

SUPPLEMENT 1 (1-2006)
Insertion Guide

Hawai‘i County Code 1983 (2005 Edition)
Volumes 1 - 3

January 2006
(Covering general ordinances effective through 12-31-05
and numbered through 05-171)

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- (2004, Ord. No. 04-22, sec. 2; Am. 2005, Ord. No. 05-116, sec. 1; Am. 2005, Ord. No. 05-137, sec. 1.)

Section 2-17. Head of volunteer fire department.

- (a) The fire chief of the County fire department shall be the head of the volunteer fire department. The head of the volunteer fire department shall:
- (1) Be vested with the management and control of the affairs, personnel, and property of the department, subject to the general authority and control of the council;
 - (2) With the consent and approval of the council, make expenditures of moneys appropriated by the council for the department;
 - (3) Not contract any debt on behalf of the department, not dispose of any property belonging to the department without the consent of the council;
 - (4) Make periodic reports to the council concerning the affairs and activities of the department; and
 - (5) Perform and discharge such other duties as may be assigned to the head of the volunteer fire department by the council.
- (1975 C.C., c. 2, art. 3, sec. 5.02; Am. 2004, Ord. No. 04-22, sec. 3.)

Section 2-18. Appointment of other personnel.

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

(1975 C.C., c. 2, art. 3, sec. 5.03.)

Section 2-19. Volunteer personnel.

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

(1975 C.C., c. 2, art. 3, sec. 5.04.)

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

All volunteer fire personnel residing in a district other than the district where a fire occurs and who are duly authorized to participate and aid in the control of that fire shall be reimbursed at the rate of \$.33 cents for each mile actually and necessarily traveled, in the performance of their volunteer activities.

(1975 C.C., c. 2, art. 3, sec. 5.05; Am. 1989, Ord. No. 89-28, sec. 1.)

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

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

(1975 C.C., c. 2, art. 3, sec. 5.06.)

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

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

(1975 C.C., c. 2, art. 3, sec. 5.07.)

Section 2-23. Benefits.

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

(1975 C.C., c. 2, art. 3, sec. 5.08.)

Section 2-24. Extent of coverage.

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

(1975 C.C., c. 2, art. 3, sec. 5.09.)

Section 2-25. Computation of wages.

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

(1975 C.C., c. 2, art. 3, sec. 5.10.)

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

(a) All persons not members of the volunteer fire department who volunteer their services at fires and whose services are accepted by authorized persons and whose injuries or death arise out of and in the performance of volunteer fire fighting shall be paid their reasonable hospital and medical expenses as authorized by section 386-171, Hawai‘i Revised Statutes, and funeral expenses not to exceed \$300.

(b) “Authorized persons” as used in this section means such persons in the County fire department or volunteer fire department who are supervising or directing the fire-fighting operations.

(1975 C.C., c. 2, art. 3, sec. 5.11.)

Article 7. Planning Department.**Section 2-27. Planning Commission.**

There shall be a planning commission made up of nine members as provided for by Charter. The Commission shall:

- (1) Perform such duties as are prescribed by the Charter.

Article 17. Public Records Fee Schedule.

Section 2-103. Administered by clerk.

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

(1975 C.C., c. 2, art. 10, sec. 6.05; Am. 1977, Ord. No. 329, sec. 1.)

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

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

- (a) Duplicated copy of any record (by duplicating machines, including, but not limited to, microfilm printer, Thermofax, Verifax, Xerox, Offset, Mimeograph, etc.):
 - For the first page of each document or record\$1.00
 - Each additional page or copy thereof..... .10
- (b) Abstract of information from public record:
 - First page..... 1.00
 - Each additional page..... .10
- (c) Ordinances, resolutions and chapters of the Hawai'i County Code:
 - 1 -- 20 pages 1.00
 - 21 -- 50 pages 2.00
 - 51 -- 100 pages 5.00
 - 101 -- 250 pages 8.00
 - 251 -- 500 pages 20.00
 - 501 and over pages 30.00
- (d) Typewritten copy of any record:
 - Per page or fraction thereof..... 1.00
- (e) Copy of street map, plan, diagram:
 - Sheet sizes over 8½" x 13" to 10" x 15" 1.00
 - Sheet sizes over 10" x 15" to 22" x 36" 2.00
 - Larger than 22" x 36" size; per square foot50
- (f) Photograph:
 - For use of negative only 2.00
- (g) County clerk's Certificate of Voter Registration 2.00
- (h) Voter Registration List (in printed forms as may be available):
 - For each State representative district 12.00 per list
 - For each State senatorial district 24.00 per list
 - For each precinct:
 - First page 2.00
 - Each additional page..... .10
- (i) Certified statement attesting to veracity of information obtained from public records:
 - Per 100 words of statement or fraction thereof..... 1.00
- (j) Certification by public officer or employees as to correctness (or in attestation that document is a true copy) of any document, including maps, plans and diagrams:
 - Per page..... 1.00

(k) Hawai‘i County Code (includes zoning annexes and traffic schedules).....	200.00
Semiannual supplements	25.00
Zoning Annexes.....	20.00
Semiannual supplements.....	10.00
Traffic Schedules	8.00
Semiannual supplements.....	4.00
Compact discs of the above are available upon request at the time of purchase.	
When compact discs are requested exclusive of the above:	
Hawai‘i County Code	20.00
Zoning Annexes.....	5.00
Traffic Schedules.....	5.00
Semiannual supplements	5.00
(l) Hawai‘i County Charter.....	3.00
(m) Charges for real property tax records and tax searches. Duplicated copy of the real property assessment rolls or tax rolls from computer tape files. Requester provides blank tape.	
Per computer tape listing	500.00
Real property tax searches shall be conducted and statements furnished to persons requesting this service upon the payment of a fee; provided however, the fee will not be applicable to an owner or lessee making an inquiry concerning such person’s own property or property leased to such person; further provided, that this search be limited to the records of the current tax year. Tax searches will include preparation of statements of title history, assessment information, taxes due, and other similar record searches.	
Per hour or fraction thereof.....	15.00
Minimum charge.....	15.00
Duplicated copy of any record pertinent to the field history sheets, notice of assessment, transfer sheets, exemption claims, tax bills, tax ledgers, and tax clearances.	
For the first page of a specific tax key.....	1.00
Each additional page or copy thereof10
(n) Building permit monthly printouts	1.00 per page
(1975 C.C., c. 2, art. 10, sec. 6.01; Am. 1977, Ord. No. 329, sec. 1; Am. 1980, Ord. No. 650, sec. 1; Am. 1983, Ord. No. 848, sec. 1; Am. 1983, Ord. No. 83-31, sec 1; Am. 1983, Ord. No. 83-33, sec. 1; Am. 1985, Ord. No. 86-16, sec. 1; Am. 1988, Ord. No. 88-52, sec. 1; Am. 1988, Ord. No. 88-181, sec. 1; Am. 1990, Ord. No. 90-89, sec. 1, Am. 2005, Ord. No. 05-101, sec. 1.)	

Section 2-105. Charges for publications.

- (a) Charges for publications shall be based on cost, including reproduction costs, mailing and other handling charges attributable to making the publication available to the public; except that reasonable charges in excess of cost may be made for copies of records to be used for commercial purposes.
 - (b) The term “publication” refers to copies of documents which are reproduced on a volume basis for general distribution and shall include, but not be limited to, such items as: County Charter, ordinances, engineering and construction standards, directories, manuals, and handbooks. The term “publications” shall not apply to resolutions or bills pending final adoption or enactment into ordinance by the County council.
- (1975 C.C., c. 2, art. 10, sec. 6.02; Am. 1977, Ord. No. 329, sec. 1; Am. 1983, Ord. No. 848, sec. 2.)

Section 2-106. Applicability.

The fees established in this article shall have no application to the furnishing of copies or extracts of public documents or records for which fees have been established by statutory provisions where such statutory provisions have not been superseded.

(1975 C.C., c. 2, art. 10, sec. 6.03.)

- (d) The fund shall be used for acquiring lands or property entitlements in the County of Hawai'i for the following purposes:
- (1) Public outdoor recreation and education, including access to beaches and mountains;
 - (2) Preservation of historic or culturally important land areas and sites;
 - (3) Protection of natural resources, including buffer zones;
 - (4) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
 - (5) Protection of watershed lands to preserve water quality and water supply.
- (2005, Ord. No. 05-85, sec. 2; Am. 2005, Ord. No. 05-166, sec. 1.)

Section 2-215. Public access, open space, and natural resources preservation commission.

- (a) There is established a public access, open space, and natural resources preservation commission. There shall be nine members on this commission, appointed by the mayor and confirmed by the council. The members may be removed upon recommendation by the mayor and the approval of the council. One member shall reside in each County council district. The members shall serve staggered terms of five years. Upon initial appointment of the commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Staff support shall be provided by the finance department.
- (b) No member shall be eligible for a second appointment to the commission prior to the expiration of two years, provided that members initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term.
- (c) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (d) Any vacancy occurring in the commission shall be filled for the unexpired term.
- (e) Not more than a bare majority of the members shall belong to the same political party.
- (f) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance pursuant to article 16.
- (g) A chairperson shall be elected from its membership annually.
- (h) The affirmative vote of a majority of those members present shall be necessary to make any action valid.
- (i) The commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the commission is entitled.
- (j) No person shall, by reason of occupation alone, be barred from serving as a member of this commission.
- (k) The council shall act to confirm or reject any appointment made to the commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
- (l) The redrawing of the council district boundaries during a member's term shall not affect a member's eligibility to represent the district to which the member was appointed.

(2005, Ord. No. 05-166, sec. 2.)

Section 2-216. Oath of affirmation.

Before beginning their duties, each member appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths:

“I, _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as a member of the public access, open space, and natural resources preservation commission to the best of my ability.”

(2005, Ord. No. 05-166, sec. 3.)

Section 2-217. Duties and responsibilities of the commission.

The duties and responsibilities of this commission are:

- (1) To develop and submit to the mayor, an initial island-wide prioritized list of qualifying lands worthy of preservation within six months of being confirmed to the commission by the council. Priorities shall be listed on an island-wide rather than district basis. The list shall include the significance of each parcel or entitlement identified, the reason for its priority, and its anticipated use after acquisition;
- (2) To update this list at any time, but at least annually by December 31 of each year; and
- (3) To explore methods of funding land acquisition and make recommendations to the mayor.
- (4) The commission shall give emphasis to land acquisitions where the County's contribution can be leveraged to obtain State, Federal, and/or private funds.

(2005, Ord. No. 05-166, sec. 4.)

Section 2-218. Prioritized list of qualifying lands worthy of preservation.

- (a) The prioritized list developed by the commission shall be submitted to the mayor for comments and recommendation. Within sixty days after receipt, the mayor will submit the list to the council with comments and recommendations. The council shall, by resolution, select the land or lands to be preserved. Under no circumstances shall the purchase price paid for a property exceed the appraised value as prepared by an independent appraiser engaged by the County. Where there are multiple lands under consideration at any one time, priority shall be given to coastal lands and lands where matching funding is available to leverage the County contribution.
- (b) Negotiations for acquisition of lands to be preserved shall occur between the County and the seller or its commissioned agent, or a licensed broker only. The commission shall have no role in the negotiations other than in its advisory capacity.
- (c) Appraisals, title reports, surveying and other costs incidental to the acquisition of land shall be permitted uses of this fund. These costs shall be allocated equally between the seller and the buyer.
- (d) Adequate staff to carry out the provisions of this article and to manage the land acquired shall be provided in the department of finance to maximize the use of available funds by minimizing the payment of commission to outside agents to put together funding plans and to ensure that the County is a good steward of any land that comes under its control through this article.

(2005, Ord. No. 05-166, sec. 5.)

Chapter 9

ELECTRICITY

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Chapter 9**ELECTRICITY****Article 1. General Provisions.****Section 9-1. Title.**

This chapter shall be known and may be cited as the County electrical code.
(1994, Ord. No. 94-72, sec. 3.)

Section 9-2. Purpose.

The purpose of this chapter is to reduce the hazards to persons and property from electrical causes. To accomplish this, the requirements set forth herein are intended to provide a minimum standard for electrical installations in the County.
(1994, Ord. No. 94-72, sec. 3.)

Section 9-3. Scope; exceptions.

The provisions of this chapter shall apply to all electrical work and installations in the County, with exceptions as covered by section 90-2(b) of the 2002 National Electrical Code and the following:

- (1) Electrical work on buildings or premises owned by or under the direct control of the Federal government.
- (2) Electrical work by employees of a public utility within the State under a franchise or charter granted by the State which is regulated by the public utility commission and community antenna television company, while so employed, pursuant to section 448E-13, Hawai'i Revised Statutes.
- (3) The provisions of this chapter shall not apply to a municipal system for street lighting, traffic signal or police and fire alarm where installed outside of buildings on public property.
- (4) Existing electrical installations which complied with the laws, ordinances and regulations in effect when the electrical work thereon was performed, provided that such installations shall be subject to the provisions of section 9-4.
- (5) All buildings moved into or relocated within the County shall comply with all requirements of this chapter for new buildings and all unused or abandoned wiring and devices shall be removed.
- (6) Electrical work related to work regulated by chapter 397, Hawai'i Revised Statutes, as amended relating to the Elevator Code, but not including electrical work for the supply of power to the control panels of elevators, dumbwaiters, escalators, moving walks, and manlifts.
- (7) Replacement or repair of devices and apparatus of air conditioning and refrigeration systems, except electrical work on overcurrent devices which are not physically attached to, or physically mounted on, such systems.
- (8) The construction, alteration or repair of electrical devices commonly used in the home such as television sets, radios, tape recorders, movie projectors and the like.

(1994, Ord. No. 94-72, sec. 3; Am 2005, Ord. No. 05-129, sec. 1.)

Section 9-4. Similar provisions; greater safety to prevail.

If there are two or more provisions in this chapter or any other chapter, ordinance or statutes, covering the same subject matter, the provisions which provide the greater safety to life or limb, property or public welfare shall prevail.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-5. Definitions.

As used in this chapter, the following words shall have the meaning ascribed to them unless it is apparent from the context that a different meaning is intended:

“Administrative authority” means the director of public works of the County or the director’s authorized representative.

“Apprentice” means any person who performs electrical work under the direct supervision and in the presence of a supervising electrician, supervising specialty electrician, journeyman electrician, or journeyman specialty electrician.

“Assistant” means the authorized representatives of the administrative authority.

“Board” means the board of appeals.

“Department” means the department of public works of the County.

“Electrical contractor” means any person who is licensed under the provisions of chapter 444, Hawai‘i Revised Statutes, and possesses a valid, and active license qualifying such person to perform electrical work.

“Electrical specialty contractor” means any person who is licensed under the provision of chapter 444, Hawai‘i Revised Statutes, and possesses a valid, and active license qualifying such person to perform electrical specialty work.

“Electrical wiring” means any conductor, material, device, fitting, apparatus, appliance, fixture, or equipment constituting a part of or connected to any electrical installation, attached or fastened to any building, structure, or premises and which installation or portion thereof is designed, intended, or used to generate, transmit, transform, or utilize electrical energy within the scope and purpose of the National Electrical Code.

“Electrical work” means the installation, alteration, reconstruction, or repair of electrical wiring.

“Emergency electrical work” means the repair of electrical wiring to restore electrical service to a building following a fire, to remedy a power failure, and to protect persons and property against short circuiting and open circuits.

“Inundation level” means the maximum expected water level due to flooding by rainfall runoff, wind, waves, and tsunamis as established by the administrative authority.

“Journeyman electrician” means any person who has been licensed by the board of electricians and plumbers as a journeyman electrician under the provisions of chapter 448E, Hawai‘i Revised Statutes.

“Journeyman specialty electrician” means any person who has been licensed by the board of electricians and plumbers as a journeyman specialty electrician under the provisions of chapter 448E, Hawai‘i Revised Statutes.

“Maintenance work” means the keeping in repair and operation of any electrical installation, apparatus, fixture, appliance, or equipment.

“Person” means any individual, firm, partnership, association or corporation. However, a firm, partnership, association or corporation is not included within the meaning of person found in the definitions for journeyman electrician, journeyman specialty electrician, supervising electrician, and supervising specialty electrician.

“Supervising electrician” means any person licensed by the board of electricians and plumbers as a supervising electrician under the provisions of chapter 448E, Hawai‘i Revised Statutes.

“Supervising specialty electrician” means any person licensed by the board of electricians and plumbers as a supervising specialty electrician under the provisions of chapter 448E, Hawai‘i Revised Statutes.

“Water-tight,” when referring to construction below the inundation level, means constructed to exclude moisture and withstand the hydraulic pressure resulting from the anticipated depth of inundation.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 2.)

Article 2. Administration and Enforcement.

Section 9-6. Administration and enforcement.

Unless otherwise provided for by law, the department of public works of the County shall have jurisdiction over and administer all matters covered by this chapter.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-7. Nonliability of County for damages.

- (a) This chapter shall not be construed to relieve from or lessen the responsibility of such person owning, operating or installing any electrical wires, appliances, apparatus, construction, or equipment for damages to anyone injured by any defect therein.
 - (b) Neither the County nor any department, board, commission, officer, employee, or the administrative authority shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of any permit issued, or any inspection or approval or issuance of a certificate of inspection, made under the provisions of this chapter.
- (1994, Ord. No. 94-72, sec. 3.)

Section 9-8. Right of entry.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the administrative authority or the administrative authority's assistant has reasonable cause to believe that there exists in any building, structure or premises hazards to persons and property from electrical causes, the administrative authority or the administrative authority's assistant may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the administrative authority by this chapter; provided, that if such building, structure, or premises are unoccupied, the administrative authority shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, or premises and demand entry. If such entry is refused, the administrative authority or the administrative authority's assistant shall have recourse to every remedy provided by law to secure entry.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-9. Inspections.

- (a) All electrical wiring, for which a permit is required, shall be inspected and approved by the administrative authority before being concealed, energized, or used. All fees required by this chapter shall be paid by the permit applicant prior to the energizing or use of such wiring.
- (b) No person shall use, operate, or maintain, or cause or permit to be used, operated, or maintained, any electric wiring until it is inspected and approved.
- (c) No serving agency shall supply, or cause or permit to be supplied, electric energy to any electric wiring until the wiring has been inspected and approved, and all code and permit requirements of the Hawai'i County Code relating to Building (chapter 5), Electricity (chapter 9), Affordable Housing (chapter 11), Plumbing (chapter 17), and Outdoor Lighting (chapter 14, article 9) applicable to the use and/or structure have been satisfied.
- (d) No person shall conceal, enclose, or cover, or cause or permit to be concealed, enclosed, or covered, any portion of any electric wiring or equipment in any manner which will interfere with or prevent the inspection and approval thereof.
- (e) Fixtures, appliances, devices, or equipment shall not be connected to any electric wiring until the rough electric wiring, including conductors, have been inspected and approved, except as otherwise satisfactory to the department.
- (f) All obstructions, covers, plates, tapes, light fixtures, etc., which make impracticable the making of a thorough inspection of electric wiring shall be removed upon notice (either verbal or in writing) to do so, and shall be kept removed until the electric wiring has been inspected and approved.
- (g) The supervising electrician or electrical contractor shall be present on the job site upon request of the administrative authority.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 3.)

Section 9-10. Nonconforming and defective installations.

Whenever any electrical installation is found to have been installed, altered, changed, or reconstructed contrary to the provisions of this chapter or any other law, whenever any electrical installation is found to be in use contrary to the provisions of this chapter or any other law, or whenever any electrical installation, which complied with the existing laws, ordinances, and regulations in effect when the electrical work therein was performed, is found to be unsafe or dangerous to persons or property, the administrative authority shall give the owner or the person in control of that installation a written notice stating the findings with respect to that installation and order the owner or other person in control to make the corrections to be set forth in the written notice. When found to be unsafe or dangerous to persons or property, the defective installation shall be disconnected from the power source and tagged as unsafe to operate until corrective action is made, inspected, and approved.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 4.)

Section 9-11. Request for inspection.

- (a) Whenever any work regulated by this chapter, or any portion thereof, is ready for inspection, the administrative authority shall be notified by the permit holder that same is ready for inspection. The notice shall be in writing on forms furnished by the administrative authority, or may be by telephone at the option of the administrative authority. The notice shall be filed with the department not less than forty-eight hours and not more than seventy-two hours before any such inspection is desired.
- (b) The administrative authority shall proceed to inspect the same or to make inspection arrangements within forty-eight hours, not including weekends or holidays, after receipt of such notice. When work conforms in all respects with the provisions of this chapter, a notice granting authority to proceed with installations shall be given.
- (c) No electrical wiring shall be covered or concealed until forty-eight hours have expired after the scheduled inspection or until the administrative authority has approved the installation and given permission to cover or conceal the same. Should the administrative authority condemn any of said work or equipment as not being in accordance with the provisions of this chapter, notice in writing to that effect shall be given by them to the person engaged in the work.
- (d) Within a reasonable time thereafter, the work or equipment shall be altered or removed as required, and necessary changes shall be made so that all such work and equipment may fully comply with the provisions of this chapter before further work is connected on or with the condemned work or equipment. In default, the electrical contractor shall be liable to the penalties provided in this chapter, and any and every owner, contractor or other person engaged in construction of the building or structure, or otherwise, covering or allowing to be covered such portion of work or equipment, or removing any notice not to cover same placed thereon by the administrative authority shall likewise be liable to the penalties provided for in this chapter.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 5.)

Section 9-12. Final inspection required.

- (a) No person shall use or supply electrical energy to any electrical installation on which electrical work was or is being performed under a permit issued pursuant to the provisions of this chapter before the administrative authority has approved such installation, and all code and permit requirements of the Hawai'i County Code relating to Building (chapter 5), Electricity (chapter 9), Affordable Housing (chapter 11), Plumbing (chapter 17), and Outdoor Lighting (chapter 14, article 9) applicable to the use and/or structure have been satisfied.

EXCEPTION:

Power to test an electrical installation may be granted by the administrative authority for commercial installations, provided all of the following conditions are met:

- (1) The service main disconnect must be capable of being padlocked in the open position;

- (2) There must be a need to test the installation; and
- (3) The electrical contractor must remain in direct control of the installation while it is energized.

Permission may be granted for testing to proceed for ten day periods, not to exceed thirty days total. When testing is completed or the permitted amount of testing time has expired, the contractor shall notify the administrative authority to lock the main service disconnect in the open position.

- (b) Whenever electric wiring has been approved, a certificate of inspection therefor shall be issued on demand, provided all fees required by this chapter have been paid.
 - (c) The supervising electrician shall be present on the job site upon the request of the administrative authority.
 - (d) Any installation in violation of this section shall be subject to discontinuance of electrical service by the administrative authority.
- (1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 6.)

Section 9-13. Responsibility for compliance.

Every person installing, altering, repairing, using, or maintaining electric wiring shall be responsible for compliance with this chapter.

(1994, Ord. No. 94-72, sec. 3.)

