

SUPPLEMENT 4 (7-2007)

Insertion Guide

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

(Covering general ordinances effective through 06-30-07
and numbered through 07-103)

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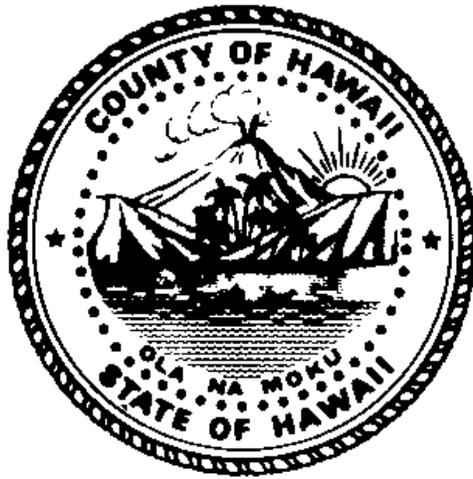
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THE HAWAI‘I COUNTY CODE

1983 (2005 Edition, as amended)

Updated to include: **Supplement 4 (7-2007)**
Contains ordinances effective through: **6-30-07**



A CODIFICATION OF THE GENERAL ORDINANCES
OF THE COUNTY OF HAWAI‘I
STATE OF HAWAI‘I

Office of the County Clerk
County of Hawai‘i
25 Aupuni Street
Hilo, Hawai‘i 96720
(808) 961-8386

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- (a) There are created and established housing special funds to be known as the:
- (1) Kula‘imano Elderly Rental Housing Special Fund.
 - (2) ‘Ōuli Ekahi Rental Housing Special Fund.
- (b) All income generated from each rental housing project shall be deposited into its respective housing special fund to be expended by the housing administrator solely for the operation, maintenance and improvement of that particular rental housing project.
- (c) The housing administrator shall be responsible for the administration of all housing special funds in accordance with prescribed laws and procedures applicable to the expenditure of County funds.
- (1995, Ord. No. 95-149, sec. 1.)

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

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

(1975, Ord. No. 153, sec. 1; Am. 2004, Ord. No. 04-58, sec. 3.)

Section 2-77. Mass transit administrator created.

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

(1975, Ord. No. 153, sec. 1; Am. 2004, Ord. No. 04-58, sec. 3.)

Section 2-78. Duties of mass transit administrator.

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

(1975, Ord. No. 153, sec. 1; Am. 2004, Ord. No. 04-58, sec. 3.)

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

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

(2007, Ord. No. 07-85, sec 1.)

Article 15. Code of Ethics.

Section 2-79. Purpose.

The purposes of this article are to:

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

(1975 C.C., c. 2, art. 8, sec. 1.)

Section 2-80. Interpretation of article.

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

(1975 C.C., c. 2, art. 8, sec. 2.)

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ADMINISTRATION

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Section 2-81. Applicability.

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

(1975 C.C., c. 2, art. 8, sec. 3.)

Section 2-82. Definitions.

(a) As used in this article:

- (1) "Agency" means any office, department, board, commission, or other governmental unit of the executive or legislative branches of the County, but does not include subdivisions of department.
- (2) "Board" means the board of ethics.
- (3) "Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or other individual organization carrying on a business, whether or not operated for profit.
- (4) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by oneself or another.
- (5) "Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty percent.
- (6) "Employee" means any person, except an officer, employed by the County or any agency thereof but the term shall not include an independent contractor.
- (7) "Financial interest" means an interest held by an individual, the individual's spouse, or dependent children which is:
 - (A) An ownership interest in a business.
 - (B) A creditor interest in an insolvent business.
 - (C) An employment, or prospective employment for which negotiations have begun.
 - (D) An ownership interest in real or personal property.
 - (E) A loan or other debtor interest.
 - (F) A directorship or officership in a business.
- (8) "Officer" includes the following:
 - (A) The mayor, members of the council, and all other elected officials of the County;
 - (B) Any person appointed as the administrative head of any agency of the County;
 - (C) The first deputy or first assistant to the administrative head of any agency of the County;
 - (D) Any person appointed as a member of a board or commission specifically provided for in the Charter;
 - (E) Any person appointed as a member of any board or commission not specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
 - (F) The managing director and deputy managing director.
- (9) "Official act" or "official action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.
- (10) "Official authority" includes administrative or legislative powers of decision, recommendation, approval, disapproval, or other discretionary action.

(1975 C.C., c. 2, art. 8, sec. 4; Am. 2002, Ord. No. 02-109, sec. 2.)

Section 2-83. Fair treatment.

(a) Officers and employees of the County, while discharging their duties and dealing with the public, shall adhere to the following precepts:

- (1) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for personal purposes without proper consent.

Article 24. Payment to County, Subsequently Dishonored.

Section 2-134. Service charge assessed.

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

(1981, Ord. No. 708, sec. 1; Am. 2003, Ord. No. 03-104, sec. 1.)

Article 25. Appropriation of Funds to Nonprofit Organizations.

Section 2-135. Purpose.

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

(1982, Ord. No. 774, sec. 1.)

Section 2-136. Definitions.

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

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

(1982, Ord. No. 774, sec. 1; Am. 1986, Ord. No. 86-52, sec. 2; Am. 1995, Ord. No. 95-138, sec. 2; Am. 1997, Ord. No. 97-103, sec. 2.)

Section 2-137. Eligible organizations.

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

- (1) The nonprofit organization is chartered or otherwise authorized to do business in the State for charitable purposes and exempted from the Federal income tax by the Internal Revenue Service.
- (2) The purposes for which the nonprofit organization is organized provide benefits to the people of the County.
- (3) The service or activity to be provided by the nonprofit organization, and funded by the County, shall address educational concerns, culture and the arts, the needs of the poor, youth, the aged, those with physical or emotional disabilities, victims of crimes, or victims of health or social crises as may be determined by the County.

- (4) The nonprofit organization has a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit organization.
- (5) The nonprofit organization has bylaws or policies which describe the manner in which business is conducted, including management, audit, and fiscal policies and procedures, policies on nepotism, and policies on management of potential conflict of interest.
- (6) The nonprofit organization has at least one year's experience with the service or activity for which the appropriation is sought or can otherwise demonstrate to the satisfaction of the County sufficient expertise to successfully carry out the service or activity.
- (7) The nonprofit organization must be licensed and accredited in accordance with applicable requirements of Federal, State and County laws.

(1982, Ord. No. 774, sec. 1; Am. 1986, Ord. No. 86-52, sec. 2.)

Section 2-138. Conditions for grants or purchase of service agreement.

Nonprofit organizations to whom a grant has been made or a purchase of service agreement awarded shall agree to comply with the following conditions before receiving the grant or purchase of service agreement:

- (1) Employ and appoint persons on the basis of merit and ability;
- (2) Comply with applicable Federal and State laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or handicap;
- (3) Agree not to use any public funds for purposes of entertainment or perquisites;
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the nonprofit organization with Federal, State, and County laws, and established standards for fiscal and program management; and
- (5) Allow the director, the committees of the council and their staffs, and the legislative auditor access to records, reports, files, and other related documents in order that the program, management, and fiscal practices of the nonprofit organization may be monitored and evaluated to assure the proper and effective expenditure of public funds.

(1982, Ord. No. 774, sec. 1; Am. 1986, Ord. No. 86-52, sec. 2.)

Section 2-139. Procedure for awarding grants.

- (a) All grants made to a nonprofit organization by the County shall be made in accordance with one of the following procedures:
 - (1) Grants-in-aid:
 - (A) Annually, before November 30, the director shall, for the purpose of soliciting applications, establish a sum of at least \$900,000 to be available in the ensuing fiscal year for funding requests by nonprofit organizations. The director shall publish a notice soliciting applications in two newspapers of general circulation within the County of Hawai'i by November 30.
 - (B) All applications for grants shall be submitted to the director on or before January 31 preceding the County's fiscal year, which begins on July 1. Applications shall be prepared on forms provided by the director. Applications not in conformance with the requirements of the County Code may be rejected.
 - (C) The director shall submit to the council all qualifying applications for its review and appropriation of funds. Site visitations of nonprofit organizations submitting complete applications may be conducted by the council and its designated staff, as deemed necessary by the chair of the appropriate committee, after January 31 but prior to final action on the operating budget by the council. Any site visitations shall be publicly noticed and conducted in a manner that allows flexible councilmember participation and designated staff support.
 - (D) Upon favorable action by the council to appropriate funds for the grant, the director shall notify agencies of their funding or lack thereof by July 31 and award the grant in compliance with this article.

- (2) Grants From District Contingency Relief:
 - (A) Appropriations from the district contingency relief grants shall be transferred to an accepting County department/agency via resolution identifying the nonprofit organization and the specific program, project, or event for which the grant shall be used.
 - (B) All purchases of equipment for organizations must follow procurement law and be domiciled in the County departments. Equipment, supplies, and products are the property of the County.
- (3) Other Grants:
 - (A) Grants in excess of \$25,000 to nonprofit organizations shall specifically identify the organization receiving the grant and the purpose for which the grant shall be used in an ordinance or resolution.
 - (B) Grants in excess of \$25,000 to organizations that do not qualify as nonprofit organizations shall specifically identify the purpose for which the grant shall be used in an ordinance or resolution and be subject to competition in compliance with chapter 103D of the Hawai'i Revised Statutes.
 - (C) Grants of \$25,000 or less may be authorized by the finance director for public purpose projects or programs upon written request of a funding agency or department. Such grants shall not be limited to nonprofit organizations but shall specifically identify the organization and program, project or event for which the grant shall be used and comply with the rules and regulations of the director of finance.
- (b) In the event that a grantee organization is unable or unwilling to provide the public service(s) for which a grant was appropriated, the following procedures shall apply:
 - (1) For grants-in-aid, the mayor may direct the finance director to solicit applications from eligible nonprofit organizations to fulfill the specific public purpose(s) for which the funds were originally appropriated for the remainder of the fiscal year. The director shall forward recommended application(s) and appropriation measure(s) to the council for its decision. Funds appropriated to a successor nonprofit organization shall not exceed the balance of unexpended County funds awarded to the original grantee nonprofit organization.
 - (2) For grants from the district contingency relief, the council may direct the return of the full appropriation or the balance of unexpended funds.
 - (3) For other grants, the finance director may direct the return of the full grant amount or balance of the unexpended funds.

(1982, Ord. No. 774, sec. 1; Am. 1986, Ord. No. 86-52, sec. 2; Am. 1992, Ord. No. 92-151, sec. 2; Am. 1995, Ord. No. 95-138, sec. 2; Am. 1997, Ord. No. 97-103, sec. 3; Am. 1999, Ord. No. 99-56, sec. 1; Ord. No. 99-103, sec. 2; Am. 2001, Ord. No. 01-16, sec. 2; Am. 2007, Ord. No. 07-52, sec. 2.)

Section 2-140. Procedure for awarding purchase of service agreements.

All purchase of services made to a nonprofit organization by this County shall be made in accordance with the following procedures:

- (1) For purchases of services made pursuant to section 2-139(a)(1):
 - (A) Annually, before November 30, the director shall, for the purpose of soliciting applications, publish a notice soliciting applications in two newspapers of general circulation within the County of Hawai'i by November 30.
 - (B) All applications for purchase of services shall be submitted to the director on or before January 31 preceding the County's fiscal year, which begins on July 1. Applications shall be prepared on forms provided by the director. Applications not in conformance with the requirements of the County Code may be rejected.
 - (C) The director shall submit to the council all qualifying applications for its review and appropriation of funds. Site visitations of nonprofit organizations submitting complete applications shall be conducted after January 31 but prior to final action on the operating

budget by the council. These site visitations shall be conducted in a manner that allows flexible councilmember participation and designated staff support.

- (D) Upon favorable action by the council to appropriate funds for the purchase of service, the director shall prepare a contract with the nonprofit organization for the purpose of the purchase of service award which shall meet all legal requirements of the County and shall include program, fiscal and audit reporting requirements sufficient to allow the director, the legislative auditor or council to effectively monitor and evaluate the use of the purchase of service. Agencies shall be notified by the director of their funding or lack thereof by July 31.
- (2) For purchases of services made pursuant to section 2-139(a)(2):
 - (A) At any time during the year, pursuant to resolution, the council may direct that a portion or all of a councilmember's district contingency relief may be used by a designated nonprofit organization.
 - (B) A contract shall be prepared with the nonprofit organization for the purpose of the purchase of service or good which shall meet all legal requirements of the County and shall include program, fiscal and audit reporting requirements sufficient to allow the legislative auditor or council to effectively monitor and evaluate the use of the purchase of service or good.

(1982, Ord. No. 774, sec. 1; Am. 1992, Ord. No. 92-151, sec. 3; Am. 1995, Ord. No. 95-138, sec. 2; Am. 2007, Ord. No. 07-52, sec. 3.)

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

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

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

(1982, Ord. No. 774, sec. 1.)

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

- (a) The nonprofit organization shall follow generally accepted accounting procedures and practices and shall maintain books, records, documents, and other evidence which sufficiently and properly account for the expenditure of County funds. The books, records and documents shall be subject at all reasonable times to inspection, reviews, or audits by the County expending agency, the director, and the legislative auditor, or by their representatives.
- (b) The County expending agency, director of finance, or County council may request periodic written reports on the use of County funds.
- (c) In the case of purchase of service agreements, the nonprofit organization shall submit a written report to the legislative auditor within sixty days after June 30 of the contractual year and an interim report no later than January 31 of the contract period. The report shall include, but not be limited to, a detailed description of how the County funds were used, public benefits derived from their use and a breakdown of other funding sources and their expenditures.
- (d) In the case of grants, the nonprofit organization shall submit a final written report to the legislative auditor within sixty days after June 30 of the fiscal year. The report shall include an explanation of the public benefits derived from the awarding of the grant, a complete accounting statement of all expenditures supported by County of Hawai‘i grant funds, and a listing of other funding sources and amounts obtained during the award period.

(1986, Ord. No. 86-52, sec. 2; Am. 1995, Ord. No. 95-138, sec. 2; Am. 1997, Ord. No. 97-103, sec. 4; Am. 1999, Ord. No. 99-103, sec. 3.)

Section 2-142.1. Rules.

The director shall adopt rules as may be necessary to meet the requirements of this article.

(1986, Ord. No. 86-62, sec. 2.)

Section 2-142.2. Interim procedures for awarding grants and service agreements.

Notwithstanding any provision contained in this article to the contrary, in order to provide a reasonable transition following adoption of this ordinance for fiscal year 1996-97, the director shall publish a notice soliciting applications for the purpose of awarding grants or the purchase of service agreements in two newspapers of general circulation within the County of Hawai‘i by December 31, 1995. All applications shall be submitted to the director on or before January 31, 1996. Applications shall be on forms provided by the director. Applications not in conformance with the requirements of the County Code may be rejected. The remaining procedures set forth in Sections 2-139 and 2-140 shall be followed.

(1995, Ord. No. 95-138, sec. 2.)

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

Section 2-143. Definitions.

- (a) “Deputies” means deputies in the office of the corporation counsel and the office of the prosecuting attorney.
- (b) “Appointing authority” means the corporation counsel or the prosecuting attorney.

(1983, Ord. No. 845, sec. 1.)

Section 2-144. Salary schedule.

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

- (e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the County to collect the administrative penalty which shall be a government realization. In any proceeding to collect the administrative penalty imposed, the director need only show that:
- (1) Notice was given;
 - (2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;
 - (3) The administrative penalty was imposed; and
 - (4) The penalty remains unpaid.
- (2005, Ord. No. 05-22, sec. 1.)

Section 2-205. Penalties.

Any person who violates this chapter or chapters 20 or 21, any rule adopted pursuant to these chapters, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(2005, Ord. No. 05-22, sec. 1.)

Section 2-206. Administrative penalties.

In addition to any other administrative or judicial remedy, the director is authorized to impose by order the penalties specified in section 2-205. If any party is aggrieved by the decision of the commission, the party may appeal in the manner provided in chapter 91 to the circuit court; provided that the operation of a cease and desist order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction.

(2005, Ord. No. 05-22, sec. 1.)

Section 2-207. Environmental management commission.

There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be prescribed in section 13-4 of the Hawai'i County Charter. The environmental management commission shall advise the department on waste reduction strategies, recycling, litter control, community involvement, and other issues related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance. The commission shall hear and determine appeals from decisions of the director, including orders and denials of variances.

(2001, Ord. No. 01-110, sec. 2; Am. 2005, Ord. No. 05-22, sec. 1.)

Article 41. Disaster and Emergency Fund.

Section 2-208. Creation of fund.

Pursuant to section 10-12, Hawai'i County Charter, a special fund to be known as the disaster and emergency fund is created.

