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CHAPTER 1

GENERAL PROVISIONS

Section 1-1. Designation and citation of Code.

This Code shall be known and may be cited as the "Hawai'i County Code," the "County Code," or in the provisions which follow as "this Code."
(1983 CC, c 1, sec 1-1.)

Section 1-2. Rules of construction.

(a) In the construction of this Code, the following rules shall be observed unless it is apparent from the context that a different construction is intended:
   (1) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
   (2) Every word in this Code shall extend to and be applied to all genders; and every word importing the singular number only shall extend to and be applied to several persons or things as well as to one person or thing; and every word in the plural number shall include the singular number, and every word in the singular number shall include the plural number.
   (3) Every word used in the present tense shall include the future.
   (4) When any provision of this Code requires an act to be done, which may by law as well be done by a subordinate officer as by the superior officer, such requirement shall be construed to include all such acts when done by an authorized subordinate officer.
   (5) The time within which an act is to be done as provided in any provision of this Code or in any order issued pursuant to any provision of this Code, when expressed in days, shall be computed by excluding the first day and including the last, unless the last day is a Sunday or holiday, in which case it is also excluded. When so provided by the rules of court, the last day shall also be excluded if it is a Saturday.

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

Section 1-3. When rules of construction do not apply.

The rules of construction set forth in section 1-2 shall not be applied to any provision of this Code which contains an express provision excluding such construction, or when the subject matter or context of a provision of this Code may be repugnant thereto.
(1983 CC, c 1, sec 1-3.)

Section 1-4. Definitions.

(a) For the purposes of this Code, the following terms, phrases, words, and their derivations shall have the meaning given in this section, unless it is apparent from the context that a different meaning was intended:

(1) "And/or." "And" may be read "or" and "or" may be read "and," if the sense requires it.

(2) "Agency" means any office, department, board, commission, or other governmental unit of the County.

(3) "Bond" means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.

(4) "Building" means any structure intended to have walls and a roof.

(5) "Business" means any profession, trade, occupation, and any other commercial enterprise conducted for monetary reward.

(6) "City" means the City of Hilo, State of Hawaiʻi.

(7) "Clerk" means the County clerk.

(8) "Charter" means the Charter of the County of Hawaiʻi.

(9) "Council" means the County council of the County of Hawaiʻi.

(10) "County" means the County of Hawaiʻi, State of Hawaiʻi.

(11) Definitions given within a chapter or article apply only to words or phrases used in such chapter or article, unless otherwise provided.

(12) "Designee" following an official of the County means the authorized agent, employee, or representative of that official.

(13) "District" means the geographical area or election district in the County of Hawaiʻi as described in sections 4-1 and 4-2, Hawaiʻi Revised Statutes.* District does not mean representative district.

(14) "Executive agency" means any agency or department of the executive branch of the County government.

(15) "Employee" means any person, except an officer, employed by the County or any agency of the County, but shall not include an independent contractor.

(16) "May" is permissive and discretionary.

(17) "Mayor" means the mayor of the County.

(18) "Month" means a calendar month.

(19) "Oath" means any form of attestation by which a person signifies that the person is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath.

(20) "Occupant" means a tenant or person in actual possession.

(21) "Officer" includes the following:

(A) Mayor and members of the council.

(B) Any person elected or appointed as administrative head of any agency of the County or appointed as a member of any board or commission provided for in this Code.

(C) Any person appointed by a board or commission as the administrative head of any agency of the County.

(D) Deputy, assistant, or division chief appointed by the administrative head of any agency of the County.
(E) Assistant and deputies of the corporation counsel and prosecuting attorney.

(22) "Operate" means carry on, keep, conduct, maintain, manage, direct, or superintend.
(23) "Ordinances" means the ordinances of the County of Hawai'i and all amendments and supplements thereto.
(24) "Owner" means one who has complete dominion over particular property and the one in whom legal or equitable title rests; when applied to a building or land, "owner" means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land.
(25) "Person" includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, in any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.
(26) "Preceding" and "following" mean next before and next after, respectively.
(27) "Proprietor" means an owner of the property or premises, including any person, firm, association, corporation, club, partnership, or other group acting as a unit, whether acting by themselves or by a servant, agent, or employee.
(28) "Public place" means any park, lake, stream, stadium, athletic field, playground, school yard, street, avenue, plaza, square, bus depot, shopping center, or mall, or any other place commonly open to the public.
(29) "Shall" and "must" are mandatory.
(30) "Sidewalk" means that portion of a street between the curb line and the adjacent property along the margin of a street or other roadway, designed, constructed, and intended for the use of pedestrians to the exclusion of vehicles.
(31) "State" means the State of Hawai'i.
(32) "Statutes" means the Hawai'i Revised Statutes.
(33) "Street" means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges, and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lanes used for vehicular traffic, or other public ways or thoroughfares in the County, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.
(34) "Tenant" means any person occupying the premises, building, or land of another in subordination to such other person's title and with such other person's express or implied consent, whether the person occupies the whole or a part of those premises, building, or land, whether alone or with others.

(35) "Watercourse" means any drain, ditch, and stream flowing in a definite direction or course in a bed with banks.
(36) "Week" means seven days.
(37) "Workforce Investment Act of 1998" refers to the United States Public Law 105-220-August 7, 1998 (112 Stat. 936) and 20 Code of Federal Regulations part 652 and parts 660 through 671.
(38) "Writing" and "written" mean any representation of words, letters, or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.
(39) "Year" means a calendar year.

(1983 CC, c 1, sec 1-4; am 2000, ord 00-43, sec 2.)

*** Editor's Note:** Section 4-2, Hawaiʻi Revised Statutes was repealed.

Section 1-5. Reference to chapters, articles, divisions, subdivisions, and sections; conflicting provisions.

(a) In addition to the rules of construction specified in section 1-2, the following rules shall be observed in the construction of the provisions of this Code:
(1) All references to chapters, articles, divisions, subdivisions, and sections are to the chapters, articles, divisions, subdivisions, and sections of the Hawaiʻi County Code unless otherwise specified;
(2) If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of that chapter; and
(3) If conflicting provisions are found in different sections of the same chapter, the provisions of the section which was enacted later in time prevail unless such construction is inconsistent with the meaning of that chapter.

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

Section 1-6. Revival.

The repeal of any resolution or ordinance does not revive any other resolution or ordinance which has been repealed, unless that revival is clearly expressed.
(1983 CC, c 1, sec 1-6.)

Section 1-7. Effect on rights accrued.

The repeal of any resolution or ordinance shall not affect any act done, or any right accruing, accrued, acquired, or established, or any suit or proceedings had or commenced in any civil case, before the time when the repeal takes effect.
(1983 CC, c 1, sec 1-7.)

Section 1-8. Pending suit or prosecution.

No suit or prosecution pending at the time of the repeal of any resolution or ordinance, for any offense committed, or for the recovery of any penalty or forfeiture incurred under the resolution or ordinance repealed, shall be affected by that repeal.
(1983 CC, c 1, sec 1-8.)

Section 1-9. Severability.

It is declared to be the intention of the council that the sections, subsections, paragraphs, sentences, clauses, and words of this Code are severable. If any section, subsection, paragraph, sentence, clause, or word is declared unconstitutional, or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining sections, subsections, paragraphs, sentences, clauses, and words of this Code, since the sections or parts of sections would have been enacted by the council without and irrespective of any unconstitutional or otherwise invalid section, subsection, paragraph, sentence, clause, or word being incorporated into this Code.
(1983 CC, c 1, sec 1-9.)

Section 1-10. General penalty.

(a) Where there is a violation of a provision of this Code for which no penalty is provided, the person violating the provision shall be subject to a fine of not more than $100 for each offense, or to imprisonment of not more than ninety days, or to both.
(b) In all cases where a penalty is imposed by this Code, the court may, in addition to such penalty, award attorneys' fees to the County.

(1983 CC, c 1, sec 1-10.)

Section 1-11. Violation of Charter.

(a) As used in this section, “intentionally” means an act purposely, knowingly, or wilfully done.
(b) Any person who “intentionally” fails to exercise such person’s duties and responsibilities as expressed in the Charter, or to heed the prohibitions provided for therein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $500 or by imprisonment for a term not exceeding six months, or by both.
(c) The provisions of this section shall not apply to article XIV of the Charter.

(1983 CC, c 1, sec 1-11.)

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CHAPTER 2

ADMINISTRATION

Article 1. General Provisions.

Section 2-1. Purpose of chapter.

The purpose of this chapter is to set forth the complete plan of administrative organization under the executive branch of the County government pursuant to section 4-2, Hawai‘i County Charter.
(1983 CC, c 2, art 1, sec 2-1.)

Section 2-2. Bonds of officials required; amount; filing; payment of premiums.

(a) In accordance with the provisions of section 13-6, Hawai‘i County Charter, bonds in the following amounts shall be furnished by the following officers and employees:

Officers and Employees	Bonds
Mayor	$25,000
Councilmember (each)	10,000
Prosecuting attorney	20,000
Director of finance	25,000
Corporation counsel	20,000
Deputy director of finance	20,000
Controller	20,000
Treasurer	20,000
Purchasing agent	10,000
Cashier	10,000
County clerk	15,000

(b) Officers and employees of the legislative branch shall file their bonds with the clerk. Officers and employees of the executive branch shall file their bonds with the director of finance.
(c) The premium on the bonds shall be paid by the County.
(1983 CC, c 2, art 1, sec 2-2.)

Section 2-3. Issuance of commissions.

Whenever any ordinance of the County authorizes the issuance of a commission for the appointment of any officer within the County, such commission shall be filed in the office of the clerk who shall furnish certified copies to persons entitled thereto. The commissions so issued shall be the sole evidence of the appointment of the officers for whom they are issued.
(1983 CC, c 2, art 1, sec 2-3.)

Section 2-4. Subpoenas.

(a) The chair of the council is authorized when countersigned by the clerk, and over the Seal of the County duly affixed, to summon or to subpoena persons to appear before the council, upon the request in writing of and by parties interested in the matter then pending before the council to the clerk, or to the chair of the council stating that such persons are necessary for the full understanding and legal determination of the matters before the council.

(b) The person summoned shall be paid from the general fund of the County, upon claims duly certified as by ordinance provided and regulated at the rate of 10 cents a mile, going and coming, and $1 a day during actual attendance before the council.

(c) Any person who fails to appear or otherwise violates this section shall be fined a sum not to exceed $100.

(1983 CC, c 2, art 1, sec 2-4.)

Section 2-5. Inspections; charges for overtime.

(a) When an applicant requests that an inspection be made, other than during normal working hours or on a Saturday, Sunday, or legal holiday, the applicant shall bear the cost of such inspection, and shall pay the cost to the County, prior to receiving final approval of the project. Moneys so realized shall be credited to the proper accounts of the respective agencies to cover the cost of such overtime inspections. Such moneys are hereby appropriated and shall be expended for inspection costs without further action of the council.

(b) As used in this section:

(1) "Applicant" means any person requesting inspectional services from the County.

(2) "Cost" means the amount to be charged by the County for overtime inspection at the per hour rate, including overhead and administrative charges, to be established by the director of public works, commensurate with the changes in salary and applicable fringe benefits and overhead expenses.

(c) "Inspection" shall include all inspections provided for by law.

(1983 CC, c 2, art 1, sec 2-5; am 2001, ord 01-108, sec 1.)

Section 2-5.1. Hawaiian language; spelling.

The County shall encourage the proper use and correct spelling of words or terms in the Hawaiian language in documents prepared by or for County agencies or officials, including the use of macrons and glottal stops. Any rule, order, policy, or other act, official or otherwise, that prohibits or discourages the use of these symbols shall be void. (1997, ord 97-159, sec 2.)

Article 2. Executive Branch.

Section 2-6. Office of the mayor.

The office of the mayor shall be composed of the mayor and the managing director. (1983 CC, c 2, art 2, sec 2-6; am 2001, ord 01-107, sec 1.)

Section 2-7. Organization of executive branch.

The executive branch of the County is organized into the following agencies/departments:

(1) Agency and agency heads under direct supervision of the managing director:

	AGENCY	AGENCY HEAD
(A)	Civil defense	Civil defense administrator
(B)	Office of aging	County executive on aging
(C)	Office of housing and community development	Housing administrator
(D)	Mass transit	Mass transit administrator

(2) Departments and heads under direct supervision of the managing director:

	DEPARTMENT	DEPARTMENT HEAD
(A)	Office of management	Managing director
(B)	Corporation counsel	Corporation counsel
(C)	Department of finance	Director of finance
(D)	Planning department	Planning director
(E)	Department of environmental management	Director of environmental management
(F)	Department of research and development	Director of research and development
(G)	Department of public works	Director of public works
(H)	Department of parks and recreation	Parks and recreation director
(I)	Department of information technology	Director of information technology

(3) Departments and administrative heads under commissions and administrative supervision of the managing director:

	DEPARTMENT	ADMINISTRATIVE HEAD
(A)	Department of human resources	Director of human resources
(B)	Police department	Chief of police
(C)	Department of liquor control	Director, department of liquor control
(D)	Hawai‘i fire department	Fire chief
(E)	Department of water supply	Manager-chief engineer

(1983 CC, c 2, art 2, sec 2-7; am 1989, ord 89-48, sec 1; am 2001, ord 01-106, sec 1; ord 01-108, sec 1; am 2002, ord 02-56, secs 1 and 2; am 2004, ord 04-58, sec 2; am 2009, ord 09-105, sec 2; am 2011, ord 11-103, sec 2.)

Section 2-8. Order of succession to office of mayor.

In the event of civil, military or natural disaster, during the temporary absence or disability of the mayor, the managing director shall act as mayor. If the office of managing director is vacant, or during such periods as the managing director is unable to so act, the director of finance shall then act as mayor. If the office of director of finance is vacant, or during such periods as the director of finance is unable to so act, then the planning director, director of research and development, director of human resources, and director, department of liquor control, shall succeed to the office of mayor in the order specified herein.
(1983 CC, c 2, art 2, sec 2-8; am 2009, ord 09-105, sec 3.)

Article 3. Office of the Corporation Counsel.

Section 2-9. Settlement of claims.

The corporation counsel shall have the power to settle, compromise, or otherwise resolve any claim now existing or which may hereafter arise, not involving or requiring payment in excess of $10,000, provided the money to settle claims generally has been appropriated and is available; and provided further that a quarterly report of all settlements by the corporation counsel which require payment of County funds shall be filed with the council. Any settlement which requires payment of County funds in excess of $10,000 shall require council authorization.
(1983 CC, c 2, art 3, sec 2-9; am 2013, ord 13-129, sec 2.)

Section 2-10. Settlement of land acquisitions.

The corporation counsel shall have the power to adjust, compromise, settle, or submit to arbitration, any land acquisition requests referred to him by other County agencies or eminent domain actions, causes of eminent domain actions in favor of or against the County, or in which the County is concerned as purchaser, seller, condemnor, or condemnee, now pending or which may hereafter arise, not involving or requiring payment in excess of $2,500, provided the money to settle any matter generally has been appropriated and is available; and provided further that a quarterly report of all settlements shall be filed with the council.
(1983 CC, c 2, art 3, sec 2-10.)

Article 3A. Office of the Prosecuting Attorney.

Section 2-10A. Appointment of personnel.

There shall be an office of the prosecuting attorney as provided by Charter. The prosecuting attorney may appoint deputy prosecuting attorneys and necessary staff, including investigators. The investigators shall have all of the powers and privileges of a police officer for the County of Hawai‘i. The office of the prosecuting attorney shall adopt policies and standards for training and use of these powers consistent and in conformance with those adopted by the Hawai‘i County police department. All investigations relating to the discharge of a firearm by an investigator shall be conducted by the Hawai‘i County police department. All investigators must have the minimum qualifications for the class as established by the department of human resources.

(1992, ord 92-105, sec 1; am 2009, ord 09-105, sec 4.)

Article 4. Department of Finance.

Section 2-11. Issuance of warrants.

(a) Any person entitled to a warrant upon the County treasury may file a written order for the same with the director of finance authorizing the person named in the order to receipt the warrant. When so receipted, signed in the name of the claimant by the person named in the order so that both names appear upon the receipt, the director of finance may deliver the warrant to the person named in the order.

(b) In like manner as provided in subsection (a), an order may be filed with the treasurer covering the presentation and payment of the warrants. The orders may cover all warrants issued or to be issued to the person signing the same during the year in which the order is dated but not later. The orders may be renewed from year to year.

(c) With reference to warrants addressed under this part, the controller may, with the approval of the director of finance, issue checks drawn from, or make electronic funds transfers from, depositories of County treasury moneys in lieu of warrants drawn from the County treasury and may accept remittance by electronic funds transfer or credit or debit card pursuant to standards established by the director of finance.

(1983 CC, c 2, art 4, sec 2-11; am 2003, ord 03-101, sec 1.)

Section 2-12. Refund of permit fees.

(a) The director of finance is authorized to grant the refund of permit fees according to and in compliance with the following provisions in any case not covered specifically by any other law or ordinance:

(1) Any person who has paid a fee established by the County for the issuance of any permit shall be entitled to a refund of that fee, provided that the person first submits a written request to the head of the issuing department or agency identifying the issue date, amount, and nature of the permit and the request is received by the head of the issuing department or agency within ninety days from the issue date of the permit.
(2) The issuing department or agency shall record the date of receipt thereupon, and shall confirm or deny the information contained in the request pertaining to the issue date, amount and type of permit. If the applicant is entitled to a refund after the verification of the information contained in the request, and the request was received within ninety days from the issue date of the permit, the issuing department or agency shall prepare a request for payment and forward it to the director of finance for processing.
(3) If the director of finance is satisfied that the request was received within the ninety day time limit specified in subsection (a)(1), the director of finance shall refund to the applicant the applicant's permit fee less the greater of the amount of ten percent of the fee or $50.

(b) No refund shall be granted for any fee of $50 or less.
(c) Notwithstanding the ninety day time limitation for requests and the amount of refund, the director of finance may refund the full amount of a permit that was inadvertently issued in duplicate.
(d) The director of finance may refund the full amount of any monies paid as security deposits, bid bonds and performance bonds after all stipulations of a contract have been completed.

(1983 CC, c 2, art 4, sec 2-12; am 1994, ord 94-19, sec 2.)

Section 2-12.1. Encumbrances.

"Encumbrance" means an obligation to pay funds from an appropriation, or a legal claim against an appropriation. When a contract is certified as to availability of funds, the amount certified is encumbered as of the date of certification. An appropriation by the council of State, Federal or private funds which are legally restricted by the terms of the grant or agreement to specific purposes shall be considered encumbered until the purposes of the grant or agreement are accomplished or abandoned.
(1991, ord 91-57, sec 1.)

Section 2-12.2. Lien parity.

(a) Payment on liens that are authorized by this code or by State statute and establish parity as to other liens shall be made as nearly as practical pro rata based on the respective unpaid amounts of all parity liens, including principal, penalty, interest, fees, and costs; provided that payments billed and collected separately with respect to any particular parity lien shall be applied separately to the unpaid amount of such parity lien.

(b) In the event of delinquencies, parity liens may be foreclosed together or in separate foreclosures and the amounts realized by foreclosure, together or separately, as applicable, shall be applied in the manner provided above for payments billed and collected together or separately.
(c) Notwithstanding any provision of this code to the contrary, foreclosure of any parity lien or liens shall not extinguish or otherwise affect any parity lien or liens for amounts that are not satisfied by such foreclosure.
(2008, ord 08-157, sec 2.)

Section 2-12.3. Change orders and contract supplements; notification to the council.

The director of finance shall notify the council of all change orders and contract supplements executed by the County no later than thirty days after authorization of the change order or contract supplement. Notification shall be provided by submitting a report to be placed on the council committee agenda designated to handle matters of finance. The report shall include the following: job number; contract number; project title; contract type; contracting agency, office, or department of the County; project manager; contractor or contractors; original contract amount; date the contract was awarded; number of change orders or contract supplements; total amount of the change order or contract supplement; percentage of increase or decrease; and the status of the project.
(2011, ord 11-2, sec 2.)

Section 2-12.4. Fund balance.

(a) Definitions.
"Unassigned fund balance" means the residual classification for the general fund and includes all amounts not contained in the other classifications, such as non-spendable, restricted, committed, and assigned fund balances. Unassigned amounts are technically available for any purpose.
(b) If a governmental fund has a fund balance deficit, then it shall be reported as a negative amount in the unassigned classification in that fund. Positive unassigned amounts will be reported only in the general fund.
(c) The director of finance shall provide the budgetary fund balance and the fund balance designated for a future year, as separate line items, in a written report to the council no later than October 15 for the preceding fiscal year. This report shall be presented to the committee designated to review financial matters as soon as practicable after its receipt. In the absence of council committees, the report shall be sent to the council in the same time frame.
(d) The director of finance shall provide the Comprehensive Annual Financial Report (CAFR) containing the audited, unassigned fund balance to the council no later than December 31 for the preceding fiscal year. This report shall be presented to the committee designated to hear financial matters, or in the absence of council committees, the report shall be sent to the council as soon as practicable after its receipt.

(e) If a report may be late, the director of finance shall submit a written communication to the council with an explanation of the reason for being late before the deadlines in (c) and (d) above. The communication shall be placed on the agenda in the committee charged with financial issues or in the absence of council committees, the communication shall be sent to the council as soon as practicable.

(2011, ord 11-37, sec 2.)

Article 5. Fire Department.

Section 2-13. Fire chief; appointment; qualifications.

The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the fire chief must be allowed to respond to the statement of reasons before being removed. The fire chief shall have a minimum of five years of training and experience in fire control, including at least three years of experience in a responsible administrative capacity.

(1983 CC, c 2, art 5, sec 2-13; am 2001, ord 01-109, sec 1.)

Section 2-14. [Former] Repealed.

(1983 CC, c 2, art 5, sec 2-14.)

Section 2-14. Powers, duties and functions.

The fire chief shall:

(1) Perform firefighting and emergency services in order to save lives and property from fires and from emergencies arising on land, or the sea and hazardous terrain;
(2) Train, equip, maintain and supervise a force of firefighting and emergency services personnel;
(3) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety;
(4) Provide educational programs related to fire prevention and life safety;
(5) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief;
(6) Appoint members of the department under established personnel rules and regulations, and statutes; and
(7) Have such other powers, duties and functions as may be required by ordinance.

(2001, ord 01-109, sec 1.)

Section 2-15. Fire commission. *

There shall be a fire commission, which shall consist of nine members. One member shall be a resident of each council district. The commission may appoint such staff and engage such consultants as necessary for the performance of its duties. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4, Hawai'i County Charter 2000.
(2001, ord 01-109, sec 2.)

* **Editor's Note:** Section 2-15, formerly entitled "Duties," was renumbered section 2-14 and renamed "Powers, Duties and Functions" by Ordinance 01-109. Section number 2-15 was assigned to a new section named, "Fire commission".

Section 2-15.1. Powers, duties and functions.

The fire commission shall:

(1) Adopt rules necessary for the conduct of its business and review rules for the administration of the department;
(2) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council;
(3) Review the department's operations as deemed necessary, for the purposes of recommending improvements to the fire chief;
(4) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council;
(5) Review personnel actions within the department for conformance with the policies under section 7-4.2, Hawai'i County Charter;
(6) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions; and
(7) Submit an annual report to the mayor, managing director and the council on its activities.

Except for purposes of inquiry or as otherwise provided in the Hawai'i County Charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.
(2001, ord 01-109, sec 2; am 2011, ord 11-103, sec 3.)

Article 6. Volunteer Fire Department.

Section 2-16. Volunteer fire department created.

There is created and established for and within the County a department to be known as the Hawai'i volunteer fire department to train volunteers in the prevention of fires and to aid in the control of fires. The department shall have its principal office in the Hilo fire station.
(1983 CC, c 2, art 6, sec 2-16.)

Section 2-16.1. Volunteer fire stations.

In accordance with provisions of section 46-13.1, Hawaiʻi Revised Statutes, the following volunteer fire stations are established in the County of Hawaiʻi to be sited and operated by the head of the volunteer fire department pursuant to powers granted under this article:

(1) Pepeʻekeo volunteer fire station.
(2) Kūlani volunteer fire station.
(3) Volcano volunteer fire station.
(4) Hawaiian Acres volunteer fire station.
(5) Fern Forest volunteer fire station.
(6) Fern Acres volunteer fire station.
(7) Miloliʻi volunteer fire station.
(8) Kona Paradise volunteer fire station.
(9) Kona Village volunteer fire station.
(10) Kaʻū pūlehu volunteer fire station.
(11) Four Seasons volunteer fire station.
(12) Paʻauilo volunteer fire station.
(13) Waikiʻi volunteer fire station.
(14) Hawaiian Beaches volunteer fire station.
(15) Waʻawaʻa volunteer fire station.
(16) Nāʻalehu volunteer fire station.
(17) Hawaiian Ocean View Estate volunteer fire station.
(18) Discovery Harbor volunteer fire station.
(19) Pāhala volunteer fire station.
(20) North Kohala Coast volunteer fire station.
(21) Waikoloa volunteer fire station.
(22) Laupāhoehoe volunteer fire station.
(23) Paradise Park volunteer fire station.
(24) Ainaloa volunteer fire station.
(25) Puʻuanahulu volunteer fire station.

(2004, ord 04-22, sec 2; am 2005, ord 05-116, sec 1; ord 05-137, sec 1.)

Section 2-17. Head of volunteer fire department.

(a) The fire chief of the County fire department shall be the head of the volunteer fire department. The head of the volunteer fire department shall:
   (1) Be vested with the management and control of the affairs, personnel, and property of the department, subject to the general authority and control of the council;
   (2) With the consent and approval of the council, make expenditures of moneys appropriated by the council for the department;
   (3) Not contract any debt on behalf of the department, not dispose of any property belonging to the department without the consent of the council;

(4) Make periodic reports to the council concerning the affairs and activities of the department; and
(5) Perform and discharge such other duties as may be assigned to the head of the volunteer fire department by the council.

(1983 CC, c 2, art 6, sec 2-17; am 2004, ord 04-22, sec 3.)

Section 2-18. Appointment of other personnel.

The council may provide for the appointment of other personnel as it deems necessary to carry out this article. All such appointees shall be paid monthly salaries as may be fixed in accordance with the provisions of the personnel classification laws.
(1983 CC, c 2, art 6, sec 2-18.)

Section 2-19. Volunteer personnel.

The organization of the volunteer fire department shall be patterned as closely as is practicable after that of the fire department. The head of the volunteer fire department shall appoint, with the approval of the council, such volunteer personnel as the head of the volunteer fire department deems necessary to fill the membership of the department. The qualifications for membership shall be as prescribed by the rules and regulations governing the conduct of the department. These rules and regulations shall be formulated by the department head and presented to the council for its approval.
(1983 CC, c 2, art 6, sec 2-19.)

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

All volunteer fire personnel residing in a district other than the district where a fire occurs and who are duly authorized to participate and aid in the control of that fire shall be reimbursed at such rates prescribed by, and subject to, the requirements set forth in section 2-101(b), for each mile actually and necessarily traveled, in the performance of their volunteer activities.
(1983 CC, c 2, art 6, sec 2-20; am 1989, ord 89-28, sec 1; am 2006, ord 06-100, sec 2.)

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

In the event of a fire occurring at any place within the County, the head of the volunteer fire department shall place the personnel of this department under the direction and control of the County fire department, which may utilize the service of the personnel of the volunteer fire department to the fullest extent to aid in bringing such fire under control and to perform such other duties as may be necessary to provide for the maximum safety of the inhabitants of the area threatened by such conflagration.
(1983 CC, c 2, art 6, sec 2-21.)

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

The fire-fighting apparatus and facilities of the County fire department, necessary to carry out the purpose of this article shall be made available to the volunteer fire department when the chief engineer, County fire department, is satisfied that the efficiency of this department will not be seriously impaired.
(1983 CC, c 2, art 6, sec 2-22.)

Section 2-23. Benefits.

All persons who are members of the volunteer fire department while engaged in the training and performance of volunteer fire fighting shall be entitled to benefits as provided by this article.
(1983 CC, c 2, art 6, sec 2-23.)

Section 2-24. Extent of coverage.

In case of injury or death arising out of and in the performance of volunteer fire fighting or training, all persons included in section 2-23, shall be entitled to benefits as prescribed by chapter 386, Hawaiʻi Revised Statutes. No person shall be excluded from receiving such benefits by reason of being an elected official, employer, or having an occupation which is excluded from coverage under chapter 386.
(1983 CC, c 2, art 6, sec 2-24.)

Section 2-25. Computation of wages.

For the purposes of the benefits under this article, average weekly wages or earnings shall be computed from the usual employment or occupation of the person upon the basis set forth in section 386-51, Hawaiʻi Revised Statutes, or upon the basis of earnings at the rate of $20 per week, whichever is most favorable to the claimant.
(1983 CC, c 2, art 6, sec 2-25.)

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

(a) All persons not members of the volunteer fire department who volunteer their services at fires and whose services are accepted by authorized persons and whose injuries or death arise out of and in the performance of volunteer fire fighting shall be paid their reasonable hospital and medical expenses as authorized by section 386-171, Hawaiʻi Revised Statutes, and funeral expenses not to exceed $300.
(b) "Authorized persons" as used in this section means such persons in the County fire department or volunteer fire department who are supervising or directing the fire-fighting operations.

(1983 CC, c 2, art 6, sec 2-26.)

Article 7. Planning Department.

Section 2-27. [Former] Repealed.

(1983 CC, c 2, art 7, sec 2-27; rep 1995, ord 95-62, sec 1.)

Section 2-27. Windward and leeward planning commissions.

(a) There shall be a windward planning commission and a leeward planning commission, each made up of seven members as provided for by Charter. The windward and leeward planning commissions shall:
    (1) Perform such duties as are prescribed by the Charter.
    (2) Perform such other duties as are assigned to it by state law or this Code.

(b) The windward planning commission shall administer, adjudicate and authorize payment from the Geothermal asset fund and claims made against the Geothermal asset fund, provided that no payments shall be made nor obligation incurred for any claim for which there are insufficient funds in the Geothermal asset fund to satisfy. No claim made pursuant to this subsection will be deemed a claim against the County nor will the payment of any claim be construed as an admission of fault by the County or its officers, employees or agents.

(c) These commissions may incur expenses as are necessary to carry out these duties for which an appropriation has been made by the council. The planning director shall provide the windward and leeward planning commissions with such administrative support as is necessary.

(1995, ord 95-62, sec 2; am 2009, ord 09-118, sec 2.)

Section 2-28. Quorum; meetings.

(a) The majority of the voting members of the windward planning commission shall constitute a quorum for the transaction of business and for the exercise of the powers and authority conferred upon this commission. All actions of the windward planning commission shall require the affirmative vote of a majority of its members.

(b) The majority of the voting members of the leeward planning commission shall constitute a quorum for the transaction of business and for the exercise of the powers and authority conferred upon this commission. All actions of the leeward planning commission shall require the affirmative vote of a majority of its members.

(c) For those matters requiring a joint meeting of the windward and leeward planning commissions, as provided for in the Charter, a majority of each commission's voting members shall constitute a quorum. All actions of a joint meeting of these commissions shall require the affirmative vote of a majority of their combined membership.

(d) The windward and leeward planning commissions shall each hold at least one meeting in each month.

(e) Pursuant to the Charter, a uniform body of rules of practice and procedure, except for meeting places and times, shall be adopted by a majority vote of the combined membership of the windward planning commission and leeward planning commission, meeting jointly. Any rule adopted for the transaction of business shall be consistent with the laws of the State and the ordinances of the County.

(1983 CC, c 2, art 7, sec 2-28; am 2009, ord 09-118, sec 3.)

Section 2-28.1. Community development plan.

Within sixty days after receipt of the planning director's recommendation on a draft community development plan or any amendment thereof, either the windward or leeward planning commission, or both meeting as a joint commission as provided for in the Charter, shall transmit the draft community development plan or any amendment with its recommendation through the mayor to the County council. The designated commission, or joint commission, shall recommend approval in whole or in part, with or without modifications, or rejection of the community development plan or any amendment. In the event the designated planning commission, or joint commission, fails to act on the community development plan or amendment within the sixty-day period, such inaction shall be considered as an unfavorable recommendation by that commission, and the community development plan or amendment shall then be submitted through the mayor to the County council with such recommendation.
(2008, ord 08-71, sec 2; am 2009, ord 09-118, sec 4.)

Section 2-29. Records of findings required; location of office.

(a) The windward and leeward planning commissions shall keep public records of their findings and determinations, whether acting independently or jointly.
(b) The office of the windward and leeward planning commissions shall be in the planning department, or such other place designated by a consensus of both commissions determined by an affirmative vote of a majority of the combined membership, with the approval of the council. Any such vote shall occur only during a joint meeting of both commissions.

(1983 CC, c 2, art 7, sec 2-29; am 2009, ord 09-118, sec 5.)

Section 2-30. Publication of notice.

Whenever published notice of either a windward or leeward planning commission meeting is required, it shall be provided in accordance with state law. This section shall also apply to any joint meeting of the windward and leeward planning commissions.
(1983 CC, c 2, art 7, sec 2-30; am 1995, ord 95-62, sec 3; am 2009, ord 09-118, sec 6.)

Section 2-31. General plan; contents; location.

(a) The general plan shall include a map of the County and shall contain a statement of:
    (1) Development objectives, standards and principles with respect to the most desirable use of land within the County for residential, recreational, agricultural, commercial, industrial, and other purposes;
    (2) The most desirable density of population in the several parts of the County; a system of principal thoroughfares, highways, streets, and other public open spaces; the general location, relocation, and improvement of public buildings;
    (3) The general location and extent of public utilities and terminals, whether publicly or privately owned, for water, sewers, light, power, transit, and other purposes;
    (4) The extent and location of public housing projects;

(5) Adequate drainage facilities and control; and
(6) Such other matters as may, in the council's judgment, be beneficial to the social, economic, and governmental conditions and trends, and which are designed to assure the coordinated development of the County and to promote the general welfare and prosperity of its people.

(b) The general plan shall be kept on file at the planning department.

(1983 CC, c 2, art 7, sec 2-31; am 2009, ord 09-118, sec 7.)

Section 2-32. Subdivision regulations.

Regulations provided for under this section and as codified in chapter 23 of this Code shall coordinate streets within subdivisions with other existing or planned streets, or with other features of the general plan for the adequate and convenient placing of open spaces for traffic, utilities, access for fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots, and for a proper distribution of population and traffic which will tend to create conditions favorable to public health, safety, and morals. All such regulations shall be enacted as ordinances of the County and published as provided by law. Pursuant to the Charter, the windward and leeward planning commissions shall meet separately and provide separate recommendations on any amendment to subdivision regulations.

(1983 CC, c 2, art 7, sec 2-32; am 2009, ord 09-118, sec 8.)

Section 2-33. Zoning regulations; amendments.

(a) Regulations provided for under this section and as codified in chapter 25 of this Code shall regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, and to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses or creating districts for any such purposes. The regulations shall be enacted as ordinances of the County and published as provided by law. Pursuant to the Charter, the windward and leeward planning commissions shall meet separately and provide separate recommendations on any amendment to zoning regulations.

(b) The director, with the approval of either the windward or leeward planning commission, or both acting jointly, as provided in the Charter, may initiate at any time or upon application as provided in section 2-34 and recommend to the council the adoption of an ordinance amending or repealing any zoning regulation or the enactment of a new ordinance regulating land uses after a public hearing is held. Published notice of the hearing shall be given in the manner provided in section 2-30.