Article 3. National Electrical Code.

Section 9-14. National Electrical Code adopted.

The National Electrical Code, 2002 Edition, copyrighted 2001 by the National Fire Protection Association, Battery March Park, Quincy, Massachusetts, 02269, is hereby adopted by reference and made a part hereof. Three copies of this code shall be kept on file and be available for public inspection in the clerk's office. The scope, technical specifications, and exemptions set forth in this code are hereby adopted as the standard for electrical work covered by this chapter, provided there are no specific provisions in any other section of this chapter covering the particular matter.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 7.)

Section 9-15. Compliance; standards of performance.

- (a) No person shall do or cause to be done any electrical work which does not comply with the provisions of this chapter.
- (b) No person shall perform any work covered by this chapter in violation of the provisions of chapter 448E, Hawai'i Revised Statutes.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-16. Qualification to perform work.

- (a) It shall be unlawful for any permit applicant to perform or allow to be performed any work covered by the permit issued under this chapter in violation of chapter 444, Hawai'i Revised Statutes, relating to the licensing of contractors, and chapter 448E, Hawai'i Revised Statutes, relating to the licensing of electricians and plumbers.
- (b) Any person engaged in a business involving performance of electrical work covered by this chapter, shall maintain a place of business in a business or industrial zone in accordance to the provisions of chapter 25, with a listed telephone number and be principally engaged in said business during the normal business hours for said place of business.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 8.)

Section 9-17. Variances.

Whenever strict application of any provision of this chapter, except for the provisions relating to materials, methods of construction, equipment, fixtures, devices, or appliances, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, the owner may petition the board of appeals for a variance from the provision. In granting a variance, the board of appeals shall prescribe any conditions that it deems to be necessary or desirable. However, no variance from the strict application of this chapter shall be granted by the board of appeals unless it finds:

- (1) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the neighborhood or surrounding property, and that the circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building;
- (2) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted is the minimum variance that will accomplish this purpose; and
- (3) That the granting of the variance will be consistent with the intent and purpose of this chapter, and will not be injurious to persons or property or create additional fire hazards, and will not otherwise be detrimental to the public welfare. In making its determination, the board of appeals shall take into account the character, use, and type of occupancy and construction of adjoining buildings, buildings on adjoining lots, and the building or land involved.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 9.)

Section 9-18. Appeals regarding alternate materials and methods of construction.

Any person denied the use of new or alternate materials, methods of construction, equipment, fixtures, devices, or appliances by the administrative authority, may appeal the decision to the board of appeals. In considering an appeal, the board may require any reasonable test of the proposed material, method of construction, equipment, fixture, device, or appliance, and the appellant shall pay all expenses necessary for the test. The board of appeals may affirm the decision of the administrative authority, or it may reverse the decision if it finds:

- (1) That the new or alternate materials, methods of construction, equipment, fixtures, devices, or appliances meet standards established by this chapter;
- (2) That permitting the requested use will not jeopardize the safety of persons or property; and
- (3) That the requested use will not be contrary to the intent and purpose of this chapter.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 10.)

Section 9-19. Other appeals.

Any person aggrieved by the decision of the administrative authority in the administration or application of this chapter, other than that prescribed in sections 9-17 and 9-18, may, within thirty days after the administrative authority's decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the administrative authority, or it may reverse or modify the decision if the decision is:

- (1) In violation of this chapter or other applicable law;
- (2) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (3) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 02-129, sec. 11.)

Section 9-20. Adoption of rules by the board of appeals.

The board of appeals shall adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this article.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-21. Violations and penalties.

- (a) **General.** It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.
- (b) **Notice of Violation.** Whenever any person, firm, or corporation violates any provisions of this code, the building official shall serve a notice of violation to the party responsible for the violation to make the building or structure or portion thereof comply with the requirements of this code.
The notice of violation shall include at least the following information:
 - (1) Date of the notice;
 - (2) The name and address of the person noticed and the location of the violation;
 - (3) The section number of the ordinance, code, or rule which has been violated;
 - (4) The nature of the violation;
 - (5) The deadline for compliance with the notice; and
 - (6) Appeal to building official information.
- (c) **Criminal Prosecution.**
 - (1) **General.** Any person, firm, or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both fine and imprisonment.
 - (2) Any officer, or inspector designated by the building official, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of the electrical code (hereinafter referred to as “authorized personnel”), may issue a summons or citation 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 warrant or such other judicial process as is permitted by statute or rule of court.
 - (3) Any authorized personnel designated by the building official, upon making an arrest for a violation of the electrical code may take the name and address of the alleged violator and shall issue to the violator in writing a summons or citation hereinafter described, notifying the violator to answer the complaint to be entered against the violator at a place and at a time provided in said summons or citation.
 - (4) There shall be provided for use by authorized personnel, a form of summons or citation for use in citing violators of the electrical code 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 within the laws and regulations of the State of Hawai‘i and the County of Hawai‘i.
 - (5) 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 by giving to the violator a copy of the citation and provide for the disposition of the original and any other copies.

- (6) Every citation shall be consecutively numbered and each copy shall bear the number of its respective original.
- (d) Administrative Enforcement. In lieu of or in addition, if the building official determines that any person, firm, or corporation is not complying with a notice of violation, the building official may have the party responsible for the violations served, by mail or delivery, with an order pursuant to this section.
 - (1) Contents of the Order.
 - (A) The order may require the party responsible for the violation to do any or all of the following:
 - (i) Correct the violation within the time specified in the order;
 - (ii) Pay a civil fine not to exceed \$1,000 in the manner, at the place and before the date specified in the order;
 - (iii) Pay a civil fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
 - (B) The order shall advise the party responsible for the violation that the order shall become final thirty calendar days after the date of its delivery. The order shall also advise that the building official’s action may be appealed to the board of appeals.
 - (2) Effect of Order; Right to Appeal. The provisions of the order issued by the building official under this section shall become final thirty calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the board of appeals as provided by section 9-18 of this code. The appeal must be received in writing on or before the date the order becomes final. However, an appeal to the board of appeals shall not stay any provision of the order.
 - (3) Judicial Enforcement of Order. The building official 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 building official 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.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 12.)

Section 9-22. Prior offenses.

Nothing contained in any provision of this chapter shall apply to an act done or omitted, or to an offense committed at any time before the enactment of this chapter. Such act or omission shall be governed by, and any such offense shall be punished according to the provisions existing when such act, omission or offense occurred in the same manner as if this chapter had not been enacted.

(1994, Ord. No. 94-72, sec. 3.)

Article 4. Modifications to National Electrical Code.

Section 9-23. Amending section 600-4, National Electrical Code.

Section 600-4 is amended to read:

Every electric sign of any type, fixed or portable, shall be listed or approved.

EXCEPTION: Such approval will not be required provided:

- 1. The sign is constructed and assembled of approved components in accordance with recognized standards.
- 2. The sign is inspected and approved before erection.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-24. Amending the National Electrical Code by adding material; rain water and sea water flooding standards.

The National Electrical Code is amended by adding the following:

Rain Water and Sea Water Flooding Standards. The following paragraphs shall supplement the requirements of the National Electrical Code for electrical work subject to inundation by rainfall run-off or sea waves:

1. Services:
 - a. Location. Service equipment shall be located above the inundation level or shall be installed in water-tight enclosure, room, or vault, and shall be readily accessible in any case.
 - b. Ground Fault Protection. Ground fault protection shall be provided for all grounded wye electrical services.
2. Ground Fault Protection:
 - a. Approved ground fault circuit protection shall be provided for all feeder and branch circuits below or extending into inundation level.
3. Wiring Method and Material:
 - a. Distribution Equipment. Equipment such as transformers, fuses, panelboards, switchboards, disconnects, circuit breakers, controllers and other devices used for control, disconnecting means, ground fault protection, or overcurrent protection shall be located above the inundation level, unless made of water-tight construction.
4. The director of public works shall have the authority to consider exceptions to the provisions of the requirements of this section and may grant variance from the provisions thereof, if local topographic conditions clearly indicate that the possibility of flooding is not present.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-25. Amending the National Electrical Code by deleting article 80, Administration and Enforcement.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 13.)

Article 5. Permits for Electrical Work.

Division 1. Application, Issuance and Contents.

Section 9-26. Permit required; exceptions.

No person shall perform any electrical work or cause or permit the same to be done, unless a permit therefor has been obtained from the administrative authority with the following exceptions:

- (1) Electric work and installations to which the provisions of this chapter are expressly declared to be not applicable.

- (2) Installation of any portable motor or other portable appliance energized by means of a cord or cable having an attachment plug, and if such cord or cable is permitted by this chapter.
- (3) Repair of any fixed motor or other appliance, or replacement of any fixed motor with another having the same horsepower rating and situated at the same location.
- (4) Replacement of receptacles and switches.
- (5) Maintenance work by a properly licensed electrician.
- (6) Emergency electrical work by a person to whom a permit may be issued (see sections 9-28 and 9-41 of this chapter.)
- (7) Radio and television receiving antenna systems other than master or community systems in or about commercial and industrial buildings, including hotels, multiple-family dwellings, and apartment houses.
- (8) The provisions of the foregoing exceptions shall not apply to any repairs or replacement of electrical devices, apparatus, or appliances which were originally installed without a permit, when such permit is required for the original installation, or when energized by or a part of any hazardous or illegal wiring system.
- (9) The foregoing exceptions from permit requirements shall not be deemed to allow any electrical wiring to be done in a manner contrary to other provisions of this chapter.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 14.)

Section 9-27. Permit scope.

- (a) The issuance of a permit is not an approval or an authorization of work specified therein. A permit is merely an application for inspection, the issuance of which entitles the permittee to inspection of the work which is prescribed therein.
- (b) Neither the issuance of a permit nor the approval by the administrative authority of any document shall constitute an approval of any violation of any provision of this chapter or of any other law or ordinance, and a permit or other document purporting to give authority to violate any law shall not be valid with respect thereto.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-28. Emergency work.

When emergency electrical work is commenced without a permit, an application for a permit for the work shall be made pursuant to the provisions of section 9-30, as soon as possible after the work is commenced.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-29. Separate permits required; exception.

A separate permit shall be obtained for each building or structure, except that a permit for a main building may include electrical work for a private garage, shed, or accessory building located on the same premises as the main building, and supplied by a feeder or circuit from the main building.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-30. Permit application; filing; content.

- (a) To obtain a permit, the applicant shall file an application on forms furnished by the administrative authority. The application shall contain all information necessary to the lawful enforcement of the provisions of this chapter.
- (b) The application shall be accompanied by approved plans and specifications or a suitable diagram when and as required by section 9-33.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-31. Permit issuance; fees.

When the administrative authority determines that the information on the application and plans is in conformance with this chapter, the administrative authority shall issue a permit upon receipt of the total fees. (1994, Ord. No. 94-72, sec. 3.)

Section 9-32. Permit application; immediate action not required.

Nothing contained in this chapter shall be construed to require the administrative authority to immediately accept or reject any application, whenever it is necessary to investigate the proposed wiring and premises as to its compliance with this chapter, or it is necessary to check plans and specifications accompanying the application. (1994, Ord. No. 94-72, sec. 3.)

Section 9-33. Plans and specifications requirements; deviations.

(a) Plans and specifications giving such details of the proposed installation as may be required by the administrative authority shall be filed with the application. Such plans and specifications shall bear the approval of a professional electrical engineer registered in the State of Hawai'i.

EXCEPTIONS:

- (1) If the demand load of the proposed installation is less than thirty kilovoltamperes, this requirement shall be applicable only if the administrative authority so directs.
- (2) For single family dwellings, plans and specifications shall not be required provided the installation meets all of the following criteria:
 - (A) The installation shall not be located in a rain water or sea water flood zone; and
 - (B) Service size disconnect does not exceed 200 amperes.
 - (C) For single phase installations, plans and specifications shall not be required.

(b) No person shall materially deviate from any approved plan or specifications or fail, neglect or refuse to comply herewith, unless permission to do so has first been obtained from the department.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 15.)

Section 9-34. Issuance.

If the administrative authority is satisfied that the installation described in the application will conform to the provisions of this chapter and all pertinent laws, and the fee prescribed in division 2 of this article has been paid, the administrative authority may issue a permit to the persons specified in section 9-35. (1994, Ord. No. 94-72, sec. 3.)

Section 9-35. Persons to whom permit may be issued.

A permit to do electrical work regulated by this chapter may be issued only to:

- (1) A contractor who is licensed under the provisions of chapter 444, Hawai'i Revised Statutes, and possesses a valid, unexpired, unrevoked license which qualifies the contractor to perform electrical or electrical specialty work.
- (2) A permit may also be issued to a homeowner for electrical work on a single-family dwelling which the owner will personally occupy and use exclusively for living purposes, provided the owner is a journeyman electrician, journeyman specialty electrician, supervising electrician, or supervising specialty electrician licensed under chapter 448E, Hawai'i Revised Statutes. Only one such permit may be issued to such homeowner unless the administrative authority finds the strict application would result in practical difficulty and hardship and that the granting of a second permit would not be contrary to the purpose of the Code. This does not preclude the homeowner from obtaining additional permits for the same building or accessory building on the same lot.

- (3) A supervising electrician or supervising specialty electrician:
 - (A) Who is employed as a maintenance electrician by someone other than a contractor described above;
 - (B) Who is donating services to an eleemosynary institution for temporary electrical installation;
 - (C) Who is employed by the County or State; or
 - (D) Who is applying for electrical work for such person’s own dwelling.

(1994, Ord. No. 94-72, sec. 3; Am. 2005, Ord. No. 05-129, sec. 16.)

Section 9-36. Permit content; posting; time limit for suspension of work.

Every permit shall be issued in such form and detail as shall be prescribed by the administrative authority, shall specify the geographical location of the premises whereon the work authorized thereby is to be done, shall be valid only for the location so specified, and shall be conspicuously posted by the holder thereof on the premises. If the work authorized by any permit shall be continuously suspended for a period of ninety days, such permit shall thereupon, and thereafter, be null and void.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-37. Permit transferability.

No permit shall be assigned, transferred or loaned to another by the person to whom it was issued.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-38. Suspension or revocation of permit.

The administrative authority may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit has been issued in error or on the basis of incorrect information supplied, or in violation of any ordinance, regulation or provision of this chapter. In such event, the permit fee shall not be refunded.

(1994, Ord. No. 94-72, sec. 3.)

Division 2. Fees and Charges.

Section 9-39. Fee payment.

A fee in accordance with the schedule set forth in this division shall be paid to the director of finance for each electrical permit.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-40. Fee schedule.

- (a) Issuing Permits.

A fee shall be paid for issuing each permit in addition to all other charges specified herein.....\$5 each

- (b) Service Installations.

For required size of service equipment of single phase construction (including meter loop).

Not over 100 amperes.....	\$ 8
Over 100 but not over 200 amperes.....	10
Over 200 but not over 400 amperes.....	12
Over 400 amperes.....	14

For required size of service equipment of three phase construction (including meter loop).	
Not over 100 amperes	\$10
Over 100 but not over 200 amperes	12
Over 200 but not over 400 amperes	14
Over 400 amperes	16

(c) Feeder Circuits.

For required size of feeder equipment.	
Not over 100 amperes	\$ 6
Over 100 but not over 200 amperes	8
Over 200 but not over 400 amperes	10
Over 400 amperes	12

(d) Wiring circuits in or about commercial and industrial buildings, including hotels, multiple-family dwellings and apartment house.

Each circuit for general light and convenience outlets	\$ 4
Each outlet for radio and television antenna system and loudspeaker	1
Control wiring air conditioning and refrigeration for each compressor unit	6
Fire and burglar alarm system.....	30
For any other type of circuits and outlets.....	12

(e) Wiring circuits in or about a single-family dwelling.

Each circuit of the first five circuits for general lighting and convenience outlets.....	\$ 6
Each additional circuit for such outlets.....	4
Fire and burglar alarm system.....	6
For any other type of circuits and outlets.....	4

(f) Cooking Appliances.

Single- and multiple-family dwellings and apartments:

For each electric range circuit.....	\$ 6
For each built-in counter-top range circuit	6
For each built-in oven circuit.....	6

NOTE: For the purpose of this code, “range” shall mean a complete self-contained, freestanding, cooking unit, containing top cooking units and ovens, which is connected to one outlet; a “built-in counter-top range” shall mean an assembly of cooking units which is installed in a counter and connected to an outlet separately from an oven; a “built-in oven” shall mean an oven for the preparation of food in a residence and which is connected to a separate outlet. Each oven and each counter-top cooking unit assembly shall be served by separate branch circuits.

(g) Commercial Cooking Appliances. (Bakers, restaurants, cafeterias, and other establishments preparing food for sale to public.)

Range, fry-kettles, oven steam table broiler, roaster and other cooking devices:

For each circuit not over 12 kw	\$ 6
For each circuit over 12 kw but not over 24 kw	8
For each circuit over 24 kw	10

(h) Heaters.

- (1) Single- and Multiple-Family Dwellings and Apartments.
 - For each water heater circuit\$ 6
 - For each air heater circuit, capacity up to 1,650 watts 4
 - For each air heater circuit, capacity 1,650 watts or more 6

- (2) Commercial or Industrial.
 - Water heaters:
 - Each circuit\$ 6

 - Air and/or space heaters:
 - For each circuit not over 5 kw\$ 6
 - For each circuit over 5 kw but not over 15 kw 8
 - For each circuit over 15 kw 10

 - Electric kilns:
 - For each circuit not over 6 kw\$ 6
 - For each circuit over 6 kw but not over 12 kw 8
 - For each circuit over 12 kw but not over 24 kw 10
 - For each circuit over 24 kw 12

 - Electric furnaces:
 - For each circuit not over 12 kw\$ 8
 - For each circuit over 12 kw but not over 24 kw 10
 - For each circuit over 24 kw but not over 48 kw 12
 - For each circuit over 48 kw but not over 96 kw 14
 - For each circuit over 96 kw 16

 - Infra-red heat-treating and paint baking:
 - For each circuit not over 5 kw\$ 6
 - For each circuit over 5 kw but not over 15 kw 8
 - For each circuit over 15 kw but not over 50 kw 10
 - For each circuit over 50 kw but not over 100 kw 16
 - For each circuit over 100 kw 4

(i) Laundry Dryer Circuit.

- (1) Single- and Multiple-Family Dwellings and Apartments.
 - For each circuit\$ 6

- (2) Commercial Laundry Dryer Circuit.
 - For each circuit, the fee shall be \$4 plus any additional charge for driving motor according to HP as set forth in the schedule under section 9-40(o).

(j) High Potential Gas Tube Lighting and Signs.

For each sign or decorative outline tubing.....	\$ 6
For gas tubing lighting (exclusive of fluorescent lighting).....	4
For each flasher in connection with a sign.....	4
For installing flasher on an existing sign	6
For connecting a sign after moving to a new location	6
For reconnecting a removed sign at the previous location.....	6

(k) Temporary Lights.

Not over 50 lamps.....	\$ 8
Over 50 but not over 100 lamps.....	14
Each succeeding 100 lamps or fraction thereof	6

(l) Permanent Decorative Lighting, etc.

Decorative lighting, and footlights borders and strips in theatres, where 100 or less sockets are installed	\$12
Additional 50 sockets or fraction thereof.....	8

(m) Portable Electric Signs.

A "portable electric sign" means a small advertising contrivance operated with electricity and used in interior of buildings only which is capable of being moved or removed at will without damaging or altering the structure or finish at or adjacent to the location thereof, and which is not attached or fastened in place by nails, screws, bolts, conductors, wiring enclosures or in any other manner. No fee shall be required for such portable electric signs when the outlet and circuit to which it is attached has been installed pursuant to a valid permit.

(n) Lighting Fixtures.

For each set of ten fixtures or fraction thereof: (Fees to be charged only when circuit wiring is excluded.).....	\$ 8
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(o) Motors.

For each separate motor fixed:	
Not over 1/3 HP	\$ 4
Over 1/3 HP but not over 1 HP.....	6
Over 1 HP but not over 3 HP	8
Over 3 HP but not over 8 HP	10
Over 8 HP but not over 15 HP.....	12
Over 15 HP but not over 50 HP.....	14
Over 50 HP but not over 100 HP	16
Over 100 HP	40

(p) Temporary Motors, Installation.

First 2 circuits	\$12
Each additional circuit	8

No fee shall be required for moving any temporary construction motor from one place to another, when such temporary motor is attached to an outlet for which a permit has been issued and the permit fee therefor has been once paid.

Temporary motor installations for carnival rides, etc., a flat fee of \$50 shall be charged.

(q) Generators, Capacitors, Reactors, Transformers Fixed, and all other alternate energy power sources. For the purpose of this subsection 1 kw is equivalent to 1 kva.

Not more than 5 kw	\$10
Over 5 kw but not over 15 kw	24
Over 15 kw	40

(r) Miscellaneous.

Each motion picture projection machine using 35 mm or larger film	\$30
Each X-ray machine outlet	10
Each dental chair outlet	12
Each electric organ outlet	8
Each electric welder outlet.....	10
Each street lighting standard or fixture.....	8
Each transfer switch (double throw).....	20

For conduit and raceway installation, a fee of \$6 shall be charged for each two hundred lineal feet of conduit and raceway or any fraction thereof. (Fees are to be charged only when circuit wiring is excluded.)

(s) Repairs, Alterations, Additions.

Permit fees for additions to or alterations of existing work shall be the same as for new work.

Permit fees for repair or for work for which a permit is required but for which no fee is herein provided shall be \$5.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-41. Additional fee for work begun without permits.

Where work for which a permit is required by this chapter is started or proceeded prior to obtaining of said permit, the fee shall be \$100 plus the fees specified by section 9-40, or the fees specified by section 9-40 shall be doubled, whichever is greater, but payment of such fee shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed herein. This provision does not apply to emergency work when proved to the satisfaction of the

administrative authority that such work was urgently necessary and it was not practical to obtain a permit therefor before the commencement of work. In all such cases a permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining such a permit, the penalty will be charged.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-42. County exception.

The County and all contractors performing work under authority of the County shall be exempt from the requirements to pay permit fees.

(1994, Ord. No. 94-72, sec. 3.)

Section 9-43. Additional and miscellaneous inspections.

For a requested or scheduled inspection wherein the work to be inspected is not complete or ready for inspection, the permit holder of the permit shall pay the director of finance \$50 for each inspection. For a requested inspection wherein no permit has been issued or for general requirements regarding the health, safety or welfare of the people, the person requesting the inspection shall pay the director of finance \$50 for each inspection.

(1994, Ord. No. 94-72, sec. 3.)

Chapter 11**HOUSING****Article 1. Affordable Housing.****Section 11-1. Title.**

This article shall be referred to as the County of Hawai‘i affordable housing policy.
(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2.)

Section 11-2. Objectives.

