along the south side of the parcels described as TMK: 7-5-18:1,4, and 61, and TMK: 7-5-19:18 to the shoreline;

(6) North along the shoreline to the point of beginning and containing an area of approximately eight hundred twenty-five acres and as delineated on the map attached to Ordinance No. 628 (1974), as amended by Ordinance No. 630 (1974).

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-2. Design commission membership; appointment; term.

(a) The design commission shall consist of nine members who shall be appointed by the mayor with the approval of the council. The members shall be representative of the Kona district, provided that a majority of the appointive members shall have lived or worked in the Kailua Village for a minimum of two years prior to this appointment. The design commission members shall include two design professionals (registered architects and/or landscape architects), two members with backgrounds in building construction and/or engineering, two members with knowledge about historic Kona, its cultural values and resources, and the remaining three members representing local business or property owners.

(b) The members shall serve staggered terms of three years. Upon the initial appointment of the design commission, three shall serve for a term of one year, three for a term of two years, and three for a term of three years. When the term of a member expires, the member shall continue to serve until a successor is appointed. Members whose terms expire may not be reappointed to the design commission for at least two years, however, members appointed for one year or less may be reappointed for an additional term without the passage of two years' time. Except as provided for in this section, the design commission shall be governed by the County Charter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-3. Rules of procedure.

The design commission shall adopt rules of procedure, pursuant to chapter 91, Hawai'i Revised Statutes, relating to matters within the design commission's jurisdiction.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-4. Powers and duties of the Kailua Village design commission.

(a) The design commission shall recommend to the director an architectural and design concept of theme for Kailua Village that recognizes the desires and concerns of all public and private interests.

(b) The design commission shall provide an architectural and design review of applications requiring plan approval by the director. The design commission's review and recommendations to the director shall be completed within thirty days from the date of the design commission's receipt of the plans requiring plan approval. If a recommendation is not received within the allotted period, the director shall continue to process the request for plan approval.

(c) The design commission shall provide an architectural and design review of all planned public improvements such as street widening, street lights, and so forth, as well as all private improvements such as landscaping, structural painting, or any activity which will alter the physical appearance of Kailua Village. The recommendations shall be forwarded to the director within thirty days from the design commission's receipt of the proposal. If a recommendation is not received within the allotted period, the director shall continue to process the proposed activity.

(d) All of the design commission's advice and recommendations to the director shall be consistent with the provisions of the County Charter, general plan, zoning and all other related ordinances and any publicly funded master plan developed for Kailua Village.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2009, ord 09-118, sec 20.)

Section 25-7-5. Amendment of district boundaries.

The Kailua Village boundaries as described in section 25-7-1 shall be subject to review in 1979 and every five years thereafter by the council, and may be amended as appropriate.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 2. CDH, Downtown Hilo Commercial District.

Section 25-7-20. Purpose and applicability.

The CDH (downtown Hilo commercial) district is established to reinforce and promote downtown Hilo's role as a compact high density area for retail shopping, professional and administrative activities, cultural and arts activities, other supportive business and commercial services, and multiple-family housing. The zoning requirements of this district are applicable to all building sites, except those designated as "O" (open) districts, within the area bounded by the western development area limits of Kapiolani Street/Kaiulani Street, the Wailuku River, Hilo Bay and Ponahawai Street.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-21. Designation of CDH district.

The CDH (downtown Hilo commercial) district shall be designated by the symbol "CDH."

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-22. Permitted uses.

(a) The following uses shall be permitted in the CDH district:
   (1) Adult day care homes.
   (2) Amusement and recreation facilities, indoor.
   (3) Art galleries.