(2004, Ord. No. 04-4, sec. 2.)

Section 2-209. Funding.

The disaster and emergency fund shall be funded each fiscal year by the council appropriating a minimum of \$100,000.

(2004, Ord. No. 04-4, sec. 2; Am. 2006, Ord. No. 06-98, sec. 1.)

Section 2-210. Expenditures from the disaster and emergency fund.

The moneys in the disaster and emergency fund shall be only utilized for the following purposes:

- (1) To repair county facilities and infrastructure damaged by a natural or man-caused disaster or emergency.
 - (2) To clean up property, including roads and sewage systems, damaged by a natural or man-caused disaster or other emergencies when such action serves a public purpose.
 - (3) To provide immediate response for services to deal with public health and safety risks due to a natural or man-caused disaster or emergency in the form of personnel, equipment, materials, supplies, and service contracts.
 - (4) To match federal, state, and/or private grants-in-aid to develop or restore public property to a safe and useable condition.
 - (5) To pay for operational expenses of the County after a disaster or emergency when the County is unable to realize revenue at sufficient levels due to the disaster or emergency.
 - (6) To pay for administrative expenses, which shall not exceed five percent of this fund.
- (2004, Ord. No. 04-4, sec. 2; Am. 2006, Ord. No. 06-98, sec. 2.)

Section 2-211. Dissolution of the fund.

The disaster and emergency fund shall not be dissolved unless such dissolution is approved by a two-thirds vote of the County council.

(2004, Ord. No. 04-4, sec. 2.)

Section 2-212. Reimbursement from grants.

If the County should receive reimbursement for money advanced by the disaster and emergency fund, the grant money shall return to the disaster and emergency fund.

(2004, Ord. No. 04-4, sec. 2.)

Section 2-213. Administration of the fund.

The director of finance shall administer the disaster and emergency fund, which shall include investment of the fund.

(2004, Ord. No. 04-4, sec. 2.)

Article 42. Public Access, Open Space, and Natural Resources Preservation Fund**Section 2-214. Public access, open space, and natural resources preservation fund.**

- (a) A public access, open space, and natural resources preservation fund is hereby established. This special fund shall be administered and managed by the finance department. Monies deposited shall be invested in a conservative interest-bearing account that will allow monies to be available for property acquisition and prevent any erosion of the fund's principal amount.
- (b) The fund shall consist of monies from:
 - (1) The proceeds from the sale of any general obligation bonds, authorized and issued for the purposes of this article;
 - (2) Council appropriations for the purposes of this article;
 - (3) Any source of revenue dedicated by the Hawai'i County Charter or the Hawai'i County Code for the purposes of this article;
 - (4) Grants and private contributions intended for the purposes of this article;

- (5) Two percent of Hawai'i County real property tax revenues collected annually (including penalties and interest). Deposits will be made to the Fund on June 30, 2007 and then again on December 31, 2007, and on December 31 and June 30, in successive years, with deposits being calculated on all real property tax payments (including penalties and interest) received in the prior six months. Additional deposits and adjustments may be made at the discretion of the Finance Director; and
 - (6) Monies from items numbered (1), (2), (3), and (4) above, shall be deposited as received.
 - (c) In adopting each fiscal year's operating budget, the council shall appropriate a minimum of \$250,000 to the public access, open space, and natural resources preservation fund.
 - (1) Nothing in this section shall prevent the council from appropriating amounts in excess of the above minimum amounts to this fund.
 - (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; Am. 2006, Ord. No. 06-151, sec. 1; Am. 2006, Ord. No. 06-169, sec. 1; Am. 2007, Ord. No. 07-21, 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.
- (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; Am. 2007, Ord. No. 07-21, sec. 2.)

Article 43. Budget Stabilization Fund.**Section 2-219. Creation of fund.**

Pursuant to section 10-12, Hawai'i County Charter 2000, a special fund to be known as the budget stabilization fund is created for the purpose of meeting general fund revenue shortfalls and to minimize the need for budget cuts or tax increases. The budget stabilization fund shall be a temporary supplemental source of funds for the County to use during times of financial hardships while a plan for cost reduction or revenue enhancement is developed.

(2006, Ord. No. 06-101, sec. 1.)

Section 2-220. Funding.

Each fiscal year following the creation of the budget stabilization fund, moneys shall be transferred to this fund as recommended by the mayor and approved by the council.

(2006, Ord. No. 06-101, sec. 1.)

Section 2-221. Use of fund.

This fund may be used only when there is a reduction in budgeted revenue and the director of finance determines that such use is necessary to prevent a reduction in the level of public services.

(2006, Ord. No. 06-101, sec. 1.)

Section 2-222. Appropriations.

Appropriations from this fund may occur only upon the following:

- (1) Written determination by the director of finance that such appropriations are necessary; and
- (2) Passage of an appropriations ordinance by two-thirds vote of the council.

(2006, Ord. No. 06-101, sec. 1.)

Section 2-223. Prohibition.

Appropriations from the budget stabilization fund to fund the acquisition, construction or alteration of a facility as part of a general capital improvement program shall be prohibited.

(2006, Ord. No. 06-101, sec. 1.)

- (2) Sale of completed dwelling units affordable for qualified households earning 100-120% of median: 1.0 credit 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 100-120% of median: 0.5 credit per unit;
- (6) Construction of rental units affordable for qualified households earning 80-100% of median: 1.0 credit per unit;
- (7) Construction of rental units affordable for qualified households earning 60-80% of median: 1.5 credits per unit;
- (8) Construction of rental units affordable for qualified households earning less than 60% of median: 2.0 credits per unit;
- (9) Sale of finished lots affordable for qualified households earning no more than 100% of median: 0.5 credit per lot;
- (10) Sale of finished lots affordable for qualified households earning no more than 80% of median: 1.0 credit per lot;
- (11) 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; Am. 2006, Ord. No. 06-119, sec. 1.)

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. The in-lieu fee shall be applied against all dwelling units, affordable and market.
- (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. The in-lieu fee shall be applied against all dwelling units, affordable and market.
- (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. The in-lieu fee shall be applied against all dwelling units not offered for sale.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2007, Ord. No. 07-10, sec. 1.)

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.)

- (b) Any offense occurring after the first year of the first offense, and each successive year thereafter, shall be subject to the provisions of subsection (a) as though it were the first instance of the offense.
(1990, Ord. No. 90-65, sec. 2.)

Article 4. Prohibition of Smoking in Certain Places.

Section 14-20. Definitions.

- (a) As used in this article, unless the context requires otherwise:
- (1) “Bar” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets. “Incidental” means that for the prior calendar year, gross sales of food are less than one-third of gross sales of alcoholic beverages. A “bar” is authorized under a license issued by the department of liquor control.
 - (2) “Bowling alley” means a building where people go to bowl.
 - (3) “Building” means any area enclosed by a roof and at least three walls.
 - (4) “Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
 - (5) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.
 - (6) “Commercial building” means a building occupied by two or more commercial tenants.
 - (7) “Enclosed or partially enclosed area(s)” means area(s) closed in by a roof or overhang and at least two walls.
 - (8) “Hotel” means a transient vacation rental, other than a bed and breakfast home containing lodging or dwelling units.
 - (9) “Multifamily dwelling” means a building containing more than two dwelling units.
 - (10) “Nightclub” means a bar in which live entertainment is provided and in which facilities for dancing by patrons either by live entertainment or recorded music are provided.
 - (11) “Open to the public” means areas within any building available for use by or accessible to the general public during the normal course of business conducted therein by either private or public entities.
 - (12) “Restaurant” means any retail eating establishment where food is served or provided for on-site consumption by seated patrons that is authorized by the State department of health to operate as a food establishment, including any private food service establishment or club in which only members or their guests are permitted, but excluding a “bar.” If a restaurant includes an area devoted to the serving of alcoholic beverages, that area shall be deemed part of the “restaurant,” not a separate “bar,” for this article. An establishment that is a “restaurant” shall have that status for all hours of operation.
 - (13) “Smoke” or “smoking” means inhaling or exhaling the fumes of tobacco or any other plant material, or burning or carrying any lighted smoking equipment for tobacco or any other plant material; the personal habit commonly known as smoking, including smoking cigarettes, cigars, or pipes.
 - (14) “Tobacco product” means tobacco in any form including cigarettes.
- (1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec. 1.)

Section 14-21. Prohibition of smoking in certain places.

- (a) Except as otherwise provided in this article, smoking shall be prohibited in all enclosed places within the County, including but not limited to, the following places:
- (1) Patient rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and physicians' and dentists' offices.
 - (2) Restaurants and bowling alleys, except as outlined in sections 14-21(a)(2)(A) and 14-21(a)(2)(B) below. If a restaurant or bowling alley contains an outdoor, open air or partially enclosed seating area where food and beverages are served, smoking is prohibited in this area of the establishment.
 - (A) Through August 31, 2004, smoking shall be permitted in a separate bar area of a restaurant when the business operating the restaurant refrains from designating the area as nonsmoking. A "separate bar area of a restaurant" means an indoor area of a restaurant that is in compliance with all of the following:
 - (i) The area is devoted primarily to the serving of alcoholic beverages for consumption by patrons in the area.
 - (ii) On a monthly basis, the gross sales of food to patrons for consumption in the area are less than one-third of the gross sales of alcoholic beverages to patrons for consumption in the area.
 - (B) Beginning September 1, 2004, a restaurant may continue to operate a separate bar area, as defined above, provided that:
 - (i) There is a physical separation (consisting of solid walls with no door or window opening into the restaurant area) between the separate bar area and restaurant;
 - (ii) The entrance into the bar area is totally separate and at least fifteen feet from the entrance into the restaurant; and
 - (iii) The restaurant and separate bar area have separate ventilation systems.
 - (3) Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County, except for residential dwelling units which shall be regulated herein as multifamily dwellings.
 - (4) Except as provided in section 14-22, all business and not-for-profit establishments, including but not limited to, auditoriums, theaters, halls, museums, libraries, galleries, classrooms, private offices, conference or meeting rooms and all other enclosed facilities. This also includes common areas, including but not limited to, work areas, elevators, hallways, cafeterias, employee lounges, stairs, and restrooms.
 - (5) All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to, lobbies, elevators, restrooms, hallways, corridors, stairways, waiting areas and recreation areas.
 - (6) All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, including but not limited to, common entrance areas, restrooms, lobbies, elevators, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings.
 - (7) In the event a building is both a multifamily dwelling and a commercial building, as defined in this article, all common use areas except for private residences.
 - (8) All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees, including but not limited to, restrooms, lobbies, elevators, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms.
 - (9) In the event a building is both a commercial building and a hotel, all common use areas except for hotel rooms rented to guests and designated as smoking rooms.
 - (10) All vehicles owned or leased by the County.
 - (11) Taxicabs.

- (12) Private residences, during hours of operation, when used as a licensed child care, adult day care or health care facility, except in residences where the care facility is physically detached from the residence or is separated from the owner's area.
 - (13) Smoking is prohibited within a reasonable distance from any entrance to, exit from, or any fresh air intake of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.
 - (14) Areas within private residences, during hours of operation, that are used for the care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.
- (b) Except as otherwise provided in this article, smoking of cigarettes or tobacco products, or use of any tobacco products shall be prohibited in the following open areas and its facilities within the County:
- (1) Kahalu'u Beach Park
- (1977, Ord. No. 279, sec. 2; Am. 1977, Ord. No. 302, sec. 1; Am. 1982, Ord. No. 812, sec. 1; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec. 2.)

Section 14-22. Exceptions.

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt:
- (1) Private residences, except as prohibited in sections 14-21(a)(12) and 14-21(a)(14).
 - (2) Individual hotel and motel rooms that are rented to guests and are designated as smoking rooms.
 - (3) Bars.
- (1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

Section 14-23. Posting of signs.

- (a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person having control of such place.
 - (b) Alternate means of notification may be employed provided the effect thereof is equivalent to the notice given by signs described in subsection (a).
 - (c) Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
 - (d) Any person violating any of the provisions of this section shall be issued a notice of violation and shall comply with the provisions of this section within ten days. Thereafter, the violation shall carry a fine as provided in section 14-24(b) and/or 14-24(c). Each violation cited shall constitute a separate offense.
- (1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

Section 14-24. Violations and penalties.

- (a) It is unlawful for any person to smoke in a place within the County where smoking is prohibited.
- (b) Any person violating any of the provisions of subsection 14 21(a) shall be fined not less than \$25 and not more than \$50. Any person violating subsection 14-21(b) shall be fined \$100 for each separate offense.
- (c) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:
 - (1) A fine not exceeding \$100 for a first violation;
 - (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
 - (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.

(1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec 3.)

Section 14-24.1. Enforcement and administration.

- (a) Summons or citation.
- (1) There shall be provided for use by an officer or employee of the County duly authorized to issue a summons or citation, or any police officer a form of summons or citation for use in citing violators of this article which does not provide for 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, shall be printed on a form commensurate with the form of other summons or citations used in modern methods of arrest, and so designed to include all necessary information to make the same valid within the laws and regulations of the State and the County.
 - (2) 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 that the violator be given a carbon copy of the citation and provide for the disposition of the original and any other copies.
 - (3) Every citation shall be numbered, and each carbon copy shall bear the same number as its original.
- (b) Enforcement and administration of the provisions of section 14-23 shall be under the jurisdiction of the department of public works of the County, which department shall have the power to formulate any applicable rules and regulations necessary to carry out the provisions of section 14-23.
- (c) Except as provided in section 14-24.1(b), enforcement of this ordinance shall be under the jurisdiction of the County police department.
- (d) In addition to the foregoing, any police officer or other officer or employee of the County duly authorized to issue a summons or citation may eject from the premises any person to whom a citation has been issued and who continues to smoke after the person has been requested by the police officer or other duly authorized officer or employee to stop smoking.

(1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

Section 14-24.2. Fire code.

Nothing in this article shall be construed as superseding applicable fire code provisions. Where a conflict between the provisions of this article and the fire code arises, the fire code provision will prevail.

(1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2.)

Article 5. Fireworks.**Section 14-25. Title.**

This article shall be known as the Fireworks Code and shall apply to the importation, storage, possession, sale, purchase, transfer and discharge of fireworks within the County of Hawai'i.

(2000, Ord. No. 00-137, sec. 2.)

Section 14-26. Definitions.

- (a) Whenever used in this article, unless the context otherwise requires:
- (1) "Aerial common fireworks" means any firework, classified as in the regulations of the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to rise into the air and explode or detonate in the air or to fly about above the ground and which is prohibited for use by any person who does not have a permit for public display issued by the County under section 132D-16, Hawai'i Revised Statutes. "Aerial common fireworks" include firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, and jumping jacks, which move above the ground farther than inside a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.
 - (2) "Common fireworks" means any firework designed primarily for retail sale to the public during prescribed dates and which produces visible or audible effects through combustion and which is classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G.

Chapter 15**PARKS AND RECREATION****Article 1. General Provisions.****Section 15-1. Purpose of chapter.**

The purposes of this chapter are:

- (1) Preservation of the beauty of Hawai‘i, its way of life and its Aloha spirit;
- (2) Moral, physical and economic well-being of the citizens and residents of the County;
- (3) Utilization of land resources in the County in an intelligent and reasonable manner based on the capabilities and characteristics of the soil, its physical surroundings, climate, and the needs of the people in the County together with any other relevant and material considerations;
- (4) Establishment of recreational and cultural facilities that will provide healthful, educational, and aesthetic advantages for the people in the County and its visitors, and for the orderly and progressive development of such facilities to accommodate the expanding and diversified needs of the people; and
- (5) Protection and enhancement of the scenic and historic resources of the area.

(1975 C.C., c. 3, art. 1, sec. 1.1.)

Section 15-2. Applicability and scope of chapter.

- (a) This chapter shall apply to all County parks and recreational areas.
- (b) The provisions in this chapter, including provisions for the imposition upon any person of the penalties by fine or imprisonment for any violation of this chapter, are not to be construed to exclude the operation of applicable State statutes or other County ordinances. In the case of conflict with other County ordinances, the stricter ordinance may apply.
- (c) The director, or the director’s authorized representative, shall implement and administer the provisions of this chapter.

(1975 C.C., c. 3, art. 1, sec. 1.2; Am. 2001, Ord. No. 01-3, sec. 1.)

Section 15-3. Definitions.