The objectives of this affordable housing policy are to:

- (1) Implement goals and policies of the general plan;
- (2) Promote and assist private development of housing for senior citizens, persons with disabilities and qualified households;
- (3) Use available governmental grants and funds in the development of affordable housing and increase the capabilities of qualified households to obtain affordable housing;
- (4) Support innovative, lower-cost approaches which may be used in the development of affordable housing;
- (5) Require large resort and industrial enterprises to address related affordable housing needs as a condition of rezoning approvals, based upon current economic and housing conditions;
- (6) Require residential developers to include affordable housing in their projects or contribute to affordable housing off-site.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2.)

Section 11-3. Definitions.

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

- (1) “Affordable housing” means dwelling units which may be rented or purchased at cost levels which can be afforded by persons or families who are within the definition of “qualified households,” as provided herein;
- (2) “Affordable housing income guidelines” means those household income levels which shall be published annually by the Office of Housing and Community Development and as described further herein;
- (3) “Fifteen mile radius” means the distance from the site in question as measured in a straight line from the boundary of the parcel being rezoned;
- (4) “Qualified households” mean an individual or two or more related by blood, state-sanctioned adoption, foster parentage, guardianship, or marriage, occupying a dwelling unit and whose total household income is within the affordable housing income guidelines or who would otherwise qualify in a state or federal affordable housing program;
- (5) “Affordable unit” or “affordable housing unit” means a lot or dwelling unit for sale or lease which is affordable to qualified households earning no more than the percentages of the median income in the County of Hawai‘i as stated in this chapter;
- (6) “Eligible buyer” means a person who meets eligibility requirements, including income limitations, as established by rule.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 1.)

Section 11-4. Affordable housing requirements.

- (a) The affordable housing requirements shall apply to:
- (1) All new rezonings that may create additional residential uses, including rezonings, to RS, RD, RM, RCX, RA and FA districts, and APD rezonings where lot sizes are less than five acres, and CG, CV, CN and PD districts when residential uses are established in those districts;
 - (2) All new rezonings to resort, including hotels established in V, CV, CG, CDH or PD districts;
 - (3) All new rezonings to ML, MG, and MCX districts;
 - (4) All prior rezoning actions which contain affordable housing conditions that have not been satisfied as of the effective date of this ordinance, or to which the County has not agreed previously as to the specific means of satisfying the requirements.
- (b) Requirements for residential uses.
- (1) Four or fewer residential units or lots: no requirement;
 - (2) Five or more residential units or lots: the applicant must earn affordable housing credits equal to twenty percent of the number of units or lots (rounded to the nearest .5);
 - (3) Time share units shall be considered as residential units.
- (c) Requirement for resort and hotel uses.
Resort and hotel uses generating more than one hundred employees on a full-time equivalent basis must earn one affordable housing credit for every four full-time equivalent jobs created.
- (d) Requirements for industrial uses.
The industrial uses that must fulfill the affordable housing requirements are any uses allowed as of right in an ML or MG district, except for home improvement centers, and any uses that are also allowed as of right in a CG district. Individual industrial enterprises generating more than one hundred employees on a full-time equivalent basis must earn one affordable housing credit for every four full-time equivalent jobs created.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 2.)

Section 11-5. Satisfaction of affordable housing requirements.

- (a) The developer may satisfy the affordable housing requirements by doing any of the following:
- (1) Construct affordable for-sale units on-site;
 - (2) Construct affordable finished lots on-site, but only if the entire project consists of finished lots;
 - (3) Construct affordable for-sale units off-site, but within a fifteen-mile radius of the project site;
 - (4) Construct affordable rental units on-site, or off-site, within a fifteen-mile radius of the project site;
 - (5) Pay in-lieu fees to the Agency;
 - (6) Provide developable land, within a fifteen-mile radius of the project site, with a value determined by appraisal, that shall be credited against the in-lieu fee;
 - (7) Provide infrastructure, within a fifteen-mile radius of the project site, that shall be credited against the in-lieu fee. Any infrastructure provided must be directly related to the future provision of affordable housing;
 - (8) With the approval of the administrator, construct housing on-site or off-site, that addresses a critical regional housing need, at least equivalent to satisfying the requirements of any sub-sections (1)-(4) above, provided that the project must be located within the allowable areas for in-lieu fees under sec. 11-12;
 - (9) Obtain excess credits from another developer pursuant to sec. 11-15.
- (b) The affordable unit or finished lot shall be completed with road access, drainage, water, electricity, sewer lines, if required, and telephone, and, in the case of finished lots, shall not have unusual site conditions that make it difficult to build a home.
- (c) Affordable housing credits.
The developer shall earn affordable housing credits as follows:
- (1) Sale of completed dwelling units affordable for qualified households earning 120-140% of median: 0.5 credits per unit;

- (2) Sale of completed dwelling units affordable for qualified households earning 100-120% of median: 1.0 credits per unit;
- (3) Sale of completed dwelling units affordable for qualified households earning 80-100% of median: 1.5 credits per unit;
- (4) Sale of completed dwelling units affordable for qualified households earning less than 80% of median: 2.0 credits per unit;
- (5) Construction of rental units affordable for qualified households earning 80-100% of median: 1.0 credits per unit;
- (6) Construction of rental units affordable for qualified households earning 60-80% of median: 1.5 credits per unit;
- (7) Construction of rental units affordable for qualified households earning less than 60% of median: 2.0 credits per unit;
- (8) Sale of finished lots affordable for qualified households earning no more than 100% of median: 0.5 credit per lot;
- (9) Sale of finished lot affordable for qualified households earning no more than 80% of the median: 1.0 credit per lot.
- (10) Donation of land to a nonprofit corporation or governmental agency for construction of for-sale housing units affordable for qualified households earning no more than 80% of the median, or construction of for-rent housing units affordable for qualified households earning no more than 60% of the median, subject to the approval of the administrator of the feasibility, location, and type of project. After the approval of the administrator, the credits are earned upon the donation of the land: 1.0 credit per unit.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 3.)

Section 11-6. Calculation of in-lieu fee.

- (a) The in-lieu fee for a completed dwelling unit shall be twenty-five percent of: the actual sales price of the unit minus the affordable price for households earning one hundred twenty percent of the median.
- (b) The in-lieu fee for a finished lot shall be twenty-five percent of: the actual sales price of the lot minus the affordable price for households earning one hundred percent of the median.
- (c) The in-lieu fee for each required affordable dwelling unit for resort, hotel, and industrial uses shall be twenty five percent of: the median sales price for a single-family home in the tax map zone containing the project, in the previous calendar year, minus the affordable price for households earning one hundred twenty-percent of the median.
- (d) The in-lieu fee for each completed dwelling unit not offered for sale (such as units offered for rent) shall be twenty-five percent of: the median sales price for a single-family home in the tax map zone containing the project in the previous calendar year, minus the affordable price for households earning one hundred twenty percent of the median.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2.)

Section 11-7. Calculation of affordable sales price.

- (a) The OHCD shall calculate the affordable sales price for various household sizes annually. The affordable sales price for completed units shall be the price that is affordable to households earning the stated percentages of the median income for the County of Hawai'i, using the Housing and Community Development Corporation of Hawai'i guidelines, and the most current annual average interest rate for a thirty-year conventional fixed mortgage, not seasonally adjusted, for the twelve months ending in the previous year, as published by the Federal Home Loan Mortgage Corp. For 2005, the affordable sales price for a household of four persons earning one hundred percent of median shall be \$203,400 less any adjustments due to association fees or similar fees.

- (b) The affordable sales price for finished lots shall be the affordable sales price for a completed unit for a household of four persons, earning one hundred percent of the median income in the County of Hawai'i, less the cost to build a single-family home of 1,100 square feet in the general area, as estimated by OHCD. In 2005, the affordable sales price for a finished lot shall be \$95,000.
(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2.)

Section 11-8. Density bonus.

- (a) Any project subject to an affordable housing requirement under this chapter that fulfills its housing requirement by constructing affordable dwelling units for sale or rent shall be entitled to a density bonus increasing the total number of residential units that may be constructed on the site by ten percent, and decreasing the minimum lot size by ten percent, compared to the number of units otherwise allowable and the minimum lot size as established by the zoning code.
- (b) If a project fulfills its affordable housing requirement off-site, the density bonus can be used on the non-affordable site, or the affordable housing site, or divided between the two sites.
- (c) The density bonus may not be used in the State Land Use Agricultural District or Rural Districts to create lots less than the minimum lot sizes required in those districts.
(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2.)

Section 11-9. Sale of lots and units.

- (a) Before obtaining final subdivision approval or plan approval for any for-sale residential project subject to the affordable housing requirements, the applicant shall enter into an agreement with the County that the required number of homes or lots will be sold at the required affordable sales price, or that the required number of rental units will be offered for rent at the affordable rental price, or that the in-lieu fee will be paid upon the sale of each for-sale dwelling unit or lot, or that the applicant will obtain excess credits sufficient to satisfy its requirements.
- (b) Before obtaining final plan approval for any resort, hotel, or industrial project, or not-for-sale residential project subject to the affordable housing requirements, the applicant shall enter into an agreement with the County that the affordable housing requirements will be met before the issuance of a certificate of occupancy for the project.
- (c) All agreements shall be recorded against the property, and that the in-lieu fee, if applicable, shall be a lien payable upon the closing of sale of each unit or lot or prior to the issuance of a certificate of occupancy under subsection (b).
- (d) All for-sale affordable units and lots shall be sold only to eligible buyers during a ninety-day preferential marketing period.
- (e) If the developer cannot sell the units or lots to eligible buyers during the ninety-day preferential marketing period, the units shall be offered for sale to persons who are otherwise eligible, but have previously owned a residence, for an additional period of thirty days. If a unit or lot cannot be sold after the one hundred twenty-day period, the developer may sell the unit or lot to any person at the affordable sales price. The Agency may also purchase the unit or lot after the ninety-day preferential marketing period at the affordable sales price.
(2005, Ord. No. 05-23, sec. 2.)

Section 11-10. Buyer of finished lots.

The purchaser of a finished lot that is used to fulfill an affordable housing requirement, and that is sold during the preferential marketing period, shall enter into a binding contract for the construction of a residence on the lot within two years of the date of sale, and complete construction within three years of the date of sale, or, if the purchaser is an owner-builder, shall commence construction within two years and complete construction within three years of the date of sale. During this three-year period, the purchaser may sell only to eligible buyers, as determined by the administrator, and the sales price shall not exceed the original purchase price, plus an inflation factor based on the increase in the Consumer Price Index for Honolulu, and reasonable compensation for improvements, if any, made by the purchaser. If the purchaser does not meet

these time limits, the purchaser shall offer to sell the lot to the Agency, or, at the election of the administrator, to eligible buyers, at a price that does not exceed the original purchase price, plus an inflation factor based on the Consumer Price Index for Honolulu, plus reasonable compensation for improvements, if any, made by the purchaser.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-11. Rental units.

- (a) The Agency shall determine the affordable rental price for units of various sizes annually.
- (b) The developer shall enter into an agreement with the County that the rental prices on the units shall be controlled for no less than twenty years after initial occupancy.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-12. Use of in-lieu fees.

The in-lieu fee shall be used to support affordable housing located no more than twenty-five miles, as measured on a straight line, from the project that generated the in-lieu fee provided that the Agency can authorize use outside of this distance restriction if it determines that the project is necessary to satisfy a critical housing need.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-13. Eligibility.

The administrator shall establish eligibility criteria by rule. Eligibility criteria shall include residency requirements to the extent permitted by law. The administrator may allow households with incomes up to twenty percent greater than the income on which the maximum sales price was based to be qualified to purchase a unit.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-14. Resale restrictions.

The Agency shall establish resale restrictions by rule to ensure that units created under this policy remain affordable. Such rules may include, but not be limited to, buy-back, shared appreciation, and other restrictions. The administrator may be delegated the authority to select the resale restriction applicable to a particular project.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-15. Transfer of excess credits.

- (a) Developers who construct new affordable housing units in excess of any requirements imposed under this chapter or any other requirement may earn "excess credits" which they may transfer to other developers.
- (b) The developer shall earn the excess credits pursuant to section 11-5(c).
- (c) To qualify for excess credits, units must be sold or rented to qualified households. The developer shall apply to the administrator for approval of the excess credits.
- (d) After approval of the excess credits, the developer may transfer the excess credits to any other project that is within the distance established in section 11-5(a)(3), to fulfill part or all of the affordable housing requirements of the other project.
- (e) If the project applying for the excess credits was developed with a direct subsidy from the federal, state, or county governments, the administrator shall either (1) discount the excess credits earned by the value of the subsidy, or (2) require that the Agency or other public entity subsidizing the project share equitably in the proceeds from the transfer of the excess credits. If the project was developed by a nonprofit corporation and sold to qualified households earning not more than 80% of the median, or rented to qualified households earning not more than 60% of the median, the discount shall not exceed 50% of the credits. The administrator may waive these requirements if the project earning the excess credits addresses a critical housing need and the excess credits, in addition to the direct subsidy, are or were a

necessary inducement to the construction of the project, or if the excess credits are earned by a nonprofit entity that will use the proceeds for the construction of more affordable housing.

- (f) For the purposes of this section, a “direct financial subsidy” includes the provision of land at below market value, or governmental construction of infrastructure necessary for a housing project, but does not include density bonuses, zoning or other permitting exemptions under section 201G-118, Hawai‘i Revised Statutes, or federal or state tax credits for the construction of rental housing.

(2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 4.)

Section 11-16. Section 201G projects.

The County’s exemption authority, as contained in chapter 201G, Hawai‘i Revised Statutes, may be utilized to expedite change of zone requests, subdivision applications, and plan review as well as the consideration of reduced development standards.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-17. Effect on existing requirements.

This policy supersedes all previous affordable housing requirements and Hawai‘i County Housing Agency Resolution 65 dated May 2, 1990 and Ordinance 98-1. Any affordable housing condition or portion thereof in any prior rezoning ordinance which has not been fully satisfied as of the effective date of this policy shall be reassessed pursuant to this policy unless the County has previously agreed as to the specific means of satisfying the requirements, in which case, this amended policy shall apply only to the extent it is not inconsistent with the agreement. In no event shall the County of Hawai‘i reimburse or be obligated to reimburse any person or entity for the partial or full satisfaction of an affordable housing condition in any ordinance which became effective prior to the effective date of this policy.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-18. Adoption of rules.

The Housing Administrator is authorized to adopt such rules pursuant to Chapter 91, Hawai‘i Revised Statutes, as are necessary to carry out this ordinance.

(2005, Ord. No. 05-23, sec. 2.)

Section 11-19. Reports by administrator.

The administrator shall make timely periodic reports to the Agency of all significant actions taken under authority of this chapter, including but not limited to the approval of excess credits, the acceptance of transferred credits, and the choice of resale restrictions.

(2005, Ord. No. 05-23, sec. 2.)

- (c) To recommend to the council appropriate protective ordinance, regulations and procedures.
 - (d) To review all actions deemed by the council to endanger exceptional trees.
- (1984, Ord. No. 84-22, sec. 1.)

Section 14-60. Procedures.

- (a) Any interested person may petition the arborist advisory committee to examine a tree for designation as an exceptional tree. Upon completion of the committee's study which shall include notification of the owner or lessee of the property, and a duly held public hearing, the committee shall forward the proposed list of exceptional trees to the council.
- (b) The council shall review the proposed list of exceptional trees; it may affirm, modify, or disaffirm the proposed list of exceptional trees. The list shall be adopted by ordinance.
- (c) The arborist advisory committee shall prepare official maps designating the location of exceptional trees adopted by the council and shall file maps with the planning department, department of public works, building division, and office of the County clerk.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-61. Consultation with County arborist advisory committee.

Prior to the issuance of any building or grading permit or granting of final subdivision approval, the planning department and department of public works, building division, may request advice from the arborist advisory committee concerning trees within any proposed development to assure that exceptional trees are retained and to prevent the unnecessary destruction of such trees during development or redevelopment of land within the County. The lack of designation as exceptional tree does not diminish the responsibility and authority of the planning department and department of public works, building division, to recommend trees to be incorporated into a development plan.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-62. Enforcing authority.

The planning department shall be charged with the enforcement of this article and shall have the police power to take appropriate action to ensure compliance with the provisions of this article. The planning department may issue citations for the violation of this article. This article shall not be superseded by any permit issued by any County agency under this code.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-63. Violation and penalty.

It shall be unlawful for any person, corporation, public agency or other entity to substantially damage, remove or destroy an exceptional tree in the County. Any person, corporation, public agency or other entity who violates this section shall be fined not more than \$1,000 per tree or incident.

(1984, Ord. No. 84-22, sec. 1; Am. 2004, Ord. No. 04-69, sec. 1.)

Section 14-64. Injunctive relief.

Proceedings for injunctive relief in circuit court or other court of competent jurisdiction may be had for threatened violations of the provisions of this article.

(1984, Ord. No. 84-22, sec. 1.)

Section 14-65. Designated exceptional trees.

The following trees are designated as “Exceptional Trees of the County of Hawai‘i.”

Tree	Tax Map Key and Location	Owner
1. Loulu Palm <i>Pritchardia schattaueri</i>	8-9-6:04 S. Kona	Farms of Kapua, Ltd.
2. Pili nut <i>Canarium sp.</i>	8-1-9:01 S. Kona	George Schattauer
3. Koki‘o <i>Kokia rockii</i>	9-1-01 Manukā State Park	State of Hawai‘i
4. ‘Ohe <i>Tetraphlasandra meiantra</i>	9-1-01 Manukā State Park	State of Hawai‘i
5. Gold Tree <i>Cybistrax donnell-smithii</i>	2-2-7:01 Forestry Arboretum	State of Hawai‘i
6. Surinam Cherry <i>Eugenia uniflora</i>	2-3-14:07 Waiānuenue Avenue	Hilo United Methodist Church
7. False Kamani <i>Terminalia catappa</i>	2-3-12:09 Haili Street	Haili Church
8. Coconut Trees <i>Cocos nucifera</i>	2-2-4:02 Waiolama Canal, Hilo	State of Hawai‘i
9. Monkeypod <i>Samanea saman</i>	2-1-03:27 Lihiwai Street	Suisan Company
10. ‘Ōhi‘a Lehua <i>Metrosideros polymorpha</i>	2-3-27:01 Rainbow Falls Park, Hilo	State of Hawai‘i
11. Pua Kenikeni <i>Fagraea berteriana</i>	3-6-09:31 Laupāhoehoe Police Station	County of Hawai‘i
12. Bo or Peepul Tree <i>Ficus religiosa</i>	2-3-15:1 Old Riverside School	State of Hawai‘i Dept. of Education
13. Indian Banyan <i>Ficus benghalensis</i>	2-3-05:1 Kalākaua Park	County of Hawai‘i
14. Loulu Palm <i>Pritchardia beccariana</i>	2-3-05:1 Kalākaua Park	County of Hawai‘i
15. Divi-Divi <i>Caesalpinia coriaria</i>	2-3-05:1 Kalākaua Park	County of Hawai‘i
16. 17. ‘Ōhi‘a Lehua <i>Metrosideros polymorpha</i>	4-4-14:01 Kalōpā State Park	State of Hawai‘i
17. 18. Hame <i>Antidesma platyphyllum</i>	4-4-14:01 Kalōpā State Park	State of Hawai‘i
18. 19. Kōpiko <i>Psychotria hawaiiensis</i>	4-4-14:01 Kalōpā State Park	State of Hawai‘i
19. ‘Ōhi‘a Lehua <i>Metrosideros polymorpha</i>	4-4-14:01 Kalōpā State Park	State of Hawai‘i

Tree	Tax Map Key and Location	Owner
20. 'Ōhi'a Lehua <i>Metrosideros polymorpha</i>	4-4-14:01 Kalōpā State Park	State of Hawai'i
21. Kōpiko <i>Psychotria hawaiiensis</i>	4-4-14:01 Kalōpā State Park	State of Hawai'i
22. 'Ōhi'a Lehua <i>Metrosideros polymorpha</i>	4-4-14:01 Kalōpā State Park	State of Hawai'i
23. Koa <i>Acacia koa</i>	4-4-14:01 Kalōpā State Park	State of Hawai'i
24. 'Ōhi'a Lehua <i>Metrosideros polymorpha</i>	4-4-14:01 Kalōpā State Park	State of Hawai'i
25. Grove of Mangoes <i>Mangifera indica</i>	1-3-08 Pohoiki Road	County of Hawai'i
26. Chinese Weeping Banyan	2-2-28:08 Kīlauea Ave.	State of Hawai'i
27. Grove of Monkeypod Trees	2-2-04:35 Kamehameha Ave. and Pauahi St.	County of Hawai'i
28. Grove of Monkeypod Trees	2-2-04:56 Kamehameha Ave. and Pauahi St.	County of Hawai'i
29. Gardenia Remyi	2-3-29:02 Waianuenu Ave.	County of Hawai'i
30. Terminalia chebula	2-3-01:2 Kamehameha Avenue	County of Hawai'i
31. Grove of Mangoes	1-4-3, 4, 5, & 28 Government Beach Road	County of Hawai'i
32. 'Ōhi'a	1-5-1:56 Ka'ohē Homesteads, Pāhoa	Robert E. O'Neill

(1984, Ord. No. 84-53, sec. 1; Am. 1989, Ord. No. 89-102, sec. 1; Am. 1991, Ord. No. 91-140, sec. 2; Am. 1993, Ord. No. 93-8, sec. 1; Am. 1999, Ord. No. 99-27, sec. 1; Am. 2000, Ord. No. 00-121, sec. 1; Am. 2002, Ord. No. 02-123, sec. 1; Am. 2003, Ord. No. 03-145, sec. 1; Am. 2005, Ord. No. 05-158, sec. 1.)

Article 11. Neighborhood Watch Signs.

Section 14-66. Purpose.

The purpose of this article is to provide assistance to communities which have organized a neighborhood watch program aimed at crime prevention and to encourage the formation of neighborhood watch programs by other communities by establishing the Neighborhood Watch Program under the County police department and authorizing the construction and installation of neighborhood watch signs at appropriate locations on public property.

(1987, Ord. No. 87-118, sec. 1.)

Section 14-67. Definitions.

(a) As used in this article:

- (1) "Chief of police" means the chief of police of the County.
- (2) "Neighborhood watch program" means a program established in accordance with the County police department's neighborhood security watch program.

- (3) “Neighborhood watch sign” means a sign constructed and installed at the direction of the police department and pursuant to the provisions of this article.
- (4) “Public property” means any curbstone, lamppost, pole, parking meter, bridge, street sign, or traffic light located on public property. Public utility poles are excluded from this definition.

(1987, Ord. No. 87-118, sec. 1; Am. 2001, Ord. No. 01-108, sec. 4.)

Section 14-68. Powers and duties.

Pursuant to the provisions of this article, the chief of police is authorized to:

- (a) Determine, with the assistance of the director of public works or the director’s duly authorized representative, the number and appropriate location of all neighborhood watch signs.
- (b) Cause to be constructed and installed on public property, signs indicating that the area is protected by a neighborhood watch.
- (c) Remove or cause to be removed, neighborhood watch signs located in neighborhoods where the neighborhood watch program has terminated.