(4) Automobile service stations or garages, excluding body and fenderworks, electric tire rebuilding or battery rebuilding and provided that all work is conducted wholly within a completely enclosed building.
(5) Bakeries.
(6) Bars, cocktail lounges and night clubs.
(7) Bed and breakfast establishments, as permitted under section 25-4-7.
(8) Boarding facilities, rooming, or lodging houses.
(9) Broadcasting stations or studios (radio and television).
(10) Business services.
(11) Car washing, provided that the facilities are not detrimental to the character of the district.
(12) Commercial parking lots and garages.
(13) Community buildings, as permitted under section 25-4-11.
(14) Crop production.
(15) Display rooms for products sold elsewhere.
(16) Dwellings, double-family or duplex, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
(17) Dwellings, multiple-family, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
(18) Dwellings, single-family.
(19) Family child care homes.
(20) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(21) Financial institutions.
(22) Group living facilities.
(23) Home occupations, as permitted under section 25-4-13.
(24) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(25) Hotels and apartment hotels with a maximum density of five hundred square feet of land area per rentable unit.
(26) Laundries other than those utilizing steam cleaning equipment, provided that the facilities are not detrimental to the character of the district.
(27) Manufacturing, processing and packaging, light, provided that the activities are not detrimental to the character of the district.
(28) Medical clinics.
(29) Meeting facilities.
(30) Model homes, as permitted under section 25-4-8.
(31) Modeling agencies.
(32) Museums and libraries.

(33) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(34) Offices.
(35) Personal services.
(36) Photography and artist studios.
(37) Public uses and structures, as permitted under section 25-4-11.
(38) Publishing plants for newspapers, books and magazines, printing shops, cartographing and duplicating processes such as blueprinting or photostating.
(39) Repair establishments, minor.
(40) Restaurants.
(41) Retail establishments, provided that they are not detrimental to the character of the district.
(42) Schools, business.
(43) Schools, photography, art, music, dance or other similar studios or academies.
(44) Schools, vocational.
(45) Telecommunication antennas, as permitted under section 25-4-12.
(46) Temporary real estate offices, as permitted under section 25-4-8.
(47) Theaters, auditoriums and indoor sports arenas.
(48) Utility substations, as permitted under section 25-4-11.

(b) Residential use in connection with the operation of any permitted use shall be permitted in the CDH district.
(c) Buildings and uses normally considered accessory to the above uses shall also be permitted in the CDH district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2013, ord 13-95, sec 3.)

Section 25-7-23. Height limit.

The height limit in the CDH district shall be one hundred twenty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-24. Minimum building site area.

The minimum building site area in the CDH district shall be seven thousand five hundred square feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-25. Minimum building site average width.

Each building site in the CDH district shall have a minimum building site average width of sixty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-26. Minimum yards.

Front, rear and sides: none, except as required by plan approval.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-27. Other regulations.

(a) Plan approval is required for all new structures and additions to existing structures in the CDH district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) The number of parking spaces required for double-family, duplex and multiple-family residential dwellings having a density greater than one thousand square feet of land area per rentable unit or dwelling unit within the CDH zoning district shall be one off-street parking space per unit.

(c) Off-site parking may be provided to satisfy parking requirements of this section, as approved by the director. Off-site parking means parking provided for residents of double-family, duplex, or a multiple-family residential development that is neither on a public street nor located on the same property as the residence, but is located within a reasonable distance of the residence, as determined and approved by the director. Off-site parking shall be made available for the exclusive use of the rentable units or dwelling units it is meant to accommodate.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 16; am 2013, ord 13-95, sec 4.)

Division 3. UNV, University District.

Section 25-7-30. Purpose and applicability.

The UNV (University) District shall apply to areas of land that are utilized for campus-related activities and is intended to apply to areas for the location and expansion of universities and the uses and facilities that are associated with and are supportive of them. Special consideration of such uses and facilities is appropriate given the unique characteristics of university areas, the variety of uses needed to serve the university community, and the varying intensity of land uses in such a community. (2007, ord 07-104, sec 3.)

Section 25-7-31. Designation of UNV districts.

Each UNV (University) district shall be designated by the symbol "UNV." (2007, ord 07-104, sec 3.)

Section 25-7-32. Permitted uses.

(a) University facilities including classrooms, laboratory and research facilities, administration facilities, athletic centers and facilities, auditoriums, student centers, libraries, museums, exhibition halls, cafeterias, student health clinics, maintenance facilities and parking lots.