As used in this chapter:

- (1) “Authorized person” means any person authorized to enforce the provisions of this chapter.
- (2) “Camper” means any person who remains in a park area between the hours of 11:00 p.m. and 6:00 a.m.
- (3) “Camping” means the act of remaining in any park area between the hours of 11:00 p.m. and 6:00 a.m.
- (4) “Department” means the department of parks and recreation.
- (5) “Director” means the director of the department of parks and recreation.
- (6) “Park area” means all County-owned or controlled areas administered by the County.
- (7) “Recreational area” means all beach parks, and all other park areas administered by the department primarily for the purpose of public recreation.
- (8) “Picnicking” means an outing by one or more persons who consume or intend to consume food while within the boundaries of a public premises under the jurisdiction of the department of parks and recreation, but who do not remain or intend to remain on the premises past the hour of 11:00 p.m. If the outing is past the hour of 11:00 p.m., it shall be known as camping and shall be governed by those provisions relating to camping.

- (9) “Picnicker” means any person on an outing, who consumes or intends to consume foodstuffs while within the boundaries of a public premises under the jurisdiction of the department of parks and recreation, but who does not remain or intend to remain upon the premises past the hour of 11:00 p.m. If any person remains past the hour of 11:00 p.m., the person shall be known as a camper and shall be governed by those provisions relating to camping.

(1975 C.C., c. 3, art. 1, sec. 1.3; Am. 1979, Ord. No. 479, sec. 1; Am. 1987, Ord. No. 87-130, sec. 2.)

Section 15-4. Animal or agricultural use of public land restricted.

The running at large, herding, driving across, or grazing of animals of any kind on the public lands of an area, or the use of such lands for agricultural purposes, is permitted only under a valid lease, contract, or special use permit issued by the County or pursuant to law.

(1975 C.C., c. 3, art. 1, sec. 3.7.)

Section 15-5. Special rules for Kahalu‘u Park, North Kona.

Camping and the use of trailers or other camper units are prohibited at Kahalu‘u Park.

(1975 C.C., c. 3, art. 1, sec. 4.1.)

Section 15-6. Removal of beach composition from certain parks; penalty.

Except as otherwise provided by law, no unauthorized person shall remove sand, coral, rocks, soil, or other beach composition from any County beach park.

(1975 C.C., c. 3, art. 7, sec. 4.2; Am. 1978, Ord. No. 340, sec. 1; Am. 2001, Ord. No. 01-3, sec. 2.)

Section 15-7. Penalty.

Any person convicted of violating any provision contained in this chapter shall be punished by a fine not exceeding \$1,000 or by imprisonment not to exceed thirty days, or both, and shall be adjudged to pay all costs of the proceedings. In addition to the penalties provided herein, the County may recover for damages to its property, the measure of which shall be the cost of repairing, replacing, or rebuilding the property injured or destroyed.

(1975 C.C., c. 3, art. 1, sec. 1.4; Am. 1986, Ord. No. 86-100, sec. 2; Am. 2007, Ord. No. 07-2, sec. 2.)

Article 2. Restrictions and Prohibitions.

Division 1. Park Areas.

Section 15-8. Visiting hours; closing areas.

The director may establish a reasonable schedule of visiting hours for all or portions of a park area and close or restrict the public use of all or any portion of a park area, when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs and designating closed areas and visiting hours.

(1975 C.C., c. 3, art. 1, sec. 2.5.)

Section 15-9. Disorderly conduct prohibited; defined.

(a) Disorderly conduct is prohibited.

(b) A person is guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person shall:

- (1) Engage in fighting or in threatening, violent, or tumultuous behavior;

- (d) After the director reviews the final proposal, the director may reject the proposal or authorize the proposal.

(1979, Ord. No. 455, sec. 1.)

Section 15-57. Duties of director.

Upon authorization of the proposal, the director shall:

- (a) Allow entry on the land for construction of improvements upon such terms and conditions as the director finds necessary for protecting the public health, safety and welfare or the convenience of operation of the department of parks and recreation. If the work is not done in accordance with the terms and conditions imposed, the director may halt construction and terminate the work. In such event, there shall be no credit allowed against user fees for any such work.
- (b) Require compliance with all applicable rules, regulations, ordinances, statutes and other laws. Obtain all permits, including building, plumbing, electrical and construction permits, which are required by County, State or Federal laws.
- (c) Set a dollar amount to be credited against user fees of the department of parks and recreation which are incurred for the facility on which the improvements will be located.
- (d) Compute the amount of credit by allowing:
 - (1) Reasonable expenses paid out for materials actually used in construction of the improvement.
 - (2) Reasonable expenses paid out for use of equipment used in construction of the improvement.
 - (3) Reasonable expenses paid out for labor used in construction of the improvement.
 - (4) Proof of expenditures made may be by receipt or affidavit or any other means which satisfies the director that such expenditures were made.
- (e) Require the persons proposing the improvement to submit a written document offering the improvement as constructed for dedication to the County before allowing any credit against user fees.

(1979, Ord. No. 455, sec. 1.)

Section 15-58. Limitation on application of credit.

- (a) The amount of credit allowed in section 15-57 shall be applied only as a credit against user fees otherwise payable for the facility on which the improvements will be located.
- (b) No credit shall be allowed against user fees incurred more than twenty years after the date that the improvement is accepted by the County.
- (c) The credit may not be assigned or transferred to any other person.
- (d) The credit shall not be used in lieu of any fee or charge not a user fee, including security or clearing deposits or fees, nor shall the credit be used in lieu of any requirement of insurance or surety.

(1979, Ord. No. 455, sec. 1.)

Section 15-59. Application of credit against user fees.

Subject to the limitations in section 15-58, the department of parks and recreation shall apply against user fees, incurred by a person allowed credit under this section, the amount of credit in dollars specified by that person, provided, that the amount of credit used shall not exceed the credits of that person nor shall it exceed the amount of applicable user fee. The application of such credit to reduce user fees shall reduce the amount of credits remaining to that person by a dollar amount equal to the reduction in user fees.

(1979, Ord. No. 455, sec. 1.)

Section 15-60. Restoration of credits.

Credits applied under section 15-59 above may be restored by the department of parks and recreation under the same terms and conditions applicable for refund of users fees, provided that no cash payment shall be made by or on account of a restoration of credit authorized by this provision.

On or before January 1, 1980, any person, who has made improvements on County land before July 16, 1979 and which improvements have not been accepted for dedication by the council, may apply to the director for credit in the manner prescribed above. The director shall allow a credit only if such improvements are in dedicable condition and only upon submission of a written document offering the improvement as constructed for dedication to the County. The director shall compute the credit as provided above.
(1979, Ord. No. 455, sec. 1.)

Article 7. Veterans Advisory Committee.

Section 15-61. Organization.

The veterans advisory committee shall be composed of sixteen members, who shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor with the approval of the council. In addition, the Hawai‘i Island Veterans Services Counselor of the Office of Veterans Services (Department of Defense of the State of Hawai‘i) and the Director of the Department of Parks and Recreation, or their designated representatives, shall serve as ex-officio members of the committee, without the power to vote.
(1986, Ord. No. 86-123, sec. 2; Am. 1990, Ord. No. 90-5, sec. 2; Am. 1994, Ord. 94-21, sec. 1; Am. 2002, Ord. No. 02-117, sec. 2; Am. 2006, Ord. No. 06-159, sec. 1.)

Section 15-62. Membership and tenure.

- (a) The members shall serve staggered terms of five years.
 - (b) The membership of the committee shall include one representative each from the American Legion, Big Island National Guard Retirees Association, Big Island Retired Military Association, Club 100, Disabled American Veterans, Hawai‘i Island Veterans Memorial, Inc., 442nd Veterans Association, Hilo Interpreters Club, Hawai‘i Island Women Veterans Association, Veterans of Foreign Wars, the Veterans of the Vietnam War, the Military Order of the Purple Heart, the Korean War Veterans Organization and the Camp Tarawa Detachment #1255 of the Marine Corps League. The committee shall also include three at-large members.
 - (c) Initially, two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, three members shall be appointed for a term of three years, three members shall be appointed for a term of four years, and three members shall be appointed for a term of five years.
 - (d) Any vacancy on the committee shall be filled for the remainder of the unexpired term, but members whose terms have expired may continue to serve until their successors have been appointed and confirmed.
 - (e) Members shall be eligible to succeed themselves for an additional term, provided that no member shall serve on the committee for more than two consecutive terms.
- (1986, Ord. No. 86-123, sec. 2; Am. 1990, Ord. No. 90-5, sec. 3; Am. 1994, Ord. 94-21, sec. 1; Am. 1996, Ord. No. 96-124, sec. 1; Am. 1997, Ord. No. 97-125, sec. 1; Am. 2002, Ord. No. 02-117, sec. 2; Am. 2006, Ord. No. 06-159, sec. 2; Am. 2007, Ord. No. 07-53, sec. 2.)

Section 15-63. Meetings of the committee.

There shall be a chairman and vice-chairman of the committee who shall be elected biennially by the members from their membership. The meetings of the committee shall be called at the discretion of the chairman or at the request of the majority of the members of the committee with the time and place to be determined by the chairman.
(1986, Ord. No. 86-123, sec. 2; Am. 1994, Ord. 94-21, sec. 1.)

Kohala

Kamehameha Park
 Kapa‘a Beach Park
 Keōkea Beach Park
 Lily Yoshimatsu Senior Center
 Mahukona Beach Park
 Mahukona Wharf
 North Kohala Senior Center
 North Kohala Veterans Field
 Spencer Park at ‘Ōhai‘ula Beach
 (1) Samuel Mahuka Spencer Pavilion
 Waikoloa Community Park
 Waikoloa Neighborhood Park
 Waimea Church Row Park
 Waimea Park

Kona

Arthur C. Greenwell Park
 Hale Hālāwai
 Harold H. Higashihara Park
 Hōnaunau Boat Ramp
 Hōnaunau Rodeo Arena
 Ho‘okena Beach Park
 Kahalu‘u Beach Park
 Kailua Park
 Kailua Playground
 Kekuaokalani Gymnasium
 Kona Hillcrest Park
 Kona Imin Center
 Kona Scenic Park
 Kona Waena Swimming Pool
 Ku‘emanu Heiau
 La‘aloa Bay Beach Park
 Magic Sands Beach Park
 Miloli‘i Beach Park
 Nākamalei Playground
 Pāhoehoe Beach Park
 Sgt. Rodney J. T. Yano Memorial Hall
 Wai‘aha Beach Park
 William Charles Lunalilo Playground

Puna

‘Āhalanui Park/Maunakea Pond
 A.J. Watt Gym
 Glenwood Park
 Hawaiian Beaches Park

Isaac Hale Memorial Park
 Kahakai Park
 Keaau Community Center
 Kurtistown Park
 Mt. View Park
 Pāhoa Aquatic Center
 Pāhoa Neighborhood Facility
 Herbert Shipman Park
 Volcano Park

Cemeteries

Hilo/Hāmākua

‘Alae Cemetery
 Veterans Cemetery No. 1
 Veterans Cemetery No. 2
 Waiākea Uka Cemetery
 Kihalani Cemetery (Laupāhoehoe)
 Kainehe Cemetery (Kūka‘iau)
 Pa‘alaea Cemetery (Honoka‘a)
 Kukuihaele Cemetery

Ka‘ū

Na‘alehu Cemetery

North/South Kohala

Kahei Cemetery
 Waimea Cemetery

Kona

West Hawai‘i Veterans Cemetery-Pu‘u Ho‘omaha O Na Po‘e Koa O Hawai‘i Komohana
 Hienaloli Cemetery (Keōpū)
 (2000, Ord. No. 00-15, sec. 2; Ord. No. 00-66, sec. 2; Ord. No. 00-113, secs. 1 and 2; Am. 2002, Ord. No. 02-58, sec. 2; Am. 2003, Ord. No. 03-99, sec. 2; Am. 2003, Ord. No. 03-135, sec. 2; Am. 2004, Ord. No. 04-79, sec. 2; Am. 2005, Ord. No. 05-40, sec. 2; Am. 2005, Ord. No. 05-96, sec. 2; Am. 2006, Ord. No. 06-127, sec. 2; Am. 2006, Ord. No. 06-149, sec. 3; Am. 2007, Ord. No. 07-22, sec. 4.)

Article 9. Farmers Markets.

Section 15-69. Intent.

It is the intent of this article to allow for the establishment of farmers markets at various County parks and facilities. Farmers markets will offer the general public the opportunity to buy and sell homegrown and homemade products and wares.
 (1993, Ord. No. 93-97, sec. 1.)

Chapter 16**PLANNING****Section 16-1. The County of Hawai'i general plan.**

- (a) That certain planning code known and designated as "County of Hawai'i general plan," as adopted on December 5, 1971, by the council of the County of Hawai'i, is hereby adopted by reference, subject to later amendments by ordinance, and may be cited as the "general plan."*
- (b) A copy of the general plan and amendments shall be available for public inspection at the planning department.

(1975 C.C., c. 7, art. 1, sec. 1; Am. 2006, Ord. No. 06-153, sec. 1; Am. 2007, Ord. No. 07-70, secs. 2, 3 and 4.)

* **Editor's Note:** A 2005 edition of the general plan was adopted by Ordinance 05-25. Ordinance 05-25 was subsequently amended by Ordinance 06-153 & Ordinance 07-70.

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

As used in this article:

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

(1975 C.C., c. 3, art. 2, sec. 4.01; Am. 1977, Ord. No. 291, sec. 1.)

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

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

(1975 C.C., c. 3, art. 2, sec. 4.02.)

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

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

(1975 C.C., c. 3, art. 2, sec. 4.03.)

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

- (a) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
 - (b) Any person owning or occupying a place of business shall keep the public walking and parking areas in front of that person’s business premises free of litter.
- (1975 C.C., c. 3, art. 2, sec. 4.04.)

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

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

(1975 C.C., c. 3, art. 2, sec. 4.06.)

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

- (a) No person shall throw, deposit, or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any handbill directly to the owner, occupant, or other person then present in or upon the private premises; provided that the person distributing the handbill, unless requested not to do so by owner, occupant, or other person lawfully on the premises, may place or deposit any handbill in or upon the inhabited premises if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, except that mailboxes may not be used when prohibited by Federal postal law or regulations.
 - (b) Subsection (a) shall not apply to the distribution of mail by the United States, nor of any newspaper, except that a newspaper shall be placed on private property in a manner which prevents the newspaper from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.
- (1975 C.C., c. 3, art. 2, sec. 4.05.)

Section 20-7. Summons or citation for violation.

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

(1975 C.C., c. 3, art. 2, sec. 4.07.)

Section 20-8. Penalty.

- (a) Any person who violates the provision of this article shall, upon conviction, be sentenced to pay of fine of not more than \$1,000 and/or not more than 200 hours of community service or both for each offense and shall be required to remove their litter or shall be liable for the costs of removing that litter.
 - (b) Each day of violation shall constitute a separate offense.
- (1975 C.C., c. 3, art. 2, sec. 4.08; Am. 1977, Ord. No. 291, sec. 2; Am. 1984, Ord. No. 84-37, sec. 1; Am. 1986, Ord. No. 86-119, sec. 2; Am. 1988, Ord. No. 88-7, sec. 5; Am. 1994, Ord. No. 94-44, sec. 1; Am. 2007, Ord. No. 07-23, sec. 2.)

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.

- (a) Any violation of this article is a petty misdemeanor.
- (b) In addition to the penalties in subsection (a), any person who violates the provisions of this article shall, upon conviction, be required to remove their refuse or shall be liable for the costs of removing that refuse.
- (c) Each day of violation shall constitute a separate offense.
- (1975 C.C., c. 3, art. 10, sec. 15; Am. 1984, Ord. No. 84-15, sec. 1; Am. 2007, Ord. No. 07-23, sec. 3.)

Article 4. Solid Waste Fees.

Section 20-46. Disposal fees.

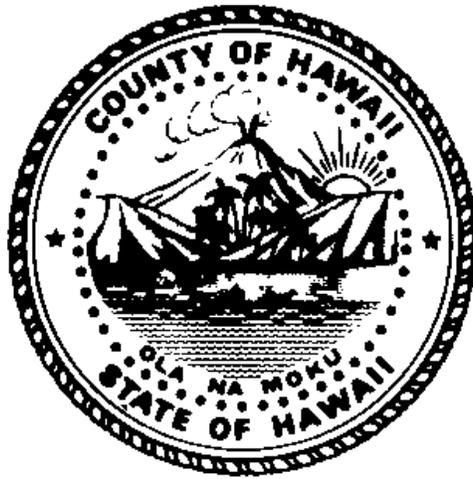
- (a) Any refuse, except for prohibited materials, delivered by a business, Federal or State agency, religious entity, nonprofit organization or private citizen to the working face of a County landfill shall be charged by the ton or fraction thereof at rates as set forth herein.
- (b) In addition to 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.