(1987, Ord. No. 87-118, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 14-69. Application for approval.

- (a) Any person wishing to have a neighborhood watch sign placed in the person’s neighborhood shall submit an application to the chief of police. The application must identify:
 - (1) The geographical boundaries of the neighborhood for which the application is being made.
 - (2) The number of homes situated within the boundaries of the designated neighborhood.
 - (3) The names, addresses, and phone numbers of each block captain and area coordinator.
 - (4) The number of homes participating in the neighborhood watch program.
- (b) No application for the construction and installation of signs shall be approved by the chief of police unless sixty percent of the homes within the boundaries of the designated neighborhood participate in the neighborhood watch program.

(1987, Ord. No. 87-118, sec. 1.)

Section 14-70. Rules.

The chief of police is authorized to adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, as are necessary to implement, administer, and enforce the provisions of this article.

(1987, Ord. No. 87-118, sec. 1.)

Article 12. Official Bulletin Board.

Section 14-71. Official bulletin board established; purpose.

There shall be an official bulletin board of the Hawai‘i County building for the posting of council and committee agendas and public notices of meetings of the County of Hawai‘i. This bulletin board is established in compliance with the provisions of article XIII, Hawai‘i County Charter.

(1994, Ord. No. 94-43, sec. 1.)

Section 14-72. Official bulletin board location.

The official bulletin board of the Hawai‘i County building at 25 Aupuni Street, Hilo, Hawai‘i shall be located within the exterior covered walkway of the County building, immediately adjacent to its main entrance and shall be conspicuously displayed and identified by the words “public notices” appearing thereon.

(1994, Ord. No. 94-43, sec. 1.)

Section 18-87. Pulling trailer or transporting freight prohibited.

No school bus shall, when being used for the transportation of pupils, be operated or driven with any trailer or other vehicle attached thereto, nor shall any school bus transport freight other than the school books and other school material carried by pupils while carrying school children.

(1975 C.C., c. 5, art. 4, sec. 3.05.)

Division 4. Inspections.**Section 18-88. Inspection of vehicles; issuance of certificate.**

The County chief of police or the chief of police's duly authorized subordinate, which shall include any official vehicle inspection station, shall, before any passenger license is issued to the bus, inspect the bus for which a license is requested, and if such person finds the bus to be in good serviceable and safe condition for the safe transportation of passengers, such person shall deliver to the applicant therefor a certificate setting forth the fact that the bus has been inspected and found to be safe for the transportation of pupils.

(1975 C.C., c. 5, art. 4, sec. 4.01.)

Section 18-89. Monthly inspection required; certificate of inspection.

(a) Any vehicle used for the transportation of school children shall be subject to a thorough inspection monthly, by the County police department or any official inspection station so designated and authorized by the chief of police. When a vehicle has been inspected and found to be in a satisfactory operating condition, the department or inspection station shall issue a certificate of inspection, which certificate shall include a check list printed on the reverse side, certifying as to the equipment and mechanisms checked, and certifying to the adequacy and safety of the vehicle and equipment.

(b) No vehicle without a certificate of inspection shall be used and no claims for the transportation of school children shall be paid unless accompanied by a certificate of inspection. A copy of the certificate shall be submitted each month to the district superintendent, Hawai'i island schools.

(1975 C.C., c. 5, art. 4, sec. 4.02.)

Article 4. Public Transit System.**Division 1. Island-Wide Fare Structure.****Section 18-90. Fares.**

Every person using the mass transit service owned, maintained or operated by the County shall be charged the fares set out in the following schedules:

(a) Hilo-Hāmākua-Waimea-Kohala-Kona.

For one-way travel within each zone set out in fare schedule A, a base cash fare of 75 cents will be collected. For one-way travel between any two zones, the cash fare to be collected is set out in fare schedule A in section 18-92.

(b) Hilo-Puna-Ka'u.

For one-way travel within each zone set out in fare schedule B, a base cash fare of 75 cents will be collected. For one-way travel between any two zones, the fare to be collected is set out in fare schedule B in section 18-92.

(c) Fare prepayment discount.

All tickets for travel between the points set out in above schedules can be prepurchased at a discount of ten percent off the scheduled cash fare. The monthly bus pass fare plan shall be based upon individual issuance of bus passes for travel within and between designated zones set out in the above schedules upon payment of the designated monthly bus fares to the mass transit agency. The ten percent discount in this paragraph shall not apply to the demand response fare.

- (d) Fare prepayment discount for senior citizens, handicapped persons and students.
All tickets for travel by senior citizens, handicapped persons and students, between the points set out in the above schedules, can be prepurchased at a discount of thirty-three and one-third percent off the scheduled cash fare. The monthly bus pass fare plan shall be based upon individual issuance of bus passes for travel within and between designated zones set out in the above schedules upon payment of the designated monthly bus fares to the mass transit agency. The ten percent discount in paragraph (c) shall not apply to prepaid tickets and monthly bus passes purchased pursuant to this paragraph. The thirty-three and one-third percent discount in this paragraph shall not apply to the demand response fare.
- (e) Circuit fares.
For same day round-trip travel discount based on the regular one-way fare, the circuit fare to be collected is set out in schedule C in section 18-92.
- (f) Shared-ride fares.
Shared-ride program coupons may be purchased by the public through the mass transit agency and its designated coupon sales outlets in accordance with the following schedule:

Coupon Price

5 coupon book	\$15	(\$3 per coupon)
10 coupon book	\$25	(\$2.50 per coupon)
15 coupon book	\$30	(\$2 per coupon)

For one-way travel limited to a maximum of nine miles under the shared-ride program the fare to be collected is set out in fare schedule D in section 18-92.

- (g) Promotional fares.
 - (1) The purpose of this subsection is to provide lower bus fares when a new route or service is provided or to boost ridership on established routes.
 - (2) The transit administrator may establish fares on a temporary basis for a period not to exceed ninety calendar days for bus routes and services.
- (h) Island-wide transportation free zone.
 - (1) The purpose of this subsection is to provide the public with a transportation alternative to the private automobile. The provision of an effective public transportation system for the residents of the County of Hawai‘i will produce economic, social and lifestyle benefits for the residents of Hawai‘i County. The distances residents must travel for work, medical, education, and social needs will be alleviated by providing public transportation at no cost to the user.
 - (2) The County of Hawai‘i shall be designated a transportation kōkua zone. Riders boarding and alighting any regularly scheduled bus route operated by the County of Hawai‘i or its designee shall ride free of charge.
 - (3) The transportation kōkua zone shall not apply to County contracted shared-ride taxi services, County operated curb to curb van services, or County operated non-scheduled bus services.
 - (4) A designated transportation kōkua area shall terminate two years after its implementation, unless extended or terminated by the council.
 - (5) Within one year of the date of the implementation, and again not later than ninety days prior to termination of the transportation kōkua zone, the transit administrator shall report to the Hawai‘i County council on the impact of its implementation, at which time the council may extend or terminate the established zone(s).

(1986, Ord. No. 86-15, sec. 2; Am. 1990, Ord. No. 90-37, sec. 7, Ord. No. 90-91, sec. 1; Am. 2004, Ord. No. 04-141, sec. 1; Am. 2005, Ord. No. 05-151, sec. 1.)

Chapter 19

REAL PROPERTY TAXES

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- (d) (1) In lieu of the assessment method as set forth in subsections (a) (b) and (c) above, a public utility, except airlines, motor carriers, common carriers by water or contract carriers taxed by section 239-6, Hawai‘i Revised Statutes, may pay the County a real property tax of such rate percent of its gross income each year from its public utility business as shall be determined in the manner hereinafter provided. The tax imposed by this section is a means of taxing the real property owned by the public utility or leased to it by a lease under which the public utility is required to pay the taxes upon the property. For the purposes of this section, gross income and net income shall have the respective meanings given those terms in chapter 239, Hawai‘i Revised Statutes, provided that such gross income and net income is from public utility business within the County of Hawai‘i. The rate of the tax upon the gross income of the public utility shall be determined as follows:

If the ratio of the net income of the company to its gross income is fifteen percent or less, the rate of the tax on gross income shall be 1.885 percent; for all companies having net income in excess of fifteen percent of the gross, the rate of the tax on gross income shall increase continuously in proportion to the increase in ratio of net income to gross, at such rate that for each increase of one percent in the ratio of net income to gross, there shall be an increase of .2675 percent in the rate of the tax.

The following formula may be used to determine the rate, in which formula the term “R” is the ratio of net income to gross income, and “X” is the required rate of the tax on gross income for the utility in question:

$$X=(26.75R - 2.1275)\%;$$

provided that in no case governed by the formula shall “X” be less than 1.885 percent or more than 4.2 percent. Provided further that in no case shall the application of the above rate or formula by the County, when added to the amount of real property tax levied and assessed by the other counties using the same formula in their county ordinances, result in a combined statewide real property tax liability which is greater than that portion of the tax liability that would have been payable by the public utility under chapter 239, Hawai‘i Revised Statutes, (as codified on August 1, 2000) in excess of four percent.

- (2) The public utilities may elect to utilize the method of assessment under subsection (d)(1) rather than the method of assessment under subsections (a), (b) and (c) by filing a notice of such election on or before December 31 of the year immediately preceding when the tax would be due with the director of finance; provided, however, that for the first tax year after the effective date of the ordinance codified in this section, the public utilities may file such notice on or before May 31, 2001. If the State of Hawai‘i amends chapter 239, Hawai‘i Revised Statutes, to decrease the tax levied thereunder to a maximum rate of four percent, the director of finance shall utilize the method of assessment under subsection (d)(1) rather than the method of assessment under subsections (a), (b) and (c) without a request from the public utilities to do so.
- (3) As the basis for calculating the public utility’s gross income and net income, the County shall accept the public utility’s filing for gross income and net income from public utility business within the County of Hawai‘i as made to the State of Hawai‘i pursuant to chapter 239, Hawai‘i Revised Statutes. If a public utility has not allocated its gross income and net income on a county-by-county basis, the counties, together with that public utility, shall agree upon a method by which such income can be allocated amongst the counties.
- (2000, Ord. No. 00-110, sec. 2.)

Section 19-54. Reserved.

(1981, Ord. No. 613, sec. 57; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2005, Ord. No. 05-165, sec. 2.)

Section 19-55. Reserved.

(1981, Ord. No. 613, sec. 58; Am. 1984, Ord. No. 84-21, sec. 2; Am. 1991, Ord. No. 91-143, sec. 3; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2004, Ord. No. 04-143, sec. 3.)

Section 19-56. Golf course assessment.

Property operated and used as a golf course shall be assessed for property tax purposes on the following basis:

The value to be assessed by the director shall be on the basis of its actual use as a golf course rather than on the valuation based on the highest and best use of the land.

In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, sales price and the effect of the value of the golf course on the value of the surrounding lands.

(1981, Ord. No. 613, sec. 59; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-57. Nondedicated agricultural use assessment.

(a) Lands classified and used for agriculture and which are not dedicated pursuant to section 19-60, may be assessed for real property tax purposes as established in subsection (a)(2) of this section and shall be subject to the following:

- (1) The land in nondedicated agricultural use must be used on a continuous and regular basis for intensive agriculture, orchards, feed crops and fast rotation forestry or pasture and slow rotation forestry on lands zoned by the County to be in the districts of agricultural, residential and agricultural, family agricultural, intensive agricultural, and agricultural project district;
- (2) The portion of land that is committed in specific nondedicated agricultural use shall be assessed at two times the dedicated agricultural use value as established by the director of finance under this chapter; and
- (3) A farm dwelling site shall be assessed at the highest commercial agriculture use value, provided that the maximum farm dwelling site area to be assessed at the highest commercial agriculture use value shall not exceed one-fourth acre.

(b) All portions of land that are not committed or used for a specific agricultural use shall be assessed based on the proportional market value of the total property.

(c) Application; filings; assessment effective; renewal.

- (1) The director shall prescribe the form of the nondedicated agricultural use application.
- (2) The application shall be filed with the director by December 31 of any calendar year.
- (3) The application for a nondedicated agricultural use assessment must be signed by all owners of the land being committed.
- (4) If the application is approved, the assessment based upon the use requested in the application shall be effective as of January 1 for the following tax year.
- (5) Renewal of the application shall be in such form and at such time as required by the director.

- (1) The land dedicated for commercial activity must be used on a continuous and regular basis for intensive agriculture, orchards, feed crops and fast rotation forestry or pasture and slow rotation forestry and have a minimum lot size per farm operation for that dedicated category of commercial activity as provided for in the administrative rules and regulations of the department; and
 - (2) The land is within the County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural, agricultural project district, or any other County zoned district meeting with the approval of the director of planning.
- (b) The owner of land under the twenty-year agricultural dedication at July 1, 2003 may continue to be assessed at fifty percent of its agricultural use value and shall be subject to the conditions and provisions of the effective commercial agricultural use dedication.
- (c) Determining agricultural use value.
- (1) In determining the value of lands which are classified and used for commercial agriculture use, consideration shall be given to rent, productivity, nature of actual commercial agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of persons who may be considered to have special knowledge of land values.
 - (2) Four general agricultural categories shall be used in determining the value of lands which are dedicated for commercial agriculture:
 - (A) "Intensive agriculture," which includes such crops as vegetables, ginger, taro, herbs, nurseries, foliage, cut and potted flowers, piggeries, dairy, poultry, feedlots, aquaculture, honey and honeybees.
 - (B) "Orchards," which includes such crops as macadamia nuts, guava, banana, papaya, avocado, grapes, passion fruit, coffee, citrus, cacao, pineapple and tropical specialty fruits.
 - (C) "Feed crops and fast rotation forestry," which includes forage crops, seed crops, cane, short rotation forestry, biomass, grasses, etc.
 - (D) "Pasture and slow rotation forestry," which includes pasture and longer rated forestry.
 - (3) Lands classified as tree farm property pursuant to chapter 186, Hawai'i Revised Statutes, shall be considered for classification and valuation as agricultural.
 - (4) The portion of land that is not dedicated for commercial agriculture use shall be assessed based on the proportional market value of the total property.
 - (5) A farm dwelling site shall be assessed at the highest commercial agricultural use value, provided that the maximum farm dwelling site area to be assessed at the highest commercial agriculture use value shall not exceed one-fourth acre.
- (d) Commercial agricultural use dedication petition.
- (1) If any owner desires to dedicate the owner's land for a commercial agricultural use and to have the land taxed as its assessed value in this use, the owner shall so petition the director of finance and declare in the petition that the land can best be used for the purpose for which the owner requests permission and that if the petition is approved the land will be used for this purpose. The director may require evidence of commercial agricultural use in such form and at such times as provided for in the administrative rules and regulations of the department.
 - (2) The director shall prescribe the form of the petition.
 - (3) The petition shall be filed with the director of finance by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, dedication shall be effective on July 1 of the following tax year.
 - (4) The petition for commercial agricultural use dedication must be signed by all owners of the land being dedicated.

- (5) A recorded lessee of the land with a term of five or more years remaining from the date of the petition and who is responsible for payment of the real property tax shall also be deemed an owner of the land within these provisions.
- (6) Action by director on petition.
 - (A) Upon receipt of a petition as provided above, the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the intended use. The finding shall include and be based upon the productivity ratings of the land in those uses for which it is best suited, a study of the ownership, size of operating unit, the present use of surrounding similar lands and other criteria as may be appropriate.
 - (B) The director shall also make a finding of fact as to whether the intended use is in conflict with the overall development plan of the State and County; provided that for lands in a zoned district other than County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural or agricultural project district, the director shall make further findings respecting the economic feasibility of the intended use of the land.
 - (C) If all findings are favorable, the director shall approve the petition and declare the land to be dedicated.
 - (D) In order to place prospective buyers on notice of the rollback liability, the petitioner shall record the dedication in accordance with the procedures of the bureau of conveyances within ninety days of notice of approval.
- (e) Approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the land to a use other than commercial agriculture for a minimum period of ten years, unless otherwise provided by this chapter, subject to cancellation or renewal as follows:
 - (1) At least one hundred eighty days prior to any cancellation or termination, the department of finance shall notify the owner by mail of such cancellation or termination. The owner shall reapply for renewal of the dedication by filing an application with the director on or before September 1 of the last year of dedication. The renewal petition shall, in all respects, be processed similarly to an original petition. Upon approval by the director of succeeding dedications, the property shall continue to be assessed in accordance with the provisions of the dedication.
 - (2) In the case of a change in zoning not as a result of a petition by any property owner or lessee such that the owner's land is placed within any zoned district other than a County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural, or agricultural project district, the dedication may be cancelled within sixty days of the change by the owner.
 - (3) Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director.
- (f) Changing between commercial agricultural categories.
 - (1) If the owner desires to change from a specific commercial agricultural category to another commercial agricultural category, the owner shall so petition the director of finance and declare in the petition that:
 - (A) The owner's land can best be used for a commercial agricultural activity other than that for which the petition was originally approved; and

- (B) The owner will use the land for that new commercial agricultural activity if the petition is approved.
 - (2) If an owner is permitted to change the use as provided in this subsection, the owner shall be allowed up to twenty-four months from the effective date of the petition to convert to the new commercial agricultural category. This conversion must be completed prior to the end of the dedication period.
 - (3) The petitioner shall submit progress reports of the petitioner's efforts in converting from one commercial agricultural category to another commercial agricultural category to the director of finance by the anniversary date of the petition approval and yearly, thereafter, as long as such conversion period remains.
 - (4) If the owner fails to make the conversion within the specified time limit, the owner will be subject to the taxes and penalties provided herein.
 - (5) Any other provision to the contrary notwithstanding, an approved change in use as provided herein shall not alter the original dedication period.
- (g) Breach of dedication; deferred or rollback taxes; penalties and interest.
- (1) A deferred or rollback tax shall be imposed on the owner of commercial agricultural use dedicated lands upon any of the following:
 - (A) Failure of the owner to observe any restriction, condition, or provision on the use of the land; or
 - (B) If the dedicated property or any portion thereof is sold by way of a conveyance which is subject to conveyance tax under the terms of chapter 247, Hawai'i Revised Statutes, unless a notarized affidavit is signed by the owner stating that the land will continue to be subject to the full requirements of the dedication including any penalties for violation. The director shall record the notarized affidavit with the bureau of conveyances.
 - (2) The deferred or rollback tax shall commence from the date the failure to observe the restriction, condition or provision, or the property's conveyance retroactive to the date the assessment was made pursuant to subsection (3)(F) of this section but for not more than ten years.
 - (A) Failure to observe the restrictions on the use means failure for a period of six consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period; provided that the petition by the owner for a change in use as provided in subsection (f), and the owner's subsequent change in use of such dedicated lands, shall not be deemed to constitute a failure of the owner to observe the restrictions on the use.
 - (B) Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than the commercial agricultural category shall be taxed as provided by this subsection.
 - (3) Calculating deferred or rollback taxes.
 - (A) The deferred or rollback tax shall be based on the difference between the assessed market value at highest and best use and the commercial agricultural use of the land at the rate applicable for the respective years.
 - (B) All differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be due and payable with a ten percent penalty.
 - (C) If the owner of dedicated land breaches a condition of the dedication before its completion, deferred or rollback taxes shall be imposed on the subject parcel pursuant to subparagraph (F) below, retroactive from the end of the tax year in which the breach occurs.
 - (D) In any case in which deferred or rollback taxes are imposed after successful completion of an agricultural dedication period, the deferred or rollback taxes shall be retroactive only to the end of the completed dedication period, and shall not be imposed for any time covered by a successfully completed agricultural dedication period.

- (E) In cases involving a breach of a ten-year dedication, or a rollback period of ten or fewer years for breach of a twenty-year dedication, the rollback taxes under this section shall be for a maximum total of ten years, including both the breached dedication rollback period and any period of nondedicated agricultural use assessment subject to rollback. Rollback taxes for any breach of dedication affecting more than ten years under a twenty-year dedication shall not exceed ten years.
- (F) Deferred or rollback tax schedule.
 - (i) Breach of the restrictions on use within five years of the dedication shall result in a rollback to the date of the dedication.
 - (ii) Breach of the restrictions on use within six years of the dedication shall result in a rollback of four years from the date of the breach.
 - (iii) Breach of the restrictions on use within seven years of the dedication shall result in a rollback of three years from the date of the breach.
 - (iv) Breach of the restrictions on use within eight or nine years of the dedication shall result in a rollback of two years from the date of the breach.
- (4) The additional taxes and penalties due and owing shall be a paramount lien upon the property as provided for by this chapter.
- (h) The director may cancel a dedication without rollback taxes or penalties in the event of any of the following:
 - (1) A recognized natural disaster beyond the farmer’s control; or
 - (2) The land can no longer be used for the dedicated agricultural use; or
 - (3) The death or severe disability of the principal farmer such that the farm operation cannot continue.

Corporations and partnerships are not eligible for this death or severe disability exemption.

(1981, Ord. No. 613, sec. 63; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2004, Ord. No. 04-143, sec. 5; Am. 2005, Ord. 05-30, sec. 2.)

Section 19-61. Reserved.
 (1981, Ord. No. 613, sec. 64; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-62. Reserved.
 (1981, Ord. No. 613, sec. 65; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-63. Reserved.
 (1981, Ord. No. 613, sec. 66; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-64. Reserved.
 (1981, Ord. No. 613, sec. 67; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-65. Reserved.
 (1981, Ord. No. 613, sec. 68; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-66. Reserved.
 (1981, Ord. No. 613, sec. 69; Am. 1997, Ord. No. 97-84, sec. 1.)

As used in section 19-48, in section 19-68 and in section 19-71,* the word “lease” shall be deemed to include a sublease, and the word “lessee” shall be deemed to include a sublessee. (1981, Ord. No. 613, sec. 76; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2004, Ord. No. 04-123, sec. 4.)

* **Editor’s Note:** Style change made for consistency.

Section 19-73. Homes of totally disabled veterans.

Real property owned and occupied as a home by any person who is totally disabled due to injuries received while on duty with the armed forces of the United States, or owned by any such person together with such person’s spouse and occupied by either or both spouses as a home, or owned or occupied by a widow or widower of such totally disabled veteran who shall remain unmarried and who shall continue to own and occupy the premises as a home, is hereby exempted except for the minimum tax from all property taxes, other than special assessments, provided:

- (1) That such total disability was incurred while on duty as a member of the armed forces of the United States, and that the department of finance may require proof of total disability;
- (2) That the home exemption shall be granted only as long as the veteran claiming exemption remains totally disabled; and
- (3) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion used exclusively as a home; provided, that this exemption shall not apply to any structure, including the land thereunder, which is used for commercial purposes.

For the purposes of this section, the word “home” includes the entire homestead when it is occupied by a qualified totally disabled veteran as a home; houses where the disabled veteran owner sublets not more than one room to a tenant; and premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to January 1 preceding the tax year for which exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises. (1981, Ord. No. 613, sec. 77; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-74. Persons affected with Hansen’s disease.

