

SUPPLEMENT 5 (1-2008)

Insertion Guide

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

(Covering general ordinances effective through 12-31-07
and numbered through 07-187)

This supplement consists of reprinted pages replacing existing pages in the Hawai'i County Code 1983 (2005 Edition). Remove the pages listed in the column headed "Remove Pages" and replace them with the pages listed in the column headed "Insert Pages." This insertion guide should be retained as a permanent record of pages supplemented and should be filed in Volume 3, behind the "Supplement Insert Guides" tab.

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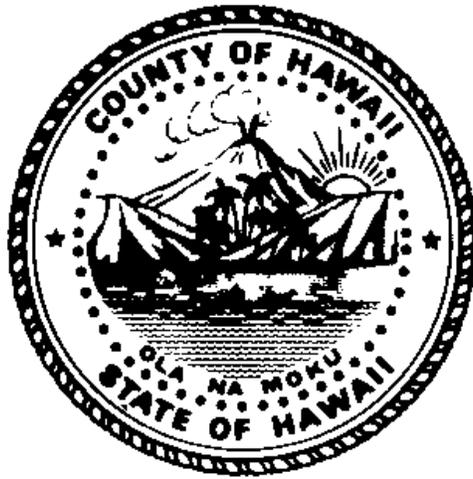
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THE HAWAI‘I COUNTY CODE

1983 (2005 Edition, as amended)

Updated to include: **Supplement 5 (1-2008)**
Contains ordinances effective through: **12-31-07**



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) 961-8255

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Section 2-35. Issuance of general reports to public; annual reports to council.

- (a) The County planning commission shall have the power to promote public interest and understanding of the general plan, and to that end, may publish and distribute copies of the plan or of any reports, and may employ such other means of publicity and education, as it finds appropriate within the limits of its appropriations and available funds.
 - (b) The commission shall, from time to time, and at least annually, submit written reports to the council, giving information regarding the condition of the County and any plans or proposals for the development of the County and estimates of the cost thereof. These reports shall contain such other suggestions and recommendations as the planning commission feels should have immediate attention.
- (1975 C.C., c. 2, art. 2, sec. 3.07.)

Section 2-35.1. Urban renewal.

The planning department is hereby determined to be the lead agency in enabling the County to directly exercise its powers as provided for in parts I and II of chapter 53, Hawai'i Revised Statutes. As the lead agency, the planning department shall delegate the responsibilities of the Hawai'i redevelopment agency to the appropriate departments, commissions and agencies to insure that the procedures of compliance are adhered to. (1992, Ord. No. 92-37, sec. 2.)

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

It is the purpose of this article to provide the necessary leadership to anchor the department of research and development's planning, policies, goals and actions in sustainable economic, societal and environmental practices. The adoption and employment of sustainable practices as a framework for business as usual through systematic change processes which shall result in concrete outcomes, changes in multiple functions or portions of the system, and institutionalization of these changes on an on-going basis to address sustainable agriculture; alternative energy, fuel and waste management; ecological education, business development, green housing and buildings; and protection of biodiversity. (2007, Ord. No. 07-161, sec. 1.)

Section 2-37. Sustainability Action Committee.

- (a) There shall be designated within the department of research and development a sustainability action committee, which shall sit in an advisory capacity to the director of the department on matters that support a sustainable economy, society and environment and are within the department's purview to include energy, business development, agriculture, tourism, film, community development, and other related subjects. The department shall provide support service to the committee.
- (b) Membership and term. The committee shall be composed of five members, who shall be appointed by the mayor and confirmed by the council. Any member of the committee may be removed upon recommendation of the mayor and the approval of the council. Members shall serve a term of five years. However, for the initial appointment of members, one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. In addition to the five members, the director or the director's designee will serve as an ex-officio member of the committee.

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

- (c) The members shall be broadly representative of the County and shall be selected on the basis of their knowledge, expertise, proven innovative and technical skills and ability to network and source cutting edge technologies, with interests in one or more of the following areas: agriculture, business, energy, tourism, community, economics, planning, architectural design, community facilitation and Hawaiian culture.
- (d) No member shall be eligible for a second appointment to the committee prior to the expiration of two years, provided that members appointed for a term of one year or two years shall be eligible to succeed themselves for an additional term.
- (e) No member whose term has expired shall continue to serve on the commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (f) Any vacancy occurring in the committee shall be filled for the unexpired term.
- (g) Not more than a bare majority of the members shall belong to the same political party.
- (h) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses maybe paid in advance as per diem allowance pursuant to chapter 2, article 16 of the Hawai‘i County Code.
- (i) A chairperson shall be elected from its membership annually.
- (j) The affirmative vote of a majority of those members present shall be necessary to make any action valid.
- (k) The committee shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the committee is entitled.
- (l) No person shall, by reason of occupation alone, be barred from serving as a member of this committee.
- (m) The council shall act to confirm or reject any appointment made to the committee by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.

(2007, Ord. No. 07-161, sec. 1.)

Section 2-37.1. Duties of the committee.

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

(2007, Ord. No. 07-161, sec. 1.)

Section 2-37.2. Guidelines for committee recommendations.

- (a) The sustainability action committee shall apply guiding principles of sustainability as a framework for identification of issues, research and innovative actions. These principles shall include:
 - (1) Reduced dependence upon fossil fuels, extracted underground metals and minerals;
 - (2) Reduced dependence on chemicals and other manufactured substances that can accumulate in nature;

- (3) Reduced dependence on activities that harm life-sustaining ecosystems; and
 - (4) Meeting the hierarchy of human needs fairly and efficiently.
 - (b) The sustainability action committee shall employ a “systems approach” to identify upstream root causes and outcomes and shall recommend appropriate research, planning and implementation initiatives; outcome measures and indicators; engagements and partnerships as may be necessary to guide the department to innovative and successful sustainable models that effectuate the purpose of this article.
 - (c) The sustainability action committee shall consider the recommendations provided in the general plan, community development plan ordinances, community visioning processes and other agencies’ planning documents. Additionally, the committee shall seek innovative solutions, programs and initiatives based upon sustainable precepts of native Hawaiian culture and other local, national and international resources to advance the purpose of this article and seek the necessary technical and other support required for implementation by the department, other agencies and the community. The committee shall encourage and participate in the internal and external network opportunities at the local, state, national and international levels.
- (2007, Ord. No. 07-161, sec. 1.)

Article 9. Department of Public Works.

Division 1. Organization.

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

There shall be a department of public works headed by a director of public works.
(1975 C.C., c. 2, art. 3, sec. 1.01; Am. 2001, Ord. No. 01-108, sec. 1.)

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

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

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

(1975 C.C., c. 2, art. 3, sec. 1.02; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 2-40. Duties and functions of department.

The department shall be responsible for:

- (1) The performance of all matters relating to engineering;
- (2) Public and private building construction and inspection;
- (3) Public improvements;
- (4) Construction, inspection, and maintenance of public highways, bridges, streets, and sidewalks;
- (5) Acquisition of public and private property for public purposes;
- (6) Design and maintenance of a system of traffic control and devices; and
- (7) Construction and inspection of all other County projects, except for matters relating to the department of water supply.

(1975 C.C., c. 2, art. 3, sec. 1.03; Am. 2002, Ord. No. 02-56, sec 3.)

Section 2-41. Divisions within department.

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

- (1) Engineering Division. The engineering division is responsible for coordinating the planning, engineering, and implementation of the highway and drainage capital improvement projects,

coordinating all land surveying, conducting necessary land rights acquisition, and providing construction inspectional services.

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

(1975 C.C., c. 2, art. 3, sec. 1.04; Am. 1983, Ord. No. 83-26, sec. 1; Am. 1985, Ord. No. 85-54, sec. 2; Am. 1986, Ord. No. 86-119, sec. 2; Am. 1988, Ord. No. 88-7, sec. 2; Am. 2001, Ord. No. 01-108, sec.1; Ord. No. 01-110, sec. 1.)

Division 2. Reserved.

(Am. 1983, Ord. No. 83-26, sec. 2.)

Article 10. Junior Police Officers.

Section 2-51. Financial aid to parents.

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

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

(1975 C.C., c. 2, art. 4, sec. 2.05.)

Section 2-52. Reporting of injury; investigation.

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

(1975 C.C., c. 2, art. 4, sec. 2.06.)

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

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

(1975 C.C., c. 2, art. 3, sec. 3.01.)

Section 2-54. Powers and duties of director.

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

(1975 C.C., c. 2, art. 3, sec. 3.02.)

Section 2-55. Deputy director.

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

(1975 C.C., c. 2, art. 3, sec. 3.03.)

Section 2-56. Full-time employees.

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

(1975 C.C., c. 2, art. 3, sec. 3.04.)

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

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

(1975 C.C., c. 2, art. 3, sec. 3.05.)

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

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

(1975 C.C., c. 2, art. 3, sec. 3.06.)

HAWAI‘I COUNTY CODE

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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.

As used in this article:

“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.

“Board” means the board of ethics.

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

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

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

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

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

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

“Officer” includes the following:

- (1) The mayor, members of the council, and all other elected officials of the County;
- (2) Any person appointed as the administrative head of any agency of the County;
- (3) The first deputy or first assistant to the administrative head of any agency of the County;
- (4) Any person appointed as a member of a board or commission specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
- (5) Any person appointed as a member of any board or commission not specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
- (6) The managing director and deputy managing director.

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

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

(1975 C.C., c. 2, art. 8, sec. 4; Am. 2002, Ord. No. 02-109, sec. 2; Am. 2007, Ord. No. 07-132, sec. 1.)

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.

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

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

(1975 C.C., c. 2, art. 8, sec. 8.03.)

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

(a) Definitions. The following words used in this section shall have the respective meanings in this section:

- (1) "Candidate" has the meaning given it by section 11-191(3),* Hawai'i Revised Statutes;
- (2) "Elective" means all elective offices of the County of Hawai'i;
- (3) "Income" means gross income defined by section 61 of the Internal Revenue Code of 1954;
- (4) "Regulatory employee" means:
 - (A) Supervisors of inspectors employed by the department of public works;
 - (B) Inspectors employed by the department of public works;
 - (C) Supervisors of liquor control investigators;
 - (D) Liquor control investigators;
 - (E) Buyers and purchasing agents;
 - (F) Supervisors of real property tax appraisers;
 - (G) Real property tax appraisers;
 - (H) Planners employed by the planning department;
 - (I) Supervisors of inspectors employed by the department of water supply;
 - (J) Inspectors employed by the department of water supply;
 - (K) The legislative auditor.

(b) Filing of financial disclosures.

- (1) Candidates to Office. All candidates for elective office for the County of Hawai'i shall file a financial disclosure as provided herein within ten working days after the deadline for filing as a candidate for office.
- (2) Officers. All officers shall file a financial disclosure as provided herein within twenty working days after taking the oath of office or within twenty working days after the effective date of this section and annually thereafter on or before January 31 of each year until the end of the term of office.

If an officer is re-elected to office or reappointed to office for a new term, the foregoing requirement for filing financial disclosures shall be observed.

- (3) Regulatory Employees. All regulatory employees shall file a financial disclosure as provided herein on or before January 31, 1984, and thereafter biennially on or before January 31 of the biennium year. Persons becoming regulatory employees on or after January 31, 1984, shall file the initial financial disclosure as provided herein within thirty working days of commencement of employment or term of office.

(c) The disclosure of financial interests shall state the financial interests of the person disclosing, whether held in the person's name or by any other person for the person disclosing's use and benefit, and shall include:

- (1) The source, nature, and amount of all income of \$1,000 or more received during the preceding calendar year; provided that information that may be privileged by law need not be disclosed.
- (2) The name of each creditor to whom the value of \$3,000 or more was owed during the preceding calendar year and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.

- (3) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business having a value of \$5,000 or more, or interest equal to ten percent or more of the ownership of the business and, if the interest was transferred during the preceding calendar year, the date of the transfer; provided that an interest in the form of an account in a Federal or State regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed.
 - (4) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the preceding calendar year, the term of office and the annual compensation.
 - (5) A description of all real property in which the person now holds, or held during the preceding calendar year, an interest valued at \$5,000 or more, its tax map key, street address, and fair market value, and, if the interest was acquired or transferred during the preceding calendar year, the consideration paid or received for the interest and the name of the person or entity paying or receiving the consideration.
 - (6) The amount and identity of all creditor interests in an insolvent business held during the preceding calendar year having a value of \$5,000 or more.
 - (7) The names of clients personally represented before County agencies, except in ministerial matters, for a fee or compensation during the preceding calendar year and the names of the County agencies involved.
 - (8) On any item which calls for the stating of a dollar amount, this value may be reported by using an appropriate letter code as follows:
 - (A) Less than \$1,000;
 - (B) At least \$1,000 but less than \$10,000;
 - (C) At least \$10,000 but less than \$50,000;
 - (D) At least \$50,000 but less than \$100,000;
 - (E) At least \$100,000 but less than \$300,000;
 - (F) At least \$300,000 but less than \$700,000;
 - (G) At least \$700,000 but less than \$1,000,000;
 - (H) More than \$1,000,000.
- (d) Filing requirements.
- (1) All public financial disclosures shall be filed with the office of the County clerk. All confidential disclosures shall be filed with County board of ethics.
 - (2) The form for all public financial disclosures shall be as prescribed by the County clerk. The forms for confidential disclosures shall be as prescribed by the County board of ethics.
 - (3) Any officer or regulatory employee of the County shall file a financial disclosure as prescribed herein ten working days before an officer is to leave office or a regulatory employee is to terminate employment with the County. This requirement will also include transfer of an officer or regulatory employee from the County to either the State or Federal governments, or the transfer of an officer or regulatory employee to a County position for which financial disclosure is not required.
- (e) The financial disclosure statements of the following persons shall be public record and may be opened for inspection by the public during office hours of the County clerk:
- (1) All candidates for elective office.
 - (2) All elected officers.
 - (3) The administrative heads of the County agencies and their first deputies.
 - (4) The managing director and deputy managing director.
- All other financial disclosure statements required to be filed under this section shall be confidential and accessible only by action of the board of ethics.

- (f) Penalty.
- (1) Officers and regulatory employees subject to section 2-91.1(b).
Any officer or regulatory employee of the County who fails to file a financial disclosure as required in this section shall be subject to the provisions of section 2-91 hereof relating to noncompliance.
 - (2) Any candidate who fails to file a financial disclosure as prescribed herein shall be guilty of a misdemeanor and subject to a fine of \$1,000 and imprisonment of one year.
- (g) Notwithstanding any other disclosures filed under this section, it shall be incumbent upon all employees or officers of the County to make a full disclosure in writing to their appointing authority or to the council in the case of an elective officer, whenever the employee or officer possesses or acquires any interests, financial or otherwise, that might reasonably tend to create a conflict with the public interest in the performance of the public duties and responsibilities of the officer or employee. Any member of the council who knows he or she has a personal interest, direct or indirect, in any action proposed or pending before the council shall immediately disclose such interest.
- A copy of any disclosure of interest filed under this subsection shall be filed by the employee or officer with the County clerk which shall be a matter of public record.
- (1983, Ord. No. 841, sec. 1; Am. 1983, Ord. No. 83-7, sec. 1; Am. 1985, Ord. No. 85-35, sec. 1; Am. 1999, Ord. No. 99-54, sec. 1, Am. 2002, Ord. No. 02-109, sec. 5; Am. 2005, Ord. No. 05-41, sec. 1; Am. 2007, Ord. No. 07-131, sec. 1.)

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

Section 2-91.2. Post-employment.

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

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

A former officer or employee may, however, assist a governmental entity in relation to such matters if requested by authorized governmental personnel for official purposes.
- (c) Nothing in this section shall prohibit any agency of the County from contracting with the former officer or employee to act on matters on behalf of the County.
- (d) Any fee, gift, profit, or other compensation received by a former officer or employee in violation of (a) or (b) above shall be forfeited to the County. The corporation counsel is authorized to take all measures necessary to recover such compensation.

- (e) In addition to any other penalty provided by law, whenever any former officer or employee has obtained, or assisted any other person to obtain, favorable County action and the former officer or employee violated (a) or (b) above in the course of the obtaining of such action, the County may void such action, provided that the County shall act to void the action within sixty days of its discovery of the violation and shall, insofar as possible, avoid damaging the interests of innocent third parties.
 - (f) The board of ethics is hereby empowered to receive petitions from, and render informal and formal advisory opinions to:
 - (1) Former officers or employees who request advisory opinions regarding their own conduct in relation to this section. A former officer or employee whose employment may violate the provisions of this section shall request an informal advisory opinion from the board prior to accepting or engaging in such employment; or
 - (2) Any member of the public concerning the conduct of a former officer or employee.
The board may initiate an investigation to determine whether the conduct of a former officer or employee is in violation of this section.
 - (g) A former officer or employee shall not be deemed in violation of this section with respect to conduct which conforms to an advisory opinion of the board, and none of the sanctions of this section may be applied to such conduct.
- (1984, Ord. No. 84-55, sec. 1; Am. 1996, Ord. No. 96-69, sec. 1.)

Section 2-91.3. Lobbyist registration.

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

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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 County council 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 County council 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; Am. 2007, Ord. No. 07-148, sec. 2.)

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

Division 9. Heating, Ventilating and Air-Conditioning (HVAC) Systems.

- Section 5-2.9.1. Scope.
- Section 5-2.9.2. General.
- Section 5-2.9.3. Basic requirements.
- Section 5-2.9.4. Prescriptive criteria.

Division 10. Heating, Ventilating and Air-Conditioning (HVAC) Equipment.

- Section 5-2.10.1. Scope.
- Section 5-2.10.2. General.
- Section 5-2.10.3. Basic requirements.

Division 11. Service Water Heating Systems and Equipment.

- Section 5-2.11.1. Scope.
- Section 5-2.11.2. General.
- Section 5-2.11.3. Basic requirements.

Division 12. Energy Management.

- Section 5-2.12.1. General.
- Section 5-2.12.2. Other specific control requirements.
- Section 5-2.12.3. General requirements.

Division 13. Building Energy Cost Budget Method.

- Section 5-2.13.1. Purpose.
- Section 5-2.13.2. Scope.
- Section 5-2.13.3. General.
- Section 5-2.13.4. Determination of the annual energy cost budget.
- Section 5-2.13.5. Design energy consumption (DECON) and design energy cost (DECOS).
- Section 5-2.13.6. Compliance.
- Section 5-2.13.7. Standard calculation procedure.
- Section 5-2.13.8. The simulation tool.

Division 14. Enforcement.

- Section 5-2.14.1. Violations and penalties.

Division 15. Indigenous Architecture.

- Section 5-2.15.1. Policy.
- Section 5-2.15.2. Rules.
- Section 5-2.15.3. Bill.
- Section 5-2.15.4. Alternate materials, alternate design and methods of construction.
- Section 5-2.15.5. Housing code exclusion.
- Section 5-2.15.6. Indemnification and responsibility.

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(3) When work for which a permit is required by this Code has commenced without obtaining said building permit, the fees specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed in this Code.

(b) Refunds. Refunds for permits shall be made in accordance with section 2-12 of the County Code.

All permits for which such refunds are made shall be void.

(c) Compliance with Hawai'i Revised Statutes: Identity of Licenses. It shall be unlawful for any permittee to perform or allow to be performed, any work covered by the permit issued in violation of chapter 444, Hawai'i Revised Statutes, relating to the licensing of contractors.

(d) Exemptions.

- (1) The County, all agencies of the County, and contractors with the County, shall be exempt from the requirement of paying any permit fee.
- (2) Habitat for Humanity Hilo and Habitat for Humanity Kona shall be exempt from the requirement of paying any permit fee. This exemption shall not apply to penalty fees when required under this chapter.

(e) The director of public works is authorized to promulgate rules pursuant to chapter 91, Hawai'i Revised Statutes, as amended, to impose an impact fee in compliance with sections 46-141 through 46-148 to recover two-thirds of the cost of new fire stations.

(1993, Ord. No. 93-85, sec. 2; Am. 1996, Ord. No. 96-89, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-113, sec. 2.)

Section 5-1.0.12.a. Amnesty Period.

- (a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for building permits for residential building or farm structures completed before January 1, 2006 without proper building permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 5-1.0.8, may apply for an amnesty permit.
- (b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to sections 5-1.0.6, and 5-1.0.12, that might otherwise be imposed for constructing a structure without a building permit, if they otherwise comply with all applicable provisions of the County building code, as well as the following listed conditions:
 - (1) An application for a building permit, that satisfies the requirements of the County building code, shall be submitted within the amnesty period; and
 - (2) The unpermitted construction shall be brought into full compliance with the requirements of the County building code, and the permit closed in compliance with the code.
- (c) If these conditions are not being met, exemption from all civil and criminal penalties pursuant to sections 5-1.0.6, and 5-1.0.12, arising from the grant of an amnesty permit, shall lapse.
- (d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.

- (e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County building code.

(2006, Ord. 06-120, sec. 2.)

Section 5-1.0.13. Amending subsections (b), (c), (e) and (g) of section 305.

Subsections (b), (c), (e) and (g) of section 305 are amended to read:

(b) Posting of Building Permit. Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder shall have posted, in a conspicuous place on the site, the building permit. The building permit shall be readily visible for the building official to identify and make all required inspections.

(c) Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the building official that such work is ready for inspection. The building official may require that every request for inspection be filed at least 48 hours before such inspection is desired. Such request may be in writing or by telephone at the option of the building official.

It shall be the duty of the person requesting any inspections required by this Code to provide access to and means for proper inspection of such work.

- (e) The first paragraph is deleted.

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

(1993, Ord. No. 93-85, sec. 2.)

Section 5-1.0.14. Amending section 306.

Section 306 is amended as follows:

- (a) The first sentence of subsection (a) is amended to read:

Sec. 306. (a) General. In addition to the inspections required by section 305, the owner shall employ one or more special inspectors independent of the contractors performing the work. The special inspector shall provide inspections during construction on the following types of work:

- (b) Section 306(b) is amended by adding a paragraph to read:

The building official may impose reasonable fees to cover the cost to conduct examinations in licensing of special inspectors and issue registration cards.

| | | Hour of Day | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------------------|----|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| Two-Zone Dwelling Unit | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bedrooms and Bathrooms | | | | | | | | | | | | | | | | | | | | | | | | | |
| <i>Occupancy</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 67 | 67 | 67 | 67 | 67 | 67 | 45 | 27 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 21 | 21 | 33 | 67 | 67 |
| <i>Lighting</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 0 | 0 | 0 | 0 | 0 | 0 | 66 | 23 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 31 | 31 | 47 | 63 | 63 |
| <i>Equipment</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 3 | 3 | 3 | 3 | 3 | 3 | 6 | 6 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 9 | 9 | 20 | 12 | 12 |
| Other Rooms | | | | | | | | | | | | | | | | | | | | | | | | | |
| <i>Occupancy</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 0 | 0 | 0 | 0 | 0 | 0 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 67 | 67 | 45 | 45 | 33 | 0 | 0 | 0 |
| <i>Lighting</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 0 | 0 | 0 | 0 | 0 | 0 | 29 | 59 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 63 | 63 | 47 | 31 | 31 |
| <i>Equipment</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| All Days | 19 | 19 | 19 | 19 | 19 | 19 | 30 | 70 | 34 | 34 | 34 | 61 | 61 | 34 | 34 | 34 | 84 | 94 | 34 | 34 | 23 | 19 | 19 | 19 | |

Notes for Table 13-5:

- a. Reference: Recommendations for Energy Conservation Standards and Guidelines for New Commercial Buildings, Vol. III, App. A. Pacific Northwest Laboratory, PNL-4870-8, 1983.
- b. Table 13-5 contains multipliers for converting the nominal values for building occupancy (Table 13-1), receptacle power density (Table 13-2), service hot water (Table 13-3), and lighting energy (division 6) into time series data for estimating building loads under the Standard Calculation Procedure. For each standard building profile there are three series--one each for weekdays, Saturday, and Sunday. There are 24 hours per series. These represent the multiplier that should be used to estimate building loads from 12 a.m. to 1 a.m. (hour #1) through 11 p.m. to 12 a.m. (hour #24). The estimated load for any hour is simply the multiplier from the appropriate standard profile multiplied by the appropriate value from the tables cited above.
- c. The building HVAC system schedule listed in Table 13-5 lists the hours when the HVAC system shall be considered ON or OFF in accordance with section 5-2.13.7(c)(2).
- d. People. Assumes two people per dwelling unit. Maximum heat generation per person = 420 Btu/h (230 Btu/h sensible, 190 Btu/h latent heat).
- e. Lighting. Maximum Installed = 300 watts.
- f. Equipment. Sensible Heat Gain = [(833 Btu/unit * Number of Living Units) + (0.625 Btu/h-ft² * Floor Area of Zone)]. Latent Heat Gain = (0.2 * Sensible Heat Gain).

Division 14. Enforcement.**Section 5-2.14.1. Violations and penalties.**

Violations of this Code shall be enforced pursuant to section 205 of the Uniform Building Code as amended by section 5-1.0.6, Hawai'i County Code. (1994, Ord. No. 94-123, sec. 2.)

Division 15. Indigenous Architecture.**Section 5-2.15.1. Policy.**

This code shall be administered with due consideration given to the County policy that indigenous Hawaiian architecture furthers the County's compelling interests in cultural, environmental, and historic preservation; energy efficiency; economic development; aesthetic beauty; and public safety. For purposes of this section, indigenous Hawaiian architecture includes any of the predominant architectural practices, customs, styles, and techniques historically employed by the native residents of the Hawaiian Islands, including structures comprised of either rock walls or wood frames for the bottom portion of structures and thatch of different native grasses and leaves for the roof. (2007, Ord. No. 07-164, sec. 2.)

Section 5-2.15.2. Rules.

The building official shall adopt rules to further the County policy on indigenous Hawaiian architecture. (2007, Ord. No. 07-164, sec. 2.)

Section 5-2.15.3. Bill.

Within twenty-four months of this division's effective date, the building official shall submit a proposed bill to the council to revise this chapter with the purpose of more equitably and efficiently furthering the County policy on indigenous Hawaiian architecture. The proposed bill shall contain rules that specifically identify predominant architectural practices, customs, styles, and techniques historically employed by the native residents of the Hawaiian Islands and their descendants. The rules shall express general approval of such practices, customs, styles, and techniques, to the extent that they do not conflict with the building code's overall purposes. (2007, Ord. No. 07-164, sec. 2.)

Section 5-2.15.4. Alternate materials, alternate design and methods of construction.

- (a) The provisions of this code are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed in this code, including elements based on or inspired by principles of indigenous architecture, such as those associated with structures comprised of either rock walls or wood frames for the bottom portion of structures and thatch of different native grasses and leaves for the roof, provided any alternate has been approved and its use authorized by the building official.
- (b) The building official may approve any such alternate, provided the building official has previously granted an exception and the building official finds that the proposed design is satisfactory and complies with the provisions of this code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.
- (c) The following materials are examples of the types of materials that may be considered by the building official, if used for the construction or renovation of a structure that is based on or inspired by principles of indigenous architecture:

- (1) Wood for house timbers (walls): hamau, kauila, lama, nioi, and 'ohi'a; and
 - (2) House thatch and lining material (roof): lala'ama'u (fern fronds); lauhulu and lau mai'a (banana leaves); pa'a'a mai'a (banana trunk layers); pili, maoli, pu'upu'u pueo, kawelu, kiolohia, 'aka 'akai, uki, and lele (grasses and leaves, sedges, bulrushes); lauhala, ko'o, i'o k'o, mu'o hala, pu'awa, pukani, pilila'ele, la'ele, pala lauhala, pa'ilau'ula, and ki (pandanus leaf); and lau ko, lau'o, lako, and la'o (sugarcane leaves).
- (d) The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the use of the alternate. The details of any action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.
- (2007, Ord. No. 07-164, sec. 2.)

Section 5-2.15.5. Housing code exclusion.

All indigenous Hawaiian architecture structures constructed in accordance with this chapter are not required to comply with requirements in chapter 11, Hawai'i County Code, pertaining to the housing code.

(2007, Ord. No. 07-164, sec. 2.)

Section 5-2.15.6. Indemnification and responsibility.

The property owner shall defend, indemnify and hold harmless the County, its officers and agents, from all claims, demands, suits, actions or proceedings of every name, character and description which may be brought against the County for or on account of any injuries or damages to any person or property as a consequence of any work done under a permit issued for an indigenous Hawaiian architecture structure.

(2007, Ord. No. 07-164, sec. 2.)

Chapter 7

CIVIL DEFENSE

Article 1. Civil Defense Organization.

- Section 7-1. Purpose.
- Section 7-2. County civil defense agency created; organization.
- Section 7-3. Deputy director; duties.
- Section 7-4. Utilization of existing government services.

Article 2. Disaster Control.

- Section 7-5. Purpose.
- Section 7-6. Definitions.
- Section 7-7. Mayor to declare state of emergency.
- Section 7-8. Water and water hauling charges.
- Section 7-9. Loitering during tsunami warning.
- Section 7-10. Loitering and refusal to evacuate during impending disaster or disaster.
- Section 7-11. Penalty.

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Chapter 7**CIVIL DEFENSE****Article 1. Civil Defense Organization.****Section 7-1. Purpose.**

Because of the possibility of disasters or emergencies of great destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, tsunami, volcanic eruption, earthquake, or other natural causes, and in order to insure that preparations of this County will be adequate to deal with such disasters or emergencies, to make adequate provision against shortages of food supplies and essential commodities, to maintain the strength, resources and economic life of the community and provide for prompt and effective action, to promote the national defense and civil defense in cooperation with the State and Federal governments, and to protect the public health, safety and welfare, this article is found and declared to be necessary.

(1975 C.C., c. 2, art. 5, sec. 1.01; Am. 2007, Ord. No. 07-121, sec. 2.)

Section 7-2. County civil defense agency created; organization.

- (a) The County civil defense agency shall perform civil defense functions within the County, and shall conduct functions outside the County as may be required pursuant to chapter 128, Hawai'i Revised Statutes (Civil Defense and Emergency Act).
- (b) The head of the County civil defense agency who shall be the deputy director, shall be appointed by the director of the State civil defense agency with the approval of the council and may be removed by the State director. Should the mayor be appointed as the deputy director, during the time of the mayor's absence or inability to serve, the mayor's successor shall be as provided by section 5-1.6, County Charter and section 2-8, Hawai'i County Code.
- (c) A full-time civil defense administrator shall be the chief administrative assistant to the deputy director and shall, within the delegated scope of authority, have all the duties and responsibilities of the deputy director, subject to the control of the deputy director or the deputy director's successor. The deputy director shall appoint the civil defense administrator in accordance with the merit system and the civil defense administrator's appointment shall be approved by the State director.

(1975 C.C., c. 2, art. 5, sec. 1.02; Am. 1974, Ord. No. 33, sec. 1.)

Section 7-3. Deputy director; duties.

The deputy director is responsible for the organization, administration, and operation of the civil defense agency in the County. It is the duty of the deputy director to coordinate the activities of all organizations for civil defense within the County, public or private, and to maintain liaison with and cooperate to the fullest extent with the State director to insure that the plans and programs of the County for the relief and general welfare of the people in the event of a disaster or emergency are fully integrated with the plans and programs of the State and Federal governments. The plans and programs shall be prepared by the deputy director and transmitted to the council for approval and shall be reviewed by the deputy director and resubmitted to the council for approval before March 31 of each year.

(1975 C.C., c. 2, art. 5, sec. 1.03.)

Section 7-4. Utilization of existing government services.

Each County department, agency and officer shall cooperate with and extend its services, materials and facilities to the County civil defense agency as may be requested by the deputy director.

(1975 C.C., c. 2, art. 5, sec. 1.04.)

Article 2. Disaster Control.**Section 7-5. Purpose.**

Because of the possibility of disasters of great destructiveness resulting from tsunami, volcanic eruptions, flood, earthquake, fire, or other natural causes, or from enemy attack, sabotage or other hostile action, and in order to insure the orderly evacuation of persons and property and to protect the public peace, health, and safety, and preserve the lives and property of the people of the County, it is necessary to regulate certain activities.

(1975 C.C., c. 3, art. 9, sec. 1; Am. 2007, Ord. No. 07-121, sec. 3.)

Section 7-6. Definitions.

As used in this article:

- (1) “Authorized person” means any:
 - (a) Police officer or County or State employee assigned to disaster duty during an impending disaster or disasters;
 - (b) National Guard members;
 - (c) Civil defense agency personnel or volunteers.
- (2) “Disaster” means any situation, usually catastrophic in nature, where numbers of persons are plunged into helplessness and suffering and as a result may be in need of food, clothing, shelter, medical care, or other necessities of life, and the governor of the State or the mayor of the County has declared a state of disaster or emergency.
- (3) “Impending disaster” means any situation where a catastrophe threatens an inhabited area and the civil defense agency has issued a warning that the inhabitants of the area should evacuate from the threatened area.

(1975 C.C., c. 3, art. 9, sec. 2; Am. 2005, Ord. No. 05-9, sec. 2.)

Section 7-7. Mayor to declare state of emergency.

The power to declare a state of disaster or emergency is conferred on the mayor.

(1975 C.C., c. 3, art. 9, sec. 2.)

Section 7-8. Water and water hauling charges.

- (a) If within any district of the County, upon a declaration of an emergency by the mayor, residents request that water be hauled to their residences, they shall pay the County an amount equivalent to fifty percent of the total standard commercial hauling charges.
- (b) One year after August 1, 1978, each resident shall pay the County an amount equal to seventy-five percent of the total standard commercial hauling charges.
- (c) Two years after August 1, 1978, each resident shall pay the County an amount equivalent to the total standard commercial hauling charges.
- (d) The County shall make water available for hauling at no charge to each requesting resident.

(1978, Ord. No. 376, sec. 1.)

Section 7-9. Loitering during tsunami warning.

A person commits the offense of loitering during an emergency if during a tsunami warning period, or during and immediately after a tsunami that person knowingly:

- (1) Loiters, loafs, or idles upon any public highway, public place, sidewalk, or beach, on foot or on any vehicle, in any coastal area, or area subject to tsunami action.
- (2) Disobeys any direction or command of any police officer directing traffic.

- (3) Refuses or fails to leave any area, public or private, upon order of a police officer, which action impedes or tends to impede the effective and orderly handling of an evacuation or a disaster; provided that this section shall not prevent any authorized person from lawfully preserving, protecting, or salvaging any property, real or personal, or to prevent any other authorized person from performing any other lawful duty.

(1975 C.C., c. 3, art. 9, sec. 3; Am. 2007, Ord. No. 07-121, sec. 4.)

Section 7-10. Loitering and refusal to evacuate during impending disaster or disaster.