THE HAWAI‘I COUNTY CODE

1983 (2005 Edition, as amended)

Updated to include: **Supplement 4 (7-2007)**
Contains ordinances effective through: **6-30-07**



A CODIFICATION OF THE GENERAL ORDINANCES
OF THE COUNTY OF HAWAI‘I
STATE OF HAWAI‘I

Office of the County Clerk
County of Hawai‘i
25 Aupuni Street
Hilo, Hawai‘i 96720
(808) 961-8386

Volume 2

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Section 23-89. Sidewalks.

For the safety of pedestrians and of children at play, sidewalks on both sides of the street may be required. The director shall have the authority to recommend and the council may, when in its judgment a necessity exists for such improvements, require the construction of sidewalks which shall be constructed in accordance with specifications of the County department of public works.

(1975 C.C., c. 9, art. 2, sec. 5.05.)

Section 23-90. Pedestrian way.

A four-foot walk strip shall be paved in the center of all pedestrian ways. Paving shall consist of not less than three inches of compacted crusher run or crushed rock passing a three-fourth inch screen. Construction of a pedestrian way shall conform to standards adopted by the department of public works.

(1975 C.C., c. 9, art. 2, sec. 5.06.)

Section 23-91. Curbs and gutters.

The director shall have the authority to recommend and the council may, when in its judgment a necessity exists for such improvements, require the construction of curbs and gutters which shall be constructed in accordance with specifications of the department of public works.

(1975 C.C., c. 9, art. 2, sec. 5.07.)

Section 23-92. Drainage, flood, and erosion mitigation measures.

- (a) The subdivider shall construct a storm water disposal system to contain runoff caused by the subdivision improvements within the boundaries of the subdivision, up to the expected one-hour, ten year storm event, as shown in Plate 1 of the Department of Public Works "Storm Drainage Standards", dated October 1970, or any approved revisions, unless those standards specify a greater recurrence interval, in which case, the greater interval shall be used. The amount of expected runoff shall be calculated according to the Department of Public Works "Storm Drainage Standards", dated October 1970, or any approved revisions thereto, or by any nationally-recognized method meeting with the approval of the director of public works. Runoff calculations shall include the effects of all required subdivision improvements, and lot improvements that may be allowed by existing zoning.
 - (b) Storm water shall be disposed into drywells, infiltration basins, or other infiltration methods. The subdivision shall not alter the general drainage pattern above or below the subdivision.
 - (c) Subdivider shall also comply with the requirements of chapter 27, Hawai'i County Code.
- (1975 C.C., c. 9, art. 2, sec. 5.08; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-56, sec. 2.)

Section 23-93. Street lights.

Street lights shall be constructed within the subdivision. The street lights shall conform to the standard specifications on file with the department of public works. The construction of street lights shall be made a part of the contract for subdivision improvement and installed coincident with other required improvements.

(1975 C.C., c. 9, art. 2, sec. 5.09.)

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Section 23-94. Street name and traffic signs.

Street name signs showing the names of intersecting streets shall be erected by the subdivider at each street intersection. The type and location of street name and traffic signs which shall be created by the subdivider shall be subject to the approval of the director of public works and shall conform to the standard specifications on file at the department of public works.

(1975 C.C., c. 9, art. 2, sec. 5.10; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-95. Right-of-way improvement.

The subdivider shall be required to improve the entire street right-of-way. The improvements shall conform to the standard specifications on file with the department of public works.

(1975 C.C., c. 9, art. 2, sec. 5.12.)

Section 23-95.1. Improvements for resort subdivision.

Except as provided in this section, improvements for resort subdivision shall be as provided in this article 6, division 2, of this chapter. Upon submission of a resort subdivision application, the following standards shall apply.

- (a) Nondedicable Resort Street. A private street within the resort subdivision may be established upon approval by the director in consultation with the director of public works. Such streets shall be restricted to use only for lots within resort subdivisions. Divided roadways may include medial separations and elevation separations. Grades and curves of resort subdivision streets shall conform to section 23-50 or its successor statute. Pavement widths and minimum resort subdivision street rights-of-way shall be as specified in section 23-41(a) or its successor statute. Resort subdivision streets shall also conform to sections 23-43, 23-44, 23-45, 23-46, 23-48 or their successor statutes.
- (b) Sidewalks for resort subdivisions shall be required for safety of pedestrians. In considering the need for such sidewalks and the appropriate location of sidewalks, the director shall consider the following factors in addition to any other relevant factors:
 - (1) Pedestrian circulation within the resort area;
 - (2) Interaction of vehicular traffic to pedestrian traffic;
 - (3) Interaction of pedestrian traffic with uses in the resort area and applicable adjacent area; and
 - (4) Topography and slope of the area.

If consistent with pedestrian safety and with the factors listed above, said sidewalks may be constructed along roadways or at other suitable locations to accommodate pedestrian traffic whether or not the sidewalks are adjacent to resort subdivision streets.
- (c) A private resort subdivision street meeting only the minimum requirements of this section shall not be dedicable. If a private resort subdivision street is offered for dedication after final subdivision approval, said street must meet all of the requirements for a dedicable street under this chapter applicable as of the date that the street is offered for dedication.

(1992, Ord. No. 92-138, sec. 9; Am. 2001, Ord. No. 01-108, sec. 1.)

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SUBDIVISIONS

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Article 7. Inspection and Certification.**Section 23-96. Inspection by director of public works and manager.**

The director of public works shall inspect the construction of improvements, the installation of facilities and utilities, and other work in any subdivision. The manager shall inspect all construction and improvements relating to water systems.

(1975 C.C., c. 9, art. 2, sec. 8.01; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-97. Inspection fee.

(a) Prior to the beginning of construction of the required improvements or prior to final approval of a subdivision map, when a suitable bond is posted, the applicant shall be required to pay a fee of two-tenths of one percent of the estimated cost of the construction work to be done in the subdivision but not less than \$25 to cover the costs of inspection. The fee shall be returned to the applicant if the subdivision map is not approved.

(b) Fees received from applicants shall be deposited with the director of finance.

(1975 C.C., c. 9, art. 2, sec. 8.02.)

Section 23-98. Notice before beginning work; inspections; certification.

(a) Before starting any construction work, the subdivider shall give written notice at least one week in advance to the director of public works and manager (if construction involves a water supply system), of the name of the contractor and any other pertinent information, and shall file three prints of approved construction drawings and specifications with the department of public works and the department of water supply (if construction involves a water supply system).

(b) During construction of improvements and installation of facilities and utilities and the carrying on of other work in any subdivision, the work shall at all times be subject to inspection by the director of public works and manager, or their representatives.

(c) Subdivision improvements shall not be considered complete and acceptable for final approval by the director until such improvements are so certified in writing to be complete and of acceptable standards by the director of public works and manager (if construction involves a water supply system).

(d) Construction within the State highway right-of-way shall be subject to inspection by the district engineer or his representative.

(1975 C.C., c. 9, art. 2, sec. 8.03; Am. 2001, Ord. No. 01-108, sec. 1.)

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Article 8. Safety Flood Hazard District Requirements.**Section 23-99. Tentative approval of plan for subdivision in SF district.**

No subdivision located in a safety flood hazard district (SF district) shall be granted tentative approval of the preliminary plat or approval of the final plat if the land is found by the director, upon consultation with the director of public works or other governmental agencies, to be unsuitable for the proposed use by reason of proneness to flooding, inundation or erosion by sea water, bad drainage or other features or conditions likely to be harmful or dangerous to the health, safety and welfare of future residents of the proposed subdivision or of the surrounding neighborhood, unless satisfactory protective improvements or other measures are proposed or taken by the subdivider and approved by the director.

(1974, Ord. No. 79, sec. 2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-100. New utilities in SF district.

New utilities located in the SF district shall be located and constructed to minimize or eliminate flood damage.

(1974, Ord. No. 79, sec. 2.)

Section 23-101. Water systems in SF district.

All water systems located within an SF district shall be floodproofed to a point at or above the flood elevation level defined on the zone maps. Gate valves shall be installed in all water mains crossing the limits of an SF district.

(1974, Ord. No. 79, sec. 2.)

Section 23-102. Sewage disposal facility in SF district.

No sewage disposal facility located in the SF district requiring soil absorption will be approved where such system will not function due to high ground water, flood or unsuitable soil characteristics.

(1974, Ord. No. 79, sec. 2.)

Article 9. Plantation Community Subdivision.**Section 23-103. Plantation community subdivision.**

A plantation community subdivision is a subdivision established on lands formerly owned by sugar plantations and which had been developed into housing and community buildings for employees of the plantation.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-104. Criteria.

A plantation community subdivision may be established in former sugar plantation communities if all of the following conditions exist:

- (1) A sugar plantation has provided housing for its workers which developed into a plantation community.
- (2) The plantation community has existed for at least fifty years.
- (3) The sugar plantation is no longer in operation.
- (4) The fee title of each proposed lot within the plantation community on which the housing and improvements exist is to be conveyed in fee simple to the former employees of the sugar plantation.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-105. Designation as a plantation community.

The planning director shall review and investigate any application for a plantation community subdivision to determine if the plantation community involved meets the criteria established herein, except however, due to public safety and health considerations, the established plantation community with the approval of the council by resolution, may be relocated to another area within the region.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-106. Notice.

Upon receipt of an application for a plantation community subdivision, the director shall fix a date for approval or disapproval of the plantation community subdivision and notify the applicant. The applicant shall serve notice of the application upon owners of interests in properties within three hundred feet of the perimeter boundary of the applicant's property. The notice shall state:

- (1) The name of the applicant.
- (2) The nature of the request.
- (3) The location of the subject property or properties.
- (4) The date by which public comments and comments from the affected agencies must be submitted to the planning director.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-107. Appeals.

The applicant or other interested parties may appeal the director's determination on the designation to the board of appeals in accordance with its rules.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-108. Infrastructure.

Notwithstanding any other provisions herein, the requirements of this chapter to provide infrastructure improvements shall not apply to a subdivider of a plantation community subdivision, provided that the planning director in consultation with the director of public works and the manager of the department of water supply may require the improvements necessary to further the public health and safety.

All of the proposed lots within a plantation community subdivision shall prohibit the construction of an ohana dwelling or second dwelling unit, or any structure that will further any increase in density of the plantation community subdivision. This prohibition shall be recorded in the deeds of all the proposed lots with the bureau of conveyances and shall be submitted to the planning department for review and approval prior to final subdivision approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the county and recorded with the bureau of conveyances likewise prior to final subdivision approval.

(1994, Ord. No. 94-117, sec. 2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 23-109. Lots.

The size and configuration of the lots and setback requirements in a plantation community subdivision are exempt from the provisions of this chapter and chapter 25, Hawai‘i County Code.

(1994, Ord. No. 94-117, sec. 2.)

Section 23-110. Agriculture district.

- (a) For lands within the State land use agriculture district, lot sizes of less than one acre may be allowed, provided that:

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- (42) “Special hazard vehicle” means any vehicle engaged in activities which create special hazards upon the highways including: (a) highway maintenance vehicles used by highway authorities when working on the highway; (b) public utility vehicles when necessarily parked other than adjacent to the curb in a highway for purposes of working on facilities; (c) trucks actually engaged in the towing of houses or buildings; (d) any pilot car required by permit issued by highway authorities while actually engaged in the movement of extra legal-size vehicles or loads; (e) tow cars while preparing a vehicle for towing and while towing a disabled vehicle; (f) vehicles used for mosquito abatement control when dispersing insecticides; and (g) other vehicles creating special hazards which may be designated by the chief of police.
- (43) “Special mobile equipment” means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.
- (44) “Specially constructed vehicle” means every vehicle of a type required to be registered and not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.
- (45) “Speed Limit” means the absolute maximum speed limit designated and physically displayed in the right of way for establishing the legal maximum vehicle velocity.
- (46) “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
- (47) “Stop” (when required) means complete cessation of movement.
- (48) “Stop” or “stopping” (when prohibited) means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control sign or signal.
- (49) “Street” means the entire width between boundary lines of every way subject to this chapter when any part thereof is open to the use of the public for purposes of vehicular travel.
- (50) “Taxicab” means a chauffeur driven vehicle other than a bus or tour vehicle, available for hire or while carrying passengers for a fare.
- (51) “Through highway” means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law.
- (52) “Tour vehicle” means a chauffeur driven passenger vehicle other than a bus operated for the principal purpose of sight-seeing tours.
- (53) “Tow” or “tow-away zone” means any street or highway or portion thereof, designated by the County council by ordinance as a tow or tow-away zone, whereon the parking, stopping or standing of vehicles is prohibited entirely or during specific hours.
- (54) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any highway for purposes of travel.
- (55) “Traffic-control signal” means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.
- (56) “Trailer” means every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

- (57) “Truck” means every motor vehicle designed, used, or maintained primarily for the transportation of property.
- (58) “Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- (59) “Turn around area” means that portion of a dead-end street designed primarily for turning a vehicle in the opposite direction.
- (60) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(1975 C.C., c. 6, art. 1, sec. 3; Am. 1976, Ord. No. 236, sec. 1; Am. 1977, Ord. No. 332, sec. 1; Am. 1982, Ord. No. 789, sec. 1; Am. 1988, Ord. No. 88-84, sec. 2; Am. 1988, Ord. No. 88-168, sec. 2; Am. 1995, Ord. No. 95-25, secs. 1 — 3; Am. 1996, Ord. Nos. 96-1, sec. 2 and 96-112, sec. 2; Am. 1998, Ord. No. 98-97, sec. 2; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-59, sec. 1.)

Section 24-4. Use of coasters, roller skates, roller blades, skateboards, and other similar devices prohibited.

- (a) No person shall ride a coaster, roller skates, roller blades, skateboard, or any similar device upon any roadway except while crossing a street in a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.
- (b) No person shall ride a coaster, roller skates, roller blades, skateboard, or any similar device upon any sidewalk or sidewalk area, except upon a permanent or temporary driveway specifically designated and authorized for such use, in the following designated locations:
 - (1) Within the downtown Hilo commercial area bounded by the Wailuku River on the west; Hilo Bay on the north; twenty feet east of the eastern most boundary of Ponahawai Street (this boundary shall also continue in a northerly direction, from the point twenty feet east of the Ponahawai Street and Kamehameha Avenue intersection, across Kamehameha Avenue, through Bayfront Park and the Hawai‘i Belt Road, to Hilo Bay) on the east; and twenty feet south of the southern most boundary of Kapiolani and Kaiulani Streets on the south (including the portion of Waianuenue Avenue which is contiguous to Kapiolani and Kaiulani Streets).

(1975 C.C., c. 6, art. 1, sec. 8; Am. 1999, Ord. No. 99-153, sec. 2.)

Section 24-4.1. Penalties.

Any person who violates any provision of this section shall upon conviction be subject to a fine of not more than \$25 for a first conviction; not more than \$50 for a second conviction; and not more than \$75 for a third or subsequent conviction. Upon the third conviction of a violation of any provision of this section, the Court shall order the confiscation of the coaster, roller skates, roller blades, skateboard, or similar device used in the subsequent violation.

(1999, Ord. No. 99-153, sec. 2.)

Section 24-5. Obedience to traffic laws required.

Any person doing any act forbidden by this chapter or failing to perform any act required by this chapter shall be punished as provided in section 24-16.

(1975, C.C., c. 6, art. 1, sec. 6.)

Section 24-6. Obedience to police and fire officials required.

No person shall fail to comply with any lawful order or direction of a police officer or fire department official.

(1975 C.C., c. 6, art. 1, sec. 7.)

Section 24-7. Exercise of due care required.

Every operator of a motor vehicle shall exercise due care in the operation of such vehicle upon any street or highway so as to avoid endangering any person, vehicle or property on or off such street or highway. (1975 C.C., c. 6, art. 9, sec. 1.)

Article 2. Administration.**Section 24-8. Council to exercise certain functions by ordinance.**

(a) The council shall by ordinance:

- (1) Determine and designate the type of all official traffic control devices; provided, such official control devices shall, with respect to size, shape and color, be uniform, shall correlate with and conform to, the system then current, as approved by the Federal Highway Administration, U.S. Department of Transportation.
- (2) Create, define, redefine, eliminate or change all speed zones, safety zones, quiet zones, crosswalks other than at intersections, freight and passenger loading and unloading zones, no-parking zones, time-limit parking zones, parking meter zones, tow or tow-away zones, bus stops, U-turn areas, prohibited U-turn areas, prohibited left and right turns, one-way streets, through streets, stop intersections, roadways closed to pedestrian traffic, and roadways closed to certain classes of vehicles.

(1975 C.C., c. 6, art. 1, sec. 4.01; Am. 1988, Ord. No. 88-1, sec. 1; Am. 1988, Ord. No. 88-168, sec. 3.)

Section 24-9. Installation and maintenance of traffic-control devices.