Any person who has been declared by authority of law to be a person affected with Hansen’s disease in the communicable stage and is admitted to a hospital for isolation treatment, shall, so long as that person is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, shall, so long as that person remains or continues under temporary release, be exempted except for the minimum tax from real property taxes on all real property owned by the person on the date when the person was declared to be a person so affected with Hansen’s disease, up to, but not exceeding, a taxable value of \$50,000.

(1981, Ord. No. 613, sec. 78; Am. 1982, Ord. No. 766, sec. 4; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-75. Exemption, persons who are blind, deaf, and/or totally disabled.

(a) Definitions as used in this chapter:

- (1) “Blind” means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees, as certified under this section.
- (2) “Deaf” means a person whose average loss in the speech frequencies (five hundred to two thousand Hertz) in the better ear is ninety-two decibels, or such other level as may be updated by American National Standards Institute (A.N.S.I.), or worse, as certified under this section.

- (3) “Totally disabled” means a person who is totally disabled, either physically or mentally, and who, except for such total disability, would be able to engage in substantial gainful business or occupation, as certified under this section.
- (b) Any person who is certified as blind, deaf, and/or totally disabled as defined in this section shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of \$50,000. Except that no exemption shall apply to any minimum tax payable under section 19-90(g) of this chapter.
- (c) The disability shall be certified by (1) a physician licensed under chapter 453 or 460, or both, (2) a qualified out-of-state physician who is currently licensed to practice in the state in which the physician resides, or (3) a commissioned medical officer in the United States military or public health service, engaged in the discharge of one’s official duty. Certification for a person who is blind or deaf may also be made by a licensed optometrist or licensed audiologist as the case may be. Certification shall be on forms prescribed by the department of finance. For disabled veterans, the proof of disability submitted for section 19-73(1) from the Veterans Administration, may be substituted for the required certification. Official documentation from the Social Security Administration may also be substituted for the required certification.
- (d) Any person who is certified as being temporarily blind, deaf, and/or totally disabled shall submit an annual certification or recertification, as required by this section. No exemption shall be allowed unless the required certification or recertification is submitted.
- (e) Any person who qualifies for an exemption under this section shall be allowed to apply for only one of the exemptions established in this section.
- (f) In the case of a lease of Hawaiian homestead land, where either a husband or wife is of non-Hawaiian descent, either spouse shall be entitled to the blind, deaf, or totally disabled exemption in the same manner as if either spouse was considered the owner thereof, provided proof of marriage is submitted to the director of finance.
- (g) In the event that a person qualifies for the home exemption as provided in section 19-71 and the blind, deaf, or totally disabled exemption as provided in this section, the exemptions shall be granted to the claimant in the following order: the home exemption shall be granted first, then followed by the applicable blind, deaf, or totally disabled exemption on the property claimed as the owner’s principal residence. Thereafter, the exemption provided by this section shall be applied to any other property designated by the claimant.
- (1981, Ord. No. 613, sec. 79; Am. 1982, Ord. No. 766, sec. 5; Am. 1989, Ord. No. 89-150, sec. 2; Am. 1990, Ord. No. 90-152, sec. 2; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2001, Ord. No. 01-73, sec. 1.)

Section 19-76. Nonprofit medical, hospital indemnity associations; tax exemption.

Every association or society organized and operating under chapter 433, Hawai‘i Revised Statutes,* solely as a nonprofit medical indemnity or hospital service association or society or both shall be, from the time of such organization, exempt except for the minimum tax from real property taxes on all real property owned by it.

(1981, Ord. No. 613, sec. 80; Am. 1997, Ord. No. 97-84, sec. 1.)

* **Editor’s Note:** Chapter 433 was repealed by Act 347, Session Laws of Hawai‘i, 1987. Its provisions were incorporated into Chapter 432.

Section 19-77. Charitable, etc., purposes.

- (a) There shall be exempt except for the minimum tax from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) and (c), an exemption for the same property may not also be claimed under the other of these subsections. Claimants shall submit to the director of finance documentation from the Internal Revenue Service verifying their exemption status.

- (b) This subsection applies to property owned in fee simple, leased, or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.

Exemption is allowed by this subsection to the following property:

- (1) Property used for school purposes including:
 - (A) Kindergartens, grade schools, junior high schools, and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, section 302A-1132, Hawai'i Revised Statutes, or which are for preschool children who have attained or will attain the age of five years on or before December 31 of the school year, provided that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met;
 - (B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.
 - (2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the State department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.
 - (3) Property used for church purposes including incidental activities, parsonages, and church grounds, the property exempt except for the minimum tax from real property taxes being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4)).
 - (4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose. Property used as individual or family burial plots shall be exempted for the portion that is actually used for such purposes.
 - (5) Property dedicated to public use by the owner, which dedication has been accepted by the State or County, reduced to writing, and recorded in the bureau of conveyances.
 - (6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; property owned by any association or league of credit unions chartered by the United States or the State, the sole purpose of which is to promote the development of credit unions in the State. Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented, or otherwise let to another, if such leasing, renting, or letting is to a nonprofit association, organization, or corporation.
- (c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either:

- (1) A corporation, society, association, or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association, or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or
 - (2) A corporation chartered by the United States under title 36, United States Code, as a patriotic society, or
 - (3) A corporation, society or association qualifying for exemption from federal income tax under section 501(c)(3) where the property used for charitable purposes which are of a community character building, social service, or educational nature, or
 - (4) Senior citizen housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959 as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as amended by the Housing and Urban Development Act of 1970.
- (d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.
- (e) The term “for nonprofit purposes,” as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private shareholder, member, or trust beneficiary. “Monetary gain” includes without limitation any gain in the form of money or money’s worth. “Economic benefit” includes without limitation any benefit to a person in the course of business, trade, occupation, or employment.
- (1981, Ord. No. 613, sec. 81; Am. 1987, Ord. No. 87-116, sec. 3; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2005, Ord. No. 05-164, sec. 2.)

Section 19-78. Property used in manufacture of pulp and paper.

All real property in the County actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper shall be exempt except for the minimum tax from property taxes for a period of five years from the first day of January following commencement of construction of a plant or plants on the property for such purpose.

(1981, Ord. No. 613, sec. 82; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-79. Crop shelters.

Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property. Such exemption shall continue only as long as the structure is maintained in good condition.

(1981, Ord. No. 613, sec. 83; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-80. Exemption, dedicated lands in urban districts.

- (a) Portions of real property which are dedicated and approved by the director of finance as provided for by this section shall be exempt except for the minimum tax from real property taxes.

- (b) Any owner of taxable real property in an urban district desiring to dedicate a portion or portions thereof for landscaping, open spaces, public recreation, and other similar uses shall petition the director of finance stating the exact area of the land to be dedicated and that the land is not within the setback and open space requirements of applicable zoning and building code laws and ordinances, and that the land shall be used, improved, and maintained in accordance with and for the sole purpose for which it was dedicated, except that land within a historic district may be so dedicated without regard to the setback and open space requirements of applicable zoning and building code laws and ordinances.

The director shall make a finding as to whether the use to which such land will be dedicated has a benefit to the public at least equal to the value of the real property taxes for such land. Such finding shall be measured by the cost of improvements, the continuing maintenance thereof, and such other factors as the director may deem pertinent. If the director finds that the public benefit is at least equal to the value of real property taxes for such land, the director shall approve the petition and declare such land to be dedicated land.

- (c) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's land for a minimum period of ten years. At least one hundred eighty days prior to the cancellation, the department of finance shall notify the owner by mail of such cancellation. The owner of a dedicated property must renew the dedication on or before September 1 of the tenth year of the original dedication or any subsequent renewal period in order to continue the dedication for the next ten years.
- (d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of the land shall cancel the special tax exemption privilege retroactive to the date of the original dedication, or to the latest renewal date whichever is later, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of the land shall be payable together with penalty of ten percent from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve consecutive months to use, improve, and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.
- (e) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year and shall be approved or disapproved by December 15 of such year. If approved, the dedication shall be effective July 1 of the following tax year.
- (f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
- (g) The director shall make and adopt necessary rules and regulations including such rules and regulations governing minimum areas which may be dedicated for the improvement and maintenance of such areas.
- (h) "Landscaping" means lands which are improved by landscape architecture, cultivated plantings, or gardening.

"Open spaces" means lands which are open to the public for pedestrian use and momentary repose, relaxation, and contemplation.

"Public recreation" refers to lands which may be used by the public as parks, playgrounds, historical sites, campgrounds, wildlife refuge, scenic sites, and other similar uses.

"Owner" includes lessees of real property whose lease term extends at least ten years from the effective date of the dedication.

(1981, Ord. No. 613, sec. 84; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-81. Water tanks.

Any provision to the contrary notwithstanding, any tank or other storage receptacle required by any government agency to be constructed or installed on any taxable real property before water for home and farm use is supplied, and any other water tank, owned and used by a real property taxpayer for storing water solely for said taxpayer's own domestic use, shall be exempted in determining and assessing the value of such taxable real property.

(1981, Ord. No. 613, sec. 85; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2005, Ord. No. 05-165, sec. 3.)

Section 19-82. Alternate energy improvements, exemption.

- (a) The value of all improvements in the County (not including a building or its structural components, except where alternate energy improvements are incorporated into the building, and then only that part of the building necessary to such improvement) actually used for an alternate energy improvement shall be exempted from the measure of the taxes imposed by this article.
- (b) As used in this section “alternate energy improvement” means any construction or addition, alteration, modification, improvement, or repair work undertaken upon or made to any building which results in:
 - (1) The production of energy from a source, or uses a process which does not use fossil fuels, nuclear fuels, or geothermal source. Such energy source may include, but shall not be limited to, solid wastes, wind, solar, or ocean waves, tides, or currents.
 - (2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation.
- (c) Alternate energy production or energy by-products transferred, marketed, or sold on a commercial basis shall not qualify for exemption under the provisions of this section. Provided further, that alternate energy improvements used primarily for personal consumption and producing excess energy incidental to personal consumption may transfer, market, or sell such excess energy produced and continue to qualify for the exemption as provided for by the provisions of this section; however, the transfer, marketing, or sale shall be limited to less than twenty-five percent of the total energy output produced by such improvements. Nuclear fission and geothermal energy sources shall be excluded from the provisions of this section.
- (d) Application for the exemption provided by this section shall be made with the director of finance on or before December 31, preceding the tax year for which the exemption is claimed, except that no claim need be filed for the exemption of solar water collections, heaters, heat pumps and similar devices. The director of finance may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption made under this section and may adopt rules and regulations to implement this section.

(1981, Ord. No. 613, sec. 86; Am. 1983, Ord. No. 83-57, sec. 2; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-83. Reserved.

(1981, Ord. No. 613, sec. 87; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-84. Public property, etc.

The following real property shall be exempt from taxation:

- (1) Real property belonging to the United States, to the State, or to the County; provided, that real property belonging to the United States shall be taxed upon the use or occupancy thereof as provided in section 19-85, and there shall be a tax upon the property itself if and when the Congress of the United States so permits, to the extent so permitted and in accordance with any conditions or provisions prescribed in such act of Congress; provided, further, that real property belonging to the State or the County, or belonging to the United States and in the possession, use, and control of the State, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the “owners” thereof for the purposes of this chapter, in the following cases:
 - (A) Property held on January 1 preceding the tax year under an agreement for its conveyance by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made;
 - (B) Property held on January 1 preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided for by this chapter so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them;

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

- (a) No person shall dump, place, or remove to any County disposal facility, including transfer stations, any prohibited materials as defined by the State department of health rules, regulations and standards, including any radioactive or chemical waste, any pesticides, explosives, blasting materials, fuses, live ammunition, or other substances that may explode upon contact with heat or fire.
 - (b) Prohibited wastes which have been rendered nonhazardous by chemical neutralization or stabilization in accordance with applicable rules, regulations and standards of the State department of health may be delivered directly to a landfill for disposal.
- (1975 C.C., c. 3, art. 10, sec. 10; Am. 1988, Ord. No. 88-160, sec. 5.)

Section 20-41. Dumping refuse prohibited.

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

(1975 C.C., c. 3, art. 10, sec. 11.)

Section 20-42. Salvage of refuse restricted.

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

(1975 C.C., c. 3, art. 10, sec. 13; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 6.)

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

- (a) Acceptance at landfills or other similar disposal areas.
 - (1) Any person having any nonprohibited rubbish, unburnable material, or refuse, excluding garbage, in the County, which is not acceptable at a transfer station, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill on any day during the normal working hours of the landfill. All permitted materials, when properly deposited, shall be accepted by the department.
 - (2) Any person having any large or bulky material, such as a car, water heater or properly altered stove or refrigerator which does not contain any garbage, refuse, swill or any other rubbish at the time of disposal, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill on any weekday during the normal working hours of the landfill. All permitted materials, when properly deposited, shall be accepted by the department.
 - (3) Any person having any small dead animal, such as a dog or cat, as well as garbage, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill from 7:00 a.m. to 3:00 p.m. Permitted small dead animals and garbage, when properly deposited, shall be accepted by the department.
 - (4) Any unauthorized person entering into the landfill during nonworking hours or for purposes other than that permitted in this section shall be considered to be a trespasser, and shall be subject to the penalties of this article.
- (b) Acceptance at transfer stations.
 - (1) All acceptable household refuse, including shrubbery and yard trimmings, deposited into the transfer station solid waste container shall be accepted by the County for disposal on any day during normal working hours of the station. No item shall exceed four feet in any dimension or weigh more than fifty pounds.

- (2) Prohibited materials shall include all commercially hauled rubbish, garbage, swill or refuse, prohibited materials as defined by the State department of health and partially listed herein, refuse generated by a business, Federal or State agency, religious entity or nonprofit organization, construction or demolition wastes, abandoned vehicles, dead animals, animal carcasses and other similar organic wastes.
- (c) Except as permitted by the director, no material resulting from construction, land clearing, wrecking of any building or structure, or wastes generated by manufacturing, industrial, or agricultural processes such as meat, fish, poultry, vegetable, or fruit processing shall be acceptable for disposal in any County disposal facility.
- (d) Improper depositing of any material in any County landfill or transfer station is considered to be littering, and violators will be subject to the penalties of this article.
- (1975 C.C., c. 3, art. 10, sec. 14; Am. 1988, Ord. No. 88-160, sec. 6; Am. 1994, Ord. No. 94-87, sec. 5; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2002, Ord. No. 02-66, sec. 7.)

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

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

(1975 C.C., c. 3, art. 10, sec. 12.)

Section 20-45. Penalty.

Any violation of this article is a misdemeanor and any person convicted of a violation shall be sentenced to pay a fine not exceeding \$500 and shall contribute not less than twenty hours public service with the department of public works and department of parks and recreation.

(1975 C.C., c. 3, art. 10, sec. 15; Am. 1984, Ord. No. 84-15, sec. 1.)

Article 4. Solid Waste Fees.

Section 20-46. Disposal fees.

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

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

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

- (d) The mayor, with the approval of the council, may temporarily rescind the solid waste disposal fees for a specified period.
- (e) The mayor may waive solid waste disposal fees when it is in the best interest of the County. Fees may be waived for one-time events for community organizations, nonprofit organizations, or private property owners who are remediating illegal dump sites which were not of their creation. The mayor will give notice to the council when tip fee is waived.
- (f) On or before January 1, 2004, there shall be an analysis of past and projected expenses in the solid waste division. Factors to consider include, but are not limited to, capital improvement projects and any debt service for those projects, labor rates and any contractual obligations, equipment replacement and depreciation, and diversion programs. Estimates shall also be considered for total disposal expenses for businesses, Federal or State agencies, religious entities, nonprofit organizations or private citizens as compared to expenses for single-family household disposal at the island-wide solid waste transfer stations. The analysis will be done on an annual basis through January 1, 2007.

(1994, Ord. No. 94-87, sec. 6; Am. 1995, Ord. No. 95-41, sec. 2; Am. 1996, Ord. No. 96-21, sec. 2; Ord. No. 96-45, sec. 2; Am. 2003, Ord. No. 03-102, sec. 2; Am. 2005, Ord. No. 05-21, sec. 2; Am. 2005, Ord. No. 05-138, sec. 2.)

Section 20-47. Collection of fees.

- (a) All charges shall be collected by the solid waste division of the department. Billings shall be made monthly. Payments are due before the end of the month following the month in which charges are incurred. A finance charge of one and one-half percent monthly (annual rate of eighteen percent) shall be charged on all balances which are sixty or more days overdue. In addition to this, access to County solid waste facilities may be denied until the account is current.

(1994, Ord. No. 94-87, sec. 6; Am. 1997, Ord. No. 97-46 sec. 1.)

Section 20-48. Solid waste fund designation.

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

(1994, Ord. No. 94-87, sec. 6.)

Section 20-49. Fee schedule.

- (a) Charge rates shall be established as follows:

- (1) Landfill disposal.

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

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$45	\$55	\$65	\$75	\$85

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

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

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$27	\$33	\$39	\$45	\$51

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

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$56	\$66	\$76	\$86	\$96

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

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$81	\$99	\$117	\$135	\$153

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

1. Compacted. Dollars per cubic yard.

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$15	\$18	\$21	\$24	\$27

2. Not compacted. Dollars per cubic yard.

Year beginning on July 1 of each calendar year.				
2003	2004	2005	2006	2007
\$9	\$11	\$13	\$15	\$17

- (C) Special handling: \$85 per truck load or fraction thereof.

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

(1994, Ord. No. 94-87, sec. 6; Am. 1995, Ord. No. 95-41, sec. 3; Am. 2003, Ord. No. 03-102, sec. 2; Am. 2005, Ord. No. 05-27, sec. 2.)

Article 4. Sewer Service Charges.**Section 21-29. Sewer user charges for nonresidential customers.**

Sewer user charges for nonresidential customers, including those connected to gang cesspools, shall be assessed to all lots accessible to a public sewer whether connected or not. User charges for sewer service to nonresidential customers, which include industrial, commercial, agricultural, governmental and miscellaneous services users, hotels, and service stations shall be based on water volume usage based on water meter reading and shall be assessed according to the schedule shown under section 21-36.1; provided that water consumed for the purpose of coolers or swimming pools shall not be included in water consumption totals on which these rates are based. No sewer charges shall be levied on water used for irrigation or other uses when the water is not discharged into the sewer system and a separate metering system is installed to provide a method of accounting for the amount of water which is or is not subject to the sewer use charges, as the case may be. A minimum monthly charge shall be applicable and shall be equal to the schedule under section 21-36.1. Unoccupied units will be assessed a monthly maintenance fee equal to the current minimum monthly charge. (1975 C.C., c. 14, art. 3, sec. 1.01; Am. 1985, Ord. No. 85-15, sec. 3; Am. 1986, Ord. No. 86-86, sec. 1; Am. 1987, Ord. No. 87-71, sec. 3; Am. 1989, Ord. No. 89-68, sec. 6; Am. 1992, Ord. No. 92-77, sec. 4; Am. 2000, Ord. No. 00-82, sec. 3; Am. 2004, Ord. No. 04-157, sec. 2.)

Section 21-29.1. Charges for private haulers discharging wastewater into a municipal facility.

- (a) A minimum charge according to the schedule shown under section 21-36.1 shall be made for the discharging of pumped waste into any municipal system. The hauler shall be responsible for notification of the receiving facility personnel of the type of waste and of the discharge schedule. Preliminary treatment of the wastewater may be required prior to disposing of the waste into the system.
- (b) "Pumped waste" shall include cesspool septage, chemical toilet waste, sludge, or any other waste not prohibited under section 21-9.
- (c) Private haulers are required to have a valid permit from the wastewater division to discharge wastewater into any municipal facility and shall maintain the following records and information:
 - (1) The number of cesspools and other types of wastewater facilities pumped;
 - (2) The name and address of the owner of each cesspool or other facility pumped;
 - (3) The date of pumping of each cesspool or other facility;
 - (4) The location of each cesspool or facility pumped;
 - (5) Volume of wastewater pumped at each cesspool or other facility; and
 - (6) Disposal site of each for pumped waste from each cesspool or other facility.
- (d) Reports containing the tabulated information shall be submitted to the wastewater division no later than thirty days after the last day of the month. Failure to provide the requested information may lead to revocation of the permit.

(1987, Ord. No. 87-71, sec. 4; Am. 1989, Ord. No. 89-68, sec. 7; Am. 1992, Ord. No. 92-77, sec. 5.)

Section 21-30. Sewer user charges based on flat rate.

The director may establish a flat rate for sewer services for sewer properties (residential and/or nonresidential) utilizing public or private water systems. The flat rates may be based upon the amount of water actually consumed and drawn through the water meters of the private system, or in the absence of meters, based upon a reasonable estimate of the water consumption with due consideration to the type and nature of the premises. This flat rate shall be reviewed annually.

(1975 C.C., c. 14, art. 3, sec. 1.02; Am. 1985, Ord. No. 85-15, sec. 4; Am. 2002, Ord. No. 02-66, sec. 4.)

Section 21-31. Sewer user charges for residential customers.

Sewer user charges for residential customers shall be assessed to all lots accessible to a public sewer or public gang cesspools whether connected or not. User charges for sewer service to residential customers, which include service for single-family dwellings, duplexes, housing projects, condominiums, townhouses, apartments, and dormitories shall be according to the schedule shown under section 21-36.1. Unoccupied units will be assessed a monthly maintenance fee equal to the current monthly sewer user fee.

(1977, Ord. No. 316, sec. 1; Am. 1985, Ord. No. 85-15, sec. 5; Am. 1986, Ord. No. 86-86, sec. 2; Am. 1987, Ord. No. 87-71, sec. 5; Am. 1989, Ord. No. 89-68, sec. 8; Am. 1992, Ord. No. 92-77, sec. 6; Am. 2000, Ord. No. 00-82, sec. 4.)

Section 21-31.1. Rates based on ad valorem taxes.

Residential and nonresidential customers will be assessed a sewer charge based on the ad valorem charge system for any additional expenses not covered by the flat rate and/or flow rate system.

(1985, Ord. No. 85-15, sec. 6.)

Section 21-31.2. Infiltration/inflow expenses.

The sewer service charge system will distribute the operational maintenance and replacement expenses for infiltration/inflow flows in the same manner as the ad valorem charges.

(1985, Ord. No. 85-15, sec. 6.)

Section 21-32. Billing of charges; payment; late penalty.