(c) Notwithstanding any provision in this section, any ordinance regulating land use and affecting lands in a redevelopment project area shall be amended without the necessity of a public hearing to conform to the approved redevelopment plan upon acquisition of the lands by the Hawai'i redevelopment agency in accordance with section 53-6, Hawai'i Revised Statutes.

(1983 CC, c 2, art 7, sec 2-33; am 2009, ord 09-118, sec 9.)

Section 2-34. Application for changes or new provisions.

(a) Any application for a change, amendment or other modification or addition to any zoning ordinance may be filed with the director by the owner or lessee holding under a recorded lease of any real estate affected by any such ordinance or to be affected by the proposed changes, upon depositing with the director the sum of $100 to cover all necessary costs.

(b) When all the preliminary procedures have been complied with, the director shall refer the application to either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The designated commission, or both commissions if so required by Charter, shall consider and act upon the application by holding a public hearing, published notice of which shall be given in the manner provided by law.

(1983 CC, c 2, art 7, sec 2-34; am 1994, ord 94-14, sec 2; am 2009, ord 09-118, sec 10.)

Section 2-35. Repealed.

(1983 CC, c 2, art 7, sec 2-35; rep 2009, ord 09-118, sec 11.)

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, Hawaiʻi Revised Statutes. As the lead agency, the planning department shall delegate the responsibilities of the Hawaiʻi redevelopment agency to the appropriate departments, commissions and agencies to insure that the procedures of compliance are adhered to.

(1992, ord 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 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.

(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 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 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 07-161, sec 1.)

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

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.

(1983 CC, c 2, art 9, sec 2-38; am 2001, ord 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.

(1983 CC, c 2, art 9, sec 2-39; am 2001, ord 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.

(1983 CC, c 2, art 9, sec 2-40; am 2002, ord 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.

(1983 CC, c 2, art 9, sec 2-41; am 1983, ord 83-26, sec 1; am 1985, ord 85-54, sec 2; am 1986, ord 86-119, sec 2; am 1988, ord 88-7, sec 2; am 2001, ord 01-108, sec 1; ord 01-110, sec 1.)

Division 2. Repealed.

(1983 CC, c 2, art 9, div 2; rep 1983, ord 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.

(1983 CC, c 2, art 10, sec 2-51.)

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.

(1983 CC, c 2, art 10, sec 2-52.)

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.
(1983 CC, c 2, art 11, sec 2-53.)

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.
(1983 CC, c 2, art 11, sec 2-54.)

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.
(1983 CC, c 2, art 11, sec 2-55.)

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.
(1983 CC, c 2, art 11, sec 2-56.)

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.
(1983 CC, c 2, art 11, sec 2-57.)

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.
(1983 CC, c 2, art 11, sec 2-58.)

Section 2-59. Authority to levy charges and fees.

The department of parks and recreation may charge and collect reasonable fees and charges for the use of parks and recreational grounds, facilities, and equipment, and for special licenses, permits, concessions, and admissions in accordance with duly promulgated rules and regulations.

(a) Refunds.

(1) Fees, Charges, and Permits. The department of parks and recreation may refund fees and charges charged and collected in advance of the time of use provided that:

(A) The department receives request for refund not less than one working day before the time of such use.

(B) The request for refund is in writing accompanied by the appropriate license, permit or other document issued by the department of parks and recreation authorizing such use.

(C) The amount to be refunded exceeds $2.

(D) The department of parks and recreation may, by contract, require more stringent provisions for refunds than are contained in this section.

(2) Deposits. The department of parks and recreation may refund surety, performance, security, clean up, and any other deposits imposed to assure compliance with State or Federal law, the County Charter, County Code or County rules and regulations provided that:

(A) The activity is conducted in compliance with provisions of the agreement, permit or contract.

(B) The facility or equipment is left or returned in a condition substantially equal to that existing prior to the use.

(C) The deposit or portions thereof may be retained by the department of parks and recreation to cover the cost of repairing or restoring the facility or equipment damaged or despoiled as a result of the activity for which the deposit was imposed.

(b) Notwithstanding any other provisions in this section, the department of parks and recreation may refund fees, charges and deposits charged and collected in advance of the time of use where there is no use made of the parks, recreational grounds, facilities, or equipment because the park, recreational grounds, facilities, or equipment were unavailable under circumstances beyond the control of the person who paid such fees, charges or deposits. Requests for refund under this provision must be made in writing within ten working days of the date that the use was to have occurred.

(1983 CC, c 2, art 11, sec 2-59.)

Section 2-60. Power to adopt rules and regulations; penalty.

(a) The director is authorized to adopt reasonable rules and regulations as the director deems necessary for the conduct of the department's business as authorized and prescribed, including rules and regulations for fees and charges, special licenses, permits, concessions, and admissions for the use of parks and recreational grounds, facilities and equipment, and for the conduct of all persons while on or using parks and recreational grounds. All rules and regulations shall be promulgated in accordance with the Administrative Procedures Act, chapter 91, Hawaiʻi Revised Statutes, and section 13-7, Hawaiʻi County Charter and shall have the force and effect of law.

(b) Any person who violates any rule or regulation promulgated under authority of this section shall, upon conviction, be fined not more than the sum of $250. Prosecution in such case shall be as provided by law for the prosecution of misdemeanors.

(1983 CC, c 2, art 11, sec 2-60.)

Article 12. Central Coordinating Agency.

Section 2-61. Designation of agency.

Pursuant to section 46-18, Hawaiʻi Revised Statutes, the planning department is hereby designated the central coordinating agency for the County.

(1983 CC, c 2, art 12, sec 2-61.)

Section 2-62. Duties.

The central coordinating agency shall:

(1) Maintain and continuously update a repository of all laws, rules and regulations, procedures, permit requirements, and review criteria of all Federal, State, and County agencies having control or regulatory powers over land development projects within the County and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular proposed project within the County.

(2) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a general plan, change in zoning, special management area permit, and other permits and procedures required for land development projects in the County to the extent practicable with one master application.

(3) Maintain and continuously update a master file for the County of all applications for building permits, subdivision maps, and land use designations of the State and County.

(4) When requested by the applicant, the central coordinating agency shall endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings, or any public hearings with those held by other Federal, State and/or County commissions or agencies pursuant to existing laws pertaining to the County.

(1983 CC, c 2, art 12, sec 2-62.)

Section 2-63. Adoption of rules.

The central coordinating agency shall adopt necessary rules pursuant to chapters 46 and 91, Hawai‘i Revised Statutes, by December 31, 1977.
(1983 CC, c 2, art 12, sec 2-63.)

Section 2-64. Cooperation with other agencies.

(a) All State and County departments, divisions, agencies, and commissions with control or regulatory powers over land development projects within the County shall cooperate with the central coordinating agency in making available and updating information regarding laws, rules and regulations, procedures, permit requirements, and review criteria they enforce upon land development projects.
(b) The term "agency" shall have the same meaning as it does in chapter 91, Hawai‘i Revised Statutes.

(1983 CC, c 2, art 12, sec 2-64.)

Section 2-65. Appeals.

Appeals from actions by the director of planning in the administration of the rules and regulations adopted pursuant hereto shall be appealable to the planning board of appeals. An appeal shall be sustained only if the planning board of appeals finds that the director's action was based on an erroneous finding of material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused the director's discretion.
(1983 CC, c 2, art 12, sec 2-65)

Article 13. Housing Administration.

Division 1. Hawai‘i County Housing Agency.

Section 2-66. Created; scope of authority.

(a) An agency to be known as the Hawai‘i County housing agency (hereinafter "housing agency") is created to provide adequate housing in the County as it deems necessary.
(b) The housing agency shall consist of all of the members of the council. When the council acts as the housing agency, its role is limited to public housing policy formulation and is not charged with the duties of administering housing programs.
(c) The housing agency may apply for rental payment assistance funds from private, state, or federal sources.

(1983 CC, c 2, art 13, sec 2-66; am 2014, ord 14-8, sec 1.)

Section 2-67. Purpose of the housing agency.

The purpose of the housing agency is to make housing available in those areas of the County where the housing agency finds that adequate housing accommodations are not available.
(1983 CC, c 2, art 13, sec 2-67; am 2014, ord 14-8, sec 1.)

Section 2-68. Powers of the housing agency.

The housing agency shall have the following powers subject to applicable limitations of State law:

(1) Obtain loans, insurance and guarantees from the State or the United States, or subsidies from either as applicable; and

(2) Enter into agreements, as applicable, with appropriate officials of any agency or instrumentality of the United States in order to induce such official to make, insure, or guarantee mortgage loans under the provisions of the National Housing Act, as amended.

(1983 CC, c 2, art 13, sec 2-68; am 2014, ord 14-8, sec 1.)

Division 2. Office of Housing and Community Development.

Section 2-69. Housing administrator created; office of housing and community development established.

(a) There shall be a housing administrator who shall be appointed by the mayor and may be removed by the mayor.

(b) The office of housing and community development shall consist of the housing administrator and necessary staff. The housing administrator shall oversee and supervise the operations of the office of housing and community development.

(1983 CC, c 2, art 13, sec 2-69; am 2014, ord 14-8, sec 1.)

Section 2-70. Powers of housing administrator.

In order to carry out the purposes of this article, the housing administrator may:

(1) Develop and construct dwelling units, alone or in partnership with developers;

(2) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating old housing for the elderly of low income, other persons of low income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;

(3) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low income;

(4) Make a direct loan to any qualified buyer for the down payment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;

(5) Sell or lease completed dwelling units;

(6) Assist in the leasing of private and public dwellings;

(7) Acquire and utilize public and private lands for the purposes of this article;

(8) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of Federal assistance for persons of low income;

(9) Prepare documents for the housing agency to apply for and utilize private, Federal, and State rental payment assistance funds;

(10) Provide County funds for rental payment assistance for private and public dwellings; and
(11) Adopt such rules pursuant to chapter 91, Hawai'i Revised Statutes, as are necessary to carry out the purposes of this article.

(1983 CC, c 2, art 13, sec 2-70; am 2014, ord 14-8, sec 1.)

Section 2-71. Duties of housing administrator.

(a) The housing administrator shall have direct responsibility for the administration and operation of the County housing programs and shall be under the direct supervision and control of the mayor. The housing administrator shall have the authority and responsibility to staff the office of housing and community development with necessary personnel to carry out the purposes of this article. It shall be the duty of the housing administrator to coordinate operations and programs of the office of housing and community development with the applicable housing plans and programs of the State and Federal governments.
(b) All programs and contracts with the Federal government to carry out the purposes of this article shall be prepared by the housing administrator and transmitted to the council for approval.
(c) The housing administrator shall provide clerical support for meetings of the housing agency.

(1983 CC, c 2, art 13, sec 2-71; am 2014, ord 14-8, sec 1.)

Division 3. Funds and Contracts.

Section 2-72. Federal funds.

If, in exercising any of its powers, the housing agency or office of housing and community development acquires funds from the Federal government, a separate account for such funds shall be established and no commingling of such funds with other funds shall take place.

(1983 CC, c 2, art 13, sec 2-72; am 2014, ord 14-8, sec 1.)

Section 2-73. Signing of contracts.

All instruments and documents relating to the housing programs of the County shall be signed by the mayor as authorized by the Charter. Any and all contracts with the United States department of housing and urban development shall be submitted to the housing agency for its approval and any such contract shall be executed by the mayor as authorized by the Charter.

(1983 CC, c 2, art 13, sec 2-73; am 2014, ord 14-8, sec 1.)

Section 2-74. Revolving fund created.

There is established a special revolving fund entitled the County housing program revolving fund to be maintained by the director of finance.

(1983 CC, c 2, art 13, sec 2-74.)

Section 2-75. Use of revolving fund.

The revolving fund shall be utilized to pay for items such as: (a) the development of housing, and (b) to exercise the buy-back option running in favor of the County contained in any conveyance document and to pay the costs of maintaining, repairing, renting, or reselling units purchased by the County pursuant thereto. Any interest earned by the fund and any advanced costs that are recovered from housing project funds shall be returned to the revolving fund.
(1983 CC, c 2, art 13, sec 2-75; am 1993, ord 93-33, sec 1; am 2014, ord 14-68, sec 2.)

Section 2-75.1. Housing special funds.

(a) There are created and established housing special funds to be known as the:
   (1) Kulaʻimano Elderly Rental Housing Special Fund.
   (2) ʻŌuli Ekahi Rental Housing Special Fund.
(b) All income generated from each rental housing project shall be deposited into its respective housing special fund to be expended by the housing administrator solely for the operation, maintenance and improvement of that particular rental housing project.
(c) The housing administrator shall be responsible for the administration of all housing special funds in accordance with prescribed laws and procedures applicable to the expenditure of County funds.

(1995, ord 95-149, sec 1.)

Article 14. Mass Transit Agency.

Section 2-76. Creation.

For the purpose of providing mass transit service in the County whether directly, jointly, or under contract with private parties, an agency to be known as the mass transit agency is created in order to implement chapter 51, Hawaiʻi Revised Statutes.
(1983 CC, c 2, art 14, sec 2-76; am 2004, ord 04-58, sec 3.)

Section 2-77. Mass transit administrator created.

There shall be a mass transit administrator. The position of mass transit administrator shall be in the civil service and shall be filled through civil service recruitment procedures based on merit.
(1983 CC, c 2, art 14, sec 2-77; am 2004, ord 04-58, sec 3.)

Section 2-78. Duties of mass transit administrator.

The mass transit administrator shall have direct responsibility for the administration and operation of County mass transit service, whether such service is provided directly, jointly, or under contract with private parties. The mass transit administrator shall be under the direct supervision and control of the managing director and shall have the authority to staff the agency with necessary personnel to carry out the purposes of the agency.
(1983 CC, c 2, art 14, sec 2-78; am 2004, ord 04-58, sec 3.)

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

The agency is authorized to adopt reasonable rules and regulations as the agency deems necessary for the administration of the conduct of the agency's business, including rules and regulations for fees and charges for permits for interior advertisements on buses. Rules shall be promulgated pursuant to Chapter 91, Hawai'i Revised Statutes, as amended.
(2007, ord 07-85, sec 1.)

Article 15. Code of Ethics.

Section 2-79. Purpose.

The purposes of this article are to:

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

(1983 CC, c 2, art 15, sec 2-79.)

Section 2-80. Interpretation of article.

This article shall be liberally construed to promote high standards of ethical conduct in County government.
(1983 CC, c 2, art 15, sec 2-80.)

Section 2-80.1. Distribution of mass mailings prohibited during campaign.

(a) Newsletters, brochures, legislative summaries, or other mass mailings of material designed to support a candidate's nomination, including electioneering communications as defined in section 11-341, Hawai'i Revised Statutes, shall not be circulated at public expense by:
   (1) An incumbent council member within six months prior to any County election, or after any member has filed nomination papers, whichever comes first;
   (2) Any current employee or official of the County within six months prior to any County election, or after filing nomination papers, whichever comes first;
   (3) The incumbent mayor within six months prior to an election which the mayor may be re-elected, or after the incumbent mayor has filed nomination papers, whichever comes first; or
   (4) The incumbent prosecuting attorney within six months prior to an election which the prosecuting attorney may be re-elected, or after the incumbent prosecuting attorney has filed nomination papers, whichever comes first.

   This excludes public funds received by candidates from the Hawai'i election campaign fund, pursuant to section 11-421, Hawai'i Revised Statutes.

(b) Any violation of this section constitutes use of government funds for campaign purposes, and shall be subject to any penalty, as authorized by law, including an administrative fine not to exceed $1,000, for each violation, as the board of ethics may determine.

(2008, ord 08-49, sec 1; am 2012, ord 12-43, sec 1.)

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.

(1983 CC, c 2, art 15, sec 2-81.)

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.
(1983 CC, c 2, art 15, sec 2-82; am 2002, ord 02-109, sec 2; am 2007, ord 07-132, sec 1.)

Section 2-83. [Former] Repealed.
(1983 CC, c 2, art 15, sec 2-83; rep 2002, ord 20-109, sec 3.)

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.
(2) No person in a supervisory capacity shall engage in personal or business relationships with subordinates, which might intimidate said subordinates in the discharge of their official duties.
(3) All persons shall be treated in a courteous, fair and impartial manner.
(b) No officer or employee shall use or attempt to use the officer's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:
(1) Seeking other employment or contract for services for oneself by the use or attempted use of the officer's or employee's office or position.
(2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the officer's or employee's official duties or responsibilities except as provided by law.
(3) Using County time, equipment or other facilities for private business or campaign purposes.
(4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the officer or employee inspects or supervises in the officer's or employee's official capacity.
(5) Using County property or personnel for other than a public activity or purpose.

(c) Nothing herein shall be construed to prohibit an officer from introducing bills and resolutions, serving on committees or from making statements or taking action in the exercise of the officer's legislative functions. Every officer shall file a full and complete public disclosure of the nature and extent of the interest or transaction which the officer believes may be affected by legislative action.

(2002, ord 02-109, sec 4.)

Section 2-84. [Former] Repealed.

(1983 CC, c 2, art 15, sec 2-84; rep 1983, ord 83-7, sec 2.)

Section 2-84. Conflicts of interests.

(a) No officer or employee shall take any official action directly affecting:
   (1) A business or other undertaking in which that officer or employee has a substantial financial interest;
   (2) A private undertaking in which the officer or employee is engaged as legal counsel, advisor, consultant, or representative, or other agency capacity; or
   (3) A business or undertaking in which the employee knows or has reason to know that a brother, a sister, a parent, an emancipated child, or a household member has a substantial financial interest, provided that the financial interests of these individuals shall not include those of any spouse or child.

A department head who is unable to be disqualified on any matter described in items (1), (2) and (3) above will not be in violation of this subsection if the department head has complied with the disclosure requirements of section 2-91.1.

A person whose position on a board, commission, or committee is mandated by statute, charter, code or resolution to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which that person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

(b) No officer or employee shall acquire financial interests in any business or other undertaking which that officer or employee has reason to believe may be directly involved in official action to be taken by the officer or employee.

(c) No officer or employee shall assist any person or business or act in a representative capacity before any County agency for a contingent compensation in any transaction involving the County.

(d) No officer or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which the officer or employee has participated or will participate as an officer or employee, nor shall the officer or employee assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the council or agency of which that person is an employee or officer.

(e) No officer or employee shall assist any person or business or act in a representative capacity before a County agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if the officer or employee has official authority over that County agency unless the officer or employee has complied with the disclosure requirements of section 2-91.1.

(2002, ord 02-109, sec 4.)

Section 2-85. [Former] Repealed.

(1983 CC, c 2, art 15, sec 2-85; rep 2002, ord 02-109, sec 3.)

Section 2-85. Contracts.

(a) A County agency shall not enter into any contract involving services or property of a value in excess of $10,000 to procure or dispose of goods or services, or for construction, with an officer, an employee, or a business in which an officer or an employee has a controlling interest unless:
   (1) The contract is awarded by competitive sealed bidding pursuant to the state public procurement code;
   (2) The contract is awarded by competitive sealed proposal pursuant to the state public procurement code; or
   (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the County board of ethics at least ten days before the contract is awarded.

(b) A County agency shall not enter into a contract with any person or business which represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in County office or employment in the matter with which the contract is directly concerned.

(2002, ord 02-109, sec 4.)

Section 2-85.1. Contracts voidable.

In addition to any other penalty provided by law, any contract entered into by the County in violation of this article is voidable on behalf of the County; provided that in any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this article. The corporation counsel shall have the authority to enforce this provision.

(2002, ord 02-109, sec 4.)

Section 2-86. Informal advisory opinions.

(a) Inquirer's Conduct. Any County officer or employee may petition the board for an informal advisory opinion concerning their own conduct by writing to the board. This opinion shall be informal in nature and all proceedings involving the investigation and deliberation of such inquiry shall, upon the request of the County officer or employee involved, be confidential, provided, the board determines that personal matters affecting the privacy of the County officer or employee are to be considered.

Upon receipt of the petition, the board:

(1) May investigate the matter on a confidential basis. The officer or employee involved shall comply with the informal advisory opinion issued by the board.

(2) Through its chairman, shall notify the County officer or employee involved and shall request a statement indicating whether or not the officer or employee wishes a closed hearing.

(b) Alleged Conduct of Someone Other than Inquirer. Any person or the board itself may petition the board for an informal advisory opinion on an alleged violation of the code of ethics by an officer or employee. The petition shall be filed within six years of the alleged violation. A petition shall be deemed to have been filed when it is received by the board or when a majority of the members to which the board is entitled sign the petition. Nothing herein shall bar proceedings against a person who, by fraud or other device, prevents the discovery of a violation of the code of ethics. This opinion shall be informal in nature and all proceedings involving the investigation and deliberation of such inquiry shall, upon the request of the County officer or employee involved, be confidential, provided, the board determines that personal matters affecting the privacy of the County officer or employee are to be considered.

Upon receipt of the petition, the board:

(1) Through its chairman, shall notify the County officer or employee involved and shall request a statement indicating whether or not the officer or employee wishes a closed hearing.

(2) Shall notify the officer or employee against whom a charge is received and afford the officer or employee an opportunity to explain the conduct alleged to be in violation of this article. The board may investigate, after compliance with this section, such charges and render an informal advisory opinion on the alleged conduct. The officer or employee involved shall comply with the informal advisory opinion issued by the board.

(c) Any petition filed under this section shall be submitted in duplicate and shall contain:

(1) The name, address and telephone number of the petitioner;

(2) A statement of the nature of petitioner's interest including reasons for the submission of the petition;

(3) The specific provision of the code of ethics in question;

(4) A complete statement of facts;

(5) A statement of the position or contention of the petitioner; and

(6) A memorandum of authorities, containing a full discussion of the reasons in support of such position or contention.

Any petition which does not substantially comply with the foregoing requirements may be rejected. In addition, the board may, for good cause, reject any petition.
(1983 CC, c 2, art 15, sec 2-86; am 1997, ord 97-29, sec 1.)

Section 2-87. Formal opinions.

(a) If the officer or employee fails to comply with the informal advisory opinion mentioned in section 2-86, the board may, in its discretion, institute proceedings for a formal opinion. It may institute such proceedings by serving a copy of the charge and a further statement of the alleged violation by certified mail upon the alleged violator. The officer or employee shall have twenty days after service thereof to respond in writing to the charge and statement.

(b) The board shall set a time and place for a hearing, giving notice to the complainant and the alleged violator. All parties shall have an opportunity:
   (1) To be heard;
   (2) To subpoena witnesses and require the production of any books or papers relative to the proceedings;
   (3) To be represented by counsel; and
   (4) To have the right of cross-examination.

(c) All witnesses shall testify under oath and the hearings shall be closed to the public upon the request of the County officer or employee involved, for closed hearing. The board shall not be bound by the strict rules of evidence but the board's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded. Copies of transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the County's general fund.

(d) Prior to any hearing, the board, through its chairman, shall notify the County officer or employee involved and shall request of the County officer or employee a statement indicating whether or not the County officer or employee wishes a closed hearing.

(e) After the hearing the board shall issue a formal opinion on the alleged conduct which shall be given to the alleged violator. A decision of the board pertaining to the conduct of any officer or employee shall be in writing and signed by three or more of the members of the board.

(1983 CC, c 2, art 15, sec 2-87.)

Section 2-88. Disposition after issuance of formal opinion.

(a) With respect to officers removable only by impeachment, if there is no compliance of a formal opinion issued against an officer removable only by impeachment, the board shall issue a complaint and refer the matter to the council. The complaint must contain a statement of the facts alleged to constitute the violation. If within thirty days after the referral the council has neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the board shall make public the nature of the charges but it shall make clear that the merits of the charges have never been formally determined.

(b) With respect to employees and officers other than officers removable only by impeachment, if there is no compliance of a formal opinion against an employee and officer other than an officer removable only by impeachment, the board shall issue a complaint and refer the matter to the appointing authority having the power to discipline the employee. The complaint must contain a statement of the facts alleged to constitute the violation. Hearings shall be in accordance with chapter 91, Hawaiʻi Revised Statutes, except that every hearing shall be private, and no record of the proceedings shall be released to the public prior to its conclusion. Judicial review of decisions, orders and rulings adverse to the employee shall be in accordance with chapter 91, Hawaiʻi Revised Statutes.

(c) If it is found that no violation of subsection (b) of this section has occurred, the appointing authority shall not make the record of the proceedings public. If it is found that a violation has occurred, the appointing authority may make its findings and the record of the proceedings public, taking into account the seriousness of the violation.

(1983 CC, c 2, art 15, sec 2-88.)

Section 2-89. Cooperation with County agencies.

The commission may request and shall receive from every department, division, board, bureau, commission or other agency of the County cooperation and assistance in the performance of its duties. In addition, if the board's decision requires action by any agency, the board may request that such agency report its action within thirty days from the date of the request for action.

(1983 CC, c 2, art 15, sec 2-89.)

Section 2-90. Confidentiality.

(a) Any board member, including the individual making the charge, who divulges information concerning the charge prior to the issuance of the complaint by the board mentioned in section 2-88 and section 2-89 or if the investigation discloses that the complaint should not be issued by the board, at any time divulges any information concerning the original charge, or divulges the contents or disclosures except as permitted by the board, shall be guilty of a misdemeanor which shall be punishable by a fine of not more than $500. If a board member is in violation of this section, the board member may be subject to dismissal from this board.

(b) This prohibition shall not apply to meetings open to the public.

(1983 CC, c 2, art 15, sec 2-90.)

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.

(1983 CC, c 2, art 15, sec 2-91.)

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 and department of environmental management;
    (B) Inspectors employed by the department of public works and department of environmental management;
    (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 CC, c 2, art 15, sec 2-91.1; am 1983, ord 83-7, sec 1; am 1985, ord 85-35, sec 1; am 1999, ord 99-54, sec 1; am 2002, ord 02-109, sec 5; am 2005, ord 05-41, sec 1; am 2007, ord 07-131, sec 1; am 2008, ord 08-50, sec 2.)

*** Editor's Note:** Section 11-191, Hawai'i Revised Statutes, was 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 84-55, sec 1; am 1996, ord 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.

(b) Registration of Lobbyists, Requirements.

(1) Every lobbyist shall file a registration form with the County clerk within five days of becoming a lobbyist.

(2) Each lobbyist shall provide and certify the following information:
   (A) The name, mailing address, and business telephone number of the lobbyist.
   (B) The name and principal place of business of each person by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears or works and a written authorization to act as a lobbyist from each person by whom the lobbyist is employed or with whom the lobbyist contracts.
   (C) The subject areas on which the lobbyist expects to lobby.
(3) A lobbyist shall report any change in any of the information contained in the registration statement within ten days after the change has occurred.
(4) A lobbyist shall file a notice of termination within ten days after the lobbyist ceases the activity which required the lobbyist's registration. The lobbyist and the employer of the lobbyist shall remain subject, however, to the requirements of this article for the period during which the registration was effective.
(5) This section shall not apply to:
   (A) Any individual who represents him or herself and not any other person before the council or administrative agency;
   (B) Any Federal, State, or County official or employee acting in the official or employee's official capacity;
   (C) Any elected public official acting in the official or employee's official capacity;
   (D) Any newspaper or other regularly published periodical or radio or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station) while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action; and
   (E) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of County government, and who is appearing at the request of the council or an administrative agency, even though receiving reimbursement for the appearance.

(c) Each lobbyist shall file a statement of expenditures with the County clerk on July 31 and January 31 of each year.
(d) The July 31 report shall cover the period from January 1 through June 30 of the year of the report; and the January 31 report shall cover the period from July 1 through December 31 of the calendar year preceding the January 31 report.
(1) The statement shall contain the following information:
   (A) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of $25 or more per day were made by the person filing the statement during the statement period and the amount or value of such expenditure;

(B) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of $150 or more were made by the person filing the statement during the statement period and the amount or value of such expenditures;

(C) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement period in excess of $275 during the statement period;

(D) The name and address of each person making contributions to the person filing the statement for the purpose of lobbying in the total sum of $25 or more during the statement period and the amount or value of such contributions; and

(E) The subject area of the legislative and administrative action which was supported or opposed by the person filing the statement during the statement period.

(2) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section.

(e) All statements and forms required by this section to be filed with the County clerk:

(1) Shall be deemed properly filed when delivered or deposited in an established post office within the prescribed time, duly stamped, registered, or certified, and directed to the County clerk; provided, however, in the event it is not received, a duplicate of the statement shall be promptly filed upon notice by the County clerk of its nonreceipt; and

(2) Shall be preserved by the County clerk and shall constitute part of the public records of the County clerk, and shall be open to public inspection pursuant to section 92-51,* Hawai‘i Revised Statutes.

(f) No lobbyist shall accept or agree to accept compensation in any way contingent on the enactment, defeat, or outcome of any proposed legislative or administrative action.

(g) The board of ethics is empowered to render advisory opinions with respect to the application of this section to any person. No person who conforms their conduct to an advisory opinion of the board regarding this section shall be subject to the penalties provided herein.

(h) Any person who wilfully fails to file any statement or report required by this section or who wilfully files a statement or report containing false information or material omission of any fact, who engages in activities prohibited by this section, or who fails to provide any information required by this section shall be guilty of a petty misdemeanor.

(1984, ord 84-77, sec 1; am 1986, ord 86-44, sec 1; am 2006, ord 06-71, sec 1.)

*** Editor's Note:** Sections 92-50 to 92-52, Hawai‘i Revised Statutes, were repealed and replaced with chapter 92F.

Section 2-91.4. Gifts.

No officer or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official duties or is intended as a reward for any official action on the officer's or employee's part
(1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 7.)

Section 2-91.5. Reporting of gifts.

(a) Every officer and employee shall file a gifts disclosure statement with the County board of ethics on June 30 of each year if all the following conditions are met:
   (1) The officer or employee, or spouse or dependent child of an officer or employee, received directly or indirectly from one source any gift or gifts valued singly or in the aggregate in excess of $100, whether the gift is in the form of money, service, goods, or in any other form;
   (2) The source of the gift or gifts have interests that may be affected by official action or lack of action by the officer or employee; and
   (3) The gift is not exempted by subsection (d) from reporting requirements under this subsection.

(b) The report shall cover the period from June 1 of the preceding calendar year through May 31 of the year of the report.

(c) The gifts disclosure statement shall contain the following information:
   (1) A description of the gift;
   (2) A good faith estimate of the value of the gift;
   (3) The date the gift was received; and
   (4) The name of the person, business entity, or organization from whom, or on behalf of whom, the gift was received.

(d) Excluded from the reporting requirements of this section are the following:
   (1) Gifts received by will or intestate succession;
   (2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
   (3) Gifts from a spouse, fiancé, fiancée, any relative within four degrees of consanguinity or the spouse, fiancé, or fiancée of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for any person not covered by this paragraph;
   (4) Political campaign contributions that comply with state law;
   (5) Anything available to or distributed to the public generally without regard to the official status of the recipient;
   (6) Gifts that, within thirty days after receipt, are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as a charitable contribution for tax purposes; and

(7) Exchanges of approximately equal value on holidays, birthday, or special occasions.

(e) Failure of an officer or employee to file a gifts disclosure statement as required by this section shall be a violation of this article.

(1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 7.)

Section 2-91.6. Confidential information.

No officer or employee shall disclose information which by law or practice is not available to the public and which the officer or employee acquires in the course of the officer's or employee's official duties, or use the information for the officer's or employee's personal gain or for the benefit of anyone.

(1995, ord 95-21, sec 2; am 2002, ord 02-109, secs 6 and 8.)

Article 16. Travel and Other Expenses.

Section 2-92. Entitlement.

All officers and employees of the County, including members of boards, committees and commissions, shall be entitled to travel and other necessary expenses connected with the performance of their official duties in accordance with the provisions of this section and subject to procedures prescribed by the director of finance and approved by the mayor.

(1983 CC, c 2, art 16, sec 2-92.)

Section 2-93. Travel status.

Personnel shall be considered to be on travel status only during the time they are conducting official business away from their regular place of business and while traveling to and from the place at which such business is regularly transacted.

(1983 CC, c 2, art 16, sec 2-93.)

Section 2-94. Travel authorization.

(a) All in-State travel for employees of the executive branch shall be approved by the mayor; except that the prosecuting attorney is authorized to approve in-State travel for employees of the prosecuting attorney's department. Likewise, all in-State travel for employees of the legislative branch shall be approved by the council chairman. The authority to approve such travel may be delegated.

(b) For out-of-State travel, a written request shall be prepared and shall be approved by the mayor for members of the executive branch and the council chairman for employees of the legislative branch. A travel itinerary shall be attached to the request. The authority to approve such travel may be delegated. A copy of the approved request must be attached to the requisition for air transportation.

(c) The department head shall assure that travel is necessary, that funds are available, and that expenses to be incurred are proper and reasonable under the circumstances.

(d) Travel for training purposes shall also conform with the training policy administered by the department of human resources.

(1983 CC, c 2, art 16, sec 2-94; am 1993, ord 93-51, sec 1; am 2009, ord 09-105, sec 5.)

Section 2-95. Overnight travel expenses.

A traveler may accept either of the following methods of payment for personal expenses incident to overnight travel.

(a) The actual cost of lodging, meals (including tips) and laundry over the entire period of travel, supported by receipts and/or affidavit; or

(b) Per diem allowance for overnight travel at rates equal to the highest allowance for such expenses payable to any County employee in a bargaining unit; provided that in the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight.

(c) Per diem allowance for less than a full day shall be payable only for travel to other islands. For nonovernight travel within the County, employees shall be entitled to meal allowance and other allowed expenses.

(1983 CC, c 2, art 16, sec 2-95.)

Section 2-96. Repealed.

(1983 CC, c 2, art 16, sec 2-96; am 2003, ord 03-1, sec 1; rep 2011, ord 11-41, sec 2.)

Section 2-97. Other allowable expenses.

(a) Other allowable expenses include airfare, ground transportation (including tips), airport parking, business telephone calls, secretarial fees, registration fees, mileage claim for use of a private automobile and any expense relating to the conduct of official business.

(b) Rental cost of U-drive cars and parking charges shall not exceed $75 a day. U-drive cars may be used for personal business incidental to official travel; e.g., driving to restaurant for meals. The department head shall assure that funds are available and that rental is necessary and cost is reasonable.

(c) Air travel shall be on commercial airlines at the economy class by the most direct route to and from the points specified in the travel authorization; provided that inter-island and intra-county travel by noncommercial and nonscheduled private aircraft (owned or rented) is authorized under the following conditions:

(1) The pilot must possess a current private pilot's certificate issued by the Federal Aviation Administration;

(2) The aircraft must possess a current certificate of airworthiness issued by the Federal Aviation Administration;

(3) The aircraft must carry the following liability insurance:

(A) Bodily injury liability (excluding passenger) — $100,000 for each person and $300,000 for each occurrence.

(B) Property damage liability — $100,000 for each occurrence.

(C) Passenger bodily injury insurance — $100,000 for each person.
(D) The County of Hawai‘i shall be named as additional insured under the policy.

(4) Payment for such travel by private aircraft shall be made at rates that traveler would have had to pay had the traveler traveled on scheduled, commercial airlines. Additional passengers will be paid the difference between the first traveler's payment and the operating cost of the privately owned aircraft or rental cost of a rented aircraft.