(a) The provisions set forth in this chapter are to provide for the installation and maintenance of traffic-control devices upon the following categories of streets:

- (1) Publicly Maintained Streets. Subject to section 24-8, the director of public works is authorized, and as to those devices, signs, signals, and markings required for the purpose of traffic control, it shall be the director of public works' duty to place and maintain or cause to be placed and maintained all official traffic-control devices, signs, signals and markings on publicly maintained streets.
- (2) Privately Owned and Maintained Streets. The owner(s) of privately owned and maintained streets which are subject to regulation pursuant to the provisions of section 24-2, are authorized and required to place and maintain or cause to be placed and maintained all official traffic-control devices, signs, signals and markings on their streets, upon adoption of an ordinance pursuant to section 24-8.

(b) All devices, signs, signals and markings required for the purpose of traffic control shall be uniform as to type and location throughout the County.

(c) County consent to the placement of traffic-control signs or markings on a private street shall not be deemed to constitute ownership or control over that street.

(1975 C.C., c. 6, art. 1, sec. 4.02; Am. 1988, Ord. No. 88-1, sec. 2; Am. 1995, Ord. No. 95-112, sec. 2; Am. 1998, Ord. No. 98-97, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 24-10. Authority of chief of police to establish emergency and experimental regulations.

(a) The chief of police is empowered to make regulations necessary to make effective the provisions of this chapter, and to make and enforce temporary or experimental regulations to cover emergencies or special conditions, and to post signs pertaining thereto. No such temporary or experimental regulation shall remain in effect for more than ninety days.

(b) The department of police and the department of public works of the County may test traffic-control devices under actual conditions of traffic.

(1975 C.C., c. 6, art. 1, sec. 4.03.)

Section 24-11. Temporary changes to effectuate amendments.

The director of public works of the County is hereby empowered to make changes in parking and other traffic controls for a period of ninety days as a temporary measure to effectuate the provisions of an amendment to this chapter. The director of public works may have a single ninety-day extension of this period, if a bill to enact the so effectuated amendment of this chapter remains pending before the County council at the end of the initial ninety-day period. Any additional extensions of time shall require council approval.

(1975 C.C., c. 6, art. 1, sec. 4.04; Am. 1975, Ord. No. 142, sec. 6; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-57, sec. 2.)

Section 24-12. Duty of police to enforce traffic laws.

It shall be the duty of the officers of the police department and such officers as are assigned by the chief of police to enforce all street traffic laws of this County and all of the State vehicle laws applicable to street traffic in this County.

(1975 C.C., c. 6, art. 1, sec. 5.01.)

Section 24-13. Police to direct traffic; firemen at fire.

- (a) Officers of the police department, and officers as are assigned by the chief of police, are authorized to direct all traffic by voice, hand, or signal in conformance with the traffic laws.
- (b) In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
- (c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(1975 C.C., c. 6, art. 1, secs. 5.02 and 5.03.)

Section 24-14. Public employees to obey traffic laws.

The provisions of this chapter shall apply to the operator of any vehicle owned by or used in the service of the United States government, the State or the County. No driver or operator of any government vehicle shall violate any of the provisions of this chapter, except as otherwise permitted by this chapter or by Federal or State law.

(1975 C.C., c. 6, art. 1, sec. 9.)

Article 3. Citations and Penalties.**Section 24-15. Form of summons or citation.**

There shall be provided for use by authorized police officers a form of summons or citation for use in citing violators of those traffic laws which do not mandate the physical arrest of such violators.

(1975 C.C., c. 6, art. 20, sec. 1.)

Section 24-16. Penalties.

Unless otherwise provided for elsewhere in this chapter, or in the Hawai‘i Revised Statutes, as amended, any person convicted of a violation of any section or provision of this chapter shall be punished by a fine of not more than \$100 for the first conviction; not more than \$200 for the second conviction of a second offense committed within one year after the date of the first offense; not more than \$500 for the third or subsequent conviction of a third or subsequent offense committed within one year after the date of the first offense.

(1975 C.C., c. 6, art. 20, sec. 3; Am. 1994, Ord. No. 94-103, sec. 2.)

Article 4. Fees.**Section 24-17. Motor vehicle tax; computation.**

Except as otherwise provided in sections 249-1 through 249-13 of the Hawai'i Revised Statutes, all vehicles and motor vehicles, as defined in section 249-1 of the Hawai'i Revised Statutes, located in the County at the time of registration, shall be subject to an annual tax computed according to the net weight of each vehicle in the manner provided in this section. The tax shall become due and payable on an annual basis, as billed by the department of finance. The tax shall be paid by the owner of each vehicle and collected by the director of finance. If any vehicle is transported into the County after the payment of the tax, no additional tax shall be imposed on that vehicle for the remaining period of the year for which such tax has been paid.

- (a) The rate for motor vehicles designed primarily for carrying passengers shall be $\frac{3}{4}$ of a cent per pound of the net weight of such vehicle. This category shall include buses, ambulances, and hearses.
- (b) The rate for trucks or noncommercial motor vehicles having a net weight of six thousand five hundred pounds or less and certified as noncommercial shall be $\frac{3}{4}$ of a cent per pound of the net weight of such vehicles.
 - (1) The owner of a truck or noncommercial motor vehicle who desires to have the vehicle tax at the passenger rate shall file a form furnished by the director of finance certifying that the truck or noncommercial motor vehicle is not being and will not be operated for compensation or for commercial purposes.
 - (2) Where the vehicle is currently registered as a commercial vehicle and the owner wishes to reclassify the vehicle as noncommercial, the owner shall:
 - (A) File a form furnished by the director of finance certifying that the vehicle is not being and will not be operated for compensation or for commercial purposes;
 - (B) Surrender the vehicle's current certificate of registration and license plates; and
 - (C) Pay a license fee of \$5.50 for the passenger vehicle license plates and emblem.
- (c) The rate for trucks or nonpassenger vehicles used for compensation or commercial purposes or having a net weight of over six thousand five hundred pounds shall be 2 cents per pound for such vehicle. This category includes trucks, truck-tractors and road tractors, trailers, and semi-trailers.
- (d) Any person who is totally disabled due to injuries received while on duty with the armed forces of the United States may apply for an exemption from the County motor vehicle weight tax, including minimum tax under section 24-18, for a single noncommercial vehicle, subject to proof of total service related disability from the Veterans Administration and approval by the director of finance.

(1975 C.C., c. 2, art. 10, sec. 7.01; Am. 1979, Ord. No. 396, sec. 1; Am. 2004, Ord. No. 04-8, sec. 2; Am. 2004, Ord. No. 04-66, sec. 2.)

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Section 24-18. Motor vehicle tax; minimum tax; penalties for delinquency.

- (a) The minimum tax assessed under section 24-17 shall in no case be less than \$6.
- (b) Effective January 1, 1982, any vehicle weight tax imposed by section 24-17 for any year and not paid when due, shall become delinquent and a penalty of ten percent shall be added to, and become a part of, the tax collected.

(1979, Ord. No. 396, sec. 1; Am. 1982, Ord. No. 795, sec. 1.)

Section 24-19. Vehicle registration fees.

- (a) The fee for issuance for a new series of number plates for vehicles shall be \$5.
- (b) The fee for issuance of a tag or emblem for a vehicle, upon payment of the applicable tax, in any year shall be 50 cents.
- (c) The fee for replacement of a lost or mutilated number plate or plates, tag, or emblem, shall be as follows:
 - (1) Number plates, \$5.
 - (2) Tag or emblem, 50 cents.
- (d) The transfer of ownership fee for issuance of a new certificate of ownership shall be \$5.
- (e) The transfer fee for issuance of a new certificate of registration on a trailer shall be \$5.
- (f) The fee for dealer correction for each instance of correction of the registration record shall be \$5.
- (g) The fee for duplicate certificate of registration or certificate of ownership shall be \$5.
- (h) A fee of \$1 per certificate of registration shall be assessed and collected annually together with other applicable vehicle taxes and fees, to be used for highway beautification and disposal of abandoned vehicles.
- (i) An annual fee of \$12 per vehicle shall be charged for each vehicle registration, which shall be paid at the same time as the motor vehicle tax paid pursuant to section 24-17 of this chapter. The proceeds from this fee shall be allocated to establish a fund for the towing, removal, disposal and recycling of abandoned or discarded automobiles and automobile parts, and such fund entitled "vehicle disposal fund" is hereby established.
- (j) An annual County registration fee of \$5 per vehicle shall be charged for each vehicle registration, which shall be paid at the same time as the motor vehicle tax paid pursuant to section 24-17 of this chapter.
- (k) Any person who is totally disabled due to injuries received while on duty with the armed forces of the United States may apply for an exemption from subsections (a), (b), (h), (i), and (j) of this section, for a single noncommercial vehicle, subject to proof of total service related disability from the Veterans Administration and approval by the director of finance.

(1979, Ord. No. 396, sec. 1; Am. 1982, Ord. No. 730, sec. 1; Am. 1982, Ord. No. 817, sec. 1; Am. 1985, Ord. No. 85-59, sec. 1; Am. 1989, Ord. No. 89-51, sec. 1; Am. 1994, Ord. No. 94-46, sec. 2; Am. 2002, Ord. No. 02-90, sec. 2; Am. 2003, Ord. No. 03-32, sec. 2; Am. 2004, Ord. No. 04-8, sec. 3.)

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Section 24-20. Motor vehicle driver's permit and license fees.

The following fees are established for the application and renewal of motor vehicle instruction permits and driver's licenses:

- (a) Application for instruction permit, \$10.
 - (b) Application for driver's license or out-of-state transfer:
 - (1) Application for driver's license (not chargeable if applicant presents evidence of having paid to Hawai‘i County the application for instruction permit fee), \$1.
 - (2) Application for out-of-state transfer with a valid out-of-state license, \$4.
 - (c) Reinstatement fee (payable upon the restoration of any license which has been suspended), \$20.
 - (d) Driver's license valid for two years, \$6.
 - (e) Renewal of driver's license valid for two years, \$6.
 - (f) Driver's license valid for four years, \$12.
 - (g) Renewal of driver's license valid for four years, \$12.
 - (h) Driver's license valid for six years, \$18.
 - (i) Renewal of driver's license valid for six years, \$18.
 - (j) Reactivation fee for each thirty-day period after the ninety-day grace period for renewal within one year of expiration, \$5.
 - (k) Duplicate license, \$5.
 - (l) Road test fees (categories 1, 2, and 3), \$5; (category 4), \$50.
 - (m) Written test fee, \$1.
 - (n) Oral examination fee, \$10.
 - (o) Provisional license valid until age nineteen, \$5 per year.
- (1975 C.C., c. 2, art. 10, sec. 8.01; Am. 1977, Ord. No. 315, sec. 1; Am. 1982, Ord. No. 798, sec. 1; Am. 1994, Ord. No. 94-88, sec. 1; Am. 1998, Ord. No. 98-10, sec. 1, Am. 2005, Ord. No. 05-163, sec. 2.)

Section 24-21. Motor vehicle driver's license examination fees.

The following fees are established for the examination of drivers applying for a driver's license:

- (a) Written examination fee, \$1.
 - (b) Oral examination fee (applicable to those requesting an oral examination, either for an instruction permit or for a license renewal in categories 1—3), \$10.
 - (c) Fees for commercial driver's licenses will be collected pursuant to the provisions of State law.
- (1975 C.C., c. 2, art. 10, sec. 8.01; Am. 1977, Ord. No. 315, sec. 1; Am. 1994, Ord. No. 94-88, sec. 2.)

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Section 24-149. Maximum speed limit.

- (a) The following maximum speed limit shall be in effect except where a special speed limit has been enacted:
- (1) Twenty-five miles per hour.
 - (A) When passing a school site or the grounds thereof, which are contiguous to or located in close proximity to, the highway and posted with the standard “school” warning sign while children are going to be leaving the school during opening or closing hours. This speed limit shall also apply during school recesses when passing any school grounds which are not separated from the highway by a fence or other physical barrier capable of restraining a child, while the grounds within seventy-five feet of the highway are in use by a child, and the highway is posted with the standard “school” warning sign.
 - (B) During school days for a distance of up to one thousand feet on both sides of a crosswalk designated by the director of public works as a school crossing and posted with the standard “School Crossing.”
 - (C) In a residential district, unless otherwise indicated.
 - (D) On all roadways within construction zones.
 - (E) On all highways and streets unless otherwise specified by this chapter.
 - (2) Thirty miles per hour.

In a business district.

(1975 C.C., c. 6, art. 8, sec. 4; Am. 1973, Ord. No. 4, sec. 1; Am. 1974, Ord. No. 35, sec. 4; Am. 1975, Ord. No. 143, sec. 2; Am. 1980, Ord. No. 551, sec. 2; Am. 1988, Ord. No. 88-143, sec. 1; Am. 1995, Ord. No. 95-25, sec. 4; Am. 1999, Ord. No. 99-65, sec. 4; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 24-150. Speed limits.

Speed limits described in article 10, division 1, and article 11, division 1, shall be effective when appropriate signs giving notice thereof are erected.

(1975 C.C., c. 6, art. 8, sec. 5; Am. 1980, Ord. No. 551, sec. 2; Am. 1999, Ord. No. 99-65, sec. 5.)

Section 24-150.1 Maximum speed limits may be reduced in a residential or a business district.

- (a) The director of public works is authorized to approve the reduction of maximum speed limits in residential and business districts in five mile per hour increments to a minimum of 15 miles per hour for any subdivision being developed under chapter 23 of the Hawai‘i County Code. The director may reduce speed limits under this section when topographical, geometric and/or physical conditions result in limited sight-distances, vehicle operating restrictions and/or other engineering safety factors that warrant such a reduction.
- (b) Speed limits set by the director of public works pursuant to this section may be further changed by the council by ordinance.

(2007, Ord. No. 07-59, sec. 2)

Section 24-151. Minimum speed regulations.

- (a) No person shall drive a motor vehicle on a highway at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
- (b) When a speed limit is set at forty or more miles per hour, the driver of a vehicle proceeding on such highway shall not operate the driver’s vehicle at a speed less than fifteen miles per hour below the posted speed limit whenever practicable except when necessary for safe operation.
- (c) No person shall drive a motor vehicle on a highway at a speed lower than the required minimum speed, if to do so would impede other vehicular traffic. Such person shall pull to the side of the highway wherever safe to do so and stop if necessary to allow other vehicles to pass the slow-moving vehicle.

(1975 C.C., c. 6, art. 8, sec. 6; Am. 1974, Ord. No. 18, sec. 1; Am. 1980, Ord. No. 551, sec. 2.)

Division 3. Prohibited or Restricted Activities and Vehicles.

Section 24-152. Tampering with vehicles prohibited; exception.

- (a) No person shall, without the consent of the owner or person in charge of a vehicle, climb upon or into any vehicle with the intent to commit any injury thereto or with the intent to commit any crime, whether such vehicle be in motion or at rest.
- (b) No person, without the consent of the owner or person in charge of a standing unattended vehicle, shall manipulate any of the levers, starting crank, brakes or other devices thereon.
- (c) An operator of a motor vehicle may, however, release the brakes and move a standing unattended vehicle for the purpose of extricating the operator’s vehicle from a parking location.
- (d) Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$250.

(1975 C.C., c. 3, art. 7, sec. 2.)

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VEHICLES AND TRAFFIC

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Section 24-153. Interrupting procession.

No person shall drive a vehicle between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required by law. This section shall not apply at intersections where traffic is controlled by traffic control signals or police officers. (1975 C.C., c. 6, art. 11, sec. 8.)

Section 24-153.1. Processions or parades; permit required; exceptions.

No funeral procession, or parade that impedes the normal flow of traffic excepting the forces of the United States Army or Navy, the military forces of the State, and the forces of the police and fire departments, shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply. (1982, Ord. No. 791, sec. 1.)

Section 24-153.2. Funeral processions.

A funeral composed of a procession of vehicles shall be identified as such by the display of lighted headlamps on each vehicle. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe. (1982, Ord. No. 791, sec. 1.)

Section 24-153.3. Street closure.

- (a) No person shall block, close, restrict or impede the traffic on any street, highway, time-limit parking stall or public right-of-way, for any length of time for parades, processions or for any festive, religious, civic or other special activity except in accordance with a permit issued by the chief of police or the chief's authorized representative and such other regulations as are set forth herein. Such permits issued shall be immediately revoked at any time by the chief of police or the chief's authorized representative when there is reason to believe that the activity is endangering any person, vehicle or property on or off such street, highway, time-limit parking stall or public right-of-way.
- (b) The council by resolution, in consultation with the chief of police and the director of public works, may authorize the temporary closure of a roadway stub-out, dead-end and/or other road terminus when the following conditions exist:
- 1) The stub-out, dead-end or similar road terminus to be barricaded is owned by the county.
 - 2) The closure shall not affect the flow of traffic or public access.
 - 3) Adjacent landowners are provided with written notification by the requesting agency.
 - 4) The closure is necessary to prevent loitering, littering and other illegal activities.