- (a) The sewer service charge levied pursuant to this chapter shall be collected by the director of finance or any bank designated by the wastewater division as an agent for collection. Billings for sewer service charges of nonresidential users shall be processed monthly or bimonthly in accordance with the department of water supply billing cycle. Billing for single unit and multi-unit residential users shall be processed monthly or bimonthly.
- (b) Payment shall be due thirty days after date of bill. In addition, interest at the rate of one and one-half percent per month shall be imposed upon the outstanding balance for all accounts that are past due.
- (c) Charges for sewer service shall be billed to the owner or owners of the lot, parcel of land, building or premises, (herein, referred to as the “property”) to which the services are provided. If requested by the owner, the department will bill a tenant or other individual designated (herein, referred to as the “designated person”) by the owner. Such request shall be in writing and signed by all parties involved, including all property owners and the designated person. The property owners and the designated person shall be jointly and severally liable for the entire sewer service charge without further notice of any delinquency to the property owners.
- (d) Where a landlord has requested that the department bill a tenant pursuant to paragraph (c):
 - (1) the director shall notify the landlord if a tenant’s payment is past due; and
 - (2) the interest on the outstanding balance shall not commence until thirty days after the department has sent such notice to the landlord of the delinquency.
- (e) Sewer service charges levied shall be a debt due to the county. If this debt is not paid when due, it shall be deemed delinquent and may be recovered by the county by a civil action filed against the property owners, or the designated person, or both. Any judgment against the property owners or responsible parties shall be filed with the Bureau of Conveyances. As used herein, “person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, government entity, or any other legal entity, and their legal representatives, agents, and successors and assigns.

(1975 C.C., c. 14, art. 3, sec. 2; Am. 1989, Ord. No. 89-68, sec. 9; Am. 1992, Ord. No. 92-77, sec. 7; Am. 2005, Ord. No. 05-19, sec. 1.)

Section 21-33. Charges for discontinued service.

- (a) For any lot, building, dwelling unit or premises for which connection is made with the sanitary sewerage systems, a sewer service charge shall be made pursuant to this chapter starting from the first day of the month following the date of the connection.
- (b) Where it is proposed to discontinue any connection to the sewer from any lot, parcel of land, building or premises upon a written notice being given to the wastewater division by the owner or tenant of such lot, parcel of land, building or premises, such lateral sewer, shall be disconnected by the owner or tenant and the sewer charges for the month within which such discontinuance of sewer service takes place shall be for the full month based on the regular monthly charge to such lot, parcel of land, building, dwelling unit or premises.

(1975 C.C., c. 14, art. 3, sec. 3; Am. 1989, Ord. No. 89-68, sec. 10; Am. 1992, Ord. No. 92-77, sec. 8.)

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Chapter 22

COUNTY STREETS

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Chapter 22***COUNTY STREETS****Article 1. General Provisions.****Section 22-1.1. Intent and purpose.**

The County council finds that the primary function of County streets is to provide safe, efficient and orderly passage of pedestrians, vehicles, and other means of transportation and where appropriate, to provide safe, efficient and orderly access to adjoining properties. This chapter seeks to establish a program which preserves and promotes this primary function by defining and regulating construction within a County street; and uses within or adjacent to a County street that are not an integral part of its infrastructure or necessary for safe and lawful operation on a street. These provisions do not apply to private streets or to streets owned by the State of Hawai'i, including the Department of Hawaiian Home Lands, unless otherwise agreed to by the State or the Department of Hawaiian Home Lands.

(2002, Ord. No. 02-67, sec. 2.)

Section 22-1.2. Definitions.

As used in this chapter unless otherwise specified:

- (1) "Building" means a structure which is occupied for residential purposes or used as a place of business.
- (2) "Corporation counsel" means the head of the County department of the corporation counsel or its duly authorized representative.
- (3) "Chief of police" means the head of the County police department or its duly authorized representative.
- (4) "Common driveway approach" means a driveway approach that is located along the frontage of two or more properties and is used as an ingress and egress to said properties.
- (5) "Director" means the head of the County department of public works or its duly authorized representative.
- (6) "Driveway" means a road on private or public property giving access from a private or public street to an established use on the property.
- (7) "Driveway approach" means an area between the edge of the roadway and property line of any County owned or maintained street that provides ingress and egress to an abutting property.
- (8) "Engineer" means a privately employed licensed professional civil engineer.
- (9) "Finance director" means the head of the County finance department or its duly authorized representative.
- (10) "Official County street name" means a street name that has been adopted by the council by duly promulgated resolution or by the planning director.
- (11) "Person" or words importing persons, for instance, "another," "others," "any," "anyone," "anybody," and the like signify not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended.

*Editor's Note: Chapter 22 was repealed in its entirety and replaced by Ordinance 02-67.

- (12) “Planning director” means the head of the County planning department or its duly authorized representative.
 - (13) “Roadway” means that portion of a County street, excluding shoulders, curbs, gutters, sidewalks or other roadside drainage facilities, used exclusively by vehicular traffic.
 - (14) “Sidewalk” means that portion of a County street defined by a vehicular separation device such as a concrete, asphaltic concrete or rolled concrete curb that is intended for pedestrian or other non-vehicular use.
 - (15) “Speed hump” means a gentle rise in the profile of the road that is used to regulate the speed of a vehicle.
 - (16) “Street” means the entire width between property lines of any County owned and maintained street, avenue, road, alley, highway, lane, path or other place opened, improved and established for the use of vehicles, pedestrians or both.
 - (17) “Vehicle” means every licensed or otherwise authorized device in, upon or by which any person or property is or may be transported or drawn upon a roadway.
 - (18) “Violator” means the property owner, lessee, or the person responsible for the violation.
- (2002, Ord. No. 02-67, sec. 2; Am. 2005, Ord. No. 05-139, sec. 1.)

Article 2. Prohibitions.

Section 22-2.1. Encroachments.

No object shall be allowed in, under, or over any County street, except objects that are permitted by the director, chief of police or other provisions of law to be in, under, or over a County street, or which have a clearance of fifteen feet or more above the surface of the street, such as the canopy of trees.

(2002, Ord. No. 02-67, sec. 2.)

Section 22-2.2. Intersection sight distance.

- (a) To preserve adequate vehicular sight distance at intersections formed by two or more County streets, no object with a height between three feet and eight feet above the nearest surface of the County street shall be allowed within the area defined by the chord of an arc having a radius of thirty feet from the intersection of property lines or their extensions that form the intersection.
- (b) Whenever unusual conditions exist, such as steep road grades, non-perpendicular intersections or intersections having more than two County streets, the director, may, after an appropriate analysis, establish an area greater or lesser than that defined in this section.

(2002, Ord. No. 02-67, sec. 2.)

Section 22-2.3. Damage.

- (a) Unless otherwise permitted by the director, no person shall transport any materials or operate any vehicle, trailer, machinery, equipment or any other means of conveyance upon or across any County street in such a manner that it scratches, mars, excavates or otherwise damages any portion of the street.
- (b) Unless otherwise permitted by the director, no person shall drop or spread oil, paint, gravel, or any other substance or object upon any County street in a manner or in an amount which creates an unreasonable risk to persons or property.

(2002, Ord. No. 02-67, sec. 2.)

Section 22-2.4. Impeding and obstructing the public; endangering persons and property.

- (a) No person, without a legal privilege to do so, shall knowingly or recklessly render impassable, without unreasonable inconvenience or hazard, any County street, whether alone or with others.

- (b) No person shall knowingly or recklessly engage in conduct which creates an unreasonable risk or harm to any person or property on any County street.
(2002, Ord. No. 02-67, sec. 2.)

Section 22-2.5. Commercial use of County streets.

Except as otherwise permitted by law, no person shall use any portion of a County street for the purpose of displaying, vending, hawking, selling, renting or leasing any goods, wares, food, merchandise or other kinds of property.
(2002, Ord. No. 02-67, sec. 2.)

Section 22-2.6. Signs and other advertising materials.

Except as otherwise permitted by law, no person shall construct, place, leave, deposit, erect or install any privately owned signs, hand bills, posters or other related advertising material on or above any County street. Private signs and other advertising materials are prohibited and shall be subject to immediate removal by the department of public works according to the provisions of this chapter.
(2002, Ord. No. 02-67, sec. 2.)

Article 3. Use of County Streets.

Division 1. Types of Permits.

Section 22-3.1. Types of permits.

- (a) "Publication dispenser permits" include permits to place newspaper stands, news racks, or other dispensers of handbills or other printed or written materials on or over a County sidewalk.
(b) "Sidewalk use permits" include permits to place garbage receptacles, decorative planters, public benches, required provisions for the disabled or other items which will be placed in or on the County street for non-commercial purposes that are deemed by the director to promote public welfare.
(2002, Ord. No. 02-67, sec. 2; Am. 2005, Ord. No. 05-139, sec. 2.)

Section 22-3.2. Public utilities exemption.

Public utilities that have an executed utility franchise, charter, or other legally binding agreement with the County of Hawai'i, including provisions of the Hawai'i Revised Statutes, may be exempt from the provisions of this article at the discretion of the director. This exemption does not preclude the County from pursuing charging a fee for use of the County streets or property.
(2002, Ord. No. 02-67, sec. 2.)

Division 2. Repealed

Section 22-3.3. Repealed.

(2002, Ord. No. 02-67, sec. 2; Am. 2005, Ord. No. 05-139, sec. 3.)

Section 22-3.4. Repealed.

(2002, Ord. No. 02-67, sec. 2; Am. 2005, Ord. No. 05-139, sec. 3.)

Division 3. Publication Dispenser Permits.

Section 22-3.5. Publication dispenser permits; application.

The publisher, editor, distributor or seller of any newspaper or any other publication may apply for a publication dispenser permit. Permit applications shall be submitted upon a form designated by the director and shall include, at a minimum, the following information and attachments:

- (1) General applicant information, i.e. name, address, phone number.
- (2) A description and map of the location of the publication dispenser.
- (3) The duration of time for which the permit is requested.
- (4) The height of the publication dispenser.
- (5) The width of the sidewalk that the dispenser will occupy and the clear space that will remain on the sidewalk after the dispenser is in place.

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Section 23-15. Grounds for variances.

No variance will be granted unless it is found that:

- (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 will be consistent with the general purpose of the district, the intent and purpose of this chapter, and the County 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.

(1982, Ord. No. 763, sec. 2.)

Section 23-16. Applications for variances.

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

- (a) A filing fee of \$100;
- (b) A description of the property in sufficient detail to determine the precise location of the property involved;
- (c) A plot plan of the property, drawn to scale, with all proposed structures shown thereon;
- (d) A list of the names and addresses of all owners and all others with property interests in property within three hundred feet of the perimeter boundary of the applicant's property; and
- (e) Any other plans or information required by the director.

(1982, Ord. No. 763, sec. 3.)

Section 23-17. Procedures for variances.

- (a) Notice to Owners of Property Interests. Upon receipt and acceptance of a properly filed and completed application, the department shall fix a date for the director's consideration of the application. Within three working days after receiving notice of such date, the applicant shall serve notice of the application on owners of interests in properties within three hundred feet of the perimeter boundary of the applicant's property and to owners of interests in other properties which the director may find to be directly affected by the variance sought. Such notice shall state:
 - (1) The name of the applicant;
 - (2) The precise location of the property involved;
 - (3) The nature of the use sought and the proposed accompanying structures, if any;
 - (4) The date on which the director will consider the application; and
 - (5) That such date is the deadline for the director's actual receipt of written comments on the application.

Prior to the deadline for written comment, the applicant shall submit to the director proof of service or of good faith efforts to serve notice of the application on the designated property owners. Such proof may consist of certified mail, receipts, affidavits, or the like.

- (b) Notice by Publication. At least ten calendar days prior to the date of the director's consideration of the application, the director shall publish, in a newspaper of general circulation, notice of the application and the date by which written comments must be in the actual receipt of the director.

- (c) Notice by Posting of Signs. Within ten days of filing the application for a variance, the applicant shall post a sign on the subject property notifying the public of the nature of the variance, the proposed number of lots, the size of the property, the tax map key or keys of the property and that they may contact the planning department for additional information. The sign shall give the address and telephone number of the planning department.
- (1) The sign shall remain posted until final approval, or until the application has been rejected or withdrawn. The applicant shall remove the sign promptly after such action.
 - (2) 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).
 - (3) 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 approved, rejected or withdrawn. The affidavit shall be accompanied by a photograph of the sign in place.
- (1982, Ord. No. 763, sec. 4; Am. 2005, Ord. No. 05-135, sec. 3.)

Section 23-18. Actions on variances.

The director shall, within sixty days after the filing of a proper application or within a longer period as may be agreed to by the applicant, deny the application or approve it subject to conditions. 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.

If the director fails to act within the prescribed period, the application shall be considered as having been denied. Such denial is appealable pursuant to section 23-20* of this division.
(1982, Ord. No. 763, sec. 5.)

* **Editor’s Note:** Section 23-20 has been reserved. General provisions regarding appeals are set forth in section 23-5.

Section 23-19. Reserved.

(1982, Ord. No. 763, sec. 6; Am. 1999, Ord. No. 99-111, sec 3.)

Section 23-20. Reserved.

(1982, Ord. No. 763, sec. 7; Am. 1984, Ord. No. 84-5, sec. 1; Am. 1999, Ord. No. 99-111, sec 4.)

Section 23-21. Reserved.

(1982, Ord. No. 763, sec. 8; Am. 1984, Ord. No. 84-5, sec. 2; Am. 1999, Ord. No. 99-111, sec. 5.)

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SUBDIVISIONS

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Article 3. Design Standards.

Division 1. General Provisions.

Section 23-22. Compliance with design standards required.

Each subdivision and the plat thereof shall conform to the standards set forth in this article.
(1975 C.C., c. 9, art. 2, sec. 4.)

Section 23-23. Compliance with State and County regulations required.

Subdivisions shall conform to the County general plan and shall take into consideration preliminary plans made in anticipation thereof. Subdivisions shall conform to the requirements of State law, County department of public works, State department of health, State department of transportation, and County department of water supply requirements and the standards established by this chapter.
(1975 C.C., c. 9, art. 2, sec. 4.01.)

Section 23-24. Special building setback lines.

If special building setback lines at variance with the provisions of chapter 25, Zoning Code, are established in a subdivision, they shall be shown on the subdivision plat and included in the deed restrictions.
(1975 C.C., c. 9, art. 2, sec. 4.07.)

Section 23-25. Monuments.

Monuments approved by the director of public works shall be placed and properly coordinated with the State survey triangulation stations at all angle points or points of curvature in streets and at such intermediate points as shall be required by the director of public works. All lot and block corners shall be properly established and marked with one-half inch round galvanized pipe or equal and firmly and permanently set in the ground.
(1975 C.C., c. 9, art. 2, sec. 4.08; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-26. Reservation for parks, playgrounds, and public building sites.

The subdivider of a parcel of land capable of supporting two hundred dwelling units shall reserve suitable areas for parks, playgrounds, schools, and other public building sites that will be required for the use of its residents. Five percent to ten percent of the land area, exclusive of streets, shall be reserved for recreational and public use, for a period of two years for acquisition by a public agency. Outstanding natural or cultural features such as scenic spots, water courses, fine groves of trees, heiaus, historical sites and structures shall be preserved as provided by the director.
(1975 C.C., c. 9, art. 2, sec. 4.10.)

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- (b) Easements or rights-of-way for all government owned utilities including storm drains except those under the jurisdiction of the department of water supply shall be conveyed to the County and documents shall be delivered to the council for acceptance. Easements or rights-of-way for water facilities which are under the jurisdiction of the department of water supply shall be conveyed to the water commission and the documents shall be delivered to the water commission for acceptance.
(1975 C.C., c. 9, art. 2, sec. 4.09; Am. 2001, Ord. No. 01-108, sec. 1.)

Article 4. Application for Subdivision and Preliminary Plat.

Division 1. General Provisions.

Section 23-57. Where information obtainable.

A subdivider may call at the planning department's office for information regarding procedures and general information that may have a direct influence on the proposed subdivision.
(1975 C.C., c. 9, art. 2, sec. 3.01.)

Section 23-58. Application for subdivision; plat and plans submitted by subdivider.

- (a) The subdivider shall submit a written application for subdivision, a preliminary plat, improvement plans and other supplementary material required to describe the nature and objectives of the proposed subdivision, and shall submit eight copies, or more if requested by the director, of the preliminary plat and other supplementary material to the director.
- (b) All pertinent information on the preliminary plat shall be drawn to scale.
- (c) Where the area to be subdivided contains only part of the tract owned or controlled by the subdivider, the director may require a sketch of a tentative layout for streets in the unsubdivided portion.
- (d) Application for Resort Subdivision. The subdivider may file an application for resort subdivision. An application for resort subdivision may either be filed under this section or under any other provision of this chapter. If an application for subdivision is filed under this section, it shall be clearly designated as such. Such application shall, in addition to all other information to be submitted with the subdivision application, preliminary plat and other supplementary material, include the following:
- (1) A statement acknowledging that all improvements will not be approved for dedication unless and until such improvements satisfy all of the requirements for dedicable improvements.
 - (2) A description of the provisions made for permanent maintenance of the private roadways within the proposed resort subdivision.
 - (3) A description of how subsequent owners of the property will be notified of the private nature of the improvements and maintenance responsibilities.

(1975 C.C., c. 9, art. 2, sec. 3.02; Am. 1992, Ord. No. 92-138, sec. 5.)

Section 23-58A. Posting of signs for public notification.

- (a) Within ten days of filing the application for a subdivision, 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 number of lots;
 - (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 final approval, or until the application has been rejected 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 received final approval, or has been rejected or withdrawn. A photograph of the sign in place shall accompany the affidavit.
- (2005, Ord. No. 05-135, sec. 2)

Section 23-59. Size and scale of plat.

The preliminary plat shall be drawn according to size and scale as stipulated in section 502-19, Hawai'i Revised Statutes, or on a sheet size of eight and one-half inches by thirteen inches. When more than one sheet is required, an index sheet of the same size shall be filed to show the entire subdivision on one sheet, with block and lot numbers.

(1975 C.C., c. 9, art. 2, sec. 3.03.)

Section 23-60. Application fees for subdivision plans.

- (a) Each application for a subdivision (including consolidation) is subject to the payment of the following fee: \$250 plus \$25 per lot noted on the initial preliminary plat or cluster plan development and for each additional lot resulting from any subsequent amendment of the initial preliminary plat exclusive of any lots set aside for roadway or easement purposes or lands dedicated for public use.
 - (b) These fees shall not apply to subdivision of land into burial or crematory lots within the confines of duly established cemetery areas; provided that a processing fee will be filed as follows: \$100 per acre and proportionate fee for fraction of acre thereof.
 - (c) The payment of the filing fee shall be made at the planning department's office and payable to the director of finance. No portion of the fee is refundable for applications granted tentative subdivision approval. A portion of fee equivalent to ten percent of the fee or \$50, whichever is greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval.
- (1975 C.C., c. 9, art. 2, sec. 3.05; Am. 1974, Ord. No. 66, sec. 3; Am. 1999, Ord. No. 99-97, sec. 2.)

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SUBDIVISIONS

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Section 23-61. Review of plat.

- (a) The director shall furnish one copy of the preliminary plat and supplemental materials within five days after they are submitted by the subdivider, to the manager, director of public works, and sanitary engineer, and when a subdivision is adjacent to a State highway or proposed State highway, to the district engineer.
- (b) The above listed officers shall review the preliminary plat with the director.
(1975 C.C., c. 9, art. 2, sec. 3.06; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-62. Tentative approval of preliminary plat.

- (a) Within forty-five days after submission of the preliminary plat, the director shall review the plan and may give tentative approval of the preliminary plat as submitted or as modified or may disapprove the preliminary plat, stating the reasons for disapproval in writing. Approval of the preliminary plat shall indicate the director’s directive to prepare detailed drawings on the plat submitted, provided there is no change in the plan of subdivision as shown on the preliminary plat and there is full compliance with all requirements of this chapter. The action of the director with reference to any attached documents describing any conditions shall be noted on two copies of the preliminary plat. One copy shall be returned to the subdivider and the other retained by the director. At such time the director shall stamp the above two preliminary plats:
 - “Subdivider authorized to prepare detailed drawings on plat as submitted including corrections noted.”
 - “Recordation with the Bureau of Conveyances, State of Hawai‘i, not authorized until approved for record at a later date.”
- (b) If no action (approval, disapproval, modification, or deferral) is taken by the director within forty-five days after submission of the preliminary plat, or such longer period as may have been agreed upon in writing, the preliminary plat shall be deemed approved, and the director shall endorse the approval of the preliminary plat upon the face thereof.
- (c) The director shall disapprove a preliminary plat or a subdivision map where the subdivider has failed to comply with the provisions of chapter 25, Zoning Code.
- (d) The subdivider shall complete all requirements specified as conditions for approval of the preliminary plat (tentative approval) within three years of said approval. An extension of not more than two years may be granted by the director upon timely written request of the subdivider. At the end of said three year period or its approved extension, unless all said conditions are completed, the approval of the preliminary plat shall expire and shall be of no further force or effect, or shall be subject to the technical review of the applicable agencies for compliance with current Code and rule requirements. This subsection shall be applied to all subdivision applications which have received tentative subdivision approval and which have not completed subdivision improvements, provided the three year period, and extension, if applicable, shall be taken from December 4, 1992 and not from the date of preliminary plat (tentative) approval.
(1975 C.C., c. 9, art. 2, secs. 3.07 and 5.11; Am. 1992, Ord. No. 92-138, sec. 6.)

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- (d) Ka‘u
- (e) Kohala
 - (1) Hōkū‘ula Road.
 - (2) Iwikuamo‘o Drive.
 - (3) Keiki Place.
 - (4) Konokohau Road.
 - (5) Kupunahine Street.
 - (6) Kupunakane Street.
 - (7) Laelae Road.
 - (8) East Makuahine Street
 - (9) West Makuahine Street.
 - (10) Makuakane Street.
 - (11) Mo‘opuna Place.
 - (12) Spencer Road.
- (f) Kona
 - (1) Lono Kona Subdivision, North Kona:
 - (A) Ala Onaona Street.
 - (B) Alahou Street.
 - (C) Alaka‘i Street.
 - (D) Alanoe Place.
 - (E) Kalawa Street.
 - (F) Lamaokeola Street.
 - (2) Middle Ke‘ei Road, from Nāpō‘opo‘o Road to the Māmalahoa Highway.
 - (3) Painted Church Road, Middle Ke‘ei Road to Ke Ala O Keawe Road.
 - (4) Pu‘uhonua Road, from the Kahauloa Houselots Road to the City of Refuge.
 - (5) Walua Road, Akoni Drive to Kuakini Highway.
- (g) Puna
 - (1) Haa Place.
 - (2) Haa Street.
 - (3) Kaiewe Place.
 - (4) Kea‘au Loop, from the access road serving the new Kea‘au Self Help Subdivision to Route 11.
 - (5) North Oshiro Road, from Route 11 to Komo Street.
 - (6) Wright Road, in Volcano Village.

(1996, Ord. No. 96-163, sec. 2; Am. 1996, Ord. No. 96-139, sec. 1; Am. 1997, Ord. No. 97-119, sec. 1; Am. 2005, Ord. No. 05-148, sec.1.)

Section 24-255. Schedule 3. 25 mile per hour limit.