(1983 CC, c 2, art 16, sec 2-97; am 1989, ord 89-139, sec 1; am 1992, ord 92-47, sec 1; am 2004, ord 04-83, sec 2.)

Section 2-98. Adjustments and exceptions.

(a) When government quarters and/or meals are furnished at no cost or at low cost, the amount of per diem allowance shall be reduced by the director of finance.

(b) The mayor or council chairman, for their respective branches of government, may disallow any unauthorized, improper, or unreasonable expense. The mayor or council chairman may also authorize expenses in excess of the established limits or may authorize meals with business meetings, awards and recognition events, and entertainment of important persons, or may approve exceptions with good cause to any provision relating to travel and expenses, provided:

(1) No exception involving public funds shall be authorized without a public purpose;
(2) A written request for authorization is made and approved in writing;
(3) Documentation establishing that the expenditure will be for a public purpose is attached to the written request;
(4) The purchase of alcoholic beverages is prohibited unless provided by authorized exception;
(5) The purchase of gifts in an amount of over $100 per person receiving the gift is prohibited unless provided by authorized exception;
(6) To receive reimbursement for the authorized exception, the following documentation must be submitted to the employee's or officer's department head and to the director of finance within seven days of the expenditure:
(A) A memorandum setting forth the reasons for the exceptional expenditure along with a copy of the written request for authorization; and
(B) Any additional documentation submitted with the written request for authorization; and
(7) The director of finance shall maintain a record log of all travel expenditures that are authorized through an exception as permitted by this subsection, which log shall be available for public inspection.

(c) The mayor may delegate the authority granted under this section to any department or agency head within the executive branch.

(d) Meals may also be provided to employees who do not otherwise qualify under this section or under any negotiated employee contract while attending workshops, conferences, or training sessions at the request or direction of the department head and to the benefit of the County.

(1983 CC, c 2, art 16, sec 2-98; am 1993, ord 93-51, sec 2; am 2015, ord 15-95, sec 1.)

Section 2-99. Funds for travel expenses.

Funds for traveling expenses at the specified per diem rates or meal allowance plus other known or determinable expenses may be secured by way of a cash advancement from the treasurer's petty cash fund or by way of reimbursement upon completion of travel.

(a) Per diem allowance for travel exceeding five days in duration shall be obtained through the requisition process unless time will not allow use of this method.

(b) Any excess funds advanced for travel must be returned not later than five working days after completion of travel.

(1983 CC, c 2, art 16, sec 2-99.)

Section 2-100. Reports.

(a) Upon return from travel, but not later than five working days after return, a certificate of travel and claim for expense form shall be completed and filed with the director of finance.

(b) In addition, after attendance at conferences, workshops, seminars, or educational meetings, a written report shall be prepared. This report shall discuss the subject matter covered and benefits of attendance. It may be an individual or group report and shall be filed with the mayor or council chairman, as the case may be, within thirty days after return.

(c) This reporting requirement shall not apply to travel for in-service training sponsored by the department, or training that is approved in accordance with the County training policy.

(1983 CC, c 2, art 16, sec 2-100.)

Section 2-101. Compensation for use of private automobile.

(a) Mileage Allowance. A department head may authorize any officer or employee over whom the department head has administrative supervision to use privately owned automobiles on official business on a mileage allowance basis when publicly owned vehicles are not available or are impractical to use.

(b) Rate. Employees who are excluded from the various bargaining units shall be paid the same rates provided for in negotiated contracts of bargaining units that these employees would have belonged to had they not been excluded. All other officers and employees of the County not covered by collective bargaining including County councilmembers and duly authorized volunteer police and fire personnel, shall be entitled to mileage reimbursement at a rate equal to the highest rate payable to any County employee in a bargaining unit.

(c) Flat Monthly Allowance. The mayor may for the executive branch and the council chairman for the legislative branch authorize payment of monthly automobile allowance to any councilmember, officer or employee for the regular use of a privately owned automobile.

(1983 CC, c 2, art 16, sec 2-101; am 1985, ord 85-31, sec 1; am 1986, ord 86-130, sec 1; am 2006, ord 06-100, sec 3.)

Section 2-101.1. Mileage and meal reimbursements for volunteer police personnel.

(a) All duly authorized volunteer police personnel, including but not limited to reserve police officers and police chaplains, shall be reimbursed at such rates prescribed by, and subject to, the requirements set forth in section 2-101(b), for each mile actually and necessarily traveled in the performance of their assigned duties.

(b) Except as modified by subsection (b) of section 2-98, meal allowance (including tax and tips) for non-overnight travel (not covered by collective bargaining agreements) shall not exceed the following rates:

Breakfast.....$ 5
Lunch.....8
Dinner.....15

Breakfast will be allowed when travel time begins before 6:00 a.m. Lunch will be allowed for travelers when travel time begins before 11:00 a.m. and ends after 1:00 p.m. Dinner will be allowed for travelers when travel time begins before 6:00 p.m. and ends after 8:00 p.m.

(c) Meal allowance for non-overnight travel shall be payable for travel that extends beyond the boundaries of the adjacent geographic district from the geographic district where an employee's baseyard, station, or usual place of work is located. For purposes of this section, the geographic districts are: Puna; South Hilo; North Hilo; Hāmākua; North Kohala; South Kohala; North Kona; South Kona; and Ka'ū.

(d) Payment for meal expenses must be supported by receipt or affidavit. Any excess cash advanced for meal expenses must be returned not later than five working days after completion of travel.

(1989, ord 89-28, sec 2; am 2006, ord 06-100, sec 4; am 2011, ord 11-57, sec 2.)

Section 2-102. Conflicts with employee contracts.

If there are any conflicts between any provision of this section on travel expenses and any provision in a negotiated contract between the County and an exclusive representative and any provision of chapter 89C, Hawai'i Revised Statutes, the latter provisions shall prevail.

(1983 CC, c 2, art 16, sec 2-102.)

Article 17. Public Records Fee Schedule.

Section 2-103. Administered by clerk.

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

(1983 CC, c 2, art 17, sec 2-103.)

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

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

(a) Duplicated copy of any record (by duplicating machines, including, but not limited to, microfilm printer, Thermofax, Verifax, Xerox, Offset, Mimeograph, etc.):
- For the first page of each document or record $1.00
- Each additional page or copy thereof ..... .10

(b) Abstract of information from public record:
- First page 1.00
- Each additional page ..... .10

(c) Ordinances, resolutions and chapters of the Hawaiʻi County Code:
- 1 -- 20 pages 1.00
- 21 -- 50 pages 2.00
- 51 -- 100 pages 5.00
- 101 -- 250 pages 8.00
- 251 -- 500 pages 20.00
- 501 and over pages 30.00

(d) Typewritten copy of any record:
- Per page or fraction thereof 1.00

(e) Copy of street map, plan, diagram:
- Sheet sizes over 8½" x 13" to 10" x 15" 1.00
- Sheet sizes over 10" x 15" to 22" x 36" 2.00
- Larger than 22" x 36" size; per square foot ..... .50

(f) Photograph:
- For use of negative only 2.00

(g) County clerk's Certificate of Voter Registration 2.00

(h) Voter Registration List (in printed forms as may be available):
For each State representative district ..... 12.00 per list
For each State senatorial district ..... 24.00 per list
For each precinct:
First page 2.00
Each additional page ..... .10

(i) Certified statement attesting to veracity of information obtained from public records:
Per 100 words of statement or fraction thereof 1.00

(j) Certification by public officer or employees as to correctness (or in attestation that document is a true copy) of any document, including maps, plans and diagrams:
Per page 1.00

(k) Hawai'i County Code (includes zoning annexes and traffic schedules) 200.00
Semiannual supplements 25.00
Zoning Annexes 20.00
Semiannual supplements 10.00
Traffic Schedules 8.00
Semiannual supplements 4.00
Compact discs of the above are available upon request at the time of purchase.
When compact discs are requested exclusive of the above:
Hawai'i County Code 20.00
Zoning Annexes 5.00
Traffic Schedules 5.00
Semiannual supplements 5.00

(l) Hawai'i County Charter 3.00

(m) Charges for real property tax records and tax searches. Duplicated copy of the real property assessment rolls or tax rolls from computer tape files. Requester provides blank tape.
Per computer tape listing 500.00
Real property tax searches shall be conducted and statements furnished to persons requesting this service upon the payment of a fee; provided however, the fee will not be applicable to an owner or lessee making an inquiry concerning such person's own property or property leased to such person; further provided, that this search be limited to the records of the current tax year. Tax searches will include preparation of statements of title history, assessment information, taxes due, and other similar record searches.
Per hour or fraction thereof 15.00
Minimum charge 15.00

Duplicated copy of any record pertinent to the field history sheets, notice of assessment, transfer sheets, exemption claims, tax bills, tax ledgers, and tax clearances.

For the first page of a specific tax key..... 1.00

Each additional page or copy thereof ..... .10

(n) Building permit monthly printouts..... 1.00 per page

(1983 CC, c 2, art 17, sec 2-104; am 1983, ord 83-31, sec 1; ord 83-33, sec 1; am 1988, ord 88-52, sec 1; ord 88-181, sec 1; am 1990, ord 90-89, sec 1; am 2005, ord 05-101, sec 1.)

Section 2-105. Charges for publications.

(a) Charges for publications shall be based on cost, including reproduction costs, mailing and other handling charges attributable to making the publication available to the public; except that reasonable charges in excess of cost may be made for copies of records to be used for commercial purposes.

(b) The term "publication" refers to copies of documents which are reproduced on a volume basis for general distribution and shall include, but not be limited to, such items as: County Charter, ordinances, engineering and construction standards, directories, manuals, and handbooks. The term "publications" shall not apply to resolutions or bills pending final adoption or enactment into ordinance by the County council.

(1983 CC, c 2, art 17, sec 2-105.)

Section 2-106. Applicability.

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

(1983 CC, c 2, art 17, sec 2-106.)

Section 2-107. Exemption from payment of fees and charges.

(a) The following agencies and organizations may be exempted from the payment of fees established in this section, as well as charges to cover mailing and other handling costs by the public officer having custody or control of the records involved:

(1) Government agencies requiring the records or publications for official purposes;

(2) News media; provided, however, that exemption from payment of fees and/or charges shall be limited to one copy or one set of such records or publications;

(3) Organizations which have arranged reciprocal agreement with a County agency for mutual exchange of records and publications.

(b) The clerk may waive fees or charges for the following:

(1) Educational materials necessary for carrying out an agency program; or

(2) Distribution of records and publications when such distribution is of benefit and interest to the County; or

(3) Records or publications required by a student engaged in studying County operations as part of the student's school assignment; provided, however that exemption from payment of fees or charges shall be limited to one copy or one set of such records or publications.

(c) Political parties shall be furnished without charge, three copies of the voter registration lists of all precincts. Candidates who have filed for public elective offices shall be furnished, without charge, one copy of such current voter registration lists as may be requested by the candidate, provided that such lists are available for distribution. Additional copies in excess of the number to be furnished without charge as hereinabove stated shall be furnished upon payment of the fees specified in this article.

(1983 CC, c 2, art 17, sec 2-107.)

Article 18. Uncollectible Accounts.

Section 2-108. Definitions.

(a) As used in this article:

(1) "Uncollectible account" means an account for which:

(A) The debtor or party causing damage to property belonging to the County is no longer within the jurisdiction of the State;

(B) The debtor or party causing damage to property belonging to the County cannot be located;

(C) The party causing damage to the property belonging to the County is unknown or cannot be identified;

(D) The debtor has filed bankruptcy and has listed the County as a creditor; or

(E) Such other account as may be deemed by the corporation counsel to be uneconomical or impractical to collect.

(1983 CC, c 2, art 18, sec 2-108.)

Section 2-109. Uncollectible accounts; procedure; records.

Agency heads may from time to time prepare and submit for review by the corporation counsel a list of all uncollectible accounts in their agency. Such accounts as the corporation counsel finds to be uncollectible shall be entered in a special record to be maintained by the director of finance and be deleted from the accounts receivable records of the agency which shall thereupon be relieved from any further accountability for their collection. Any account entered in the special record shall be transferred back to the current accounts receivable if the corporation counsel finds that the facts as alleged and presented to the corporation counsel were not true, or that the account has become collectible.

(1983 CC, c 2, art 18, sec 2-109; am 2003, ord 03-105, sec 1.)

Article 19. Real Property Disposition.

Section 2-110. Definitions.

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

(1) "Lease" means the right to possess and use real property for a term of one year or more.

(2) "Real property" includes lands and structures or fixtures permanently attached thereto, owned by the County of Hawaiʻi.

(3) "Remnant" means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics. A remnant may be:

(A) Land acquired which is in excess of the needs for which acquired;

(B) Vacated, closed, abandoned, or discontinued road, street or alley or walk, ditch, or other right-of-way.

(4) "Nonprofit organization" means an organization organized for other than profit-making purposes and which is exempted from the Federal income tax by the Internal Revenue Service.

(5) "Affordable housing developer" means an individual or business entity which develops low and moderate income housing as certified by the housing administrator.

(1983 CC, c 2, art 19, sec 2-110.)

Section 2-111. Powers of council.

Except as otherwise provided by law and subject to other provisions of this article, the council may, by resolution approved by a majority of its members, direct the finance director or director of public works:

(1) To dispose of real property in fee simple by lease, license, or permit; provided that any lease, license, or permit whose term is for less than one hundred eighty days may be granted, without the necessity of council action, by the finance director or director of public works through direct negotiation and without recourse to public auction;

(2) To grant easement for particular purposes, subject, however, to reverter to the County upon termination or abandonment of the specific purpose for which it was granted, provided that any easement may be granted by direct negotiation and without recourse to public auction when the sale price of such easement is less than $1,000;

(3) To exchange real property for private property.

(1983 CC, c 2, art 19, sec 2-111; am 2001, ord 01-108, sec 1.)

Section 2-112. Disposition by auction.

Unless the council finds substantial reasons to dispose of real property in some other manner, all disposition of real property shall be made at public auction, after public notice as provided in section 2-111. All such auctions shall be held at the main entrance of the County building in which the main office of the department of finance is located or at such other place as is convenient in the district in which the real property is located, and shall be conducted by the finance director or by the finance director's authorized representative.
(1983 CC, c 2, art 19, sec 2-112.)

Section 2-113. Sale or lease by sealed bids.

Whenever real property are to be sold or leased by call for sealed bids, the finance director shall notify by publication for a call for bids as provided in section 2-116 with such details concerning the call for bids as the finance director shall deem necessary and desirable. All bids shall be sealed and delivered to the finance director and shall be opened by the finance director at the time and place stated in the call for bids. The finance director may reject any or all bids and waive any defects when in the finance director's opinion such rejection or waiver will be for the best interest of the public.
(1983 CC, c 2, art 19, sec 2-113.)

Section 2-114. Sale or lease by negotiation.

(a) Real property may be sold or leased through negotiation upon a finding by the council that the public interest demands it and upon approval of the minimum conditions and selection criteria of the council.
(b) After a determination is made to negotiate the disposition, the finance director shall:
    (1) Give public notice, in accordance with the procedure set forth in section 2-116 of the County's intention to sell or lease real property through negotiation setting forth the minimum conditions thereunder.
    (2) Establish reasonable criteria for the selection of the buyer or lessee.
    (3) Determine the applicants who meet the criteria for selection, and notify all applicants of the determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established were followed; provided that if any applicant does not notify the finance director of the applicant's objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the finance director to follow the conditions and criteria.
(c) If only one applicant meets the criteria for selection of the buyer or lessee, the finance director may, after notice as provided in subsection (b)(3) of this section, dispose of the real property by negotiation. If two or more applicants meet the criteria for the selection of the buyer or lessee, the finance director shall select the buyer or lessee who submits the highest offer contained in a sealed bid deposited with the finance director.

(d) The council may require in the initial resolution that the negotiated agreement be accepted by the council.

(1983 CC, c 2, art 19, sec 2-114; am 2003, ord 03-156, sec 2.)

Section 2-115. Exchange of real property.

(a) No exchange of real property for private property shall be made except for public purposes, including, but not limited to:
   (1) Consolidation of holdings of real property;
   (2) Straightening of boundaries of real property;
   (3) Acquisition of adequate access for landlocked real property which has development potential; or
   (4) Straightening roadways or acquisition of encroachment right-of-way.

(b) Exchanges shall be effected without public auction. Public notice of any proposed exchange shall be given in accordance with the applicable provisions set forth in section 2-116.

(c) The real property exchanged shall be of substantially equal value to that of private land. Except as otherwise provided for in subsection (d) below, in any exchange, the fair market value of the private land and the County-owned land shall be separately determined by a disinterested qualified appraiser or appraisers and the cost thereof shall be borne equally between owner and the County.

(d) Appraisal requirements may be waived where the County seeks to acquire private property upon which County roadways encroach into private property, where this land will be exchanged for the County's unused rights-of-way.

(1983 CC, c 2, art 19, sec 2-115; am 2003, ord 03-50, sec 1.)

Section 2-116. Notice.

(a) Auctions. Notice of any proposed disposition by auction shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County, the last publication to be not less than five days before the date of the auction. Notice of the auction shall contain the following:
   (1) Time and place of auction;
   (2) General description of the real property, including the address and tax map key;
   (3) Specific use for which the disposition is intended; and
   (4) Upset price or lease rental to be charged. The maps showing the metes and bounds description and the classification of the land shall be kept in the office of the finance director and shall be open for inspection at all reasonable hours.

(b) Sealed Bids. Notice of any proposed disposition by sealed bids shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County, the last publication to be not less than five days before the date set for the receipt of proposals. Notice of the call for sealed bids shall contain the following:
   (1) Time and place for opening of sealed bids;

(2) General description of the real property, including the address and tax map key;
(3) Location where bid blanks and specifications may be secured.

When deemed necessary by the finance director, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of bid deposits when the finance director has required such. A successful bidder shall forfeit any bid deposit required by the finance director upon failure on the bidder's part to enter into a required contract within ten days after the award.

(c) Negotiation. Notice of a proposed disposition by negotiation shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County. Such notice shall invite proposals and state in general terms the size, location, and prices or lease rental of real property to be sold or leased, the terms of sale or lease, and the last date on which application will be received by the finance director, which date shall not be less than thirty days after the last date of publication of the notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons.

(d) Exchanges. Public notice of disposition of real property by a proposal to exchange real property for private property pursuant to section 2-115 shall be published at least once in each of three successive weeks in a newspaper of general circulation in the County. The notice shall state in general terms the size and location of the public lands proposed to be disposed.

(e) Notices are not required for license, permits, disposition of remnants, and disposition to government agencies.

(1983 CC, c 2, art 19, sec 2-116.)

Section 2-117. Appraisals.

(a) Public Auction and Sealed Bids. The appraisal of real property for sale or lease at public auction or by sealed bids for the determination of the upset price may be performed by an employee of the County qualified to appraise lands, or by a disinterested appraiser whose services shall be contracted for by the County. No such real property shall be sold or leased for a sum less than the value fixed by appraisal; provided, that for any sale or lease at public auction or by sealed bids, the finance director may establish the upset sale or lease rental price at less than the appraisal value and the real property may be sold or leased at that price.

(b) Negotiation. The sale price or lease rental of real property to be disposed of by negotiation shall be no less than the value determined by a disinterested appraiser whose services shall be contracted for by the County.

(c) Whenever more than one appraiser is appointed each shall prepare and submit an independent appraisal.

(1983 CC, c 2, art 19, sec 2-117.)

Section 2-118. Remnants.

(a) No parcel shall be disposed of as a remnant solely for the reason that it lacks an adequate access.

(b) Notwithstanding any other provision of this article, remnants or portions thereof may be disposed of without recourse to public auction in the manner set forth herein. Any remnant or portion thereof to be disposed of shall be first offered for sale to the abutting owner for a reasonable period of time at a reasonable price based on appraised value, provided in cases involving parcels of less than two thousand five hundred square feet, the finance director may establish a price which is based on the square foot value used for determining real property tax valuations of the abutting owner(s). The director shall take into consideration the limited market for the remnant and/or the resulting enhancement to an abutting owner's property by the addition of the remnant as outlined in subsection (c). For those parcel(s) utilizing the square foot value of the real property tax valuation process, the final disposition shall be approved by resolution of the County council. If there is more than one abutting owner who is interested in purchasing the remnant, the remnant may be subdivided and a portion thereof sold to each abutting owner at the appraised or established value.

(c) Except for those parcel(s) comprising less than two thousand five hundred square feet whose values are based on similar square foot values utilized by the real property tax office, the value of the remnant or portion thereof shall be appraised by an independent appraiser, which appraisal shall take into consideration the limited market for the remnant and/or the resulting enhancement to an abutting owner's property by the addition of the remnant.

(d) In any case, disposition costs including but not limited to appraisal, survey work, preparation of environmental assessments and preparation and recordation of documents may be added to the established sale price. However, a buyer may provide for the independent appraisal, survey work and preparation of environmental assessment at the buyer's expense, subject to review and agreement by the County.

(1983 CC, c 2, art 19, sec 2-118; am 1996, ord 96-35, sec 2.)

Section 2-119. Licenses and permits.

(a) The council may, after consulting with the director of public works, direct the finance director to issue licenses and permits through negotiation and without public auction for the temporary occupancy of County-owned lands or interest therein under such conditions which will serve the best interests of the County, subject, however, to such restrictions as may from time to time be expressly provided by law. Such permit on a month-to-month basis may continue for a period not to exceed one year from the date of its issuance; provided, that the finance director may allow the permit to continue on a month-to-month basis for additional one year periods.

(b) The council may, after consulting with the chief of police, direct the director of public works to issue licenses and permits through negotiation and without public auction to enter and occupy public highways and other rights-of-way owned, maintained and/or under the jurisdiction of the County, subject, however, to such restrictions, conditions and terms which will best serve the interests of the County and the general public.

(1983 CC, c 2, art 19, sec 2-119; am 2001, ord 01-108, sec 1.)

Section 2-120. Disposition to government, governmental agencies, nonprofit organizations, and affordable housing developers.

(a) Notwithstanding any limitations to the contrary, the council may, by resolution approved by a majority of its members, direct the finance director to negotiate the disposition of real property by:
   (1) Selling it in fee simple at such price and on such terms and conditions deemed proper to governments and governmental agencies authorized to hold lands in fee simple, to nonprofit organizations to develop affordable housing, or to affordable housing developers;
   (2) Leasing it to governments, governmental agencies, nonprofit organizations, or affordable housing developers at such rentals and on such terms and conditions as deemed proper;
   (3) Exchanging it for real property owned by governments, governmental agencies, nonprofit organizations, or affordable housing developers;
   (4) Granting licenses, permits, and easements to governments, governmental agencies, nonprofit organizations, or affordable housing developers on such terms and conditions as deemed proper.

(b) A disposition of real property to governments, governmental agencies, nonprofit organizations, or affordable housing developers may be made without the notice or appraisal required in this article.

(1983 CC, c 2, art 19, sec 2-120; am 2000, ord 00-151, sec 2.)

Section 2-120.1. Minimum provisions and clauses.

All real property agreements shall include provisions that, at the minimum, address the following:

(1) Breach
(2) Compliance with laws
(3) Condition of premise
(4) Current tax-exempt status designation, if applicable
(5) Premise description, including a tax map key number
(6) Duration including the commencement and termination dates
(7) Fire and liability insurance stipulations, including naming the County as an additionally insured and requiring County notification in case of policy cancellation
(8) Hazardous materials

(9) Improvements
(10) Indemnification of the County of Hawai'i
(11) Lessee reporting requirements
(12) Liens
(13) Payment and renewal provisions
(14) Permitted use
(15) Public purpose
(16) Repair and maintenance responsibilities
(17) Utilities.

(2003, ord 03-156, sec 1.)

Section 2-120.2. Central repository.

(a) All executed real property documents wherein the County is a party, including but not limited to, leases, rental agreements, licenses, permits and memorandums of agreement, shall be filed with the department of finance.

(b) The finance director shall transmit a County tenancy report annually to the council by July 31. The County tenancy report shall list the name of the tenant, purpose, location by address and tax map key number, type of tenancy, term of tenancy, payment fee, status of reporting and payments, significant improvements by tenant, and any other information the council or finance director may request.

(2003, ord 03-156, sec 1.)

Article 20. Voter Registration.

Section 2-121. Definitions.

The following definitions shall apply to the provisions contained in this article:

(1) "Candidate" means an individual as defined under chapter 11, part XII(B), "Election Campaign Contributions and Expenditures," Hawai'i Revised Statutes, as amended.

(2) "Political party" means any party which was on the ballot at the last general election and any political group which shall hereafter undertake to form a political party in the manner provided for in chapter 11, part V, "Parties," Hawai'i Revised Statutes, as amended.

(3) "Committee" means any person as defined under chapter 11, part XII(B), "Election Campaign Contributions and Expenditures," Hawai'i Revised Statutes, as amended.

(4) "Service bureau" means a firm registered to do business in the State and whose principal business is furnishing data processing services.

(1983 CC, c 2, art 20, sec 2-121.)

Section 2-122. Release of voter registration data.

The clerk or the clerk's designated representative shall release voter registration data on computer tapes or in printed form to candidates, political parties, committee, or service bureaus, as provided in this article. Voter registration data shall be used only for election or government purposes.

(1983 CC, c 2, art 20, sec 2-122; am 1996, ord 96-44, sec 2.)

Section 2-123. Restriction as to release of information by clerk.

The only voter registration information that the clerk or a designated representative may release are the name, residence address, mailing address, and representative district and precinct of a voter.

(1983 CC, c 2, art 20, sec 2-123.)

Section 2-124. Condition for accessing voter registration data.

The following conditions shall be met before voter registration data is released:

(1) The applicant obtains the written permission of the clerk or the clerk's designated representative;

(2) The applicant agrees in writing that the applicant will not use, sell or otherwise release the voter registration data computer tapes or the duplicate for other than election or government purposes; and

(3) Applicants requesting voter registration data on computer tapes must provide tapes as specified by the election division.

(1983 CC, c 2, art 20, sec 2-124; am 1996, ord 96-44, sec 3.)

Section 2-125. Charges for voter registration data.

$100 shall be charged for voter registration data of Hawai'i County voters requested on computer tape. Fees for a printed copy or extract of this data shall be in accordance with section 2-104.

(1983 CC, c 2, art 20, sec 2-125; am 1992, ord 92-43, sec 1; am 1996, ord 96-44, sec 3.)

Section 2-126. Penalty.

(a) Any person who uses information found on the voter registration computer tapes for any purpose other than for electioneering purpose shall be guilty of a misdemeanor.

(b) Any person convicted of a misdemeanor under this article shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(1983 CC, c 2, art 20, sec 2-126.)

Article 21. Repealed.

Section 2-127. Repealed.

(1983 CC, c 2, art 21, sec 2-127; rep 1993, ord 93-20, sec 1.)

Section 2-128. Repealed.
(1983 CC, c 2, art 21, sec 2-128; rep 1993, ord 93-20, sec 1.)

Section 2-129. Repealed.
(1983 CC, c 2, art 21, sec 2-129; rep 1993, ord 93-20, sec 1.)

Section 2-130. Repealed.
(1983 CC, c 2, art 21, sec 2-130; rep 1993, ord 93-20, sec 1.)

Article 22. Disposal of County Equipment.

Section 2-131. Director of finance; powers and duties.
(a) The director of finance shall consider requests from any agency of the County which desires to dispose of any equipment, material, or supply not needed by such agency. The director of finance shall determine whether such equipment, material, or supply should be disposed of, and shall determine the manner and method by which any sale, exchange, or other disposition shall be made.
(b) In performing the duties set forth in subsection (a), the director may request the agency involved to provide information concerning the property to be disposed. Such information may include, but is not limited to:
  (1) The kind of property and full description thereof;
  (2) Purposes for which the property is used;
  (3) Estimated value of the property;
  (4) Reasons for disposition; and
  (5) Offers, if any, made for the property.
(1983 CC, c 2, art 22, sec 2-131.)

Section 2-132. Disposition of proceeds.
All moneys received from the sale or other disposition of any personal property shall be credited to the fund from which the purchase of the property was made, or to any other fund designated at the discretion of the director of finance.
(1983 CC, c 2, art 22, sec 2-132.)

Article 23. Federal Revenue Sharing Fund.

Section 2-133. Federal revenue sharing fund.
A special trust fund entitled "Federal revenue sharing fund" is hereby created for proper accounting of receipts and disbursements of funds received pursuant to State and Local Assistance Act of 1972 (Title 1, P.L. 92-512), effective October 20, 1972, by which Act the County will be receiving revenue sharing funds from January 1, 1972 to December 31, 1976, and is required to establish a trust fund for deposit of these funds.
(1983 CC, c 2, art 23, sec 2-133.)

Article 24. Payment to County, Subsequently Dishonored.

Section 2-134. Service charge assessed.

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

(1983 CC, c 2, art 24, sec 2-134; am 2003, ord 03-104, sec 1.)

Article 25. Appropriation of Funds to Nonprofit Organizations.

Section 2-135. Purpose.

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

(1983 CC, c 2, art 25, sec 2-135; am 2014, ord 14-43, sec 1.)

Section 2-136. Definitions.

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

(1) "Conflict of interest" means a substantial probability that action taken by an individual will result in measurable direct benefits accruing to the individual as opposed to benefits accruing in general to an industry.

(2) "Director" means the director of finance of the County.

(3) "Grant" means an appropriation of public funds to a nonprofit organization for a public purpose.

(4) "Nepotism" means appointing persons to positions on the basis of their blood or marital relationship to the appointing authority, rather than on merit or ability.

(5) "Nonprofit organization" means an organization organized for other than profit-making purposes and which has a current 501(c)3 tax-exemption from the Internal Revenue Code.

(6) "Perquisite" means a privilege furnished or a service rendered by an organization to an employee, officer, director, or member of that organization to reduce the individual's personal expenses.

(1983 CC, c 2, art 25, sec 2-136; am 1986, ord 86-52, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 2; am 2012, ord 12-136, sec 1.)

Section 2-137. Eligible organizations.

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

(1) The nonprofit organization is chartered or otherwise authorized to do business in the State for charitable purposes and exempted from the Federal income tax by the Internal Revenue Service.

(2) The purposes for which the nonprofit organization is organized provide benefits to the people of the County.

(3) The service or activity to be provided by the nonprofit organization, and funded by the County, shall address educational concerns, culture and the arts, the needs of the poor, youth, the aged, those with physical or emotional disabilities, victims of crimes, victims of health or social crises, or public health and welfare of the people and the environment, as may be determined by the County.

(4) The nonprofit organization has a governing board whose members serve without compensation and have no conflict of interest between their regular occupations and the services provided by the nonprofit organization.

(5) The nonprofit organization has bylaws or policies which describe the manner in which business is conducted, including management, audit, and fiscal policies and procedures, policies on nepotism, and policies on management of potential conflict of interest.

(6) The nonprofit organization has at least one year's experience with the service or activity for which the appropriation is sought or can otherwise demonstrate to the satisfaction of the County sufficient expertise to successfully carry out the service or activity.

(7) The nonprofit organization must be licensed and accredited in accordance with applicable requirements of Federal, State and County laws.

(1983 CC, c 2, art 25, sec 2-137; am 1986, ord 86-52, sec 2; am 2012, ord 12-136, sec 1.)

Section 2-138. Conditions for grants.

Nonprofit organizations to whom a grant has been awarded shall agree to comply with the following conditions before receiving the grant:

(1) Employ and appoint persons on the basis of merit and ability;

(2) Comply with applicable Federal and State laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or handicap;

(3) Agree not to use any public funds for purposes of entertainment or perquisites;

(4) Comply with such other requirements as the director may prescribe to ensure adherence by the nonprofit organization with Federal, State, and County laws, and established standards for fiscal and program management;

(5) Allow the director, the committees of the council and their staffs, and the legislative auditor access to facilities, personnel, records, reports, files, and other related documents in order that the program, management, and fiscal practices of the nonprofit organization may be monitored and evaluated to assure the proper and effective expenditure of public funds; and

(6) Each nonprofit organization shall submit a disclosure form along with its grant application which lists any board member, officer, director or administrator that may have a conflict of interest or potential conflict of interest, including any familial relationship with any of the following:

(A) A member or members of the council;

(B) Staff appointed by a member of the council;

(C) The mayor;

(D) The managing director;

(E) The director of finance; or

(F) The corporation counsel, the assistant corporation counsel, or a deputy corporation counsel.

The disclosure form shall specify any and all mitigation measures to avoid, in fact or appearance, any conflict of interest.

(1983 CC, c 2, art 25, sec 2-138; am 1986, ord 86-52, sec 2; am 2012, ord 12-136, sec 1.)

Section 2-139. Procedure for awarding grants.

(a) All grant awards made to a nonprofit organization by the County shall be made in accordance with one of the following procedures:

(1) Grants-in-aid awarded annually in operating budget:

(A) Annually, before November 30, the director shall, for the purpose of soliciting applications, establish a sum of at least $1,000,000 to be available in the ensuing fiscal year for funding requests by nonprofit organizations. The director shall publish a notice soliciting applications in two newspapers of general circulation within the County by November 30.

(B) All applications for grants shall be submitted to the director on or before January 31 preceding the County's fiscal year, which begins on July 1. Applications shall be prepared on forms provided by the director. Applications not in conformance with the requirements of this Code may be rejected. All application forms shall include detailed information on specific, measurable outcomes and public benefits to be derived from the expenditure of County funds.

(C) The director shall submit to the council all qualifying applications as provided in sections 2-137 and 2-138 for its review and appropriation of funds. Site visitations of nonprofit organizations submitting complete applications may be conducted by the council and its designated staff, as deemed necessary by the chair of the appropriate committee, after

January 31 but prior to final action on the operating budget by the council. Any site visitations shall be publicly noticed and conducted in a manner that allows flexible councilmember participation and designated staff support.

(D) Upon favorable action by the council to appropriate funds for the grant, a written contract shall be prepared with the nonprofit organization which shall meet all legal requirements of the County and shall include program, fiscal, and audit reporting requirements sufficient to allow the director, the legislative auditor, or council to effectively monitor and evaluate the use of the grant funds. Agencies shall be notified by the director of their funding or lack thereof by August 31.

(2) Grants From District Contingency Relief Funds:

(A) Appropriations from the district contingency relief account shall be transferred to an accepting County department/agency via resolution identifying the nonprofit organization and the specific program, project, event, activity, service, equipment, materials, or supplies for which the grant shall be used.

(B) Any equipment purchased by a nonprofit organization shall be domiciled with that nonprofit organization, which shall assume any and all liability for such equipment.

(C) A contract shall be prepared with the nonprofit organization which shall meet all legal requirements of the County and shall include program, fiscal, and audit reporting requirements sufficient to allow the legislative auditor or council to effectively monitor and evaluate the use of the grant funds.

(3) Other Grants:

(A) Grant awards in excess of $25,000 to nonprofit organizations shall specifically identify the organization receiving the grant funds and the purpose for which the grant funds shall be used in an ordinance or resolution.

(B) Grant awards in excess of $25,000 to organizations that do not qualify as nonprofit organizations shall specifically identify the purpose for which the funds shall be used in an ordinance or resolution and be subject to competition in compliance with chapter 103D of the Hawaiʻi Revised Statutes.

(C) Grant awards of $25,000 or less may be authorized by the finance director for public purpose projects or programs upon written request of a funding agency or department. Such grant awards shall not be limited to nonprofit organizations but shall specifically identify the organization and program, project or event for which the grant funds shall be used and comply with the rules and regulations of the director of finance.