Removal of the temporary closure shall be authorized by council resolution.

(1982, Ord. No. 791, sec. 1; Am. 2002, Ord. No. 02-119, sec. 2.)

Section 24-153.4. Permits; issuance; procedure.

- (a) The procedure for issuance of a permit under section 24-153.3 shall be as follows:
- (1) Every person requesting a permit under section 24-153.3 herein shall submit an application in writing to the chief of police or the chief's authorized representative no later than thirty days preceding the date of the proposed event or activity. (Exception: Permits for construction activities shall be submitted at least fourteen days before the date of the activity.) The application shall describe the type of event or activity, date, time, number of persons participating, number and types of vehicles, floats or other equipment, and location. A detailed description of the location shall be submitted, together with a map or drawing showing the streets or other public right-of-way affected and any alternate routes of travel which may be utilized.

- (b) North Hilo
- (c) South Hilo
 - (1) Noe Street at its intersection with Kalili Street, for vehicles headed in the Puna direction.
 - (2) Pohakulani Street at its intersection with Ainaola Drive for vehicles traveling in the Puna direction.
- (d) Ka'u
- (e) Kohala
- (f) Kona
- (g) Puna
 - (1) Kahakai Boulevard at its intersection with Pūnāwai Street for vehicles traveling in the mauka direction.
 - (2) Kea'au Loop at its intersection with Ha'a Street/Kea'au Loop, for vehicles headed in the Puna direction.

(1996, Ord. No. 96-163, sec. 2; Am. 1998, Ord. No. 98-84, secs. 1, 2.)

Section 24-269. Schedule 17. Right turns only.

The following are designated as areas restricted to right turns only:

- (a) Hāmākua
- (b) North Hilo
- (c) South Hilo
 - (1) Hāla'i Street at Waiānuenue Avenue, northwest bound 7:15 a.m. to 8:00 a.m. on school days only.
 - (2) Punahale Street, mauka bound at Kaūmana Drive.
 - (3) Punahale Street at Komohana Street, makai bound vehicle, 7:15 a.m. to 8:00 a.m. school days only.
- (d) Ka'u
- (e) Kohala
- (f) Kona
 - (1) Sarona Road, east bound, at Kuakini Highway.

(g) Puna

(1996, Ord. No. 96-163, sec. 2; Am. 2000, Ord. No. 00-140, sec. 1; Am. 2005, Ord. No. 05-90, sec. 2.)

Section 24-270. Schedule 18. Left turns only.

The following areas are restricted to left turns only:

- (a) Hāmākua
- (b) North Hilo
- (c) South Hilo
- (d) Ka'u
- (e) Kohala
- (f) Kona
- (g) Puna

(1996, Ord. No. 96-163, sec. 2.)

Section 24-271. Schedule 19. Prohibited left turn areas.

The following are designated as prohibited left turn areas:

- (a) Hāmākua
- (b) North Hilo
- (c) South Hilo
 - (1) Aupuni Street at Pauahi Street.
 - (2) Banyan Way at Kalaniana'ole Street.

- (3) Kaūmana Drive, mauka bound at Punahale Street.
 - (4) Kīlauea Avenue between Hualālai Street and Pauahi Street.
 - (5) Kīlauea Avenue, north bound at Lanihuli Street.
 - (6) Lanihuli Street at Kīlauea Avenue.
 - (7) Mamo Street at Kamehameha Avenue.
 - (8) Waiānuenu Avenue, for the mauka bound traffic entering the Hilo Intermediate School, and for the makai bound traffic entering the Hilo High School parking lot and the track field between the hours of 1:00 p.m. to 3:30 p.m. on school days only.
- (d) Ka'u
 - (e) Kohala
 - (f) Kona
 - (1) Kuakini Highway, north bound at Sarona Road.
 - (2) Route 180 at Route 11, for south bound motorists between the hours of 3:30 p.m. and 6:30 p.m., Monday through Friday except holidays.
 - (g) Puna
 - (1) Old 'Ōla'a-Pāhoa Road into Māmalahoa Highway in Kea'au, opposite the Kea'au Service Station.
 (1996, Ord. No. 96-163, sec. 2; Am. 2005, Ord. No. 05-90, sec. 3; Am. 2007, Ord. No. 07-86, sec. 1.)

Section 24-272. Schedule 20. Prohibited right turn areas.

The following are designated as prohibited right turn areas when appropriate signs or markings giving notice thereof shall be erected:

- (a) Hāmākua
- (b) North Hilo
- (c) South Hilo
 - (1) Waiānuenu Avenue, makai bound, into Komohana Street when traffic signal is red.
- (d) Ka'u
- (e) Kohala
- (f) Kona
 - (1) Kahakai Road, at its northern intersection with Ali'i Drive.
- (g) Puna
 (1996, Ord. No. 96-163, sec. 2; Am. 1998, Ord. No. 98-76, sec. 1; Am. 1999, Ord. No. 99-25, sec. 1.)

Section 24-273. Schedule 21. Permitted U-turn areas.

The following areas are designated as U-turn areas when appropriate signs giving notice thereof shall be erected:

- (a) Hāmākua
- (b) North Hilo
- (c) South Hilo
 - (1) Intersection of Kamehameha Avenue and Shipman Street.
 - (2) Intersection of Lihiwai Street and Liholiho Street.
- (d) Ka'u
- (e) Kohala
- (f) Kona
 - (3) Within Ka'ahumanu Square, Kailua-Kona.
- (g) Puna
 (1996, Ord. No. 96-163, sec. 2.)

Article 6. Optional Development Regulations.

Division 1. Planned Unit Development (P.U.D.).

Section 25-6-1.	Purpose.
Section 25-6-2.	Minimum land area required.
Section 25-6-3.	Application for P.U.D. permit; requirements.
Section 25-6-4.	Notice of action on P.U.D. application.
Section 25-6-5.	Procedure for processing application when use not permitted in district.
Section 25-6-6.	Actions by director on P.U.D. permit applications.
Section 25-6-7.	Reserved.
Section 25-6-8.	Reserved.
Section 25-6-9.	Reserved.
Section 25-6-10.	Criteria for granting a P.U.D. permit.
Section 25-6-11.	Height exceptions authorized.
Section 25-6-12.	Approval of variances, use permits and plan approvals issued under P.U.D. permit.
Section 25-6-13.	Effect of P.U.D. permit on other zoning provisions.
Section 25-6-14.	Time extensions and amendments.
Section 25-6-15.	Appeals.

Division 2. Cluster Plan Development (C.P.D.).

Section 25-6-20.	Purpose.
Section 25-6-21.	Minimum land area required.
Section 25-6-22.	Application for C.P.D.
Section 25-6-23.	Computation of maximum number of lots.
Section 25-6-24.	Minimum lot size in C.P.D.
Section 25-6-25.	Common land in a C.P.D.
Section 25-6-26.	Appeal of a C.P.D. decision.

Division 3. Ohana Dwellings.

Section 25-6-30.	General provisions, applicability.
Section 25-6-31.	Eligibility for ohana dwelling permit.
Section 25-6-32.	Prohibited areas.
Section 25-6-33.	Designation of the ohana dwelling unit.
Section 25-6-34.	Height limit.
Section 25-6-35.	Minimum building site area and yards.
Section 25-6-36.	Guest houses.
Section 25-6-37.	Off-street parking spaces.
Section 25-6-38.	Variances prohibited.
Section 25-6-39.	Application for ohana dwelling permit; requirements.
Section 25-6-39.1.	Action on ohana dwelling permit.
Section 25-6-39.2.	Building permit for an ohana dwelling.
Section 25-6-39.3.	Nontransferability of permit.
Section 25-6-39.4.	Pending applications.
Section 25-6-39.5.	Illegally constructed ohana dwellings.
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* **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.

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

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

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

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

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

“City of Hilo” means all of that portion of the district of South Hilo, County of Hawai‘i, which is bounded on the south side by the district of Puna; bounded on the west side by the districts of Ka‘ū and North Hilo; on the north by the ahupua‘a of Paukaa in the district of South Hilo and on the east by the sea.

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

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

“Commission” means the planning commission.

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

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

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

“Council” means the County council.

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

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

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

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

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

- (a) For property zoned Multiple-Family Residential (RM), Residential-Commercial Mixed Use (RCX), Resort-Hotel (V), Neighborhood Commercial (CN), General Commercial (CG), Village Commercial (CV), Industrial-Commercial Mixed (MCX), Limited Industrial (ML), General Industrial (MG), Downtown Hilo Commercial (CDH), or within a Planned Unit Development (PUD), Cluster Plan Development (CPD), or Project District (PD): 0.25 feet;
- (b) For property zoned Single-Family Residential (RS) or Double-Family Residential (RD): 0.5 feet;
- (c) For property zoned Residential and Agricultural (RA), Family Agricultural (FA), Agricultural (A), Intensive Agricultural (IA), or Agricultural Project District (APD): 0.75 feet.

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

“Director” means the director of the planning department.

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

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

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

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

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

“Erected” means constructed, reconstructed, altered, placed, or moved.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Unless a use permit or special permit is obtained:

(1) A group living facility shall have no more than eight residents;

(2) Only one group living facility per tax map key parcel;

(3) No other such licensed or certified dwelling shall be located within 500 feet of the perimeter of any tax map key parcel containing any other group living facility, with the exception of an adult residential care home or an intermediate care facility/mental retardation community (ICF/MR-C).

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

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

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

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

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

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

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

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

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

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

- (A) Fixtures, appliances or devices for heating or cooking food; and
- (B) Fixtures, appliances or devices for washing utensils used for dining and food preparation and/or for washing and preparing food.

“Land use” means use of land, building use and use of any building.

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

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

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

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

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

- (A) “Interior lot line” which is any lot line other than the street frontage.
- (B) “Rear lot line” which is the lot line that is generally opposite the street frontage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) “Front yard” which is a yard lying between the street line on which the building site fronts or the future width line or the plan line for future street and a line parallel thereto which runs through the point of the building nearest to said street line, future width line or plan line. The depth of said yard is the distance between the parallel lines.
- (B) “Rear yard” which is a yard lying between the rear lot line and a line parallel thereto extended to intersect the side lot lines, which line runs through the point of a main building nearest the rear lot line. The depth of said yard is the distance between the parallel lines.
- (C) “Side yard” which is a yard lying between the front yard, the rear yard, the side lot line and a line parallel thereto which runs through the point of the building nearest to said lot line. The width of said yard is the distance between the parallel lines.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2000, Ord. No. 00-152, sec. 1; Am. 2002, Ord. No. 02-70, sec. 2; Am. 2007, Ord. No. 07-55, sec. 1.)

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ZONING

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Article 2. Administration and Enforcement.**Division 1. General Administration.****Section 25-2-1. Duties of county officers.**

- (a) The building official shall enforce any provisions of this chapter relative to building construction and occupancy.
- (b) The director shall enforce all other provisions of this chapter pertaining to land use.
- (c) All law enforcement officers of the County shall enforce all the provisions of this chapter. (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

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

All departments, officials, and public employees authorized to issue permits or licenses shall conform to the provisions of this chapter and no permit or license for any use, building, or other purpose shall be issued where the license or permit would be in conflict with the provisions of this chapter. Any permit or license, if issued in conflict with the provisions of this chapter, shall be void. (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

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

- (a) Any application filed with the director or the commission, pursuant to this chapter, including but not limited to a zoning amendment, variance, use permit, plan approval, ohana dwelling permit, planned unit development permit, or cluster plan development permit, shall be reviewed by the director for completeness within fifteen days from the date that the application was filed by the applicant. An application may be filed with the director or the commission either by hand or mail delivery to the Hilo or Kona department.
- (b) All applications shall be accompanied by a certification of clearance from the director of finance that the real property taxes and all other fees relating to the subject parcel or parcels have been paid, and that there are no outstanding delinquencies. Any application not accompanied by such certification of clearance will be deemed defective.
- (c) During the fifteen-day period, the director shall either determine that the application is complete and accept the application as of the date that the application was filed by the applicant or shall determine that the application is defective.
- (d) If the director determines that the application is defective, the application shall be returned to the applicant together with a deficiency notice, to be postmarked within the fifteen-day review period, which lists the information missing from the application.
- (e) Any application that is rejected as defective may be refiled together with a copy of the deficiency notice and the required additional information. The resubmitted application shall be accepted as complete as of the date of resubmission, provided that all required additional information has been submitted.

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- (3) Within sixty days after receipt of the amendment from the director, the commission shall transmit the proposed amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the sixty-day period, such inaction shall be considered as unfavorable recommendation by the commission, and the amendment shall then be submitted through the mayor to the council with such recommendation.
- (b) The council shall refer any proposed council-initiated amendment to this chapter to the director and the commission with requests for their respective comments and recommendations thereon, prior to the first reading of any such amendment. The director and the commission shall each submit comments and recommendations on the proposed amendment to the council within one hundred twenty days from the date that the amendment is transmitted by the council to the director and the commission.
 - (1) The director shall submit comments and any recommendations to both the commission and the council within the one-hundred-twenty-day review period.
 - (2) The commission shall hold at least one public hearing on the proposed amendment. Notice of the hearing by publication shall be provided by the commission in accordance with section 25-2-5, except that when a proposed amendment involves a specific parcel of land, notice shall be provided by the commission in accordance with subsections (c) and (d).
 - (3) The commission shall transmit the amendment together with its recommendations thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such amendment. In the event that the commission fails to act on the amendment within the one-hundred-twenty-day review period, such inaction shall be considered as an unfavorable recommendation by the commission.
 - (4) After the one-hundred-twenty-day review period has expired, the council may proceed to act on the proposed amendment as it deems appropriate.
- (c) Notice by mail to surrounding owners and lessees of record of properties within the boundaries established by section 25-2-4, shall not be required for any amendment initiated by the council or the director. In lieu of mailing written notice to surrounding property owners and lessees of record, the director shall publish notice of the commission's public hearing in at least two newspapers of general circulation in the County, once a week for three consecutive weeks, with the last notice to be at least ten days prior to the hearing. The notice shall specify the time, date and place of the hearing, its purpose and a description of any property which may be involved.
- (d) Notice to owners of any properties specifically subject to the proposed amendment shall be provided by mail from the director, no later than thirty days prior to the commission's public hearing on the amendment.

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

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

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

- (b) Changes or alterations of conditions of any change of zone ordinance shall be processed in the same manner as a zone change, unless the council authorizes the changes or alterations to be made by the director. A request for any change or alteration of conditions shall be submitted in writing to the director, in lieu of the application required for an applicant-initiated change of zone. The request shall be accompanied by a filing fee of \$250.
- (c) Failure to fulfill any conditions of the zone change within the specified time limitations, or any extensions thereto, may be grounds for the enactment of an ordinance making further zone changes or for rezoning the affected property back to its original zoning designation or a more appropriate zoning designation, upon initiation by either the director or the council in accordance with section 25-2-43.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-45. Nonsignificant zoning changes.

The director may administratively grant any nonsignificant zoning change. A nonsignificant zoning change must comply with the designations for the property set forth in the general plan and any development plan adopted by ordinance, and must either:

- (1) Not result in a net increase in the density allowed in the zoning district(s) containing the affected area; or
- (2) Be the lesser of a five percent or one acre increase or decrease in the area of any zoning district(s).
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-46. Concurrency requirements.

- (a) Purpose. In addition to requirements otherwise imposed, this section creates concurrency standards for roads and water supply in change of zone actions.
- (b) Applicability. This section applies to any application for change of zoning district, or for an extension of time to perform a condition of zoning, received by the planning department after the effective date of this ordinance.
- (c) Definitions. As used in this section:
 - “Acceptable level of service” means that the level of service of a transportation facility at the a.m. and p.m. peak hour is “D” or better.
 - “Approved development” means development for which zoning has been granted by the County.
 - “Critical road area” means a geographical area where any of the transportation facilities serving the area have been determined by the council to be worse than the acceptable level of service.
 - “Immediate vicinity of a project” means the area in which transportation facilities will be required to mitigate impacts caused primarily by the project.
 - “Level of service, or LOS” means a qualitative measure describing operational conditions within a traffic stream, and shall be determined using the procedures in the latest edition of the Highway Capacity Manual, Transportation Research Board.
 - “Mitigation” means specific actions to reduce traffic congestion. Mitigation is of two types: “local mitigation” which consists of improvements to roads and intersections that are in the immediate vicinity of a project, including channelization of intersections, turn lanes into a project and similar improvements. “Area mitigation” consists of improvements which increase the capacity of an arterial or other major road, such as additional lanes, in the general region containing the project, or construction of a new arterial or collector road in the general area containing the project, or improvements to public transportation such as buses or park and ride facilities, sufficient to offset the traffic demand generated by the project.
 - “Occupancy” means (1) the issuance of a certificate of occupancy for a commercial, multifamily, industrial building, hotel or other structure requiring a certificate of occupancy; (2) the issuance of a building permit for residential buildings that do not require a certificate of occupancy; or (3) final subdivision approval for subdivisions where dwellings are allowed, but dwellings are not being constructed before sale of any lot.