A speed limit of twenty-five miles per hour is established as set forth in this schedule upon streets or portions of streets as follows:

- (a) Hāmākua
 - (1) Āhualoa Homestead Road.
 - (2) Lehua Street in Honoka‘a, from the junction of Lehua and Plumeria Streets to Māmane Street.
 - (3) Māmalahoa Highway (Āhualoa Road), from Honoka‘a to the Hawai‘i Belt Road at Waimea.
 - (4) Pakalana Street in Honoka‘a, from a point four hundred feet mauka of Kukui Street to Māmane Street.
 - (5) Plumeria Street in Honoka‘a, from Hawai‘i Belt Road entrance to Lehua Street.
 - (6) Pōhākea Road, from the Old Māmalahoa Highway to the terminus of the paved portion.
- (b) North Hilo
 - (1) Laupāhoehoe Beach Road access road.
 - (2) Old Government Main Road in ‘O‘ōkala, North Hilo, between the 29.4 and 30.5 mile markers of the Hawai‘i Belt Road, Route 19, for a distance of one and six-tenths miles.

(c) South Hilo

- (1) Ainaola Drive, from Malaai Road to its terminus in the mauka direction.
- (2) Akolea Road, from Haleloke Street to Kaūmana Drive.
- (3) 'Alae Point Subdivision, South Hilo:
 - (A) Kahoa Street.
 - (B) Makakai Place.
 - (C) Nahala Street.
- (4) Aupuni Street, Kīlauea Avenue to Pauahi Street.
- (5) Banyan Drive.
- (6) Banyan Way, from Kalaniana'ole Avenue to Banyan Drive.
- (7) Chin Chuck Road, beginning at a point 1.6 miles west of the Hawai'i Belt Road and extending .7 mile in the westerly direction to the end of the paved section of Chin Chuck Road.
- (8) Hualālai Villa, on the following streets:
 - (A) Hale Nani Place.
 - (B) Hale Nani Street.
- (9) Kaiwiki Road, beginning at a point 0.6 mile mauka of the Old Hawai'i Belt Road and extending to its mauka terminus.
- (10) All streets within the area bounded by Kamehameha Avenue, Ponahawai Street, Kino'ole Street, and Wailuku Drive.
- (11) Kūkūau Street, from Komohana Street to Kapi'olani Street.
- (12) Lanakila Homes area, all streets.
- (13) Lihiwai Street, from Kamehameha Avenue to the unnamed roadway into the pier and lighthouse.
- (14) Māmalahoa Highway in Papa'ikou, from Yoshiyama Store to Kalaniana'ole School.
- (15) Mohouli Subdivision in Waiākea, South Hilo:
 - (A) Hilina'i Street.
 - (B) Hoopuni Street.
 - (C) Iloko Street.
 - (D) Kumukoa Street, from Mohouli Street northwestward (Hāmākua) to its terminus.
 - (E) Popolo Street, from Mohouli Street northwestward (Hāmākua) to its terminus.
- (16) Waiānuenu Avenue, from Hala'i Street to Bayfront Highway.
- (17) Wainaku Street.
- (18) Wiliwili Street, from Kaūmana Drive to Uluwai Street.

(d) Ka'u

- (1) Kamā'oa Road, from Route 11 to a point 0.4 mile west.
- (2) Nā'ālehu Subdivision, Third Series, in Nā'ālehu, Ka'u:
 - (A) Kilika Street, from Kukui Road to 'Ōhai Road.
 - (B) Kukui Road, from Māmalahoa Highway to 'Ōhai Road.
 - (C) Lokelani Street, from Kukui Road to 'Ōhai Road.
 - (D) Melia Street, from Kukui Road to Milo Road.
 - (E) Milo Road, from Melia Street to Kukui Road.
 - (F) Nahele Street, from Kukui Road to 'Ōhai Road.
 - (G) 'Ōhai Road, from Kukui Road to Māmalahoa Highway.
 - (H) Opukea Street, from Kukui Road to 'Ōhai Road.
- (3) Nā'ālehu Subdivision, Fourth Series, in Nā'ālehu, Ka'u:
 - (A) Maia Street, from Niu Road to Pohā Street.
 - (B) Niu Road, from Pohā Street to Māmalahoa Highway.
 - (C) Pohā Street, from Niu Road to Maia Street.

- (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. No. 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. No. 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 of the department of water supply and other applicable government agencies.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2001, Ord. No. 01-108, sec. 1.)

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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 3.)

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ZONING

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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. No. 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, Hawai‘i 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

- (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. No. 96-160, sec. 2; ratified April 6, 1999.)

* **Editor's Note:** Section 5-6.3 was amended and renumbered by the 2000 amendments to the Charter. It can now be found in section 6-10.2 of the County Charter.

Section 25-2-36. Remedies cumulative.

The remedies provided in this chapter shall be cumulative and not exclusive.
(1996, Ord. No. 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. No. 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. No. 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) Within ten days after filing an application for a change of zone, 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 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-136, sec. 3.)

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).

- (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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-55. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 5.)

Section 25-2-56. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 7.)

Section 25-2-57. Reserved.

(1996, Ord. No. 96-160, sec. 2, ratified April 6, 1999; repealed Ord. No. 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. No. 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. No. 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 districts.
 - (2) Crematoriums in all 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.
 - (6) 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.
 - (7) Major outdoor amusement and recreation facilities in RS, RD, RM, RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.
 - (8) Mortuaries in RS, RD, RM, RCX, RA, FA and A districts.
 - (9) Schools 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.
 - (10) Telecommunication antennas and towers in RS, RD, RM, and RCX districts.
 - (11) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.
 - (12) 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, Hawai‘i Revised Statutes.
- (1996, Ord. No. 96-160, sec. 2; ratified and amended April 6, 1999.)

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 \$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 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. No. 96-160, sec. 2; ratified April 6, 1999.)

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 sixty 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 9; Am. 2005, Ord. No. 05-136, sec. 5.)

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. No. 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. No. 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, Hawai‘i Revised Statutes.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 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. No. 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.
- (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) Bed and breakfast establishments as permitted under section 25-4-7.
 - (2) Public uses, structures and buildings and community buildings, as permitted under section 25-4-11.
 - (3) Telecommunication antennas and towers, as permitted under section 25-4-12.

- (4) Temporary real estate offices and model homes, as permitted under section 25-4-8.
 - (5) 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.
 - (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.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999, Am. 2005, Ord. No. 05-155, 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, Hawai'i Revised Statutes.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-73. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2000, Ord. No. 00-152, sec. 2.)

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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-75. 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 25-2-76.
 - (b) The director may only issue plan approval for a bed and breakfast establishment if the proposed use meets all of the conditions contained in sections 25-2-76 and 25-4-7, and if the operator of the bed and breakfast establishment provides all verification required under section 25-2-73.
 - (c) 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 25-2-76 and 25-4-12, and if the applicant provides all verification required under section 25-2-74.
 - (d) 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 25-2-76 and 25-4-8.
 - (e) The director shall render a decision to either approve or deny a plan approval application 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.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-76. 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; and
 - (8) Dust and odor impacts are kept to a minimum.
 - (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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-77. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-78. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

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. No. 96-160, sec. 2; ratified April 6, 1999, Am. 2005, Ord. No. 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 director within a planned unit development.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999, Am. 2005, Ord. No. 05-155, sec. 5.)

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. No. 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. No. 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.
 - (3) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses.
 - (4) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (5) Major outdoor amusement and recreation facilities.
 - (6) Mortuaries.
 - (7) Telecommunication antennas and towers.
 - (8) 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-43. Height limit.

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

(1996, Ord. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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. No. 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 director within a planned unit development.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 7.)

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. No. 96-160, sec. 2; ratified and amended 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. No. 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) 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) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (7) Crop production.
 - (8) Dwelling, single-family, one per building site.
 - (9) Family child care homes.
 - (10) Group living facilities.
 - (11) 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.
 - (12) 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.
 - (13) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
 - (14) Public uses and structures, as permitted under section 25-4-11.
 - (15) Roadside stands for the sale of agricultural products grown on the premises.
 - (16) 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.
 - (17) Telecommunications antennas, as permitted under section 25-4-12.
 - (18) Utility substations, as permitted under section 25-4-11.
 - (19) Veterinary establishments.
- (b) The following use 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.
- (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.

- (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. No. 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.
 - (2) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses.
 - (3) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (4) 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. No. 96-160, sec. 2; ratified April 6, 1999.)

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. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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 director within a planned unit development.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 9.)

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. No. 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. No. 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) Crop production.
- (11) Day care centers.
- (12) 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.
- (13) 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.
- (14) Dwellings, single-family.
- (15) Family child care homes.
- (16) 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.
- (17) Financial institutions.
- (18) Group living facilities.
- (19) Home occupations, as permitted under section 25-4-13.
- (20) Medical clinics.
- (21) Meeting facilities.
- (22) Model homes, as permitted under section 25-4-8.
- (23) Mortuaries.
- (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) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CN district, provided that a use permit is issued for each use:
- (1) Crematoriums.
- (c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the CN district.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-103. Height limit.

The height limit in the CN district shall be forty feet.
(1996, Ord. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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 director within a planned unit development.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 11.)

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. No. 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. No. 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) Crop production.
 - (21) Day care centers.

- (22) Display rooms for products sold elsewhere.
 - (23) 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.
 - (24) 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.
 - (25) Dwellings, single-family.
 - (26) Equipment sales and rental yards, and other yards where retail products are displayed in the open.
 - (27) Family child care homes.
 - (28) 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.
 - (29) Financial institutions.
 - (30) Group living facilities.
 - (31) Home occupations, as permitted under section 25-4-13.
 - (32) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
 - (33) Hotels.
 - (34) Ice storage and dispensing facilities.
 - (35) Laboratories, medical and research.
 - (36) Laundries.
 - (37) Light manufacturing, processing and packaging, where the only retail sales outlet for products produced is on the premises where produced.
 - (38) Medical clinics.
 - (39) Meeting facilities.
 - (40) Model homes, as permitted under section 25-4-8.
 - (41) Mortuaries.
 - (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) Crematoriums.

- (2) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses.
 - (3) Major outdoor amusement and recreation facilities.
 - (4) 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. No. 96-160, sec. 2; ratified April 6, 1999.)

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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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 director within a planned unit development.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 13.)

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. No. 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. No. 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) Crop production.
- (16) Day care centers.
- (17) 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.
- (18) 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.
- (19) Dwellings, single-family.
- (20) Family child care homes.
- (21) 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.
- (22) Financial institutions.
- (23) Group living facilities.
- (24) Home occupations, as permitted under section 25-4-13.

- (25) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
 - (26) Hotels, when the design and use conform to the character of the area, as approved by the director.
 - (27) Laboratories, medical and research.
 - (28) Lodges.
 - (29) 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.
 - (30) Medical clinics.
 - (31) Meeting facilities.
 - (32) Model homes, as permitted under section 25-4-8.
 - (33) Mortuaries.
 - (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) Crematoriums.
 - (2) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses.
 - (3) Major outdoor amusement and recreation facilities.
 - (4) 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-123. Height limit.

The height limit in the CV district shall be thirty feet.

(1996, Ord. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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 director within a planned unit development.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 15.)

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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

- (4) Architectural drawings for all buildings other than single-family dwellings demonstrating the design and character of the proposed buildings and uses.
- (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 director in accordance with chapter 91, Hawai'i Revised Statutes.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-4. Notice of action on P.U.D. application.

- (a) Upon acceptance of a P.U.D. 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 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 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 director's proposed decision.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-136, sec. 6.)

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 director 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 director shall be effective only when the change of zone ordinance becomes effective.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-6. Actions by director on P.U.D. permit applications.

- (a) Except as provided in section 25-6-5, the director shall, within sixty days after acceptance of a P.U.D. permit application, deny the application or approve it subject to conditions.
- (b) The conditions imposed by the director shall bear a reasonable relationship to the P.U.D. permit issued, and to the approved uses, plans, and variances 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 changes approved in 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; and
 - (7) The extent and limitations upon the variances permitted.
- (c) The director may, within the sixty-day period after acceptance of a P.U.D. permit application, grant a partial approval of the request where all plans and drawings have not been submitted with the original application. Provided, however, that no building permit shall be issued, nor shall any construction on the property commence until the drawings have been reviewed and approved by the director and full P.U.D. permit approval has been issued for the portion of development comprising the proposed construction.

- (d) When plans and drawings are submitted after a partial approval of a P.U.D. permit application has been issued under subsection (c) above with a request for further partial approval or full approval, the director shall review the drawings and shall either approve or deny the request within thirty days from the date that the drawings are filed by the applicant. In the event of a denial of such request, the applicant may resubmit a revised request for further partial or full P.U.D. permit approval of the application and in accordance with this subsection.
 - (e) If the director fails to act upon a P.U.D. permit application within the prescribed sixty-day period as required by subsection (a) above, the application shall be considered as having been denied and the director shall immediately inform the applicant of such denial. If the director fails to act upon filed plans and drawings within the thirty-day period required by subsection (d) above, the plans shall be considered as having been approved and a full P.U.D. permit issued.
- (1996, Ord. No. 96-160, sec. 2; ratified and amended April 6, 1999.)

Section 25-6-7. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 12.)

Section 25-6-8. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 99-112, sec. 14.)

Section 25-6-9. Reserved.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 1999, Ord. No. 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 director 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.
- (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. No. 96-160, sec. 2; ratified April 6, 1999.)

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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-12. Approval of variances, use permits and plan approvals issued under P.U.D. permit.

- (a) No separate or additional variance permit or use permit shall be required for any variance or use approved under a P.U.D. permit, and any variance or use approved under a P.U.D. permit shall be considered to be in compliance with the required procedures for obtaining a variance or 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. No. 96-160, sec. 2; ratified April 6, 1999.)

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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-14. Time extensions and amendments.

- (a) Any request for a time extension or an amendment to a P.U.D. permit or to the conditions of a P.U.D. permit may be granted by the director upon finding that no change has occurred in relation to the property since the P.U.D. permit was issued or that the approval is still valid with respect to any changed conditions.
 - (b) The director shall act on any request for a time extension or amendment within forty-five days after the receipt of the request. In granting any time extension or amendment, the director may impose additional conditions to meet the intent of the P.U.D. permit.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-15. Appeals.

- (a) If the director denies a P.U.D. permit, 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 P.U.D. permit 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. No. 99-112, sec. 13.)

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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 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. No. 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. No. 96-160, sec. 2; ratified and amended April 6, 1999.)

- (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 5-6.3, 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2001, Ord. No. 01-108, sec. 1.)

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. No. 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. No. 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. No. 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. No. 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. No. 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) Within ten days after filing an application for a project district, 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 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-136, sec. 8.)

- (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. No. 96-160, sec. 2; ratified and amended 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. No. 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. No. 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, 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) Within ten days after filing an application for an agricultural project district, 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 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. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-136, sec. 9.)

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. No. 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, Hawai‘i Revised Statutes.
- (b) Within sixty days after acceptance of the site plans, the director shall either deny or approve the plans.

- (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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-23. Height limit.

The height limit in the CDH district shall be one hundred twenty feet.
(1996, Ord. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-27. Other regulations.

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.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 16.)

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. No. 96-160, sec. 2; ratified April 6, 1999.)

* **Editor's Note:** A schedule of amendments to the zoning maps can be found in Zoning Annexes I & II, 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. No. 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. No. 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. No. 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. No. 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. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-7. North and South Kohala districts zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-8. Upolu Point-Kaauhuhu homesteads zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-9. Hawi-Kapaau zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-10. Halaula-Niulii zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-11. Lalamilo-Puukapu zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-12. Kawaihae-Puako zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-13. Puako-Anaehoomalu zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-8-14. Waikoloa Village zone map.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(212)	03-162	12-19-2003	Holualoa 1st and 2nd, North Kona	7-6-8:Por. of 5 (formerly TMK: 7-6-8:Por. of 10)	A-1a	CV-1a	
(213)	03-163	12-19-2003	O'oma 1st, North Kona	7-3-7:40 and 41	A-5a	FA-2a	
(214)	04-29	3-18-2004	Puapuaanui, North Kona	7-5-17:21	A-5a	RS-15	
(215)	04-30	3-18-2004	Puaa 2nd, North Kona	7-5-12:38	A-5a	FA-3a	
(216)	04-56	5-27-2004	Puapuaa 2nd, North Kona	7-5-20:71 and 72	A-5a	RS-7.5	
(217)	04-103	9-14-2004	Kohanaiki, North Kona	7-3-19:28	A-3a	RA-.5a	
(218)	04-106	9-22-2004	O'oma 1st, North Kona	7-3-10:Por. of 3	A-5a	RM-4	
(219)	04-110	10-12-2004	Honokohau 1st and 2nd, North Kona	7-4-8:Por. 13 and 30	O	MCX-20 and MG-1a	
(220)	04-126	11-19-2004	Honuauia, North Kona	7-5-24:25	A-5a	FA-3a	
(221)	04-149	12-8-2004	Kalaoa 1st and 2nd, North Kona	7-3-011:068	A-5a	RS-20	
(222)	05-74	5-18-2005	Auhaukeae 1st, North Kona	7-5-9:67 and Por. of 54	A-1a and V-1.25	RM-2.5	
(223)	05-113	8-5-2005	Puapua'aiiki 1 st and Puapua'anui 1 st , North Kona	7-5-17:19	A-5a	RM-2.5	
(224)	05-115	8-5-2005	Puapua'aiiki 1 st and Puapua'anui 1 st , North Kona	7-5-17:1	A-5a	CN-20	

ZONING MAP No. 7.03 – (South Kona)

§ 25-8-4

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	282	12-15-1969	Keeki 2nd, South Kona	8-3-13:13	A-5a	A-1a	7.03(a)
(2)	290	12-15-1969	Keeki 2nd, South Kona	8-3-10:50	A-5a	A-1a	7.03(b)
(3)	374	2-25-1971	Onouli 2nd, South Kona	8-1-18:9 and 10	A-5a	A-1a	7.03(c)
(4)	382	3-15-1971	Kilooa 1 and 2 and Waipunaula, South Kona	8-2-01:1	A-1a	CV-10	7.03(d)
(5)	421	8-31-1971	Keopuka, South Kona	8-1-15:Por. 27	RS-10	CV-10	7.03(e)
(6)	422	8-31-1971	Kalamakumu, South Kona	8-2-09:11	A-1a	RS-7.5	7.03(f)
(7)	440	1-11-1972	Kilooa 1 and 2, South Kona	8-2-01:71	A-1a	CV-10	7.03(g)
(8)	484	7-18-1972	Keopuka, South Kona	8-1-07:17	A-5a	RS-10	7.03(h)
(9)	485	7-18-1972	Kilooa 1 and 2 and Waipunaula, South Kona	8-2-03:Por. 12	A-1a	CN-7.5	7.03(i)
(10)	508	8-15-1972	Kealia 2nd, South Kona	8-6-02:33	A-20a	A-1a	7.03(k) Repealed by Ord. 117, 5-13-1975
(11)	511	8-28-1972	Kealakekua, South Kona	8-2-02:1, 3-8, Por. 11, 12-17, 23-30, 43	A-1a, A-5a	RS-10, CN-7.5	7.03(j-1 to j-4)
(12)	566	3-12-1973	Halekii, South Kona	8-1-03:35, 43, 44, 46 and Por. 47	A-5a	CV-7.5, RM-2 RS-10	7.03(l-1 to l-3)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(80)	03-75	5-13-2003	Ouli, South Kohala	6-2-11:12	A-5a	RA-2a	
(81)	03-77	5-13-2003	Ouli, South Kohala	6-2-11:31	A-5a	RA-2a	
(82)	03-122	8-27-2003	Ouli, South Kohala	6-2-11:19	A-5a	RA-2a	
(83)	03-124	8-27-2003	Ouli, South Kohala	6-2-11:13	A-5a	RA-2a	
(84)	04-12	2-11-2004	Ouli, South Kohala	6-2-11:34	A-5a	RA-2a	
(85)	04-48	4-27-2004	Waikoloa, South Kohala	6-8-2:Por. of 33	O	ML-1a	
(86)	04-86	8-12-2004	Ouli, South Kohala	6-2-11:10	A-5a	RA-2a	
(87)	04-88	8-12-2004	Ouli, South Kohala	6-2-11:16	A-5a	RA-2a	
(88)	05-33	3-17-2005	Ouli, South Kohala	6-2-11:9	A-5a	RA-2a	
(89)	05-35	3-31-2005	Ouli, South Kohala	6-2-11:33	A-5a	RA-2a	
(90)	05-64	5-16-2005	Kahua 1st, North Kohala	5-9-6:5	A-5a	FA-3a	
(91)	05-120	8-25-2005	Ouli, South Kohala	6-2-9:26	A-5a	RA-2a	
(92)	05-157	12-15-2005	Waikoloa, South Kohala	6-8-02:Por. 16, 6-8-03: Por. 32	(Amends Ord. 95-51) (Effective Date 03-21-1995)		

ZONING MAP (Upolu Point-Kaauhuhu Homesteads)