(b) In the event that a grantee organization is unable or unwilling to provide the public service(s) for which grant funds were appropriated, the following procedures shall apply:
   (1) For grant awards authorized as prescribed in 2-139(a)(1), the mayor may direct the finance director to solicit applications from eligible nonprofit organizations to fulfill the specific public purpose(s) for which the funds were originally appropriated for the remainder of the fiscal year. The director shall forward recommended application(s) and appropriation measure(s) to the council for its decision. Funds appropriated to a successor nonprofit organization shall not exceed the balance of unexpended County funds awarded to the original nonprofit organization.
   (2) For grant awards from the district contingency relief, the council may direct the return of the full appropriation or the balance of unexpended funds.
   (3) For other grant awards authorized as prescribed in 2-139(a)(3), the finance director may direct the return of the full grant amount or balance of the unexpended funds.

(1983 CC, c 2, art 25, sec 2-139; am 1986, ord 86-52, sec 2; am 1992, ord 92-151, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 3; am 1999, ord 99-56, sec 1; ord 99-103, sec 2; am 2001, ord 01-16, sec 2; am 2007, ord 07-52, sec 2; am 2012, ord 12-136, sec 1; am 2014, ord 14-43, sec 2.)

Section 2-140. Repealed.

(1983 CC, c 2, art 25, sec 2-140; am 1992, ord 92-151, sec 3; am 1995, ord 95-138, sec 2; am 2007, ord 07-52, sec 3; rep 2012, ord 12-136, sec 1.)

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

Nothing in this article shall be construed to apply to the appropriation of funds:
   (1) Provided to the County for a stated purpose by any person, private entity, or governmental entity; or
   (2) Made to an agency for any activity or program co-sponsored by the agency and a private or governmental entity or entities.

(1983 CC, c 2, art 25, sec 2-141.)

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) For grants awarded pursuant to section 2-139(a)(1), the nonprofit organization shall submit a written report to the council within sixty days after June 30 of the contractual year. The report shall include, but not be limited to, a detailed description focusing on specific, measureable outcomes 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 addition to any other remedy provided by law, if the nonprofit organization fails to submit the written report due within sixty days after June 30 of the contractual year within the allotted time, the County shall require the nonprofit organization to return all grant funds awarded and deem the nonprofit ineligible to receive future grant awards for at least the following fiscal year, and for all subsequent fiscal years until such time as that written report is submitted to, and accepted by, the council.
(e) Should the written report due within sixty days after June 30 of the contractual year be deemed by the County to contain insufficient information, the nonprofit organization shall be notified of the deficiencies and shall provide the additional information within thirty days of notice or the nonprofit organization will be deemed to be in violation of this section.

(1986, ord 86-52, sec 2; am 1995, ord 95-138, sec 2; am 1997, ord 97-103, sec 4; am 1999, ord 99-103, sec 3; am 2007, ord 07-148, sec 2; am 2012, ord 12-136, sec 1.)

Section 2-142.1. Rules.

(a) The director shall adopt rules as may be necessary to meet the requirements of this article.
(b) All application forms shall include a right to audit clause.
(c) All application forms shall include, "As part of this application, you acknowledge that any funds awarded will be restricted for the purposes stated in the application except for a maximum ten percent for administrative and overhead costs."

(1986, ord 86-62, sec 2; am 2012, ord 12-136, sec 1.)

Section 2-142.2. Repealed.

(1995, ord 95-138, sec 2; rep 2012, ord 12-136, sec 1.)

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 CC, c 2, art 26, sec 2-143.)

Section 2-144. [Former] Repealed.
(1983 CC, c 2, art 26, sec 2-144; rep 1997, ord 97-81, 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 shall set the salary for the individual deputies based upon the individual's professional experience and performance.
(1997, ord 97-81, sec 1.)

Section 2-145. Repealed.
(1983 CC, c 2, art 26, sec 2-145; rep 1997, ord 97-81, sec 1.)

Section 2-146. Repealed.
(1983 CC, c 2, art 26, sec 2-146; rep 1997, ord 97-81, sec 1.)

Section 2-147. Repealed.
(1983 CC, c 2, art 26, sec 2-147; rep 1997, ord 97-81, sec 1.)

Section 2-148. Repealed.
(1983 CC, c 2, art 26, sec 2-148; am 1988, ord 88-57, sec 2; rep 1997, ord 97-81, sec 1.)

Section 2-149. Repealed.
(1983 CC, c 2, art 26, sec 2-149; am 1988, ord 88-57, sec 3; rep 1997, ord 97-81, sec 1.)

Section 2-150. Repealed. *
(1983 CC, c 2, art 26, sec 2-150; rep 1997, ord 97-81, sec 1.)

*** Editor's Note:** Section 2-150, "Salary Schedule," was renumbered 2-144 by Ordinance 97-81 and consequently no longer exists.

Article 27. Numbering, Form, Revision of Ordinances; Supplementation of Hawai'i County Code.

Section 2-151. Numbering of ordinances.
All ordinances of the County shall receive a number assigned by the County clerk consisting of the last two digits of the calendar year during which the ordinance was adopted, followed by a hyphen and a number corresponding to the order in which the ordinance was adopted during the calendar year.
(1983, ord 911, sec 1.)

Section 2-152. Form of ordinances amending the Hawaiʻi County Code.

All bills and ordinances amending the Hawaiʻi County Code shall refer to the chapter, article, division, section, and subsection to be amended and shall be written in the form prescribed by the corporation counsel.
(1983, ord 911, sec 1.)

Section 2-153. Revision of ordinances; supplementation of Hawaiʻi County Code.

(a) Semiannually, the County clerk shall prepare for publication a loose-leaf supplement to the Hawaiʻi County Code. The supplement shall contain all ordinances of a general and permanent nature enacted subsequent to the last revision, republication, or supplement to the Hawaiʻi County Code.

(b) In preparing the supplement to the Hawaiʻi County Code or the republication of a new edition, the County clerk shall review all ordinances to be included and may:
   (1) Number and renumber chapters, sections, and parts of sections;
   (2) Rearrange sections;
   (3) Change reference numbers to agree with renumbered chapters, divisions, or sections;
   (4) Substitute the proper section or chapter numbers for the terms "the preceding section," "this ordinance," and like terms;
   (5) Strike out figures where they are merely a repetition of written words;
   (6) Change capitalization for the purpose of uniformity;
   (7) Correct manifest clerical or typographical errors;
   (8) Correct the spelling of Hawaiian words and names;
   (9) Change any male or female gender term to a term which is neutral in gender when it is clear that the ordinance is not applicable only to members of one sex without altering the sense, meaning, or effect of any act; and
   (10) Make such other changes in any ordinance incorporated in the supplements as shall be necessary to conform the style thereof as near as may be with that of the last revision of the Hawaiʻi County Code; provided that the changes shall not alter the sense, meaning or effect of any ordinance.

   The matter set forth in the supplements shall be prima facie evidence of the law.

(c) The County clerk shall prepare and publish a June 30, 2005 edition of the Hawaiʻi County Code. After republication, the County clerk and the director of information technology shall ensure that the Hawaiʻi County Code is posted on the county's website and is updated as soon as possible at the end of each quarter. Use of the Code on the county website, however, is at the sole risk of the user. The County makes no warranty or representation of any kind regarding its content and shall not be held responsible for any unintentional omission, addition, or error in or loss of service or data; or for any breakdown, interruption, or delay in service.

(1983, ord 911, sec 1; am 2005, ord 05-69, sec 2; am 2011, ord 11-103, sec 4.)

Article 28. County Seal.

Section 2-154. County seal description.

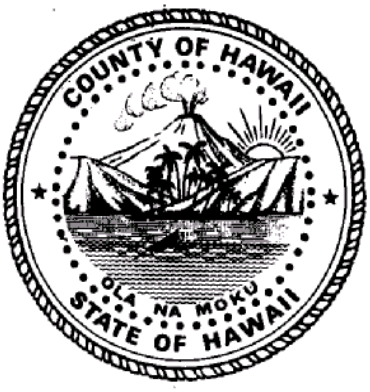
(a) The seal of the County shall be circular in shape, approximately two inches in diameter, and the design being described as follows:

(1) Description — A Hawaiian scene showing the mountain, the sun, coconut trees and a canoe on the ocean.

(2) Supporters — In the center of the seal, coconut trees are shown below an erupting mountain, flanked on the right by the sun with beaming rays. The lower half of the seal shows the ocean with a man in an outrigger canoe. The outside of the seal is surrounded by the legend "County of Hawai'i — State of Hawai'i."

(3) Motto — "Ola Na Moku," meaning the Islands Prosper, is also shown on the seal.

(b) A line drawing or replica of the County seal described in subsection (a) is shown as follows:



(c) The impress of the County seal described in subsection (a) is shown as follows:

(1985, ord 85-28, sec 1; am 1990, ord 90-52, sec 2.)

Section 2-155. Unauthorized use of seal and penalties.

(a) Whoever knowingly displays any facsimile of the seal of the County in, or in connection with, any advertisement, poster, or circular, for the purpose of conveying, or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the County or by any department, agency, or instrumentality thereof, shall be guilty of a misdemeanor.

The preceding provision shall not be construed to apply to the use of a facsimile of the seal in any newspaper, periodical, book, pamphlet, or stationery where the facsimile of the seal is printed for informational purposes only to indicate that any article or printed matter therein originated from authorized sources of the County.

(b) Whoever, except when authorized in writing by the County council for official use of the County, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any facsimile of the seal of the County, or any substantial part thereof, shall be guilty of a misdemeanor.

The word "sell" shall be broadly construed to include transactions involving cash donations to the seller and/or the seller's agent or representative.

(c) The word "facsimile," as used in this section, shall be the use of the seal as described or impressed or the gold color replica or any combination thereof found in section 2-154 of this article.

(1985, ord 85-28, sec 1.)

Article 29. Self-Insurance Fund.

Section 2-156. Creation of fund.

Pursuant to section 10-12, Hawaiʻi County Charter, a special fund to be known as the self-insurance fund is hereby created.

(1986, ord 86-35, sec 2.)

Section 2-157. Funding.

The self-insurance fund shall be funded by an initial appropriation of $500,000. Thereafter, there shall be an annual appropriation to the self-insurance fund in an amount to be determined by the mayor and County council.

(1986, ord 86-35, sec 2.)

Section 2-158. Expenditures from the self-insurance fund.

Subject to approval by the County council, the moneys in the self-insurance fund shall only be utilized as follows:

(1) When the amount in the self-insurance fund is less than $3,000,000, the fund shall only be used to pay claims, settlements, and judgments, exclusive of workers' compensation claims, against the County where the amount of such claim, settlement, or judgment is in excess of $1,000,000.

(2) When the amount in the self-insurance fund is more than $3,000,000, the fund shall be used to pay all claims, settlements, and judgments against the County, exclusive of workers' compensation claims.

(1986, ord 86-35, sec 2.)

Section 2-159. Dissolution of the fund.

The self-insurance fund may not be dissolved or used for any purpose not specified in section 2-158, unless such dissolution or nonspecified use is approved by the unanimous vote of the County council.

(1986, ord 86-35, sec 2.)

Section 2-160. Administration of the fund.

The director of finance shall administer the special self-insurance fund which shall include investment of the fund.

(1986, ord 86-35, sec 2.)

Article 30. Gifts or Donations; Dedications.

Section 2-161. Gifts or donations.

For the purposes of this article, gifts and donations as accepted on behalf of the County shall mean money, securities, or other personal property or real estate (hereinafter referred to as "real property") or any interest in real property.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

Section 2-162. Procedures of acceptance; money, securities, or personal property.

(a) Except as otherwise provided in this article, gifts or donations of money, securities, or personal property which fall within the capitalization procedures of the department of finance may be accepted by resolution approved by the council.

(b) A gift or donation of money, securities, or personal property not covered by the capitalization procedures shall be submitted to the council by letter for its approval.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

Section 2-162.1. Procedures for accepting money, securities, personal property or real property derived from community benefit assessments or conditions of land use approvals.

(a) Except as provided under the park dedication code, a gift or donation of money, securities, personal property or real property which is to be derived or acquired as a result of a community benefit assessment or by any condition of land use approval issued by the County or any of its agencies (including the council) shall only be accepted after consultation with and approval by the County council pursuant to this section. Likewise, any in-lieu determinations by the planning director shall be subject to the review and approval of the council.

The planning department shall maintain a listing of all community benefit assessments and exactions on permit or approval conditions, and shall submit an annual report on the same to the council on or before the first day of March for the council's review and use in the formulation of the capital budget and long-term strategic plan for the County. The report shall include, as a minimum, the following information:

(1) The name of the relevant parties, landowners, donors, contributions;
(2) The identification of the permit or approval name and number;
(3) The nature and extent of the assessments or exactions, and the method by which any undetermined assessments or exactions are to be determined, valued and applied;
(4) The deadlines and other timetables in which the assessments or exactions are to be determined and delivered or performed;
(5) Financial impact statements for the assessment or exaction reported.

(b) The dedication of roads and/or other infrastructure required as part of land use approvals shall be transmitted by resolution to the council using the procedure set forth in section 2-162.2, provided the department(s) or agency(ies) having oversight and maintenance of the infrastructure to be dedicated has been consulted, performed all necessary inspections, and recommends approval pursuant to the Hawaiʻi County Code.

(1992, ord 92-147, sec 1; am 2003, ord 03-148, sec 2.)

Section 2-162.2. Procedures for acceptance; other real property.

A gift or donation of real property, which is not derived from a community benefit assessment or condition of land use approval, shall be processed in the following manner:

(1) An offer to donate real property shall be submitted in writing from the donor to the director of finance (hereinafter referred to as the "director").
(2) The offer shall state the purpose of the donation and shall include a copy of the recorded deed, any maintenance or association agreements, conditions, covenants and restrictions (CC&R's), and any reservation and encumbrances attached to the real property.
(3) The donor shall also provide any other information or documentation regarding the real property as the director may request.
(4) The director shall transmit the offer to appropriate departments and agencies, including but not limited to the departments of public works, planning, and water supply, and real property tax office, for their review and comment. The director shall then forward to the council a status of real property taxes due, including delinquencies, interest and penalties, a recommendation and a proposed resolution.

(5) The council may not accept the donation of real property unless there is a finding that the acceptance of the subject real property is in the public interest.
(6) If the real property is accepted, transfer documents shall be prepared by the County.

(2003, ord 03-148, sec 2.)

Article 31. Sister City Relationships.

Section 2-163. Purpose.

The purpose of this article is to establish criteria and formal procedures for the establishment and maintenance of sister city relationships.

(1993, ord 93-31, sec 1.)

Section 2-164. Criteria.

The County of Hawai‘i may consider the establishment of a sister city relationship with a city or county that:

(a) Shares a direct historical, cultural, or ethnic relationship with the people of the County of Hawai‘i;
(b) Offers reciprocative educational, technological, or economic benefits, including special knowledge, know-how or expertise that is beneficial to the County of Hawai‘i's businesses, industries, and labor force;
(c) Is similar in population size or character to the County of Hawai‘i which makes for analogous problems and concerns and the opportunity to exchange meaningful ideas and applicable solutions for either or both places; or
(d) Recognizes other common bonds that are mutually beneficial to the citizens of both places and serve as a liaison for the exchange of information and other lifestyle and practical values.

(1993, ord 93-31, sec 1; am 2003, ord 03-117, sec 2.)

Section 2-165. Establishment of sister city relationship.

(a) The sister city relationship shall be established by the adoption of a council resolution approving the establishment of the sister city tie and the signing of a formal agreement between the mayor of the County of Hawai‘i and the appropriate public official of the proposed sister city that such ties exist. The agreement shall contain a proposed program, developed by the office of the mayor and the proposed sister city, that will be instituted by both places to make these ties lasting and purposeful.
(b) County funds shall be appropriated to provide for the exchange of gifts or goodwill missions to promote the newly established sisterhood and the concept of mutual understanding. Such goodwill missions may include student exchanges, art, cultural or industrial exhibits and athletic team visits.
(c) Any sister city relationship in which there is a failure to implement the agreement or to exchange gifts or goodwill missions within a five year period may result in the termination of the agreement and relationship by council resolution.

(d) Existing sister cities which have been active during the five years prior to the enactment of this article, and which continue to be active, shall not be required to comply with this article. An existing sister city shall be deemed to be active if there has been an exchange of gifts or goodwill missions within a five year period.

(1993, ord 93-31, sec 1; am, ord 93-102, sec 1; am 2003, ord 03-117, sec 2.)

Section 2-166. Protocol officer.

(a) A protocol officer, who shall be designated by the mayor, shall be responsible for the implementation and monitoring of the formal agreement signed by the County of Hawaiʻi and the sister city. The protocol officer serves at the discretion of the mayor for the term of office of the mayor and may be removed by the mayor.

(b) The protocol officer shall be responsible for informing the County of Hawaiʻi's existing sister cities of the terms and conditions of this article.

(c) The protocol officer shall submit an annual report by July 31 to the council covering the prior period July 1 to June 30 summarizing the activities conducted with the County of Hawaiʻi's sister cities and identifying the sister cities for which no activity has occurred within five years.

(d) Upon the recommendation of the protocol officer that a sister city relationship should be terminated pursuant to section 2-165(c), the mayor may submit a resolution to the council terminating the sister city relationship. Prior to initiating the termination resolution, the protocol officer shall notify, in writing, principals involved in the sister city relationship, such as local business and cultural groups, about the county's intent to terminate the sister city relationship. This subsection shall not preclude the council from initiating a termination resolution.

(1993, ord 93-31, sec 1; am, ord 93-102, sec 1; am 2003, ord 03-117, sec 2.)

Article 32. Recovery of Rescue Expenses.

Section 2-167. Definitions.

As used in this article the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) "County" means the County of Hawaiʻi.

(b) "Gross negligence" means conduct which is either intentional or committed under circumstances exhibiting a reckless disregard for the safety of oneself or of others.

(c) "Person" means any individual, corporation, association, partnership, firm, trustee, or legal representative.

(d) "Recoverable expenses" means those expenses that are reasonable, necessary and allocable to the rescue operation. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine fire fighting. Expenses allowable for recovery may include, but are not limited to:

(1) Materials and supplies acquired, consumed and expended specifically for the purpose of the rescue operation.

(2) Compensation of employees for the time and efforts devoted specifically for the purpose of the rescue operation.

(3) Rental or leasing of equipment used specifically for the rescue operation such as protective equipment or clothing, scientific and technical equipment, helicopters, boats or bulldozers.
(4) Repair costs for equipment owned by the County that is damaged during the rescue operation.
(5) Replacement costs for equipment owned by the County that is damaged beyond use or repair, if the equipment was a total loss and the loss occurred during the rescue operation.
(6) Special technical services specifically required for the rescue operation such as costs associated with the time and efforts of technical experts or specialists not otherwise provided by the County.
(7) Other special services specifically required for the rescue operation.
(8) Medical expenses incurred as a result of the rescue operation.
(9) Legal expenses that may be incurred as a result of the rescue operation, including efforts to recover expenses pursuant to this article.

(e) "Rescue operation" means the effort to free or remove an individual or individuals placed in a situation of distress or peril from any confinement, violence or danger.

(1993, ord 93-77, sec 1.)

Section 2-168. Gross negligence.

Any and all persons who, because of gross negligence, cause or contribute to the placement of an individual or individuals in a situation of distress or peril which results in a rescue operation shall be liable to the County for all recoverable expenses resulting from the rescue operation. This shall be in addition to any and all penalties provided by law.

(1993, ord 93-77, sec 1.)

Section 2-169. Recovery of expenses.

(a) County personnel and departments involved in a rescue operation shall keep an itemized record of recoverable expenses resulting from the rescue operation. Promptly after completion of the rescue operation, the appropriate department shall certify those expenses to the office of the corporation counsel.
(b) Submission of Claim. The office of the corporation counsel, on behalf of the County, shall submit a written itemized claim for the total recoverable expenses incurred by the County for the rescue operation to the responsible person or persons and a written notice that unless the amounts are paid in full within thirty days after receipt of the claim and notice, the County will file a civil action seeking recovery for the stated amount.
(c) Civil Suit. The County may bring a civil action for the recovery of all recoverable expenses against any and all persons causing or responsible for the placement of the individual or individuals in a situation of distress or peril which results in a rescue operation.

(1993, ord 93-77, sec 1.)

Article 33. Development Agreement with the State for Mass Transportation Programs.

Section 2-170. Authorization to executive branch.

The executive branch, with the concurrence of the council by resolution, shall be authorized to enter into a development agreement with the governor of the State of Hawaiʻi pursuant to section 51D-5*, Hawaiʻi Revised Statutes, for the purposes of the support and/or development of mass transportation programs. The development agreement shall:

(1) Describe the type of mass transportation project, the areas to be served, and anticipated ridership;
(2) Provide a breakdown of costs and identify the anticipated funding sources, including the amount being requested from the transit fund and the source of County matching funds, together with a phasing schedule of both costs and funding sources, and a breakdown of actions taken or required to be taken in order to provide for such matching funds;
(3) Provide a schedule of disbursements from the transit fund which shall be allowed;
(4) Provide a timetable for the development of the mass transportation project; and
(5) Provide for amendment at any subsequent time by mutual consent of the parties, subject to legislative disapproval as provided for in this section.

(1992, ord 92-10, sec 2.)

*** Editor's Note:** Chapter 51D, Hawaiʻi Revised Statutes, was repealed.

Article 34. Fees and Charges for Special Duty Services of the Hawaiʻi County Police Department.

Section 2-171. Definition.

"Special duty" means the performance of a service for a person, organization, or governmental entity, other than the police department, by an officer of the Hawaiʻi County police department acting in a police capacity, in return for which the officer receives a direct or indirect payment or compensation of some kind.
(1994, ord 94-86, sec 1.)

Section 2-172. Administration.

The chief of police shall be responsible for the administration of the processing of requests for the services of special duty police officers of the Hawaiʻi County police department.
(1994, ord 94-86, sec 1.)

Section 2-173. Fees for special duty requests.

Any person or entity requesting the services of a special duty police officer shall be assessed an administrative fee in accordance with the rules established by the chief of police. This fee shall be assessed by the police department and shall be in addition to any charge assessed for the services of the special duty police officer.
(1994, ord 94-86, sec 1.)

Section 2-174. Waiver.

The chief of police may waive the administrative fee when the special duty services are for an event or activity mandated by law or conducted by the Federal, State, or County government.

The chief of police shall not waive the administrative fee when special duty services are provided to a private person or entity performing pursuant to a government contract or to the renting or leasing of a government facility for a nongovernmental event.
(1994, ord 94-86, sec 1.)

Section 2-175. Rules and regulations.

The chief of police shall adopt rules and regulations in accordance with chapter 91, Hawai‘i Revised Statutes governing the processing of requests for special duty police officers, including the fees assessed for services of special duty police officers.
(1994, ord 94-86, sec 1.)

Section 2-175.1. Employment of staff; funding.

The chief of police is empowered to employ personnel to carry out the purpose of this article. All employee costs, including fringe benefits, shall be provided from fees collected pursuant to section 2-173 of this article. Employment of such personnel shall be contingent on an adequate level of funding being generated by the fees collected to cover all costs.
(1996, ord 96-11, sec 1.)

Article 35. Geothermal Asset Fund.

Section 2-176. Creation of fund.

(a) Pursuant to section 10-12, Hawai‘i County Charter, a special fund to be known as the geothermal asset fund is created.
(b) The Geothermal asset fund shall be funded by payments made by Puna Geothermal Venture, a Hawai‘i Partnership, its successors or assigns and the State of Hawai‘i for the purpose of compensating persons impacted by geothermal energy development activities pursuant to the provisions incorporated in Geothermal Resource Permit No. 2.
(c) Payments from the asset fund shall be administered and expended in accordance with rules, regulations, and procedures developed for that purpose and adopted by the windward planning commission in accordance with chapter 91, Hawai‘i Revised Statutes.

(d) Expenses incurred by the windward planning commission such as administrative costs related to geothermal resource permits, geothermal development compliance activity, and processing of claims against the asset fund shall not be charged to the asset fund.
(e) All interest and earnings accrued from the money and assets deposited in the asset fund shall be expended for the purposes for which this fund has been created.
(f) No claim made pursuant to this section will be deemed a claim against the county, nor will the payment of any claim be construed as an admission of fault by the county or its officers, employees or agents.
(g) The denial of any claim made under this Geothermal Asset Fund, in whole or in part, shall not prevent the claimant from pursuing any other remedy at law against the geothermal permittee and State of Hawaiʻi.
(1995, ord 95-74, sec 1; am 2009, ord 09-118, sec 12.)

Article 36. Geothermal Relocation and Community Benefits Program.

Section 2-177. Establishment.

The planning department is hereby authorized to establish a geothermal relocation and community benefits program for the relocation of owner-occupants residing near the Puna Geothermal Venture's plant and who want to be permanently relocated, and to fund expenditures for the benefit of Lower Puna, as defined herein, including, but not limited to, road improvements, water infrastructure development, land acquisition, parks and recreational facility needs, civil defense and mass transit improvements.
(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

Section 2-178. Purchase and sale of affected properties.

Notwithstanding any other provision of this Code, the planning director is hereby authorized to purchase the affected properties by negotiation for not more than one hundred thirty percent of the assessed value, as determined by the real property tax division of the department of finance and dispose of the affected properties by public auction or pursuant to article 19 of chapter 2, with the exception of the requirement for council resolution found in section 2-111(1).
(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

Section 2-179. Creation of geothermal relocation and community benefits fund.

Pursuant to section 10-12, Hawaiʻi County Charter, the special fund known as the geothermal relocation revolving fund is hereby renamed the geothermal relocation and community benefits fund. This fund shall be administered by the planning department.
(1996, ord 96-2, sec 1; am 1998, ord 98-25, sec 1; am 2008, ord 08-37, sec 1.)

Section 2-180. Funding.

The geothermal relocation and community benefits program shall be funded by proceeds from the following sources:

(1) Geothermal royalties received from the department of land and natural resources.
(2) Proceeds from the sale of properties purchased under this program.
(3) Rental fees from any of the properties purchased under this program.

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

Section 2-181. Expenditures from fund.

The proceeds from the fund shall be used for the necessary expenses in administering and carrying out the purposes of the geothermal relocation and community benefits program. A minimum balance of $1,000,000 shall be maintained in the fund for expenditures relating to geothermal relocation. Expenditures relating to the geothermal relocation and community benefits program include, but are not limited to:

(1) The costs of any necessary appraisals required under this program;
(2) The payment of necessary fees and expenses;
(3) The costs for the purchase of an affected dwelling and property in accordance with this chapter, if necessary;
(4) The costs necessary to dispose of or rent affected dwelling and property; and
(5) Expenditures for public purposes including road improvement, water infrastructure, land acquisition, parks and recreational facility needs, civil defense, and mass transit improvements.
    (A) Funds shall be expended in Lower Puna, which is defined as extending from Hawaiian Paradise Park subdivision to Kalapana and including Orchidland Estates, Ainaloa, Hawaiian Beaches, Hawaiian Shores, Kapoho, Pāhoa, Nānāwale, Leilani Estates, and other communities proximate to Pāhoa.
    (B) Expenditures under this subsection shall be made in accordance with appropriations adopted by the Hawai‘i County Council after receiving recommendations from the planning director.

(1996, ord 96-2, sec 1; am 2008, ord 08-37, sec 1.)

Section 2-182. Promulgation authority.

The planning director is authorized to promulgate rules and regulations for implementation of the relocation program.

(1996, ord 96-2, sec 1.)

Article 37. Family Violence Advisory Commission.

Section 2-183. Organization.

There shall be a commission composed of a minimum of nine but not to exceed fifteen members who shall be appointed by the mayor and may be removed by the mayor. The commission shall:

(1) Prevent and reduce family violence in the County of Hawaiʻi by addressing island-wide issues and ramifications of family violence.
(2) Promote public awareness and education about family violence in the County of Hawaiʻi.
(3) To act to improve upon services offered to victims and their families.
(4) Promote and facilitate inter-agency training on the dynamics of family violence.
(5) Identify community concerns and assist with the study and investigation of resources, activities and political attitudes in the community that would assist the commission to address family violence.
(6) Enhance communication, promote cooperation and coordinate services between member agencies.
(7) Offer judicial and inter-agency training to provide the impetus for preventive measures and education directed at the community-at-large with emphasis on our children and youth.

(1997, ord 97-111, sec 1.)

Section 2-184. Membership and tenure.

(a) All members shall be appointed by the mayor and shall serve terms co-terminus with that of the mayor, which automatically ends at 12:00 noon on the first Monday of December following any mayoral election.
(b) At the discretion of the mayor, reappointments are permissible.
(c) Ex officio membership shall be permitted but these members shall not have voting privileges or qualify for mileage and other financial reimbursements. Ex officio members shall be selected according to their knowledge and experience in dealing with family and domestic violence.
(d) Any vacancy may be filled upon the recommendation of the commission and approval of the mayor.
(e) Members shall receive no compensation but shall be reimbursed mileage and other expenses as preapproved by the commission.

(1997, ord 97-111, sec 1.)

Section 2-185. Oath of affirmation.

Before entering upon the duties of their office, each member shall subscribe to an oath of affirmation before some person duly qualified to administer oaths.

(1997, ord 97-111, sec 1.)

Section 2-186. Rules of procedure; quorum; meetings.

The commission shall have the authority to establish its rules of procedure for the conduct of its business. It shall specify that a quorum shall be at least fifty percent of the total commission's membership. All proceedings of the commission shall be in conformation to the requirements of chapter 92, Hawai'i Revised Statutes, Public Agency Meetings and Records (Sunshine Law).
(1997, ord 97-111, sec 1.)

Section 2-187. Powers and duties of the commission.

(a) It shall be the duty of the commission to act in an advisory capacity to the mayor concerning matters pertaining to the subject of domestic and family violence and the commission's effort to reduce and prevent domestic and family violence in the County of Hawai'i, to act to improve upon the services to victims and their families, to increase public awareness and education about family violence throughout the island of Hawai'i, to recommend and assist in the implementation of procedural and other changes within the agencies and organizations to further the goals of the commission and to recommend and assist in the creation of such entities as it finds necessary to implement and carry out those goals. The commission shall enhance communication, promote cooperation and coordinate services between member agencies in order to seek overall improvement of services to the public and avoid costly duplication of services. The commission shall, from time to time, inquire of agencies as to their goals and objectives in furthering the purposes of the commission.

(b) The commission shall initiate and pursue efforts to secure Federal, State, County and private sector grants and funding to carry out its goals and objectives.

    (1) It shall serve as the repository of said funds or shall provide a mechanism to do so and shall be responsible for the timely accounting of same.

(1997, ord 97-111, sec 1.)

Article 38. Claims and Actions Against County Officers, Employees and Former Employees.

Section 2-188. Defense by the County; punitive damages.

(a) Notwithstanding any other provision of law, if a civil complaint is filed against an officer, employee or former employee and exemplary or punitive damages are requested, the County is authorized to pay that part of a judgment that is for punitive or exemplary damages upon adoption of a resolution by the council, which finds all of the following:

    (1) The act or omission of the officer, employee or former employee was done within the course and scope of that person's employment as an employee of the County, unless that determination has already been made pursuant to State law.

(2) At the time of the act giving rise to the liability, the action or failure to act of the officer, employee or former employee was in good faith, without actual malice, to serve the County and in the apparent best interests of the County.
(3) Payment of the claim or judgment would be in the best interests of the County.
(4) It is in the public interest to indemnify the officer, employee or former employee for all damages that may be assessed, including punitive damages, so that the corporation counsel may represent such named officer, employee or former employee.

(b) Representation by the corporation counsel of such officer, employee or former employee is not an admission of liability by the council of the County of Hawaiʻi.

(c) Nothing in this article shall affect any code or judicially established decree prohibiting the award of punitive damages against the County nor shall it be construed as a waiver of any immunity the County might possess, including a waiver of the County's immunity from liability for punitive damages under section 1981, 1983, or 1985 of title 42 of the United States Code.

(1998, ord 98-86, sec 2.)

Article 39. Workforce Innovation and Opportunity Act Program.

Section 2-189. Established.

There is established, within the County of Hawaiʻi, a Workforce Innovation and Opportunity Act program which shall be under the direction and supervision of the mayor.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-190. Purpose.

The purpose of this program is to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy by implementing the Workforce Innovation and Opportunity Act of 2014.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-191. Powers and duties.

The County shall have, without limitation, all powers necessary and appropriate to carry out its duties and functions under the Workforce Innovation and Opportunity Act of 2014.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-192. Workforce innovation and opportunity board.

(a) A workforce innovation and opportunity board, subject to certification by the governor of the State, is established. Pursuant to the Workforce Innovation and Opportunity Act of 2014, its:
(1) Members shall be appointed by the mayor.

(2) Membership shall include representatives of government agencies, education, labor, and business and satisfy the Act's requirements.
(3) Chairperson must be elected from among the business representatives.

(b) The board shall have all powers, duties, and functions required to implement within the Island of Hawai'i, in partnership with the mayor, the Workforce Innovation and Opportunity Act of 2014.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-193. Creation of fund.

Pursuant to section 10-12, Hawai'i County Charter, a special fund to be known as the Workforce Innovation and Opportunity Act program fund is established.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-194. Funding.

The Workforce Innovation and Opportunity Act program shall be funded by Federal grants or County funds, or both.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-195. Expenditures from fund.

The proceeds from the fund shall be used for the necessary expenditures of administering and carrying out the Workforce Innovation and Opportunity Act of 2014. Every expenditure shall comply with the requirements of that law.

The administrator of the office of housing and community development is authorized to promulgate rules and regulations, if necessary, for the implementation of the Workforce Innovation and Opportunity Act program.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-196. Impairment of Federal funds.

If any part of the Charter, this Code, or this article is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the County, under the Workforce Innovation and Opportunity Act of 2014, the conflicting part of the Charter, this Code, or this article is inoperative to the extent of the conflict and with respect to the agencies directly affected. This finding shall not affect the operation of the remainder of these laws in their application to the agencies concerned.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Section 2-197. Termination of fund.

Upon either the termination of the Workforce Innovation and Opportunity Act of 2014, or the withdrawal of the County from participation in the program, the Workforce Innovation and Opportunity Act program fund shall be terminated. Prior to termination, any remaining proceeds in the fund shall be disposed of in accordance with federal requirements.

(2000, ord 00-43, sec 3; am 2015, ord 15-65, sec 2.)

Article 40. Department of Environmental Management.

Section 2-198. Definitions.
(a) "Director" means the director of the department of environmental management.
(b) "Department" means the department of environmental management.
(c) "Commission" means the environmental management commission.
(2005, ord 05-22, sec 1.)

Section 2-199. Composition of department.
There shall be a department of environmental management consisting of a director, the necessary staff and an environmental management commission.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

Section 2-200. Statement of policy.
The department of environmental management is established to protect, preserve, and enhance our environment by promoting the wise management of our waste.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

Section 2-201. Appointment and qualifications of department head.
The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five years' administrative experience in a related field.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

Section 2-202. Powers, duties and functions.
The department of environmental management shall manage solid waste, wastewater, and recycling programs of the County, and exercise other functions prescribed by ordinance.
The department shall administer this article as well as chapters 20 and 21 through the director. The director may delegate to any person such power and authority vested in the director as the director deems reasonable and proper for the effective administration of these chapters, except the power to make rules. The director may adopt, amend and repeal rules relating to solid waste, wastewater and recycling.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

Section 2-203. Divisions within department.
(a) The department of environmental management shall be divided under the director into the following divisions:
    (1) Wastewater Division. The wastewater division shall be responsible for the construction, maintenance, and operation of all sewage programs and facilities operated by and for the County.
    (2) Solid Waste Division. The solid waste division shall be responsible for the construction, maintenance, and operation of all solid waste programs and facilities operated by and for the County.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1.)