A person commits the offense of loitering during an emergency if during an impending disaster or a disaster that person knowingly:

- (1) Loiters, loafs, or idles upon any public highway, sidewalk, or public place, on foot or on any vehicle, in or close to an impending disaster or a disaster area.
- (2) Disobeys any direction or command of any police officer directing traffic.
- (3) Refuses or fails to leave any area, public or private, upon order of an authorized person, which action impedes or tends to impede the effective and orderly handling of the impending disaster or the disaster; provided that this section shall not prevent any authorized person from lawfully preserving, protecting, or salvaging any property, real or personal, or to prevent any other authorized person from performing any other lawful duty.
- (4) Refuses or fails to evacuate any area, public or private, upon order of an authorized person, which action impedes or tends to impede the effectiveness and orderly handling of the evacuation of persons from an impending disaster area.

(1975 C.C., c. 3, art. 9, sec. 4; Am. 2005, Ord. No. 05-9, sec. 3; Am. 2007, Ord. No. 07-121, sec. 5.)

Section 7-11. Penalty.

A person who has been convicted of any offense under this article, shall be sentenced to pay a fine not exceeding \$500 or imprisonment for a term of not more than thirty days.

(1975 C.C., c. 3, art. 9, sec. 5; Am. 2005, Ord. No. 05-9, sec. 4.)

Chapter 9

ELECTRICITY

Article 1. General Provisions.

- Section 9-1. Title.
- Section 9-2. Purpose.
- Section 9-3. Scope; exceptions.
- Section 9-4. Similar provisions; greater safety to prevail.
- Section 9-5. Definitions.

Article 2. Administration and Enforcement.

- Section 9-6. Administration and enforcement.
- Section 9-7. Nonliability of County for damages.
- Section 9-8. Right of entry.
- Section 9-9. Inspections.
- Section 9-10. Nonconforming and defective installations.
- Section 9-11. Request for inspection.
- Section 9-12. Final inspection required.
- Section 9-13. Responsibility for compliance.

Article 3. National Electrical Code.

- Section 9-14. National Electrical Code adopted.
- Section 9-15. Compliance; standards of performance.
- Section 9-16. Qualification to perform work.
- Section 9-17. Variances.
- Section 9-18. Appeals regarding alternate materials and methods of construction.
- Section 9-19. Other appeals.
- Section 9-20. Adoption of rules by the board of appeals.
- Section 9-21. Violations and penalties.
- Section 9-22. Prior offenses.

Article 4. Modifications to National Electrical Code.

- Section 9-23. Amending section 600-4, National Electrical Code.
- Section 9-24. Amending the National Electrical Code by adding material; rain water and sea water flooding standards.
- Section 9-25. Amending the National Electrical Code by deleting article 80, Administration and Enforcement.

Article 5. Permits for Electrical Work.

Division 1. Application, Issuance and Contents.

- Section 9-26. Permit required; exceptions.
- Section 9-27. Permit scope.
- Section 9-28. Emergency work.
- Section 9-29. Separate permits required; exception.
- Section 9-30. Permit application; filing; content.

- Section 9-31. Permit issuance; fees.
- Section 9-32. Permit application; immediate action not required.
- Section 9-33. Plans and specifications requirements; deviations.
- Section 9-34. Issuance.
- Section 9-35. Persons to whom permit may be issued.
- Section 9-36. Permit content; posting; time limit for suspension of work.
- Section 9-37. Permit transferability.
- Section 9-38. Suspension or revocation of permit.

Division 2. Fees and Charges.

- Section 9-39. Fee payment.
- Section 9-40. Fee schedule.
- Section 9-41. Additional fee for work begun without permits.
- Section 9-41.1. Amnesty Period.
- Section 9-42. Permit fee exemptions.
- Section 9-43. Additional and miscellaneous inspections.

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

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

Section 9-41.1. Amnesty Period.

- (a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for electrical permits for residential building or farm structures completed before January 1, 2006 without proper electrical permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 9-35, may apply for an amnesty permit.
- (b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to sections 9-6 and 9-41, that might otherwise be imposed for constructing a structure without an electrical permit, if they otherwise comply with all applicable provisions of the County electrical code, as well as the following listed conditions:
 - (1) An application for an electrical permit, that satisfies the requirements of the County electrical code, shall be submitted within the amnesty period; and
 - (2) The unpermitted construction shall be brought into full compliance with the requirements of the County electrical code, and the permit closed in compliance with the code.
- (c) If these conditions are not being met, exemption from all civil and criminal penalties pursuant to sections 9-6 and 9-41, arising from the grant of an amnesty permit, shall lapse.
- (d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.
- (e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County electrical code.

(2006, Ord. No. 06-122, sec. 2)

Section 9-42. Permit fee exemptions.

- (1) The County and all contractors performing work under authority of the County shall be exempt from the requirements to pay permit fees.
- (2) Habitat for Humanity Hilo and Habitat for Humanity Kona shall be exempt from the requirement of paying any permit fee. This exemption shall not apply to penalty fees when required under this chapter.

(1994, Ord. No. 94-72, sec. 3; Am. 2007, Ord. No. 07-113, sec. 3.)

Section 9-43. Additional and miscellaneous inspections.

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

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

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

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

Section 11-2. Objectives.

The objectives of this affordable housing policy are to:

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

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

Section 11-3. Definitions.

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

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

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 1; Am. 2007, Ord. No. 07-109, sec. 1.)

Section 11-4. Affordable housing requirements.

- (a) The affordable housing requirements shall apply to:
- (1) All new rezonings that may create additional residential uses, including rezonings, to RS, RD, RM, RCX, RA and FA districts, and APD rezonings where lot sizes are less than five acres, and CG, CV, CN and PD districts when residential uses are established in those districts;
 - (2) All new rezonings to resort, including hotels established in V, CV, CG, CDH or PD districts;
 - (3) All new rezonings to ML, MG, and MCX districts;
 - (4) All prior rezoning actions which contain affordable housing conditions that have not been satisfied as of the effective date of this ordinance, or to which the County has not agreed previously as to the specific means of satisfying the requirements.
- (b) Requirements for residential uses.
- (1) Four or fewer residential units or lots: no requirement;
 - (2) Five or more residential units or lots: the applicant must earn affordable housing credits equal to twenty percent of the number of units or lots (rounded to the nearest .5);
 - (3) Time share units shall be considered as residential units.
- (c) Requirement for resort and hotel uses.
Resort and hotel uses generating more than one hundred employees on a full-time equivalent basis must earn one affordable housing credit for every four full-time equivalent jobs created.
- (d) Requirements for industrial uses.
- (1) The industrial uses that must fulfill the affordable housing requirements are any uses allowed as of right in an ML or MG district, except for home improvement centers, and any uses that are also allowed as of right in a CG district.
 - (2) Credits required.
 - (A) Individual industrial enterprises generating more than one hundred employees on a full-time equivalent basis must earn one affordable housing credit for every four full-time equivalent jobs created.
 - (B) Rezoning to ML, MG, or MCX, approved after August 22, 2007 with a potential to generate more than one hundred employees on a full-time equivalent basis must earn one affordable housing credit for every four full-time equivalent jobs created.
 - (i) At the time of rezoning, the potential job generation shall be assumed to be ten full-time equivalent jobs per acre to determine whether subsequent development within the rezoned area must satisfy an affordable housing requirement.
 - (ii) At the time of plan approval, pursuant to section 11-9(b), the affordable housing requirement shall be based upon ten full-time equivalent jobs per acre, or one per 1,000 square feet of gross floor area, whichever is greater, provided that the administrator, after consultation with the planning director, shall adjust the number of jobs based on proof that the actual number of jobs created will deviate from this standard, and provided that in that case, the affordable housing requirement shall be reassessed if the use is changed.
 - (iii) The applicant may also satisfy the affordable housing requirement at the time of final subdivision approval for all or a portion of the lots created within the rezoned area, provided that in that case, the applicant shall be required to earn one affordable housing credit for every ten full-time equivalent jobs created, based on ten full-time equivalent jobs per acre.

- (iv) Hawai'i County Council districts 2, 3, 4, and 5 would be exempt from inclusion in chapter 11, article 1, section 1-4(d), until such time that either the Hawai'i County Council or the Hawai'i County planning director deem their inclusion necessary and a resolution stating such is passed by the County Council.

(1998, Ord. No. 98-1, sec. 2; Am. 2005, Ord. No. 05-23, sec. 2; Am. 2005, Ord. No. 05-111, sec. 2; Am. 2007, Ord. No. 07-110, sec. 2.)

Section 11-5. Satisfaction of affordable housing requirements.

- (a) The developer may satisfy the affordable housing requirements by doing any of the following:
- (1) Construct affordable for-sale units on-site;
 - (2) Construct affordable finished lots on-site, but only if the entire project consists of finished lots;
 - (3) Construct affordable for-sale units off-site, but within a fifteen-mile radius of the project site;
 - (4) Construct affordable rental units on-site, or off-site, within a fifteen-mile radius of the project site;
 - (5) Pay in-lieu fees to the Agency;
 - (6) Provide developable land, within a fifteen-mile radius of the project site, with a value determined by appraisal, that shall be credited against the in-lieu fee;
 - (7) Provide infrastructure, within a fifteen-mile radius of the project site, that shall be credited against the in-lieu fee. Any infrastructure provided must be directly related to the future provision of affordable housing;
 - (8) With the approval of the administrator, construct housing on-site or off-site, that addresses a critical regional housing need, at least equivalent to satisfying the requirements of any sub-sections (1)-(4) above, provided that the project must be located within the allowable areas for in-lieu fees under sec. 11-12;
 - (9) Obtain excess credits from another developer pursuant to sec. 11-15.
- (b) The affordable unit or finished lot shall be completed with road access, drainage, water, electricity, sewer lines, if required, and telephone, and, in the case of finished lots, shall not have unusual site conditions that make it difficult to build a home.
- (c) Affordable housing credits.
The developer shall earn affordable housing credits as follows:
- (1) Sale of completed dwelling units affordable for qualified households earning 120-140% of median: 0.5 credit per unit;
 - (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;
- (12) A developer shall ensure that each affordable housing unit for which credit was earned or awarded shall comply with resale restrictions established by section 11-14.

(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; Am. 2007, Ord. No. 07-109, sec. 2.)

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.)

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

Section 14-60. Procedures.

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

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

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

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

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

Section 14-62. Enforcing authority.

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

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

Section 14-63. Violation and penalty.

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

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

Section 14-64. Injunctive relief.

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

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

Section 14-65. Designated exceptional trees.

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

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

| Tree | Tax Map Key and Location | Owner |
|---|---|---------------------|
| 20. 'Ōhi'a Lehua <i>Metrosideros polymorpha</i> | 4-4-14:01 Kalōpā State Park | State of Hawai'i |
| 21. Koa <i>Acacia koa</i> | 4-4-14:01 Kalōpā State Park | State of Hawai'i |
| 22. 'Ōhi'a Lehua <i>Metrosideros polymorpha</i> | 4-4-14:01 Kalōpā State Park | State of Hawai'i |
| 23. Grove of Mangoes <i>Mangifera indica</i> | 1-3-08 Pohoiki Road | County of Hawai'i |
| 24. Chinese Weeping Banyan | 2-2-28:08 Kīlauea Ave. | State of Hawai'i |
| 25. Grove of Monkeypod Trees | 2-2-04:35 Kamehameha Ave. and Pauahi St. | County of Hawai'i |
| 26. Grove of Monkeypod Trees | 2-2-04:56 Kamehameha Ave. and Pauahi St. | County of Hawai'i |
| 27. Gardenia Remyi | 2-3-29:02 Waianuenue Ave. | County of Hawai'i |
| 28. Terminalia chebula | 2-3-01:2 Kamehameha Avenue | County of Hawai'i |
| 29. Grove of Mangoes * | 1-4-3, 4, 5, & 28 Government Beach Road | County of Hawai'i |
| 30. 'Ōhi'a | 1-5-1:56 Ka'ohe Homesteads, Pāhoa | Robert E. O'Neill |
| 31. Brazilian Fern Tree <i>Schizolobium parahyba</i> | 7-5-1:114 Moeauoa 1, North Kona | Gwendolyn C. Hobbs |
| 32. Moreton Bay Fig <i>Ficus macrophylla</i> | 7-5-6:12 Portion of Kailua Village, North Kona | Burgess, Inc. |
| 33. Valencia Orange (Vancouver) <i>Citrus sinensis</i> | 8-1-9:1 Kaawaloa, South Kona | Margaret Schattauer |

(1984, Ord. No. 84-53, sec. 1; Am. 1989, Ord. No. 89-102, sec. 1; Am. 1991, Ord. No. 91-140, sec. 2; Am. 1993, Ord. No. 93-8, sec. 1; Am. 1999, Ord. No. 99-27, sec. 1; Am. 2000, Ord. No. 00-121, sec. 1; Am. 2002, Ord. No. 02-123, sec. 1; Am. 2003, Ord. No. 03-145, sec. 1; Am. 2005, Ord. No. 05-158, sec. 1; Am. 2006, Ord. No. 06-26, sec. 2; Am. 2006, Ord. No. 06-135, sec. 1; Am. 2006, Ord. No. 06-136, sec. 1; Am. 2007, Ord. No. 07-124, sec. 1; Am. 2007, Ord. No. 07-125, sec. 1; Am. 2007, Ord. No. 07-126, sec. 1.)

* **Editor's Note:** Ordinance 93-8, that added this grove of trees to the list, was amended by ordinance 06-26.

Article 11. Neighborhood Watch Signs.

Section 14-66. Purpose.

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

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

Section 14-67. Definitions.

- (a) As used in this article:
- (1) “Chief of police” means the chief of police of the County.
 - (2) “Neighborhood watch program” means a program established in accordance with the County police department’s neighborhood security watch program.
 - (3) “Neighborhood watch sign” means a sign constructed and installed at the direction of the police department and pursuant to the provisions of this article.
 - (4) “Public property” means any curbstone, lamppost, pole, parking meter, bridge, street sign, or traffic light located on public property. Public utility poles are excluded from this definition.
- (1987, Ord. No. 87-118, sec. 1; Am. 2001, Ord. No. 01-108, sec. 4.)

Section 14-68. Powers and duties.

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

- (a) Determine, with the assistance of the director of public works or the director’s duly authorized representative, the number and appropriate location of all neighborhood watch signs.
 - (b) Cause to be constructed and installed on public property, signs indicating that the area is protected by a neighborhood watch.
 - (c) Remove or cause to be removed, neighborhood watch signs located in neighborhoods where the neighborhood watch program has terminated.
- (1987, Ord. No. 87-118, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 14-69. Application for approval.

- (a) Any person wishing to have a neighborhood watch sign placed in the person’s neighborhood shall submit an application to the chief of police. The application must identify:
- (1) The geographical boundaries of the neighborhood for which the application is being made.
 - (2) The number of homes situated within the boundaries of the designated neighborhood.
 - (3) The names, addresses, and phone numbers of each block captain and area coordinator.
 - (4) The number of homes participating in the neighborhood watch program.
- (b) No application for the construction and installation of signs shall be approved by the chief of police unless sixty percent of the homes within the boundaries of the designated neighborhood participate in the neighborhood watch program.
- (1987, Ord. No. 87-118, sec. 1.)

Section 14-70. Rules.

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

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

Article 12. Official Bulletin Board.**Section 14-71. Official bulletin board established; purpose.**

There shall be an official bulletin board located at the Hawaii County building at Aupuni Center, 101 Pauahi Street, Hilo, Hawaii for the posting of council and committee agendas and public notices of meetings of the County of Hawaii. This bulletin board is established in compliance with the provisions of article XIII, Hawaii County Charter.

(1994, Ord. No. 94-43, sec. 1; Am. 2006, Ord. No. 06-140, sec. 2.)

Chapter 17

PLUMBING

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* **Editor's Note:** Chapter 17, "Plumbing," was repealed and replaced in its entirety, pursuant to Ordinance 07-84.

Chapter 17**PLUMBING****Article 1. General Provisions.****Section 17-1. Title and purpose.**

- (a) This chapter shall be known as the “plumbing code,” may be cited as such, and will be referred to herein as “this code.”
- (b) The purpose of this code is to provide for the protection of the public health and safety by establishing minimum regulations for the installation, alteration, or repair of plumbing and drainage systems and the inspection thereof.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-2. Scope.

The provisions of this code shall apply to all new construction, relocated buildings, and to any alterations, repairs, or reconstruction within the property lines of the premises, except as provided for otherwise in this code.

(2007, Ord. No. 07-84, sec. 2)

Section 17-3. Definitions.

As used in this code, unless otherwise specified:

“Administrative authority” means the director of the department of public works, or the director’s authorized representative(s).

“Assistant” means the authorized representative(s) of the administrative authority.

(2007, Ord. No. 07-84, sec. 2)

Section 17-4. Reference to the Uniform Plumbing Code; conflicting provisions.

If any provisions of this code conflict with or contravene provisions of the Uniform Plumbing Code that have been incorporated by reference, the provisions of this code shall prevail as to all matters and questions arising out of the subject matter of that provision.

(2007, Ord. No. 07-84, sec. 2)

Section 17-5. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-6. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Article 2. Administration and Enforcement.**Division 1. Administration.****Section 17-7. Department having jurisdiction.**

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

(2007, Ord. No. 07-84, sec. 2)

Section 17-8. Duties of the administrative authority.

The administrative authority shall maintain public office hours necessary to efficiently administer the provisions of this code and amendments thereto and shall perform the following duties:

- (1) Require submission of, examine, and check plans and specifications, drawings, descriptions, and diagrams necessary to show clearly the character, kind, and extent of work covered by applications for a permit, and upon approval, shall issue the permit applied for;
 - (2) Administer and enforce the provisions of this code in a manner consistent with the intent thereof and shall inspect all plumbing and drainage work authorized by any permit to assure compliance with provisions of this code or amendments thereto, approving or condemning said work in whole or in part as conditions require;
 - (3) Issue upon request a certificate of approval for any work approved by the administrative authority;
 - (4) Condemn and reject all work done or being done or materials used or being used which do not in all respects comply with the provisions of this code and amendments thereto;
 - (5) Order changes in workmanship and materials essential to obtain compliance with all provisions of this code;
 - (6) Investigate any construction or work regulated by this code and issue such notices and orders as provided in this code; and
 - (7) Keep a complete record of all essential transactions.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-9. Compliance with this code and other laws.

Any approval or permit issued pursuant to the provisions of this code shall comply with all applicable requirements of this code. The granting of a permit or variance under this code does not dispense with the necessity to comply with any law, ordinance, regulation or any other provision of the Hawai'i County Code to which a permittee may also be subject.

(2007, Ord. No. 07-84, sec. 2)

Section 17-10. Adoption of rules.

The administrative authority may adopt rules pursuant to chapter 91, Hawai'i Revised Statutes, necessary for the purposes of this code.

(2007, Ord. No. 07-84, sec. 2)

Section 17-11. Right of entry.

Upon presentation of proper credentials, the administrative authority or such person's assistants may enter at reasonable times any building, or premises in the County to perform any duty imposed by this code, provided that such entry shall be made in such a manner as to cause the least possible inconvenience to the persons in possession. An order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.

(2007, Ord. No. 07-84, sec. 2)

Section 17-12. Limited liability of authorized personnel.

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

(2007, Ord. No. 07-84, sec. 2)

Section 17-13. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-14. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 2. Permits.**Section 17-15. Permit required.**

- (a) It shall be unlawful for any person to install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired or replaced any plumbing, gas or drainage piping work or any fixture or water heating or treating equipment in a building or premises without first obtaining a permit to do such work from the administrative authority.
- (b) A separate permit shall be obtained for each building or structure.
- (c) No person shall allow any other person to do or cause to be done any work under a permit secured by a permittee except individuals in such permittee's employ.
- (d) Plumbing permits shall be posted in a conspicuous place on the job site. Permits shall remain posted until the plumbing work has passed a final inspection by the administrative authority. Failure to comply with this provision shall subject the violator to a \$25 fine.

(2007, Ord. No. 07-84, sec. 2)

Section 17-16. Work not requiring permit.

- (a) No permit shall be required in the case of any repair work as follows: the stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any trap, drainpipe, soil, waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as such new work and a permit shall be procured and inspection made as provided in this code. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.
- (b) No permit shall be required in the case of any replacement work for the following: the replacement or repair of disposals, faucets and fixtures, to include sinks, water closets and heaters for non-commercial occupancies only. Permits, however shall be required when such repairs do involve or require the replacement or rearrangement of valves or pipes. All repair or replacement work shall be done by licensed plumbers in accordance with section 444, Hawai'i Revised Statutes.

(2007, Ord. No. 07-84, sec. 2)

Section 17-17. Persons to whom permits may be issued.

- (a) Except as provided in subsection (b) of this section, no permit shall be issued to any person to do or cause to be done any work regulated by this code, except to a person holding a valid, unexpired, and unrevoked "Plumbing Contractor's License" as provided for in chapter 444, Hawai'i Revised Statutes, or to the representative of a gas utility.
- (b) A permit may also be issued to a home owner for plumbing work on a single-family dwelling which the owner will personally occupy and use exclusively for living purposes, provided the owner is a person licensed under chapter 448E, Hawai'i Revised Statutes. Only one such permit may be issued to such a home owner, unless the administrative authority finds that strict application would result in practical difficulty and hardship and that the granting of a second permit would not be contrary to the purpose of the code. This does not preclude the home owner from obtaining additional permits for the same building or accessory building on the same lot.

(2007, Ord. No. 07-84, sec. 2)

Section 17-18. Application for permit.

- (a) **Application.** Any person legally entitled to apply for and receive a permit shall make such application on forms provided for that purpose. Such person shall give a description of the character of work proposed to be done, and the location, tax map key, ownership, occupancy, and use of the premises in connection therewith. The administrative authority may require plans, specifications, or drawings and such other information as the administrative authority may deem necessary. Appropriate permit application fees, as set out in section 17-28, shall be submitted with the permit application.
- (b) **Plans Required.** Plumbing permit applications shall be accompanied by three sets of plans for approval by the administrative authority. Two sets shall be retained by the administrative authority and the other set shall be returned to the applicant, which shall be kept at such building or site whenever work authorized is in progress. Other plans, drawings, or specifications may be required as indicated under subsection (a). Plans are not required for one and two-family dwelling units. The administrative authority may waive the requirement for submission of plans for other occupancies when deemed unnecessary. The approval of plans by an architect or engineer, licensed with the State of Hawai‘i, shall be according to State statutes and when required by the administrative authority as indicated under subsection (a).
- (c) **Issuance.** If the administrative authority determines that the plans, specifications, drawings, descriptions, or information furnished by the applicant are in compliance with this code, the administrative authority shall issue the permit applied for upon payment of the required fee. The plumbing permit card shall be posted in a conspicuous place at the job site during construction.
- (d) **Validity.** The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for or an approval of, violations of the provisions of this code, or other State or County laws, including rules and regulations. No permit presuming to give authority to violate or cancel the provisions of this code, or other State or County laws, including rules and regulations, shall be valid, except insofar as the work or use, which it authorizes is lawful. The issuance of a permit based upon plans and specifications shall not prevent the administrative authority from thereafter requiring the correction of errors in the plans and specifications or from preventing any plumbing work being carried on under that permit when in violation of this code, or other State or County laws, including rules and regulations, or from revoking any certificate of approval when issued in error.
- (e) **Expiration.** Every permit issued by the administrative authority under the provisions of this code shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within one hundred twenty days from the date of issuance, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty days; provided, however, that a permit issued for work on construction having a valid building permit, shall expire only when such building permit expires.

Where a permit expires, before work can be recommenced, a new permit shall be obtained, and the fee shall be one-half the amount required for a new permit, provided no changes have been made or will be made to the original plans and specifications of such work; and provided, further, that the suspension or abandonment has not exceeded one year.

- (f) **Suspension or Revocation.** The administrative authority may, in writing, suspend or revoke a permit issued under provisions of this code whenever the permit is issued in error, or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this code.
 - (g) **Refunds.** Refunds of permit fees shall be made in accordance with the provisions of section 2-12.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-19. Amnesty period.

- (a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for plumbing permits for residential building or farm structures completed before January 1, 2006 without proper plumbing permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 17-15, may apply for an amnesty permit.
 - (b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to section 17-9 that might otherwise be imposed for constructing a structure without a plumbing permit, if they otherwise comply with all applicable provisions of the County plumbing code, as well as the following listed conditions:
 - (1) An application for a plumbing permit, that satisfies the requirements of the County plumbing code, shall be submitted within the amnesty period; and
 - (2) The unpermitted construction shall be brought into full compliance with the requirements of the County plumbing code, and the permit closed in compliance with the code.
 - (c) If these conditions are not being met, exemption from all civil and criminal penalties pursuant to section 17-9, arising from the grant of an amnesty permit, shall lapse.
 - (d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.
 - (e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County plumbing code.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-20. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 3. Qualifications of Persons Performing Work.**Section 17-21. General provisions.**

- (a) It shall be unlawful for any person to perform any work covered by this code in violation of those provisions of chapter 448E, Hawai'i Revised Statutes, relating to the licensing of electricians and plumbers.
 - (b) Unlicensed persons may perform work covered by this code providing such work performance is not in violation of chapter 444, Hawai'i Revised Statutes.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-22. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-23. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 4. Inspections.**Section 17-24. Inspection required.**

All plumbing and drainage systems shall be inspected by the administrative authority to ensure compliance with all the requirements of this code.

(2007, Ord. No. 07-84, sec. 2)

Section 17-25. Notification to administrative authority that work is ready for inspection.

- (a) It shall be the duty of the person doing the work authorized by the permit to notify the administrative authority orally or in writing, that said work is ready for inspection. Such notification shall be given not less than forty-eight hours before the work is to be inspected.
 - (b) It shall be the duty of the person doing the work authorized by the permit, to make sure that the work will stand the tests prescribed elsewhere in this code, before giving the above notification.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-26. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-27. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 5. Fees.

Section 17-28. Permit fees.

- (a) Schedule of Fees
 - (1) Permit application fee \$10
 - (2) In addition:
 - For each plumbing fixture or trap (including drainage and vent piping)..... \$ 4
 - For installation, alteration, or repair of each building sewer, building drain, or vent piping..... \$20
 - For each industrial waste injector, grease interceptor, sewage ejector, and grinder pump, including its trap and vent..... \$12
 - For installation, alteration, or repair of water piping and/or water treating equipment \$ 4
 - For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served..... \$12
 - For each lawn sprinkler system on any one valve including backflow protection devices thereof..... \$12
 - For each electric water heater, solar or gas water heater, and/or vent..... \$ 4
 - For each new installation, alteration, or repairing of gas piping systems, house piping, and/or exterior piping for lamps, luau torches, and other miscellaneous equipment..... \$12
 - For each gas appliance..... \$ 4
 - For each medical gas piping serving one to five inlet(s) or outlet(s) for a specific gas..... \$50
 - For each additional medical gas inlet(s) or outlet(s)..... \$ 4
- (b) Where work for which a permit is required by this code is begun prior to obtaining a permit, the application fee shall be \$100 plus the additional fees specified in subsection (a). Payment of such fees shall not relieve any person, firm, or corporation from the obligation to comply with the requirements of this code.

This provision shall not apply to emergency work performed under circumstances that did not allow time to obtain a permit. To qualify for this exception, it must be proved to the satisfaction of the administrative authority that the unpermitted work was urgently necessary and that it was not practical to obtain a permit therefore before the commencement of the work. In all such cases a permit must be obtained as soon as it is practical to do so. Any delay in obtaining a permit as soon as it is practical to do so will subject the petitioner to the doubled permit fees.

- (c) The County and all agencies and contractors doing County jobs shall be exempt from the requirement to pay any permit fee except for fees imposed pursuant to subsection (b), when applicable.
 - (d) Habitat for Humanity Hilo and Habitat for Humanity Kona shall be exempt from the requirement of paying any permit fee, except for fees imposed pursuant to subsection (b), when applicable. This exemption shall not apply to penalty fees when required under this chapter.
- (2007, Ord. No. 07-84, sec. 2; Am. 2007, Ord. No. 07-113, sec. 4.)

Section 17-29. Inspection fees.

- (a) A fee of \$50 shall be assessed upon the permittee or requestor for each extra inspection made. “Extra inspection” means a requested or scheduled inspection wherein the work to be inspected is not complete or ready for inspection.
 - (b) A fee of \$50 shall be assessed upon the requestor or property owner for each courtesy inspection made. “Courtesy inspection” means a requested inspection wherein no permit has been issued or for general requirements regarding the health, safety, or welfare of people.
 - (c) The administrative authority has the authority to waive inspection fees.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-30. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-31. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 6. Violations, Enforcement, and Penalties.

Section 17-32. General provisions.

- (a) It is unlawful for any person, firm, or corporation to install, alter, repair, remove, replace, or maintain any plumbing, gas or drainage piping work or any fixture, gas appliance or water heating or treating equipment, or cause or permit the same to be done, in violation of this code.
 - (b) Failure to comply with any provision of this code, any rule adopted pursuant to this code, or with conditions imposed as part of any permit or variance from the provisions of this code, shall constitute a violation of this code.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-33. Notice of violation.

Whenever any person, firm or corporation violates any provision of this code, the administrative authority shall serve a notice of violation upon the parties responsible for the violation, including but not limited to the owner/lessee of the property where the violation is located, to make the building or structure or portion thereof comply with the requirements of this code. Such notice of violation shall include:

- (1) The date of the notice;
- (2) The name and address of the person noticed, and the location of the violation;
- (3) The section number of the ordinance, code or rule which has been violated;
- (4) The nature of the violation; and
- (5) The deadline for compliance with the notice.

(2007, Ord. No. 07-84, sec. 2)

Section 17-34. Administrative enforcement.

- (a) If the administrative authority determines that any person, firm or corporation is not complying with a notice of violation, the administrative authority may have the party responsible for the violation served, by mail or delivery, with an order pursuant to this division.
 - (b) Contents of the Order.
 - (1) The order may require the parties responsible for the violation, including but not limited to the owner/lessee of the property where the violation is located, to do any or all of the following:
 - (A) Correct the violation within the time specified in the order;
 - (B) Pay a civil fine not to exceed \$1,000 in the manner, at the place and before the date specified in the order;
 - (C) Pay a civil fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
 - (2) The order shall advise the party responsible for the violation that the order shall become final thirty calendar days after the date of its delivery. The order shall also advise that the administrative authority's action may be appealed to the board of appeals.
 - (c) Effect of Order; Right to Appeal. The provisions of the order issued by the administrative authority under this section shall become final thirty calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the board of appeals as provided by section 5-1.0.5, Hawai'i County Building Code (chapter 5). The appeal must be received in writing on or before the date the order becomes final. However, an appeal to the board of appeals shall not stay any provision of the order.
 - (d) Judicial Enforcement of Order. The administrative authority may institute a civil action in any court of competent jurisdiction for the enforcement of any final order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by such final order, the administrative authority need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-35. Criminal prosecution.

- (a) General Provisions. Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, continued or permitted; and upon conviction of any such violation, such person shall be punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both fine and imprisonment.
- (b) Any officer or inspector designated by the administrative authority, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of the building, plumbing, electrical or housing codes (hereinafter referred to as "authorized personnel"), may arrest without warrant alleged violators by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by warrant or such other judicial process as is permitted by statute or rule of court.
- (c) Any authorized personnel designated by the administrative authority, upon making an arrest for a violation of the building, plumbing, electrical or housing codes, may take the name and address of the alleged violator and shall issue to the violator in writing a summons or citation hereinafter described, notifying the violator to answer the complaint to be entered against the violator at a place and at a time provided in the summons or citation.

- (d) There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of the building, plumbing, electrical or housing codes which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawai'i and County of Hawai'i.
- (e) In every case when a citation is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district court may prescribe by giving to the violator a copy of the citation and provide for the disposition of the original and any other copies.
- (f) Every citation shall be consecutively numbered and each copy shall bear the number of its respective original.

(2007, Ord. No. 07-84, sec. 2)

Section 17-36. Injunctive action.

The County of Hawai'i may maintain an action for an injunction to restrain or remedy any violation of the provisions of this code and may take any other lawful action to prevent or remedy any violation.

(2007, Ord. No. 07-84, sec. 2)

Section 17-37. Dangerous and insanitary construction.

- (a) Any portion of a plumbing system found by the administrative authority to be insanitary as defined herein is hereby declared to be a nuisance. "Insanitary" means a condition which is contrary to sanitary principles or is injurious to health. Conditions to which "insanitary" shall apply include, but are not limited to, the following:
 - (1) Any trap which does not maintain a proper trap seal.
 - (2) Any opening in a drainage system, except where lawful, which is not provided with an approved water-sealed trap.
 - (3) Any plumbing fixture or other waste discharging receptacle or device, which is not supplied with water sufficient to flush it and maintain it in a clean condition.
 - (4) Any defective fixture, trap, pipe, or fitting.
 - (5) Any trap directly connected to a drainage system, the seal of which is not protected against siphonage and back-pressure by a vent pipe, unless otherwise allowed by this code.
 - (6) Any connection, cross-connection, construction or condition, temporary or permanent, which would permit or make possible by any means whatsoever, for any unapproved foreign matter to enter a water distribution system used for domestic purposes.
 - (7) The foregoing enumeration of conditions to which the term "insanitary" shall apply, shall not preclude the application of that term to conditions that are, in fact, insanitary.
- (b) Upon determining that any construction or work regulated by this code is dangerous, unsafe, insanitary, a nuisance or a menace to life, health or property, or otherwise in violation of this code, the administrative authority may order any person, firm or corporation using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use or maintenance thereof or to repair, alter, change, remove, or demolish same as may be considered necessary for the proper protection of life, health, or property. In the case of any gas piping or gas appliance, the administrative authority may order any person, firm, or corporation, supplying gas to such piping or appliance, to discontinue supplying gas thereto, until such piping or appliance is made safe with respect to life, health, or property.

Every such order shall be in writing, addressed to the owner, agent, or person responsible for the premises in which such conditions exists, and shall specify the date or time for compliance with such order.

- (c) Refusal, failure, or neglect to comply with any such notice or order shall be considered a violation of this code.
- (d) When any plumbing system is maintained in violation of this code and in violation of any notice issued pursuant to the provisions of this section, or where a nuisance exists in any building or on a lot on which

a building is situated, the administrative authority may institute any appropriate action or proceeding in any court of competent jurisdiction to prevent, restrain, correct, or abate the violation or nuisance. (2007, Ord. No. 07-84, sec. 2)

Section 17-38. Remedies cumulative.

The remedies provided in this code shall be cumulative and not exclusive. (2007, Ord. No. 07-84, sec. 2)

Section 17-39. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-40. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Division 7. Variances and Appeals.

Section 17-41. Variances.

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

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

(2007, Ord. No. 07-84, sec. 2)

Section 17-42. Appeals regarding alternative materials and methods of construction.