§ 25-8-8

Paragraph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	167	11-20-1968	Kaauhuhu Homesteads, North Kohala	5-5-01:25	A-20a	A-3a	7.06(b)
(2)	298	1-28-1970	Kahei Homesteads, North Kohala	5-5-01:56	A-20a	A-1a	7.06(d)
(3)	571	4-13-1973	Kaauhuhu Homesteads, Kaauhuhu, North Kohala	5-5-01:Por. 22, 41 and 69	A-20a	A-3a	7.06(j)
(4)	131	7-14-1975	Kokoiki, North Kohala	5-5-04:20	A-20a	A-1a	7.06(m)
(5)	247	2-9-1977	Kahei Homesteads, North Kohala	5-5-01:53 and 55	A-20a	A-5a	7.06(q)
(6)	437	5-31-1979	Kaauhuhu, Mahukona 1st and Nunulunui, North Kohala	5-5-01:Por. 5	A-20a	A-10a	7.06(t)
(7)	619	9-11-1980	Kaauhuhu, North Kohala	5-5-01:29	A-20a	A-5a	7.06(v)
(8)	815	8-24-1982	Kaauhuhu Homesteads, North Kohala	5-5-01:22	A-20a	A-5a	7.06(w)
(9)	865	3-24-1983	Mahukona 2nd and Puukumau, North Kohala	5-4-01:10 and 11, 5-7-02:13	A-20a	A-3a, A-10a	7.06(x-1 to x-3)
(10)	867	3-24-1983	Kaauhuhu Homesteads 2nd, North Kohala	5-5-02:10	A-20a	A-3a	7.06(z)
(11)	83-15 (Am. Ord. 865)	9-14-1983	Puukumau, North Kohala	5-4-01:11	A-20a	A-10a	
(12)	83-40	10-26-1983	Kahei, North Kohala	5-5-07:Por. 10	A-20a	A-5a	
(13)	83-56	12-12-1983	Honoipuu and Puakea, North Kohala	5-6-01:Por. 24 and 43	A-20a	A-10a	
(14)	85-48	6-20-1985	Kaauhuhu, Kahei, Kealahewa 1st, 2nd and 3rd, Honoipuu, Puakea, Kukuipahu, Ilio Lahuiki, Awalua, Haena and Kapunapuna North Kohala	5-5-01:60, 64 5-5-03:17 and Pors. 9 and 16, 5-6-01:20 and 21	A-20a	A-1a, A-2a, A-600a, O	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(30)	92-65	6-15-1992	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, South Kohala	6-2-01:9, 6-7-01:Por. 25, 6-7-02:9 and Pors. 15 and 17, 6-8-01:Pors. 1 and 8	A-40a, RS-7.5	RS-7.5, RS-10, RS-15, RS-20, RD-5, RM-2, RM-3, CV-7.5, ML-20 A-3a	
(31)	93-65	6-22-1993	Puukapu, South Kohala	6-4-24:Por. 27	A-5a	CN-7.5	
(32)	93-90	9-22-1993	Waimea, South Kohala	6-5-07:81	(Amends Ord. 90-9) (Effective Date 2-13-1990)		
(33)	94-56	5-18-1994	Puukapu, South Kohala	6-4-24:22	A-5a	CN-10	
(34)	95-36	3-7-1995	Waiaka 1 and Waiaka 2, Waimea, South Kohala	6-5-01:Por. 33	A-1a	RS-10	
(35)	95-63	5-10-1995	Waikoloa, South Kohala	6-7-2:14, 34 and Por. 17	ML-20, RM-2	CV-7.5	
(36)	95-144	12-12-1995	Puukapu, South Kohala	6-4-6:55	CN-7.5	CV-7.5	
(37)	96-103	9-19-1996	Puukapu, Waimea, South Kohala	6-4-30:10	A-40a	A-10a	
(38)	96-117	9-26-1996	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, Waimea, South Kohala	6-2-01; 6-07-01: Por. 25; 6-7-02: 9, 48, Por. 17; 6-8-01:Por. 1, 8	A-40a, A-3a, RS-7.5, RS-10, RS-15, RS-20, RD-5, RM-2, RM-3, CV-7.5, ML-20	A-40a, RA-1a, RS-7.5, RS-10, RM-5.0, CV-7.5, ML-20	
(39)	97-9	1-20-1997	Waimea, South Kohala	6-5-08:32	A-1a	RS-15	
(40)	97-24	2-27-1997	Waimea, South Kohala	6-5-07:25	A-1a	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(41)	97-95	7-3-1997	Puukapu Homesteads, First Series, Puukapu, South Kohala	6-4-01:35	A-40a	FA-3a	
(42)	98-23	3-16-1998	Puukapu, Waimea, South Kohala	6-4-01:92	A-5a	CN-7.5	
(43)	98-67	7-2-1998	Puukapu, Waimea, South Kohala	6-4-2:148	A-3a	FA-1a	
(44)	99-22	2-28-1999	Puukapu, Waimea, South Kohala	6-4-2:3	A-40a	A-5a	
(45)	99-24	2-28-1999	Puukapu, Waimea, South Kohala	6-4-01:Por. of 42	A-5a	RS-10, CV-7.5	
(46)	99-114	10-8-1999	Puukapu, Waimea, South Kohala	6-4-01:124 and Por. of 140	A-5a, RS-15	RA-.5a	
(47)	99-148	12-10-1999	Puukapu, Waimea, South Kohala	6-4-1:Por. of 41	A-5a	CN-10, RS-10, RS-20	
(48)	99-152	12-10-1999	Puukapu, Waimea, South Kohala	6-4-6:85	A-5a	CV-7.5, FA-3a	
(49)	00-104	9-18-2000	Lanikepu, Waimea, South Kohala	6-2-1:91	A-40a	A-5a	
(50)	01-115	11-30-2001	Puukapu, South Kohala	6-4-30:15	A-40a	A-5a	
(51)	02-25	2-28-2002	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, Waimea, South Kohala	6-2-01:9; 6-07-01: Por. of 25; 6-7-02: 9, 48, and Por. of 17; and 6-8-01: Pors. of 1 and 8	(Amends Ord. 96-117) (Effective date 9-26-96)		
(52)	02-98	8-28-2002	Puukapu, Waimea, South Kohala	6-4-24:22	(Amends Ord. 94-56) (Effective date 5-18-94)		
(53)	02-99	8-28-2002	Puukapu, Waimea, South Kohala	6-4-24:23	A-5a	CN-10	
(54)	02-107	9-12-2002	Puukapu, Waimea, South Kohala	6-4-24:Por. of 27	(Amends Ord. 93-65) (Effective date 6-22-93)		
(55)	05-169	12-27-2005	Waimea, South Kohala	6-4-17:40	A-40a	A-5a	

ZONING MAP (Kawaihae-Puako)

§ 25-8-12

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	139	7-17-1968	Kawaihae 2nd, South Kohala	6-2-01	A-40a	RM-5, O	7.06(a), 7.06(b)
(2)	152	9-18-1968	Ouli, South Kohala	6-2-02	CV-10	V-1.25	7.10(a)
(3)	152	9-18-1968	Ouli, South Kohala	6-2-02	V-1.25	Open	7.10(b)
(4)	275	11-26-1969	Ouli, South Kohala	6-2-02	A-1a	RS-20	7.10(b-1 to b-2)
(5)	500	8-1-1972	Ouli, Waimea, South Kohala	6-2-02:Por. 4	O	V-1.25	7.10(c)
(6)	602	7-18-1980	Ouli, South Kohala	6-2-02:Por. 4	O	V-1.25	7.10(d) Am. by Ord. 642, 10-17-1980
(7)	808	7-23-1982	Ouli, South Kohala	6-2-02:Por. 4	A-1a	RM-20	7.10(e)
(8)	84-45	8-13-1984	Ouli, South Kohala	6-2-02:Por. 4, 18 and 19	A-1a and O	O, RM-20, V-1.25	
(9)	84-84	11-30-1984	Lalamilo, South Kohala	6-6-02:25	O	RS-15	
(10)	86-46	6-2-1986	Ouli, South Kohala	6-2-01:62, 63, 78, 79 and Por. 51, 6-2-02:Por. 12	A-1a, U	CV-10, O, RS-20, ML-10, RS-15, RM-6	
(11)	88-50	5-2-1988	Ouli, South Kohala	6-2-2:5	RS-15, O	RS-5a	
(12)	88-152	10-27-1988	Lalamilo, South Kohala	6-6-2:3 to 6	O	RS-20	
(13)	89-106	7-25-1989	Lalamilo, South Kohala	6-6-02:19	O	RS-20	

Paragraph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(14)	90-64	5-27-1990	Ouli, Waimea, South Kohala	6-2-01:Por. 51	RM-6, RS-15, ML-10, CV-10, O	RM-6, RS-15, ML-10, CV-10, O	
(15)	91-49	5-22-1991	Ouli, South Kohala	6-2-02:Por. 12	RS-20, O	O, RS-20	
(16)	92-16	2-26-1992	Lalamilo, South Kohala	6-9-01:Por. 7	O	RS-10	
(17)	94-53	5-18-1994	Ouli, South Kohala	6-2-02:Por. 13	O	RM-1.5	
(18)	94-127	12-7-1994	Lalamilo, South Kohala	6-9-03:22	V-1.25	CV-15	
(19)	95-107	9-13-1995	Ouli, Waimea, South Kohala	6-2-13:1, 2 and 7	RS-15, RM-6, RM-15, CV-10, O	RS-15, RM-6, RM-15, CV-10, O	
(20)	03-120	8-27-2003	Waimea, Lalamilo, South Kohala	6-9-3:15	V-1.25	RS-10	
(21)	05-153	12-2-2005	Kawaihae 1st, South Kohala	6-1-3:15	O	MCX-1a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(269)	01-31	3-21-2001	Waiākea, South Hilo	2-2-34:95	RS-10	CN-10	
(270)	01-34	4-4-2001	Waiākea, South Hilo	2-2-20:7	RS-10	CG-10	
(271)	01-57	6-15-2001	Waiākea, South Hilo	2-2-40:3	RS-10	CN-10	
(272)	01-75	9-5-2001	Waiākea, South Hilo	2-4-30:004	A-3a	RA-5a	
(273)	01-86	10-3-2001	Waiākea, South Hilo	2-2-37:27	RS-10	MC-20	
(274)	02-11	1-17-2002	Waiākea, South Hilo	2-2-36:123	RS-10	CN-10	
(275)	02-15	2-4-2002	Kukuau 2 nd , South Hilo	2-3-50:71	A-1a	RS-10	
(276)	02-42	3-27-2002	Waiākea, South Hilo	2-4-023:028	RS-10	RCX-10	
(277)	02-48	4-10-2002	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-22:006	RS-10	CG-20	
(278)	02-49	4-10-2002	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-22:005	RS-10	CG-20	
(279)	02-103	9-12-2002	Waiākea, South Hilo	2-2-32:95	ML-20	MCX-20	
(280)	03-5	2-4-2003	Kaumana and Ponahawai, South Hilo	2-5-1, 2-5-2, 2-5-3, 2-5-55 and 2-6-62	Deleting a portion of the Proposed 120-Foot Saddle Road Right-of-way between Kaūmana Estates Subdivision and Kaūmana City Subdivision		
(281)	03-44	3-17-2003	Waiākea, South Hilo	2-2-40:14 and 69	RS-10	CG-20	
(282)	03-54	4-9-2003	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-21:25	RS-10	CG-10	
(283)	03-82	6-5-2003	Waiākea, South Hilo	2-2-35:61	ML-20	MCX-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(284)	03-83	6-5-2003	Waiākea, South Hilo	2-2-24:12	RS-10	CG-20	
(285)	03-84	6-5-2003	Waiākea, South Hilo	2-2-35:46	RS-10	MCX-20	
(286)	03-108	7-9-2003	Waiākea, South Hilo	2-2-50:14	RS-10	MCX-20	
(287)	03-109	7-9-2003	Waiākea, South Hilo	2-2-50:37 and 38	RS-10	MCX-20	
(288)	03-110	7-9-2003	Waiākea, South Hilo	2-2-35:31	(Amends Ord. 91-38) (Effective date 5-7-91)		
(289)	04-5	1-15-2004	Waiākea, South Hilo	2-2-37:41	RS-10	MCX-20	
(290)	04-27	3-18-2004	Waiākea, South Hilo	2-2-50:8	(Amends Ord. 93-100) (Effective date 10-8-93)		
(291)	04-80	7-6-2004	Waiākea, South Hilo	2-2-35:73	O	MCX-10	
(292)	04-96	8-26-2004	Waiākea, South Hilo	2-4-38:8	A-3a	RS-10	
(293)	04-97	8-26-2004	Waiākea, South Hilo	2-1-7:9	(Amends Ord. 93-62) (Effective date 6-22-93)		
(294)	04-104	9-14-2004	Waiākea, South Hilo	2-2-28:29	(Amends Ord. 92-91) (Effective date 8-18-92)		
(295)	04-144	12-8-2004	South Hilo	2-3-44:19, 2-3-49:53 and 2-3-37:1	A-1a, CN-40, RS-7.5 and RS-10, and O		
(296)	04-150	12-8-2004	Waiākea, South Hilo	2-2-32:93	CN-10	MCX-20	
(297)	05-1	1-11-2005	Waiākea, South Hilo	2-2-49:26	RS-10	MCX-20	
(298)	05-2	1-11-2005	Waiākea, South Hilo	2-2-37:31	RS-10	MCX-20	
(299)	05-3	1-11-2005	Waiākea Homesteads, South Hilo	2-4-38:16	FA-3a	RS-15	
(300)	05-4	1-11-2005	Waiākea, South Hilo	2-2-21:30	RS-10	RCX-10	
(301)	05-101	6-17-2005	Kalalau, South Hilo	2-6-8:Por. 22 and 2-6-9:Por. 8	A-20a and RM-1	RM-10 and A-20a	
(302)	05-110	7-13-2005	Waiākea, South Hilo	2-4-3:Por. 21	(Amends Ord. 92-7) (Effective date 1-22-92)		

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Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	Code §
04-149	12-8-04	Kalaea 1st and 2nd, North Kona	7-3-011:068	A-5a	RS-20	25-8-3
04-150	12-8-04	Waiākea, South Hilo	2-2-32:93	CN-10	MCX-20	25-8-33
05-1	1-11-05	Waiākea, South Hilo	2-2-49:26	RS-10	MCX-20	25-8-33
05-2	1-11-05	Waiākea, South Hilo	2-2-37:31	RS-10	MCX-20	25-8-33
05-3	1-11-05	Waiākea Homesteads, South Hilo	2-4-38:16	FA-3a	RS-15	25-8-33
05-4	1-11-05	Waiākea, South Hilo	2-2-21:30	RS-10	RCX-10	25-8-33
05-26	2-18-05	Kapoho, Puna	1-4-73:1	O	FA-2a	25-8-22
05-33	3-17-05	Ouli, South Kohala	6-2-11:9	A-5a	RA-2a	25-8-7
05-35	3-31-05	Ouli, South Kohala	6-2-11:33	A-5a	RA-2a	25-8-7
05-50	4-18-05	Makahaloa, South Hilo	2-8-8:103, Por. 104, Por. 95, and Por. 3	CV-10, ML-20 and MG-5a	RS-20, ML-20 and A-20a	25-8-35
05-64	5-16-05	Kahua 1st, North Kohala	5-9-6:5	A-5a	FA-3a	25-8-7
05-65	5-16-05	Kaloko, North Kona	7-3-26:11	A-20a	A-10a	25-8-2
05-66	5-16-05	Kaloko, North Kona	7-3-27:7	A-20a	A-10a	25-8-2
05-67	5-16-05	Kaloko, North Kona	7-3-27:6	A-20a	A-10a	25-8-2
05-74	5-18-05	Auhaukeae 1st, North Kona	7-5-9:67 and Por. of 54	A-1a and V-1.25	RM-2.5	25-8-3
05-102	6-17-05	Anaehoomalu, South Kohala	6-8-33:1-6, 16-18, 20-49	RM-3 and RM-4	RM-20	25-8-13

Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	Code §
05-103	6-17-05	Nānāwale Homesteads, Puna	1-5-11:10	RS-10	CV-10	25-8-6
05-105	6-17-05	Kalalau, South Hilo	2-6-8:Por. of 22 and 2-6-9:Por. of 8	A-20a and RM-1	RM-10 and A-20a	25-8-32 and 25-8-33
05-110	7-13-05	Waiākea, South Hilo	2-4-3:Por. 21	Amends Ord. 92-7		25-8-33
05-113	8-5-05	Puapua 'aiki 1 st and Puapua 'anui 1 st , North Kona	7-5-17:19	A-5a	RM-2.5	25-8-3
05-115	8-5-05	Puapua 'aiki 1 st and Puapua 'anui 1 st , North Kona	7-5-17:1	A-5a	CN-20	25-8-3
05-120	8-25-05	Ouli, South Kohala	6-2-9:26	A-5a	RA-2a	25-8-7
05-140	10-11-05	Waiākea, South Hilo	2-2-27:42	RS-10	CN-10	25-8-33
05-141	10-11-05	Waiākea, South Hilo	2-4-9:26	RS-15	RS-10	25-8-33
05-142	10-11-05	Waiākea, South Hilo	2-2-35:9 & 10	RS-10	ML-20	25-8-33
05-153	12-2-05	Kawaihae 1st, South Kohala	6-1-3:15	O	MCX-1a	25-8-12
05-154	12-2-05	Kalalau, South Hilo	2-6-8:Por. 22	RM-1	RM-10	25-8-33
05-157	12-15-05	Waikoloa, South Kohala	6-8-02:Por. 16, 6-8-03: Por. 32	Amends Ord. 95-51		25-8-7
05-159	12-15-05	Waiākea, South Hilo	2-2-49:24	CN-10	MCX-20	25-8-33
05-169	12-27-05	Waimea, South Kohala	6-4-17:40	A-40a	A-5a	25-8-11

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04-130	11-19-04	Operating budget	--
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04-146	12-8-04	North & South Kona District Zone Map	ZA
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04-153	12-8-04	Operating budget	--
04-154	12-8-04	General obligation bonds	--
04-155	12-8-04	Operating budget	--
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05-3	1-11-05	City of Hilo Zone Map	ZA
05-4	1-11-05	City of Hilo Zone Map	ZA
05-5	1-11-05	Capital improvements budget	--
05-6	1-11-05	Capital improvements budget	--
05-7	1-11-05	Operating budget	--
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05-9	1-28-05	Civil Defense Disaster Control	7-6, 7-10, 7-11
05-10	1-28-05	Operating budget	--
05-11	1-28-05	Capital improvements budget	--
05-12	1-28-05	Capital improvements budget	--
05-13	1-28-05	Capital improvements budget	--
05-14	1-28-05	Operating budget	--
05-15	1-28-05	Operating budget	--
05-16	1-28-05	Operating budget	--
05-17	1-28-05	Capital improvements budget	--
05-18	1-28-05	Capital improvements budget	--
05-19	10-1-05	Sewer service charges	21-32
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05-26	2-18-05	Puna District Zone Map	ZA

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05-31	3-4-05	Operating budget	--
05-32	3-4-05	Ouli, South Kohala	SLUB
05-33	3-17-05	North & South Kohala Districts Zone Map	ZA
05-34	3-31-05	Ouli, South Kohala	SLUB
05-35	3-31-05	North & South Kohala District Zone Map	ZA
05-36	3-31-05	Public Improvement	--
05-37	3-31-05	Operating budget	--
05-38	3-31-05	Operating budget	--
05-39	3-31-05	Operating budget	--
05-40	4-18-05	Naming Kahakai Park	15-67(a)(2)(A)
05-41	4-18-05	Financial disclosure forms	2-91.1(d)
05-42	4-18-05	Capital improvements budget	--
05-43	4-18-05	Capital improvements budget	--
05-44	4-18-05	Capital improvements budget	--
05-45	4-18-05	Parks and Recreation	15-67
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05-47	4-18-05	Operating budget	--
05-48	4-18-05	Operating budget	--
05-49	4-18-05	Makahaloa, South Hilo	SLUB
05-50	4-18-05	Pepeekeo Zone Map	ZA
05-51	4-18-05	Operating budget	--
05-52	4-27-05	Capital improvements budget	--
05-53	4-27-05	Capital improvements budget	--
05-54	4-27-05	Capital improvements budget	--
05-55	4-27-05	Operating budget	--
05-56	4-27-05	Operating budget	--
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05-58	4-27-05	Capital improvements budget	--
05-59	4-27-05	Traffic Schedules	24-287, 24-288
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05-64	5-16-05	North and South Kohala District Zone Map	ZA
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05-66	5-16-05	North & South Kona District Zone map	ZA
05-67	5-16-05	North & South Kona District Zone Map	ZA
05-68	5-16-05	Zoning Code	25-5-152
05-69	5-16-05	Revisions of the County Code	2-153
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05-71	5-16-05	Operating budget	--
05-72	5-16-05	Operating budget	--

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05-75	5-27-05	Capital improvements budget	--
05-76	5-27-05	Operating budget	--
05-77	5-27-05	Operating budget	--
05-78	5-27-05	Capital improvements budget	--
05-79	5-27-05	Capital improvements budget	--
05-80	5-27-05	Capital improvements budget	--
05-81	5-27-05	Capital improvements budget	--
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05-93	6-15-05	Operating budget	--
05-94	6-15-05	Operating budget	--
05-95	6-15-05	Operating budget	--
05-96	6-15-05	Naming the playground located at Lincoln Park as the "Dr. Ruth E. Oda playground" in honor of Dr. Ruth Eiko Oda	15-68.1
05-97	6-15-05	Capital improvements budget	--
05-98	6-15-05	Operating budget	--
05-99	6-15-05	Operating budget	--
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05-105	6-17-05	South Hilo and City of Hilo Zone Maps	ZA
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05-108	6-17-05	Capital improvements budget	--
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05-110	7-13-05	Waiākea, South Hilo Zone Map	ZA
05-111	7-13-05	Affordable Housing	11-3(3), 11-4(a)(2), 11-5(c) and 11-15(e)
05-112	8-5-05	Puapua‘aiki 1 st and Puapua‘anui 1 st , North Kona	SLUB

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05-113	8-5-05	North Kona Zone Map	ZA
05-114	8-5-05	Puapua‘aiki 1 st and Puapua‘anui 1 st , North Kona	SLUB
05-115	8-5-05	North Kona Zone Map	ZA
05-116	8-5-05	Establishment of Ainaloa volunteer fire station	2-16.1
05-117	8-5-05	Capital improvements budget	--
05-118	8-10-05	Operating budget	--
05-119	8-25-05	Ouli, South Kohala	SLUB
05-120	8-25-05	North and South Kohala Zone Map	ZA
05-121	8-25-05	Operating budget	--
05-122	8-25-05	Operating budget	--
05-123	8-25-05	Operating budget	--
05-124	8-25-05	General obligation bonds	--
05-125	8-25-05	General obligation bonds	--
05-126	8-25-05	General obligation bonds	--
05-127	9-14-05	Operating budget	--
05-128	9-14-05	Operating budget	--
05-129	11-13-05	Electrical code revision	9-3, 9-5, 9-9 -- 9-11(c), 9-12, 9-14, 9-16(a), 9-17 -- 9-19, 9-21(c), 9-25, 9-26, 9-33 and 9-35
05-130	9-14-05	Capital improvements budget	--
05-131	9-28-05	Capital improvements budget	--
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05-134	9-28-05	General obligation bonds	--
05-135	9-28-05	Provide enhanced public notice of proposed development	23-58A and 23-17
05-136	9-28-05	Provide enhanced public notice of proposed development.	25-2-12, 25- 2-42(b), 25-2-53(a), 25-2-63(b), 25-6- 4(a), 25-6-22, 25-6- 44(b) and 25-6-54(b)
05-137	10-11-05	Establishment of Pu‘uanahulu volunteer fire station	2-16.1
05-138	10-11-05	Solid waste fees	20-46
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05-141	10-11-05	City of Hilo Zone Map	ZA
05-142	10-11-05	City of Hilo Zone Map	ZA
05-143	10-11-05	Operating budget	--
05-144	10-11-05	Operating budget	--
05-145	10-11-05	Operating budget	--
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05-153	12-2-05	Kawaihae-Puako Zone Map	ZA
05-154	12-2-05	City of Hilo Zone Map	ZA
05-155	12-2-05	Plan Approval and Landscaping	25-2-71(a), 25-5-27(c), 25-5-37, 25-5-38(c), 25-5-47, 25-5-49(c), 25-5-97, 25-5-98(c), 25-5-107, 25-5-108(b), 25-5-117, 25-5-118(a), 25-5-127, 25-5-128(a), and 25-7-27
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05-169	12-27-05	Lalamilo-Puukapu Zone map	ZA
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