Section 2-204. Enforcement.

(a) If the director determines that any person has violated or is violating any provision of this article or chapters 20 or 21 or any rule adopted pursuant to these chapters, the director may do any one or more of the following:
   (1) Issue an order assessing an administrative penalty for any past or current violation;
   (2) Require compliance immediately or within a specified time; and
   (3) Commence a civil action in the circuit court for appropriate relief, including a temporary, preliminary, or permanent injunction, the imposition and collection of civil penalties, or other relief.

(b) Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with section 2-206.

(c) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the commission for a hearing at a time and place specified in the notice and answer the charges complained of.

(d) Any hearing conducted under this section shall be conducted as a contested case under chapter 91. If after a hearing held pursuant to this section, the commission finds that a violation or violations have occurred, the commission shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the violation or disposals involved, or for the taking of such other corrective action as may be appropriate. If, after a hearing on an order or penalty contained in a notice, the commission finds that no violation has occurred or is occurring, the commission shall rescind the order or penalty. Any order issued after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or disposals.

(e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the County to collect the administrative penalty which shall be a government realization. In any proceeding to collect the administrative penalty imposed, the director need only show that:
   (1) Notice was given;

(2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;
(3) The administrative penalty was imposed; and
(4) The penalty remains unpaid.

(2005, ord 05-22, sec 1.)

Section 2-205. Penalties.

Any person who violates this chapter or chapters 20 or 21, any rule adopted pursuant to these chapters, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than $1,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.
(2005, ord 05-22, sec 1.)

Section 2-206. Administrative penalties.

In addition to any other administrative or judicial remedy, the director is authorized to impose by order the penalties specified in section 2-205. If any party is aggrieved by the decision of the commission, the party may appeal in the manner provided in chapter 91 to the circuit court; provided that the operation of a cease and desist order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction.
(2005, ord 05-22, sec 1.)

Section 2-207. Environmental management commission.

There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in section 13-4 of the Hawaiʻi County Charter. The environmental management commission shall advise the department on solid waste and wastewater programs, waste reduction strategies, recycling, litter control, community involvement, and other issues, including any pilot project or program, related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance. The commission shall also provide its comments and recommendations on these matters to the council. The commission shall hear and determine appeals from decisions of the director, including orders and denials of variances.

The director and commission shall each submit comments and recommendations on all legislation relating to the functions and duties of the department, including any ordinance to amend chapter 20 or chapter 21 of this Code, to the council prior to council action. Comments and recommendations shall be provided to the council within forty five days of receipt. In the event that the commission fails to act within the forty-five-day review period, such inaction shall be considered as an unfavorable recommendation.
(2001, ord 01-110, sec 2; am 2005, ord 05-22, sec 1; am 2012, ord 12-114, sec 1.)

Article 41. Disaster and Emergency Fund.

Section 2-208. Creation of fund; purpose.

(a) Pursuant to section 10-12, Hawai‘i County Charter 2010, a special fund to be known as the disaster and emergency fund is created.

(b) The purpose of the disaster and emergency fund is to accumulate sufficient supplemental financial resources to respond to public health and safety emergencies, and to rebuild, repair, or replace County facilities and infrastructure damaged by natural or human-caused disasters or emergency events.

(2004, ord 04-4, sec 2; am 2011, ord 11-130, sec 2.)

Section 2-209. Funding.

(a) Each fiscal year, the minimum amount to be appropriated into the disaster and emergency fund shall be $250,000.

(b) The council hereby establishes a policy for the disaster and emergency fund to have a targeted funding amount of $10,000,000. This policy does not preclude the use of the funds for any reason listed in section 2-210 even if the targeted amount is not met.

(c) Additional funds may be deposited in the disaster and emergency fund from state or federal grants, the Federal Emergency Management Agency, private sources, and any other source of revenue.

(2004, ord 04-4, sec 2; am 2006, ord 06-98, sec 1; am 2011, ord 11-130, sec 3.)

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

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

(1) To repair County facilities and infrastructure damaged by a natural or human-caused disaster or emergency.

(2) To clean up County property, including roads, drainage, and sewage systems, damaged by a natural or human-caused disaster or other emergencies when such action serves a public purpose.

(3) To provide immediate response for services to deal with public health and safety risks due to a natural or human-caused disaster or emergency in the form of personnel, equipment, materials, supplies, and service contracts.

(4) To match federal, state, or private grants-in-aid individually or in any combination to develop or restore public property to a safe and useable condition.

(5) To pay for operational expenses of the County after a disaster or emergency when the County is unable to realize revenue at sufficient levels due to the disaster or emergency.

(6) To pay for administrative expenses, which shall not exceed five percent of this fund except as indicated in (5) above. For the purposes of this section, administrative expenses are defined as staff or contracted salaries, and related fringe benefits.

(2004, ord 04-4, sec 2; am 2006, ord 06-98, sec 2; am 2011, ord 11-130, sec 4.)

Section 2-211. Dissolution of the fund.

The disaster and emergency fund shall not be dissolved unless such dissolution is approved by a two-thirds vote of the County council.
(2004, ord 04-4, sec 2.)

Section 2-212. Reimbursement from grants.

If the County should receive reimbursement for money advanced by the disaster and emergency fund, the grant money shall return to the disaster and emergency fund.
(2004, ord 04-4, sec 2.)

Section 2-213. Administration of the fund.

The director of finance shall administer the disaster and emergency fund, which shall include investment of the fund.
(2004, ord 04-4, sec 2.)

Article 42. Public Access, Open Space, and Natural Resources Preservation.

Section 2-214. Repealed.

(2005, ord 05-85, sec 2; am 2005, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; rep 2015, ord 15-97, sec 3.)

Section 2-214.1. Public access, open space, and natural resources preservation fund.

(a) A public access, open space, and natural resources preservation fund is hereby established. This special fund shall be administered and managed by the finance department. Monies deposited shall be invested in a conservative interest-bearing account that will allow monies to be available for property acquisition and prevent any erosion of the fund's principal amount.

(b) The fund shall consist of monies from:
   (1) The proceeds from the sale of any general obligation bonds, authorized and issued for the purposes of this section;
   (2) Council appropriations for the purposes of this section;
   (3) Any source of revenue dedicated by the Charter or the Code for the purposes of this section;
   (4) Grants and private contributions intended for the purposes of this section;
   (5) Two percent of Hawaiʻi County real property tax revenues collected annually (including penalties and interest). Deposits will be made to the Fund on June 30, 2007 and then again on December 31, 2007, and on December 31 and June 30, in successive years, with deposits being calculated on all real property tax payments (including penalties and interest) received in the prior six months. Additional deposits and adjustments may be made at the discretion of the director of finance;

(6) Monies from items numbered (1), (2), (3), and (4) above, shall be deposited as received; and
(7) Notwithstanding (b)(5) of this section, for the period from July 1, 2009 to June 30, 2011, no payments relating to this section shall be allocated or deposited, provided, however, that all payments accrued through June 30, 2009 shall be allocated and deposited by July 31, 2009.

(c) The fund shall be used for acquiring lands or property entitlements in the County of Hawai‘i for the following purposes:
(1) Public outdoor recreation and education, including access to beaches and mountains;
(2) Preservation of historic or culturally important land areas and sites;
(3) Protection of natural resources, including buffer zones;
(4) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
(5) Protection of watershed lands to preserve water quality and water supply.

(d) The director of finance shall ensure that the following covenant is written and duly recorded as part of the deed of any property acquired pursuant to this section:

"This land/easement was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai‘i County and may not be sold, mortgaged, traded or transferred in any way."

The director of finance shall select either "land" or "easement" based on the type of property acquired.

(2005, ord 05-85, sec 2; am, ord 05-166, sec 1; am 2006, ord 06-151, sec 1; ord 06-169, sec 1; am 2007, ord 07-21, sec 1; am 2009, ord 09-66, sec 2; am 2013, ord 13-31, sec 2; am 2015, ord 15-97, sec 3-5.)

Section 2-214.2. Public access, open space, and natural resources preservation maintenance fund.

(a) Pursuant to section 10-16(c) of the Charter, a special fund known as the public access, open space, and natural resources preservation maintenance fund is established. The purpose of this special fund is to accrue and use moneys for maintenance of lands and easements acquired in full or in part by the public access, open space, and natural resources preservation fund.

(b) Pursuant to section 10-16(c) of the Charter, the maintenance fund shall be administered and managed by the department of parks and recreation. Adequate staff to carry out the provisions of this article and section 10-16 of the Charter shall be provided in the department of parks and recreation.

(c) The financial aspects of the maintenance fund shall be handled by the department of finance. Pursuant to sections 10-16(d), (e), and (f) of the Charter, deposits shall occur, and accounting, reports and financial statements from the department of finance shall be made.

(d) Pursuant to section 10-16(g) of the Charter, this maintenance fund shall be used solely for expenditures directly related to its purpose.
(e) Pursuant to section 10-16(h) of the Charter, and article 25 of this chapter, stewardship grants may be provided to 501(c)(3) nonprofit organizations or an organization operating under the umbrella of a 501(c)(3) nonprofit organization.

(2015, ord 15-97, sec 6.)

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

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

(k) The council shall act to confirm or reject any appointment made to the commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
(l) The redrawing of the council district boundaries during a member's term shall not affect a member's eligibility to represent the district to which the member was appointed.
(2005, ord 05-166, sec 2.)

Section 2-216. Oath of affirmation.

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

"I, _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as a member of the public access, open space, and natural resources preservation commission to the best of my ability."
(2005, ord 05-166, sec 3.)

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

The duties and responsibilities of this commission are:

(1) To develop and submit to the mayor an island-wide prioritized list of qualifying lands worthy of preservation. The commission shall give emphasis to land acquisitions where the County's contribution can be leveraged to obtain State, Federal, and/or private lands. Priorities shall be listed on an island-wide rather than district basis. The list shall include the significance of each parcel or entitlement identified, the reason for its priority, and its anticipated use after acquisition;
(2) To update this list at any time, but at least annually by December 31 of each year;
(3) To explore methods of funding land acquisition and make recommendations to the mayor;
(4) To review, evaluate, and make recommendations to the director of the department of parks and recreation regarding applications for stewardship grants from the maintenance fund, within six months of receipt of each application. Recommendations shall address whether grant applicants have the ability to complete their proposed projects according to the project plan, on time, and within cost estimates, in accordance with section 10-16(h) of the Charter;
(5) To review stewardship grant applications, business plans, agreements, and other documentation accompanying grant applications. The commission may also conduct interviews and perform site visits and other activities necessary to formulate a recommendation; and

(6) To review stewardship grant recipient performance reports, conduct interviews, and perform site visits and other activities necessary to verify that grant objectives are being met. The commission shall forward its findings to the director of parks and recreation.

(2005, ord 05-166, sec 4; am 2015, ord 15-97, sec 7.)

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

(a) The prioritized list developed by the commission shall be submitted to the mayor for comments and recommendation. Within sixty days after receipt, the mayor will submit the list to the council with comments and recommendations. The council shall, by resolution, select the land or lands to be preserved. Under no circumstances shall the purchase price paid for a property exceed the appraised value as prepared by an independent appraiser engaged by the County. Where there are multiple lands under consideration at any one time, priority shall be given to coastal lands and lands where matching funding is available to leverage the County contribution.

(b) Negotiations for acquisition of lands to be preserved shall occur between the County and the seller or its commissioned agent, or a licensed broker only. The commission shall have no role in the negotiations other than in its advisory capacity.

(c) Appraisals, title reports, surveying and other costs incidental to the acquisition of land shall be permitted uses of the public access, open space, and natural resources preservation fund.

(d) Adequate staff to carry out the provisions of this article and to manage the land acquired shall be provided in the department of finance to maximize the use of available funds by minimizing the payment of commission to outside agents to put together funding plans and to ensure that the County is a good steward of any land that comes under its control through this article.

(2005, ord 05-166, sec 5; am 2007, ord 07-21, sec 2; am 2015, ord 15-97, sec 8.)

Article 43. Budget Stabilization Fund.

Section 2-219. Creation of fund; purpose.

(a) Pursuant to section 10-12, Hawaiʻi County Charter 2000, a special fund to be known as the budget stabilization fund is created.

(b) The purpose of the budget stabilization fund shall be a temporary, supplemental source of funds for the County to use during times of financial hardships while a plan for cost reduction or revenue enhancement is developed. Additionally, the fund may be used to insulate general fund programs and current service levels from:

(1) Revenue shortfalls to minimize the need for budget cuts or tax increases;

(2) A revenue reduction due to a change in state or federal legislation; or

(3) Slower revenue growth that typically occurs during an economic recession.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

Section 2-220. Funding.

(a) Each fiscal year, the minimum amount transferred into the budget and stabilization fund shall be $250,000.

(b) The council hereby establishes a policy to accumulate between five to fifteen percent of the general fund total expenditures based on a combination of the fund balance and the budget stabilization fund. This policy does not preclude the use of the funds for any reason listed in section 2-219 even if the targeted percentage is not met.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

Section 2-221. Expenditures.

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

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

Section 2-222. Appropriations.

Appropriations from the budget stabilization fund may occur only upon the following:

(1) Written determination by the director of finance that such appropriations are necessary; and

(2) Passage of an appropriations ordinance by two-thirds vote of the council.

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

Section 2-223. Prohibitions.

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

(2006, ord 06-101, sec 1; am 2011, ord 11-128, sec 2.)

Section 2-223.1. Dissolution of the fund.

The budget stabilization fund shall not be dissolved unless such dissolution is approved by the finance director and a two-thirds vote of the County council.

(2011, ord 11-128, sec 2.)

Article 44. Hawai‘i County Cultural Resources Commission.

Section 2-224. Purpose.

The Council finds that preservation of historic properties enhances the educational, cultural, economic and general welfare of the County. It is deemed essential that the history and culture of Hawai‘i County be preserved through comprehensive historic

preservation planning. Implementation of chapter 6E, historic preservation, Hawai'i Revised Statutes, and the Hawai'i County General Plan provide a means to accomplish this outcome.

It is, therefore, the intent of this article to provide for:

(1) Protecting and preserving historic properties and artifacts in the County and encourage, where appropriate, their adoption for appropriate and feasible use;
(2) Encouraging the restoration, rehabilitation and continued functional use of historic properties;
(3) Encouraging the identification, preservation, promotion and enhancement of those historic properties which represent or reflect distinctive elements of cultural, social, economic, political and architectural history, and to encourage the designation of historic properties, thereby ensuring that our cultural and historic heritage will be imparted to present and future generations of residents and visitors; and
(4) Formulating County-wide comprehensive, historic preservation policies, programs and plans.

(2008, ord 08-42, sec 1.)

Section 2-225. Definitions.

For purposes of this article, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are defined as follows:

"Council" means the council of the County.

"County" means the County of Hawai'i, a political subdivision of the State.

"Department" means the planning department of the County.

"Director" means the planning director of the County.

"Historic preservation" means the research, protection, restoration, rehabilitation and interpretation of districts, sites, buildings, structures, areas or objects, significant to the history, architecture, archaeology or culture of the County, State or Nation.

"Historic properties" means any prehistoric or historic district, site, building, structure, area or object significant in the history, architecture, archaeology, or culture of the County, State and Nation, which is over fifty years old, including those listed on the Hawai'i or national registers.

"Mayor" means the mayor of the County.

"Professional" means a person with those qualifications enumerated in the code of federal regulations 36CFR61, appendix A.

"State" means the State of Hawai'i.

(2008, ord 08-42, sec 1.)

Section 2-226. Commission established.

(a) There is established a commission to be known as the "Hawai'i County Cultural Resources Commission," hereinafter referred to as the "commission."
(b) The commission shall consist of nine appointed members. The members shall be appointed by the mayor with the approval of the Council, with representation from the following professionals and persons with special interest in: architecture, history, archaeology, planning, architectural history, Hawaiian culture, traditional

Native Hawaiian burial practices as practiced prior to foreign contact, and ethnic history and culture of Hawai'i County. The mayor shall solicit lists of two or more persons, recommended by community and professionals, such as the historic societies, architects, and the state Office of Hawaiian affairs, for consideration in making commission appointments. Commission members should have a demonstrated interest, competence and/or knowledge in historic preservation. The commission shall be comprised of members from different areas of the County who possess a knowledge and interest in local area history, and shall include at least one representative selected on the basis of that person's understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians.

(c) Commission members shall serve staggered five-year terms. Upon the initial appointment of the commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Members initially appointed for a term of one or two years shall be eligible to succeed themselves for an additional full term.

(d) A member may be removed upon recommendation by the mayor and the approval of the council.

(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 commission shall be filled for the unexpired term.

(g) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance.

(h) The affirmative vote of a majority of those present shall be sufficient to make any action valid.

(2008, ord 08-42, sec 1; am 2013, ord 13-9, sec 1.)

Section 2-227. Officers and expenses.

(a) The commission shall annually elect from its membership a chairperson and vice chairperson.

(b) The commission may incur such expenses as may be necessary and proper and for which appropriations have been made by the Council or any other appropriate person or agency.

(2008, ord 08-42, sec 1.)

Section 2-228. Meetings and voting.

(a) All meetings shall be open to the public, except as may be provided by law; and any person or a representative thereof shall be entitled to appear and be heard on any matter before the commission.

(b) Special meetings may be called by the chairperson, director, or by any three members of the commission.

(2008, ord 08-42, sec 1.)

Section 2-229. Powers and duties.

(a) The commission shall advise and assist Federal, State and County government agencies in carrying out their historic preservation responsibilities. The commission shall provide public information, education, training and technical assistance relating to the National, State and County historic preservation programs.

(b) The commission shall initiate, accept, review and recommend to the State historic preservation officer, historic properties nominations for inclusion on the Hawaiʻi and National registers.

(c) The commission shall maintain a system for the survey, inventory and nomination of historic properties and archaeological sites within the County, as well as a system of site monitoring, that is compatible with that of the State historic preservation office.

(d) The commission shall administer the certified local government program of federal assistance for historic preservation within the County.

(e) The commission shall provide design review for projects affecting any building or structure, site or district eligible for listing on the National or Hawaiʻi register of historic places and shall request and consider the State historic preservation officer's review and comment on all County undertakings, including the granting of permits. In its review, the commission shall consider the cultural significance of the site and its surroundings along with the secretary of the United States Department of the Interior's standards for rehabilitation, as amended.

(f) The commission shall use the State Historic Preservation Plan to develop and implement a comprehensive County-wide historic preservation planning process, which includes the submitting of information pertaining to the State inventory of historic places to the State historic preservation officer.

(g) The commission shall make recommendations to the Council for the expenditure of gifts and grants accepted by the Council for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith.

(h) The commission shall adopt rules and regulations of procedure and conduct, pursuant to chapter 91, Hawaiʻi Revised Statutes.

(i) The commission may review and comment on archaeological reports submitted as part of development proposals to various County agencies.

(j) The commission may make recommendations to the State historic preservation officer and the Hawaiʻi island burial council on the appropriate management, treatment, and protection of Native Hawaiian burial sites, which are customary with traditional Native Hawaiian burial practices.

(k) The commission may undertake any other action or activity necessary or appropriate towards the implementation of its powers or duties or towards implantation of the purpose of this article. More specifically these may include, but not be limited to, the following:

    (1) Recommend new ordinances establishing special treatment districts and archaeological districts;

(2) Review and recommend amendments to current policies and laws on the enforcement of existing codes relating to historic sites;
(3) Continually reevaluate building code requirements and enact amendments that are more sympathetic to preservation or provide exemptions for historic properties;
(4) Encourage the County, State, and Federal governments, and the private sector, to implement appropriate management strategies, curatorships and meaningful interpretive programs at significant historical and archaeological structures, sites, and districts; and
(5) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications and other educational means which increase public awareness and participation in preserving the past.

(2008, ord 08-42, sec 1; am 2013, ord 13-9, sec 2.)

Section 2-230. Nominations to the Hawai‘i or national register of historic places.

(a) Any person or organization including the commission may submit nominations to the Hawai‘i or National register by submitting a completed nomination form to the State historic preservation officer.
(b) The commission shall hold a public hearing after receiving notification from the State historic preservation officer of nominated historic properties within the County. At least ten days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the County. Oral or written testimony concerning the significance of the proposed nomination shall be taken at the public hearing from any person.
(c) The commission shall forward its report to the mayor within forty-five days after receiving notice from the State historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and a recommendation that the State historic preservation officer either nominate or reject the proposed nomination.
(d) The mayor shall have fifteen days after receiving the report of the commission to send this report and a recommendation to the State historic preservation officer. The mayor’s recommendation may, but need not, concur with the recommendation contained in the commission’s report.
(e) A determination by the commission and mayor that the application for nomination does not meet nomination criteria is not a final administrative decision. Appeals must be filed with the State historic preservation officer in writing, within thirty days after the nomination has been denied.

(2008, ord 08-42, sec 1.)

Section 2-231. Guidelines.

The following documents on file in the planning department shall be used as guidance in matters pertaining to the review functions of the commission:

(1) “Hawai‘i County General Plan” and any adopted community development plans for the island.

(2) "State historic preservation plan" prepared by the State of Hawaiʻi department of land and natural resources.
(3) "Historic Preservation Program Guidelines" prepared by the National Park Service.
(4) "Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Values in Historic Preservation Review," dated 1988.
(5) Other reports, plans, studies, issue papers and memos as may be adopted by the commission.

(2008, ord 08-42, sec 1.)

Section 2-232. Administration.

The director shall appoint a professional from the disciplines of planning, archaeology, architecture, architectural history, Hawaiian culture, history or historic preservation, to serve as the liaison with the State historic preservation office pertaining to matters which deal with the purpose and intent of this article. The liaison may be an employee of the planning department or a member of the commission. The director shall provide technical, clerical, administrative functions, and any other duties delegated by the commission.

(2008, ord 08-42, sec 1.)

CHAPTER 3

SIGNS

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CHAPTER 3

SIGNS

Article 1. Signs.

Division 1. Findings, Purpose and Scope.

Section 3-1. Findings and purpose.

(a) The council finds and declares that:

(1) The people of the County have a primary interest in controlling the erection, location, and maintenance of outdoor signs in a manner designed to protect the public health, safety, and morals and to promote the public welfare and convenience; encourage and promote the visitor industry; and foster sightliness and physical good order;

(2) The natural beauty of the County constitutes an attraction for visitors, and a substantial source of income and revenue of the people of the County is derived from the visitor industry;

(3) The indiscriminate erection and improper maintenance of large signs seriously detract from the enjoyment and pleasure of the natural scenic beauty of the County, which in turn injuriously affect the tourist trade and the economic well-being of the County; and

(4) There has been a marked increase in the number and size of signs advertising business activities and products in the County;

(5) The increased number and size of signs, coupled with the increased use of motor vehicles, make it imperative that the public streets and highways be kept free from signs which distract motorists' attention while driving, and which detract from the attention which should be devoted to signs promoting traffic safety;

(6) The indiscriminate erection, location, illumination, coloring, and size of outdoor signs constitute a significant contributing factor in increasing the number of traffic accidents on the public streets and highways by detracting from the visibility of official traffic lights and signals, and by tending to distract and divert the attention of drivers away from the flow of traffic movement;

(7) The construction, erection, and maintenance of large outdoor signs suspended from, or placed on top of buildings, walls, or other structures constitute a direct danger to pedestrian traffic below the signs, especially during periods when winds of high velocity are prevalent;

(8) The size and location of outdoor signs may, if uncontrolled, constitute an obstacle to effective fire-fighting techniques;

(9) It is necessary for the promotion and preservation of the public health, safety, and welfare of the people of the County, that the erection, construction, location, and maintenance of signs be regulated and controlled; and

(10) The people of the County expect stewardship of the land and protection of the natural beauty for future generations; along with conservation and development of the natural beauty of the County, as well as objects and places of historic and cultural interest.

(b) The purpose of this chapter is to:

(1) Encourage the effective use of signs as a means of communication in the County;

(2) Maintain and enhance the aesthetic environment and the County's ability to attract sources of economic development and growth;

(3) Improve pedestrian and traffic safety;

(4) Minimize the possible adverse effect of signs on nearby public and private property; and

(5) Enable the fair establishment and consistent enforcement of these sign regulations.

(2004, ord 04-142, sec 2.)

Section 3-2. Scope.

This chapter regulates all signs that are visible from any public street, park, other public place, or pedestrian way in the County; except that nothing in this chapter is intended to conflict with any state statute, including chapter 445, Hawaiʻi Revised Statutes, federal law, or constitutional protection relating to outdoor advertising, signage, or freedom of speech.

(2004, ord 04-142, sec 2.)

Division 2. Definitions.

Section 3-3. Definitions.

(a) As used in this chapter:

(1) "Aerial sign" means any moveable sign or inflatable object located above the ground, not permanently affixed, including a balloon used as a sign, or an airplane banner.

(2) "Automated sign" refers to any sign, which has moving parts or words, or which projects any intermittent or flashing illumination, or which has messages that are manually or electronically changeable on a continuous basis.

(3) "Banner" is a sign made of fabric or any non-rigid material with no enclosing framework.

(4) "Building" means a structure intended for use and occupation as a habitation or for some purpose of trade, manufacture, ornament, or use constituting a fabric or edifice.

(5) "Business" or "business establishment" means a single commercial enterprise.

(6) "Commercial" or "commercial interests" means relating to any provision or proposal of a commercial transaction, or locating or otherwise enabling or promoting any business or activity or establishment that proposes commercial transactions.
(7) "Council" means the Hawai'i County council.
(8) "Department" means the County department of public works.
(9) "Design commission" means the Kailua Village special district design review commission.
(10) "Director" means the director of the County department of public works or the director of the department of public work's duly authorized County representative.
(11) "Directory sign" means a special type of ground or wall sign which identifies and attracts attention to any property or premises and which lists, indicates, or identifies a business building, business complex, or two or more business activities conducted on the premises. Such signs shall conform to the applicable ground or wall sign requirements of this chapter.
(12) "Display case" means a case, cabinet, or other device placed out of doors or affixed to a building which is used as a sign.
(13) "District" means a zoning district as established in the County zoning code. For the purposes of this chapter, zoning districts shall be divided into three major categories, "residential," "commercial/industrial," and "agricultural/open."
    (A) "Residential district" includes the following districts:
        (i) RS, single-family residential district;
        (ii) RD, double-family residential district; and
        (iii) RM, multiple-family residential district.
    (B) "Commercial/industrial district" includes the following districts:
        (i) RCX, residential commercial mixed district;
        (ii) V, resort-hotel district;
        (iii) CN, neighborhood commercial district;
        (iv) CG, general commercial district;
        (v) CV, village commercial district;
        (vi) MCX, industrial commercial mixed district;
        (vii) ML, limited industrial district; and
        (viii) MG, general industrial district.
    (C) "Agricultural/open district" includes the following districts:
        (i) RA, residential and agricultural district;
        (ii) FA, family agricultural district;
        (iii) A, agricultural district;
        (iv) IA, intensive agricultural district; and
        (v) O, open district.

(14) "Ground sign" means any sign supported by or located upon any fence or independent support that is placed on, or anchored in, the ground and that is independent from any building. "Fence" means an enclosing or dividing framework for land, yard, or garden and includes any type of freestanding or retaining wall.

(15) "Graphic design" means any design or portrayal painted or applied directly on an exterior wall, fence, awning, window, or other structure, which is readily visible from any public street, and which has as its purpose an artistic effect, and is not primarily the identification of the premises or the advertisement or promotion of the interests of any private or public firm, person or organization.

(16) "Illuminated sign" means any sign in which the characters, letters, figures, designs, and/or outlines are illuminated by electric lights or luminous tubes.

(17) "Indirect lighting" means any external sign illumination which is not an integral part of the sign itself.

(18) "Kailua Industrial Subdivision" means the area bounded by and adjacent to the following:

Beginning at the northwest corner of the intersection of Kaiwi Street and Kuakini Highway, then westerly along Kuakini Highway, then turning northerly along the western boundary of TMK: 7-4-010:007 and continuing northerly along the west boundary of the lots along the west side of Kaiwi Street to the northwest boundaries of TMK: 7-4-015:016, then southeasterly along the makai boundary of Queen Ka'ahumanu Highway. Then turning southwesterly along the eastern boundary of the 'Eho Street right-of-way. Then turning southeasterly along the mauka boundary of 'Ālapa Street and continuing to the southeast corner of TMK: 7-4-010:043. Then turning southwesterly along the eastern boundary of TMK: 7-4-010:043 and continuing to the southeast corner of TMK: 7-4-010:001 at the mauka side of Kuakini Highway. Then westerly along the mauka side of Kuakini Highway to the point of beginning.

(19) "Kailua Village core" means the area bounded by or adjacent to Ali'i Drive, Palani Road, Kuakini Highway, and Lunapule Road.

(20) "Lot" means a building site or a parcel of land with an assigned tax map key number.

(21) "Marquee sign" means any sign attached to or hung from a marquee. "Marquee" means any canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building.

(22) "Painted window signs" means any sign painted on a window which exceeds two square feet in size. This qualifies as a sign in lieu of a wall sign.

(23) "Pedestrian way" means a public right-of-way or easement between or through lots for pedestrian use.

(24) "Person" or words denoting persons, for instance, "another," "others," "any," "anyone," "anybody," and the like signify not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended.

(25) "Portable sign" means any sign that is not an aerial sign and is not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels, signs converted to A-frames or T-frames, menu and sandwich board signs, and signs attached to or painted on vehicles parked and visible from any public street, park, other public place or pedestrian way, unless said vehicle is driven in the normal day-to-day operation of the business.

(26) "Projecting sign" means any sign affixed or attached to a building wall or structure and extending beyond the building wall or structure more than fifteen inches with an incidence angle of greater than thirty degrees.

(27) "Roof sign" means any sign erected, constructed, and maintained wholly upon and over the roof of any building. "Roof" means the cover of a building, including the roofing and all other material and construction (such as supporting members) necessary to carry and maintain it over the walls or uprights. "Roofing" means any material used as a roof covering, including, but not limited to shingles, slate, sheet metal, or tile. "Mansard" means a double-pitched roof with the lower slope steeper than the top.

(28) "Sign" means any device, figure, painting, picture, drawing, placard, poster, awning, canopy, street clock, light, model, notice or bill, including any announcement, declaration, display, illustration, insignia, or message which is:

(A) Used to advertise or promote the interests of any person or entity or to communicate information of any kind to the public;

(B) Placed on or applied to real property outdoors, attached to the exterior of buildings or structures or is located or displayed directly on the exterior or interior surface of a window; and

(C) Visible from any public street, park, other public place or pedestrian way. A sign also includes, but is not limited to, any and all pictorial representations, letters, numerals, emblems, flags, banners, pennants, inscriptions, or patterns whether affixed to a building, painted, or otherwise depicted on a building, or placed separate from any building; provided that traffic control devices prescribed by chapter 291C, Hawai'i Revised Statutes, shall not be construed as signs under this chapter. "Signs" as used in this chapter is not meant to include or prohibit street addresses required by chapter 14, sculpted ornamental shrubbery or ground cover, or signage that is constitutionally protected or otherwise permitted by state or federal law.

(29) "Street" means a public right-of-way or easement intended for vehicular and/or pedestrian use that provides direct or indirect access to property. "Street frontage" means that portion of a building site that has a common boundary line with a street right-of-way boundary line.
(30) "Temporary painted window sign" means any noncommercial painted sign on a window that is seasonal or temporary in nature.
(31) "Temporary sign" means any sign which is not permanently installed or constructed as required under divisions 8 and 9, such as outdoor decorations or advertising devices announcing an event, a meeting or series of meetings, if displayed on the premises where the event, meeting or series of meetings will be or is being held. Meeting, as used in this section, includes all meetings whether open to the public or not, or whether conducted for profit or not, and, including but not limited to, sports events, conventions, fairs, rallies, plays, lectures, concerts, motion pictures, dances, and religious services.
(32) "Wall" means any structure which has a slope of sixty degrees or greater with the horizontal plane and which serves to enclose or subdivide a building. Fences, which mean enclosing or dividing frameworks for land, yard, or gardens, shall not be considered to be walls for purposes of this chapter.
(33) "Wall sign" means any sign which is affixed to an exterior wall of any building when the sign projects not more than fifteen inches from the building wall, structure, or its parts, or a sign attached to a marquee. A wall sign does not include a sign on a mansard, or sloped roof or roof-like facade on a building, each of which is considered a roof sign. The maximum height of a wall sign shall be measured from the finished floor level to the top of the sign.
(34) "Window" means an aperture or opening in the wall of a building which admits light and/or air to the interior of the building and allows visibility from within and without.
(35) "Window sign" means any sign which is located or displayed directly on the inside or outside of a window surface.

(2004, ord 04-142, sec 2.)

Division 3. Sign Area/Size Calculation.

Section 3-4. Single-faced signs.

(a) The size of signs shall be measured and determined in the following manner:
(1) If a sign is on a plate or is framed or roofed, all of the plate or frame or roof shall be included in the dimensions.
(2) If a sign is not on a plate or is not framed but is partly or entirely outlined by a light line or area, or if the sign is on a plate or is framed and circumscribed by a larger light line or area, all of the area circumscribed by a light line or area shall be included in the dimensions/size.

(3) If a sign consists only of words, designs, or figures engraved, painted, projected, or fixed on a wall, the total area/size of the sign shall be the measurable area within the outer boundary of a standard geometrical shape such as a square, rectangle, or circle containing and defined by the extreme reaches of graphic or informational parts of the sign.

(2004, ord 04-142, sec 2.)

Section 3-5. Multi-faced signs.

(a) The sign area/size for a sign with more than one face shall be computed by adding together the area/sizes of all sign faces, except that when two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twelve inches apart, the sign area/size shall be computed by the measurement of one of the faces.

(b) The sign area/size for a sign that is spherical shall be computed by squaring the radius of the sphere and multiplying that figure by 12.5664 ($4 \times pi \times r^2$).

(2004, ord 04-142, sec 2.)

Division 4. Sign Regulations.

Section 3-6. Type, number, and size of signs permissible.

(a) Only signs of the type, number, and size prescribed in this article will be permitted to be erected or maintained.

(b) Sign type, number, and size restrictions shall be applied per lot or, if the lot is occupied by multiple businesses, per business establishment, or if a business occupies multiple adjacent lots, per business establishment. These restrictions shall be subject to the following provisions:

(1) The total number of signs per lot or business shall not exceed two per adjacent street;

(2) Each of the two signs facing one street shall be of a different sign type; and

(3) Only one ground sign shall be permitted per lot, even if the lot is occupied by multiple businesses.

(c) In the event that the applicant has obtained a special permit or a use permit, or if the applicant is otherwise legally permitted to conduct activities not normally allowed in that district, the type and number of signs shall conform to requirements of the district within which the activity is occurring.

(2004, ord 04-142, sec 2.)

Section 3-7. Signs prohibited in all districts.