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

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

(2007, Ord. No. 07-84, sec. 2)

Section 17-43. Other appeals.

- (a) Any person aggrieved by the decision of the administrative authority in the administration or application of this code, other than that prescribed in sections 17-41 and 17-42, may, within thirty days after the date of the administrative authority's decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the administrative authority, or it may reverse or modify the decision if the decision is:
- (1) In violation of this code or other applicable law;
 - (2) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
 - (3) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
- (2007, Ord. No. 07-84, sec. 2)

Section 17-44. Rules; adoption by board of appeals.

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

(2007, Ord. No. 07-84, sec. 2)

Section 17-45. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Section 17-46. Reserved.

(2007, Ord. No. 07-84, sec. 2)

Article 3. Installation Requirements.**Section 17-47. Uniform Plumbing Code adopted.**

The "International Association of Plumbing and Mechanical Officials Uniform Plumbing Code, 1997 Edition," published by the International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, California 91789-2825, including its appendices, is adopted by reference and made a part of this code. This incorporation by reference includes all parts of the Uniform Plumbing Code, except for part 1, relating to Administration, and is subject to the amendments hereinafter set forth.

- (1) Amending Section 204.0. Section 204.0 is amended by amending the definition of "building drain" to read:

"Building Drain - That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet (1.5 m) outside the building wall."
- (2) Adding a new definition to Section 205.0. A definition of "control valve (water)" is added to read:

"Control Valve (Water) – A control valve is any type of valve which can change the flow rate of water, which includes compression stop valves."
- (3) Adding a new definition to Section 210.0. A definition of "health officer" is added to read:

"Health Officer - Shall mean the Director of Health of the Department of Health, State of Hawai'i, or the Director's authorized agent."
- (4) Adding a new definition to Section 221.0. A definition of "single-stack system" is added to read:

"A single-stack system - A specially designed plumbing system wherein a common stack serves as a drainage pipe as well as a vent pipe."

- (5) Adding Section 301.3. Section 301.3 is added to read:

“Section 301.3. International Plumbing Code.

The 1997 edition of the International Plumbing Code (IPC) may be used in lieu of the Uniform Plumbing Code when approved by the administrative authority. A written request by a Hawai‘i licensed mechanical engineer with the concurrence of the building or project owner must be made to the administrative authority. The details of this approval shall be recorded and entered in the files of the department. Plans submitted shall be stamped by the Hawai‘i licensed mechanical engineer. This section shall apply only to a new building or project and shall not be applied in conjunction with an existing building. Provisions of the Uniform Plumbing Code and the International Plumbing Code shall not be combined or interchanged unless approved by the administrative authority. Plans submitted shall clearly state on the plumbing and/or mechanical sheets that the International Plumbing Code was used as the basis of design.”

- (6) Amending Section 311.4. Section 311.4 is amended by deleting the last sentence, that reads:

“Also, single stack drainage and venting systems, with unvented branch lines are prohibited.”

- (7) Deleting Section 311.6.

Section 311.6 is deleted.

- (8) Amending Section 313.2. Section 313.2 is amended by changing the second sentence to read:

“No piping shall be directly embedded in concrete or masonry unless provisions are made to protect the piping from damage resulting from expansion, contraction and structural settlement.”

- (9) Amending Section 313.4. Section 313.4 is amended to read:

“313.4. No building sewer or other drainage piping or part thereof, constructed of materials other than those approved for use under or within a building, shall be installed under or within five (5) feet (1.5 m) of any building or structure or less than one (1) foot (.3 m) below the surface of the ground or as approved by the administrative authority.”

- (10) Deleting Section 314.8.

Section 314.8 is deleted. (See Table 3-2, which requires only one support within eighteen inches of the joint.)

- (11) Adding Section 314.9. Section 314.9 is added to read:

“314.9 Seismic Supports. Where earthquake loads are applicable in accordance with the building code, plumbing piping supports shall be designed and installed for the seismic forces in accordance with the building code.”

- (12) Deleting Sections 318.0 and 319.0.

Sections 318.0 and 319.0 are deleted. (The requirements of Section 318 are covered in DOH Chapter 12, Food Establishment Sanitation 11-12-21.)

- (13) Amending Section 402.1. Section 402.1 is amended by adding to the end of the sentence:

“but shall not exceed the requirements of Section 402.3.”

- (14) Deleting Section 402.2.

Section 402.2 is deleted.

- (15) Amending Section 402.3. Section 402.3 is amended to read:

“Section 402.3 Water Closets.

402.3.1 Water supply faucets or valves shall be provided with approved flow control devices which limit flow to a maximum three gallons per minute; provided that shower heads and kitchen faucets shall be provided with approved flow control devices which limit flow to a maximum of two and one-half (2.5) gallons per minute at eighty (80) psi and lavatory faucets shall be provided with such flow control devices which limit flow to a maximum of two and one-half (2.5) gallons per minute at eighty (80) psi.

EXCEPTIONS:

- (1) Hose bibbs or valves not used for a designated fixture or equipment.
- (2) Hose bibbs, faucets, or valves serving fixed demand, timing or water level control appliances, equipment or holding structures such as pools, automatic washers and other similar equipment.
- (3) Emergency showers.

402.3.2 Tank-type water closets and flushometer valve toilets shall have volume limiting devices or methods which will limit the discharge to one and three-fifths (1.6) gallons per flush and urinals shall have volume limiting devices and methods which will limit the discharge to one (1) gallon per flush. When a satisfactory performance of the water closet or urinal cannot be obtained with one and three-fifths (1.6) gallons or less per flush, or one (1) gallon or less per flush, respectively, the administrative authority may approve a larger discharge if hardship circumstances exist. For those places where toilets are heavily used by the public, as determined by the administrative authority, including but not limited to arenas, airports, shopping centers and malls, auditoriums, theaters, convention halls, and the public areas of hotels, flushometer toilets with blowout action may be used and need not comply with the one and three-fifths (1.6) gallons per flush requirement herein.

402.3.3 Any new installation using potable water for cooling equipment at a rate exceeding one (1) gallon per minute, or operating more than ten (10) hours in a twenty-four (24) hour period, shall be designed to recirculate or reuse the cooling water.

402.3.4 Any new decorative water feature using potable water shall be designed to recirculate the water used for the feature.”

- (16) Amending Section 408.6. Section 408.6 is amended by changing the third sentence to read:
- “The clear space in front of any water closet, bidet and lavatory, shall not be less than twenty-four (24) inches (610 mm) which may include adjoining floor area.”
- (17) Deleting Section 412.2.
- Section 412.2 Location of Floor Drains is deleted.
- (18) Deleting Sections 413.0 through 413.7.
- Sections 413.0 through 413.7 are deleted. Table 4-1 may be used as a guide only. See Department of Health Chapter 11, Sanitation, paragraph 11-11-9 Minimum sanitary facilities for assembly, school, dorms, restaurant and liquor dispenser type occupancies. See State Department of Labor and Industrial Relations, Division of Occupational Safety and Health, Chapter 67 Sanitation, paragraph 12-76-4, Toilet facilities and lavatories for the required toilet facilities for employees. (See also UBC amendments Section 303.5 which requires Group A Occupancy (assembly) area to have two female water closets for every male water closet.)
- (19) Amending Section 420.0. Section 420.0 is amended by adding:
- “**EXCEPTION:** Tub-mounted hand-held shower heads do not require an anti-scald valve.”
- (20) Amending Section 501.0. Section 501.0 is amended by adding a second paragraph to read:
- “Provisions in NFPA (National Fire Protection Association) Standard No. 211-1996, Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances, and Part 7, Venting of Equipment, in the National Fuel Gas Code, NFPA 54-1996, may be used in lieu of provisions in this chapter covering the same subject and as guidelines for design, construction and workmanship.”
- (21) Adding Section 505.4. Section 505.4 is added to read:
- “**505.4** A vacuum relief valve, dip tube with perforated inlet or an approved method shall be provided to prevent siphoning in any water heater tank or hot water boiler tank.”
- (22) Adding Section 506.3. Section 506.3 is added to read:
- “**506.3** A vacuum relief valve, dip tube with perforated inlet or an approved method shall be provided to prevent siphoning in any water heater tank or hot water boiler tank.”
- (23) Amending Section 507.3.1. Section 507.3.1 is amended by adding to the end thereof:
- “The upper combustion air duct shall extend horizontally or upwards to the outside of the enclosure.”
- (24) Amending Sections 507.3.3 and 507.3.5. Sections 507.3.3 and 507.3.5 are amended by changing the first word from “Openings” to “Ducts.”

- (25) Amending Section 510.1. Section 510.1 is amended by adding an exception note at the end thereof to read:

“EXCEPTION:

- (1) Water heaters may be installed at floor level in carports having one hundred (100) percent opening on one side and fifty (50) percent net opening on another side or the equivalent of such openings on two or more sides, provided the adjacent ground level is at or below the flow level of the carport.
- (2) Fuel burning water heaters having sealed combustion chambers may be installed at floor level.
- (3) Electric water heaters in garages may be installed at floor level.”

- (26) Amending Section 510.5. Section 510.5 is amended to read:

“Due to seismic activity in Hawai’i County, all new water heaters shall be anchored or strapped to resist horizontal displacement due to earthquake motion. Strapping shall be at points within the upper one-third (1/3) and lower one-third (1/3) of its vertical dimensions. At the lower point, a minimum distance of four (4) inches (102 mm) shall be maintained above the controls with the strapping. All strapping shall attach to a well-anchored structural wall.”

- (27) Amending Section 511.0. Section 511.0 is amended by changing the first sentence to read:

“Every water heater, clothes washer and clothes dryer installation should have a working space of not less than thirty (30) inches (762 mm) in front of such appliance for inspection, repair, or replacement.”

- (28) Amending Section 511.2. Section 511.2 is amended by changing the first sentence to read:

“Every attic, roof, mezzanine, or platform more than sixteen (16) feet (4.9 meters) above the ground floor level shall be accessible by a stairway or ladder permanently fastened to the building.”

- (29) Amending Section 511.4. Section 511.4 is amended by deleting the second and third sentences.

- (30) Adding Sections 512.9 and 512.10. Sections 512.9 and 512.10 are added to read:

“512.9 Listed gas fired water heaters need not be provided with a vent to the exterior when installed in an open parking garage or carport under the following conditions:

- (1) Such a garage shall comply with the openings provisions of the Building Code for open parking garages or carports.
- (2) Floor mounted heaters shall be installed in the garage so that the bottom of the combustion chamber is at least eighteen (18) inches above the floor and outside grade level.

- (3) Heaters shall be protected against mechanical damage as provided in Section 510.3.
- (4) An acceptable vent cap shall be provided unless not required by the heater’s listing or the manufacturer’s instructions.
- (5) When location of the heater may result in unsatisfactory dispersions of combustion products, venting by means of a mechanical draft system to the exterior wall line or to other approved point of termination shall be provided.
- (6) Installation of heaters under these provisions shall be approved by the administrative authority and the serving gas supplier.

512.10 Listed single and two-family gas fired water heaters rated at less than 55,000 Btuhs need not be provided with a vent extended through the roof of the building or enclosure when installed outside of the exterior walls of the building unenclosed or in approved enclosures. Protection of such water heaters from the weather shall be provided either by the appliance design itself or by an approved enclosure, when climatic or safety conditions warrant. In addition, such installations shall meet the following:

- (1) Adequate openings and clearances shall be provided by the enclosure in accordance with Sections 507 and 508.
- (2) Enclosure openings or vent caps shall be located in accordance with Section 517.5.
- (3) Section 517.2 is not applicable unless required by the heater manufacturer.
- (4) Vents extending through the roof of an enclosure adjacent to a one or two-family dwelling must comply with Table 5-2 but may be located less than eight (8) feet from an adjacent vertical wall.”

(31) Adding Section 601.4. Section 601.4 is added to read:

“601.4. Private water systems. Owners of private water systems are responsible for maintaining the potability of their water systems.

Note: Public water systems must meet the requirements of Department of Health. See Department of Health, Chapter 20, Rules Relating to Potable Water Systems.

‘Public water system’ means a system for the provision to the public piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any such collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system may be privately or publicly owned or operated.”

- (32) Amending Section 603.0. Section 603.0 is amended by adding a third paragraph under “Approval of Devices or Assemblies” thereof to read:

“All installations treating, handling, manufacturing or using liquids, chemicals, or waste products which may be polluttional, dangerous to health or toxic, or having a non-potable auxiliary water supply shall obtain from the board of water supply the requirements for an approval of the backflow prevention assembly to be installed after the water meters and prior to any branches or tees. It shall be the duty of the person or persons having control of such assemblies to obtain from the board of water supply the requirements for approved devices before the preliminary plans, specifications, and drawings are prepared.”

- (33) Amending Section 603.3.2. Section 603.3.2 is amended to read:

“**603.3.2** The premise owner or responsible person shall have the backflow assembly tested at the time of installation, repair, or relocation or when required by the administrative authority. See the Board of Water Supply and the Department of Health regulations for annual testing and reporting requirements.”

- (34) Amending Section 603.3.3. Section 603.3.3 is amended by deleting the last sentence:

“Installations elevated more than five (5) feet (1524 mm) above the floor or grade shall be provided with a permanent platform capable of supporting a tester or maintenance person.”

(NOTE: Section 603.4.6. Protection from Lawn Sprinklers and Irrigation Systems does not allow a double check valve assembly to be an approved device.)”

- (35) Amending Section 603.4.4.1. Section 603.4.4.1 is amended to read:

“**603.4.4.1. Heat exchangers.** Heat exchangers utilizing an essentially toxic transfer fluid shall be separated from the potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls. Heat exchangers utilizing an essentially nontoxic transfer fluid shall be permitted to be of single-wall construction.

On every heat exchanger or heat pump, there shall be posted a readily visible, durable sign stating: “Potable water heating system. Check heat exchanger for leaks before adding refrigerant.”

603.4.4.1.1. Essentially Nontoxic Transfer Fluids. Fluids having a Gosselin rating of one (1), including: propylene glycol; mineral oil; polydimethylsiloxane, hydrochlorofluorocarbon, chlorofluorocarbon and hydrofluorocarbon refrigerants; and FDA-approved boiler water additives for steam boilers.

603.4.4.1.2. Essentially Toxic Transfer Fluids. Soil, waste or gray water and fluids having a Gosselin rating of two (2) or more including ethylene glycol, hydrocarbon oils, ammonia refrigerants and hydrazine.”

- (36) Adding Section 603.4.12.1. Section 603.4.12.1 is added to read:

“**603.4.12.1** Labeling of nonpotable water pipes. When nonpotable water is furnished to a property, the pipes shall be labeled “nonpotable water” above and below ground and at all outlets. Above ground piping shall be labeled at eight-foot maximum intervals. Below ground piping shall be continuously labeled except for irrigation piping.”

- (37) Amending Section 603.4.13. Section 603.4.13 is amended to read:

“**603.4.13** Potable water supply to carbonators shall be protected by a listed reduced pressure principle backflow preventer or double check valve with intermediate atmospheric vent as approved by the administrative authority for the specific use.”

- (38) Amending Section 603.4.18.1. Section 603.4.18.1 is amended to read:

“**603.4.18.1** Except as provided under Sections 603.4.18.2 and 603.4.18.3 below, potable water supplies to fire protection systems, including but not limited to standpipes and automatic sprinkler systems, shall be protected from back-pressure and back-siphonage by a double check valve assembly or a reduced pressure backflow preventer.

EXCEPTIONS:

- (1) Systems with alarm check valve assembly
- (2) Systems with detector check assembly
- (3) One and two family dwellings and mobile homes
- (4) Systems with booster pumps and check valve assembly.”

- (39) Amending Section 604.1. Section 604.1 is amended to read:

“**604.1** Water pipe and fittings shall be of brass, copper, cast iron, galvanized steel or other approved materials. Asbestos-cement, CPVC, PB, PE, PEX, PEX-AL-PEX or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC, PB, PEX and PEX-AL-PEX water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the administrative authority.”

- (40) Amending Section 605.3. Section 605.3 is amended by deleting the last sentence of the paragraph and adding at the end of the paragraph:

“**EXCEPTION:** When a supply riser serves not more than one plumbing fixture in each dwelling unit, the fixture supply stop may be used in lieu of the fullway valve as its isolating shutoff valve. In such an installation, the supply riser shall be properly located and provided with an accessible fullway valve at the foot or the top of the riser so that the valves will isolate not more than twenty dwelling units. The fixture supply stop shall be an angle valve or stop, straightway stop, screw stop, ball valve, corporation cock, butterfly valve, plug valve or similar valve. Valves shall not have slip joints on the valve inlet side.”

- (41) Adding Section 606.2.4. Section 606.2.4 is added to read:
- “606.2.4. Copper or Copper-Alloy Tubing to Galvanized Steel Pipe.** Joints between copper or copper-alloy tubing and galvanized steel pipe shall be made with a brass converter fitting or dielectric fitting. The copper tubing shall be soldered to the fitting in an approved manner, and the fitting shall be screwed to the threaded pipe. No dielectric fittings shall be located below grade unless approved by the administrative authority and they shall be wrapped as provided under Section 609.3.1.”
- (42) Amending Section 607.0. Section 607.0 is amended by adding at the end of the last sentence:
- “or other approved method with approval of the administrative authority.”
- (43) Adding Section 607.1. Section 607.1 is added to read:
- “607.1** No gravity tank shall be directly connected to the city water main, but shall be provided with an over-the-rim-filler, the orifice or outlet of which must be elevated a distance of six (6) inches (152.4 mm) above the overflow. A drain shall be provided at the bottom of the tank.”
- (44) Amending Section 608.1. Section 608.1 is amended by adding a new sentence at the end to read:
- “The tank and pump installations shall be in accordance with provisions of Sections 603 and 607 of this Code and with pertinent rules and regulations of the health officer, the board of water supply or any other department having jurisdiction.”
- (45) Amending Section 608.3. Section 608.3 is amended by deleting the following third paragraph:
- “In addition to the required pressure or combination pressure and temperature relief valve, an approved, listed expansion tank or other device designed for intermittent operation for thermal expansion control shall be installed whenever the building supply pressure is greater than the required relief valve pressure setting or when any device is installed that prevents pressure relief through the building supply. The tank or device shall be sized in accordance with the manufacturer’s recommendation.”
- (46) Amending Section 609.1. Section 609.1 is amended by deleting the last two sentences of the section and adding at the end a paragraph to read:
- “The minimum cover shall be six (6) inches below finish grade or as approved by the administrative authority.”
- (47) Amending Section 609.2. Section 609.2 is amended by changing “as” to “with” in the first line.
- (48) Amending Section 609.3.2. Section 609.3.2 is amended by adding at the end of the first sentence “or soldered with 95-5 Tin Antimony solder.”
- (49) Amending Section 609.7.2. Section 609.7.2 is amended by changing the last two sentences to read:
- “Such an agreement shall be as a part of the conditions of ownership of said properties and shall be binding on all heirs, successors and assigns to such properties.”

(50) Amending Table 6-4 Water Supply Fixture Units (WSFU) and Minimum Fixture Branch Pipe Sizes. Table 6-4 is amended as follows:

- A) Deleted the figures under “3 or more Dwellings” and “Heavy-Use Assembly.”

- B) Changed the values (“Minimum Fixture Outlet Pipe Size” and “Notes” remain unchanged) for the following fixtures:
 - Bathtub or Combination Bath/Shower;
 - Clotheswasher, domestic;
 - Kitchen Sink, domestic;
 - Lavatory;
 - Shower;
 - Urinal, 1.0 GPF;
 - Water Closet, 1.6 GPF Gravity Tank;
 - Water Closet, 1.6 GPF Flushometer Tank;
 - Water Closet, 1.6 GPF Flushometer Valve; and
 - Whirlpool Bath or Combination Bath/Shower.

Intentionally left blank.

As amended, Table 6-4 shall read:

| “TABLE 6-4 | | | |
|--|---|--|-------------------------------|
| Water Supply Fixture Units (WSFU) and Minimum Fixture Branch Pipe Sizes | | | |
| Individual Fixtures² | Minimum Fixture Outlet Pipe Size¹ | Private Individual Dwelling | Public General Use |
| Bar Sink | 1/2” | 1.0 | 2.0 |
| Bathtub or Combination Bath/Shower | 1/2” | 2.5 | |
| Bidet | 1/2” | 1.0 | |
| Clinic Sink | 1/2” | | 8.0 |
| Clotheswasher, domestic | 1/2” | 2.0 | 4.0 |
| Dental Unit, cuspidor | 1/2” | | 1.0 |
| Dishwasher, domestic | 1/2” | 1.5 | 1.5 |
| Drinking Fountain or Watercooler | 1/2” | | 0.5 |
| Hose Bibb | 1/2” | 2.5 | 2.5 |
| Hose Bibb, each additional | 1/2” | 1.0 | 1.0 |
| Kitchen Sink, domestic | 1/2” | 1.6 | 3.2 |
| Laundry Sink | 1/2” | 2.0 | 2.0 |
| Lavatory | 1/2” | 0.6 | 1.2 |
| Lawn Sprinkler, each head | | 1.0 | 1.0 |
| Mobile Home, each | | 12.0 | |
| Service Sink or Mop Basin | 1/2” | | 3.0 |
| Shower | 1/2” | 1.6 | 3.2 |
| Shower, continuous use | 1/2” | | 5.0 |
| Urinal, 1.0 GPF | | 1.7 | 2.8 |
| Urinal, greater than 1.0 GPF | | | 5.0 |
| Urinal, flush tank | 1/2” | | 3.0 |
| Washfountain, circular spray | 3/4” | | 4.0 |
| Washup Sink, each set of faucets | 1/2” | | 2.0 |
| Water Closet, 1.6 GPF Gravity Tank | 1/2” | 1.7 | 2.8 |
| Water Closet, 1.6 GPF Flushometer Tank | 1/2” | 1.7 | 2.8 |
| Water Closet, 1.6 GPF Flushometer Valve | 1” | 3.4 | 5.6 |
| Water Closet, 3.5 GPF Gravity Tank | 1/2” | 3.0 | 5.5 |
| Water Closet, 3.5 GPF Flushometer Valve | 1” | 7.0 | 8.0 |
| Whirlpool Bath or Combination Bath/Shower | 1/2” | 2.5 | |

Notes:

1. Size of the cold branch outlet pipe, or both the hot and cold branch outlet pipes.
2. For unlisted fixtures, refer to a listed fixture with a similar flow rate and frequency of use.
3. The listed fixture unit values represent their total load on the cold water service. The separate cold water and hot water fixture unit value for fixtures having both cold and hot water connections shall each be taken as three-quarters (3/4) of the listed total value of the fixture.
4. The listed minimum supply branch pipe sizes for individual fixtures are the nominal (I.D.) pipe size.
5. “General use” applies to business, commercial, industrial, and assembly occupancies other than those defined under “Heavy-use.” Included are the public and common areas in hotels, motels, and multi-dwelling buildings.
6. “Heavy-use assembly” applies to toilet facilities in occupancies which place a heavy, but intermittent, time-based demand on the water supply system, such as schools, auditoriums, stadiums, race courses, transportation terminals, theaters, and similar occupancies where queuing is likely to occur during periods of peak use.
7. For fixtures or supply connections likely to impose continuous flow demands, determine the required flow in gallons per minute (GPM) and add it separately to the demand (in GPM) for the distribution system or portions thereof.”

(51) Amending Section 609.10. Section 609.10 is amended by changing the first sentence to read:

“All building water supply systems in which quick-acting valves are installed should be provided with devices to absorb high pressures resulting from the quick closing of these valves.”

(52) Amending Table 6-5. Table 6-5 is amended by adding a footnote to read:

“Final sizes to be governed by rules and regulations of the board of water supply.”

(53) Amending Section 610.8. Section 610.8 is amended by adding at the end of the first paragraph a sentence to read:

“**Note:** Meter and water service sizes shall be subject to approval of the board of water supply under their rules and regulations.”

(54) Deleting Section 701.1.2.

Section 701.1.2 is deleted. (Plastic DWV piping has no height restrictions.)

(55) Amending Section 701.3. Section 701.3 is amended by changing the third sentence to read:

“For flashings or vent terminals – not less than two and one-half (2.5) pounds per square foot (12.2 Kg/square meter).”

(56) Amending Table 7-3. Table 7-3, Drainage Fixture Unit Values (DFU) is amended as follows:

A) Deleted the figures under “3 or more Dwellings” and “Heavy-Use Assembly”.

B) Changed the values for the following fixtures:

- Bathtub or Combination Bath/Shower
- Urinal, 1.0 GPF
- Urinal, greater than 1.0 GPF
- Urinal, 1-1/2” trap

As amended, Table 7-3 shall read:

| “TABLE 7-3 | | | |
|--|--|------------------------------------|---------------------------|
| Drainage Fixture Unit Values (DFU) | | | |
| Individual Fixtures² | Min. Size Trap and Trap Arm⁷ | Private Individual Dwelling | Public General Use |
| Bar Sink | 1-1/2” | 1.0 | |
| Bar Sink | 1-1/2” ² | | 2.0 |
| Bathtub or Combination Bath/Shower | 1-1/2” | 2.0 | |
| Bidet, 1-1/4” trap | 1-1/4” | 1.0 | |
| Clinical Sink, 3” trap | 3” | | 6.0 |
| Clothes Washer, domestic, 2” standpipe ⁵ | 2” | 3.0 | 3.0 |
| Dental Unit, cuspidor | 1-1/4” | | 1.0 |
| Dishwasher, domestic, with independent drain | 1-1/2” | 2.0 | 2.0 |
| Drinking Fountain or Watercooler | 1-1/4” | | 0.5 |
| Food-waste-grinder, commercial | 2” | | 3.0 |
| Floor Drain, emergency | | | 0.0 |
| Kitchen Sink, domestic, with one 1-1/2” trap | 1-1/2” ² | 2.0 | 2.0 |
| Kitchen Sink, domestic, with food-waste-grinder | 1-1/2” ² | 2.0 | 2.0 |
| Kitchen Sink, domestic, with dishwasher | 1-1/2” ² | 3.0 | 3.0 |
| Kitchen Sink, domestic, with grinder and dishwasher | 1-1/2” ² | 3.0 | 3.0 |
| Laundry Sink, one or two compartments | 1-1/2” | 2.0 | 2.0 |
| Laundry Sink, with discharge from clothes washer | 1-1/2” | 2.0 | 2.0 |
| Lavatory, single | 1-1/4” | 1.0 | 1.0 |
| Lavatory in sets of two or three | 1-1/2” | 2.0 | 2.0 |
| Mobile Home, trap | 3” | 12.0 | |
| Mop Basin, 3” trap | 3” | | 3.0 |
| Receptor, indirect waste, 1-1/2” trap ^{1,3} | 1-1/2” | | (1) |
| Receptor, indirect waste, 2” trap ^{1,4} | 2” | | (1) |
| Receptor, indirect waste, 3” trap ¹ | 3” | | (1) |
| Service Sink, 2” trap | 2” | | 3.0 |
| Service Sink, 3” trap | 3” | | 3.0 |
| Shower Stall, 2” trap | 2” | 2.0 | 2.0 |
| Showers, group, per head (continuous use) | 2” | | 5.0 |
| Sink, commercial, 1-1/2” trap, with food waste | 1-1/2” ² | | 3.0 |
| Sink, service, flushing rim | 3” | | 6.0 |
| Sink, general, 1-1/2” trap | 1-1/2” | 2.0 | 2.0 |
| Sink, general, 2” trap | 2” | 3.0 | 3.0 |
| Sink, general, 3” trap | 3” | | 5.0 |
| Urinal, 1.0 GPF | | | 2.0 |
| Urinal, greater than 1.0 GPF | | | 3.0 |
| Urinal, 1-1/2” trap | 1-1/2” ² | | 2.0 |
| Washfountain, 1-1/2” trap | 1-1/2 | | 2.0 |
| Washfountain, 2” trap | 2” | | 3.0 |
| Wash Sink, each set of faucets | | | 2.0 |

| | | | |
|--|----|-----|-----|
| Water Closet, 1.6 GPF Gravity Tank ⁶ | 3” | 3.0 | 4.0 |
| Water Closet, 1.6 GPF Flushometer Tank ⁶ | 3” | 3.5 | 5.0 |
| Water Closet, 1.6 GPF Flushometer Valve ⁶ | 3” | 3.0 | 4.0 |
| Water Closet, 3.5 GPF Gravity Tank ⁶ | 3” | 4.0 | 6.0 |
| Water Closet, 3.5 GPF Flushometer Valve ⁶ | 3” | 4.0 | 6.0 |
| Whirlpool Bath or Combination Bath/Shower | 2” | 3.0 | |

¹Indirect waste receptors shall be sized based on the total drainage capacity of the fixtures that drain therein to, in accordance with Table 7-4.
²Provide a 2” (51 mm) minimum branch drain beyond the trap arm.
³For refrigerators, coffee urns, water stations, and similar low demands.
⁴For commercial sinks, dishwashers, and similar moderate or heavy demands.
⁵Buildings having a clothes washing area with clothes washers in a battery of three (3) or more clothes washers shall be rated at six (6) fixture units each for purposes of sizing common horizontal and vertical drainage piping.
⁶Water closets shall be computed as six (6) fixture units when determining septic tank sizes based on Appendix K of this Code.
⁷Trap sizes shall not be increased to the point where the fixture discharge may be inadequate to maintain their self-scouring properties.”

(57) Amending Section 703.2. Section 703.2 is amended by adding an exception provision to read:

“**Exception:** When approved by the administrative authority, other tables of loading limits based on engineered studies and testings may be used in the sizing of drainage and vent piping. The administrative authority may require supporting data, prepared and stamped by a registered professional engineer or architect, submitted for each project. The use of higher loading limits extracted from different tables for the same project or drainage system is not permitted.”

(58) Deleting Section 704.3.

Section 704.3 is deleted.

(59) Amending Table 7-5. Table 7-5 is amended by adding at the end of Note 4:

“or four (4) - 1.6 gallons per flush water closets on any horizontal branch or drain.”

(60) Amending Section 707.4. Section 707.4 is amended to read:

“Each horizontal drainage pipe shall be provided with a cleanout at its upper terminal, and each run of piping which is more than fifty (50) feet (15.2 m) in length shall be provided with a cleanout for each fifty (50) feet (15.2 m) or fraction thereof, in length of piping, and at each change in pipe size up to four (4) inches (101.6 m).”

(61) Amending Section 707.4, Exception (1). Section 707.4, Exception (1) is amended to read:

“(1) Cleanouts may be omitted on a horizontal drain line less than five (5) feet (1524 mm) in length.”

(62) Amending Section 707.12. Section 707.12 is amended by adding to the end of the last sentence:

“or other engineered design method with the approval of the administrative authority.”

- (63) Adding Section 707.15. Section 707.15 is added to read:
- “**707.15** All cleanouts located on the ground floor within any residential occupancy shall be extended outside of or below the building or shall be extended above the floor at least six (6) inches (152.4 mm) above the flood level rim of the lowest fixture.”
- (64) Amending Section 710.1. Section 710.1 is amended to read:
- “**710.1** Drainage piping serving fixtures which have flood level rims located below the elevation of the next upstream manhole cover of the public or private sewer serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Where such upstream manhole cover does not exist, an approved backwater valve shall be installed if the fixtures have flood level rims below the connecting manhole cover. Fixtures above such elevation shall not discharge through the backwater valve.”
- (65) Adding Section 710.3.4. Section 710.3.4 is added to read:
- “**710.3.4** Macerating or grinder type sump pumps shall have a minimum pipe size of one and one fourth (1-1/4) inches.”
- (66) Amending Section 710.6. Section 710.6 is amended by adding to the end of the last sentence of the first paragraph:
- “or other approved compartment.”
- (67) Amending Section 711.0. Section 711.0 is amended by deleting “Bathtubs,” from the second sentence and capitalizing the initial letter of “laundries” therein.
- (68) Amending Section 715.1. Section 715.1 is amended by deleting “two (2) feet (610 mm)” and inserting in lieu thereof “five feet (1.5 m).”
- (69) Deleting Section 716.0.
- Section 716.0 is deleted.
- (70) Amending Section 717.0. Section 717.0 is amended to read:
- “**717.0. Size of Building Sewers.**
- The minimum size of any building sewer shall be determined on the basis of the total number of fixture units drained by such sewer, in accordance with Table 7-8, except that collection sewers under applicable conditions may be sized by recognized engineering design practices when approved by the administrative authority. No building sewer shall be smaller than the building drain unless approved by the administrative authority.”
- (71) Amending Section 718.1. Section 718.1 is amended to read:
- “**718.1** Building sewers shall run in practical alignment and at a uniform slope of not less than one fourth (1/4) of an inch per foot (20.9 mm per m) toward the point of disposal. Where it is impractical due to the depth of the street sewer or to the structural features or to the arrangement of any building or structure to obtain a slope of one fourth (1/4) of an inch per foot (20.9 mm per m), any such pipe or piping four (4) inches (101.6 mm) or larger may have a lesser slope when approved engineering methods have been used to design the system and when such a system has first been approved by the administrative authority.”

- (72) Amending Section 718.3. Section 718.3 is amended by:
- a) Deleting “two (2) feet (610 mm)” and inserting in lieu thereof “five (5) feet (1.5 m).”
 - b) At the end of the last sentence adding, “or as approved by the administrative authority.”
- (73) Amending Section 719.1. Section 719.1 is amended to read:
- “**719.1** Cleanouts shall be placed inside the building near the connection between the building drain and building sewer or installed between the exterior wall line and five (5) feet (1.5 m) outside the building at the lower end of a building drain and extended to grade. An approved type of two-way cleanout fitting installed outside a building or a sewer manhole may be substituted for this cleanout requirement.
- Additional building sewer cleanouts shall be installed at intervals not to exceed one hundred (100) feet in straight runs and for each aggregate change in direction exceeding one hundred and thirty-five (135) degrees.”
- (74) Adding Section 719.7. Section 719.7 is added to read:
- “**719.7** Cleanouts shall be installed immediately upstream of the connection of the city sanitary sewer system in accordance with the rules and regulations of the department of environmental management, wastewater division. Cleanouts in sidewalk and driveway areas shall be flush with the surface and shall be of cast iron or brass body with brass plug.”
- (75) Amending Section 721.1. Section 721.1 is amended to read:
- “**721.1** No building sewer or private sewage disposal system or parts thereof shall be located in any lot other than the lot which is the site of the building or structure served by such sewer or private disposal system. Provided, however, a building sewer or private disposal system may be located on an abutting lot when specifically required by the health officer or other department having jurisdiction over sewage disposal and provided further that a legal easement over the abutting lot is first obtained and the plans are approved by the administrative authority.”
- (76) Amending Section 721.2. Section 721.2 is amended by amending the last two sentences to read:
- “Such an agreement shall be as a part of the conditions of ownership of said properties and shall be binding on all heirs, successors and assigns to such properties.”
- (77) Amending Section 722.2. Section 722.2 is amended by adding at its end:
- “**Exception:** An abandoned cesspool may be used as an overflow receptor for a sewage sump with pump discharge when approved by the administrative authority.”