(b) Limited retail and service establishments primarily intended to serve the specific needs of the student population of a university and are normally associated with higher education institutions, including, but not limited to, retail stores whose primary customers are students or faculty of a university, convenience stores, theaters, restaurants, recreational and amusement facilities, taverns, drug stores, book stores, health clubs, news stands, photocopying, office supplies, word processing or typing services, computer sales and service, laundries, university credit union, financial institutions, post office and video rentals. Such retail and services establishments shall not be used before the commencement of university operations. No single commercial establishment shall occupy more than twenty thousand square feet of gross floor space, excluding the university book store or cafeteria operations.

(c) Dormitories, fraternity and sorority houses, and apartments and housing for currently enrolled university students and their dependents and for current university employees and their dependents.

(d) Guest accommodations to accommodate visiting scholars and their dependents, parents visiting their children, alumni reunions, as well as participants in conferences and seminars held at or sponsored by the university.

(2007, ord 07-104, sec 3.)

Section 25-7-33. Height limit.

The height limit in the UNV district shall be sixty feet.

(2007, ord 07-104, sec 3.)

Section 25-7-34. Minimum building site area.

The minimum land area required for a UNV district shall be ten acres. The minimum building site area for leased lots shall be seven thousand five hundred square feet.

(2007, ord 07-104, sec 3.)

Section 25-7-35. Minimum building site average width.

Each building site in the UNV district shall have a minimum building site average width of sixty feet.

(2007, ord 07-104, sec 3.)

Section 25-7-36. Minimum yards.

The minimum yards in the UNV district shall be as follows:

(a) Front and rear yards, twenty feet; and

(b) Side yards, ten feet.

(2007, ord 07-104, sec 3.)

Section 25-7-37. Other regulations.

(a) Plan approval is required for all new structures and additions to existing structures in the UNV district.

(b) A maximum of twenty percent of a UNV district's land area may be in commercial use, including parking.
(c) The planning director has the authority to vary the parking requirements for on-campus housing, offices and for pedestrian-oriented commercial uses.
(2007, ord 07-104, sec 3.)

Division 4. PVD, Pāhoa Village Design District.

Section 25-7-40. Purpose and applicability; boundaries.

(a) The PVD (Pāhoa Village Design) district is established to reinforce and promote Pāhoa's role as a regional town center while retaining its rural village feel and identity. The purpose of the regional town center is to serve as a compact medium density area for retail shopping, administrative and professional activities, cultural and artistic activities, other supportive business activities, and a mix of residential uses capable of serving both village residents and the ever more populous surrounding subdivisions. Further, the PVD district seeks to preserve the historical architectural theme that has come to symbolize Pāhoa's unique sense of place and identity, through the implementation of design guidelines within the PVD district.
(b) The PVD district, as used in this chapter, means the area delineated on the map as provided in the Pāhoa Village Design Guidelines (hereinafter "design guidelines") and further described as:
    (1) All parcels having frontage on Pāhoa Village Road from the Pāhoa Village Road and Kea'au-Pāhoa Road intersection and the Pāhoa Village Road and Pāhoa-Kalapana Road intersection;
    (2) All parcels having frontage on Post Office Road between Pāhoa Bypass Road and Pāhoa Village Road;
    (3) All parcels having frontage on the west side of Kea'au-Pāhoa Road between and inclusive of tax map key numbers: 1-5-007:012 and 1-5-007:080;
    (4) All parcels having frontage on Kahakai Boulevard, including any extensions of Kahakai Boulevard up to the parcel identified by tax map key number 1-5-008:001, west of Pāhoa Bypass Road;
    (5) Parcels identified by tax map key numbers: 1-5-005:024, 1-5-006:037, 1-5-006:015, 1-5-003:037 and 1-5-003:046; and
    (6) All parcels any part of which are designated medium density urban in Exhibit A of Ordinance No. 12-89 amending the general plan land use pattern allocation guide (LUPAG) map, with the following exclusions:
        (A) That portion of tax map key no: 1-5-002:020 that is not designated medium density urban in Exhibit A of Ordinance 12-89; and
        (B) Parcels identified by tax map key numbers: 1-5-001:003 and 1-5-008:001.
(2015, ord 15-44, sec 4.)