(a) No person shall erect or maintain:

(1) Any sign which by reason of its size, location, movement, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing, or detracting from the visibility of any official traffic control device, or by diverting or tending to divert the attention of drivers of moving vehicles from the traffic movement on the public streets and roads;

(2) Any sign which is not expressly permitted or exempt from regulation by this chapter;

(3) Any sign which is obscene, as defined in Hawaiʻi penal code sections 712-1210 and 712-1211;

(4) Except as provided for in sections 3-3(a)(31), 3-8, 3-62 and chapter 22, any sign which advertises or publicizes a commercial activity not conducted on the premises or lot upon which the sign is located. This prohibition would include signs on properties which are no longer occupied;

(5) Temporary signs used for regular, ongoing commercial use (i.e. sandwich boards and banners);

(6) Any automated sign including signs with repeated or changeable commercial advertising;

(7) Any aerial sign;

(8) Any sign placed on a utility pole;

(9) Portable signs;

(10) Flashing signs;

(11) Any sign placed on a tree;

(12) Any sign placed on public property, unless such sign is otherwise permitted by law; and

(13) Any sign that is a billboard or outdoor advertising device prohibited by chapter 445, Hawaiʻi Revised Statutes.

(2004, ord 04-142, sec 2.)

Section 3-8. Exempt signs; signs allowed without permits.

(a) The following types of signs are exempt from all of the provisions of this article except for the requirements of sections: 3-4, 3-5, 3-6, 3-7, 3-29, 3-30, 3-31, 3-32, 3-33, 3-34 and 3-36 through 3-43, and may be erected without a permit:

(1) Certain temporary signs, which must be removed within seventy-two hours of the completion of the event or activity to which it refers, and which include:

(A) Any single temporary unlighted sign: (i) not exceeding eight square feet in area in the agricultural, open and residential districts, or (ii) not exceeding thirty-two square feet in area in the commercial/industrial districts, when such signs relate to or advertise a meeting, special event, or temporary status or condition of the property on which the sign is located, as long as the sign is not related to or advertising any regular or ongoing course of commercial enterprise conducted on the property. Only one such sign shall be permitted to be visible to traffic proceeding in any one direction on any one street or highway, except that no sign shall be placed over any public right-of-way or street. A temporary sign may be erected for a period not to exceed six months, unless a section in this chapter specifies a more restrictive time period.

(B) Any small unlighted sign not exceeding two square feet in area, displayed once in a calendar year for a period of time not to exceed thirty consecutive days.

(C) Temporary signs or banners not exceeding thirty-two square feet in area, limited in number to one per meeting or event, displayed for a period not exceeding thirty calendar days, and not projecting over a public street or highway. Temporary signs are not permitted for regular, ongoing commercial use (i.e. sandwich boards and banners). Special event or meeting banners are not required to have their placement limited to the place where the activity is held, provided that permission is granted by the owners or lessees of the structure to which the banner is to be attached/displayed. Temporary signs or banners must be removed within seventy-two hours of the completion of the event or activity which they promote.

(D) New businesses may display temporary signs or banners for thirty days following the opening of their business on a one-time basis only, on their premises only.

(E) Temporary painted window signs may be installed for a period not to exceed thirty days.

(2) Any sign of a public, noncommercial nature, which includes any safety sign, danger signs, trespassing sign, sign indicating scenic or historical points of interest, and any sign erected by a public officer in the performance of a public duty, including traffic signs or directional signs, provided they conform to the sizes dictated by the Manual of Uniform Traffic Control Devices as published by the American Association of State Highway and Transportation Officials.

(3) Any sign required to be posted by law, including any signs prescribed by chapter 291C, Hawai‘i Revised Statutes.

(2004, ord 04-142, sec 2.)

Section 3-9. Signs allowed with permits, in all districts.

(a) The following types of signs are allowed, with permits, in all districts:

(1) Temporary signs or banners within or projecting over any public street, park, other public place or pedestrian way, if permitted and erected in accordance with this chapter.

(A) "Banner permits" include permits to temporarily place a banner over and across a County street.

(B) Any person who is an authorized representative for the subject to be publicized by the banner may apply for a banner permit. A permit application shall be submitted upon a form designated by the director and shall include, at a minimum, the following information and attachments:

(i) General applicant information, i.e. name, address, phone number.

(ii) A map showing the County street and approximate location of the banner.

(iii) A description of where and how the banner will be anchored or secured.

(iv) Length and width dimensions of the banner.

(v) The height of the lowest edge of the banner above the highest point of the roadway.

(vi) The duration of time for which the permit is requested.

(vii) A description or sketch of the banner's visual content.

(viii) Written statements of consent from every property owner and lessee directly fronting the proposed banner site.

(ix) An agreement, to be approved by the corporation counsel, which indemnifies, defends and holds harmless the County of Hawaiʻi, its officers and agents thereof, from all claims, demands, suits, actions, or proceedings of every name, character, and description which may be brought against the County of Hawaiʻi for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.

(x) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as additional insured, the County, its officers, representatives, employees, and agents and covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until the banner is removed from the County street, and shall not be cancelled before the banner is removed without thirty days prior written notice to the County.

(C) The director may issue a banner permit for a period not to exceed seven consecutive days in a calendar year, if all the following criteria are met:
  (i) The banner will not exceed one hundred square feet and the lowest edge of the banner will be at least fifteen feet above the highest point of the roadway.
  (ii) Written statements of consent from every property owner and lessee directly fronting the proposed banner site.
  (iii) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
  (iv) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy meeting the requirements as provided above, to the satisfaction of the finance director and the corporation counsel.
  (v) The banner will not impede public use of the street or endanger pedestrians including persons with disabilities.

(2) Subdivision identification sign. One sign, per legal subdivision roadway access, of either a ground or wall type, relating to the identification of subdivision within a district. Neither sign shall not exceed sixteen square feet in area.

(2004, ord 04-142, sec 2.)

Section 3-10. Signs permitted in residential districts (RS, RD, RM).

The following types of signs are allowed, with a permit, in the RS, RD and RM districts:

(a) One sign, either wall or ground (unlighted or indirectly lighted), not exceeding six square feet in area. Commercial signs shall relate to a legally permitted activity being conducted on the premises.

(2004, ord 04-142, sec 2.)

Section 3-11. Signs permitted in commercial/industrial districts (RCX, V, CN, CG, CV, MCX, ML, MG).

(a) The following types of signs are allowed, with a permit, in commercial/industrial districts (RCX, V, CN, CG, CV, MCX, ML, MG):
  (1) Directory sign.
    (A) If the lot frontage is up to one hundred lineal feet, a directory sign may not exceed sixteen square feet, except that no wall directory sign may exceed the lesser of sixteen square feet or fifteen percent of the wall area on which it is located.
    (B) If the lot frontage is greater than one hundred lineal feet, a directory sign may not exceed twenty-four square feet, except that no wall directory sign may exceed the lesser of twenty-four square feet or fifteen percent of the wall area on which it is located.

(2) Ground sign.
  (A) One ground sign, relating to business(es) conducted on the premises, as follows:
    (i) If lot frontage is up to one hundred lineal feet, ground sign may not exceed sixteen square feet and not exceed eight feet in elevation from the ground;
    (ii) If lot frontage is greater than one hundred lineal feet, ground sign may not exceed twenty-four square feet and not exceed twelve feet in elevation from the ground.
  (B) The elevation of a ground sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of either the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, beaming, mounding, or excavating solely for the purpose of locating the sign.
(3) Marquee sign.
  (A) One sign attached to the underside of a marquee (hanging sign) for each business conducted on the premises. This marquee sign shall not exceed nine square feet in area and the lower edges must be at least seven and one-half feet above the ground; or
  (B) One sign attached to or otherwise displayed upon the face of the marquee. This sign shall not exceed a total sign area of thirty-two square feet or fifteen percent of the marquee area on which it is displayed, whichever is less. The maximum letter height is not to exceed twenty-four inches.
(4) Projecting sign. One projecting sign for each business conducted on the premises, stating the name and the nature of the business, which may only occur on an exterior wall without an overhang. The bottom edge of the sign shall be no lower than nine feet over any public area or pedestrian right-of-way. Maximum sign area shall not exceed sixteen square feet.
(5) Roof sign. Except in the residential-commercial mixed use (RCX) and resort-hotel (V) districts, where roof signs are not allowed, one roof sign, lighted or unlighted, not exceeding thirty-two square feet in area and not containing lettering more than twenty-four inches in height, relating to business conducted on the premises; provided that the highest point on any sign attached to the roof shall not extend above the highest part of the roof to which it is attached.

(6) Wall sign.
   (A) One wall sign, which relates to business conducted on the premises, per side or rear of a building. Each side or rear wall sign shall neither exceed fifteen percent of the total exposed area of the wall, associated with the business on which the sign is displayed, nor exceed one hundred fifty square feet, whichever is less. A sign on the face of the building for each business conducted on the premises shall not exceed fifteen percent or one hundred fifty square feet, whichever is less, of the area of the face of the building actually occupied by the business.
   (B) The total area of any wall covered by signage shall not exceed fifteen percent of the total area of the wall, whether used by single or multiple businesses.
   (C) Notwithstanding (A) and (B) above, the maximum size of any wall sign in the RCX and V districts shall not exceed thirty-two square feet.

(7) Window signs and painted window signs. For any business, the total area allowed to be covered by one or more window signs facing any street shall be no more than twenty-five percent of the total combined area of the windows or one hundred fifty square feet, whichever is less.

(2004, ord 04-142, sec 2.)

Section 3-12. Signs permitted in agricultural/open districts (RA, FA, A, IA, O).

The following signs are allowed, with a permit, in agricultural/open districts (RA, FA, A, IA, O):

(a) Ground sign. One ground sign not exceeding eight square feet in area, relating to a business conducted on the premises, provided that the building in front of which the sign is displayed is set back not less than thirty feet from the street.

(b) Wall sign. One wall sign, not exceeding thirty-two square feet in area upon any wall of a structure on the premises related to the business conducted on the premises.

(2004, ord 04-142, sec 2.)

Division 5. Permits.

Section 3-13. Permits required.

(a) Except as otherwise provided in this chapter, no person, firm or agency may display, install, construct, erect, alter, relocate, reconstruct, or cause to be displayed, installed, constructed, erected, altered, relocated, or reconstructed any sign without first having obtained a sign permit in accordance with this chapter.

(b) Sign permits shall be posted in a conspicuous place on the site during the progress of installation and shall be kept on the premises where the sign is located or at the principal place of business of the sign owner. The permit shall be available for inspection and enforcement by the director.

(2004, ord 04-142, sec 2.)

Section 3-14. Building permits.

Persons applying for a building permit are encouraged to include a sign plan for any signs that will be erected in conjunction with the new construction or improvements for which the building permit is requested in order that the department and applicant may assess the applicability of any additional permit requirements under this chapter. (2004, ord 04-142, sec 2.)

Section 3-15. Illuminated signs.

A permit application for a sign which uses electrical wiring and connections or which is illuminated by an external source, shall be submitted to the electrical inspector who shall examine the plans and specifications of all wiring and connections of the sign itself to determine if they comply with chapter 9, Hawaiʻi County Code, relating to electricity and chapter 14, article 9, Hawaiʻi County Code, relating to outdoor lighting. The electrical inspector shall recommend (1) approval of the application if the plans and specifications comply with chapter 9 and chapter 14, article 9, or (2) disapproval of the application if noncompliance with these chapters is found. The plans and specifications shall then be returned to the director for final action in compliance with section 3-18. (2004, ord 04-142, sec 2.)

Section 3-16. Permit application.

(a) Applications for sign permits, pursuant to this chapter, shall be filed with the director on forms provided by the department for that purpose. Applications shall contain, at a minimum, the following:
   (1) The name and address of the owner of the property upon which the sign will be located, the owner of the sign, and the applicant, if different;
   (2) The tax map key number of the location and proposed location of the sign and an accurate description of the sign, including its contents;
   (3) A plan or design of the sign, and a photograph or drawing, showing its weight, dimensions, lighting equipment, materials, details of its attachment and hanging, and its position relative to relevant buildings, property lines, and adjacent streets; and
   (4) Applicable fees and any other information pertinent to the application as may be required by the director and/or this chapter.

(b) A sign permit is not transferable unless a notice of transfer is filed with the director within ninety days of the effective date of a transfer of the real property or business for which the sign is permitted. The director shall prescribe forms and any fees for this purpose.

(2004, ord 04-142, sec 2.)

Section 3-17. Compliance with chapter.

Any permit, variance, or other approval issued pursuant to this chapter shall comply with all applicable requirements of this chapter.
(2004, ord 04-142, sec 2.)

Section 3-18. Action on permit application.

(a) Upon receiving an application for a sign permit, submitted pursuant to this chapter, the director shall:
  (1) Review the permit application for completeness; and
  (2) If the application is deficient, identify and notify the applicant of the deficiencies; or
  (3) If the application is complete, process the application.
(b) Within sixty days of receiving a complete application for a sign permit, and unless the applicant has provided written consent for a time extension, the director shall either:
  (1) Issue the sign permit in writing, if:
    (A) After an examination of the plans, specifications, and other data, the director finds that the sign(s) that is the subject of the application conforms in every respect with the requirements of this chapter and all applicable County, State, or Federal laws or regulations;
    (B) The application has been reviewed and approved by the electrical inspector, if required pursuant to section 3-15;
    (C) The application has been reviewed by the applicable design commission or committee, if required by this chapter; and
    (D) Applicable sign permit fees have been received; or
  (2) Reject the sign permit in writing, if the sign that is the subject of the application fails in any way to conform with the requirements of this chapter.
(c) In case of a rejection, the director shall:
  (1) Specify in writing the section or sections of this chapter with which the application is inconsistent; and
  (2) Provide the applicant with information about any applicable variance or appeal processes contained in this chapter or otherwise permitted by law.

(2004, ord 04-142, sec 2; am 2015, ord 15-46, sec 2.)

Section 3-19. Permit contents and record.

(a) Permits shall be numbered and shall contain the following information:
  (1) The permit number and the date of issuance;
  (2) The name of the property owner and sign owner;
  (3) The location of the sign(s), including tax map key number;
  (4) In the case of a temporary sign or banner, the date of expiration of the permit; and
  (5) The amount of any fees paid.
(b) The director shall maintain for public inspection a record of all permits issued.

(2004, ord 04-142, sec 2.)

Section 3-20. Inspection upon completion.

A permittee shall, upon completion of the installation, construction, erection, relocation or alteration of the sign, notify the director who shall inspect the sign for compliance with the permit and this chapter. The director may revoke any sign permit issued upon failure of the holder of the permit to comply with any provision of this chapter.
(2004, ord 04-142, sec 2.)

Section 3-21. Time limit on permit.

If the work authorized under a sign permit is not started within twelve months after the date of issuance, or if work is suspended for more than ninety calendar days, the permit shall be void without any further action, and any sign installed, constructed, erected, relocated, or altered under that permit is in violation of this chapter.
(2004, ord 04-142, sec 2.)

Division 6. Variances.

Section 3-22. Variances.

(a) In unique cases where strict enforcement of this chapter would result in unnecessary hardship or practical difficulty, and where desirable relief may be granted without detriment to the public interest, convenience or welfare, the Hawaiʻi County council may grant, by resolution, a request for a variance from any provision of this chapter.

(b) Variance applications shall be submitted upon a form designated by the director and shall include at a minimum, the following information and attachments:
   (1) The sign owner's and the property owner's name, phone number, and mailing address;
   (2) The location, tax map key number, and zoning of the property upon which the sign is located;
   (3) A map showing:
      (A) The location of the sign; and
      (B) All streets adjacent to the lot or building where the sign is located;
   (4) A photo or drawing of the relevant sign(s);
   (5) A citation of the code section from which a variance is requested;
   (6) A complete copy of any sign permit application or rejection of the sign permit, if any;
   (7) An explanation of any unique circumstances, in particular, those arising from peculiar physical conditions not ordinarily found in most districts, peculiarity of the business, or other special event or circumstance;
   (8) An explanation of why granting the variance will not adversely affect the rights of adjacent property owners or tenants, including an explanation of alternative measures, if any, that the applicant is proposing to take in lieu of compliance with the applicable code section;

(9) If applicable, notice of the variance application shall be mailed by the applicant to all property owners and tenants within three hundred feet of the affected property not less than twenty days prior to the initial hearing by the Hawai'i County council, and prior to the date of the hearing, the applicant shall file with the council proof of service or of good faith efforts to serve notice of the hearing on the designated property owners. Such proof may consist of certified mail receipts, affidavits, or the like;
(10) An explanation of why the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public;
(11) An explanation of why a strict application of the terms of this chapter would work an unnecessary hardship and practical difficulty upon the applicant or the community;
(12) A draft resolution, that satisfies the requirements of sections 3-22 and 3-23, in both paper and electronic formats;
(13) If applicable, the Kailua Village design commission's and/or any advisory commission's written recommendation; and
(14) Any fee(s), prescribed by this chapter.

(c) Upon review of a complete application, and, if applicable, the director shall forward the application through the planning director to the Kailua Village design commission and/or any other applicable advisory commission for review and recommendation, then to the appropriate council committee for its consideration and decision.

(2004, ord 04-142, sec 2; am 2008, ord 08-3, sec 1.)

Section 3-23. Variances; criteria for granting.

(a) Only in situations where the following conditions exist may a variance be granted:
(1) Granting the variance is necessitated by peculiar physical conditions not ordinarily found in most districts, because of the peculiarity of a business, or as a result of a special event or circumstance;
(2) Granting the variance will not adversely affect the rights of adjacent property owners or tenants;
(3) Granting the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public;
(4) A strict application of the terms of this chapter would work unnecessary hardship and practical difficulty upon the applicant or the community;
(5) Granting the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statutes, or rules; and
(6) The application is complete.

(b) In and of itself, prior construction of a sign without a permit, regardless of the cost or value of the sign, shall not be deemed to constitute sufficient reason to grant a variance.

(c) Council resolutions granting variance requests shall state the underlying factual basis for the council's findings that each of the requisite conditions to grant a variance has been satisfied.

(2004, ord 04-142, sec 2.)

Division 7. Fees.

Section 3-24. Permit/variance fees.

(a) Applicants for sign permits pursuant to this chapter shall pay the following nonrefundable fees:
   (1) For a new sign permit, $25 for each sign; and
   (2) For a sign permit for a sign erected prior to obtaining a sign permit $100 for each sign.

(b) For sign variances, pursuant to this chapter, $100 for each sign or an amount equal to ten percent of the total value of the sign(s), excluding installation costs, whichever is greater.

(2004, ord 04-142, sec 2.)

Section 3-25. Disposition of fees.

(a) The following monies collected under this chapter shall be used exclusively to support the administration and enforcement of this chapter and efforts to educate and inform the public about the County's sign law:
   (1) Permit and variance application fees; and
   (2) Fines, minus costs of collection, that are collected pursuant to this chapter.

(b) The director of public works shall keep an accurate record, in a form approved by the director of finance, of all fees and fines received and any disbursements made pursuant to this chapter and shall deposit all monies received with the treasurer.

(c) The director of public works shall render an account of all monies received and disbursed pursuant to this article to the council on or before March 1 of each year.

(2004, ord 04-142, sec 2.)

Division 8. Construction Specifications.

Section 3-26. Wind resistance; support.

Every sign shall be constructed to withstand, i.e. not flap, bend, or move when subjected to, wind pressure of not less than thirty pounds per square foot of area. In addition, all signs shall be rigidly and firmly braced, or securely attached or anchored to the building, structure, or ground.

(2004, ord 04-142, sec 2.)

Section 3-27. Wood construction.

Any wood used for a new sign or for the repair of an existing sign shall be rot and termite resistant through an approved preservation method specified by the American Wood Preservation Association, or by any other preservation treatment approved by the director. All wood construction shall meet fire resistive requirements as specified by current building code requirements.
(2004, ord 04-142, sec 2.)

Section 3-28. Construction specifications.

All signs shall be installed in compliance with building and electrical codes.
(2004, ord 04-142, sec 2.)

Division 9. Location Specifications.

Section 3-29. Obstructing ingress and egress; obstructing fire-related structures.

(a) No sign or supports or hangings for any sign shall be erected so as to cover a door or window of any building or otherwise to prevent free ingress and egress to or from any window, door or fire escape of any building.
(b) No sign shall be constructed in a manner which interferes with the free passage from one part of the roof to another part of the roof or interferes with any opening on the roof.
(c) No sign shall be attached to any part of a fire escape or upon or to any stand pipe or fire escape support, or be placed nearer than two feet from any fire escape platform. Every sign shall be so arranged as to swing away from the fire escape or platform.

(2004, ord 04-142, sec 2.)

Section 3-30. Interference with public alarms, signals and signs.

No sign or supports or hangings for any sign shall be placed in a position or manner which obstructs or interferes with any fire alarm, police alarm, sign, or any device maintained by or under public authority.
(2004, ord 04-142, sec 2.)

Section 3-31. Projections beyond property line.

No sign or portion of any sign, except for marquee or projecting signs, may project over any public area or way outside of the property line upon which the sign is located. No sign shall be permitted to interfere with vehicular traffic or project over any public street except as may be permitted in section 3-9.
(2004, ord 04-142, sec 2.)

Section 3-32. Distance above ground of projecting signs.

The lower edge of any sign projecting over any public area, except a marquee sign, shall have a vertical clearance of not less than nine feet.
(2004, ord 04-142, sec 2.)

Section 3-33. Height above buildings.

The highest point on any sign attached to a building or structure shall not extend above the highest part of the building or structure to which it is attached.
(2004, ord 04-142, sec 2.)

Division 10. Maintenance.

Section 3-34. Maintenance specifications.

(a) All signs, together with their framework, braces, angles or other supports, shall be:
   (1) Maintained in a safe structural condition, properly secured, supported and braced;
   (2) Maintained in compliance with all building and electrical codes, and in conformance with this chapter at all times; and
   (3) Properly maintained with exposed surfaces kept clean and painted if paint is required and defective parts replaced.

(2004, ord 04-142, sec 2.)

Division 11. Nonconforming Signs.

Section 3-35. Signs erected prior to the effective date of this chapter.

(a) Any sign erected prior to the effective date of this chapter, in compliance with all then existing statutes, ordinances, and regulations, and for which a legal permit had been obtained, is permitted to be maintained as a nonconforming sign until such time that the sign is altered, relocated, or the business is sold, at which time it must be removed or brought into compliance with all provisions of this chapter. Any person who fails to comply, as indicated in section 3-36 (Violations) and sections 3-38 and 3-39 (Administrative enforcement and Criminal prosecution) shall be sentenced to pay a fine of $100 per day from the final date specified for correction of the violation. During the time a sign is permitted to remain as a nonconforming sign, it is subject to the following conditions:
   (1) A nonconforming sign shall be maintained in a safe condition and shall not in any respect be dangerous to the public or to property.
   (2) At such time that the nonconforming sign is altered, relocated, or the business is sold, or the discontinuance or removal from the premises of the activity to which the sign relates, the sign ceases to be a nonconforming sign and shall thereafter be allowed to be maintained only upon compliance with this chapter. The term "alteration" does not include repairs and maintenance for the purpose of keeping the sign in a clean and safe condition.

(2004, ord 04-142, sec 2.)

Division 12. Violations, Enforcement, Penalty.

Section 3-36. Violations.

Failure to comply with any provision of this chapter, any rule adopted pursuant to this chapter, or with conditions imposed as part of any permit or variance from the provisions of this chapter, shall constitute a violation of this chapter.
(2004, ord 04-142, sec 2.)

Section 3-37. Enforcement.

(a) The director shall enforce this chapter. Whenever necessary, any official of another department of the County shall assist the director, if requested, consistent with the usual and customary duties of the official's department.
(b) When the condition of any sign creates an immediate hazard and peril to public safety or to property, or is illegally placed within any public street, park, other public place or pedestrian way the director shall remove the sign summarily and without notice.

(2004, ord 04-142, sec 2.)

Section 3-38. Administrative enforcement.

(a) If the director determines that any person is violating any provision of this chapter, any rule adopted thereunder, or any permit issued pursuant thereto, the director shall have the person served by personal service or by certified mail, with a notice of violation and order pursuant to this section. The director may also have a copy of the notice of violation and order posted at the building site and/or sent to the landlord/owner of the building or lot where the violation is located.
(b) The notice of violation shall include at least the following information:
    (1) Date of the notice;
    (2) Name and address of the person noticed;
    (3) Section number of the provision, or rule, or the permit which has been violated;
    (4) Nature of the violation; and
    (5) Location and time of the violation.
(c) The order may require the person to do any or all of the following:
    (1) Cease and desist from the violation;
    (2) Correct the violation at the person's own expense before a date specified in the order, which date shall not be more than thirty days;
    (3) Pay a civil fine not to exceed $500 in the manner, at the place and before the date specified in the order;
    (4) Pay a civil fine not to exceed $100 per day for each day in which the violation persists beyond the final date specified for correction of the violation, in the manner and at the time and place specified in the order.
(d) The order shall advise the person that the order shall become final thirty days after the person's receipt of the order, unless the director's decision is appealed to the County board of appeals within the thirty day period.

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

(f) Any person adversely affected by any order issued under this chapter, may within thirty days after the service of the order, appeal the order to the County board of appeals as provided by the County Charter, the County Code, and any rules adopted thereto. An appeal to the County board of appeals shall stay the provisions of the director's order pending the final decision of the County board of appeals.

(g) At the completion of an appeal in which the County's enforcement action is affirmed and upon correction of the violation, if requested by the violator, the case will be reviewed by the director to determine the appropriateness of the amount of the civil fines that accrued while the appeal proceedings were pending. In reviewing of the amount of the accrued fines, the director may consider the following: nature and egregiousness of the violation, duration of the violation, number of recurring and other similar violations, effort taken by the violator to correct the violation, degree of involvement in causing or continuing the violation, reasons for any delay in the completion of the appeal, and other extenuating circumstances. The civil fine which is imposed by administrative order after this review is completed and the violation is corrected is subject to only judicial review, notwithstanding any provisions for administrative review in the County Charter.

(h) After completion of a review of the amount of accrued civil fine by the director, the amount of the civil fine determined appropriate, including both the initial civil fine and any accrued daily civil fine, shall immediately become due and collectible following reasonable notice to the violator. If no review of the accrued fine is requested, the amount of the civil fine, not to exceed the total accrual of civil fine prior to correcting the violation, shall immediately become due and collectible following reasonable notice to the violator, at the completion of all appeal proceedings.

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

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

(k) Fines assessed under this section shall constitute a lien upon the subject property upon the filing of said lien with the bureau of conveyances.

(2004, ord 04-142, sec 2.)

Section 3-39. Criminal prosecution.

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

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

(c) The imposition of a fine under this section shall be controlled by the provisions of the Hawai‘i penal code relating to fines, sections 706-641 through 706-645, Hawai‘i Revised Statutes.

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

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

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

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

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

(2004, ord 04-142, sec 2.)

Section 3-40. Injunctive action.

The County of Hawaiʻi may maintain an action for an injunction to restrain any violation of the provisions of this chapter and may take any other lawful action to prevent or remedy any violation.
(2004, ord 04-142, sec 2.)

Section 3-41. Right of entry for authorized personnel.

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the director has reasonable cause to believe that there exists upon a building or upon a premises or upon a building site a condition which is contrary to or in violation of this chapter which makes the building or premises or the building site unsafe, dangerous or hazardous, the director may enter the building or premises or the building site at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if the building or premises is occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the director shall have recourse to the remedies provided by law to secure entry.
(2004, ord 04-142, sec 2.)

Section 3-42. Limited liability of authorized personnel.

The authorized personnel charged with the enforcement of this chapter, acting in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the authorized personnel because of such act or omission performed by the authorized personnel in the enforcement of any provision of this chapter or other pertinent laws or ordinances implemented through the enforcement of this chapter shall be defended by the County of Hawaiʻi until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County.
(2004, ord 04-142, sec 2.)

Section 3-43. Remedies cumulative.

The remedies provided in this article shall be cumulative and not exclusive.
(2004, ord 04-142, sec 2.)

Division 13. General Provisions.

Section 3-44. Administration.

The director shall administer all of the provisions of this chapter. Whenever necessary, any official of another department of the County shall assist the director, if requested, consistent with the usual and customary duties of the official's department.
(2004, ord 04-142, sec 2.)

Section 3-45. Compliance with this chapter and other laws.

Any approval, or permit issued pursuant to this chapter shall comply with all applicable requirements of this chapter. The granting of a permit or variance under this chapter does not dispense with the necessity to comply with any law, ordinance, regulation or any other provision of the Hawai‘i County Code or other state or federal laws or regulations to which a permittee may also be subject.
(2004, ord 04-142, sec 2.)

Section 3-46. Implementation of community design plans or guidelines.

The Council may adopt sign provisions that implement special community design districts, plans or guidelines that have been approved by the County council.
(2004, ord 04-142, sec 2.)

Section 3-47. Adoption of rules.

The director may adopt rules, pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this chapter.
(2004, ord 04-142, sec 2.)

Section 3-48. Educational material.

The director shall prepare or cause to be prepared an easy-to-use, user-friendly pamphlet or brochure which describes the key provisions of this chapter and provides examples by drawing or photograph, to facilitate use of this chapter. The director may use community organizations to assist with this process.
(2004, ord 04-142, sec 2.)

Article 2. Kailua Village Signs.

Division 1. General Provisions.

Section 3-49. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-49. Purpose.

Kailua Village is recognized as a special design district of the County. Unless otherwise provided for in this article, all sections of article 1 apply to the Kailua Village design district. However, certain other aspects of signage are applied specifically to this district in addition to those in article 1.

Unquestionably, signs have a legitimate place in Kailua Village if they are thoughtfully designed and appropriate to their surroundings. Many elements of good sign design adapt well to the theme which is the unique, unhurried atmosphere and the foundation of Kailua's charm.

The primary purpose of a sign is to promote an identity, goods and services, or activities through visual communication. While laws can regulate the size, placement, number, design, and aesthetics of signs, it is recognized that reasonable minds may differ as to how sign control can best be accomplished. The Kailua Village design commission, through the County planning department, has a shared responsibility for sign review within the Kailua Village special design district, as set forth in the County planning department's Master Plan for Kailua-Kona. The provisions of this article shall be utilized by the design commission and cooperating agencies in evaluating all sign permit requests within the Kailua Village special design district.
(2005, ord 05-62, sec 3.)

Section 3-50. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-50. Boundaries.
This article shall apply to the Kailua Village special design district. For purposes of this article, the boundaries of this district shall be as delineated in the County zoning code, chapter 25, article 7, division 1, sec 25-7-1, Hawaiʻi County Code.
(2005, ord 05-62, sec 3.)

Section 3-51. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-51. Permit required.
Except as otherwise provided in this chapter, no person, firm, or agency may display, install, construct, erect, alter, relocate, reconstruct, or cause to be displayed, installed, constructed, erected, altered, relocated, or reconstructed any sign within the Kailua Village design district without first having obtained a sign permit in accordance with this chapter and article.
(2005, ord 05-62, sec 3.)

Section 3-52. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-52. Permit application; contents.
(a) To obtain a sign permit, the applicant shall file an application on forms furnished by the director.
(b) The application shall include information required by section 3-16 and, in addition:
    (1) A graphic, colored illustration of the proposed sign, drawn to scale and reflecting all letters and the style and size of lettering.
    (2) A description or sample of any type of material to be used for the sign and its background, and a description of the method of any lighting.

(3) A plot plan illustrating the location of the building or site and the location of the proposed sign.
(4) Any other information the director or design commission may require.

(2005, ord 05-62, sec 3.)

Section 3-53. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-53. Design commission review; failure to review.

(a) Each completed permit or variance application, together with all accompanying information shall be forwarded promptly by the director through the County planning director to the design commission for its review and action.
(b) Within thirty calendar days after receipt of the completed application from the director, the design commission shall provide its written recommendation(s) to the director. If a recommendation is not received within the allotted period, the director shall act on the request in accordance with section 3-18 or 3-23, as the case may be. An extension may be granted by the director only upon the written consent of the applicant.

(2005, ord 05-62, sec 3.)

Section 3-54. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-54. Guidelines for review.

(a) The design commission and the director, when reviewing an application under this article, shall consider the following guidelines, as well as those found in the Master Plan for Kailua-Kona. In the event a conflict exists between any requirement of this chapter and the Master Plan for Kailua-Kona, the more restrictive or specific requirement shall prevail:
    (1) Relationship to building, site, and surroundings. Fitting each sign to its surroundings shall be a prime consideration. A sign shall complement the building it identifies and the theme of the Kailua Village way of life as described in the Master Plan for Kailua-Kona. It shall be a planned feature, reflecting the architectural scale, design, and color of the building or structure.
    (2) Size and number. The overall size and number of signs shall minimally dominate the property or the building which it identifies.
    (3) Shape. The shape of the sign shall seek to aesthetically and functionally emphasize the message and not compete with the architecture of the building.
    (4) Lettering. Subtleness, proportion, and design shall be emphasized in sign copy and lettering.
    (5) Illumination. When an illuminated sign is used, the light intensity, color illumination, and the careful screening of the light source shall be considered.

(6) Landscaping. A freestanding sign should offer an opportunity for landscaping treatment at its base.
(7) Material. The use of any material which is compatible to the village atmosphere of Kailua shall be encouraged. Material includes, but is not limited to, wood, stone, canvas, rope, brushed or textured metal, or glass.
(8) Color. The use of any natural or earth tone color that is not gaudy or clashing shall be encouraged.

(2005, ord 05-62, sec 3.)

Section 3-55. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-55. Action on permit application.
(a) The director shall consider the design commission's recommendation(s) when processing a sign permit application.
(b) If the director, after considering the design commission's recommendation(s), finds that the proposed sign is in compliance with this article and chapter and any other applicable county, state or federal law or regulation, a sign permit shall be issued by the department.

(2005, ord 05-62, sec 3.)

Section 3-56. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-56. Variances.
A variance may be granted in accordance with division 6 of this chapter.
(2005, ord 05-62, sec 3.)

Section 3-57. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-57. Design commission review of variances.
Prior to final decision-making on a variance application, the director shall transmit a copy of the variance application through the County planning director to the design commission for its review and recommendation.
(2005, ord 05-62, sec 3.)

Division 2. Permissible Signs.

Section 3-58. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-58. Sign area/size and lettering size.

(a) Unless otherwise provided, the maximum permitted surface area/size of any sign oriented to any public street, park, other public place or pedestrian way shall be:
  (1) Directory sign.
    (A) If the lot frontage is up to thirty lineal feet, a directory sign may not exceed twelve square feet, except that no wall directory sign may exceed the lesser of twelve square feet or fifteen percent of the wall area on which it is located.
    (B) If the lot frontage is greater than thirty lineal feet, a directory sign may not exceed twenty-two square feet, except that no wall directory sign may exceed the lesser of twenty-two square feet or fifteen percent of the wall area on which it is located.
    (C) A directory sign, either wall or ground sign, shall not exceed sixteen square feet in the Kailua Village Core.
  (2) Ground sign.
    (A) If lot frontage is up to thirty lineal feet, a ground sign shall not exceed twelve square feet for any building or portion of a building under separate management or control and not exceed six feet in elevation from the ground.
    (B) If lot frontage is greater than thirty lineal feet, a ground sign shall not exceed twenty-two square feet for any building or portion of a building under separate management or control and not exceed eleven feet in elevation from the ground.
  (3) Marquee sign.
    (A) A sign attached to the underside of a marquee (hanging sign) for each business conducted on the premises shall not exceed nine square feet in area, and the lower edges must be at least seven and one-half feet above the ground.
    (B) A sign attached to or otherwise displayed upon the face of the marquee shall not exceed a total sign area of twenty-two square feet or fifteen percent of the marquee area on which it is displayed, whichever is less.
  (4) Projecting sign.
    (A) A projecting sign for each business conducted on the premises, stating the name and the nature of the business, may only occur on an exterior wall without an overhang and shall not exceed sixteen square feet.