- (78) Amending Section 722.3. Section 722.3 is amended to read:
- “**722.3** The top cover, access cover or arch over the cesspool, septic tank, or seepage pit shall be removed before filling and the filling shall not extend above the top of the vertical portions of the sidewalls or above the level of any outlet pipe until inspection has been called and the cesspool, septic tank, or seepage pit has been inspected. After such inspection, the cesspool, septic tank, or seepage pit shall be filled to the level of the top of the ground.”
- (79) Deleting Table 7-7.
- Table 7-7 is deleted.
- (80) Adding Section 724.0. Section 724.0 is added to read:
- “**724.0. Private Sewage Disposal (General).**
- Where permitted by Section 713.0, the building sewer or private sewer may be connected to a private sewage disposal system complying with the requirements of the state health officer and all city regulations governing private sewage disposal systems. (See State Department of Health, Chapter 62, Wastewater Systems.)”
- (81) Amending Section 801.2.1. Section 801.2.1 is amended by deleting the last clause of the first sentence:
- “and the maximum developed length shall not exceed fifteen (15) feet (4572 mm).”
- (82) Amending Section 801.2.3. Section 801.2.3 is amended by deleting the words “or airbreak” at the end of the first sentence.
- (83) Amending Section 801.3. Section 801.3 is amended by deleting the last sentence:
- “The developed length from the fixture outlet to the receptor shall not exceed five (5) feet (1524 mm).”
- (84) Amending Section 801.5. Section 801.5 is amended by deleting the last clause of the second sentence:
- “and shall not exceed fifteen (15) feet (4572 mm).”
- (85) Deleting Section 801.7.
- Section 801.7 is deleted.
- (86) Amending Section 803.0. Section 803.0 is amended by adding after the last sentence:
- “Indirect waste piping shall be limited to fifteen (15) feet unless approved by the administrative authority.”
- (87) Amending Section 804.1. Section 804.1 is amended by adding at the end thereof:
- “Indirect drains for air conditioning condensate may be installed in toilet or bathroom areas.”

- (88) Amending Section 811.1. Section 811.1 is amended to read:
- “**811.1** Chemical industrial liquid wastes which are likely to damage or increase maintenance costs on the sanitary sewer system, detrimentally affect sewage treatment, or contaminate surface or subsurface waters, shall be pretreated to render them innocuous prior to discharge into a drainage system. Any discharge of such waste shall be subject to the provisions of chapter 21, Hawai‘i County Code and all other applicable laws.”
- (89) Deleting Section 814.0.
- Section 814.0 is deleted.
- (90) Deleting Section 815.1.
- Section 815.1 is deleted.
- (91) Adding Section 815.2.3. Section 815.2.3 is added to read:
- “**815.2.3** Condensate wastes shall not drain over a public way.”
- (92) Deleting Section 903.1.2.
- Section 903.1.2 is deleted. (ABS and PVC DWV piping are approved without limitations of building height.)
- (93) Amending Section 905.3. Section 905.3 is amended by changing the last sentence to read:
- “Vents less than six (6) inches (152.4 mm) above the flood level rim of the fixture shall be installed with sanitary tees or approved drainage fittings, material and grade to the drain.”
- (94) Amending Section 906.6. Section 906.6 is amended by adding:
- “For pre-fabricated flashings – Sheet lead shall be at least two and one-half (2.5) pounds per square foot.”
- (95) Amending Section 910.6. Section 910.6 is amended by changing the last sentence to read:
- “An accessible cleanout shall be installed in the above-floor portion of each vent for the combination waste and vent system.”
- (96) Adding Section 911.0. Section 911.0 is added to read:
- “**Section 911.0. Single-stack System.**
- When approved by the administrative authority, a single-stack system based on engineered studies and testings may be used in lieu of other related provisions in this code. Plans and specifications of such systems shall be prepared and stamped by a licensed professional engineer or architect.”
- (97) Adding Section 1014.11. Section 1014.11 is added to read:
- “**1014.11** Each grease trap or interceptor shall have at least twelve (12) inches clearance above the cover for inspection and maintenance.”
- (98) Deleting Chapter 11.
- Chapter 11 Storm Drainage is deleted.

- (99) Amending Section 1201.0. Section 1201.0 is amended by adding at the end thereof:
- “Compliance with the National Fire Protection Association (NFPA) Standard No. 54-1996, National Fuel Gas Code will be deemed equivalent to meeting requirements of the Uniform Plumbing Code.”
- (100) Amending Section 1204.3.2. Section 1204.3.2 is amended by adding at the end thereof a sentence to read:
- “The administrative authority may accept the use of any testing apparatus which has been approved by a nationally recognized testing laboratory in lieu of the foregoing air pressure test.”
- (101) Adding Section 1204.3.3. Section 1204.3.3 is added to read:
- “1204.3.3. Gas Appliance Installation Inspection.**
- This inspection shall be made after all gas piping in the system as authorized has been inspected and approved and the connections of such gas fixtures and appliances as authorized by permit have been made to the piping system. This inspection shall include a soap solution test or other approved testing method of detecting any gas leakage occurring in the connection or attachment and shall include a determination that the installation meets the requirements and intent of this code.”
- (102) Amending Section 1209.1. Section 1209.1 is amended to read:
- “1209.1** All gas meter locations under the control of the gas supplier shall be approved by the supplier. All meter locations shall conform to local fire regulations.”
- (103) Amending Section 1210.0. Section 1210.0 is amended to read:
- “1210.0. Material for Gas Piping.**
- 1210.1** Pipe: All pipe used for the installation, extension, alteration, or repair of any gas piping shall be standard weight wrought iron or steel (galvanized or black), threaded copper or brass pipe. Threaded copper or brass pipe is restricted to above ground only. Approved PE pipe may be used in exterior buried piping systems.
- 1210.2** Tubing: Seamless copper, aluminum alloy, brass or steel tubing may be used in lieu of pipe listed in Section 1210.1 for above ground installations only and shall not be installed in concealed spaces. Copper tubing shall be of type K or L, or equivalent, having a minimum wall thickness of 0.032 inch and shall be appropriately labeled as gas piping system. Aluminum alloy shall not be used in exterior locations or where it is in contact with masonry, plaster or building insulation or is subject to corrosive wettings. Approved PE tubing may be used in exterior buried piping systems. Corrugated stainless steel tubing (CSST) shall be tested and listed as to compliance with construction, installation, and performance requirements for use in interior gas piping systems per ANSI/AGA LC1-1991, Interior Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing.

1210.3 All such pipe or tubing shall be either new, or shall previously have been used for no other purpose than conveying gas; it shall be in good condition and free from internal obstructions. Burred ends shall be reamed to the full bore of the pipe or tubing.

1210.4 Fittings, except stopcocks or valves, shall be malleable iron or steel or wrought iron, and shall be copper or brass when used with copper or brass pipe or tubing and shall be aluminum alloy when used with aluminum alloy pipe or tubing. PE fittings, mechanical connectors and transition fittings shall be of the approved types when used with PE piping or tubing.

1210.5 Valves: All valves and appurtenances used in connection with the above piping shall be of the type designed and approved for use with fuel gas.”

(104) Amending Section 1211.1. Section 1211.1 is amended to read:

“**1211.1** All pipe joints in the piping system, unless welded, shall be screwed joints, having approved standard threads. Such screwed joints shall be made up with approved pipe joint material, insoluble in the presence of fuel gas and applied to the male threads only. Tubing joints shall either be made with approved flared gas tubing fittings, or be brazed with a material having a melting point in excess of one thousand (1,000) degrees F.”

(105) Deleting Section 1211.2.

Section 1211.2 is deleted.

(106) Amending Section 1211.3. Section 1211.3 is amended by amending the Exception note to read:

“**Exception:** When necessary due to structural conditions, approved type gas piping may be installed in other locations when permission has first been obtained from the administrative authority. In non-industrial occupancies, approved machine-wrapped or coated ferrous piping as defined in Section 1211.5 and Section 1211.7 may be encased in an independent concrete jacket with a minimum wall thickness of one and one half (1-1/2) inches. The protective coating shall extend at least one (1) inch above the point of entry into the slab and above the point of exit from the slab for the appliance riser. Such piping shall not be in physical contact with other metallic objects such as reinforcing rods or electrical neutral conductors.”

(107) Amending Section 1211.5. Section 1211.5 is amended by changing the third sentence to read:

“Plastic gas piping shall have at least twelve (12) inches (.3m) of earth cover or other equivalent protection.”

(108) Deleting Section 1211.6.

Section 1211.6 is deleted.

(109) Amending Section 1211.10. Section 1211.10 is amended to read:

“**1211.10** Ground-joint unions may only be used at exposed fixture, appliance, or equipment connections and in exposed exterior locations immediately on the discharge side of a building shutoff valve. Heavy duty flanged type unions may be used in special cases, when first approved by the administrative authority. Bushings shall not be used in concealed locations.”

- (110) Amending Section 1212.0. Section 1212.0 is amended by adding to the end of Exception condition (5) the following sentence:

“Semi-rigid aluminum tubing shall not be used as an appliance connector.”

- (111) Amending Section 1213.6. Section 1213.6 is amended to read:

“**1213.6** Liquefied petroleum gas piping shall not serve any gas appliance located in a pit or basement where heavier than air gas might collect to form a flammable mixture.”

- (112) Adding Section 1213.10. Section 1213.10 is added to read:

“**1213.10** Liquefied Petroleum Gas Cylinder Tank Facilities more than twenty-four (24) inches in vertical height, shall be secured against seismic movements within the upper top one-third (1/3) of its vertical dimensions.”

- (113) Amending Section 1214.1. Section 1214.1 is amended to read:

“**1214.1** Leaks in gas piping shall be located by applying soapy water to the exterior of the piping, or by use of approved or listed gas detecting devices.”

- (114) Amending Section 1216.4. Section 1216.4 is amended to read:

“**1216.4** The size of the supply pipe outlet for any gas appliance shall be not less than the size of the inlet connection of that appliance.

The minimum size of any piping outlet shall be three-quarter inch for a freestanding gas range using synthetic natural gas and shall be one-half (1/2) inch for a recessed oven section, a recessed top section, or for a freestanding range using L.P.G.”

- (115) Amending Section 1217.3. Section 1217.3 is amended to read:

“**1217.3** For conditions other than those covered by Section 1217.1, such as commercial, industrial and multiple units which require longer runs or greater gas demands, the size of each gas piping system shall be determined by standard engineering methods acceptable to the administrative authority.”

- (116) Amending Section 1218.6. Section 1218.6 is amended by amending the first sentence to read:

“Approved engineering methods or Tables 12-5 and 12-6, when corrected for the specific gravity of the gas utilized, may be used to size gas piping systems carrying three (3) to five (5) psig (20.7 or 34.5 kPa) gas.”

- (117) Amending Section 1218.8. Section 1218.8 is amended by deleting “eighteen (18) inches (457.2 mm)” and inserting in lieu thereof “twelve (12) inches (304.8 mm).”

- (118) Adding Section 1219.0. Section 1219.0 is added to read:

“**1219.0. Allowable Pressure Drop.**

The design pressure loss in any piping system under maximum probable flow conditions, from the point of delivery to the inlet connection of the gas utilization equipment, shall be such that the supply pressure at the equipment is greater than the minimum pressure required for proper equipment operation.”

(119) Amending Table 12-1. Table 12-1 is amended to read:

| “TABLE 12-1 | | |
|--|-----------------------------|------------|
| Demand of Typical Domestic Gas Appliances | | |
| In Cubic Feet Per Hour | | |
| Appliance | Demand in Cu. Ft./Hr | |
| | SNG | LPG |
| Bunsen Burner | 3 | 2 |
| Domestic Full Size Range | 65 | 26 |
| Domestic Apt. Size Range | 60 | 24 |
| Domestic Recessed Oven Section | 22 | 9 |
| Domestic Surface Unit | 40 | 16 |
| Domestic Storage Water Heater up to 30 Gal. | 39 | 16 |
| Domestic Storage Water Heater 40 and 50 Gal. | 50 | 20 |
| Domestic Clothes Dryer | 35 | 14 |
| Domestic Barbecue | 50 | 20 |
| Gas Refrigerator | 3 | 2 |
| Gas Luau Torch | 24 | 10” |

(120) Amending Section 1301.1. Section 1301.1 is amended by adding the last sentence to read:

“The provisions of this Chapter on Medical Gas Systems shall be used as REFERENCE ONLY, for the design and construction of Medical Gas Systems. This section will not be regulated or enforced by the County of Hawai‘i.”

(121) Adding Section 1301.3. Section 1301.3 added to read:

“1301.3 Those facilities that do not provide twenty-four (24) hour patient care shall not be required to provide alarm systems or multiple supply sources for air, vacuum and gas systems.”

(122) Amending Section 1303.1. Section 1303.1 is amended by adding:

“1303.1 Medical Gas Systems conforming to NFPA 99C-1993 Gas and Vacuum Systems shall be deemed equivalent to meeting the requirements of this chapter. (Medical Gas Systems are also governed by Uniform Fire Code Section 74-201.)”

(123) Amending Section 1318.2. Section 1318.2 is amended to read:

“1318.2 The medical air compressor shall take its source from the outside atmosphere and shall not add contaminants in the form of particulate matter, odor or other gases.”

(124) Amending Section 1322.0. Section 1322.0 Inspection is amended by replacing the word “Administrative Authority” with “Certified Medical Gas System Verifier”(Individuals who have successfully passed an National Inspection Testing Certification Service competency examination in accordance with the ASSE Series 6000 Standard, Section 6030) in Sections 1322.1 – 1322.9.

- (125) Amending Section 1322.2. Section 1322.2 is amended by changing “twenty-four (24) hours” to “forty-eight (48) hours.”
- (126) Amending Section 1323.3. Section 1323.3 is amended by adding:
“The licensed mechanical engineer responsible for the design and observation of the system shall provide a statement that the certification tests of Section 1323.2.1 through 1323.2.10, as applicable, has been verified and to the best of such engineer’s knowledge complies with the installation requirements.”
- (127) Amending Chapter 14 Mandatory Referenced Standards. Chapter 14 is amended by deleting the word “Mandatory” from the title.
- (128) Deleting Appendix D, Sizing Stormwater Drainage Systems.
Appendix D is deleted.
- (129) Deleting Appendix E, Manufactured/Mobile Home Parks and Recreational Vehicle Parks.
Appendix E is deleted.
- (130) Deleting Appendix G, Graywater Systems for Single Family Dwellings.
Appendix G is deleted.
- (131) Amending Appendix H, Recommended Procedures for Design, Construction and Installation of Commercial Kitchen Grease Interceptors. Appendix H is amended by adding at the end of H101.0 General, the following:
“See rules and regulations of the Hawai‘i County Code, Chapter 21, pertaining to Grease Interceptors and Grease Traps.”
- (132) Deleting Appendix I, Installation Standards.
Appendix I is deleted. Although it is not a part of the code, it is included for the convenience of the user.
- (133) Deleting Appendix J, Reclaimed Water Systems for Non-Residential Buildings.
Appendix J is deleted.
- (134) Deleting Appendix K, Private Sewage Disposal Systems.
Appendix K is deleted. (Private sewage disposal systems are governed by Hawai‘i Administrative Rules, Title 11, State Department of Health, Chapter 62, Wastewater Systems.)
- (2007, Ord. No. 07-84, sec. 2)

Section 17-48. Reserved.
(2007, Ord. No. 07-84, sec. 2)

Section 17-49. Reserved.
(2007, Ord. No. 07-84, sec. 2)

Article 4. Plumbing Work Within Special Flood Hazard Areas.**Section 17-50. General applicability.**

The provisions of this article shall apply to the construction of any new plumbing system, renovation and major alteration, addition, or reconstruction of existing plumbing system within any special flood hazard area as identified by chapter 27, Hawai'i County Code.

(2007, Ord. No. 07-84, sec. 2)

Section 17-51. Exemptions.

The provisions of this article shall not apply to the following:

- (1) Any plumbing system serving a building or structure exempted from chapter 27, Hawai'i County Code;
- (2) Any plumbing system serving a building or structure which has been granted a flood control variance pursuant to article 2, chapter 27, Hawai'i County Code; or
- (3) Any plumbing system lawfully existing prior to November 8, 1993, subject to the provisions of chapter 27, Hawai'i County Code.

(2007, Ord. No. 07-84, sec. 2)

Section 17-52. Definitions.

For the purpose of this article, the following words and terms are defined in the same manner as those words and terms are defined in section 27-12, Hawai'i County Code:

- (1) Base flood elevation.
- (2) Flood or flooding.
- (3) Special flood hazard area.

(2007, Ord. No. 07-84, sec. 2)

Section 17-53. Drainage (plumbing) systems.

- (a) Drainage systems that have openings below the base flood elevation shall be provided with an automatic backwater valve installed in each discharge line passing through a building exterior wall, except backwater valves may be deleted if the fixture drainage openings are located at or above a floor level which is above the surrounding ground level.
- (b) Drainage systems for emergency servicing facilities that are required to remain in operation during a flood shall be provided with a sealed holding tank and the necessary isolation and diversion piping and appurtenances to withhold or postpone sewage discharge to the sewer system during the flood. The holding tank shall be sized for storage of at least one hundred fifty percent of the anticipated demand for a twenty-four hour period. Vents provided for such holding tank shall terminate at an elevation of at least one foot above the base flood elevation.
- (c) All pipes in a plumbing vent system shall terminate at an elevation of at least one foot above the base flood elevation.
- (d) All pipe openings through exterior walls below the base flood elevation shall be floodproofed to prevent infiltration of flood water through spaces between pipes and wall construction materials by use of embedded collars, sleeves, waterstops, or other means as may be approved by the administrative authority.

(2007, Ord. No. 07-84, sec. 2)

Section 17-54. Private sewage disposal/treatment.

An individual private sewage disposal system or a treatment facility may be permitted in a special flood hazard area when the design and location of such system or facility is approved by the State department of health. In addition to complying with public health regulations and administrative rules of the State department of health, any such new or replacement sewage disposal system shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

(2007, Ord. No. 07-84, sec. 2)

Section 17-55. Water supply systems.

- (a) Potable water supply systems that are located in a special flood hazard area shall be designed and installed in such a manner as to prevent contamination from flood waters up to the base flood elevation. Location and construction of private water supply wells shall comply with rules and regulations of the department of water supply of the County of Hawai'i.
- (b) Potable water supply tanks, filters, softeners, heaters, and all water-supplied appliances and fixtures located below the base flood elevation shall be protected against contamination by covers, walls, copings, or castings. All vent pipes serving the water supply system shall terminate at an elevation of at least one foot above the base flood elevation.
- (c) Backflow preventers or devices approved by the department of water supply shall be installed on water service lines as close to the property control valve as possible to protect the public water system from backflow or back siphonage of flood waters or other contaminants in the event of a line break. Devices shall be installed at accessible locations and shall be maintained in good working condition by the owner. The backflow preventers or devices shall be subject to periodic testing as prescribed in the rules and regulations of the department of water supply.
- (d) An approved double-check valve assembly shall be used in lieu of any vacuum breaker, permitted, or otherwise required under this chapter when located below the regulatory flood elevation.
- (e) Air relief valves are permitted on private pipelines only when installed at least one foot above the base flood elevation.

(2007, Ord. No. 07-84, sec. 2)

Section 17-56. Plumbing piping under buildings.

Plumbing piping under buildings constructed on stilts shall be securely anchored against lateral movement and flotation and protected against damage by flood water and debris. Protection shall be provided by the structural enclosure of such piping or by attaching such piping to the downstream side of structural members which are large enough to provide this protection.

(2007, Ord. No. 07-84, sec. 2)

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

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

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

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

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

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

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

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

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

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

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

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

(a) Hilo-Hāmākua-Waimea-Kohala-Kona.

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

(b) Hilo-Puna-Ka'u.

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

(c) Fare prepayment discount.

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

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

Coupon Price

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

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

- (g) Promotional fares.
 - (1) The purpose of this subsection is to provide lower bus fares when a new route or service is provided or to boost ridership on established routes.
 - (2) The transit administrator may establish fares on a temporary basis for a period not to exceed ninety calendar days for bus routes and services.
- (h) Island-wide transportation free zone.
 - (1) The purpose of this subsection is to provide the public with a transportation alternative to the private automobile. The provision of an effective public transportation system for the residents of the County of Hawai‘i will produce economic, social and lifestyle benefits for the residents of Hawai‘i County. The distances residents must travel for work, medical, education, and social needs will be alleviated by providing public transportation at no cost to the user.
 - (2) The County of Hawai‘i shall be designated a transportation kōkua zone. Riders boarding and alighting any regularly scheduled bus route operated by the County of Hawai‘i or its designee shall ride free of charge.
 - (3) The transportation kōkua zone shall not apply to County contracted shared-ride taxi services, County operated curb to curb van services, or County operated non-scheduled bus services.
 - (4) The County wide transportation kōkua zone shall terminate on December 31, 2009.
 - (5) Within one year of the kōkua zone’s effective date, and again not later than ninety days prior to December 31, 2009, the transit administrator shall report to the Hawai‘i County council on the impact of its implementation.

(1986, Ord. No. 86-15, sec. 2; Am. 1990, Ord. No. 90-37, sec. 7, Ord. No. 90-91, sec. 1; Am. 2004, Ord. No. 04-141, sec. 1; Am. 2005, Ord. No. 05-151, sec. 1; Am 2007, Ord. No. 07-141, sec. 2.)

Chapter 19**REAL PROPERTY TAXES****Article 1. Administration.****Section 19-1. Purpose.**

The purpose of this chapter is to implement the authority granted to the County to assess, impose and collect real property tax based on an amendment to the State constitution which was adopted on November 7, 1978, by the electorate. This chapter will provide for the administration, assessment, and collection of real property tax, including exemptions therefrom, dedication of land, and appeals.

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

Section 19-2. Definitions.

(a) Wherever used in this chapter:

“Affordable rental housing” means a residential unit where the rental cost does not exceed the affordable rental rate.

“Affordable rental rate” is a monthly rent not to exceed 75% of the Payment Standards as established by the office of housing and community development as of the first of January each year.

“Agriculture use value” means the productivity value for assessment purposes determined for lands being put to any agricultural use.

“Certification of rental rate” means the sworn statement of the parcel owner attesting under penalty of law the rental rate that the land owner will charge and maintain for all renters on that parcel for that calendar year.

“Commercial agricultural activities” shall mean the use of property to generate income, monetary gain or economic benefit in the form of money or money’s worth of a minimum \$2,000 annual gross income per farm operation, which may include multiple parcels that need not be contiguous, and/or the use of property that adheres to generally accepted standards or recognized practices within that agricultural industry.

“Commercial agricultural use dedication” means the use of land on a continuous and regular basis that demonstrates the owner is engaged in commercial agricultural activities from:

- (1) Intensive agriculture;
- (2) Orchards;
- (3) Feed crops and fast rotation forestry; or
- (4) Pasture and slow rotation forestry.

“Continuous and regular basis” shall be evidenced by the recurring planting, cultivation and harvesting of crops or ongoing animal husbandry or aquaculture activities that adhere to generally accepted standards or recognized practices within that agricultural industry.

“County” means the County of Hawai‘i.

“Date of classification” means July 1 of the tax year for which such classification is claimed.

“Dedicated lands” are lands which are restricted in their use for specified periods of time by covenants executed between the landowners and the director of finance as provided by this chapter.

“Director” means the director of finance of the County of Hawai‘i or the director’s authorized representative.

“Farm dwelling” means a single-family dwelling located on and used in direct connection with a farm, or where the agricultural activity provides income to the occupant(s) of the dwelling. A farm dwelling includes employee housing for that farm.

“Feed crops and fast rotation forestry” includes, but is not limited to, such crops as forage, seed, cane, rice, and biomass grasses.

“Intensive agriculture” includes, but is not limited to, such crops as vegetables, ginger, taro, herbs, nurseries, foliage, cut and potted flowers, piggeries, dairy, poultry, feedlots, aquaculture, honey and honey bees.

“Market value” is the most probable sale price of a property in terms of money in a competitive and open market assuming that the buyer and seller are acting prudently and knowledgeably, allowing sufficient time for the sale, and assuming that the transaction is not affected by undue stress.

“Nondedicated agricultural use assessment” means the present use of agricultural or residential and agricultural zoned land on a continuous and regular basis that demonstrates the owner is engaged in agricultural activities from:

- (1) Intensive agriculture;
- (2) Orchards;
- (3) Feed crops and fast rotation forestry; and/or
- (4) Pasture and slow rotation forestry.

“Orchards” includes, but is not limited to, such crops as macadamia nuts, guava, banana, papaya, avocado, grapes, passion fruit, coffee, citrus, cacao, pineapple, noni and tropical specialty fruits.

“Pasture and slow rotation forestry” includes, but is not limited to, pasture and longer rotation forestry.

“Property” or “real property” means and includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same, and any fixture which is erected on or affixed to such land, buildings, structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.

(1981, Ord. No. 613, sec. 2; Am. 1997, Ord. No. 97-84, sec. 1; Am. 2004, Ord. No. 04-143, sec. 1; Am. 2007, Ord. No. 07-107, sec. 2.)

Section 19-3. Duties and responsibilities of the director.

The director shall have the following duties and powers, in addition to any others prescribed or granted by this chapter:

- (1) **Assessment:** To assess, pursuant to law, all real property situated within the geographic boundary of the County for taxation of real property and to make any other assessment by law required to be made by the director.
- (2) **Collections:** To be responsible for the collection of all taxes imposed by this chapter and for such other duties as are provided by law.
- (3) **Construction of Revenue Laws:** To construe the provisions of this chapter, the administration of which is within the scope of the director’s duties, whenever requested by any officer or employee of the County, or by any taxpayer.
- (4) **Enforcement of Penalties:** To see that penalties are enforced when prescribed by this chapter (the administration of which is within the scope of the director’s duties) for disobedience or evading of its provisions, and to see that complaint is made against persons violating any provisions of this chapter; in the execution of these powers and duties, the director may call upon the corporation counsel or prosecuting attorney, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities and punishments for violation of the provisions of this chapter in respect to the assessment and taxation of real property.
- (5) **Forms:** To prescribe forms to be used in or in connection with the provisions of this chapter including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the provisions of this chapter and to change the same from time to time as deemed necessary.

- (6) **Maps:** The director shall provide for the County maps drawn to appropriate scale, showing all parcels, blocks, lots, or other divisions of land based upon ownership, and their areas or dimensions, numbered or otherwise designated in a systematic manner for convenience of identification, valuation, and assessment.

The director shall charge fees for the use and other disposition of tracings of these maps, including copies or prints made therefrom, by private persons or firms as provided for by this chapter.

- (7) **Inspection, Examination of Records and Property:** The director shall have the authority to inspect and examine the records and property of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling the director to obtain all information that could in any manner aid the director in discharging the director's duties under this chapter.
- (8) **Inspection, Examination of Real Property:** To inspect and examine the real property of any person for the purpose of enabling the director to attain all information that could in any manner aid the director in discharging the director's duties under this chapter.
- (9) **Recommendations for Legislation:** To recommend to the mayor such amendments, changes or modifications of the provisions of this ordinance or any applicable State statutes as may seem proper or necessary to remedy injustice or irregularity or to facilitate the assessment of property under this chapter.
- (10) **Report to Mayor:** To report to the mayor annually, and at such other times and in such manner as the mayor may require, concerning the acts and doings and the administration of the department of finance, and such other matters of information concerning real property taxation as may be deemed of general interest; the mayor shall transmit copies of such reports to the council within thirty days of receipt.
- (11) **Rules and Regulations:** To promulgate such rules and regulations as the director may deem proper and to effectuate the purposes for which the department of finance is constituted and to regulate matters of procedure by or before the director pursuant to the provisions of chapter 91, Hawai'i Revised Statutes.
- (12) **Compromises:** With the approval of the corporation counsel to compromise any claim arising under this chapter not exceeding \$500, and if a claim exceeds \$500, the director shall obtain the approval of the council, the administration of which is within the scope of the director's duties; and in any such case there shall be placed on file and in the department of finance's office a statement of (A) the amount of tax assessed, or proposed to be assessed, (B) the amount of penalties and interest imposed or proposed to be assessed, (C) the amount of penalties and interest imposed or which could have been imposed by law with respect to item (A), as computed by the director, (D) the total amount of liability as determined by the terms of the compromise, and the actual payments thereon with the dates thereof, and (E) the reasons for the compromise.
- (13) **Retroactivity of Rulings:** To prescribe the extent, if any, to which any ruling, regulation, or construction of the provisions of this chapter shall be applied without retroactive effect.
- (14) **Remission of Delinquency, Penalties and Interest:** Except in cases of fraud or wilful violation of the provisions of this chapter or wilful refusal to make a return setting forth the information required by this chapter (but inclusion in a return of a claim of nonliability for the tax shall not be deemed a refusal to make a return), the director may remit any amount of penalties or interest added, under this chapter, to any tax that is delinquent for not more than one hundred eighty days, in a case of excusable failure to file a return or pay a tax within the time required by this chapter, or in a case of uncollectibility of the whole amount due; and in any such case there shall be placed on file in the director's office a statement showing the names of the person receiving such remission, the principal amount of the tax, and the year or period involved.

- (15) Closing Agreements: To enter into an agreement in writing with any taxpayer or other person relating to the liability of such taxpayer or other person, under this chapter, the administration of which is within the scope of the director’s duties, in respect of any taxable period, or in respect of one or more separate items affecting the liability for any taxable period; such agreement, signed by or on behalf of the taxpayer or other person concerned, and by or on behalf of the County, shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, (A) the matters agreed upon shall not be reopened, and the agreement shall not be modified, by any officer or employee of the County, and (B) in any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded.
- (16) Other Powers and Duties: In addition to the powers and duties contained in this section, the powers and duties contained in this chapter for levying, assessing, collecting, receiving, and enforcing payments of the tax imposed hereunder, and otherwise relating thereto, shall be severally and respectively conferred, granted, practiced, and exercised for levying, assessing, collecting, and receiving and enforcing payment of the taxes imposed under the authority of this chapter.

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

Section 19-4. Oaths.

Unless otherwise provided for, the director may administer all oaths or affirmations required to be taken or be administered under this chapter.

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

Section 19-5. Hearings and subpoenas.

The director may conduct any inquiry, investigation, or hearing, relating to any assessment, or the amount of any tax, or the collection of any delinquent tax, including any inquiry or investigation into the financial resources of any delinquent taxpayer or the collectibility of any delinquent tax. The director may administer oaths and take testimony under oath relating to the matter of inquiry or investigation, and subpoena witnesses and require the production of books, papers, documents, and records pertinent to such inquiry. If any person disobeys such process, or, having appeared in obedience thereto, refuses to answer pertinent questions put to such person by the director or to produce any books, papers, documents or records, pursuant thereto, the director may apply to the third circuit court setting forth such disobedience to process or refusal to answer, and such court or judge shall cite such person to appear before such court or judge to answer such questions or to produce such books, papers, documents, or records, and upon the person’s refusal to do so commit such person to jail until such person testifies but not for a longer period than sixty days. Notwithstanding the serving of the term of commitment by any person, the director may proceed in all respects as if the witness had not previously been called upon to testify. Witnesses (other than the taxpayer or the taxpayer’s officers, directors, agents and employees) shall be allowed their fees and mileage as in cases in the circuit courts to be paid on vouchers of the County, from any moneys available for expenses of the director.

(1981, Ord. No. 613, sec. 5; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-6. Timely mailing treated as timely filing and paying.

(a) General Rule. Any report, claim, tax return, statement, or other document required or authorized to be filed with or any payment made to the County which is:

- (1) Transmitted through the United States mail, shall be deemed filed and received by the County on the postmarked date stamped upon the envelope or other appropriate wrapper containing it.

Section 19-51. Fiduciaries, liability.

Every personal representative, trustee, guardian, or other fiduciary shall be answerable as such for the performance of all such acts, matters, or things as are required to be done by this chapter in respect to the assessment of the real property said fiduciary represents in a fiduciary capacity, and shall be liable as such fiduciary for the payment of taxes thereon up to the amount of the available property held in such capacity, but a fiduciary shall not be personally liable. A fiduciary may retain, out of the money or other property which the fiduciary may hold or which may come to the fiduciary in a fiduciary capacity, so much as may be necessary to pay the taxes or to recoup the fiduciary for the payment thereof, or a fiduciary may recover the amount thereof paid by the fiduciary from the beneficiary to whom the property shall have been distributed.

(1981, Ord. No. 613, sec. 53; Am. 1997, Ord. No. 97-84, sec. 1.)

Section 19-52. Assessment of property of unknown owners.

The taxable property of persons unknown, or some of whom are unknown, shall be assessed to “unknown owners,” or to named persons and “unknown owners,” as the case may be. The taxable property of persons not having record title thereto on January 1, preceding the tax year for which the assessment is made, may be assessed to “unknown owners,” or to named persons and “unknown owners,” as the case may be. Such property may be levied upon for unpaid taxes.

(1981, Ord. No. 613, sec. 54; Am. 1997, Ord. No. 97-84, sec. 1.)

Article 7. Tax Maps; Valuations.**Section 19-53. Valuation; considerations in fixing.**

- (a) Except as provided below, the director of finance shall cause the market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the County. In making such determination and assessment, the director shall separately value and assess within each class established in accordance with subsection (e) of this section:
- (1) Buildings.
In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement or repair work undertaken upon or made to existing buildings as the same may result in higher assessable valuation of said buildings.
 - (2) All other real property, exclusive of buildings.
Exception. The value of land classified and used for agriculture as determined pursuant to section 19-57 or 19-60 shall be the value of such land for such agricultural use without regard to any value that such land might have for other purposes or uses. The director shall update the agricultural use values at least every five years and shall consult with agriculturalists and/or experts in the field when making such determination. The establishment of the agricultural use rate values shall be made in accordance with chapter 91, Hawai‘i Revised Statutes.
 - (3) Real property leased and located within the Waikoloa Workforce Housing project shall be valued under this chapter based on comparison with like properties within the same project.
- (b) So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.
- (c) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.
- (d) When a condominium property regime is declared for a property, each unit shall be classified upon consideration of its actual use into one of the general classes in the same manner as land.