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

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

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

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

(d) Traffic impact analysis report required.

- (1) A traffic impact analysis report (TIAR), prepared or updated within six months before the submission of the application, shall be included with the application for any change of zone that can generate fifty or more peak hour trips. The determination of peak hour trips shall be based on the Institute of Transportation Engineers, “Trip Generation Handbook”, or any other nationally recognized source. When the number of trips depends upon the exact future uses of the site, and those are unknown at the time of rezoning (for example, the types of commercial uses), the determination shall be based upon a typical mix of uses found in that zoning type in the community. The TIAR shall be certified as having been conducted in accordance with best practices by a professional engineer licensed in the State of Hawai‘i.
- (2) The TIAR shall assess impacts to transportation facilities in the immediate vicinity and general area of the project, and to the transportation facilities serving the project area.
- (3) The TIAR shall include projections for future growth in traffic, for a minimum of five, ten, and twenty years, and shall include other approved or proposed development that is expected to impact the project area, with reasonable assumptions about the build-out of such development.
- (4) The TIAR shall present an assessment of the impacts of the project on LOS and an evaluation of alternative plans for mitigating those impacts. The evaluation shall include budgetary cost estimates for the capital and operating costs of promising alternative plans.

(e) Mitigation required.

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

(f) Mitigation requirements will be deemed satisfied when:

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

- (g) A developer's area mitigation expenses shall be credited against any fair share or similar fee requirement for roads. A developer's local mitigation expenses shall be credited against any fair share or similar fee requirement for roads if the council determines that the mitigation substantially benefits the general public and was not necessary primarily for the benefit of the project. In general, roads that are necessary for access to or within a development or turn lanes for a private project shall not qualify for fair share credit.
- (h) The following types of rezoning applications shall be required to submit a TIAR when required by this section, but shall not be required to perform area mitigation:
- (1) Residential or other rezonings where the applicant commits, and the conditions of zoning require, that the project earn at least two times the number of affordable housing credits otherwise required under chapter 11, County affordable housing policy, provided further that the applicant shall be entitled to the full amount of "excess credits" under section 11-15, County affordable housing policy, based on the number of affordable housing credits normally required.
 - (2) Rezoning to CV, CN, MCX, PD, or ML where the council determines that the project will reduce regional traffic congestion by providing necessary commercial or light industrial opportunities to serve an area where there is a shortage of available space zoned for such uses, and substantial residential development has already been approved, provided that conditions of zoning shall ensure that any commercial development be of a scale consistent with the standards of a "neighborhood center" as described in the general plan.
- (i) The restrictions on occupancy shall not apply to the construction of infrastructure such as water tanks, roads, sewage treatment plants, or other project elements that do not generate substantial traffic.
- (j) The council may designate critical road areas by ordinance.
- (k) In a critical road area, all rezonings shall be subject to local and area mitigation, except as stated in subsection (h).
- (l) In order to determine whether a rezoning application meets the TIAR threshold of fifty or more peak hour trips, and to prevent applicants from going below the TIAR threshold by dividing a project into segments, the director shall review all development proposed on the same or adjacent properties, and shall include traffic that may be generated by any development application approved after the effective date of this ordinance, or by any other pending development application, if it is on a portion of the same lot or tax map key parcel, or an adjoining lot or tax map key parcel, or in the immediate vicinity of the development.
- (m) A change of zone application shall not be granted unless: (1) the department of water supply has determined that it can meet the water requirements of the project and issue water commitments using its existing system; or (2) specific improvements to the existing public water system, or a private water system equivalent to the requirements of the department of water supply will be provided to meet the water needs of the project and conditions of zoning delay occupancy until the necessary improvements are actually constructed.
- (n) To facilitate the development of village centers in rural areas that are not currently served by a public water system, the council may waive the water supply requirements for rezonings for commercial or light industrial uses in areas that do not currently have a public water system, and where the department of water supply has no plans to build a public water system, and which are (1) designated as an "urban and rural center" or "industrial area" on table 14-5 of the general plan and (2) designated for urban use on the land use pattern allocation guide map of the general plan; provided that conditions of zoning shall require water supply consistent with public health and safety needs such as sanitation and fire-fighting.
- (o) Nothing in this section shall limit the ability of the council to impose reasonable roadway or water improvement requirements on changes of zone or to deny change of zone applications to the extent otherwise allowed by law.
- (2007, Ord. No. 07-99, sec. 2.)

Division 5. Variances.**Section 25-2-50. Variances permitted.**

Variances from the provisions of this chapter may be granted; provided that a variance shall not allow the introduction of a use not otherwise permitted within the district; and provided further that a variance shall not primarily effectuate relief from applicable density limitations.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-2-51. Grounds for variance.

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

- (a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of that property; and
- (b) There are no other reasonable alternatives that would resolve the difficulty; and
- (c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

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

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

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

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

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

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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.)

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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) Group living facilities that exceed the criteria in subsection 25-1-5(b), paragraph (b) of the definition of "group living facility" in the RS, RD, RM, RCX, RA, FA, A, CN, CG, CV, and V districts.
 - (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes, and other similar uses devoted to the care or treatment of the aged, the sick, or the infirm in the RS, RD, RM, RCX, RA, FA, A, and V districts, provided that a minimum building site area of ten thousand square feet shall be required within the RS, RD, RM, RCX and RA districts.
 - (8) Major outdoor amusement and recreation facilities in RS, RD, RM, RCX, RA, A, CN, CG, CV, MCX, ML, MG and O districts.
 - (9) Mortuaries in RS, RD, RM, RCX, RA, FA and A districts.
 - (10) 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.
 - (11) Telecommunication antennas and towers in RS, RD, RM, and RCX districts.
 - (12) Yacht harbors and boating facilities in the RS, RD, RM, RCX, RA, V, CG, CV, MCX, ML, MG and O districts.
 - (13) Other unusual and reasonable uses which are not specifically permitted in any zoning district with the approval of the director and the concurrence of the council by resolution.
- (b) Any use which received an approval as a conditionally permitted use prior to September 25, 1984, or which received prior approval through the use permit process, is considered a legal use of the affected parcel and may be expanded or enlarged without obtaining another use permit, provided such expansion, enlargement or addition is in full compliance with this chapter and the applicable district regulations.
- (c) A use permit shall not be required for any use described in subsection (a) above, if a special permit is obtained for that use, pursuant to section 205-6, Hawai'i Revised Statutes.

(1996, Ord. No. 96-160, sec. 2; ratified and amended April 6, 1999; Am. 2007, Ord. No. 07-55, sec. 2.)

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

- (a) An application for a use permit shall be made to the commission, in accordance with its rules, on a form prescribed by the commission.
- (b) The application shall be accompanied by:
- (1) A filing fee of \$250;

- (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 or major agricultural products processing facility. The director shall determine whether an agricultural products processing facility shall be considered major or minor at the time of building permit review, or earlier at the applicant's request.
- (f) Plan approval may be required as a condition of approval of any use permit, variance, or other action relating to a specific use, in which case the use or development so conditioned may not be established until plan approval has been secured.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999, Am. 2005, Ord. No. 05-155, sec. 2; Am. 2007, Ord. No. 07-56, sec. 3.)

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999, Am. 2007, Ord. No. 07-56, sec.3.)

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.)

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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, noise, and odor impacts are mitigated.
 - (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; Am. 2007, Ord. No. 07-28, sec. 2.)

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.)

- (c) The director may approve site plans for an agricultural project district only if the applicant has complied with all of the conditions contained in the agricultural project district enabling ordinance and the site plans conform to the standards contained in the agricultural project district enabling ordinance. The director may approve the site plans subject to conditions, or the director may approve the site plans subject to certain changes in the proposed site plans when, in the director's opinion, such conditions or changes are necessary to carry out the purposes of the agricultural project district, this chapter and the considerations contained in section 25-6-57.
- (d) If the director fails to render a decision on the site plans within the prescribed period, the site plans shall be considered approved without further certification by the director.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-57. Review criteria and conditions of approval.

In reviewing site plans for an agricultural project district, the director shall consider the proposed development and uses in relation to the surrounding properties, improvements, streets, traffic, community characteristics, and natural features, and to the agricultural and accessory residential uses contemplated, and may require conditions or changes to assure:

- (1) Adequate light and air, proper siting and arrangements of all structures and improvements are provided;
 - (2) Existing and prospective traffic movements will not be hindered;
 - (3) Adequate off-street parking is provided to serve the development or use;
 - (4) Access to the parking areas will not create potential accident hazards; and
 - (5) Within reasonable limits, any natural and man-made features of community value are preserved.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-6-58. Construction in conformity with approved site plans.

Every structure, development and use contained in site plans for an agricultural project district approved by the director shall be constructed and developed in accordance with the terms, specifications and conditions of approval for those site plans.

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

Section 25-6-59. Plan approval issued by approval of site plans.

Plan approval shall be considered issued when site plans for an agricultural project district are approved by the director, as provided by sections 25-6-56 and 25-6-57, and no further action is required for the issuance of plan approval under this chapter.

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

Section 25-6-59.1. Amendments.

Any amendment to the conditions and standards contained in an agricultural project district enabling ordinance shall be processed in the same manner as the agricultural project district enabling ordinance, unless the council in the agricultural project district enabling ordinance authorizes the amendments to be made by the director. A request requiring an amendment of the enabling ordinance shall be submitted in writing to the director, in lieu of the application required for an agricultural project district. The request shall be accompanied by a filing fee of \$250.

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

Section 25-6-59.2. Appeal of director's actions on agricultural project district site plans.

Any person aggrieved by the decision of the director in the issuance of a decision regarding agricultural project district site plans may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the written decision is issued by the director.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Division 6. Scenic Corridor Program.**Section 25-6-60. Purpose and applicability.**

In the County of Hawai'i, there are certain segments of public roads, or portions thereof, that expose traveling residents and visitors to notable and/or unique resources. As established by the national and/or state scenic byways program, the identification of these portions of public roads as scenic corridors is intended to provide for the enhancement of important scenic, historic, recreational, cultural and/or natural resources accessed from such a transportation corridor. This planning approach establishes the opportunity for continuity and/or enhancement of land uses and designs for natural, cultural, historic, recreational and/or scenic resources located along a transportation corridor and provides a diversity of regulatory and non-regulatory tools and techniques to apply to a variety of circumstances for a corridor identified by ordinance as a scenic corridor in the County of Hawai'i.

The Hawai'i County council may, by ordinance, establish all or portions of public roadways and an appropriate portion of the adjacent property as a scenic corridor. Within such an area, all permitted uses defined by the underlying zoning classification will remain in place unless otherwise specified by the scenic corridor enabling ordinance. Any standards and conditions not included in the underlying zoning related, but not limited, to signage, lighting, design standards, access management, landscaping, parking, height, historic and cultural preservation, view planes, and/or setbacks must be included as part of the scenic corridor management plan and adopted by scenic corridor enabling ordinance by the County council. The scenic corridor management plan must demonstrate the need for the adoption of special standards and conditions in order to preserve, maintain, protect, or enhance the intrinsic character of the corridor consistent with the purposes of this chapter.

(2007, Ord. No. 07-36, sec. 1)

Section 25-6-61. Criteria for establishing a scenic corridor.

A scenic corridor may be adopted as an amendment to this chapter whenever the public necessity, convenience, general welfare, and/or the public trust require that a comprehensive planning approach for a transportation corridor be adopted in order to establish continuity in land uses while providing the required infrastructural facilities and systems. A scenic corridor may only be established if the proposed district meets the following criteria:

- (1) Is consistent with the intent and purpose of this chapter and the County general plan.
- (2) Will not result in a substantial adverse impact upon the surrounding area, community and/or region.
- (3) Will enhance Hawai'i County's significant natural, visual, recreation, historic and/or cultural qualities.
- (4) Will protect and enhance the attractiveness of Hawai'i County to make it a better place to live, work, visit, and/or play.
- (5) Will improve Hawai'i County's economic vitality by enhancing and protecting our unique natural, scenic, historic, cultural, and/or recreational resources.
- (6) Is located on a major or minor arterial highway, or collector road.
- (7) Significantly possesses at least one of the following intrinsic qualities:
 - (A) Scenic;
 - (B) Natural;

- (C) Historic;
- (D) Cultural;
- (E) Archaeological;
- (F) Recreational; or
- (G) Demonstrates local, private, and public support and participation.

(2007, Ord. No. 07-36, sec. 1)

Section 25-6-62. Permitted uses.

Within a scenic corridor all zoning code regulations applicable to the zoning district or districts in question remain in effect unless differing regulations are contained within the corridor management plan as adopted by ordinance, in which case the corridor management plan shall apply.

(2007, Ord. No. 07-36, sec. 1)

Section 25-6-63. Initiation of a scenic corridor; requirements.

(a) The director or council by resolution must initiate the establishment of a scenic corridor. The resolution must demonstrate that the proposed scenic corridor meets the requirements of 25-6-61. The resolution must include:

- (1) A description and general location of the proposed corridor.
- (2) The length of the section of road to be included in the scenic corridor.
- (3) A description of the corridor's intrinsic quality or qualities.
- (4) A list of names, addresses and tax map key numbers for those property owners and lessees of record of lots within three hundred feet of the public road being proposed to be designated as a scenic corridor.
- (5) Any other plans or information required by rules adopted by the director in accordance with chapter 91 of the Hawai'i Revised Statutes.

(b) Within thirty days of the adoption by the council of the resolution, the director shall serve notice of the proposed scenic corridor upon all owners and lessees of lots, and utility companies with easements and/or other property rights, whose properties are either (1) within the proposed scenic corridor, or (2) within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall give a general description of the scenic corridor and describe the opportunity for public comment.

(c) Corridor management plan.

Within twenty-four months after the adoption of the resolution, the director shall complete a corridor management plan and enabling ordinance, which will be forwarded to the planning commission for its recommendation to the Hawai'i County council. A scenic corridor management plan is a written document that assesses the intrinsic qualities of the corridor and specifies actions, procedures, controls, and administrative as well as community strategies that will be pursued to maintain those qualities. Special conditions and standards developed for an individual scenic corridor shall be included as part of the enabling ordinance. Elements of the corridor management plan will include:

- (1) Vision and goals statement.
- (2) A map identifying scenic corridor boundaries and the location of intrinsic qualities and different land uses within the scenic corridor.
- (3) An assessment of such intrinsic qualities and their context.
- (4) An assessment of needs and expectations.
- (5) An assessment of anticipated transportation, economic, environmental and social impacts.
- (6) Strategies for economic development and marketing of the scenic corridor.
- (7) Strategies for maintaining and enhancing the corridor's intrinsic qualities.
- (8) Strategies for community participation.

- (9) Identification of organizations, agencies and individuals to be consulted in the planning process.
 - (10) Identification of regulatory and non-regulatory tools recommended that could aid in the implementation of the scenic corridor management plan. The evaluation and selection of tools needed to protect and/or enhance the corridor should be based on the following criteria:
 - (A) The ability to insure that new development is consistent with the conditions and standards established for the scenic corridor, while maintaining the property owners rights to reasonable use of the property;
 - (B) The ability to provide the appropriate degree of development and aesthetic control needed to preserve and enhance quality of the corridor; and
 - (C) The ability to provide flexible, diverse and suitable regulatory and non-regulatory tools and techniques to a variety of circumstances.
 - (11) Specific time schedules for plan implementation.
 - (12) Standards for building design, signage, and roadway elements. In the case where the transportation corridor has not been built, the corridor management plan may include special design standards for the corridor development.
 - (13) Methods for interpreting and protecting significant resources.
 - (14) Identification of potential funding sources.
 - (15) Provisions for termination of the corridor management plan if it is not implemented.
 - (d) The director shall forward the corridor management plan and a proposed scenic corridor enabling ordinance to the planning commission together with the director's recommendation on the proposed scenic corridor. The purpose of the scenic corridor enabling ordinance is to establish the scenic corridor as well as any conditions and/or standards recommended by the corridor management plan that may differ from those within the underlying zoning. Any conditions and/or standards that differ from the underlying zoning must be defined through the use of a table that illustrates how standards and/or conditions in the enabling ordinance differ from those within the underlying zoning.
 - (e) The commission shall review the scenic corridor enabling ordinance and the corridor management plan and forward its recommendation to the council through the mayor for the council's consideration and action.
 - (1) In reviewing the corridor management plan, the commission shall hold at least one public hearing in the council district in which the proposed scenic corridor is located.
 - (2) Within ten days after receiving notice of the date of the public hearing, the director shall serve notice of the public hearing on owners, and lessees of record, and utility companies with easements or other property interests, whose properties are within the proposed scenic corridor, or within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall otherwise conform to section 25-2-4(c) and (d).
 - (3) Within one hundred twenty days after receipt of the corridor management plan from the director, the commission shall transmit the proposed scenic corridor ordinance and corridor management plan together with its recommendation thereon through the mayor to the council. If no recommendation is made within one hundred twenty days, the scenic corridor management plan and enabling ordinance shall be forwarded to the council with no recommendation.
- (2007, Ord. No. 07-36, sec. 1)

Section 25-6-64. Corridor advocacy groups.