(5) Wall sign.
(A) If lot frontage is up to thirty lineal feet, a wall sign shall not exceed fifteen percent of the total exposed area of the wall, associated with the business on which the sign is displayed, or twelve square feet, whichever is less. A sign on the face of the building for each business conducted on the premises shall not exceed fifteen percent of the area of the face of the building actually occupied by the business, or twelve square feet, whichever is less.
(B) If lot frontage is greater than thirty lineal feet, a wall sign shall not exceed fifteen percent of the total exposed area of the wall, associated with the business for which the sign is displayed, or twenty-two square feet, whichever is less. A sign on the face of the building for each business conducted on the premises shall not exceed fifteen percent of the area of the face of the building actually occupied by the business or twenty-two square feet, whichever is less.
(C) In the Kailua Industrial Subdivision, the maximum wall sign area shall not exceed seventy-five square feet or fifteen percent of the wall, whichever is less.
(D) The total area of any wall covered by signage shall not exceed fifteen percent of the total area of the wall on which it is located, whether used by single or multiple businesses.
(6) Window signs and painted window signs.
(A) For any business, the total area allowed to be covered by one or more window signs fronting any street shall be no more than fifteen percent of the total combined area of windows or twenty-two square feet, whichever is less.

(b) In any case, the total area allowed shall not exceed twelve square feet for any sign not fronting a public street or vehicular access or for any sign located within the Kailua Village Core.

(c) Any lettering or symbol, including free-standing letters, shall not exceed nine inches in height, except as noted in (1) below.
(1) In the Kailua Industrial Subdivision, any lettering or symbol, including free-standing letters, shall not exceed eighteen inches in height.

(2005, ord 05-62, sec 3.)

Section 3-59. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-59. Sign elevation.

(a) Maximum sign elevation, measured from the finished ground elevation to the top of the sign, shall be as follows:
(1) Directory wall sign. A directory wall sign shall not exceed nine feet in elevation.

(2) Ground sign. The elevation of a ground sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of either the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. A ground sign shall not exceed six feet in elevation. The lettering or symbols shall not be higher than five and one-half feet from the finished elevation.

(3) Projecting sign. A projecting sign may be placed no less than nine feet above ground, and may extend into no more than one-third of the width of any public area or pedestrian way, or four feet, whichever is less.

(4) Wall sign. The top edge of a wall sign shall not exceed nine feet above the grade or finished floor level or one-half the height of the wall on which it is located, whichever is less.

(5) Window sign. A window sign shall not exceed five and one-half feet in height.

(2005, ord 05-62, sec 3.)

Section 3-60. [Former] Repealed.

(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-60. Number of signs.

(a) Only one sign for any business or one sign for any street or vehicular access on which a building has frontage shall be permitted.

(b) In a multi-building complex, a directory sign for the complex may be allowed which shall not count as the one sign allowed for the building frontage.

(2005, ord 05-62, sec 3.)

Section 3-61. [Former] Repealed.

(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-61. Prohibited signs.

(a) In addition to the signs prohibited in section 3-7, the following types of signs are also prohibited in Kailua Village:

(1) Any sign or display which is constructed primarily of materials with a shiny, slick, or reflective surface such as fiberglass or acrylic plastic.

(2) Any sign which is displayed on any roof or mansard roof, or when attached to a building extends above the lowest edge of any portion of the roof or mansard roof.

(3) Any sign which has a vertical clearance of less than nine feet or projects, extends, or is otherwise displayed over or above any public street, park, other public places or pedestrian way, except as may be permitted by section 3-62 or chapter 22.

(4) Any sign for product advertising when visible to the general public. A sign containing only the name of a business is not a sign for product advertising.
(5) Any mechanical sign, graphic design or decorative element that functions through animation, revolvement, up, down, sidewards or any other similar movement, including but not limited to, any spinning device, light bulb border, flashing or mobile illumination.

(2005, ord 05-62, sec 3.)

Section 3-62. [Former] Repealed.
(2004, ord 04-142, sec 3; rep 2005, ord 05-62, sec 2.)

Section 3-62. Exempt signs (signs allowed without permits).
(a) In addition to the exempt signs allowed in section 3-8, the following signs are exempt in Kailua Village, with the restrictions stated in section 3-8:
(1) One temporary informational sign or poster for a temporary event, no larger than eight square feet, and posted for a period no longer than thirty days in a calendar year.
(2) Reasonable application upon the glass surface of a door or window of lettering or decals giving the address, hours of operation, entrance or exit information, professional or security affiliations or memberships, credit cards which are accepted, or other similar information.

(2005, ord 05-62, sec 3.)

Section 3-63. Repealed.
(1983 CC, c 3, art 2, sec 3-63; rep 2005, ord 05-62, sec 2.)

Section 3-64. Repealed.
(1983 CC, c 3, art 2, sec 3-64; rep 2005, ord 05-62, sec 2.)

Section 3-65. Repealed.
(1983 CC, c 3, art 2, sec 3-65; rep 2005, ord 05-62, sec 2.)

Section 3-66. Repealed.
(1983 CC, c 3, art 2, sec 3-66; rep 2005, ord 05-62, sec 2.)

Section 3-67. Repealed.
(1983 CC, c 3, art 2, sec 3-67; rep 2005, ord 05-62, sec 2.)

Section 3-68. Repealed.
(1983 CC, c 3, art 2, sec 3-68; rep 2005, ord 05-62, sec 2.)

Section 3-69. Repealed.
(1983 CC, c 3, art 2, sec 3-69; rep 2005, ord 05-62, sec 2.)

Section 3-70. Repealed.
(1983 CC, c 3, art 2, sec 3-70; rep 2005, ord 05-62, sec 2.)

Section 3-71. Repealed.
(1983 CC, c 3, art 2, sec 3-71; rep 2005, ord 05-62, sec 2.)

Section 3-72. Repealed.
(1983 CC, c 3, art 2, sec 3-72; rep 2005, ord 05-62, sec 2.)

Section 3-73. Repealed.
(1983 CC, c 3, art 2, sec 3-73; am 1986, ord 86-134, sec 4; rep 2005, ord 05-62, sec 2.)

Section 3-74. Repealed.
(1983 CC, c 3, art 2, sec 3-74; rep 2005, ord 05-62, sec 2.)

Section 3-75. Repealed.
(1983 CC, c 3, art 2, sec 3-75; rep 2005, ord 05-62, sec 2.)

Section 3-76. Repealed.
(1983 CC, c 3, art 2, sec 3-76; rep 2005, ord 05-62, sec 2.)

Section 3-77. Repealed.
(1983 CC, c 3, art 2, sec 3-77; rep 2005, ord 05-62, sec 2.)

Section 3-78. Repealed.
(1983 CC, c 3, art 2, sec 3-78; am 1986, ord 86-134, sec 5; am 2001, ord 01-108, sec 1; rep 2005, ord 05-62, sec 2.)

Article 3. Pāhoa Village Signs.

Division 1. General Provisions.

Section 3-79. Purpose; applicability.

Pāhoa is recognized as a special design district of the County. Unquestionably, signs have a legitimate place in Pāhoa if they are thoughtfully designed and appropriate to their surroundings. Many elements of good sign design can serve well to further express community identity and values through preservation of the architectural theme of the community, which for Pāhoa, is the plantation country village atmosphere cherished by residents and visitors alike. The primary purpose of a sign is to promote the identity, goods and services, or activities on the property through visual communication. While laws can regulate the size, placement, number, design, and aesthetics of signs, it is recognized that reasonable minds may differ as to how sign control can best be accomplished. The Pāhoa design review committee, as established in chapter 25, article 7 of this Code, (hereinafter "committee"), through the planning department, has a shared responsibility for sign review within the Pāhoa Village district. The provisions of this article shall be utilized by the committee and cooperating agencies in evaluating all sign permit requests within the Pāhoa Village district.

Unless otherwise provided for in this article, all sections of article 1 of this chapter shall apply to the Pāhoa Village district. However, certain other aspects of signage are applied specifically to this district in addition to those in article 1.
(2015, ord 15-46, sec 4.)

Section 3-80. Boundaries.

This article shall apply to the Pāhoa Village district. For purposes of this article, the boundaries of this district shall be as delineated in chapter 25, article 7, division 4, section 25-7-40 of this Code.
(2015, ord 15-46, sec 4.)

Section 3-81. Permit required.

Except as otherwise provided in this chapter, no person, firm, or agency may display, install, construct, erect, alter, relocate, reconstruct, or cause to be displayed, installed, constructed, erected, altered, relocated, or reconstructed any sign within the Pāhoa Village district without first having obtained a sign permit in accordance with this chapter and article.
(2015, ord 15-46, sec 4.)

Section 3-82. Permit application; contents.

(a) To obtain a sign permit, the applicant shall file an application on forms furnished by the director.

(b) The application shall include information required by section 3-16 and, in addition:

(1) A graphic, colored illustration of the proposed sign, drawn to scale and reflecting all letters and the style and size of lettering;

(2) A description or sample of any type of material to be used for the sign and its background, and a description of the method of any lighting;

(3) A plot plan illustrating the location of the building or site and the location of the proposed sign; and

(4) Any other information the director or committee may require.

(2015, ord 15-46, sec 4.)

Section 3-83. Design committee review; failure to review.

(a) Each completed sign permit application, together with all accompanying information shall be forwarded promptly by the director through the County planning director to the committee for its review and comments for consistency with the Pāhoa Village Design Guidelines (hereinafter "design guidelines").

(b) Within twenty-five calendar days after receipt of the completed application from the planning director, the committee shall provide its written recommendation(s) to the director via the planning director. If a recommendation is not received within the allotted period, the director shall act on the request in accordance with section 3-18 or 3-23, as the case may be. The director may grant a time extension to the committee or planning director only upon the written consent of the applicant.

(2015, ord 15-46, sec 4.)

Section 3-84. Guidelines for review.

The committee and the director, when reviewing an application under this article, shall consider the following guidelines, as well as those found in the design guidelines. In the event a conflict exists between any requirement of this chapter and the design guidelines, the more restrictive or specific requirement shall prevail:

(1) Fitting each sign to its surroundings shall be a prime consideration. A sign shall complement the building it identifies and contribute to Pāhoa's historical architectural character as described in the design guidelines. Signs shall be a planned feature, reflecting the architectural scale, design, and color of the building or structure. It should be graphically simple and present an appropriate level of detail without appearing cluttered.

(2) Commercial establishments shall have no more than two signs per street frontage of a building and may include a hanging/projecting sign and a wall/window sign.

(3) The shape of the sign should aesthetically and functionally emphasize the message and not compete with the architecture of the building.

(4) Subtleness, proportion, and design shall be emphasized in sign copy and lettering.

(5) When an illuminated sign is used, the light intensity, color illumination, and the careful screening of the light source shall be considered.
(6) A freestanding sign should offer an opportunity for landscaping treatment at its base.
(7) The use of any material which is compatible to the village atmosphere of Pāhoa is encouraged. Primary consideration should be given to wood or non-reflective metal, on which a design can be carved, sand blasted, or painted.
(8) The use of any natural or earth tone color that is not gaudy or clashing is encouraged.

(2015, ord 15-46, sec 4.)

Section 3-85. Action on permit application.

(a) The director shall consider the committee's recommendation(s) when processing a sign permit application.
(b) If the director, after considering the committee's recommendation(s), finds that the proposed sign is in compliance with this article and chapter and any other applicable County, State or Federal law or regulation, a sign permit shall be issued by the department.

(2015, ord 15-46, sec 4.)

Section 3-86. Variances.

A variance may be granted in accordance with article 1, division 6 of this chapter.

(2015, ord 15-46, sec 4.)

Section 3-87. Design committee review of variances.

(a) Prior to final decision-making on a variance application, the director shall transmit a copy of the variance application through the County planning director to the committee for its review and recommendation.
(b) Within twenty-five calendar days after receipt of the completed variance application from the planning director, the committee shall provide its written recommendation(s) to the director via the planning director. If a recommendation is not received within the allotted period, the director shall act on the request in accordance with division 6 of this chapter. The director may grant a time extension to the committee or planning director only upon the written consent of the applicant.

(2015, ord 15-46, sec 4.)

Section 3-88. Reserved.

Section 3-89. Reserved.

Division 2. Permissible Signs.

Section 3-90. Sign area/size and lettering size.

(a) Unless otherwise provided, the maximum permitted surface area/size of any sign oriented to any public street, park, other public place or pedestrian way shall be:

(1) Directory sign.

(A) If the lot frontage is up to thirty lineal feet, a directory sign may not exceed twelve square feet, except that no wall directory sign may exceed the lesser of twelve square feet or fifteen percent of the wall area on which it is located.

(B) If the lot frontage is greater than thirty lineal feet, a directory sign may not exceed twenty-two square feet, except that no wall directory sign may exceed the lesser of twenty-two square feet or fifteen percent of the wall area on which it is located.

(C) A directory sign, either wall or ground sign, shall not exceed sixteen square feet in the Pāhoa Village district.

(2) Ground sign.

(A) If lot frontage is up to thirty lineal feet, a ground sign shall not exceed twelve square feet for any building or portion of a building under separate management or control and not exceed six feet in elevation from the ground.

(B) If lot frontage is greater than thirty lineal feet, a ground sign shall not exceed twenty-two square feet for any building or portion of a building under separate management or control and not exceed eleven feet in elevation from the ground.

(3) Marquee sign.

(A) A sign attached to the underside of a marquee (hanging sign) for each business conducted on the premises shall not exceed nine square feet in area, and the lower edges must be at least seven and one-half feet above the ground.

(B) A sign attached to or otherwise displayed upon the face of the marquee shall not exceed a total sign area of twenty-two square feet or fifteen percent of the marquee area on which it is displayed, whichever is less.

(4) Projecting sign.

A projecting sign for each business conducted on the premises, stating the name and the nature of the business, shall only be allowed on an exterior wall without an overhang and shall not exceed sixteen square feet.

(5) Wall sign.

(A) If lot frontage is up to thirty lineal feet, a wall sign shall not exceed fifteen percent of the total exposed area of the wall, associated with the business on which the sign is displayed, or twelve square feet, whichever is less. A sign on the face of the building for each business conducted on the premises shall not exceed fifteen percent of the area of the face of the building actually occupied by the business, or twelve square feet, whichever is less.

(B) If lot frontage is greater than thirty lineal feet, a wall sign shall not exceed fifteen percent of the total exposed area of the wall, associated with the business for which the sign is displayed, or twenty-two square feet, whichever is less. A sign on the face of the building for each business conducted on the premises shall not exceed fifteen percent of the area of the face of the building actually occupied by the business or twenty-two square feet, whichever is less.

(C) The total area of any wall covered by signage shall not exceed fifteen percent of the total area of the wall on which it is located, whether used by single or multiple businesses.

(6) Window signs and painted window signs.

For any business, one window sign fronting any street is allowed and shall cover no more than five percent of the total combined area of windows on the respective street frontage or ten square feet, whichever is less.

(b) In any case, the total area allowed shall not exceed twelve square feet for any sign not fronting a public street or vehicular access or for any sign located within the Pāhoa Village district.

(2015, ord 15-46, sec 4.)

Section 3-91. Sign elevation.

Maximum sign elevation, measured from the finished ground elevation to the top of the sign, shall be as follows:

(1) A directory wall sign shall not exceed nine feet in elevation.

(2) The elevation of a ground sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of either the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. A ground sign shall not exceed six feet in elevation. Any lettering or symbols shall not be higher than five and one-half feet from the finished elevation.

(3) A projecting sign may be placed no less than seven feet above ground, and may extend into no more than one-third of the width of any public area or pedestrian way, or four feet, whichever is less.

(4) The top edge of a wall sign shall not exceed the top of the roof line of the building on which the sign is attached.
(5) A window sign shall not exceed five and one-half feet in height.

(2015, ord 15-46, sec 4.)

Section 3-92. Number of signs.

(a) Only two signs for any commercial business for any street or vehicular access on which a building has its primary entrance shall be permitted.
(b) In a multi-building complex, a directory sign for the complex may be allowed which shall not count as the one sign allowed for the building frontage.

(2015, ord 15-46, sec 4.)

Section 3-93. Prohibited signs.

In addition to the signs prohibited in section 3-7, the following types of signs are also prohibited in the Pāhoa Village district:

(1) Any sign or display which is constructed primarily of materials with a shiny, slick, or reflective surface such as fiberglass or acrylic plastic;
(2) Any sign which is displayed on any roof or mansard roof, or when attached to a building extends above the lowest edge of any portion of the roof or mansard roof;
(3) Any sign which has a vertical clearance of less than nine feet or projects, extends, or is otherwise displayed over or above any public street, park, other public places or pedestrian way, except as may be permitted by section 3-62 or chapter 22;
(4) Any sign for product advertising when visible to the general public. A sign containing only the name of a business is not a sign for product advertising;
(5) Any mechanical sign, graphic design or decorative element that functions through animation, revolvement, up, down, sidewards or any other similar movement, including but not limited to, any spinning device, light bulb border, flashing or mobile illumination; and
(6) Any sign which is flashing, blinking, rotating or inflatable.

(2015, ord 15-46, sec 4.)

Section 3-94. Exempt signs (signs allowed without permits).

In addition to the exempt signs allowed in section 3-8, the following signs are exempt in the Pāhoa Village district, with the restrictions stated in section 3-8:

(1) One temporary informational sign or poster for a temporary event, no larger than eight square feet, and posted for a period no longer than thirty days in a calendar year; and
(2) Reasonable application upon the glass surface of a door or window of lettering or decals giving the address, hours of operation, entrance or exit information, professional or security affiliations or memberships, credit cards which are accepted, or other similar information.

(2015, ord 15-46, sec 4.)

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CHAPTER 4

ANIMALS

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CHAPTER 4

ANIMALS

Article 1. Definitions.

Section 4-1. Definitions.

As used in this chapter:

(a) "Animals," unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, honeybees and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property; animals exclude aviary game birds and fish as defined in Hawai'i Revised Statutes. Animal shall further mean any "animal," "farm animal," or "poultry" as those terms are defined in section 4-31.

(b) "At large" means on the premises of a person other than the owner of the dog or other small domesticated animal without the consent of the occupant of the premises, or on a public street, alley, highway, or in any public place except when under the control of a responsible person or an authorized representative of the owner.

(c) "Animal control officer" means any employee of a County-contracted animal control services provider or the Hawai'i County Police Department who is authorized to carry out and enforce the provisions of this chapter. Such individual shall also be known as and may bear the title of "humane officer."

(d) "Attack" means aggressive physical contact with a person or animal initiated by the dog which may include, but is not limited to, the dog jumping on, leaping at, or biting a person or animal.

(e) "Bodily injury" means the same as that defined in section 707-700, Hawai'i Revised Statutes.

(f) "County animal control service" means the animal control services provider contracted by the County to keep stray or unlicensed dogs.

(g) "Dangerous dog" means any dog which, without provocation, attacks a person or animal. A dog's breed shall not be considered in determining whether or not it is dangerous.

(h) "Enforcement officer" means any person authorized and designated to enforce the provisions of this article; however, only an officer of the Hawai'i County Police Department may arrest a person pursuant to the provisions of this article.

(i) "Farm animals" means pigs, cows, goats, sheep, horses, camels, and llamas.

(j) "Humane society" means any eleemosynary organization formed for the purpose of providing humane care and treatment of dogs, cats, and other animals.

(k) "Negligently" shall have the same meaning as is ascribed to the term in section 702-206, Hawai'i Revised Statutes.

(l) "Owner" means any person owning, harboring or keeping a dog, provided that if the owner is a minor under the age of 18 years, the parent, guardian or other person having the care, custody or control of the minor shall be rebuttably presumed to be the owner. The person to whom the license was issued pursuant to section 143-2, Hawaiʻi Revised Statutes, shall be rebuttably presumed to be the owner of the dog for purposes of this section.

(m) "Person" means and includes corporations, estates, associations, partnerships and trusts, as well as one or more individual human beings.

(n) "Poultry" means chickens, pigeons, turkeys, geese, ducks, and peacocks not regulated by state law.

(o) "Provocation" means that the attack by a dog upon a person or animal was precipitated under circumstances reasonably expected to evoke a vicious response from the dog, including, but not limited to, the following:

(1) The dog was protecting or defending its owner or a member of its owner's household from an attack or assault;

(2) The person attacked was committing a crime while on the property of the owner of the dog;

(3) The person attacked was tormenting, abusing, or assaulting the dog;

(4) The dog was attacked by the animal;

(5) The dog was responding to pain or injury inflicted by the attacked person or animal; or

(6) The dog was protecting itself, its kennels or its offspring from the attacked person or animal and the attack was committed on its owner's property.

(p) "Serious injury" to a domestic animal means physical injury to the animal involving a broken bone, a laceration requiring stitches, a concussion, or a tearing or rupture of an organ.

(q) "Sterilized dog" means a spayed female dog and a neutered male dog.

(r) "Stray" means:

(1) An unlicensed dog or dog without a license for the current year;

(2) Any dog on the premises of a person other than the owner of the dog, without the consent of an occupant of such premises;

(3) Any dog on a public street, on public or private school grounds, or in any other public place, except when under the control of the owner by leash, cord, chain or other similar means of physical restraint, provided that such leash, cord, chain, or other means is not more than eight feet in length, and provided further that this provision shall not be construed to permit that which is prohibited by any other law; or

(4) A cat or small domesticated animal wandering or running at large, or found upon any public place or found not upon the lands of the owner or not under the charge or control of one in possession.

(s) "Vicious dog" means a dog which:
(1) Places a person or other animal in imminent danger of bodily injury; or
(2) Has bitten any person or animal.
A dog shall not be deemed vicious where the vicious behavior in question is the result of the dog being tormented, assaulted, or otherwise abused by the victim of the vicious behavior.
(1983 CC, c 4, art 1, sec 4-1; am 1988, ord 88-48, sec 2; am 1992, ord 92-93, sec 1; am 2002, ord 02-138, sec 2.)

Article 2. Dog, Cat, and Animal Pounds.

Section 4-2. Pound established for dogs, cats, and small domesticated animals.

There may be established pounds for the purpose of impounding, sheltering, and disposing of unlicensed, lost, stray, homeless, or diseased dogs, for the destruction or other disposition of seized dogs, not redeemed, and for the sheltering and disposing of lost, stray, unclaimed, or diseased cats and other small domesticated animals in the districts of Kaʻū, Hilo, Hāmākua, Puna, Kohala and Kona, County of Hawaiʻi.
(1983 CC, c 4, art 2, sec 4-2.)

Section 4-3. Direction, control, and administration of pound.

Each pound shall be under the direction, control, and administration of the County or a humane society with whom the County has contracted for services which shall, in addition to the duties provided in section 4-2, feed and shelter the dogs, cats, and small domesticated animals in their care pursuant to chapter 143, Hawaiʻi Revised Statutes. The County may enter into contracts with more than one humane society to carry out the purposes of this chapter and chapter 143, Hawaiʻi Revised Statutes.
(1983 CC, c 4, art 2, sec 4-3; am 1992, ord 92-93, sec 2.)

Section 4-4. Power to seize and impound dogs, cats, and small domesticated animals.

The County or the humane society with whom the County has contracted for services shall be authorized to seize and impound any dog, cat, or other small domesticated animal, when such dog, cat, or other small domesticated animal is a stray, and to dispose of such dog, cat, or small domesticated animal in accordance with chapter 143, Hawaiʻi Revised Statutes.
(1983 CC, c 4, art 2, sec 4-4; am 1992, ord 92-93, sec 2.)

Section 4-5. Enforcement by humane officer.

The humane society with whom the County has contracted for services may designate its employees who possess qualifications and training satisfactory to the County to serve as humane officers to carry out the provisions of this article, chapter 143, Hawaiʻi Revised Statutes, and other provisions of this chapter which expressly authorize such humane officers to take specific action by ordinance.
(1983 CC, c 4, art 2, sec 4-5; am 1992, ord 92-93, sec 2.)

Section 4-6. Expenses and appropriations for the pound.

All expenses of seizing, impounding and disposing of stray dogs, cats, and small domesticated stray animals shall be borne by the humane society with whom the County has contracted to provide such services. The council, however, shall from time to time make such appropriations to assist such humane society as in its discretion and judgment shall be deemed to be necessary to accomplish the responsibilities which such humane society may be required to perform under this chapter.
(1983 CC, c 4, art 2, sec 4-6; am 1992, ord 92-93, sec 2.)

Section 4-7. Agreement between County and humane society required.

An agreement containing, but not limited to, the extent of services rendered or to be rendered by the humane society and methods of reporting and accounting shall be entered into between the society and the County before any payments may be made to the society under this chapter.
(1983 CC, c 4, art 2, sec 4-7; am 1992, ord 92-93, sec 2.)

Section 4-8. Quarterly report required.

The humane society, individually, shall render a full report of its activities, budget, and operations relating to the impounding of stray dogs, cats, and other stray domesticated animals to the mayor and council within one month after the end of each quarter in each fiscal year.
(1983 CC, c 4, art 2, sec 4-8; am 1992, ord 92-93, sec 2.)

Section 4-9. Control of pound by humane society.

Any humane society charged with the responsibility of operating a pound under a contract with the County shall have full and complete control over the administration, maintenance and operation of the pound, subject to the powers reserved to the County under any contract. Such society, or its employees, officers, directors and agents, shall not be viewed as an agent or employee of the County due to the County's establishment and maintenance of controls to assure that public funds distributed to the society are being spent for public purposes.
(1983 CC, c 4, art 2, sec 4-9; am 1992, ord 92-93, sec 2.)

Section 4-10. Transfer of facilities and equipment to societies; reversion.

(a) The County administration is authorized to transfer facilities, equipment, and supplies, which were assigned to pound operations, to the humane society for use in pound functions in accordance with section 6-6.3(k), Hawaiʻi County Charter. The humane society shall not sell, exchange or dispose of the transferred facilities, equipment, and supplies without the written approval of the council.

(b) Should any humane society cease to operate or use such facilities, equipment and supplies for its intended purpose for a period of sixty days, such facilities, equipment and supplies transferred by the County for operation of the animal pound shall revert to the ownership and control of the County.

(c) Should any humane society terminate its contract for services with the County for any reason, voluntarily or involuntarily, any equipment or supplies purchased by the society with contract funds shall revert to the ownership and control of the County.

(1983 CC, c 4, art 2, sec 4-10; am 1992, ord 92-93, sec 2; am 2011, ord 11-103, sec 5.)

Section 4-11. Indemnification to County.

The humane society with whom the County has contracted for services shall undertake to indemnify the County, its officers, agents, employees, and successors, from any and all liabilities, losses or damages the County, its officers, agents, employees, and successors may suffer as a result of claims, demands, costs, or judgments against it arising out of the establishment, maintenance, and operation of the pound, or the seizure, impoundment and disposition of dogs, cats and small domesticated animals, or any activity arising under the contract or this chapter.

(1983 CC, c 4, art 2, sec 4-11; am 1992, ord 92-93, sec 2.)

Article 3. Dog License Fees.

Section 4-12. Fees.

(a) The following fees are hereby established as biennial license fees for the privilege of owning, harboring or keeping of dogs in the County:
   (1) Sterilized dogs $2.00
   (2) Unsterilized dogs $6.00

(b) For purpose of this section a sterilized dog means a spayed female dog and a neutered male dog.

(1983 CC, c 4, art 3, sec 4-12.)

Section 4-13. Proof of sterilization.

Any person seeking to have the person's dog licensed at the sterilized dog rate must present a certificate from a veterinarian licensed to practice within the State showing the description, age, and breed of the dog and certifying its sterilization.

(1983 CC, c 4, art 3, sec 4-13.)

Article 4. Prohibitions.

Division 1. Dogs, Cats, and Other Animals.

Section 4-14. Impoundment of animals.

(a) If any animal, except dogs and cats, trespasses, roams, strays or grazes upon any public lands, private lands of another, or upon any public highway in the County, any police officer or officer may seize and impound such animal for such period of time as may be deemed necessary; provided that reasonable attempts have first been made to notify the owner or keeper of the animal to remove the animal.

(b) If reasonable attempts to notify the owner or keeper of the animal are unsuccessful, if the owner or keeper is unknown, or the owner or keeper refuses or fails to remove the animal after notice, the animal may be seized and impounded by the police or any officer. The owner or keeper of the animal shall pay not less than $5 for each animal that is seized and impounded plus all additional costs incurred in the removal and transportation of the animal, and all costs for the feeding and care of each animal, including, but not limited to bona fide veterinary expenses. If any damage is done by the animals, the owner thereof shall pay to the proper claimant the full amount of damage or loss occasioned by the straying of the animals.

(c) In case the charges and fees are not paid, or after forty-eight hours, in cases where the owners are unknown, the animals may be sold at public auction, or disposed of by the chief of police or the chief's authorized representative.

(1983 CC, c 4, art 4, sec 4-14.)

Section 4-15. Failure to remove animal; penalty.

In addition to the charges or damages in section 4-14, the owner of any animal which trespasses, roams, strays, or grazes upon any public or private lands, or upon a public highway in the County, if upon notice, fails to remove the animals within twenty-four hours thereof, shall be guilty of a violation of this section and upon conviction thereof shall be fined not more than $100.

(1983 CC, c 4, art 4, sec 4-15.)

Section 4-16. Duty upon striking animals, including dogs and cats.

The driver of any vehicle which collides with or is involved in an accident with any animal, including dogs and cats, shall:

(a) Stop, move the animal off the road, if possible, and render aid where necessary, and immediately

(b) Have the animal's owner located, or

(c) Notify the police department or humane society.

There shall be a penalty of not more than $50 for each violation of subsection (b) or (c) of this section.

(1983 CC, c 4, art 4, sec 4-16; am 1986, ord 86-34, sec 1.)

Section 4-17. Cruelty to animals, including dogs and cats.

A person commits the offense of cruelty to animals, dogs and cats if the person knowingly or recklessly:

(a) Gives away an animal, dog or cat, or animals, dogs or cats, as a prize or prizes;

(b) Abandons any animal, dog or cat.

There shall be a penalty of not more than $500 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-17; am 1986, ord 86-34, sec 2.)

Section 4-18. Places prohibited to animals, including dogs and cats.

(a) Except as otherwise provided, it shall be unlawful for any person to take or permit any dog, cat, or other domestic animal, whether loose or on a leash or in restraint on or about any County beach park or any establishment or place of business where food or food products are sold or displayed, including but not limited to restaurants, grocery stores, meat markets, fruit or vegetable stores.

(b) This section shall not apply to "Seeing Eye" dogs or other dogs necessarily utilized for the benefit of handicapped persons or to dogs used for purposes of law enforcement by law enforcement agencies of the Federal, State or County governments.

(c) There shall be a penalty of not more than $50 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-18; am 1986, ord 86-34, sec 3.)

Section 4-19. Defecation and nuisance prohibited.

(a) No person who owns, harbors, keeps or has charge or control of any dog or other small domesticated animal shall cause, suffer, or allow such animal to soil, defile, defecate on, or commit any nuisance on any part of any street, including any sidewalk, passageway or bypath, or on any play area, park, or place where people congregate or walk, or on any public property, or on any private property, without the permission of the owner of the property.

(b) The restrictions in this section shall not apply to that portion of the roadway of any street which lies between and within three feet of the edges or curbs of the roadway, except at crosswalks or bus stops, provided that the person who owns, harbors, keeps or has charge or control of a domesticated animal shall immediately and securely enclose all feces deposited by the animal in a bag, wrapper, or other container, and dispose of the same all in a sanitary manner.

(c) There shall be a penalty of not more than $50 for violations of this section.

(1983 CC, c 4, art 4, sec 4-19; am 1986, ord 86-34, sec 4.)

Division 2. Dogs.

Section 4-20. Seizure of dogs by officers.

(a) Seizure of Unlicensed Dogs.

(1) Every officer shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, and confine it in a pound or any suitable enclosure for a minimum period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and an impoundment fee of $10. Every dog found without a registration tag affixed to the dog's collar will be deemed to be unlicensed.

(2) If not so redeemed, the dog shall be sold by the officer for the amount of the license and impoundment fee, or as much more as can be obtained therefor, and if not so sold, it shall be humanely destroyed.

(3) The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction by paying to the humane society, in addition to the amount of the license and impoundment fee, the sum of $5 per day for the number of days over two days the dog was impounded.
(4) Of the moneys so received, the amount of the impoundment fee or kennel fees, if any, shall be paid to the director of finance.

(b) Seizure of Licensed Stray Dogs.
(1) Every officer shall seize and impound any licensed stray dog.
(2) The officer shall notify the person to whom the license was issued, at the address given in the license certificate, and shall, upon demand made within forty-eight hours thereafter, release the dog to the person upon payment of an impoundment fee of $10.
(3) If no person lawfully entitled to the dog shall, within seven days after the date of giving notice, claim the dog, the dog may be sold or destroyed by the humane society.
(4) The owner of any licensed dog impounded and not claimed within forty-eight hours may redeem the dog at any time before the sale or destruction of the dog by paying to the humane society, in addition to the $10 impoundment fee, the sum of $5 per day for the number of days over two days the dog was impounded.
(5) All impoundment and kennel fees collected by the humane society in any given month shall be deposited by the humane society no later than the fifth day of the following month with the finance director to the credit of the County of Hawaiʻi general fund account.

(1983 CC, c 4, art 4, sec 4-20; am 1995, ord 95-32, sec 2.)

Section 4-21. Seizure of stray dogs by persons other than officers.

(a) Every person other than an officer as defined hereinabove who takes into possession any stray dog shall within forty-eight hours notify the humane society and release the dog to the humane society to be impounded and disposed of according to section 4-20.
(b) There shall be a penalty of $10 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-21.)

Section 4-22. Redemption of seized dogs after sale.

The owner of any dog which has been seized and sold as provided in this chapter may, at any time within thirty days after the sale, redeem the same from the purchaser by paying to the purchaser the amount of the purchase price paid by the purchaser and the sum of $1 per day for the number of days from the date of sale to and including the date of redemption, plus bona fide veterinary expenses.

(1983 CC, c 4, art 4, sec 4-22.)

Section 4-23. Female dogs.

(a) Any female dog in season is not permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult.

(b) At all other times, when any dog is in season such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog.

(c) A penalty of $10 shall be imposed upon the owner or keeper of a dog for each violation of this section.

(1983 CC, c 4, art 4, sec 4-23.)

Section 4-24. Noisy dogs.

(a) No person shall keep any dog which barks, bays, cries, howls or makes any other noise continuously or incessantly for a period of ten minutes or barks, bays, cries, howls or makes any other noise intermittently for a period of twenty minutes within a thirty-minute period of time to the disturbance of any person at any time of day or night and regardless of whether the dog is physically situated in or upon private property.

(b) A dog shall not be deemed a noisy dog for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog. Such action is declared to be a public nuisance and detrimental to the public health and welfare.

(1983 CC, c 4, art 4, sec 4-24; am 1992, ord 92-109, sec 1.)

Section 4-25. Noisy dog; reasonable attempts to reduce noise; penalties.