(e) Classification of land:

- (1) Except as otherwise provided in subsection (e)(2) of this section, land shall be classified, upon consideration of its highest and best use, into the following general classes:
 - (A) Residential;
 - (B) Affordable rental housing;
 - (C) Apartment;
 - (D) Hotel and resort;
 - (E) Commercial;
 - (F) Industrial;
 - (G) Agricultural or native forests;
 - (H) Conservation; and
 - (I) Homeowner.
- (2) In assigning land to one of the general classes the director of finance shall give major consideration to the districting established by the land use commission pursuant to chapter 205, Hawai‘i Revised Statutes, the districting established by the County in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use, except that parcels which are used exclusively as the owner’s principal residence shall be classified as “homeowner” without regard to the highest and best use, provided that the director has granted to the owner a home exemption in accordance with sections 19-71 to 19-72.
 - (A) The homeowner class is exclusively reserved for properties which are used as the owner’s principal residence. Uses which shall not qualify as “homeowner” include:
 - (i) Real property which is valued according to its nondedicated agricultural use pursuant to subsection 19-57.
 - (ii) Real property which is dedicated to an agricultural use or native forest use.
 - (iii) Real property which is used for commercial or income-producing purposes, except as exempted under section 19-71(a) or (b).
 - (iv) Real property which is used for residential rental purposes, whether for short-term or long-term lease, except as exempted under section 19-71(a) and affordable rental housing.
 - (v) Real property which is used for any purpose other than the owner’s principal residence.
 - (B) The affordable rental housing class is exclusively reserved for properties which meet the eligible requirements for this class and have the annual required application timely filed. Uses which shall not qualify as “affordable rental housing” include:
 - (i) Real property which is valued according to its nondedicated agricultural use pursuant to section 19-57.
 - (ii) Real property which is dedicated to an agricultural use or native forest use.
 - (iii) Real property which is used for commercial or income-producing purposes, except uses which is legally permitted as a home occupation in accordance with the zoning code.
- (3) Whenever there is an overlap or contradiction in districting or use classification between the County and the State, zoned districts by the County shall take precedence.

- (f) In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement or repair work undertaken upon or made to existing buildings as the same may result in higher assessable valuation of said buildings; provided, however, that the increase in value resulting from any additions, alterations, modifications or other new construction, improvements or repair work to buildings undertaken or made by the owner-occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of part II of chapter 53, Hawai'i Revised Statutes, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.

It is further provided that the owner-occupant shall file with the director of finance, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:

- (1) In the case of additions, alterations, modifications or other new construction, improvements or repair work to a building that are undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement shall be certified by the mayor or any government official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvement or repair work to the buildings were made and satisfactorily comply with the particular urban redevelopment, rehabilitation or conservation act provision, or
 - (2) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that:
 - (A) The building was inspected by them and found to be substandard when the owner-occupant made the claim, and
 - (B) The maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.
- (g) Limitation on homeowner assessment.
- (1) For properties in the homeowner class as of January 1, 2004 and not dedicated to nonspeculative residential use, the assessed value of the property shall not increase more than three percent per tax year tax until the parcel is sold or any portion thereof sold by way of conveyance which is subject to conveyance tax under terms of chapter 247, Hawai'i Revised Statutes, at which time the property will be assessed at market value. In addition to the three percent limit of this subsection any improvements undertaken on the property within the tax year shall be assessed at market value. All parcels entering this class after January 1, 2004 shall have the assessed value as of January 1 of the following year and be subject to the above provisions.
 - (2) Those properties dedicated to nonspeculative residential use as of January 1, 2004 may continue the dedication without imposition of retroactive taxes upon filing and approval of petition for such termination with the director of finance by September 1 of the year following enactment of this section. Upon termination of the dedication these properties shall be assessed at the market value and subject to section 19-53(g)(1).
 - (3) Those properties dedicated to nonspeculative residential use as of January 1, 2004 may continue the dedication and upon termination of the dedication period the parcel shall be assessed at the market value and the year following the termination be subject to section 19-53(g)(1) unless the dedication is renewed as provided in section 19-58.1.
- (h) Eligibility for affordable rental housing class.
- (1) Real property occupied as affordable rental housing must be rented at a rate not to exceed the affordable rental rate for the entire calendar year claimed and must be legally permitted by all codes.

- (2) All rental units on affordable rental housing properties must be rented at the affordable rental rates.
 - (3) Affordable rental housing properties shall not be excluded by the owner’s principal residence also being on the property.
 - (4) For properties in the affordable rental housing class as of January 1, 2008, the assessed value of the property shall not increase more than three percent per tax year until the parcel is sold or any portion thereof sold by way of conveyance which is subject to conveyance tax under terms of chapter 247, Hawai‘i Revised Statutes, at which time the property will be assessed at market value. In addition to the three percent limit of this subsection, any improvements undertaken on the property within the tax year shall be assessed at market value. All parcels entering this class after January 1, 2008, shall have the assessed value as of January 1 of the following year and be subject to the above provisions.
 - (i) Application for the affordable rental housing class.
 - (1) No affordable rental housing classification shall be granted unless the claimant shall annually have filed with the department of finance, on or before December 31 preceding the tax year for which such classification is claimed, a claim for such classification in such form as shall be prescribed by the department and shall include but not be limited to rental agreements signed by the renter or excise tax returns.
 - (2) No affordable rental housing classification shall be granted unless and until a Hawai‘i County real property tax assessor evaluates the property and establishes its current market value.
 - (3) The landowner shall submit a certification of rental rates affirming that the rental rates charged to all renters on that parcel shall be at the affordable rental rate and that rate will be maintained for the calendar year.
 - (j) Breach of affordable rental housing class.
 - (1) Rental of any unit during the calendar year at a rate higher than the affordable rental rate shall breach the classification.
 - (2) Any conveyance of the parcel or portion of the parcel subject to conveyance tax under terms of chapter 247, Hawai‘i Revised Statutes, shall breach the classification.
 - (3) Upon breach of the classification, the tax assessment shall be cancelled retroactive to the date of the classification, but for not more than a period of two years plus the current year, and all difference in the amount of taxes that were paid and those that would have been due from the assessment in the higher classification shall be payable with a ten percent penalty.
- (1981, Ord. No. 613, sec. 56; Am. 1982, Ord. No. 834, sec. 2; Am. 1984, Ord. No. 84-21, sec. 1; Am. 1990, Ord. No. 90-136, sec. 2; Am. 1990, Ord. No. 90-157, sec. 1; Am. 1991, Ord. No. 91-143, sec. 2; Am. 1996, Ord. No. 96-71, sec. 2; Am. 1997, Ord. No. 97-84, sec. 1; Ord. No. 97-153, sec. 2; Am. 2000, Ord. No. 00-48, sec. 2; Am. 2003, Ord. No. 03-103, secs. 2 and 3; Am. 2004, Ord. No. 04-67, sec. 1, Ord. No. 04-121, sec. 2, Ord. No. 04-143, sec. 2; Am. 2006, Ord. No. 06-147, sec. 2; Am. 2007, Ord. No. 07-107, sec. 3 and 4; Am. 2007, Ord. No. 07-163, sec. 2.)

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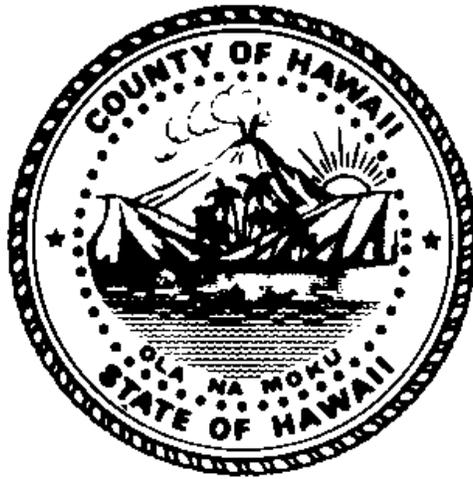
Section 19-53.1. Valuation of public utilities.

- (a) Notwithstanding any section to the contrary, the director of finance, in determining the market value assessment of the property of the public utilities, may use the values for real property as set forth in the annual financial reports of the public utilities as filed with the Public Utilities Commission, pursuant to chapter 269, Hawai‘i Revised Statutes, as the basis for the director’s assessment, which shall be deemed prima facie correct. Due to the unique nature of the public utility and its equipment, assignment of values to individual tax map keys is not required.
- (b) For the purposes of this section, the following definitions are also adopted:
- (1) “Public utilities” are as defined in section 269-1, Hawai‘i Revised Statutes.
 - (2) “Outside plant” means public utility real property, predominantly production, transmission, collection, switching, and distribution facilities, that may consist of one or more of the following:
 - (A) Units that have physical and functional characteristics that are so similar that they are accounted for as a group or class and are generally installed on easements.
 - (B) Transmission cable, wire or pipes, including support or conduit structures.
 - (C) Substation equipment.
 - (D) Measuring and regulating equipment.
 - (E) Generation equipment.
 - (F) Storage equipment.
 - (G) Switching equipment.
 - (3) “Plant or structure” means public utility real property improvements that are not outside plant, such as buildings, generating stations, production plants, gas compressor stations, boilers, switching plants, dams and reservoirs, circuit equipment, radio systems, terminals, satellite facilities, storage, wells, pumping facilities, and including those items which are included in the outside plant definition above.
 - (4) “Property” is the same as defined in section 19-2.
- (c) Valuations are determined as follows:
- (1) Land. Land values are determined by the market value approach in accordance with section 19-53.
 - (2) Public utility real property generally classed as outside plant, as set forth in section 19-53.1(b)(2), including but not limited to, production, transmission, collection, switching or distribution substation equipment or measuring, regulating, generation, storage or switching equipment or improved property is appraised on the basis of its reproduction cost new less allowances for physical depreciation, functional obsolescence and economic obsolescence, if any. The reproduction cost new is determined by multiplying reported inventory original cost by appropriate price indices and/or by multiplying physical inventories by appropriate unit prices. The rate of depreciation is a function of the appraised property’s age, estimated service life and salvage factor. Such determinations and assessments of fair market value shall be made, to the extent possible, in accordance with the annual financial reports as filed with the Public Utilities Commission pursuant to chapter 269, Hawai‘i Revised Statutes, which shall be deemed prima facie correct. For all lands of public utilities not categorized by section 19-53(a), said improvements shall be taxed at a rate assigned to the industrial classification.
 - (3) Plant; Structure. The value of improvements that are plant or structure as set forth in section 19-53.1(b)(3), including but not limited to, buildings, generating stations, gas compressor stations, switching plants, dams and reservoirs, circuit equipment, radio systems, terminals, satellite facilities, storage, wells, and pumping stations, is determined using the same methodology as is used in appraising outside plant properties.
 - (4) For the purpose of liens and foreclosure, any outside plant property shall be considered a part of any system or plant to which it is a part of and to which a tax map key has been assigned.

THE HAWAI‘I COUNTY CODE

1983 (2005 Edition, as amended)

Updated to include: **Supplement 5 (1-2008)**
Contains ordinances effective through: **12-31-07**



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) 961-8255

Volume 2

- (7) Kahaopea Street, Ohuohu Street intersection, all approaches.
 - (8) Kalanikoa Street, Kuawa Street intersection, all approaches.
 - (9) Entering Kamokuna Street from Laehala Street.
 - (10) Entering Kamokuna Street from the unnamed road which passes through James Kealoha Park.
 - (11) Keliipio Place, at Lihiwai Street.
 - (12) Entering Kēōkea Loop Road from Apapane Road.
 - (13) Komohana Street, Kawaiāni Street intersection, all approaches.
 - (14) Kūkūāu Street, both approaches to Kapi‘olani Street.
 - (15) Kūkūāu Street, both approaches to Kino‘ole Street.
 - (16) Kūkūāu Street, both approaches to Komohana Street.
 - (17) Kūkūāu Street, both approaches to Mohouli Street.
 - (18) Kūkūāu Street, both approaches to Ululani Street.
 - (19) Entering Laimana Street from ‘Alae Street.
 - (20) Entering Lanihuli Street from Lei Street.
 - (21) The unnamed roadway into the pier and lighthouse, at Lihiwai Street.
 - (22) Entering Manulele Street from Oliana Street.
 - (23) Entering Mikokoī Street from Awela Street.
 - (24) Ohuohu Street, Ho‘ohua Street intersection, all approaches.
 - (25) Entering Pōhaku Street from Kūkila Street.
 - (26) Entering Ponahawai Street from Punahoa Street.
 - (27) Pua Avenue, Desha Avenue intersection, all approaches.
- (d) Ka‘u
- (e) Kohala
- (1) Hi‘iaka Street, southwest approach to Hale Ali‘i Street and ‘Āinahua Alanui Street.
 - (2) Entering Hōkū‘ula Road from Lindsey Road.
 - (3) Entering Kamoā Road from Serrao Road.
 - (4) Entering Kamuela-Kawaihae Road from Kawaihae Park Road at Kohala.
 - (5) At the Puako-Kawaihae-Rockefeller junction, entering the Hāpuna Bay Access Road (Hawai‘i Project No. G-3257-01-60) at South Kohala, from the Old Puakō-Kawaihae Road, moving in the Kawaihae direction, except on right turn movement when such movement may be made with care to avoid collision.
- (f) Kona
- (1) Entering the intersection of Ali‘i Drive and Hualālai Road from both approaches of Ali‘i Drive and the mauka approach of Hualālai Road.
 - (2) Konalani Street into Ala Keanawai at Kailua-Kona.
 - (3) Kuakini Highway, Kaiwi Street intersection, all approaches, except the right-turn lane on Kuakini Highway northbound approach to Kaiwi Street which shall be a yield condition.
 - (4) Entering the intersection of Palani Road and Ali‘i Drive from the northern approach of Ali‘i Drive (from the direction of Kailua Wharf).
 - (5) Entering the intersection of Palani Road and Kuakini Highway from both approaches of Kuakini Highway and the makai approach of Palani Road.
 - (6) Pualani Street/Wikolia Street intersection, all approaches.
 - (7) Middle Ke‘ei Road, Painted Church Road intersection, all approaches.
- (g) Puna
- (1) Entering Ali‘i Papa Street from Huakai Street.
 - (2) Entering Anuheā Street from Ali‘i Papa Street.
 - (3) Entering Anuheā Street from Anuheā Place.

- (4) Entering Anuheha Street from Puolani Street.
 - (5) Entering Anuheha Street from Wohi Place.
 - (6) Entering the Kahakai Boulevard-Pūnāwai Street intersection from the northeastern leg of Kahakai Boulevard and from Pūnāwai Street, the southwestern leg of the intersection.
 - (7) Kalapana to Honolulu Landing Beach Road entering Kapoho to Kapoho Lighthouse Road (ER8(8)).
 - (8) The westerly leg, Kalapana towards Pāhoa lane, of the Pāhoa-Kalapana Road at the triangular intersection between the Kapoho-Kalapana Coastal Road and Pāhoa-Kalapana Road.
 - (9) Kaniahiku Houselots:
 - (A) Entering Halelo Place from Mako Way.
 - (B) Entering Halelo Place from Naele Road.
 - (10) Kaniahiku Subdivision:
 - (A) Entering Kaulani Road from Kaulalau Road.
 - (B) Entering Kaulalau Road from Pū'āla'a Road.
 - (11) Entering the Kapoho-Kalapana Coastal Road from the eastern leg of the Pāhoa-Kalapana Road at the triangular intersection between the Kapoho-Kalapana Coastal Road and the Pāhoa-Kalapana Road.
 - (12) Kapoho Lighthouse Road (portion of ER8(1)), entering the Kalapana to Honolulu Landing Beach Road.
 - (13) Entering Kea'au Loop from Ha'a Street. When posted, drivers of vehicles shall stop at the intersection of Ha'a Street and Kea'au Loop.
 - (14) Entering the Kurtistown Homestead Road (Post Office Road) intersection from the 13-Mile Road (Filipino Graveyard Road) in Kurtistown, Puna, Hawai'i.
 - (15) Entering Mahi'ai Road intersection from Amaumau Road from a southwesterly direction.
 - (16) Nānāwale Boulevard, Kēhau Road intersection, all approaches.
 - (17) Entering 'Ōla'a New Tract Road from Peck Road.
- (1996, Ord. No. 96-163, sec. 2; Am. 1996, Ord. No. 96-145, sec 3; Am. 1999, Ord. No. 99-65, secs. 9, 10; Am. 2000, Ord. No. 00-38, sec. 1; Ord. No. 00-49, sec. 1; Ord. No. 00-71, sec. 1; Am. 2001, Ord. No. 01-85, sec. 1; Ord. No. 01-96, sec.3.; Am. 2002, Ord. No. 02-46, sec. 1; Am. 2002, Ord. No. 02-47, secs. 1 and 2; Am 2002, Ord. No. 02-55, sec. 1; Am. 2006, Ord. No. 06-131, sec. 1.)

Section 24-265. Schedule 13. Yield locations.

When properly sign posted, vehicles shall yield right-of-way at the following locations:

- (a) Hāmākua
 - (1) Ka'āpahu Road, east approach to Kalōpā Gulch Bridge, No. 44-7, eight hundred thirty-five feet northwest of Ho'o Kahua Road.
 - (2) Ka'āpahu Road, east approach to Kalōpā Gulch Bridge No. 44-7, one thousand two hundred twenty-seven feet northwest of Ho'o Kahua Road.
 - (3) Pōhākea Homestead Road, makai bound at the narrow bridge (bridge number 43-5), located 1.6 miles west of State Highway 19.
- (b) North Hilo
 - (1) Kihalani Homestead Road, mauka bound lane; the right turn from Old Māmalahoa Highway.
- (c) South Hilo
 - (1) Haihai Street, westbound, the right-turn lane to Ainaola Drive.
 - (2) Kāhoa Street, northwest approach to Bridge No. 26-5.
 - (3) Kīlauea Avenue, north bound, at Bridge No. 22-7, approaching Haihai Street.
 - (4) Waiānuenu Avenue, westbound, the through lane intersecting the extension of Lele Street near Carvalho Park.

- (d) Ka‘u
- (e) Kohala
 - (1) Route 19, northwest bound, the right turn lane to Lindsey Road.
- (f) Kona
 - (1) Kuakini Highway, northbound, the right-turn lane to Kaiwi Street.
- (g) Puna

(2000, Ord. No. 00-87, sec. 2; Ord. No. 00-130, sec. 1; Am. 2001, Ord. 01-85, sec. 2; Am. 2002, Ord. No. 02-87, sec. 1; Am. 2003, Ord. No. 03-53, sec. 1; Am. 2004, Ord. No. 04-125, sec. 1; Am. 2007, Ord. No. 07-118, sec. 1.)

Section 24-266. Schedule 14. Through streets.

When properly sign posted, the following streets or portions of streets are designated as through streets:

- (a) Hāmākua
 - (1) Ilima Street.
 - (2) Lehua Street, from Māmane Street to Pakalana Street.
 - (3) Maile Street.
 - (4) ‘Ōhi‘a Street, except at Māmane Street.
 - (5) Pakalana Street, from Māmane Street to the Hawai‘i Belt Road.
 - (6) Pīkake Street.
- (b) North Hilo
 - (1) Kīlau Homestead Road in Laupāhoehoe.
- (c) South Hilo
 - (1) Akea Street, except at Kaunaloa and Haihai Streets.
 - (2) Ainako Avenue, from Kaūmana Drive to Waiānuenuē Avenue.
 - (3) Ainaola Drive, from Kawailani to its end in a westerly direction.
 - (4) Alohalani Drive, except at Haihai Street and Kaunaloa Street.
 - (5) ‘Amauulu Road, from Wainaku Avenue to its end.
 - (6) Andrews Avenue.
 - (7) Baker Avenue, Kalaniana‘ole Street to its southern terminus, except at Desha Avenue.
 - (8) Banyan Drive, except at Lihiwai Street and Kamehameha Avenue.
 - (9) Bishop Street, from Kamehameha Avenue to Waiolama Canal.
 - (10) Haihai Street, from Kino‘ole Street to the Ainaola Drive.
 - (11) Haili Street, from Kino‘ole Street to Hāla‘i Street.
 - (12) Hāla‘i Street, from Hāla‘i Hill to Waiānuenuē Avenue, except at Haili Street from a southerly (Puna) direction and at Punahēle Street from a northerly (Hāmākua) direction.
 - (13) Hale Nani Street, from Kapi‘olani Street westerly to its end.
 - (14) Heahea Street, from Ainaola Drive to its southern terminus.
 - (15) Hema Street, except at Kapi‘olani Street.
 - (16) Hīnano Street, except at Pi‘ilani, Kekūanaō‘a and Lanikāula Streets.
 - (17) Hōkū Street, from Kīlauea Avenue to Kino‘ole Street.
 - (18) Holomua Street, from Kāwili Street to Maka‘ala Street.
 - (19) Hookano Street, from Kupulau Road to Ho‘olaule‘a Street.
 - (20) Hualālai Street, from Kīlauea Avenue to Kino‘ole Street.
 - (21) Ioana Street, from Wilder Road to its eastern terminus.
 - (22) ‘Iolani Street.
 - (23) Ipuka Street.
 - (24) Ka‘akepa Street, from Pepe‘ekeo Street to its mauka terminus except at the Hawai‘i Belt Road.
 - (25) Kahaopea Street, except at Kino‘ole, Kīlauea and Kanoelehua Streets.

- (26) Kainehe Street, from Kamehameha Avenue to Aalapuna Street.
- (27) Ka'iulani Street, from Waiānuenu Avenue to its end.
- (28) Kaiwiki Road, from Māmalahoa Highway to its end.
- (29) Kalaniana'ole Street, from Kamehameha Avenue to its end.
- (30) Kalanikoa Street, from Lanikāula Street to Pi'ilani Street, except at Kekūanaō'a Street.
- (31) Kamehameha Avenue, from Wailuku Drive to Kalaniana'ole Street, except entering intersection with Waiānuenu Avenue from a northerly (Pu'u'eo) direction.
- (32) Kapaka Street, except at Haihai Street.
- (33) Kapi'olani Street, from Ponahawai Street to its end in a southeasterly direction.
- (34) Ka'uhane Avenue.
- (35) Kaūmana Drive, from Hilo Country Club Road to Waiānuenu Avenue.
- (36) Kaunaloa Street.
- (37) Kawailani Street, from Kino'ole Street to its end in the mauka direction, except at Komohana Street.
- (38) Kāwili Street, from Kanoelehua Avenue to Kīlauea Avenue, except at Manono Street.
- (39) Keawe Street, from Pu'u'eo Street to Kīlauea Avenue, except at Wailuku Drive.
- (40) Kekūanaō'a Street, from Kīlauea Avenue to Kanoelehua Avenue.
- (41) Keo Street, from Wilder Road to its eastern terminus.
- (42) Kīlauea Avenue, from Haili Street to Haihai Street, except at Mamo Street.
- (43) Kilikina Street, from Ainako Avenue to its terminus.
- (44) Kilohana Street, from Kamehameha Avenue to Banyan Drive.
- (45) Kino'ole Street, from Waiānuenu Avenue to Haihai Street.
- (46) Komohana Street, from Kawailani Street to Waiānuenu Avenue.
- (47) Kūkūau Street, from Kīlauea Avenue to its southern terminus, except at Kino'ole Street, Ululani Street, Kapi'olani Street, Komohana Street, and Mohouli Street.
- (48) Kula'imano Road, from the Old Māmalahoa Highway to its mauka terminus except at the Hawai'i Belt Road.
- (49) Kumula Street, from the west intersection with Kulala Street and looping with Kulala Street, except at the Kula'imano Homestead Road.
- (50) Kumula Street, except at Ka'akepa Street and at the mauka intersection with Kulala Street.
- (51) Lahaina Street, except at Ainako Avenue and Kaūmana Drive.
- (52) Lama Street, except at its intersection with the Hawai'i Belt Road.
- (53) Lanikāula Street, from Kīlauea Avenue to Kanoelehua Avenue, except at Manono Street.
- (54) Laukapu Street, except at Kekūanaō'a and Lanikāula Streets.
- (55) Loloa Drive, from Hawai'i Belt Road westerly to its end.
- (56) Maka'ala Street, from Kāwili Street to Kanoelehua Avenue.
- (57) Makahana Street, from Kula'imano Road to Pepe'ekeo Street.
- (58) Makalika Street, except at its intersection with the Hawai'i Belt Road.
- (59) Mamo Street, from Kamehameha Avenue to Kino'ole Street, except at Keawe Street.
- (60) Manono Street, from Kamehameha Avenue to Kāwili Street, except at Kekūanaō'a Street and Lanikāula Street.
- (61) Mikioi Street, except at Paipai and No'eau Streets.
- (62) Mililani Street, except at Kekūanaō'a Street, Lanikāula Street, and Pi'ilani Street.
- (63) Mohouli Street, from Kīlauea Avenue to Kaūmana Drive, except at Kino'ole Street, and Komohana Street.
- (64) Nēnē Street.

- (5) Kamehameha Avenue, mauka side, beginning from a point ten feet Puna of Haili Street and extending in the Puna direction for a distance of ninety-five feet, from 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (6) Kamehameha Avenue, west side, beginning from a point sixty feet south of Kalākaua Street and extending fifty feet in the southerly direction, from 2:00 p.m. to 3:00 p.m., on school days.
 - (7) Kapi‘olani Street, east side, beginning from a point five feet north of the Church of Holy Apostles driveway and extending in the northern direction for a distance of forty feet.
 - (8) Kapi‘olani Street, west side, beginning from a point eighty-eight feet southeast of the Hāmākua entrance driveway of the University of Hawai‘i and extending in the southeastern direction for a distance of one hundred twenty feet, from 6:00 a.m. to 6:00 p.m. Monday through Saturday.
 - (9) East Kāwili Street, south side, beginning from a point ninety-three feet east of the intersection of Manono Street and East Kāwili Street and extending in the eastern direction for a distance of one hundred twenty feet, from 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (10) East Kāwili Street, north side, beginning from a point one hundred eighteen feet west of the intersection of Hinano Street and East Kāwili Street and extending in the western direction for a distance of one hundred twenty feet, from 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (11) Kekūānaō‘a Street, south side, beginning from a point one hundred thirty-seven feet east of the Kīlauea Avenue intersection and extending in the eastern direction for a distance of fifty feet.
 - (12) Kīlauea Avenue, west side, beginning from a point three hundred eighty-three feet south of Kawaiiani Street and extending one hundred forty-eight feet in the southerly direction.
 - (13) Lanikāula Street, Puna side, beginning from a point five hundred seventy-one feet makai of Kapi‘olani Street and extending one hundred sixty-one feet in the makai direction, from 7:00 a.m. to 8:00 a.m. and from 3:00 p.m. to 4:00 p.m. on school days.
 - (14) Mohouli Street, Hāmākua side, beginning at a point three hundred eighty feet mauka of Kīlauea Avenue and extending in the mauka direction for a distance of one hundred feet, from 7:00 a.m. to 8:00 a.m. and from 1:00 p.m. to 2:30 p.m. on school days.
 - (15) Waiānuenue Avenue, east side, beginning from a point sixty feet mauka of the Hāla‘i Street intersection, and extending in the makai direction for a distance of forty feet.
 - (16) Waiānuenue Avenue, Hāmākua side, at the Hilo High School beginning at its exit and extending for seventy-five feet in the westerly direction, from 1:30 p.m. to 3:00 p.m. on school days only.
 - (17) Waiānuenue Avenue, Puna side, lane within the unloading area at Hilo High School between the passenger shed fronting the Hilo High School cafeteria and the passenger shed near the exit of the unloading area, from 2:00 p.m. to 3:00 p.m. on school days.
 - (18) Waiānuenue Avenue, Puna side, from the makai driveway of Hilo Intermediate School and extending one hundred eighty feet in the makai direction from 1:00 p.m. to 3:00 p.m. on school days.
 - (19) Waiānuenue Avenue, Puna side, beginning from a point sixty feet makai of Kino‘ole Street and extending eighty feet in the makai direction.
 - (20) Waiānuenue Avenue, Puna side, beginning from a point eight hundred twelve feet makai of Laimana Street and extending two hundred twelve feet in the makai direction from 1:00 p.m. to 2:30 p.m. on school days.
 - (21) Waiānuenue Avenue, west side, beginning from the mauka side of the Hawai‘i Public Library exit driveway and extending in the mauka direction for a distance of fifty feet.
 - (22) Waiānuenue Avenue, west side, beginning from a point sixty feet makai of the entrance to the Church of God, and extending in the mauka direction for a distance of forty feet.
- (d) Ka‘u
- (e) Kohala

- (1) Māmalahoa Highway, Route 190, south side, beginning from a point one hundred thirty feet east of the school driveway and extending two hundred fifty feet in the easterly direction from 7:00 a.m. to 8:00 a.m. and from 2:00 p.m. to 3:00 p.m. on school days.
 - (f) Kona
 - (1) Ali'i Drive, makai side, beginning from a point nine feet north of the Hulihe'e Palace yard driveway and extending in the northern direction for a distance of seventy-five feet.
 - (2) Palani Road, north side, beginning from a point ninety-five feet mauka of the mauka driveway of the Kailua Shopping Center and extending in the mauka direction for a distance of one hundred fifty feet.
 - (3) Palani Road, south side, beginning from a point two hundred fifty-eight feet mauka of the First Hawaiian Bank driveway and extending in the mauka direction for a distance of one hundred forty-five feet.
 - (4) Route 11, east side, from a point one-hundred ninety-seven feet north of Kinue Road and extending seventy-five feet in the northerly direction.
 - (g) Puna
 - (1) North Glenwood Road, beginning at a point 2.1 miles northwest of Highway 11 and extending one hundred feet in the northeasterly direction.
- (1996, Ord. No. 96-163, sec. 2; Am. 1996, Ord. No. 96-138, secs. 1, 2 and 3; Am. 1998, Ord. No. 98-74, sec. 1; Ord. No. 98-118, sec. 1; Am. 2001, Ord. No. 01-9, sec.1; Ord. No. 01-66, sec.1; Ord. No. 01-67, sec. 2; Am. 2003, Ord. No. 03-138, sec. 1; Am 2007, Ord. No. 07-167, sec. 1.)

Section 24-275.1. Schedule 23.1. Public road taxi stand locations.

When signs or markings are provided, public road taxi stands in the County shall be located at the following locations, and no person shall stop, stand, or park a vehicle therein:

- (a) Hāmākua
 - (b) North Hilo
 - (c) South Hilo
 - (d) Ka'u
 - (e) Kohala
 - (f) Kona
 - (1) Ka'ahumanu Place, beginning from a point 22 feet north of the entrance to Kailua Pier, extending north for a distance of 32 feet. Two parallel parking stalls will be established in this location.
 - (g) Puna
- (1996, Ord. No. 96-163, sec. 2; Am. 2003, Ord. No. 03-139, sec. 1.)

Division 4. Pedestrians.

Section 24-276. Schedule 24. Crosswalks.

When appropriate signs or markings are provided, crosswalks in the County shall be located on the following streets:

- (a) Hāmākua
 - (1) Pakalana Street, makai of Kukui Street at the Honoka'a School entrance road.
 - (2) Pakalana Street, one hundred forty-five feet mauka of Māmane Street intersection near the Honoka'a Swimming Pool.
 - (3) Pakalana Street, at Honoka'a School fronting the Administration Building.
- (b) North Hilo
 - (1) Māmalahoa Highway, Hamakua of the 'O'ōkala School.

Division 2. CDH, Downtown Hilo Commercial District.

- Section 25-7-20. Purpose and applicability.
- Section 25-7-21. Designation of CDH district.
- Section 25-7-22. Permitted uses.
- Section 25-7-23. Height limit.
- Section 25-7-24. Minimum building site area.
- Section 25-7-25. Minimum building site average width.
- Section 25-7-26. Minimum yards.
- Section 25-7-27. Other regulations.

Division 3. UNV, University District.

- Section 25-7-30. Purpose and applicability.
- Section 25-7-31. Designation of UNV districts.
- Section 25-7-32. Permitted uses.
- Section 25-7-33. Height limit.
- Section 25-7-34. Minimum building site area.
- Section 25-7-35. Minimum building site average width.
- Section 25-7-36. Minimum yards.
- Section 25-7-37. Other regulations.

Article 8. Zoning Map, District and Urban Zone Maps.*

- Section 25-8-1. Maps incorporated by reference.
- Section 25-8-2. North and South Kona districts zone map.
- Section 25-8-3. North Kona zone map.
- Section 25-8-4. South Kona zone map.
- Section 25-8-5. Kailua urban zone map.
- Section 25-8-6. Kailua-Honalo urban zone map.
- Section 25-8-7. North and South Kohala districts zone map.
- Section 25-8-8. Upolu Point-Kaauhuhu homesteads zone map.
- Section 25-8-9. Hawi-Kapaau zone map.
- Section 25-8-10. Halaula-Niulii zone map.
- Section 25-8-11. Lalamilo-Puukapu zone map.
- Section 25-8-12. Kawaihae-Puako zone map.
- Section 25-8-13. Puako-Anaehoomalu zone map.
- Section 25-8-14. Waikoloa Village zone map.
- Section 25-8-15. Hamakua district zone map.
- Section 25-8-16. Hamakua district homesteads area zone map.
- Section 25-8-17. Haina-Honokaa-Kukuihaele zone map.
- Section 25-8-18. Paauilo-Kukaiiau zone map.
- Section 25-8-19. North Hilo district zone map.
- Section 25-8-20. Ookala zone map.
- Section 25-8-21. Laupahoehoe-Ninole zone map.
- Section 25-8-22. Puna district zone map.
- Section 25-8-23. Volcano-Mt. View zone map.
- Section 25-8-24. Kurtistown zone map.
- Section 25-8-25. Keaau zone map.
- Section 25-8-26. Pahoia zone map.
- Section 25-8-27. Kalapana-Kaimu zone map.

- Section 25-8-28. Ka‘ū district zone map.
- Section 25-8-29. Pahala Village zone map.
- Section 25-8-30. Naalehu zone map.
- Section 25-8-31. Waiohinu zone map.
- Section 25-8-32. South Hilo district zone map (exclusive of the city of Hilo, Papaikou-Onomea, Pepekeo and Hakalau-Honomu).
- Section 25-8-33. City of Hilo zone map.
- Section 25-8-34. Papaikou-Onomea zone map.
- Section 25-8-35. Pepekeo zone map.
- Section 25-8-36. Hakalau-Honomu zone map.

* **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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1996, Ord. 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, Am. 2007, Ord. No. 07-104, sec 2.)

Intentionally left blank.

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

- (a) Any nonconforming use of land or use of a building may continue to the extent it existed on December 7, 1996 or at the time of the adoption of any amendments to this chapter, provided that a nonconforming use may be enlarged within the building it occupies, but shall not be enlarged or increased to occupy a greater area of land, nor shall it or the portion of the building housing it be moved in whole or in part to any other portion of the building site occupied by such nonconforming use, except as provided in this division.
- (b) Public buildings, public or private power and telephone facilities including offices and plants existing prior to May 24, 1967 may be enlarged or increased to occupy a greater area of land or building, notwithstanding the limitations contained in this section.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

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

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2002, Ord. No. 02-89, sec. 1.)