Section 25-7-41. Design guidelines; intent; adoption; applicability.

(a) The intent of the Pāhoa Village Design Guidelines (hereinafter "design guidelines") is to articulate primary architectural features and building design characteristics that have historically been identified as the Hawaiʻi plantation architectural style or theme.

(b) Design guidelines may be adopted by resolution or as standards by ordinance and shall be administered by the director after giving due consideration to the recommendations of the Pāhoa design review committee having been established in accordance with section 25-2-72 of this chapter.

(c) While no specific minimum number of the architectural features in the design guidelines shall be required for any proposed project, all buildings and structures within the PVD district, except as otherwise specified in section 25-7-42(d) below, shall be designed to be consistent with the design guidelines and to be complementary with the existing structures.

(2015, ord 15-44, sec 4.)

Section 25-7-42. Pāhoa design review committee; purpose; procedures.

(a) The purpose of the Pāhoa design review committee (hereinafter "committee") is to provide an opportunity for local review and comment, for consistency with the design guidelines, on plans for all new buildings and structures as well as alterations to the exterior of existing buildings and structures within the PVD district.

(b) Upon request from the director, the Puna Community Development Plan Action Committee (PCDP AC) shall identify and recommend one or more appropriate Pāhoa based community organizations that will be responsible for establishing the committee and providing any necessary administrative support that may be required. Committee membership should reflect a broad cross section of the Pāhoa regional town center service area and, to the extent reasonably possible, shall include representation from the construction industry, local businesses, and architecture and design professionals.

(c) The director shall provide the committee with an opportunity to conduct an architectural and design review, for consistency with the design guidelines, of all applications for plan approval, P.U.D. or sign permit, except as provided for in subsection (d) below.

(1) The committee shall complete its review of any application for plan approval and submit its written recommendations along with the reviewed plans stamped "Reviewed by" with the date and signature of the committee chair to the director within twenty-five calendar days of receipt of such application from the director.

(2) The committee shall complete its review of any application for a P.U.D. and submit its written recommendations along with the reviewed plans stamped "Reviewed by" with the date and signature of the committee chair to the director within twenty-five calendar days of receipt of any plans for partial or final full approval from the director.

(3) The committee shall review and submit its written recommendations on applications for sign permits as provided in chapter 3, article 3 of this Code.
(4) Committee recommendations to the director shall be consistent with the provisions of the County Charter, general plan, Puna community development plan, Pāhoa Village Design Guidelines, zoning and other related ordinances and any master plan adopted for the PVD district.

(d) The director may waive the requirement for architectural and design review by the committee when the proposed improvements will clearly have little or no visual impact on the preservation or promotion of the Hawai'i plantation architectural theme, including, but not limited to:
(1) The construction or installation of accessory buildings or structures or minor alterations to the exterior of any existing building or structure that is not visible from any street frontage of the building site;
(2) The addition or replacement of accessory features such as flag poles, roof gutters and downspouts, railings and fencing of similar size, style and material or that more closely conforms to the design guidelines;
(3) Painting or repainting of the exterior of any building, structure or accessory feature that is consistent with the design guidelines; or
(4) The replacement of existing doors and windows where the size of the replacement door or window is within ten percent of the size of the original door or window.

(e) In order to assist applicants with designing projects that satisfactorily conform to the design guidelines, the committee shall also develop a process for and be available to provide preliminary review of conceptual plans prior to formal submittal of detailed plans and an application for a building permit, plan approval, P.U.D. or sign permit.

(f) The committee shall conduct a comprehensive review of the design guidelines and PVD district boundaries and submit its recommendations for amendments to the design guidelines and PVD district boundaries to the PCDP AC within ten years following adoption of the design guidelines, and every ten years thereafter. The committee may prepare and submit to the PCDP AC recommendations for interim amendments to the design guidelines and PVD district boundaries as it deems necessary.