- (a) A corridor advocacy group is a non-profit community-based organization formed to promote, plan, or otherwise support a scenic corridor or corridors.
- (b) The council may designate, by resolution, an official corridor advocacy group for a scenic corridor, or proposed scenic corridor.

- (c) The council may delegate the preparation of the corridor management plan to the officially-designated corridor advocacy group. In that case, the corridor advocacy group shall provide the notices required under section 25-6-63(b) and prepare a corridor management plan conforming to section 25-6-63(c). The director shall prepare an enabling ordinance and the procedure shall thereafter follow section 25-6-63(d) and (e).

(2007, Ord. No. 07-36, sec. 1)

Section 25-6-65. Conditions and standards imposed on a scenic corridor.

- (a) The council may impose conditions on the use of the property directly adjacent to the transportation corridor provided that the council finds that the conditions are:
- (1) Necessary to prevent circumstances which may be adverse to public health, safety and welfare,
 - (2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the deleterious effects of the proposed uses, or fulfillment of the need for the public service demands created by the proposed uses and
 - (3) Necessary to protect, preserve, and enhance the environmental, historic, cultural, scenic, archaeological, and/or recreational resources and intrinsic qualities identified within the scenic corridor.
- (b) In addition to the conditions in subsection (a), the council shall include conditions and standards as part of the proposed scenic corridor enabling ordinance needed to implement the intent of the corridor management plan.

(2007, Ord. No. 07-36, sec. 1)

Section 25-6-66. Review and approval of applications.

After adoption of a scenic corridor enabling ordinance and corridor management plan, all approvals including, but not limited to sign permits, grading and grubbing permits, building permits, and subdivision approvals shall conform to the standards and conditions contained in the scenic corridor enabling ordinance.

(2007, Ord. No. 07-36, sec. 1)

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Article 7. Special District Regulations.**Division 1. Kailua Village Design Commission.****Section 25-7-1. Purpose and applicability; boundaries.**

- (a) The purpose of the Kailua Village design commission is to advise the director in matters concerning the design of buildings and structures and all public and private improvements within Kailua Village.
- (b) “Kailua Village” as used in sections 25-7-1 through 25-7-5 means that area bounded by the following:
- (1) Beginning at a point on the shoreline approximately four thousand feet west of the old Kailua wharf, mauka along the west boundary of TMK: 7-5-05:10 and 68 to the northwest corner of TMK: 7-5-05:68;
 - (2) Southeast and east along the mauka boundary of the existing RS-15 zone to the west boundary of Kaiwi Street extension, mauka crossing Kuakini Highway along the west side of the Kailua Industrial Subdivision crossing Queen Kaahumanu Highway, approximately three hundred feet mauka running parallel and going east recrossing the Queen Kaahumanu Highway to the eastern end of Kalani Street;
 - (3) Southwest along the makai side of the Queen Kaahumanu Highway and its extension to the south side of the Kona Hillcrest Subdivision;
 - (4) Makai along the south side of the Kona Hillcrest Subdivision and along the south side of the parcels described as TMK: 7-5-30:23 and 24 to Kuakini Highway;
 - (5) Makai, crossing Kuakini Highway along the south side of the parcels described as TMK: 7-5-18:1,4, and 61, and TMK: 7-5-19:18 to the shoreline;
 - (6) North along the shoreline to the point of beginning and containing an area of approximately eight hundred twenty-five acres and as delineated on the map attached to Ordinance No. 628 (1974), as amended by Ordinance No. 630 (1974).

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

Section 25-7-2. Design commission membership; appointment; term.

- (a) The design commission shall consist of nine members who shall be appointed by the mayor with the approval of the council. The members shall be representative of the Kona district, provided that a majority of the appointive members shall have lived or worked in the Kailua Village for a minimum of two years prior to this appointment. The design commission members shall include two design professionals (registered architects and/or landscape architects), two members with backgrounds in building construction and/or engineering, two members with knowledge about historic Kona, its cultural values and resources, and the remaining three members representing local business or property owners.
- (b) The members shall serve staggered terms of three years. Upon the initial appointment of the design commission, three shall serve for a term of one year, three for a term of two years, and three for a term of three years. When the term of a member expires, the member shall continue to serve until a successor is appointed. Members whose terms expire may not be reappointed to the design commission for at least two years, however, members appointed for one year or less may be reappointed for an additional term without the passage of two years' time. Except as provided for in this section, the design commission shall be governed by the County Charter.

(1996, Ord. 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.
(56)	02-106	9-12-2002	Puuanahulu Homesteads, North Kona	7-1-05:9, 10, 22, 26, 28-34, 39, 40, 41, 58 and 59	(Amends Ord. 01-64) (Effective Date 7-16-01)		
(57)	04-13	2-11-2004	Kaloko, North Kona	7-3-26:16	A-20a	A-10a	
(58)	04-14	2-11-2004	Kaloko, North Kona	7-3-27:10	A-20a	A-10a	
(59)	04-63	6-14-2004	Kaloko, North Kona	7-3-25:8	A-20a	A-5a	
(60)	04-89	8-12-2004	Kaloko, North Kona	7-3-26:15	A-20a	A-10a	
(61)	04-146	12-8-2004	Kaloko, North Kona	7-3-27:21	A-20a	A-10a	
(62)	04-147	12-8-2004	Kaloko, North Kona	7-3-25:7	A-20a	FA-3a	
(63)	05-65	5-16-2005	Kaloko, North Kona	7-3-26:11	A-20a	A-10a	
(64)	05-66	5-16-2005	Kaloko, North Kona	7-3-27:7	A-20a	A-10a	
(65)	05-67	5-16-2005	Kaloko, North Kona	7-3-27:6	A-20a	A-10a	
(66)	06-4	1-13-2006	Kaloko, North Kona	7-3-26:14	A-20a	A-10a	
(67)	06-58	5-12-2006	Kaloko, North Kona	7-3-26:13	A-20a	A-10a	
(68)	06-59	5-12-2006	Kaloko, North Kona	7-3-25:9	A-20a	A-5a	
(69)	06-82	6-16-2006	Kaloko, North Kona	7-3-24:8	A-20a	FA-3a	
(70)	06-110	7-27-2006	Kaloko, North Kona	7-3-048:005	A-20a	A-10a	
(71)	07-46	4-4-2007	Pu'uuanahulu, North Kona	7-1-5:9 and 7-1-7:44-47	A-1a	O	

ZONING MAP No. 7.02 – (North Kona)

§ 25-8-3

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	124	5-1-1968	Kealakehe, North Kona	7-4-08	A-1a	RD-3.75	6.02(a), 7.02(a)
(2)	132	6-19-1968	Pahoehoe 4th, North Kona	7-7-08:101	U	V-1.25	6.02(b), 7.02(b)
(3)	140	7-17-1968	Laaloa 1st, Laaloa 2nd and Kapalaalaea 1st, North Kona	7-7-07	U	RS-10	7.02(c)
(4)	141	8-7-1968	Hokukano 1st, North Kona and Keauhau 2nd, North Kona	7-9-12	A-5a	A-1a	7.02(d)
(5)	169	11-20-1968	Kealakehe Homesteads, North Kona	7-4-08	A-1a	RM.5	7.02(e)
(6)	198	3-5-1969	Kealakehe Homesteads, North Kona	7-4-04:10 and 7-4-09:19	A-1a	RS7.5	7.02(f)
(7)	247	8-20-1969	Kealakehe Homesteads, North Kona	7-4-08:Por. 17	RD-3.75	RM-5	7.02(h)
(8)	264	9-22-1969	Honuaio 2nd, North Kona	7-9-07:22	A-5a	CV-7.5 and A-1a	7.02(g-1) and 7.02(g-2)
(9)	287	12-15-1969	Kanaeue 2nd, North Kona	7-9-13:12	RS-15	CN-10	7.02(j)
(10)	297	1-28-1970	Keahuolu, North Kona	7-4-08:Por. 1	A-1a	CV-10	7.02(i)
(11)	303	2-26-1970	Keahuolu, North Kona	7-4-08:Por. 1	U	RS-15	7.02(k)
(12)	351	11-12-1970	Holualoa 2nd, North Kona	7-6-13:19	A-1a	CV-10	7.02(l)
(13)	438	12-22-1971	Kaloko, North Kona	7-3-08:Por. 32	A-3a	A-1a	7.02(m)

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	Honuauula, 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	Auhaakeae 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'aiki 1st and Puapua'anui 1st, North Kona	7-5-17:19	A-5a	RM-2.5	
(224)	05-115	8-5-2005	Puapua'aiki 1st and Puapua'anui 1st, North Kona	7-5-17:1	A-5a	CN-20	
(225)	06-50	5-2-2006	Kalaoa 1st -4th, North Kona	7-3-49:36 and 37	O	MG-15a	
(226)	06-78	6-1-2006	Kahului 1st, North Kona	7-5-17:Por. 5 and 2	A-5a	RM-2.5	
(227)	06-85	6-16-2006	Kalaoa 5th, North Kona	7-3-61:1-10, 17, 18, 20-22, Por. 11, 12, 19, 24-26, 50, 53, 54	CN-10	RS-10	

ZONING MAP No. 7.26--(Naalehu)

§ 25-8-30

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	555	2-14-1973	Kahilipali Nui, Ka'u	9-5-22:1	RS-15, A-20a	RS-7.5	7.26(a-1 to a-2)
(2)	179	12-22-1975	Kahilipali Nui, Ka'u	9-5-21:Por. 15	RS-10	RM-3	7.26(b)
(3)	90-11	2-13-1990	Kowala, Ka'u	9-5-08:Por. 1	RS-15	CV-10	
(4)	90-129	10-20-1990	Poupouwela and Kowala, Ka'u	9-5-24:77	RS-7.5	CV-7.5	
(5)	90-131	10-20-1990	Poupouwela and Kowala, Ka'u	9-5-24:76	RS-7.5	CV-7.5	
(6)	92-14	2-18-1992	Poupouwela and Kowala, Ka'u	9-5-24:76	(Amends Ord. 90-131) (Effective Date 10-20-1990)		
(7)	92-15	2-18-1992	Poupouwela and Kowala, Ka'u	9-5-24:77	(Amends Ord. 90-129) (Effective Date 10-20-1990)		
(8)	96-55	5-10-1996	Kawala, Ka'u	9-5-21:24	RS-15	CV-7.5	
(9)	07-98	6-25-2007	Poupouwela and Kowala, Ka'u	9-5-024:008	RS-7.5	CV-7.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(303)	05-140	10-11-2005	Waiākea, South Hilo	2-2-27:42	RS-10	CN-10	
(304)	05-141	10-11-2005	Waiākea, South Hilo	2-4-9:26	RS-15	RS-10	
(305)	05-142	10-11-2005	Waiākea, South Hilo	2-2-35:9 & 10	RS-10	ML-20	
(306)	05-154	12-2-2005	Kalalau, South Hilo	2-6-8:Por. 22	RM-1	RM-10	
(307)	05-159	12-15-2005	Waiākea, South Hilo	2-2-49:24	CN-10	MCX-20	
(308)	06-28	2-24-2006	Ponahawai, South Hilo	2-3-36:18	A-1a	CN-20	
(309)	06-47	4-12-2006	Waiākea, South Hilo	2-2-28:30, 32, 33	RS-10	CG-10	
(310)	06-57	5-12-2006	Ponahawai, South Hilo	2-3-36:Por. 18 & 2-3-37:6	(Repeals Ord. 72-487) (Effective Date 8-1-1972)		
(311)	06-107	7-17-2006	Waiākea, South Hilo	2-2-034:012	RS-10	CN-20	
(312)	06-114	8-8-2006	Waiākea Houselots	2-2-34:66, 78 & 79	RS-10	CG-20	
(313)	06-123	9-19-2006	Waiākea, South Hilo	2-2-25:18	RS-10	RCX-20	
(314)	06-124	9-19-2006	Waiākea, South Hilo	2-2-34:13	RS-10	CN-20	
(315)	06-143	11-28-2006	Waiākea, South Hilo	2-2-28:31	RS-10	CG-20	
(316)	06-144	11-28-2006	Waiākea, South Hilo	2-2-037:029	(Amends Ord. 98-98) (Effective date 9-25-98)		
(317)	06-145	11-28-2006	Waiākea, South Hilo	2-2-35:63	RS-10	MCX-20	
(318)	06-146	11-28-2006	Waiākea, South Hilo	2-2-36:64	RS-10	MCX-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(319)	06-156	12-7-2006	Waiākea, South Hilo	2-2-26:24	RS-10	RM-1	
(320)	06-157	12-7-2006	Waiākea, South Hilo	2-4-80:15 (Formerly 2-4-3:Por. 4)		(Repeals Ord. 96-81)	
(321)	07-26	3-20-2007	Waiākea, South Hilo	2-4-057:029: Por. 030 & Por. 031 (Formerly 2-4-057:001)	O	RM-1	
(322)	07-27	3-20-2007	Waiākea, South Hilo	2-2-35:58	RS-10	ML-20	
(323)	07-39	4-4-2007	Waiakes, South Hilo	2-2-56:23	A-3a	RA-.5a	
(324)	07-40	4-4-2007	Waiākea, South Hilo	2-2-35:47	ML-20	MCX-20	
(325)	07-71	5-17-07	Waiākea, South Hilo	2-4-065:034	A-10a	FA-3a	

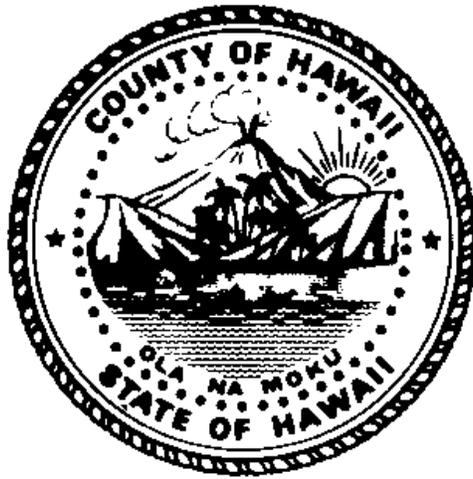
Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	Code §
06-144	11-28-06	Waiākea, South Hilo	2-2-037:029	Amends Ord. 98-98		25-8-33
06-145	11-28-06	Waiākea, South Hilo	2-2-35:63	RS-10	MCX-20	25-8-33
06-146	11-28-06	Waiākea, South Hilo	2-2-36:64	RS-10	MCX-20	25-8-33
06-152	12-13-06	Moeauoa 2nd, North Kona	7-5-3:7, 8, 9	A-5a	RA-1a and RM3.5	25-8-3
06-155	12-7-06	Ouli, South Kohala	6-2-11:20	A-5a	RA-2a	25-8-7
06-156	12-7-06	Waiākea, South Hilo	2-2-26:24	RS-10	RM-1	25-8-33
06-157	12-7-06	Waiākea, South Hilo	2-4-80:15 (Formerly 2-4-3: Pot. 4)		Repeals Ord. 96-81	25-8-33
07-11	2-21-07	Kaloko, North Kona	7-3-51:96	ML-1a	MCX-1a	25-8-3
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07-98	6-25-07	Poupouwela and Kowala, Ka'ū	9-5-024:008	RS-7.5	CV-7.5	25-8-30

THE HAWAI‘I COUNTY CODE

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A CODIFICATION OF THE GENERAL ORDINANCES
OF THE COUNTY OF HAWAI‘I
STATE OF HAWAI‘I

Office of the County Clerk
County of Hawai‘i
25 Aupuni Street
Hilo, Hawai‘i 96720
(808) 961-8386

Volume 3

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