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

The following shall be exceptions to this division:

- (1) A multiple-family building or use, when the non-conforming situation is the consequence of an amendment to the general plan and associated zoning, may be replaced, repaired or reconstructed to its as-built density, height and setbacks, if the applicable zoning would permit construction of a single-family residence, provided the repair or reconstruction otherwise complies with the current building code. Construction shall commence within five years from the date the building is damaged or destroyed; or
- (2) A building made nonconforming with respect to the number of required parking spaces may be replaced or reconstructed if destroyed or damaged, to its prior condition, with the number of parking spaces required when it was built, provided that the director shall require additional parking be provided if it is feasible to do so, and construction shall commence within five years from the date the building is damaged or destroyed.

(2002, Ord. No. 02-89, sec. 1; Am. 2007, Ord. No. 07-179, sec. 2.)

Division 7. De Minimis Structure Position Discrepancy.**Section 25-4-66. Procedure for recognizing a de minimis structure position discrepancy.**

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

- (a) A description of the property in sufficient detail to determine the precise location of the property involved.
- (b) A plot plan of the property, prepared by a licensed surveyor, showing existing improvements, and the improvement(s) and relevant distances for the de minimis structure position discrepancies.
- (c) A description of the nature of the improvements involved in the de minimis structure position discrepancies.
- (d) A statement by the landowner that to the best of the landowner's knowledge and information, the improvements were placed without actual knowledge that they did not meet the minimum yard or open space requirements.
- (e) A filing fee of \$25.

(2002, Ord. No. 02-70, sec. 3)

Section 25-4-67. Review by director.

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

(2002, Ord. No. 02-70, sec. 3)

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

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

- (a) The discrepancy is greater than the difference as allowed by the de minimis structure position discrepancy definition, or
- (b) The director finds that the improvement was placed with knowledge that it would violate the minimum yard or open space requirements; or
- (c) The improvement could be moved, or the discrepancy otherwise corrected, without significant expense, difficulty, or hardship to the applicant.

(2002, Ord. No. 02-70, sec. 3)

- (36) Photography and artist studios.
 - (37) Public uses and structures, as permitted under section 25-4-11.
 - (38) Publishing plants for newspapers, books and magazines, printing shops, cartographing and duplicating processes such as blueprinting or photostating.
 - (39) Repair establishments, minor.
 - (40) Restaurants.
 - (41) Retail establishments, provided that they are not detrimental to the character of the district.
 - (42) Schools, business.
 - (43) Schools, photography, art, music, dance or other similar studios or academies.
 - (44) Schools, vocational.
 - (45) Telecommunication antennas, as permitted under section 25-4-12.
 - (46) Temporary real estate offices, as permitted under section 25-4-8.
 - (47) Theaters, auditoriums and indoor sports arenas.
 - (48) Utility substations, as permitted under section 25-4-11.
 - (b) Residential use in connection with the operation of any permitted use shall be permitted in the CDH district.
 - (c) Buildings and uses normally considered accessory to the above uses shall also be permitted in the CDH district.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-23. Height limit.

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

Section 25-7-24. Minimum building site area.

The minimum building site area in the CDH district shall be seven thousand five hundred square feet.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-25. Minimum building site average width.

Each building site in the CDH district shall have a minimum building site average width of sixty feet.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-26. Minimum yards.

Front, rear and sides: none, except as required by plan approval.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-7-27. Other regulations.

Plan approval is required for all new structures and additions to existing structures in the CDH district, except for construction of one single-family dwelling and any accessory buildings per lot.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-155, sec. 16.)

Division 3. UNV, University District.

Section 25-7-30. Purpose and applicability.

The UNV (University) District shall apply to areas of land that are utilized for campus-related activities and is intended to apply to areas for the location and expansion of universities and the uses and facilities that are associated with and are supportive of them. Special consideration of such uses and facilities is appropriate given the unique characteristics of university areas, the variety of uses needed to serve the university community, and the varying intensity of land uses in such a community.
(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-31. Designation of UNV districts.

Each UNV (University) district shall be designated by the symbol "UNV."
(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-32. Permitted uses.

- (a) University facilities including classrooms, laboratory and research facilities, administration facilities, athletic centers and facilities, auditoriums, student centers, libraries, museums, exhibition halls, cafeterias, student health clinics, maintenance facilities and parking lots.
- (b) Limited retail and service establishments primarily intended to serve the specific needs of the student population of a university and are normally associated with higher education institutions, including, but not limited to, retail stores whose primary customers are students or faculty of a university, convenience stores, theaters, restaurants, recreational and amusement facilities, taverns, drug stores, book stores, health clubs, news stands, photocopying, office supplies, word processing or typing services, computer sales and service, laundries, university credit union, financial institutions, post office and video rentals. Such retail and services establishments shall not be used before the commencement of university operations. No single commercial establishment shall occupy more than twenty thousand square feet of gross floor space, excluding the university book store or cafeteria operations.
- (c) Dormitories, fraternity and sorority houses, and apartments and housing for currently enrolled university students and their dependents and for current university employees and their dependents.
- (d) Guest accommodations to accommodate visiting scholars and their dependents, parents visiting their children, alumni reunions, as well as participants in conferences and seminars held at or sponsored by the university.

(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-33. Height limit.

The height limit in the UNV district shall be sixty feet.
(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-34. Minimum building site area.

The minimum land area required for a UNV district shall be ten acres. The minimum building site area for leased lots shall be seven thousand five hundred square feet.

(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-35. Minimum building site average width.

Each building site in the UNV district shall have a minimum building site average width of sixty feet.
(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-36. Minimum yards.

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

- (a) Front and rear yards, twenty feet; and
- (b) Side yards, ten feet.

(2007, Ord. No. 07-104, sec. 3.)

Section 25-7-37. Other regulations.

- (a) Plan approval is required for all new structures and additions to existing structures in the UNV district.
- (b) A maximum of twenty percent of a UNV district's land area may be in commercial use, including parking.
- (c) The planning director has the authority to vary the parking requirements for on-campus housing, offices and for pedestrian-oriented commercial uses.

(2007, Ord. No. 07-104, sec. 3.)

Article 8. Zoning Map, District and Urban Zone Maps.***Section 25-8-1. Maps incorporated by reference.**

The maps described in this article delineate the zoning districts designated in article 5 of this chapter and are hereby incorporated by reference to this chapter. A copy of each map referred to shall be filed in the planning department.

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

* **Editor's Note:** A schedule of amendments to the zoning maps can be found in Zoning Annexes I & II, pursuant to section 25-3-3.

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Section 25-8-2. North and South Kona districts zone map.

North and South Kona districts zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.01.

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

Section 25-8-3. North Kona zone map.

North Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.02.

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

Section 25-8-4. South Kona zone map.

South Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.03.

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

Section 25-8-5. Kailua urban zone map.

Kailua urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.04.

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

Section 25-8-6. Kailua-Honalo urban zone map.

Kailua-Honalo urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.05.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

| Para-graph | Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | 1975 C.C. |
|------------|----------|----------------|-------------------------|--------------------------------|--|--------------|-----------|
| (80) | 03-75 | 5-13-2003 | Ouli, South Kohala | 6-2-11:12 | A-5a | RA-2a | |
| (81) | 03-77 | 5-13-2003 | Ouli, South Kohala | 6-2-11:31 | A-5a | RA-2a | |
| (82) | 03-122 | 8-27-2003 | Ouli, South Kohala | 6-2-11:19 | A-5a | RA-2a | |
| (83) | 03-124 | 8-27-2003 | Ouli, South Kohala | 6-2-11:13 | A-5a | RA-2a | |
| (84) | 04-12 | 2-11-2004 | Ouli, South Kohala | 6-2-11:34 | A-5a | RA-2a | |
| (85) | 04-48 | 4-27-2004 | Waikoloa, South Kohala | 6-8-2:Por. of 33 | O | ML-1a | |
| (86) | 04-86 | 8-12-2004 | Ouli, South Kohala | 6-2-11:10 | A-5a | RA-2a | |
| (87) | 04-88 | 8-12-2004 | Ouli, South Kohala | 6-2-11:16 | A-5a | RA-2a | |
| (88) | 05-33 | 3-17-2005 | Ouli, South Kohala | 6-2-11:9 | A-5a | RA-2a | |
| (89) | 05-35 | 3-31-2005 | Ouli, South Kohala | 6-2-11:33 | A-5a | RA-2a | |
| (90) | 05-64 | 5-16-2005 | Kahua 1st, North Kohala | 5-9-6:5 | A-5a | FA-3a | |
| (91) | 05-120 | 8-25-2005 | Ouli, South Kohala | 6-2-9:26 | A-5a | RA-2a | |
| (92) | 05-157 | 12-15-2005 | Waikoloa, South Kohala | 6-8-02:Por. 16, 6-8-03:Por. 32 | (Amends Ord. 95-51) (Effective Date 03-21-1995) | | |
| (93) | 06-3 | 1-13-2006 | Ouli, South Kohala | 6-2-11:30 | A-5a | RA-2a | |
| (94) | 06-69 | 5-22-2006 | Pāhoa, North Kohala | 5-5-008:Por. 046 | A-20a | RS-7.5 | |

| Para-graph | Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | 1975 C.C. |
|------------|----------|----------------|-------------------------|---------------------------------------|---|--------------|-----------|
| (95) | 06-109 | 7-27-2006 | Ouli, South Kohala | 6-2-9:17 | A-5a | RA-2a | |
| (96) | 06-155 | 12-7-2006 | Ouli, South Kohala | 6-2-11:20 | A-5a | RA-2a | |
| (97) | 07-106 | 8-14-2007 | Kahua 1st, North Kohala | 5-9-007:007 | A-20a | A-3a | |
| (98) | 07-112 | 9-11-2007 | Waimea, South Kohala | 6-5-001:020 | A-40a, A-1a | A-400a | |
| (99) | 07-127 | 9-20-2007 | Waikoloa, South Kohala | 6-8-002:Por. 016, 6-8-003:Por. 032 | (Amends Ord. 05-157 that amended Ord. 95-51 and 90-160 -- Effective Date 12-15-05) | | |
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ZONING MAP No. 7.24--(Ka'u District)

§ 25-8-28

| Para-graph | Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | 1975 C.C. |
|------------|----------|----------------|--|--|--|-------------------------------------|------------------|
| (1) | 163 | 11-6-1998 | Kiolakaa-Keaa Homesteads, Ka'u | 9-4-03:19 | A-20a | A-5a | 7.24(a) |
| (2) | 252 | 9-3-1969 | Kaunamano Homesteads, Ka'u | 9-5-12:11 | A-20a | A-3a | 7.24(b) |
| (3) | 443 | 1-20-1972 | Ninole, Wailau, and Punaluu, Ka'u | 9-5-19, 9-6-01 | A-20a, O | RS-20, RS-7.5, RM-2, CV-10, V-1.5 | 7.24(c-1 to c-6) |
| (4) | 540 | 12-1-1972 | Ninole and Wailau, Ka'u | 9-5-19 | O | V-1.5 | 7.24(d) |
| (5) | 550 | 1-22-1973 | Waiomao Homesteads, Waiomao and Kawela, Ka'u | 9-4-05:17 | A-20a | A-5a | 7.24(e) |
| (6) | 613 | 11-28-1973 | Ninole, Ka'u | 9-5-19:Por. 15, 25 and 26 | RM-2, O | O, RM-2 | 7.24(f-1 to f-3) |
| (7) | 108 | 5-2-1975 | Punalu'u, Ka'u | 9-5-19:Por. 11 | O | RS-20 | 7.24(g) |
| (8) | 856 | 3-23-1983 | Punalu'u, Ka'u | 9-6-01:1 | O | V-1.5 | 7.24(h) |
| (9) | 858 | 3-23-1983 | Kiolakaa, Ka'u | 9-6-03:Por. 39 | A-20a | RS-15 | 7.24(i) |
| (10) | 860 | 3-23-1983 | Wood Valley Homesteads, Ka'u | 9-4-03:Por. 16 | A-20a | A-5a | 7.24(j) |
| (11) | 85-24 | 4-8-1985 | Ninole, Wailau and Punaluu, Ka'u | 9-6-08:4 | A-20a | A-10a, A-5a | |
| (12) | 88-121 | 8-17-1988 | Keauhou, Ka'u | 9-5-19:11, 15, 26, 33 and 35, 9-6-2:8, 37, 38, 41 and 45 | O, RS-7.5, RS-20, RM-2, CV-10, CV-1.5, A-20a | RM-2, RM-2.5, RM-3, CV-10, V-1.5, O | |
| (13) | 94-98 | 9-13-1994 | Keauhou, Ka'u | 9-9-06:Por. 8 | A-1a, O | RS-15 | |
| (14) | 95-50 | 3-21-1995 | Kiolakaa, Ka'u | 9-4-03:15 | A-20a | A-3a | |
| (15) | 98-68 | 7-2-1998 | Kiolakaa, Ka'u | 9-4-3:58 | A-20a | A-5a | |

| Para-graph | Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | 1975 C.C. |
|------------|----------|----------------|------------------------|------------------------|---|-------------------------------|-----------|
| (16) | 04-120 | 11-8-2004 | Palima and Paaau, Ka'u | 9-6-5:18 and 9-6-6:4 | A-20a | Agricultural Project District | |
| (17) | 07-183 | 12-26-07 | Keauhou, Ka'u | 9-9-006: Por. 008 | (Amends Ord. 94-98) (Effective Date 9-13-1994) | | |
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| 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 | |
| (326) | 07-105 | 8-14-07 | Waiākea, South Hilo | 2-2-39:31, 57, 68, and 69 | RS-10 | CN-40 | |
| (327) | 07-108 | 8-18-07 | Ponahawai, South Hilo | 2-3-037:011 | A-1a | CN-20 | |
| (328) | 07-111 | 9-11-07 | Ponahawai, South Hilo | 2-3-037:017 | A-1a | RM-4 | |
| (329) | 07-134 | 10-10-07 | Waiākea, South Hilo | 2-2-021:007 | (Amends Ord. 93-101) (Effective date 10-3-93) | | |
| (330) | 07-135 | 10-10-07 | Waiākea, South Hilo | 2-5-040:018 | A-3a | FA-2a | |

| Para-graph | Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | 1975 C.C. |
|------------|----------|----------------|-----------------------|------------------------|-----------------|--------------|-----------|
| (331) | 07-136 | 10-10-2007 | Waiākea, South Hilo | 2-2-036:090 | RS-10 | MCX-20 | |
| (332) | 07-137 | 10-10-2007 | Ponahawai, South Hilo | 2-3-037:009 | A-1a | CN-20 | |
| (333) | 07-166 | 11-2-2007 | Waiākea, South Hilo | 2-3-37:15 | A-1a | RM-5.5 | |
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| 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 |
| 07-26 | 3-20-07 | Waiākea, South Hilo | 2-4-057:029: Pot. 030 & Pot. 031 (Formerly 2-4-057:001) | O | RM-1 | 25-8-33 |
| 07-27 | 3-20-07 | Waiākea, South Hilo | 2-2-35:58 | RS-10 | ML-20 | 25-8-33 |
| 07-39 | 4-4-07 | Waiākea, South Hilo | 2-2-56:23 | A-3a | RA-.5a | 25-8-33 |
| 07-40 | 4-4-07 | Waiākea, South Hilo | 2-2-35:47 | ML-20 | MCX-20 | 25-8-33 |
| 07-46 | 4-4-07 | Pu'uanahulu, North Kona | 7-1-5:9 and 7-1-7:44-47 | A-1a | O | 25-8-2 |

| Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | Code § |
|-----------------|-----------------------|--------------------------------------|---------------------------------------|--|---------------------|--------------------|
| 07-71 | 5-17-07 | Waiākea, South Hilo | 2-4-065:034 | A-10a | FA-3a | 25-8-33 |
| 07-98 | 6-25-07 | Poupouwela and Kowala, Ka'ū | 9-5-024:008 | RS-7.5 | CV-7.5 | 25-8-30 |
| 07-105 | 8-14-07 | Waiākea, South Hilo | 2-2-39:31, 57, 68 and 69 | RS-10 | CN-40 | 2-8-33 |
| 07-106 | 8-14-07 | Kahua 1 st , North Kohala | 5-9-007:007 | A-20a | A-3a | 25-8-7 |
| 07-108 | 8-18-07 | Ponahawai, South Hilo | 2-3-037:011 | A-1a | CN-20 | 25-8-33 |
| 07-111 | 9-11-07 | Ponahawai, South Hilo | 2-3-037:017 | A-1a | RM-4 | 25-8-33 |
| 07-112 | 9-11-07 | Waimea, South Kohala | 6-5-001:020 | A-40a, A-1a | A-400a | 25-8-7, 25-8-11 |
| 07-127 | 9-20-07 | Waikoloa, South Kohala | 6-8-002:Por. 016, 6-8-033:Por. 032 | Amends Ord. 05-157 that amended Ord. 90-160 | | 25-8-7 |
| 07-134 | 10-10-07 | Waiākea, South Hilo | 2-2-021:007 | Amends Ord. 93-101 | | 25-8-33 |
| 07-135 | 10-10-07 | Waiākea, South Hilo | 2-5-040:018 | A-3a | FA-2a | 25-8-33 |
| 07-136 | 10-10-07 | Waiākea, South Hilo | 2-2-036:090 | RS-10 | MCX-20 | 25-8-33 |
| 07-137 | 10-10-07 | Ponahawai, South Hilo | 2-3-037:009 | A-1a | CN-20 | 25-8-33 |
| 07-160 | 10-19-07 | Kalaoa 4 th , North Kona | 7-3-028:082 - 102 | Amends Ord. 97-56 | | 25-8-3 |
| 07-166 | 11-2-07 | Waiākea, South Hilo | 2-3-37:15 | A-1a | RM-5.5 | 25-8-33 |

| Ord. No. | Effective Date | General Location | TMK of Parcel Affected | Original Zoning | Final Zoning | Code § |
|-----------------|-----------------------|------------------------------------|-------------------------------|------------------------|---------------------|---------------|
| 07-174 | 12-4-07 | O'oma 1 st , North Kona | 7-3-010:003 | A-5a | RM-1 | 25-8-3 |
| 07-181 | 12-26-07 | Waikoloa, Waimea | 6-7-002:020:Por. 051 | A-40a, ML-20 | CV-7.5 | 25-8-11 |
| 07-183 | 12-26-07 | Keauhou, Ka'u | 9-9-006: Por. 008 | Amends Ord. | 94-98 | 25-8-28 |

Chapter 27

FLOODPLAIN MANAGEMENT

Article 1. Authorization.

| | |
|---------------|----------------------|
| Section 27-1. | Statutory authority. |
| Section 27-2. | Findings of fact. |
| Section 27-3. | Purpose. |
| Section 27-4. | Scope and methods. |

Article 2. General Provisions.

| | |
|----------------|--------------------------------------|
| Section 27-5. | Applicability. |
| Section 27-6. | Basis. |
| Section 27-7. | Compliance. |
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Chapter 27**FLOODPLAIN MANAGEMENT****Article 1. Authorization.****Section 27-1. Statutory authority.**

This chapter is enacted pursuant to the U.S. National Flood Insurance Act of 1968 (Public Laws 90-418 and 91-152), as amended, and the U.S. Flood Disaster Protection Act of 1973 (Public Law 93-234), as amended. In addition, the Legislature of the State of Hawai'i has in Hawai'i Revised Statutes 46-1.5(5), 46-1.5(14), 46-11, 46-11.5, and 46-12 conferred upon the various counties the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry (1993, Ord. No. 93-78, sec. 3; Am. 2007, Ord. No. 07-169, sec. 3.)

Section 27-2. Findings of fact.

- (a) The flood hazard areas of the County of Hawai'i are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, cause damage to uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-3. Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) To assist in notifying potential buyers that property is in an area of special flood hazard; and
- (h) To ensure that those who occupy areas of special flood hazard assume responsibility for their actions.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-4. Scope and methods.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (d) Controlling fill, grading, dredging, and other development which may increase flood damage; and
 - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (1993, Ord. No. 93-78, sec. 3.)

Article 2. General Provisions.

Section 27-5. Applicability.

- (a) This chapter shall apply to all areas of special flood hazards identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “Flood Insurance Study,” dated April 2, 2004, with accompanying Flood Insurance Rate Maps and all future changes, revisions and amendments to these documents, and shall apply to all areas bordering identified special flood hazard areas, and all other areas outside the identified special flood hazard areas encompassing and adjacent to a river, stream, stormwater channel, outfall area, or other inland water or drainage facility determined by the director of public works to be subject to flood hazards. The special flood hazard areas are as follows:
 - (1) Floodway fringe - Zones AE, AH, and AO.
 - (2) Floodway.
 - (3) Coastal high hazard (tsunami) - Zones V and VE.
 - (4) General floodplain - Zone A.
 - (5) Land adjacent to drainage facilities, and Zone A99.
- (b) This chapter shall not apply to:
 - (1) Any building permit lawfully issued prior to May 5, 1982 or building permit application properly filed and accepted for review prior to May 5, 1982, provided that approval was obtained without any significant changes in plans or specifications made after May 5, 1982.
 - (2) Roadway and site improvements for subdivisions for which tentative approval had been granted prior to May 5, 1982 and where roadway and site improvement construction and grading plans had received all necessary agency approvals by May 5, 1982.
 - (3) Carnivals, lū‘aus, fairs, and camping tents of a temporary nature which are not in a floodway.
 - (4) Nonfenced, at grade outdoor swimming pools.
 - (5) Signs which are not in a floodway.
 - (6) Demolition.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 4.)

Section 27-6. Basis.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study dated April 2, 2004, along with all subsequent revisions and amendments, and the Flood Insurance Rate Maps, dated April 2, 2004, May 16, 1994, July 16, 1990, and September 16, 1988, and all future changes, revisions, and amendments to these documents, are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and Flood Insurance Rate Maps, and all future changes, revisions, and amendments to these documents, are on file at the Aupuni Center, Department of Public Works, 101 Pauahi Street, Suite 7, Hilo, Hawai‘i 96720.

(1993, Ord. No. 93-78, sec. 3; Am. 1994, Ord. No. 94-74, sec. 3; Am. 1995, Ord. No. 95-86, sec. 3; Am. 2007, Ord. No. 07-169, sec. 5.)

Section 27-7. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. The terms of this chapter shall be enforced by the standards set forth in article 6.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-8. Other laws and regulations.

All construction and improvements subject to this chapter shall comply with other applicable laws and regulations including, but not limited to, the zoning, building, electricity, plumbing, subdivision, erosion and sedimentation control chapters of the Hawai'i County Code, and the storm drainage standards, October 1970 edition, or later revisions, of the County of Hawai'i. This chapter, designed to reduce flood losses, shall take precedence over any less restrictive, conflicting laws, ordinances, and regulations. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

In the event of a conflict between this chapter and the National Flood Insurance Program and Related Regulations (NFIP), as amended, the more restrictive provision will govern.

(1993, Ord. No. 93-78, sec. 3; Am. 2007, Ord. No. 07-169, sec. 6.)

Section 27-9. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the County of Hawai'i; and
- (c) Deemed neither to limit nor repeal any other powers granted to the County of Hawai'i under State of Hawai'i statutes.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards and areas of flood-related erosion hazards, or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the County of Hawai'i, any officer or employee thereof, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-11. Severability.

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-12. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter or denial of a request for a variance.

“Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Backfill” means the placement of fill material within a specified depression, hole or excavation pit below the surrounding adjacent ground level as a means of improving floodwater conveyance or to restore the land to the natural contours existing prior to excavation.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “one-hundred-year flood”).

“Base flood elevation” means the water surface elevation of the base flood.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a licensed structural engineer or architect and shall meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

“Buffer zones” are areas bordering and within 50 feet of special flood hazard areas with base flood elevations, depth numbers specified in feet on the FIRM or other areas that have been studied and identified with base flood elevations or depth numbers.

“Coastal high hazard area” - See “Zone V” and “Zone VE.”

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Drainage facility” - See “Watercourse.”

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 5, 1982.

“Fill” is the placement of fill material at a specified location to bring the ground surface up to a desired elevation.

“Fill material” can be natural sand, dirt, soil or rock. For the purposes of floodplain management, fill material may include concrete, cement, soil cement, brick, or similar material as approved on a case-by-case basis.

“Flood elevation determination” means a determination by the Federal Emergency Management Agency of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

“Flood elevation study” or “flood study” means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of flood-related erosion hazards.

“Flood, flooding, or floodwater” means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (A) The overflow of inland or tidal waters;
 - (B) The unusual and rapid accumulation of runoff or surface waters from any source which are approximately caused by flooding as defined in paragraph (A)(ii) of this definition and are akin to a river of water on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; and
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(A) of this definition.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

“Flood protection system” means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed to conform with sound engineering standards.

“Floodplain administrator” is the individual appointed to administer and enforce the floodplain management regulations. This person shall be the director of public works of the County of Hawai‘i or the director’s duly authorized representative who shall be a currently licensed professional engineer in the State of Hawai‘i.

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, and special purpose ordinances (such as a floodplain ordinance or an erosion and sedimentation control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

“Floodway fringe” is the areas of a floodplain on either side of the designated floodway where encroachment may be permitted.

“Floodway” or “regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

“Fraud and victimization” related to article 5, variances, of this chapter means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the director of public works will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the structure(s) and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the structure(s), unaware that it is subject to potential flood damage, and the structure(s) can be insured only at very high flood insurance rates.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“General floodplain” - See “Zone A.”

“Hardship” as related to article 5, variances, of this chapter means the hardship that would result from a failure to grant the requested variance. The director of public works requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical disabilities, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as exceptional hardships. All of these problems can be resolved through other means, without granting a variance. This is so even if the alternative means are more expensive or complicated than building with a variance, or if they require the property owner to put the parcel to a different use than originally intended, or to build elsewhere.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a State of Hawai'i inventory of historic places where the historic preservation program has been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) By an approved State program as determined by the Secretary of the Interior, or
 - (B) Directly by the Secretary of the Interior in states without approved programs.

“Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” includes a “mobile home” but does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market value.” For the purposes of determining substantial improvement, market value pertains only to the structure in question. It does not pertain to the land, landscaping, or detached accessory structures on the property. For determining substantial improvement, the value of the land must always be subtracted. Acceptable estimates of market value can be obtained from the following sources:

- (1) Independent appraisals by a professional appraiser licensed by the State.
- (2) Property appraisals used for tax assessment purposes by the County department of finance, real property tax office.
- (3) The value of buildings taken from National Flood Insurance Program claims data. This value shall be used as a screening tool to identify those structures where the substantial improvement ratio is less than forty percent or greater than sixty percent.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

“Minimum necessary” related to article 5, variances, of this chapter means the minimum necessary to afford relief to the applicant of a variance with a minimum deviation from the requirements of this chapter. In the case of variances to an elevation requirement, this means the director of public works need not grant permission for the applicant to build at grade, for example, or even to whatever elevation the applicant proposes, but only that level that the director of public works believes will both provide relief and preserve the integrity of this chapter.

“New construction” for floodplain management purposes, means structures for which the “start of construction” commenced on or after May 5, 1982, and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 5, 1982.

“Obstruction” includes but is not limited to any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across, or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.

“One-hundred-year flood” means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the “base flood.”

“One-hundred-year floodplain” means any area of land susceptible to being inundated by water from any source generated by the one-hundred-year flood.

“Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

“Principal structure” means a structure used for the principal use of the property as distinguished from an accessory use.

“Recreational vehicle” means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

“Repetitive loss structure” means home or business that was damaged by flood two times in the past ten years, where the cost of fully repairing the flood damage to the building, on the average, equaled or exceeded twenty-five percent of its market value at the time of each flood.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Sheet flow area” - See “area of shallow flooding.”

“Special flood hazard area” means an area having special flood or flood-related erosion hazards, and shown on the Flood Insurance Rate Maps as Zones A, AO, AE, A99, AH, VE or V.

“Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred-eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a

manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“State” means the State of Hawai‘i.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

“Substantial improvement.” For the purposes of this chapter, the determination of whether any improvements constitute substantial improvements is applicable only to structures built prior to May 5, 1982 or buildings constructed after May 5, 1982 which were not within a special flood hazard area at the time of issuing the building permit. “Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the “start of construction” of the improvement which shall be the sum of all costs of all such work performed in the previous ten years including the cost of the current work being considered. The value of the structure including previous ten year improvements, shall be certified by a contractor, engineer, or architect licensed by the State and the property owner as may be required on a form provided by the County. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance with this chapter is presumed to be in violation until such time as that documentation is provided.

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial damage may occur.

“Zone A” is the special flood hazard area that corresponds to the one hundred-year floodplains that are determined in the Flood Insurance Study by approximate methods. Because detailed hydraulic analyses are not performed for such areas, base flood elevations or depths have not been determined within this zone.

“Zone A99” is the special flood hazard area where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Base flood elevations have not been determined for areas designated as Zone A99.

“Zone AE” is the special flood hazard area that corresponds to the one hundred-year floodplains that are determined in the Flood Insurance Study by detailed methods. Whole-foot base flood elevations

derived from the detailed hydraulic analyses have been determined at selected intervals within this zone.

“Zone AH” is the special flood hazard area that corresponds to the areas of one-hundred-year shallow flooding (usually areas of ponding) where average depths are between one and three feet. Whole-foot base flood elevations derived from the detailed hydraulic analyses have been determined at selected intervals within this zone.

“Zone AO” is the special flood hazard area that corresponds to the areas of one-hundred-year shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average whole-foot depths derived from the detailed hydraulic analyses have been determined within this zone.

“Zone D” corresponds to unstudied areas where flood hazards are undetermined, but possible.

“Zone V” is the special flood hazard area that corresponds to the one hundred-year coastal floodplains extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. Base flood elevations have not been determined for areas designated as Zone V.

“Zone VE” is the special flood hazard area that corresponds to the one hundred-year coastal floodplains extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. Whole-foot base flood elevations derived from the detailed hydraulic analyses have been determined at selected intervals within this zone.

“Zone X (shaded)” are areas of moderate flood hazard corresponding to areas of the five-hundred-year floodplain, areas of one-hundred-year flooding where average depths are less than one foot, areas of one-hundred-year flooding where the contributing drainage area is less than one square mile, and areas protected from the one-hundred-year flood by levees.

“Zone X (unshaded)” are areas of minimal flood hazard corresponding to areas outside of the five-hundred-year floodplain. Base flood elevations or depths have not been determined for Zone X.

(1993, Ord. No. 93-78, sec. 3; Am. 1997, Ord. No. 97-116, sec 1; Am. 2001, Ord. No. 01-108, secs. 1 and 9; Am. 2007, Ord. No. 07-169, sec. 7.)

Section 27-13. Nonconforming structures.

Any nonconforming structure existing on May 5, 1982 or made nonconforming by a change in the special flood hazard area may continue, subject to the following conditions:

- (a) Any repair, reconstruction, improvement, or addition to a nonconforming structure, if it is considered to be substantial improvement, shall comply with the applicable standards of this chapter.
- (b) All relocated structures shall comply with the applicable standards of this chapter.
- (c) Substantial improvement of a damaged, destroyed, or demolished structure located in a floodway shall not be allowed unless a variance from the flood requirements is obtained.

(1993, Ord. No. 93-78, sec. 3; Am. 1997, Ord. No. 97-116, sec. 2.)

Article 3. Administration.

Section 27-14. Director of public works approval.

No building permit, certificate of occupancy, or grading permit shall be issued, no structure shall be occupied, and no development or subdivision shall be approved without the approval of the director of public works with respect to compliance with the provisions of this chapter.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 8.)

Section 27-15. Designation of the floodplain administrator.

The director of public works of the County of Hawai'i is hereby appointed to administer, implement, and enforce this chapter in accord with the provisions of this chapter.
(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 27-16. Duties and responsibilities of the floodplain administrator.

The floodplain administrator, with the cooperation and assistance of other County departments, shall administer this chapter. The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

- (a) Permit review.
 - (1) All building permits, certificates of occupancy, grading permits, and development or subdivision proposals shall be reviewed to determine whether the requirements of this chapter have been satisfied;
 - (2) All other development permits referred by other governmental departments and agencies shall be reviewed for consistency with the requirements of this chapter;
 - (3) All permits and proposals shall be reviewed to determine that the proposed building site is reasonably safe from flooding;
 - (4) For proposed building sites in flood-prone areas where special flood hazard areas have not been defined, water surface elevations have not been provided, and there is insufficient data to identify the floodway or coastal high hazard areas but the flood plain administrator has determined that there are verifiable physical indications that such hazards are present, all new construction, improvements to repetitive loss structures and substantial improvements (including the placement of manufactured homes) shall be:
 - (A) Designed and adequately anchored to prevent flotation, collapse, or lateral movement;
 - (B) Constructed of flood-resistant materials;
 - (C) Constructed by methods and practices that minimize flood damage; and
 - (D) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (E) Be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
 - (F) New and replacement utilities shall comply with the requirements of section 27-19; and
 - (5) All permits shall be reviewed to determine that the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood at any point.
- (b) Information to be maintained.
 - (1) The Flood Insurance Study and Flood Insurance Rate Maps for the County of Hawai'i;
 - (2) The certification of lowest floor elevation;
 - (3) The certification of floodproofing for spaces below the base flood elevation;
 - (4) The certification of final pad elevation where a site is filled above the base flood elevation;
 - (5) The certification that an encroachment in the floodway will not result in any increase in flood levels during base flood discharge; and
 - (6) The certification of elevation and structural support for structures in the coastal high hazard area.
- (c) Interpretation of maps.

The director of public works shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in article 5.

- (d) Change in base flood elevations. Whenever base flood elevations increase or decrease or result in a mappable alteration of the boundaries of any special flood hazard area, as a result of physical changes affecting flooding conditions, as soon as practical, but no later than six months after the date such information becomes available, the floodplain administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data through the Letter of Map Revision process. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- (e) Use of other base flood data. When base flood elevation data has not been provided in accordance with section 27-6, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or State agency, or other source, in order to administer article 4. Any such information shall be submitted to the County of Hawai‘i for adoption.
- (f) Whenever a watercourse is to be altered or relocated:
 - (1) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained;
 - (2) For riverine situations, notify the State of Hawai‘i department of land and natural resources (commission on water resource management) and all adjacent property owners, prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (3) Whenever a proposed alteration or relocation occurs that would significantly change the base flood elevation or result in a mappable alteration of the boundaries of any special flood hazard area, technical and scientific data through the Conditional Letter of Map Revision (CLOMR) shall be submitted to and approved by the Federal Emergency Management Agency. Such a submission is necessary so that upon completion of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data. Work to be performed under an approved Conditional Letter of Map Revision (CLOMR) shall be subject to the following:
 - (A) Work shall not begin any on-site development affecting or impacting the floodplain until an approved Conditional Letter of Map Revision is received from the Federal Emergency Management Agency;
 - (B) Within sixty days of receiving final approval from director of public works for the completion of the alteration or relocation of a watercourse, the request for a Letter of Map Revision (LOMR), and all other information required by the Letter of Map Revision (LOMR) process shall be submitted to the flood plain administrator.
- (g) Take action to remedy violations of this chapter as specified in article 6.
(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am 2007, Ord. No. 07-169, sec. 9.)