(2015, ord 15-44, sec 4.)

Article 8. Zoning Map, District and Urban Zone Maps.*

Section 25-8-1. Maps incorporated by reference.

The maps described in this article delineate the zoning districts designated in article 5 of this chapter and are hereby incorporated by reference to this chapter. A copy of each map referred to shall be filed in the planning department.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

* **Editor's Note:** A schedule of amendments to the zoning maps can be found in an annex to the zoning code, pursuant to section 25-3-3.

Section 25-8-2. North and South Kona districts zone map.
North and South Kona districts zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.01.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-3. North Kona zone map.
North Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.02.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-4. South Kona zone map.
South Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.03.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-5. Kailua urban zone map.
Kailua urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.04.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-6. Kailua-Honalo urban zone map.
Kailua-Honalo urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.05.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-7. North and South Kohala districts zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-8. Upolu Point-Kaauhuhu homesteads zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-9. Hawi-Kapaau zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-10. Halaula-Niulii zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-11. Lalamilo-Puukapu zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-12. Kawaihae-Puako zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-13. Puako-Anaehoomalu zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-14. Waikoloa Village zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-15. Hāmākua district zone map.
Hāmākua district zone map, marked thereupon as section 7.11.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-16. Hāmākua district homesteads area zone map.
Hāmākua district homesteads area zone map, marked thereupon as section 7.12.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-17. Haina-Honoka‘a-Kukuihaele zone map.
Haina-Honoka‘a-Kukuihaele zone map, marked thereupon as section 7.13.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-18. Pa‘auilo-Kukaiau zone map.
Pa‘auilo -Kukaiau zone map, marked thereupon as section 7.14.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-19. North Hilo district zone map.
North Hilo district zone map, marked thereupon as section 7.15.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-20. ‘Ō‘ōkala zone map.
‘Ō‘ōkala zone map, marked thereupon as section 7.16.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-21. Laupāhoehoe-Nīnole zone map.
Laupāhoehoe-Nīnole zone map, marked thereupon as section 7.17.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-22. Puna district zone map.
Puna district zone map, marked thereupon as section 7.18.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-23. Volcano-Mt. View zone map.
Volcano-Mt. View zone map, marked thereupon as section 7.19.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-24. Kurtistown zone map.
Kurtistown zone map, marked thereupon as section 7.20.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-25. Kea‘au zone map.
Kea‘au zone map, marked thereupon as section 7.21.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-26. Pāhoa zone map.
Pāhoa zone map, marked thereupon as section 7.22.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-27. Kalapana-Kaimū zone map.
Kalapana-Kaimū zone map, marked thereupon as section 7.23.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-28. Kaʻū district zone map.
Kaʻū district zone map, marked thereupon as section 7.24.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-29. Pāhala Village zone map.
Pāhala Village zone map, marked thereupon as section 7.25.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-30. Nāʻālehu zone map.
Nāʻālehu zone map, marked thereupon as section 7.26.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-31. Waiʻōhinu zone map.
Waiʻōhinu zone map, marked thereupon as section 7.27.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-32. South Hilo district zone map (exclusive of the city of Hilo, Pāpaʻikou-Onomea, Pepeʻekeō and Hakalau-Honomū).
South Hilo district zone map (exclusive of the city of Hilo, Pāpaʻikou-Onomea, Pepeʻekeō and Hakalau-Honomū) marked thereupon as section 7.28.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-33. City of Hilo zone map.
City of Hilo zone map, marked thereupon as section 7.29.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-34. Pāpaʻikou-Onomea zone map.
Pāpaʻikou-Onomea zone map marked thereupon as section 7.30.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-35. Pepeʻekeō zone map.
Pepeʻekeō zone map, marked thereupon as section 7.31.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-36. Hakalau-Honomū zone map.
Hakalau-Honomū zone map, marked thereupon as section 7.32.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)