Article 4. Standards.

Section 27-17. Certification standards.

Pre-construction and post-construction certification of elevation and floodproofing of new construction, improvements to repetitive loss structures, development, and substantial improvements within areas of special flood hazards and buffer zones shall be submitted to the director of public works and shall be maintained as a matter of public record.

- (a) Pre-construction certification. Requirements for approval of the building permit shall include the following items, as applicable, and any additional items as required by the director of public works to promote public welfare and safety:
 - (1) Certification of building plans. Each set of building plans shall be certified by a structural engineer or architect, currently licensed in the State of Hawai‘i, to be in compliance with the requirements of this chapter.

- (2) Elevation certification on building plans. The elevation of the lowest floor shall be certified on each set of the building plans by a civil engineer or land surveyor currently licensed in the State of Hawai‘i.
 - (3) Special flood hazards area certification. The County of Hawai‘i “Special Flood Hazard Area Certification” form, as amended, shall be completed and certified by a structural engineer or architect currently licensed in the State of Hawai‘i. The completed “Special Flood Hazard Certification” shall be submitted for approval with the building plans.
 - (4) Floodproofing certification. For all new nonresidential construction and substantial improvement with enclosed areas below the base flood elevation, the Federal Emergency Management Agency “Floodproofing Certificate” form, as amended, shall be completed and certified by an engineer or architect currently licensed in the State of Hawai‘i and shall be submitted for approval with the building plans. The director of public works may require additional information regarding the floodproofing design from the permit applicant and the applicant shall provide it. The information required may include the design data and calculations used in the floodproofing design, a detailed flood elevation study, a drainage report, and other information as determined necessary by the director of public works to establish compliance with the provisions of this chapter and to promote public welfare and safety.
- (b) Post-construction certification. Requirements for approval of the certificate of occupancy shall include the following items, as applicable, and any additional items as required by the director of public works to promote public welfare and safety:
- (1) Elevation certification. The Federal Emergency Management Agency “Elevation Certificate,” as amended, shall be completed and certified by a land surveyor, civil engineer, or architect currently licensed in the State of Hawai‘i and submitted for approval with the application for the certificate of occupancy. The information certified within the “Elevation Certificate” shall be based on actual construction.
 - (2) Compliance with other requirements of this chapter.
- (1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 10.)

Section 27-18. Standards for construction.

Standards for construction within areas of special flood hazards and buffer zones are established as follows:

- (a) Anchoring.
 - (1) New construction, improvements to repetitive loss structures, and substantial improvements shall be adequately anchored to resist flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (2) All manufactured homes, including mobile homes, shall meet all standards for structures.
- (b) Construction materials and methods.
 - (1) New construction, improvements to repetitive loss structures, and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction, improvements to repetitive loss structures, and substantial improvement shall be constructed using methods and practices that minimize flood damage.
 - (3) New construction, improvements to repetitive loss structures, and substantial improvement shall be designed and constructed with electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities including, but not limited to, furnaces, heat pumps, water heaters, washers, dryers, elevator lift equipment, electrical junction boxes, circuit breaker boxes, and food freezers located above the base flood elevation plus any required freeboard.
 - (4) Within Zones V and VE, new construction, improvements to repetitive loss structures, and substantial improvements shall comply with the standards of section 27-23.

- (5) Recreational vehicles placed on sites within Zones AH and AE on the FIRM shall be elevated and anchored or be on the site for less than one hundred eighty consecutive days or be fully licensed and highway ready.
- (c) Encroachments.
- (1) Within a floodway, encroachments (including fill), new construction, improvements to repetitive loss structures, substantial improvements, and other developments, shall be prohibited unless certified by a professional civil engineer licensed in the State of Hawai‘i, with supporting data, that the encroachment will not cause any increase in base flood elevations during the occurrence of the base flood discharge.
 - (2) Require, until a regulatory floodway is designated, that no new construction, improvements to repetitive loss structures, substantial improvements, or other development (including fill), shall be permitted within Zones AE on the FIRM, unless demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point.
 - (3) Within all zones of special flood hazards, but not including floodways, filling which would result in the blockage or impediment of flow and/or induce or aggravate flooding shall be prohibited unless certified by a professional civil engineer licensed in the State of Hawai‘i, with supporting data, that the encroachment will not cause any increase in base flood elevations during the occurrence of the base flood discharge.
 - (4) Within floodway fringe areas, filling to elevate the lowest floor of a nonresidential structure may only be permitted where the structure:
 - (A) Is floodproofed so that below the base flood elevation plus any required freeboard the structure is watertight with walls substantially impermeable to the passage of water, and
 - (B) Has structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (5) In Zones V and VE, filling shall be prohibited.
- (d) Elevation and floodproofing.
- (1) Within Zones AE and AH:
 - (A) For residential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated to or above the base flood elevation plus a freeboard of at least one foot.
 - (B) For nonresidential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated or floodproofed to or above the base flood elevation plus a freeboard of at least one foot. If the lowest floor is below the base flood elevation plus the required freeboard, then the structure together with attendant utility and sanitary facilities shall be designed, constructed, and certified by a currently licensed professional engineer or architect in the State of Hawai‘i such that:
 - (i) The structure is watertight below the base flood elevation plus the required freeboard.
 - (ii) The walls are substantially impermeable to the passage of water.
 - (iii) The structural components are capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (C) Within Zone AH, new construction, improvements to repetitive loss structures, and substantial improvement shall be required to provide adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
 - (D) Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by

allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a currently licensed professional engineer or architect or meet or exceed the following criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. Each opening must be on different sides of the enclosed area. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (2) Within Zone AO:
 - (A) For residential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the FIRM, or at least three feet if no depth number is specified.
 - (B) For nonresidential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated or completely floodproofed above the highest adjacent grade at least one foot above the depth number specified in feet on the FIRM, or at least three feet if no depth number is specified. If the lowest floor is to be completely floodproofed, then a currently licensed professional engineer or architect in the State of Hawai'i shall develop and/or review structural design, specifications and plans for construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for the structure together with attendant utility and sanitary facilities such that:
 - (i) The structure is watertight below the referenced flood elevation.
 - (ii) The walls are substantially impermeable to the passage of water.
 - (iii) The structural components are capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (C) New construction, improvements to repetitive loss structures, and substantial improvement shall be required to provide adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) Within Zones V and VE: New construction, improvements to repetitive loss structures, and substantial improvement shall comply with the standards of section 27-23.
- (4) Within Zone A: New construction, improvements to repetitive loss structures, and substantial improvement shall comply with the standards of section 27-24.
- (5) Buffer zones: Areas bordering and within fifty feet of a special flood hazard areas with base flood elevations, depth numbers specified in feet on the FIRM or other areas that have been studied and identified with base flood elevations or depth numbers.
 - (A) For residential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated to the bordering base flood elevation or depth number plus a freeboard of at least one foot.
 - (B) For nonresidential new construction, improvements to repetitive loss structures, and substantial improvements, the lowest floor shall be elevated or floodproofed to the bordering base flood elevation or depth number plus a freeboard of at least one foot. If the lowest floor is below the bordering base flood elevation or depth number plus the required freeboard, then a currently licensed professional engineer or architect in the State of Hawai'i shall develop and/or review structural design, specifications and plans for construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for the structure together with attendant utility and sanitary facilities such that:
 - (i) The structure is watertight below the bordering base flood elevation or depth number plus the required freeboard.

- (ii) The walls are substantially impermeable to the passage of water.
 - (iii) The structural components are capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (C) New construction, improvements to repetitive loss structures, and substantial improvements, shall be required to provide a drainage path around and away from proposed structures.
 - (D) When topographical or ground elevation data, submitted by a civil engineer or land surveyor currently licensed in the State of Hawai'i, shows that the proposed building site is higher than the elevation requirements of paragraph 27-18(d)(5)(A) and 27-18(d)(5)(B), the flood plain regulations of this chapter shall not be applicable.
 - (e) Certification requirements. All new construction, improvements to repetitive loss structures, and substantial improvement within areas of special flood hazard and buffer zones shall be certified as required by the standards of section 27-17.
- (1993, Ord. No. 93-78, sec. 3; Am. 1997, Ord. No. 97-116, sec. 3; Am. 2007, Ord. No. 07-169, sec. 11.)

Section 27-19. Standards for utilities.

- (a) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
 - (b) On-site cesspools and septic systems shall be located to avoid impairment to them or contamination from them during flooding.
- (1993, Ord. No. 93-78, sec. 3.)

Section 27-20. Standards for subdivisions and other developments.

- (a) All subdivisions and other developments within areas of special flood hazards and flood prone areas where special flood hazard areas have not been defined, water surface elevations have not been provided, and there is insufficient data to identify the floodway or coastal high hazard areas but there are verifiable physical indications that such hazards are present as determined by the flood plain administrator, shall:
 - (1) Be consistent with the need to minimize flood damage;
 - (2) Have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage; and
 - (3) Have adequate drainage provided to reduce exposure to flood damage.
- (b) All subdivision and other development applications shall identify the areas of special flood hazards and base flood elevations on the proposed site. If such information is not provided by the Flood Insurance Rate Maps, the director of public works may request and the applicant shall provide such information.
- (c) Finally approved subdivision plats for subdivisions within areas of special flood hazards shall provide base flood elevations within the lots.
- (d) All new subdivision proposals and other proposed developments within areas designated as Zone A or a flood prone area where special flood hazard areas have not been defined, water surface elevations have not been provided, and there is insufficient data to identify the floodway or coastal high hazard areas but the flood plain administrator has determined that there are verifiable physical indications that such hazards are present shall comply with the following:
 - (1) Be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
 - (2) For all proposed developments and/or subdivisions greater than either fifty lots or five acres, the developer and/or subdivider shall include base flood elevation data within their proposal.
 - (3) Comply with the requirements of section 27-24.

- (e) All developments requiring a site drainage plan under section 25-2-72(3) shall submit such a plan for review and approval by the director of public works. The site drainage plan shall comply with sections 27-20(a) and (b) and section 27-24, and shall include a storm water disposal system to contain run-off 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.
- (f) 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.
(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 12.)

Section 27-21. Standards for manufactured homes.

Manufactured homes that are placed or substantially improved on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood shall:

- (a) Within Zones AE or AH, be elevated so that either:
 - (1) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (b) Within Zone AO, be elevated such that the lowest floor of the manufactured home is elevated at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (c) Within Zone A, comply with the standards of section 27-24.
- (d) Within Zones V or VE, comply with the standards of section 27-23.
(1993, Ord. No. 93-78, sec. 3.)

Section 27-22. Standards for floodways.

The floodway identified on the Flood Insurance Rate Maps and located within areas of special flood hazard is the watercourse reserved to discharge the base flood. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Encroachments, including fill, new construction, improvements to repetitive loss structures, substantial improvement, and other new development shall be prohibited unless certification and supporting data is provided by a licensed professional engineer or architect demonstrating that the encroachment will not cause any increase in base flood elevations during the occurrence of the base flood discharge.
- (b) If an encroachment within a floodway is allowed under the conditions of paragraph 27-22(a), all new construction, improvements to repetitive loss structures, substantial improvement and other proposed new development shall comply with all applicable flood hazard reduction provisions established in this chapter.

- (c) The following uses, not involving fill, shall be evaluated on a case-by-case basis to establish that the use does not cause any increase in base flood elevations:
- (1) Public and private outdoor nonstructural recreational facilities, lawn, garden, and play areas;
 - (2) Agricultural uses, including farm, grazing, pasture, and outdoor plant nurseries; and
 - (3) Drainage improvements, such as channels and stream crossings.
- (1993, Ord. No. 93-78, sec. 3; Am. 2007, Ord. No. 07-169, sec. 13.)

Section 27-23. Standards for coastal high hazard areas.

Coastal high hazard areas, more commonly known as tsunami inundation areas, are identified as Zone V or Zone VE on the Flood Insurance Rate Maps. Within coastal high hazard areas, the following standards shall apply:

- (a) All new construction, improvements to repetitive loss structures, and substantial improvements in a coastal high hazard area shall be constructed with materials and utility equipment resistant to flood damage and using methods and practices that minimize flood damage.
- (b) New construction, improvements to repetitive loss structures, and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor, excluding the pilings and columns, is elevated to or above the base flood level. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. The wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year.
- (c) New construction, improvements to repetitive loss structures, and other development shall be located on the landward side of the reach of mean high tide.
- (d) New construction, improvements to repetitive loss structures, and substantial improvement shall have the enclosed space, if any, below the lowest floor free of obstructions and constructed with breakaway walls as defined in section 27-12. Such enclosed space shall not be used for human habitation and will be useable solely for parking of vehicles, building access, or storage. Machinery and equipment which service the building, such as furnaces, air conditioners, heat pumps, hot water heaters, washers, dryers, elevator lift equipment, electrical junction and circuit boxes, and food freezers are not permitted in such enclosed spaces. The enclosed space must only be achieved with breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot may be permitted only if a licensed professional structural engineer certifies that the design proposed meets the following conditions:
 - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- (e) Fill shall not be used.
- (f) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- (g) All new construction, improvements to repetitive loss structures, development, and substantial improvement within coastal high hazard areas shall be certified as required by section 27-17.

- (h) Recreational vehicles placed on sites within Zones V and VE on the FIRM shall be elevated and anchored or be on the site for less than one hundred eighty consecutive days or be fully licensed and highway ready.
(1993, Ord. No. 93-78, sec. 3; Am. 2007, Ord. No. 07-169, sec. 14.)

Section 27-24. Standards for general floodplain.

The general floodplain, identified as Zone A on the Flood Insurance Rate Maps, are areas of special flood hazards for which detailed engineering studies are not performed by the Federal Emergency Management Agency to determine the base flood elevations and to identify the floodways.

- (a) To determine base flood elevations and the locations of floodways within the general floodplain, the director of public works may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including information requested of a permit applicant.
- (b) Development or subdivision proposals shall conform with the requirements of section 27-20.
- (c) The following information shall be provided by a permit applicant to the director of public works to evaluate the proposed construction or improvement site within a general floodplain area:
- (1) Project location and site plan showing dimensions.
 - (2) Relationship to floodway and floodway fringes as determined by flood elevation study.
 - (3) Contour map showing the topography of existing ground based on elevation reference marks on flood maps. The scale and contours are to be appropriate to the work in question.
 - (4) Existing and proposed base flood elevations.
 - (5) Existing and proposed floodproofing and flood control measures.

The director of public works may waive informational requirements if the director of public works has sufficient information to make an evaluation and determination regarding flood elevation or may request further information, including a detailed flood elevation study and a drainage report, to evaluate flood risks and determine the applicability of flood construction and development standards.

- (d) New construction, improvements to repetitive loss structures, and substantial improvements within the general floodplain shall satisfy the requirements set forth for Zones AE, AH, AO, or VE as is determined to be applicable by the director of public works based on base flood information and floodway data obtained through subsections 27-24(a) and 27-24(b).
- (e) All new construction, improvements to repetitive loss structures, development, and substantial improvement within the general floodplain shall be certified as required by section 27-17.
- (f) All manufactured homes shall be elevated and anchored to resist flotation, collapse, or lateral movement.
(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 15.)

Section 27-25. Standards for improvements adjacent to drainage facilities.

New construction, improvements to repetitive loss structures, and substantial improvements proposed adjacent to drainage facilities outside of the special flood hazard areas identified on the Flood Insurance Rate Maps shall be subject to review and approval of the director of public works.

- (a) Upon request by the director of public works, further information concerning base flood elevation, floodways, surface water runoff, existing and proposed drainage patterns, and other information, including a detailed flood elevation study, drainage report, and findings and opinions by a licensed professional civil engineer, shall be provided to evaluate potential flooding.
- (b) The director of public works shall determine the applicability of the various development and construction standards provided in this chapter based upon information available from a Federal, State, or other source, including information provided by the permit applicant.
- (c) A drainage facility shall not be modified, constructed, lined, or altered in any way to accommodate the improvement without the approval of the director of public works.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 16.)

Section 27-26. Storm drainage standards.

The department of public works, County of Hawai'i's "Storm Drainage Standard," October 1970 edition, or latest revision, is incorporated into and made a part of this chapter. These standards have been prepared to guide County engineers and personnel, engineers for subdivision and other developers, consultants employed by the department of public works, and other interested parties in the general features required for the design of storm drainage facilities, preparation of flood hazard studies, and other related work in the County of Hawai'i.

(1993, Ord. No. 93-78, sec. 3; Am. 2007, Ord. No. 07-169, sec. 17.)

Article 5. Variances and Appeals.**Section 27-27. Criteria for variances.**

A variance from this chapter may be issued by the director of public works only upon the applicant meeting the variance criteria of this section. The variance criterion set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the County of Hawai'i to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements of this chapter are quite rare. The variance guidelines are detailed and contain multiple provisions that must be met before a variance can be properly granted. The following criterion are designed to screen out those situations in which alternatives other than a variance are more appropriate:

- (a) Generally, variances may be issued for new construction, improvements to repetitive loss structures, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of articles 3 and 4 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause. Under this criterion, the applicant must demonstrate that the variance request is for land which has physical characteristics so unusual that complying to flood requirements will create exceptional hardship to the applicant or surrounding landowners. The unique characteristic must pertain to the land itself and not the structure, its inhabitants, or the property owner.

Under this criterion, only exceptional instances should arise where the physical characteristics of properties create a hardship sufficient to justify granting a variance. Even in a fairly common situation where an undeveloped lot is surrounded by properties with structures built at grade and/or below flood levels, a variance cannot be justified since an applicant can erect the concerned structure on pilings, etc.;

- (2) A determination that failure to grant the variance would result in exceptional "hardship" (as defined in section 27-12) to the applicant. Under this criterion, the hardship that would result from failure to grant a requested variance must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical disabilities, personal preferences, or the disapproval of one's neighbors cannot, generally, qualify as exceptional hardship. Under this criterion, for example,

a member of a household has a physical disability and wants a variance to build the dwelling at grade or at a lower level for access purposes. A variance should not be issued because the owner can construct a ramp or elevator to meet flood requirements. Elevation will allow the infirm or persons with disabilities to be evacuated in the early stage of flooding, and, if there is insufficient warning or help in evacuating that person, then, in all likelihood, he can survive the flood by simply remaining in the home safely above the levels of floodwaters;

- (3) A determination that the variance is the “minimum necessary” (as defined in section 27-12), considering the flood hazard, to afford relief. Under this criterion, the variance that is granted should be for the minimum deviation from the flood requirements that will still alleviate the hardship. In the case of variance to an elevation requirement, this does not mean approval to build at grade level or to whatever elevation an applicant proposes, but rather to a level that the director of public works determines will provide relief and preserve the integrity of the flood ordinance; and
 - (4) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause “fraud or victimization” (as defined in section 27-12) of the public, or conflict with existing local laws or ordinances. Under this criterion, an applicant must demonstrate that flood levels will not be raised above the base flood elevations.
- (d) Variances may be issued for new construction, improvements to repetitive loss structures, substantial improvement, and other proposed new development necessary for the conduct of a “functionally dependent use” (as defined in section 27-12) provided that the provisions of paragraphs 27-27(a) through 27-27(c) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - (e) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (f) Variances may be issued for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - (g) Variances may be approved with conditions. Such conditions may include:
 - (1) Modification of the construction or substantial improvement, including the sewer and water facilities.
 - (2) Limitations on periods of use and operation.
 - (3) Imposition of operational controls, sureties, and deed restrictions.
 - (4) Requirements for construction of channels, dikes, ditches, swales, levees, and other flood-protective measures.
 - (5) Floodproofing measures designed consistent with the regulatory flood elevation, flood velocities, hydrostatic and hydrodynamic forces, and other factors associated with the base flood.
 - (6) Other conditions as may be required by the director of public works to promote public welfare and safety.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 18.)

Section 27-28. Application for variance.

An application for a variance shall be submitted to the director of public works, signed and stamped by a licensed professional engineer or architect, and shall include three sets of documents with the following information as may be applicable:

- (a) Plans and specifications showing the site and location; dimensions of all property lines and topographic elevation of the lot; existing and proposed structures and improvements, fill, storage area; locations and elevations of existing and proposed streets and utilities; floodproofing measures; relationship of the site to the location of the flood boundary; floodway; and the existing and proposed flood control measures and improvements.
 - (b) Cross-sections and profile of the area and the regulatory flood elevations and profile based on elevation reference marks on flood maps.
 - (c) Flood study and drainage report in areas where a study and report have not been reviewed and accepted by the County of Hawai'i.
 - (d) Description of surrounding properties and existing structures and uses and the effect of the regulatory flood on them caused by the variance.
 - (e) Evaluation and supporting information for the variance with respect to the factors to be considered by the director of public works as listed in paragraphs 27-27(a) through 27-27(f).
 - (f) An agreement that a covenant will be inserted in the deed and other conveyance documents of the property and recorded with the bureau of conveyances of the State of Hawai'i, stating that the property is located in a flood hazard area subject to flooding and flood damage; that a flood hazard variance to construct a structure below the base flood elevation will result in increased flood insurance rates and increases flood risks to life and property; that the property owners will not file any lawsuit or action against the County of Hawai'i for costs or damages or any claim; that the property owners will indemnify and hold harmless the County of Hawai'i from liability when such loss, damage, injury, or death results due to any flood hazard variance and flooding of the property; and that upon approval of the variance, the covenants shall be fully executed and proof of recording with the bureau of conveyances shall be submitted to the director of public works prior to the issuance of a building permit.
 - (g) Such other information as may be relevant and requested by the director of public works.
- (1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 19.)

Section 27-29. Review of variance applications.

The director of public works shall review variance applications and shall consider all technical evaluations, relevant factors, standards specified in other sections of this chapter, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger of life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program, if any, for that area;
 - (i) The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- (l) Upon consideration of the factors of paragraphs 27-29(a) through 27-29(k) and the purposes of this chapter, the director of public works may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 27-30. Recording and reporting of variances.

- (a) Any applicant to whom a variance is granted shall be given written notice over the signature of the director of public works that:
- (1) The issuance of a variance to construct a structure at elevations below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
 - (2) Such construction below the base flood level increases risks to life and property; and
 - (3) A copy of the notice shall be recorded with the State of Hawai'i bureau of conveyances and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (b) A record of all variance actions, including justifications for issuance of any variance and written notices, shall be maintained by the director of public works. A report of the variances issued shall be included in the biennial report submitted to the Federal Emergency Management Agency.
- (1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 20.)

Section 27-31. Appeals.

The circuit court of the third circuit, County of Hawai'i, State of Hawai'i shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration or enforcement of this chapter.

(1993, Ord. No. 93-78, sec. 3.)

Article 6. Enforcement.**Section 27-32. Right to enter.**

Authorized representatives of the County of Hawai'i are empowered to enter and inspect properties, both public and private, for the purposes of investigating compliance with the provisions of this chapter. The representatives shall, upon request, provide proper identification and state the purpose of the investigation.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-33. Notice of violation.

Whenever any person, firm, or corporation violates any provision of this chapter, the director of public works shall serve, either through certified mail or by hand delivery, a notice of violation to the parties responsible for the violation.

- (a) The notice of violation shall identify the violation and require the responsible party to correct the violation and comply with applicable requirements of this chapter.
- (b) The notice of violation shall include at least the following information:
- (1) The date of the notice;
 - (2) The name and address of the person served with the notice;
 - (3) The tax key number of the property where the violation has been identified;
 - (4) The section number of the chapter or other law which has been violated;
 - (5) The nature of the violation;
 - (6) The corrective measures required to comply with this chapter;
 - (7) The deadline date for compliance with the notice.

(1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 27-34. Administrative order.

- (a) In lieu of or in addition to section 27-33, if the director of public works determines that any person, firm, or corporation is not complying with the requirements of this chapter or a notice of violation for a violation of this chapter, the director of public works may have the party responsible for the violation served, by certified mail or delivery, with an order pursuant to this section.

- (b) The order may require the party responsible for the violation to do any or all of the following:
- (1) Correct the violation within the time specified in the order;
 - (2) Pay a civil fine of not less than \$500 and not more than \$1,000 in the manner, at the place, and before the date specified in the order;
 - (3) Pay a civil fine of not less than \$500 per day and not more than \$1,000 per day for each day that the violation persists, in the manner and at the time and place specified in the order.
- (c) The order shall become final thirty days from the date of service unless the party served requests a hearing under chapter 91, Hawai‘i Revised Statutes. If a hearing is requested, no fine shall be imposed except upon completion of the hearing. In determining the amount of the fine, the director of public works shall consider the seriousness of the violations, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the fine on the violator, and such other considerations that have a bearing on the amount of the fine.
- (d) The director of public works may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director of public works need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine has not been paid.
- (1993, Ord. No. 93-78, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1; Am. 2007, Ord. No. 07-169, sec. 21.)

Section 27-35. Injunctive relief.

Whenever a person, firm, or corporation has violated or continues to violate the provisions of this chapter, notice of violation, or administrative order issued relevant to this article, the County of Hawai‘i may petition the circuit court of the third district, State of Hawai‘i, or the United States District Court, State of Hawai‘i, through the County of Hawai‘i’s corporation counsel, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the provisions of this chapter, notice of violation, or administrative order. Such other action as appropriate for legal and/or equitable relief may also be sought by the County of Hawai‘i. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-36. Criminal enforcement.

A violation of the requirements of this chapter shall constitute a misdemeanor. Any person violating the provisions of this chapter shall upon conviction be punished by a fine of \$1,000 or by imprisonment not exceeding one year, or both, except that in cases where such offense shall continue after due notice, each day’s continuance of the same shall constitute a separate offense.

(1993, Ord. No. 93-78, sec. 3.)

Section 27-37. Removal of encroachment and/or obstruction notices.

In addition to any other section, if any encroachment and/or obstruction exists, under, over or through any portion of a drainageway, floodway, levee system or watercourse within the County and the encroachment and/or obstruction is observed, or a complaint made to the department of public works of the County of Hawai‘i, then the department of public works shall investigate and forthwith, give notice to the owner to remove the encroachment and/or obstruction in the manner provided in this article.

(1997, Ord. 97-128, sec. 1; Am. 2007, Ord. No. 07-169, sec. 22.)

Section 27-38. Removal by County; costs.

If the encroachment and/or obstruction is not removed or its removal is not commenced and diligently prosecuted prior to the expiration of thirty days after mailing of notice, the department of public works may proceed to remove the encroachment and/or obstruction by itself or contract for its removal. All costs incurred in the course of removing the encroachment and/or obstruction shall be paid by owner and the County may institute an action to recover costs and expenses for removal of the encroachment and/or obstruction. The County may also place a lien against the encroaching and/or obstructing parcel for any uncollected costs. (1997, Ord. 97-128, sec. 1.)

Chapter 32

SPECIAL IMPROVEMENT FINANCING BY COMMUNITY FACILITIES DISTRICTS

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- (2) The costs associated with the creation of the district, issuance, carrying or repaying of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the district, including financing, consulting, trustee and legal fees, replenishment of any reserves established in connection with bonds and arbitrage rebate required by Federal tax law.
- (3) Any other expenses incidental to the acquisition, construction, installation of facilities or inspection of the authorized work.
- (4) Administrative expenses of the County associated with the facilities, the bonds or proceedings undertaken pursuant to this chapter.

“Landowner” or “owner” of land means any person shown as the owner of land by record of the director or any other means reasonably available or otherwise known by the County to be the owner of the land. The County has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purpose of this chapter. A public body is not a landowner or owner of land for purposes of this chapter, unless the land owned by a public body would be subject to a special tax pursuant to section 32-54.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-17. Property acquired by County or other public entity.

If property subject to a special tax levied pursuant to this chapter is acquired by the County (or, to the extent permitted by law, any other public entity) through a negotiated transaction or eminent domain proceedings, the obligation to pay the special tax shall be payable out of the purchase price, rental payments or eminent domain award, as the case may be, in an amount sufficient to pay or provide for the payment of the principal and interest on any bonds issued under this chapter that would have been payable from the special tax. If property subject to a special tax levied pursuant to this chapter is acquired by the County by foreclosure or similar proceeding or by gift or devise, unless otherwise paid or provided for, the property shall be sold as soon as practicable, and either (a) the obligations to pay the special tax shall be payable from the sales price in an amount sufficient to pay or provide for the payment of the principal and interest on any bonds issued under this chapter that would have been payable from the special tax, or (b) the purchaser of the property shall take title subject to the lien of the special tax and shall be required to pay the special taxes becoming due from and after the sale date.

(1994, Ord. No. 94-77, sec. 3.)

Article 2. District Establishment Procedures.

Section 32-18. Institution of procedures.

- (a) The procedure for the establishment of a district may be instituted by the council on its own initiative and shall be instituted by the council at its next regular meeting for which notice has not yet been given, after receipt by the clerk of a petition requesting the institution of the procedure signed by the landowners owning the requisite portion of the area of the proposed district, as specified in paragraph (d) of section 32-19, accompanied by the payment of a fee (if any) which the County determines is necessary to compensate the County for costs expected to be incurred by the County in conducting the procedure to create a district pursuant to this chapter.
- (b) No district shall be established unless the council finds that the establishment of such district is in the public interest. The council’s findings shall be final and conclusive

(1994, Ord. No. 94-77, sec. 3; Am. 2007, Ord. No. 07-146, sec. 2.)

Section 32-19. Petition requesting institution of the procedure.

A petition requesting the institution of the procedure for the establishment of a district shall include all of the following:

- (a) A request that the council institute the procedure to establish a district pursuant to this chapter;
- (b) A description of the boundaries of the territory which is proposed for inclusion in the district;
- (c) A description of the type or types of facilities to be financed by the district;
- (d) The signatures of the owners of not less than twenty-five percent of the area of land proposed to be included within the district. If the council finds the petition is signed by the requisite number of owners of land proposed to be included within the district, that finding shall be final and conclusive.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-20. Adoption of resolution of intention.

The procedure for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the district which shall do all of the following:

- (a) State that a district is proposed to be established under the terms of this chapter and describe the term of the proposed district and the boundaries of the territory proposed for inclusion in the district, which may be accomplished by reference to a map on file in the office of the director, showing the proposed district. The term of the district shall be a specified period of years but shall not expire until all bonds and other debt incurred pursuant to this chapter, and incidental expenses related thereto, payable from special taxes levied on property in the district shall have been paid or duly provided for.
- (b) State the name proposed for the district in substantially the following form: “Hawai‘i County Community Facilities District No. ____.” One or more additional descriptive words may be used in the name of the proposed district to indicate the geographic area of the district.
- (c) State the type or types of facilities proposed to be financed by the district pursuant to this chapter. If the purchase of completed facilities or the incurring of incidental expenses is proposed, the resolution shall identify those facilities or the type of such expenses, as the case may be.
- (d) State that, except where funds are otherwise available, a special tax sufficient to pay for all facilities, including incidental expenses, will be annually levied within the district. The resolution shall describe the estimated rate and proposed method of apportionment of the special tax in sufficient detail to allow each landowner within the proposed district to estimate the maximum annual amount that the landowner will have to pay. The council may prohibit prepayment of the special tax or may specify conditions under which the special tax may be prepaid and permanently satisfied, which conditions may include periods during which prepayment will not be permitted and the requirement that a premium be paid upon prepayment.
- (e) State whether the County intends to issue bonds under this chapter in whole or in part payable from and secured by the special tax.
- (f) Fix a time and place for a public hearing on the establishment of the district which shall be not less than sixty or more than ninety days after the adoption of the resolution of intention.
- (g) Describe the protest procedure.

If an improvement area is proposed to be established, the resolution of intention shall also state and describe the boundaries of the proposed improvement area, the name proposed for the improvement area, the types of facilities proposed to be financed by the improvement area and whether and to what extent it is proposed that special taxes shall be applied in the improvement area for purposes of financing such facilities.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-21. Reports of facilities.

At the time of the adoption of the resolution of intention to establish a district, the council shall direct the director of public works, department of public works, or other appropriate department, officer or officers who is or will be responsible for providing or maintaining one or more of the proposed types of facilities to be financed by the district, if it is established, to study the proposed district and, at or before the time of the hearing (or within sixty days after adoption of the resolution of intention, or such earlier date established by the council, if the hearing is waived pursuant to section 32-24), file a report with the council containing a brief description of the proposed facilities by type which will in their opinion be required to adequately meet the needs of the district, and their estimate of the cost of providing those facilities. In preparing the report, the department or officer may consult with other officers of the County or the State and with any financial feasibility or other consultant retained by the County or any property owner to assist in the procedure or otherwise available. If the purchase of completed facilities or the payment of incidental expenses is proposed, the council shall direct the appropriate officer to estimate the fair and reasonable cost of those facilities or incidental expenses. All of those reports shall be made a part of the record of the hearing on the resolution of intention to establish the district.

(1994, Ord. No. 94-77, sec. 3; Am. 2001, Ord. No. 01-108, sec.1; Am. 2007, Ord. No. 07-146, sec. 3.)

Section 32-22. Published notice of hearing.

- (a) The clerk shall publish a notice of the hearing twice, at least one week apart, in a newspaper of general circulation in the County. Publication shall be completed at least seven days prior to the date of the hearing.
- (b) The notice shall contain all of the following information:
 - (1) A summary of the resolution of intention to establish the district and the name, address and telephone number of a department or official of the County from which a copy of the resolution of intention can be obtained (alternatively the notice may contain the full text of the resolution).
 - (2) The time and place of the hearing on the establishment of the district.
 - (3) A statement that at the hearing the testimony of all interested persons or taxpayers for or against the establishment of the district, the extent of the district, the financing of specified types of facilities or the special tax will be heard. The notice shall also describe, in summary, the protest procedure, including the respective rights of owners and lessees and the effect of protests against the establishment of the district, the extent of the district, the financing of a specified type of facilities, or a specified special tax, as provided in section 32-27, and the effect of failure to file a written protest as provided in section 32-6.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-23. Mailed notice of hearing.

In addition to publishing notice as provided in section 32-22, the clerk shall give notice of the hearing by first-class mail to each owner of land within the proposed district, and to each lessee of property within the proposed district, which the director has on record. This notice shall be mailed at least fifteen days before the hearing and shall contain the same information required to be contained in the published notice pursuant to section 32-22. Failure to give notice to any landowner or lessee or failure of any landowner or lessee to receive such notice shall not affect the validity or effectiveness of the hearing or any other proceedings taken under this chapter or any special tax levied under this chapter if the council determines that a reasonable effort was made to give such notice, which determination shall be final and conclusive.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-24. Waiver of notice and hearing by petition.

If a petition is filed by the owners of one hundred percent of the land in the proposed district and by all lessees having a possessory interest in any property to be included within the proposed district who, by the express terms of the lease, must pay the special tax contemplated by this chapter (unless the owner or lessor shall, with the petition, file a written waiver of the stipulation in the lease which requires the lessee to pay the special tax to be levied in the proposed district and a written undertaking to pay the special tax), then it shall be unnecessary for the council to provide any notice of the hearing, or to conduct a public hearing under this chapter. The council may immediately proceed to adopt an ordinance of formation pursuant to section 32-29 and to levy and assess a special tax in the manner provided in this chapter, provided that the council finds that the appraised value of the land in the district (in accordance with prevailing standards of appraisal then used by financial institutions for loans thereon) is at least two times the estimated cost of the proposed improvement and that such approval is in the public interest. The council's findings shall be final and conclusive. (1994, Ord. No. 94-77, sec. 3.)

Section 32-25. Addition of territory at the hearing.

At the hearing, the council may add additional territory to the district, but only if the owners (and lessees described in section 32-27) of one hundred percent of the land to be added have submitted to the clerk a written request to be added to the district prior to or at the beginning of the hearing. (1994, Ord. No. 94-77, sec. 3.)

Section 32-26. Protests.

At the hearing, protests against the establishment of the district, the extent of the district, the financing of specified types of public facilities or the special tax may be made orally or in writing by any interested persons or taxpayers. Any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities and defects to which objection is made. All written protests shall be filed with the clerk at or before the time fixed for the hearing. The council may waive any irregularities in the form or content of any written protest and at the hearing may correct minor defects in the proceedings. Written protests may be withdrawn in writing at any time before the conclusion of the hearing. (1994, Ord. No. 94-77, sec. 3.)

Section 32-27. Protest by more than fifty-five percent.

- (a) If the owners of more than fifty-five percent of the area of the land, or if more than fifty-five percent of the owners of the land, in the territory proposed to be included in the district:
- (1) File written protests with the council, prior to or at the beginning of the hearing, against the establishment of the district, and
 - (2) If protests are not withdrawn so as to reduce the amount of the protests to fifty-five percent or less (of the area of land or of the owners), no further proceedings to create the specified district or to levy the specified special tax shall be taken for a period of one year from the date of the hearing.
- (b) If property proposed to be included in the district is subject to a lease, the lessee shall be deemed to have and may exercise all of the rights of the owner for notice and hearing and to protest under this section, unless, prior to the closing of the public hearing, the lessor or owner of the property has filed with the council either:
- (1) A written statement that the lease does not require the lessee to pay the proposed special tax and a written undertaking by the lessor or owner to pay the proposed special tax and to refrain from imposing the obligation to pay the special tax upon any successor lessee, or
 - (2) A written waiver of any requirement in the lease that the lessee pay the proposed special tax and a written undertaking by the lessor or owner to pay the proposed special tax and to refrain from imposing the obligation to pay the special tax upon any successor lessee.

Section 32-54. Levy of special tax on leasehold or possessory interest in property.

- (a) If a public body owning property, including property held in trust for any beneficiary, which is exempt from a special tax pursuant to section 32-53, directly or indirectly grants a leasehold or other possessory interest in the property to a nonexempt person or entity, the special tax shall, notwithstanding section 32-32 or 32-53 or any other provision of this chapter, be levied and constitute a lien on the leasehold or possessory interest and shall be payable by the owner of the leasehold or possessory interest. In addition, in the case of property owned by a person or entity other than a public body, if such person or entity directly or indirectly grants a leasehold or other possessory interest in the property to a nonexempt person or entity, the applicable ordinance of formation, ordinance of consideration or ordinance of annexation may provide, notwithstanding section 32-32 or 32-53 or any other provision of this chapter, that the special tax shall be levied and constitute a lien on either the fee title interest or the leasehold or other possessory interest in such property and shall be payable by either the owner of the fee title interest or the owner of the leasehold or possessory interest, as is specified in the applicable ordinance.
- (b) When entering into a lease or other written contract creating a possessory interest that may be subject to taxation pursuant to subsection (a), the public body or other lessor or grantor shall include, or cause to be included, in the contract a statement that the possessory interest may be subject to special taxation pursuant to this chapter, and that the party in whom the possessory interest is vested may be subject to the payment of special taxes levied on the possessory interest. Failure to comply with the requirements of this section shall not, however, invalidate the contract or affect the validity or enforceability of the special tax or the obligation of the party in whom the possessory interest is vested to pay the special tax.

(1994, Ord. No. 94-77, sec. 3; Am. 2007, Ord. No. 07-146, sec. 4.)

Section 32-55. Challenges to special taxes.

In accordance with section 46-80, Hawai'i Revised Statutes, as amended, any action or proceeding to attack, review, set aside, void, or annul the levy of a special tax or an increase in a special tax pursuant to this chapter shall be commenced within thirty days after the special tax is approved by the council in the ordinance of formation or in the ordinance of consideration or in the ordinance of annexation, as the case may be.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-56. Notice of cancellation of special tax authorization upon prepayment of special tax.

In the event that the council has specified conditions pursuant to section 32-20 under which the obligation to pay the special tax identified therein may be prepaid and permanently satisfied, and if the special tax is so prepaid and permanently satisfied as to a particular parcel of land, the council shall prepare and file with the bureau of conveyances or land court a notice of cancellation of special tax authorization as to that parcel. The notice of cancellation of special tax authorization shall identify with particularity the special tax being canceled and the particular parcel of land subject to the tax. The director shall mail a copy of the notice of cancellation of special tax authorization to the owner and any lessee of the property of which the director is aware after filing the document. The council may specify a charge for the preparation and filing of this notice.

(1994, Ord. No. 94-77, sec. 3.)

Article 6. Bonds.**Section 32-57. Bond ordinance.**

- (a) Whenever the council deems it necessary or appropriate that community facilities district bonds be issued to finance the costs of any facility or facilities or to reimburse costs thereof previously paid, at or after adoption of an ordinance of formation or special tax ordinance levying special taxes with respect to such facilities, the council may authorize the issuance of bonds by ordinance. The ordinance may provide for:
- (1) The issuance of the bonds in one or more series;
 - (2) The date the bonds shall bear;
 - (3) The maturity date or dates of the bonds which shall not be more than forty years after the issuance date of the bonds;
 - (4) The rate or maximum rate of interest on the indebtedness, which shall not exceed the maximum rate permitted by law, and which may be fixed or variable and may be simple or compound;
 - (5) The time or times at which interest shall be payable;
 - (6) The denomination of the bonds;
 - (7) The form of the bonds;
 - (8) The conversion or registration privileges carried by the bonds;
 - (9) The rank or priority of the bonds;
 - (10) The manner of execution of the bonds;
 - (11) The medium of payment of the bonds;
 - (12) The place or places of payment;
 - (13) The terms of redemption and the redemption price or prices to which the bonds are subject;
 - (14) The pledge or assignment of all or part of the special taxes levied on property in the district or improvement area thereof, the liens securing such special taxes, proceeds of the bonds and any other funds which are intended by the council to secure payment of the bonds, which pledge shall be a first and exclusive lien, superior to all other claims (except to the extent otherwise provided in the ordinance);
 - (15) The establishment and handling of a separate special fund or funds to pay or secure the bonds or to pay for the facilities or incidental expenses;
 - (16) The investment of proceeds of the bonds and any other funds (including special taxes) pledged to secure payment of the bonds in any obligations permitted by the ordinance; and
 - (17) Any other provisions for the issuance, payment, security, credit enhancement, interest rate swaps, handling of funds, default, remedies, and other matters related to the bonds which the council deems appropriate.
- (b) The ordinance may provide that any or all of the terms listed in this section or elsewhere in this article may be fixed by or set out in, within parameters provided in the ordinance, a certificate signed by the director at or prior to the delivery of the bonds and the receipt of payment therefor or in an indenture, trust agreement or fiscal agent agreement between the County and a corporate trustee or fiscal agent located within or without the State.
- (c) The principal amount of bonds issued and outstanding for a district pursuant to this article shall not exceed one-third of the value of the real property upon which a special tax is levied for payment of the debt service on the bonds. The “value of the real property” shall be the fair market value of the land and special improvements to be constructed within or financed by the district, as evidenced by an appraisal of the subject property made by a certified general real property appraiser who is a Member of the Appraisal Institute (MAI) or a reasonably comparable professional organization of real property appraisers. Notwithstanding the foregoing, such requirement shall not apply if the council finds and determines by a vote of not less than two-thirds of its members that the proposed bond issue will assist materially in promoting significant public policies, programs or initiatives of the County.
(1994, Ord. No. 94-77, sec. 3; Am. 2007, Ord. No. 07-146, sec. 5.)

Section 32-58. Expenses includable in proposed bonded indebtedness.

The amount of the proposed bonded indebtedness may include all costs and estimated costs incidental to, or connected with, issuing, carrying or repaying the proposed debt or the accomplishment of the purpose for which the proposed debt is to be incurred.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-59. Designation of improvement area.

For purposes of financing of, or contributing to the financing of, specified facilities, the council may by ordinance designate a portion or portions of the district as one or more improvement areas. An area shall be known as "Improvement Area No.____" of "Hawai'i County Community Facilities District No.____." After the designation of an improvement area, all proceedings for purposes of levying special taxes for purposes of financing such specified facilities shall apply only to the improvement area for those specified facilities, except to the extent otherwise provided in the ordinance.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-60. Foreclosure action to collect unpaid special taxes.

- (a) In addition to any other remedy provided by law, if any amount levied as a special tax for the payment of bond interest or principal is not paid when due, the County shall, after one hundred twenty days of delinquency of any installment of principal, order that the same, together with any penalties, interest and costs, be collected by an action brought to foreclose the lien of special tax.
- (b) The council may covenant, for the benefit of bond owners, to commence and diligently pursue to completion any foreclosure action regarding delinquent installments of any amount levied as a special tax for the payment of interest on or principal of any bonds that are issued. The covenant may specify a deadline for commencement of the foreclosure action and any other terms and conditions the council determines reasonable regarding the foreclosure action.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-61. Signing of bonds.

Unless otherwise specified in the ordinance providing for issuance of the bonds, the bonds shall be signed by the mayor of the County and countersigned by the director of finance or the director's deputy. All signatures on the bonds may be manual or facsimile. If any officer whose signature appears on the bonds ceases to be that officer before the delivery of the bonds, this person's signature is as effective as if this person had remained in office.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-62. Levy of amount of special taxes.

When the council fixes and levies special taxes for the district it shall also fix and levy that amount of special taxes within the district which is required for the payment of the principal of and interest on any bonds, including any necessary accumulation for or replenishment or expenditures of bond reserve funds or accumulation of funds for future bond payments or to pay for or reimburse payments pursuant to credit enhancement or prior contributions to debt service or other costs or incidental expenses related to the bonds. The special taxes shall be levied and collected by the same officers and at the same time and in the same manner that all other special taxes are levied and collected for the district or in any other manner specified by the council. The special taxes shall not exceed the authority granted by this chapter. All of the collections for payment of principal and interest on bonds and related expenses shall be paid into the district bond fund or reserve, rebate or other fund for the district and shall be used solely for the payment of the principal of and interest on the outstanding bonds of the district and related costs and incidental expenses, all as provided in the ordinance providing for issuance of the bonds.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-63. Manner of sale.

The district may sell the bonds so issued at public or private sale at the times, for the price or prices and in the manner the council determines to be appropriate and in the public interest (such determination being final and conclusive).

(1994, Ord. No. 94-77, sec. 3.)

Section 32-64. Action to determine validity.

In accordance with section 46-80, Hawai‘i Revised Statutes, as amended, any action to determine or to challenge the validity or issuance of bonds issued or to be issued pursuant to this chapter shall be commenced within thirty days after the council by ordinance authorizes the issuance of the bonds.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-65. Refunding bonds.

The council may, by ordinance, authorize issuance of bonds to refund any or all of the district bonds outstanding that have been issued pursuant to this article or to refund general obligation bonds issued in accordance with section 32-71.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-66. Limitations on issuance of refunding bonds.

Except in the case of bonds issued to refund general obligation bonds, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded plus the principal amount of the bonds to be refunded. Subject to such limitations, the principal amount of the refunding bonds may be more than, less than, or the same as the principal amount of the bonds to be refunded. The principal amount of such refunding bonds shall not count against any maximum amount of bonds authorized in the original bond ordinance.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-67. Necessity of procedures for original bond issue.

Except as otherwise provided in this article, the council may issue refunding bonds without repeating any of the procedures required for the approval of the original bond issue, if the council determines that it would be prudent in the management of its fiscal affairs, or of benefit to property owners or lessees in the district, to issue the refunding bonds. The provisions of sections 32-57 through 32-64 shall apply to the refunding bonds to the extent such provisions may be made appropriately applicable.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-68. Payment of designated costs of issuing refunding bonds.

The designated costs of issuing the refunding bonds, as defined by section 32-69, may be paid from proceeds of the refunding bonds or may be paid from any other legally available source including any available revenues of the council, as determined by the council. However, any amounts paid by the County other than from the proceeds of sale of the refunding bonds or from interest or other gains derived from the investment of the proceeds of sale shall be added to the total net interest costs to maturity on the refunding bonds in determining whether the issuance of the refunding bonds complies with section 32-66.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-69. Designated costs of issuing the refunding bonds.

For purposes of this article, the term “designated costs of issuing the refunding bonds” means any of the following costs and expenses designated by the council in the ordinance providing for the issuance of the refunding bonds:

- (a) All expenses incident to the calling, retiring, or paying of the bonds to be refunded and incident to the issuance of refunding bonds, including the charges of any agent in connection with the issuance of the refunding bonds or in connection with the redemption or retirement of the bonds to be refunded;
- (b) The interest upon the refunding bonds from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds;
- (c) Any premium necessary in the calling or retiring of the bonds to be refunded;
- (d) Any insurance premium or fee payable to the issuer of a bond insurance policy or letter of credit insuring all or part of the principal and/or interest due on the refunding bonds; and
- (e) Any other incidental expense related to the issuance or carrying of the refunding bonds or the redemption or refunding of the bonds to be refunded.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-70. Reduction of refunding bond taxes.

All savings achieved through the issuance of refunding bonds may be used by the council to reduce the special taxes which were levied to retire the bonds being refunded. At the time the council makes a determination to issue the refunding bonds, it shall determine and cause to be made any reductions in the annual tax levy in the district, which reductions shall be made on a pro rata basis.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-71. General obligation bonds.

The council, in lieu of the issuance of community facilities district bonds as provided in this article, may in its sole discretion issue general obligation bonds of the County, or authorize payment of the required amount from the capital projects fund of the County, or both, in order to pay or reimburse the costs of facilities to be financed and any incidental expenses related thereto. All such general obligation bonds shall be authorized, issued and sold in accordance with chapter 47, Hawai‘i Revised Statutes, as amended, and any facility authorized to be financed under this chapter shall be an “undertaking” within the meaning of chapter 47. Without limiting the generality of the provisions of the foregoing sentence, the form, name, date, denomination, numbers, maximum interest rate, method of execution and all other terms and details of such general obligation bonds shall be fixed and determined in accordance with and as provided by chapter 47. No right of prior redemption need be reserved in the issuance of such bonds, nor shall either the amounts or dates of the maturities of or of the interest on any such bonds be required to conform in any way to the amounts and due dates of any special taxes levied or to be levied under this chapter. The validity of such general obligation bonds shall not be affected in any way by any proceedings taken, contracts made or acts performed in connection with any facility or any special tax for such facility.

If general obligation bonds are issued as provided in this section, except as otherwise provided herein, the council may subsequently direct all moneys collected on account of special taxes for the costs of any facility to finance which such bonds have been issued or for incidental expenses, after the issuance of such bonds, to be applied to the reimbursement of the general fund of the County for interest on and principal of such general obligation bonds. Any amounts collected on account of such special taxes as aforesaid which are not so directed by the council to be applied to such reimbursement shall be appropriated to and become a part of the capital projects fund or general fund of the County as the council may from time to time direct. In connection with any facilities financed with the proceeds of general obligation bonds, proceedings for establishment of a community facilities district or districts or improvement area or areas therein and levy of special taxes with respect thereto may be undertaken at any time prior to or while such general obligation bonds are outstanding

to reimburse the County for the cost of such facilities or debt service on such bonds (and such related financing and administrative costs and incidental expenses as the council may determine).

Community facilities district bonds may be issued, in accordance with sections 32-57 through 32-70, to refund all or part of such general obligation bonds. The refunding of any such general obligation bonds (whether with community facilities district bonds or other general obligation bonds) shall not affect the amount or time of payment of any special taxes, except as the council may determine in accordance with section 32-70.

(1994, Ord. No. 94-77, sec. 3.)

Section 32-72. Debt limit calculation.

Bonds issued under this chapter, when the only security for such bonds is the special taxes or liens on the property in the district subject thereto, shall be excluded from any determination of the power of the County to issue general obligation bonds or funded debt for purposes of section 13 of Article VII of the Constitution of the State of Hawai‘i.

(1994, Ord. No. 94-77, sec. 3.)

Chapter 35 - Annex
Business Improvement District Ordinances

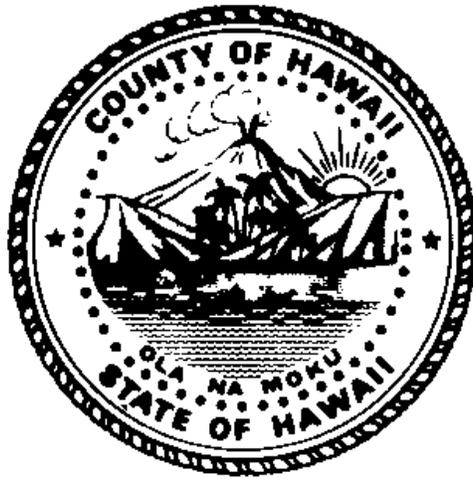
Chapter 35 - Annex
Business Improvement District Ordinances

| Establishment Ord. No. | Termination Ord. No. | Name or Location | Purpose |
|-----------------------------------|---------------------------------|---|---|
| Ord. 07-171 (Eff. 12/11/07) | | “The County of Hawai‘i Kailua Village Business Improvement District 1.” Location: North Kona, Hawai‘i. | Public safety, landscaping, enhanced sanitation services, and marketing services. |

THE HAWAI‘I COUNTY CODE

1983 (2005 Edition, as amended)

Updated to include: **Supplement 5 (1-2008)**
Contains ordinances effective through: **12-31-07**



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) 961-8255

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| 17 | Plumbing | | 01-108A | | | | | 06-121A | 07-84R, 07-113A |
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| 19 | Real Property Taxes | 00-28A, 00-48A, 00-110A | 01-36A, 01-73A | 02-1A, 02-102A | 03-103A | 04-67A, 04-121A, 04-122A, 04-123A, 04-143A | 05-30A, 05-165A, 05-164A | 06-111A, 06-147A | 07-107A, 07-163A |
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| 26 | Fire | | | | | | | | |
| 27 | Flood Control | | 01-108A | | | | | | 07-169A |
| 28 | State Land Use District Boundary Amendment Procedures | | | | | | | | |
| 29 | Water Use and Development | | | | | | | | |
| 30 | Development Agreements | | | | | | | | |
| 31 | Enterprise Zone Program | | | | | | | | |
| 32 | Special Improvement Financing by Community Facilities Districts | | 01-108A | | | | | | 07-146A |
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| 05-32 | 3-4-05 | Ouli, South Kohala | SLUB |
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| 05-34 | 3-31-05 | Ouli, South Kohala | SLUB |
| 05-35 | 3-31-05 | North & South Kohala District Zone Map | ZA |
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| 05-37 | 3-31-05 | Operating budget | -- |
| 05-38 | 3-31-05 | Operating budget | -- |
| 05-39 | 3-31-05 | Operating budget | -- |
| 05-40 | 4-18-05 | Naming Kahakai Park | 15-67(a)(2)(A) |
| 05-41 | 4-18-05 | Financial disclosure forms | 2-91.1(d) |
| 05-42 | 4-18-05 | Capital improvements budget | -- |
| 05-43 | 4-18-05 | Capital improvements budget | -- |
| 05-44 | 4-18-05 | Capital improvements budget | -- |
| 05-45 | 4-18-05 | Parks and recreation | 15-67 |
| 05-46 | 4-18-05 | Operating budget | -- |
| 05-47 | 4-18-05 | Operating budget | -- |
| 05-48 | 4-18-05 | Operating budget | -- |
| 05-49 | 4-18-05 | Makahaloa, South Hilo | SLUB |
| 05-50 | 4-18-05 | Pepeekeo Zone Map | ZA |
| 05-51 | 4-18-05 | Operating budget | -- |
| 05-52 | 4-27-05 | Capital improvements budget | -- |
| 05-53 | 4-27-05 | Capital improvements budget | -- |
| 05-54 | 4-27-05 | Capital improvements budget | -- |
| 05-55 | 4-27-05 | Operating budget | -- |
| 05-56 | 4-27-05 | Operating budget | -- |
| 05-57 | 4-27-05 | Operating budget | -- |
| 05-58 | 4-27-05 | Capital improvements budget | -- |
| 05-59 | 4-27-05 | Traffic Schedules | 24-287, 24-288 |
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| 05-61 | 4-27-05 | Operating budget | -- |
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| 05-66 | 5-16-05 | North & South Kona District Zone map | ZA |
| 05-67 | 5-16-05 | North & South Kona District Zone Map | ZA |
| 05-68 | 5-16-05 | Zoning code | 25-5-152 |
| 05-69 | 5-16-05 | Revisions of the County Code | 2-153 |
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| 05-71 | 5-16-05 | Operating budget | -- |
| 05-72 | 5-16-05 | Operating budget | -- |

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| 05-75 | 5-27-05 | Capital improvements budget | -- |
| 05-76 | 5-27-05 | Operating budget | -- |
| 05-77 | 5-27-05 | Operating budget | -- |
| 05-78 | 5-27-05 | Capital improvements budget | -- |
| 05-79 | 5-27-05 | Capital improvements budget | -- |
| 05-80 | 5-27-05 | Capital improvements budget | -- |
| 05-81 | 5-27-05 | Capital improvements budget | -- |
| 05-82 | 5-27-05 | Capital improvements budget | -- |
| 05-83 | 5-27-05 | Capital improvements budget | -- |
| 05-84 | 5-27-05 | Capital improvements budget | -- |
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| 05-86 | 7-1-05 | Operating budget FY 2004-2005 | -- |
| 05-87 | 7-1-05 | Capital improvements budget FY 2004-2005 | -- |
| 05-88 | 7-1-05 | Salary Ordinance | -- |
| 05-89 | 6-15-05 | Capital improvements budget | -- |
| 05-90 | 6-15-05 | Traffic Schedules | 24-267, 24-269, 24-271 |
| 05-91 | 6-15-05 | Capital improvements budget | -- |
| 05-92 | 6-15-05 | Operating budget | -- |
| 05-93 | 6-15-05 | Operating budget | -- |
| 05-94 | 6-15-05 | Operating budget | -- |
| 05-95 | 6-15-05 | Operating budget | -- |
| 05-96 | 6-15-05 | Naming the playground located at Lincoln Park as the "Dr. Ruth E. Oda playground" in honor of Dr. Ruth Eiko Oda | 15-68.1 |
| 05-97 | 6-15-05 | Capital improvements budget | -- |
| 05-98 | 6-15-05 | Operating budget | -- |
| 05-99 | 6-15-05 | Operating budget | -- |
| 05-100 | 6-15-05 | Operating budget | -- |
| 05-101 | 7-1-05 | Fees for copies of public records | 2-104 |
| 05-102 | 6-17-05 | Puako-Anaehoomalu Zone Map | ZA |
| 05-103 | 6-17-05 | Pahoa Zone Map | ZA |
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| 05-105 | 6-17-05 | South Hilo and City of Hilo Zone Maps | ZA |
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| 05-107 | 6-17-05 | Operating budget | -- |
| 05-108 | 6-17-05 | Capital improvements budget | -- |
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| 05-110 | 7-13-05 | Waiākea, South Hilo Zone Map | ZA |
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| 05-112 | 8-5-05 | Puapua'aiki 1 st and Puapua'anui 1 st , North Kona | SLUB |

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| 05-115 | 8-5-05 | North Kona Zone Map | ZA |
| 05-116 | 8-5-05 | Establishment of Ainaloa volunteer fire station | 2-16.1 |
| 05-117 | 8-5-05 | Capital improvements budget | -- |
| 05-118 | 8-10-05 | Operating budget | -- |
| 05-119 | 8-25-05 | Ouli, South Kohala | SLUB |
| 05-120 | 8-25-05 | North & South Kohala Districts Zone Map | ZA |
| 05-121 | 8-25-05 | Operating budget | -- |
| 05-122 | 8-25-05 | Operating budget | -- |
| 05-123 | 8-25-05 | Operating budget | -- |
| 05-124 | 8-25-05 | General obligation bonds | -- |
| 05-125 | 8-25-05 | General obligation bonds | -- |
| 05-126 | 8-25-05 | General obligation bonds | -- |
| 05-127 | 9-14-05 | Operating budget | -- |
| 05-128 | 9-14-05 | Operating budget | -- |
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| 05-131 | 9-28-05 | Capital improvements budget | -- |
| 05-132 | 9-28-05 | Capital improvements budget | -- |
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| 05-135 | 9-28-05 | Provide enhanced public notice of proposed development | 23-58A and 23-17 |
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| 05-137 | 10-11-05 | Establishment of Pu‘uanahulu volunteer fire station | 2-16.1 |
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| 05-141 | 10-11-05 | City of Hilo Zone Map | ZA |
| 05-142 | 10-11-05 | City of Hilo Zone Map | ZA |
| 05-143 | 10-11-05 | Operating budget | -- |
| 05-144 | 10-11-05 | Operating budget | -- |
| 05-145 | 10-11-05 | Operating budget | -- |
| 05-146 | 10-11-05 | Operating budget | -- |

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| 05-149 | 11-17-05 | Capital improvements budget | -- |
| 05-150 | 11-17-05 | Capital improvements budget | -- |
| 05-151 | 11-17-05 | Island-wide transportation free zone | 18-90(h) |
| 05-152 | 11-17-05 | Operating budget | -- |
| 05-153 | 12-2-05 | Kawaihae-Puako Zone Map | ZA |
| 05-154 | 12-2-05 | City of Hilo Zone Map | ZA |
| 05-155 | 12-2-05 | Plan approval and landscaping | 25-2-71(a), 25-5-27(c), 25-5-37, 25-5-38(c), 25-5-47, 25-5-49(c), 25-5-97, 25-5-98(c), 25-5-107, 25-5-108(b), 25-5-117, 25-5-118(a), 25-5-127, 25-5-128(a), 25-7-27 |
| 05-156 | 12-2-05 | Operating budget | -- |
| 05-157 | 12-15-05 | North & South Kohala Districts Zone Map | ZA |
| 05-158 | 12-15-05 | Exceptional trees | 14-65 |
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| 05-160 | 12-15-05 | Operating budget | -- |
| 05-161 | 12-15-05 | Capital improvements budget | -- |
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| 05-167 | 12-15-05 | Operating budget | -- |
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| 05-169 | 12-27-05 | Lalamilo-Puukapu Zone map | ZA |
| 05-170 | 12-27-05 | Capital improvements budget | -- |
| 05-171 | 12-27-05 | Capital improvements budget | -- |

| ORD. NO. | EFFECTIVE DATE | DESCRIPTION | CODE SECTION |
|----------|----------------|---|--------------------------------|
| 06-89 | 6-16-06 | Capital improvements budget | -- |
| 06-90 | 6-16-06 | Capital improvements budget | -- |
| 06-91 | 6-16-06 | Capital improvements budget | -- |
| 06-92 | 6-16-06 | Capital improvements budget | -- |
| 06-93 | 6-16-06 | Capital improvements budget | -- |
| 06-94 | 6-16-06 | Operating budget | -- |
| 06-95 | -- | Charter amendment – Fire Department | -- |
| 06-96 | -- | Charter amendment – Verifying and certifying petitions for initiative and referendum, removal of elected officers and charter amendment or revision | -- |
| 06-97 | 6-30-06 | Operating budget | -- |
| 06-98 | 6-30-06 | Disaster and emergency fund expenditures | 2-209, 2-210 |
| 06-99 | 6-30-06 | Capital improvements budget | -- |
| 06-100 | 6-30-06 | Mileage reimbursement rates for duly authorized volunteer police and fire personnel | 2-20, 2-101, 2-101.1 |
| 06-101 | 6-30-06 | Budget stabilization fund | 2-219 -- 2-223 |
| 06-102 | 6-30-06 | Capital improvements budget | -- |
| 06-103 | 6-30-06 | Operating budget | -- |
| 06-104 | 7-3-06 | Subdivision code | 23-58, 23-58.2, 23-61 -- 23-78 |
| 06-105 | 7-17-06 | North Kona Zone Map | ZA |
| 06-106 | 7-17-06 | North Kona Zone Map | ZA |
| 06-107 | 7-17-06 | City of Hilo Zone Map | ZA |
| 06-108 | 7-27-06 | Ouli, South Kohala | SLUB |
| 06-109 | 7-27-06 | North & South Kohala Districts Zone Map | ZA |
| 06-110 | 7-27-06 | North & South Kona Districts Zone Map | ZA |
| 06-111 | 7-27-06 | Real property tax exemptions | 19-89.4 |
| 06-112 | 7-27-06 | Operating budget | -- |
| 06-113 | 8-8-06 | Upolu Point-Kaauhuhu Homesteads Zone Map | ZA |
| 06-114 | 8-8-06 | City of Hilo Zone Map | ZA |
| 06-115 | 8-8-06 | Wainaku, South Hilo | SLUB |
| 06-116 | 8-8-06 | Pāpa‘ikou-Onomea Zone Map | ZA |
| 06-117 | 8-8-06 | Pāpa‘ikou-Onomea Zone Map | ZA |
| 06-118 | 8-8-06 | Operating budget | -- |
| 06-119 | 8-8-06 | Affordable housing | 11-5(c) |
| 06-120 | 10-1-06 | Building code | 5-1.0.12.a |
| 06-121 | 10-1-06 | Plumbing code | 17-17.1 |
| 06-122 | 10-1-06 | Electrical code | 9-41.1 |
| 06-123 | 9-19-06 | City of Hilo Zone Map | ZA |
| 06-124 | 9-19-06 | City of Hilo Zone Map | ZA |
| 06-125 | 9-19-06 | Capital improvements budget | -- |
| 06-126 | 9-19-06 | Operating budget | -- |
| 06-127 | 9-19-06 | Renaming the “Pana‘ewa Rainforest Zoo” to Pana‘ewa Rainforest Zoo and Gardens.” | 15-68.1 |
| 06-128 | 9-28-06 | North Kona Zone Map | ZA |

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| ORD. NO. | EFFECTIVE DATE | DESCRIPTION | CODE SECTION |
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| 06-129 | 9-28-06 | Operating budget | -- |
| 06-130 | 10-25-06 | Emergency ordinance | -- |
| 06-131 | 10-27-06 | Traffic Schedules | 24-264 |
| 06-132 | 10-27-06 | Operating budget | -- |
| 06-133 | 10-27-06 | Capital improvements budget | -- |
| 06-134 | 10-27-06 | Operating budget | -- |
| 06-135 | 10-27-06 | Exceptional trees | 14-65 |
| 06-136 | 10-27-06 | Exceptional trees | 14-65 |
| 06-137 | 11-8-06 | North Kona Zone Map | ZA |
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| 06-139 | 11-8-06 | Capital improvements budget | -- |
| 06-140 | 12-4-06 | Official bulletin board | 14-71 -- 73 |
| 06-141 | 11-8-06 | Operating budget | -- |
| 06-142 | 11-28-06 | Operating budget | -- |
| 06-143 | 11-28-06 | City of Hilo Zone Map | ZA |
| 06-144 | 11-28-06 | City of Hilo Zone Map | ZA |
| 06-145 | 11-28-06 | City of Hilo Zone Map | ZA |
| 06-146 | 11-28-06 | City of Hilo Zone Map | ZA |
| 06-147 | 11-28-06 | Home exemptions | 19-53(e), 19-71(a) |
| 06-148 | 11-28-06 | Capital improvements budget | -- |
| 06-149 | 11-28-06 | Naming Wai'aha Beach Park | 15-68.1 |
| 06-150 | 11-28-06 | Capital improvements budget | -- |
| 06-151 | 12-15-06 | Public access, open space and natural resources preservation fund | 2-214 |
| 06-152 | 12-13-06 | North Kona Zone Map | ZA |
| 06-153 | 12-7-06 | County of Hawai'i general plan | -- |
| 06-154 | 12-7-06 | Ouli, South Kohala | SLUB |
| 06-155 | 12-7-06 | North & South Kohala Districts Zone Map | ZA |
| 06-156 | 12-7-06 | City of Hilo Zone Map | ZA |
| 06-157 | 12-7-06 | City of Hilo Zone Map | ZA |
| 06-158 | 12-7-06 | Operating budget | -- |
| 06-159 | 12-7-06 | Veterans advisory committee | 15-61, 15-62(b), 15-62(f) |
| 06-160 | 12-7-06 | Operating budget | -- |
| 06-161 | 12-7-06 | Operating budget | -- |
| 06-162 | 12-7-06 | Operating budget | -- |
| 06-163 | 12-7-06 | Operating budget | -- |
| 06-164 | 12-7-06 | Traffic Schedules | 24-293 |
| 06-165 | 12-7-06 | General obligation bonds | -- |
| 06-166 | 12-7-06 | Operating budget | -- |
| 06-167 | 12-7-06 | Traffic Schedules | 24-281, 24-283 |
| 06-168 | 12-26-06 | Operating budget | -- |
| 06-169 | 12-26-06 | Public access, open space and natural resources preservation fund | 2-214 |

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|----------|----------------|---|---------------------|
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| 07-6 | 2-2-07 | Operating budget | -- |
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| 07-15 | 2-21-07 | Capital improvements budget | -- |
| 07-16 | 2-21-07 | Operating budget | -- |
| 07-17 | 2-21-07 | Operating budget | -- |
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| 07-65 | 5-2-07 | Operating budget | -- |
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