(a) Any person disturbed by a noisy dog shall make a reasonable attempt to advise the owner or custodian who keeps such dog of this fact. Reasonable attempts for notification include by letter, email, visit to the owner or custodian, or any other legal method. If the person disturbed by a noisy dog is unable to notify the owner or custodian of the noisy dog, or after notifying the owner or custodian, the nuisance is not abated, the person disturbed by the noisy dog may then notify the appropriate enforcement agency.

(b) The owner or custodian of a noisy dog that causes a disturbance as provided in section 4-24 shall be guilty of a violation of this section:

  (1) If after being advised of the disturbance per subsection (a), the owner or custodian of a noisy dog does not take immediate and effective action to abate the nuisance; or

  (2) If the appropriate enforcement agency is notified and responds to a complaint of a noisy dog and the nuisance is not abated.

(c) There shall be a penalty of $25 for the first violation of this section. The second violation has a penalty of $75, the third $100, and any subsequent violation $200.

(1983 CC, c 4, art 4, sec 4-25; am 1992, ord 92-109, sec 1; am 1996; ord 96-105, sec 1; am 2011, ord 11-48, sec 1.)

Section 4-26. Harboring, holding for reward, or licensing of strayed or stolen dogs.

(a) Except as otherwise provided, no person shall harbor or hold for reward or procure a license for a dog which has strayed from the dog's premises or which has been picked up on a public street, highway or other public place unaccompanied by its owner or other person or which has been stolen from its owner.

(b) There shall be a penalty of $10 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-26.)

Section 4-27. Injuring or poisoning dogs.

(a) Unless otherwise provided by law, no person shall wilfully or negligently injure or poison any dog.

(b) There shall be a penalty of $10 for each violation of this section.

(1983 CC, c 4, art 4, sec 4-27.)

Section 4-28. Dangerous dogs may be slain.

(a) If any dangerous, fierce, or vicious dog shall be found running at large and cannot be taken up or tranquilized and impounded, such dog may be slain by any officer or agent authorized to perform any duty under this chapter.

(b) Notwithstanding any provision to the contrary which may be found elsewhere in this chapter, where livestock have been killed, maimed or injured by any dangerous, fierce or vicious stray dog, the owner of such livestock or the owner's agent, after being deputized as a special officer in accordance with the provisions of section 4-5, may take any action necessary to protect the owner's livestock from such dangerous, fierce, or vicious dog, including, without limitation, slaying or otherwise disposing of the same.

(1983 CC, c 4, art 4, sec 4-28.)

Section 4-29. Leash required for public places.

No person shall bring or permit any dog in any County park, public school ground, or airport unless it is held under control by a suitable leash, not more than six feet long; provided, however, that dogs even under control by a suitable leash shall not be allowed in any County beach park. These restrictions shall not apply to dogs utilized by police for patrol or other police purposes.

(1983 CC, c 4, art 4, sec 4-29; am 1986, ord 86-34, sec 5.)

Section 4-30. Penalty for permitting a dog to stray.

In addition to other penalties listed in this chapter, the owner of any dog which strays upon any public lands or the private lands of another shall be fined as follows:

(a) For a first offense, or any offense not preceded within a five-year period by a conviction under this section:

(1) $25.

(b) For any offense which occurs within a five-year period of a prior conviction under this section:
  (1) $50.
(c) For any offense which occurs within five years of two prior convictions under this section:
  (1) $75.
(d) For any offense which occurs within five years of three or more prior convictions under this section:
  (1) Any one or more of the following:
    (A) A fine of up to $500.
    (B) Up to one hundred hours of community service.

(1983 CC, c 4, art 4, sec 4-30; am 1995, ord 95-32, sec 3.)

Section 4-31. [Former] Repealed.

(1983 CC, c 4, art 4, sec 4-31; am 1987, ord 87-122, sec 2; rep 2002, ord 02-138, sec 3.)

Section 4-31. Regulation of dangerous dogs; prohibited acts; conditions on owner; penalties.

(a) A dog owner commits the offense of negligent failure to control a dangerous dog, if the person negligently fails to take reasonable measures to prevent the dog from attacking, without provocation, a person or animal and such attack results in:
  (1) The maiming or causing of serious injury to or the destruction of an animal; or
  (2) Bodily injury to a person.

  A person convicted under this subsection shall be guilty of a petty misdemeanor and sentenced in accordance with subsections (c), (d), and (e).
(b) For the purposes of this section, "reasonable measures to prevent the dog from attacking" shall include but not be limited to:
  (1) Measures required to be taken under sections 4-14, 4-15, 4-18, 4-20, 4-23, 4-30 and 4-32 of this chapter to prevent the dog from becoming a stray; and
  (2) Any conditions imposed by the court for the training of the dog or owner or for the supervision, confinement or restraint of the dog for a previous conviction under this section.
(c) A dog owner convicted under subsection (a) shall be sentenced to one or more of the following:
  (1) A fine of not less than $200 nor more than $2,000;
  (2) A period of imprisonment of up to thirty days, or in lieu of imprisonment, a period of probation of not more than six months in accordance with the procedures, terms and conditions provided in chapter 706, part II, Hawai‘i Revised Statutes;
  (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog.

(d) Unless the dog has been or is ordered to be humanely destroyed, the dog owner shall also be sentenced to the following mandatory provisions, in addition to the provisions of subsection (c):
  (1) The owner shall provide the owner's name, address and telephone number to the county animal control service;
  (2) The owner shall provide the location at which the dog is currently kept, if such location is not the owner's address;
  (3) The owner shall promptly notify the appropriate animal control service of:
    (A) Any changes in the ownership of the dog or the location of the dog along with the names, addresses and telephone numbers of new owners or the new address at which the dog is located;
    (B) Any further instances of an attack by the dog upon a person or an animal;
    (C) Any claims made or lawsuits brought as a result of further instances of an attack by the dog; or
    (D) The death of the dog.
  (4) The owner shall obtain a license for the dog pursuant to section 143-2, Hawaiʻi Revised Statutes, if the dog is not currently licensed; and
  (5) Unless already identified by microchip, the dog shall be permanently identified, at the owner's expense, by injecting into the dog an identification microchip using standard veterinary procedures and practices. The microchip identification number of the dog shall be provided to the county animal control service.

(e) In addition to the provisions of subsections (c) and (d), the dog owner may also be sentenced to any of the following terms or conditions:
  (1) When indoors, the dog be under the control of a person eighteen years of age or older;
  (2) When outdoors and unattended, the dog be kept within a locked fenced or walled area from which it cannot escape;
  (3) When outdoors and unattended, the dog be confined to an escape-proof kennel;
  (4) When outdoors, the dog be attended and kept within a fenced or walled area from which it cannot escape;
  (5) When outdoors, the dog be attended and kept on a leash no longer than six feet in length and under the control of a person eighteen years of age or older;
  (6) When outdoors, the dog be attended and muzzled with a muzzle that prevents the dog from biting any person or animal but does not cause injury to the dog or interfere with its vision or respiration;
  (7) A sign or signs be placed in a location or locations directed by the court advising the public of the presence and dangerousness of the dog;
  (8) The owner and dog, at the owner's expense, attend training sessions conducted by an animal behaviorist, a licensed veterinarian or other recognized expert in the field;
  (9) The dog be neutered or spayed at the owner's expense, unless the neutering or spaying of the dog is medically contraindicated;

(10) The owner procure liability insurance or post bond of not less than $50,000, or for a higher amount if the court finds a higher amount appropriate to cover the medical and/or veterinary costs resulting from potential future actions of the dog;
(11) The dog be humanely destroyed; or
(12) Any other condition the court deems necessary to restrain or control the dog. For the purposes of this subsection, an escape-proof kennel means a kennel which allows the dog to stand normally and without restriction, which is at least two and one-half times the length of the dog, and which protects the dog from the elements. Fencing or wall materials required under this section shall not have openings with a diameter of more than two inches, and in the case of wooden fences, the gaps therein shall not be more than two inches. Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the dog, and when the dog is confined to such kennel or area and unattended, such locks shall be kept locked. The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

(f) Upon probable cause, an enforcement officer may either arrest or issue a summons and citation to the owner for violation of subsection (a).

(2002, ord 02-138, sec 3.)

Section 4-31.1 [Former] Repealed.
(1988, ord 88-48, sec 3; rep 2002, ord 02-138, sec 3.)

Section 4-31.1. Citation and summons; seizure; relinquishment of ownership.

(a) Upon finding probable cause to believe that there has been a violation of section 4-31(a), an enforcement officer may, in addition to arresting or issuing a summons and citation to the owner pursuant to section 4-31, have the dog seized and impounded if the dog is posing an imminent threat to human beings or to other animals. Such impoundment may be at the premises of a licensed veterinarian or at a commercial kennel. All expenses of the boarding and retention of the dog shall be borne by the owner.
(b) If a dog is seized and impounded pursuant to this section, the citation shall notify the owner that if the owner does not appear at the time and place stated in the summons, the dog shall be subject to relinquishment pursuant to subsection (d).
(c) Any person who refuses to surrender a dog that is subject to relinquishment pursuant to this section shall be guilty of a petty misdemeanor and fined not less than $200 nor more than $2,000, imprisoned not more than thirty days, or both.
(d) In the event that the owner of a dog seized and impounded pursuant to this section fails to appear in court as required, ownership of the dog shall be deemed relinquished and the court may order disposition of the dog as it deems appropriate.

(e) Notwithstanding any relinquishment of ownership of the dog pursuant to subsection (d) or voluntary relinquishment of ownership of the dog, the owner shall still be responsible for all expenses of boarding the dog and any penalties which may be imposed by the court.

(2002, ord 02-138, sec 3.)

Section 4-31.2 [Former] Repealed.

(1988, ord 88-48, sec 3; rep 2002, ord 02-138, sec 3.)

Section 4-31.2. Exemption.

The provisions of this article shall not apply to dogs owned by any law enforcement agency and used in the performance of law enforcement work.

(2002, ord 02-138, sec 3.)

Section 4-31.3 [Former] Repealed.

(1988, ord 88-48, sec 3; rep 2002, ord 02-138, sec 3.)

Section 4-31.3. Civil action not precluded.

Nothing contained in this article shall preclude any person injured by a dog from bringing a civil action against the owner of such dog pursuant to the applicable provisions of state law.

(2002, ord 02-138, sec 3.)

Section 4-31.4. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provisions or applications, and to this end the provisions of this article are severable.

(2002, ord 02-138, sec 3.)

Division 3. Enforcement.

Section 4-32. Enforcement.

For any violation of any of the provisions of this article or of the provisions of chapter 143, Hawaiʻi Revised Statutes, it shall be the duty of any officer authorized to seize and impound any dog running at large within the meaning of this article to issue a summons to the owner or other person charged with the responsibility of complying with the provisions of this article or with the provisions of chapter 143, Hawaiʻi Revised Statutes. Said summons shall instruct such owner or person to report at the violations bureau of the respective district courts of the third circuit. Each such owner or person may, within seven days after the receipt of such summons, appear at such violations

bureau and post a bail bond, in such amounts as may be set by the administrative judge of the district courts, for appearance on the date as may be set for such person to appear before the district court. Upon failure to appear upon such date, said bail bond shall be deemed forfeited.
(1986, ord 86-34, sec 6.)

Section 4-32.1. Training; appointment; powers of humane officer.

(a) Pursuant to section 143-2.5, section 143-7, and section 46-1.5(15), Hawai‘i Revised Statutes, a humane officer shall be authorized to issue a complaint and summons or other form of citation as the police chief may deem to be appropriate to enable a humane officer to carry out and to perform the duties of a humane officer under this chapter and any contract between the County and a humane society.
(b) The police chief shall verify that a person designated by a humane society to serve as a humane officer is qualified and trained to serve in that capacity. The police chief shall be empowered to establish minimum requirements for qualification and training, which may be revised from time to time, provided that a copy thereof, and of any revisions, shall be kept on file with the police chief's office thereof at all times. All County agencies, officers and employees shall render their cooperation and assistance to the police chief for purposes of this subsection (b).
(c) The police chief, upon verification of a humane officer's qualification and training, shall issue an oath of office and identification badge or insignia to the humane officer.
(d) A humane officer's appointment, power and authority shall be for a period of not more than two years unless the same is sooner terminated by the humane officer's discharge as an employee of the humane society or discharge as a humane officer by the police chief. The police chief may terminate and discharge a humane officer's appointment upon recommendation of the humane society of which the humane officer is an employee or upon a finding by the police chief that the humane officer has failed to comply with the minimum qualification and training requirements established for humane officers by the police chief.
(e) No proceeding for the appointment, termination or discharge of humane officers shall be subject to laws governing civil service or public employees.

(1992, ord 92-93, sec 3; am 2003, ord 03-116, sec 1.)

Section 4-33. Summons.

There shall be provided for use by officers authorized to enforce laws relating to the regulation and control of dogs, a form of summons for use in citing violators of the provisions of chapter 143, Hawai‘i Revised Statutes. Said summons shall be printed in a form commensurate with the form of other summonses used in modern methods of arrest, so designed to include all necessary information to make the same valid and legal within the laws and regulations of the State of Hawai‘i and the County of Hawai‘i. The form and content of such summons shall be as adopted or prescribed by the administrative judge of the district courts.

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

Every summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
(1986, ord 86-34, sec 6.)

Section 4-34. Failure to obey summons.

It shall be unlawful for any person to fail to appear at the place and within the time specified in the summons issued to the person by an officer for any violation of any section of this article, regardless of the disposition of the charge for which the person was originally cited.
(1986, ord 86-34, sec 6.)

Section 4-35. Issuance of complaint; when.

In the event any person fails to comply with a summons given to such person or if any person fails or refuses to deposit bail as required and within the time permitted, the violations bureau shall forthwith have a complaint entered against such person and secure the issuance of a warrant for the person's arrest.
(1986, ord 86-34, sec 6.)

Section 4-36. Disposition of fines and forfeitures.

All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of this article shall be paid to the County of Hawaiʻi and deposited in the general fund of the County of Hawaiʻi.
(1986, ord 86-34, sec 6.)

Article 5. State Law Reference and Severability.

Section 4-37. Reference to Hawaiʻi state law.

In construing this chapter and providing for the control of animals in the County of Hawaiʻi, reference shall be made to the Hawaiʻi Revised Statutes, including, but not limited to:

Chapter 142, part III, Hawaiʻi Revised Statutes:	Fences and trespasses by animals
Section 142-74, Hawaiʻi Revised Statutes:	Liability of dog owner; penalty
Section 663-1, Hawaiʻi Revised Statutes:	Torts, who may sue and for what
Section 142-96, Hawaiʻi Revised Statutes:	Frightening animals; penalty
Sections 187-12 to 14, Hawaiʻi Revised Statutes:*	Predators and destruction of predators
Section 142-97, Hawaiʻi Revised Statutes:	Wild cattle through street; penalty

(1983 CC, c 4, art 5, sec 4-37; am 1986, ord 86-34, sec 7.)

*** Editor's Note:** Chapter 187, Hawaiʻi Revised Statutes, was repealed.

Section 4-38. Severability.

If any provision of this chapter is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.
(1986, ord 86-34, sec 7.)

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CHAPTER 5

BUILDING

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Section 5-76. Amendments to Appendix C; Group U – Agricultural Buildings.
Section 5-77. Reserved.

Division 2. Appendices Added to the International Building Code.

Section 5-78. Appendices added to International Building Code.
Section 5-79. Appendix L; Factory-built Housing.
Section 5-80. Appendix M; Thatch Material on Exterior of Buildings - Protection Against Exposure Fires.

Section 5-81. Appendix U; Hawai‘i Hurricane Sheltering Provisions for New Construction.
Section 5-82. Appendix W; Hawai‘i Wind Design Provisions for New Constructions.
Section 5-83. Appendix X; Indigenous Hawaiian Architecture Structures.

Article 5. Adoption of the International Energy Conservation Code.

Section 5-84. International Energy Conservation Code adopted.

CHAPTER 5

BUILDING

Article 1. General Provisions.

Section 5-1. Title and purpose.

(a) This chapter shall be known as the "building code," may be cited as such, and will be referred to herein as "this code."

(b) The purpose of this code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within this jurisdiction and certain equipment specifically regulated herein.

(2012, ord 12-27, sec 2.)

Section 5-2. Scope.

The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures within the County inland of the shoreline high-water line, except work located primarily in a public way, public utility towers, bridges, and poles, mechanical equipment not specifically regulated in this code, and hydraulic flood control structures.

(2012, ord 12-27, sec 2.)

Section 5-3. International Building Code adopted.

(a) The "International Building Code, 2006 Edition" as copyrighted and published in 2006 by the International Code Council, Incorporated, as it is adopted and amended by Chapter 180 of Title 3, of the Hawai'i Administrative Rules entitled "State Building Code" (the "HAR"), as such chapter may be amended or superseded from time to time, (the "IBC") is hereby adopted by reference as set forth in this chapter, subject to the amendments set forth in article 3 and article 4 of this chapter. Copies of the "International Building Code, 2006 Edition" and amendments thereto shall be available for public inspection at the department of public works and the office of the county clerk.

(b) Chapter 1 of the IBC, relating to Administration, is hereby excluded from adoption and shall be of no force or effect, with the exception of:

(1) Section 104.9 (Approved materials and equipment);

(2) Section 104.10 (Modifications); and

(3) Section 104.11 (Alternative materials, design and methods of construction and equipment).

(c) The appendices to the IBC shall not apply unless specifically adopted by Chapter 180 of the Hawaiʻi Administrative Rules or by this chapter, as provided in article 4 of this chapter.
  (1) Appendices of the IBC adopted, as provided in article 4, division 1 of this chapter:
    (A) Appendix C, Group U-Agricultural Buildings; and
    (B) Appendix I, Patio Covers.
  (2) Appendices added to the IBC, as provided in article 4, division 2 of this chapter:
    (A) Appendix L, Factory-Built Housing;
    (B) Appendix M, Thatch Material on Exterior of Buildings - Protection Against Exposure Fires;
    (C) Appendix U, Hawaiʻi Hurricane Sheltering Provisions for New Construction;
    (D) Appendix W, Hawaiʻi Wind Design Provisions for New Constructions; and
    (E) Appendix X, Indigenous Hawaiian Architecture Structures.

(2012, ord 12-27, sec 2.)

Section 5-4. 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.

"Owner-builder" means owners or lessees of property who build or improve structures on their property for their own use, or for use by their immediate family. This definition shall not preempt owner-builder by exemption as defined by section 444-2.5, Hawaiʻi Revised Statutes.

(2012, ord 12-27, sec 2.)

Section 5-5. Reference to the State of Hawaiʻi Building Code Title 3, Chapter 180 of the Hawaiʻi Administrative Rules, International Building Code; conflicting provisions.

If any provisions of this code conflict with or contravene provisions of the State of Hawaiʻi Building 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.

(2012, ord 12-27, sec 2.)

Section 5-6. Existing structures.

(a) Buildings in existence at the time of the adoption of this code may have their existing use or occupancy continued if such use or occupancy was legal at the time of the adoption of this code, provided such continued uses do not constitute a hazard to the general safety and welfare of the occupants and the public.

(b) Additions, Alterations and Repairs. When additions, alterations or repairs within any twelve-month period exceeds fifty percent of the replacement value of an existing building or structure, such building or structure shall be made to conform to the requirements for new buildings or structures.

(1) Additions, alterations and repairs not exceeding fifty percent of the replacement value of an existing building or structure and complying with the requirements for new buildings or structures may be made to such building or structure within any twelve-month period without making the entire building or structure comply. The new construction shall conform to the requirements of this code for new building of like area, height and occupancy. Such building or structure, including new additions, shall not exceed the areas and heights specified in this code.

(2) Alterations or repairs, not exceeding twenty-five percent of the value of an existing building or structure, which are non structural and do not affect any member or part of the building or structure having required fire resistance, may be made with the same materials of which the building or structure is constructed.

(3) Exceptions:

(A) The installation or replacement of glass in hazardous locations, as specified in Section 2406, shall be as required for new installations.

(B) Without limitation to the prescribed percentages, the building official may require reengineering analysis, documentation or inspections to assure the structural integrity or safety of the existing structure.

(2012, ord 12-27, sec 2.)

Section 5-7. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-8. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-9. Reserved.
(2012, ord 12-27, sec 2.)

Article 2. Administration and Enforcement.

Division 1. Administration.

Section 5-10. 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.
(2012, ord 12-27, sec 2.)

Section 5-11. 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) Shall enforce the provisions of this code and shall have authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code;

(2) 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;

(3) 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;

(4) Issue upon request a certificate of approval for any work approved by the administrative authority;

(5) 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;

(6) Order changes in workmanship and materials essential to obtain compliance with all provisions of this code;

(7) Investigate any construction or work regulated by this code and issue such notices and orders as provided in this code; and

(8) Keep a complete record of all essential transactions.

(2012, ord 12-27, sec 2.)

Section 5-12. 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 Hawaiʻi County Code to which a permittee may also be subject.

(1) "Wherever in this code reference is made to the ICC Electrical Code, means the Hawaiʻi County Code, Chapter 9, Electrical."

(2) "Wherever in this Code reference is made to the International Fuel Gas Code, the provisions in the International Fuel Gas Code shall be deemed only guidelines and not mandatory."

(3) "Wherever in this Code reference is made to the International Mechanical Code, the provisions in the International Mechanical Code shall be deemed only guidelines and not mandatory."
(4) "Wherever in this code reference is made to the International Plumbing Code, means the Hawai'i County Code, Chapter 17, Plumbing."
(5) "Wherever in this Code reference is made to the International Property Maintenance Code, the provisions in the International Property Maintenance Code shall be deemed only guidelines and not mandatory."
(6) "Wherever in this code reference is made to the International Fire Code, means the Hawai'i County Code, Chapter 26, Fire Code."
(7) "Wherever in this code reference is made to the International Energy Conservation Code, as adopted by the County of Hawai'i."
(8) Other Laws. Any provisions of this code to the contrary notwithstanding, the following shall be at all times in full force and effect, and in situations of conflicting requirements, the stricter shall be complied with:
    (A) Hawai'i Revised Statutes;
    (B) Rules and regulations of the State Department of Land Utilization;
    (C) Ordinance of the County of Hawai'i;
    (D) Rules and regulations of the Planning Department;
    (E) Subdivision rules and regulations adopted pursuant to the subdivision chapter of the County Code;
    (F) Rules and regulations of the County Department of Water Supply;
    (G) Public health regulations, State Department of Health;
    (H) Rules and regulations of the State Department of Labor and Industrial Relations;
    (I) Fire Chapter of the County Code;
    (J) Airport zoning regulations of the State Director of Transportation;
    (K) All materials specified in this code shall not contain asbestos.

(2012, ord 12-27, sec 2.)

Section 5-13. Adoption of rules.

The administrative authority may adopt rules pursuant to chapter 91, Hawai'i Revised Statutes, necessary for the purposes of this code.
(2012, ord 12-27, sec 2.)

Section 5-14. 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.
(2012, ord 12-27, sec 2.)

Section 5-15. Deputies.

(a) In accordance with the prescribed procedures and with the approval of the administrative authority, the building official shall have the authority to appoint technical officers, inspectors, plan examiners and other personnel necessary to support this code enforcement agency. The building official may deputize such inspectors or employees as may be necessary to carry out the functions of this code enforcement agency. Such employees shall have powers as delegated by the building official.

(b) The building official may deputize volunteers to temporarily carry out functions of the code enforcement agency in the event of a major natural disaster.

(2012, ord 12-27, sec 2.)

Section 5-16. 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 there from shall be assumed by the County.

(2012, ord 12-27, sec 2.)

Section 5-17. Reserved.

(2012, ord 12-27, sec 2.)

Section 5-18. Reserved.

(2012, ord 12-27, sec 2.)

Division 2. Permits.

Section 5-19. Permit required.

(a) No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, convert, or demolish any building or structure in the County, or cause the same to be done, without first obtaining a separate building permit for each building or structure from the building official; provided that one permit may be obtained for a dwelling and its accessories, such as fence, retaining wall, pool, storage and garage structures.

(b) Permits will be further required for, but not limited to, the following:
   (1) All Television/Radio Communication Towers, etc., not regulated by the Public Utility Commission.
   (2) Complete new installations of all solar water heating systems, or the complete replacement of existing system with all new components, or relocating of panels from roof to ground or vice versa, along with plumbing and electrical permits.
   (3) Construction or renovation of Handicap Accessible routes from parking lot to building or from building to building on a lot.
   (4) Water tanks or catchments intended for potable/household use, regardless of height or size. For additional requirements where water tank or catchment systems are used as means of fire protection, see Chapter 26 of the Hawai‘i County Code.
   (5) Retaining walls four feet and higher. Stepped or terraced retaining walls 8'-0" of each other are considered to be one wall when determining wall height.

EXCEPTIONS: A permit is not required for:

   (1) Work located primarily in a public way, public utility towers, bridges, and poles, mechanical equipment not specifically regulated in this code, and hydraulic flood control structures.
   (2) Temporary structures used during the construction of a permitted structure, temporary buildings, platforms, and fences used during construction or for props for films, television or live plays and performances.
   (3) Re-roofing work with like material and installation of siding to existing exterior walls which will not affect the structural components of the walls for Groups R-3 and U Occupancies.
   (4) Temporary tents or other coverings used for private family parties or for camping on approved campgrounds.
   (5) Television and radio equipment (i.e. antennas, dishes) accessory to R-1 and R-3 Occupancies. Supports or towers for television and radio equipment 6'-0" or less in height.
   (6) Awnings projecting up to 4 feet and attached to the exterior walls of buildings of Group R-3 or U Occupancy; provided that the awnings do not violate the provisions for “yards” in Chapter 25 (Zoning) of the Hawai‘i County Code.
   (7) Standard electroliers not over 35 feet in height above finish grade.
   (8) Installation of wallpaper or wall covering which are exempted under the provisions of Section 801.1, Interior Finishes, Chapter 8, IBC.
   (9) Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over $4,000 in valuation in any twelve-month period, and do not affect any electrical or mechanical installations.
   (10) Painting and decorating.
   (11) Installation of floor covering.

(12) Cabinet work for R-3 Occupancy and individual units of R-1 and U Occupancies which are not regulated (under Section 310.3.12 Cooking Unit Clearances of this code). Wall mounted shelving not affecting fire resistance or structural members of wall. This is dealing with clearances to cabinets and range clearance to combustible.
(13) Work performed under the jurisdiction of Federal Government and/or located in Federal property.
(14) Swimming pools for one and two-family dwelling units less than 24" in depth.
(15) Department of Transportation, Harbors, - section 266-2, Hawaiʻi Revised Statutes.
(16) Fences 6'-0" or less in height.
(17) Detached structures for animal shelters, storage sheds, towers, and similar uses not more than 6'-0" in height.
(18) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed a) 120 square feet (11 m^2); b) does not exceed 600 square feet for agricultural zoned lands. (Building cannot be located within building setback as required by the Zoning, Chapter 25 of Hawaiʻi County Code. Verify setback requirements with the Planning Department).
(19) Detached decks or platforms less than 30" in height above grade. (Building cannot be located within building setback as required by the Zoning, Chapter 25 of Hawaiʻi County Code. Verify setback requirements with the Planning Department).
(20) Playground equipment, excluding assembly or similar waiting areas.
(21) Replacement of solar water heating components (i.e. panels, tanks) in the same location and of the same type, however; plumbing and/or electrical permits required.
(22) Wells and Reservoirs – Hawaiʻi Revised Statutes, chapter 178. Check requirements of other governmental agencies.
(23) Work performed under the jurisdiction or control of the State Department of Accounting and General Services (DAGS).
(24) Water tanks or catchment systems 5,000 gallons or less in size with a height to width ratio of not more than 2:1, to be used strictly for non-potable/household purposes such as agriculture, irrigation or stock, and that are independent of the potable/household system.

(2012, ord 12-27, sec 2.)

Section 5-20. Application for permit.

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the building division for that purpose. Such application shall:

(1) Identify and describe the work to be covered by the permit for which application is made.

(2) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
(3) Indicate the use and occupancy for which the proposed work is intended.
(4) Be accompanied by construction documents and other information as required by section 5-25.
(5) State the valuation of the proposed work.
(6) Be signed by the applicant/owner, or the applicant's/owner's authorized agent to be consent to the permit application.
(7) Give such other data such as but not limited to the following: Occupancy Group; Types of Construction; Major floor area; Accessible floor area; Setbacks; Distance to nearest building, etc.; other information as may be required by the building official.

(2012, ord 12-27, sec 2.)

Section 5-21. 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. Failure to comply with this provision shall subject the violator to a $25 fine.
(2012, ord 12-27, sec 2.)

Section 5-22. Expiration.

(a) Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void (i) three years after the date of issuance, or (ii) one hundred eighty days from the date of issuance if the building or work authorized by the permit is not commenced by such date. A permit shall expire if the building or work authorized by the permit is suspended or abandoned for a period of one hundred eighty days or more at any time after the work has commenced. In the event of strikes or other causes beyond the control of the builder, the building official may extend the aforementioned three year or one hundred eighty day periods. The extension of time granted shall be a reasonable length of time but in no case exceed six months. Requests for an extension must be made in writing to the building official. No exceptions will be allowed for building permits issued prior to the adoption of this code.
(b) Upon expiration of a permit, all work shall cease and shall not be recommenced until a new permit is obtained. The building official may waive the requirements for submittal of plans and specifications in connection with a permit renewal if the work previously permitted remains the same, no amendments have been made to the building code affecting the work, and previously approved plans are still on file. When the building official determines that plans need not be submitted, the original plans, stamped and approved by the building official, shall be the renewed permit plans.

(c) An owner-builder permit shall expire by limitation and become null and void five years after the date of issuance. If the building or work authorized by the permit is suspended or abandoned any time after the work has commenced, the building official, upon request, may suspend the permit expiration until such a time that the owner-builder is ready to re-commence building or work authorized by approved permit.

(2012, ord 12-27, sec 2.)

Section 5-23. Reserved.

(2012, ord 12-27, sec 2.)

Section 5-24. Reserved.

(2012, ord 12-27, sec 2.)

Division 3. Construction Documents.

Section 5-25. Construction documents required.

(a) Two sets of plans and specifications shall be submitted for dwelling (R-3 Occupancy) and accessory structures for dwellings. Three sets of plans and specifications shall be submitted for all other occupancies.

(b) Plans, specifications, engineering calculations, diagrams, soil investigation reports, code search, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for permit.

(c) All plans and specifications relating to work which affects the public safety or health and for which a building permit is required shall be prepared, designed and stamped by a duly registered professional engineer or architect in accordance with chapter 464, Hawaiʻi Revised Statutes. For residential (R-3 Occupancies) and accessory (U Occupancies) only, plans and specifications shall be designed and stamped by a professional architect or structural engineer when any of the following applies:

(1) Single story structure and more than 600 square feet of floor area for R-3 Occupancy.

(2) Single story or two-story structure of mixed occupancies (R-3 and U Occupancies) with more than 1,200 square feet of total floor area. Item #1 criteria applies.

(3) Structures of R-3 or U Occupancies that are three or more stories in height.

(4) Flood Zone.

(5) Structural members are concrete, masonry or steel.

(d) All plans for retaining walls over 4 feet in height shall be designed and stamped by a professional architect or engineer in the structural or civil branches, pursuant to chapter 464, Hawaiʻi Revised Statutes.

(e) All plans for post and pier type construction with/without perimeter foundation walls of R-3 Occupancies shall be designed and stamped by a professional architect or structural engineer.
(f) All U Occupancies greater than 600 square feet shall be designed and stamped by a professional architect or structural engineer.
(g) All wood trusses of more than 24'-0" spans shall be designed and stamped by a professional architect or structural engineer. All pre-engineered trusses and metal trusses shall be designed and stamped by a professional architect or structural engineer.
(h) The building official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the State of Hawai‘i to practice as such. This requirement may be imposed when prescriptive requirements of the building code are not being adhered to.

(2012, ord 12-27, sec 2.)

Section 5-26. Package homes.

In lieu of compliance with those provisions of section 5-25 pertaining to dwellings, model package homes (homes manufactured in a factory and ready to be assembled on the job site) may be pre-approved as follows by the Hawai‘i County Department of Public Works-Building Division (DPW-Building Division).

(1) Pre-approval shall be limited to three typical model home designs per manufacturer per year, with no revisions. Any revisions to the pre-approved plans will require submittal of the entire particular revised plans and documents for approval. Minimum square footage shall be 900 square feet and maximum square footage shall be 1,400 square feet living area (not including carport/garage). Maximum 2-car carport/garage may be included.
(2) Pre-approval is good for one calendar year (January to December) for the calendar year in which approval is requested. All model pre-approved shall expire by December 31 of each calendar year.
(3) When submitting for pre-approval, applicant shall submit six sets of complete working drawings and specifications along with package home seal and authorizing signature.
(4) There shall be a one time plan review fee based on the actual valuation of the dwelling to be paid by the package model home manufacturer who is submitting the plans for pre-approval. Fees will be charged per model submitted, per section 5-35, table 1-A, item E. All other occupancies shall be based on valuation and the schedule below.
(5) When submitting for building permit under pre-approved plans, the owner/contractor shall:
    (A) Submit two sets of complete working drawings showing the pre-approved model number along with the manufacturer’s wet seal and authorizing signature. DPW-Building Division will verify seal and signature.
    (B) Obtain approvals from other approving department/agencies.

(6) Approval from DPW-Building Division will be given within forty-eight hours.
(7) Pre-approved construction drawings will not be required to be individually stamped by a duly registered engineer or architect in accordance with chapter 464, Hawaiʻi Revised Statutes.

(2012, ord 12-27, sec 2.)

Section 5-27. Requirements for plans and specifications.

(a) Plans and specifications shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the tax map key number of the work site and the name and address of the owner and person who prepared the plans, along with occupancy and type of construction, and floor area computations. Plans shall include a plot plan showing the location of the proposed building and every existing building on the property. The following information shall be included in the code search information which will be part of the plans submitted, that is the basis of the building design which includes but is not limited to the following: Type of Construction; Occupancy; Basic Allowable Floor Areas; Separation for Mixed Occupancy; etc. In lieu of detailed specifications, the building official may approve references on the plans to a specific section or part of this code or other ordinances or laws.

(b) Computations, stress diagrams, and other data sufficient to show the correctness of the plans, shall be submitted when required by the building official.

(c) All plans other than R-3 and U occupancies shall have on the plans information of occupancy, type of construction, floor area computations, allowable area increases, separation wall if used, fire resistive substitution, fire sprinkler, exits, etc. Information shall show code search information for building design.

(2012, ord 12-27, sec 2.)

Section 5-28. Issuance of permits.

(a) The application, plans and specifications filed by an applicant for a permit shall be reviewed by the building official. Plans shall be reviewed by any other appropriate department of the County and the State to verify compliance with laws and ordinances under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and the fees have been paid, the building official shall issue a permit therefore to the applicant; provided that no permit shall be issued for the moving of any building or structure or portion thereof which has deteriorated or has been damaged to an extent greater than fifty percent of the cost of replacement (new) of such building or structure.

Exception. The Building Division will waive the requirements of plan and specification review by the building official of pre-approved R-3 Occupancy package model homes previously approved by the department of public works.

(b) When the building official issues the permit, the building official shall endorse in writing or stamp on all sets of plans and specifications "REVIEWED." Such reviewed plans and specifications shall not be changed, modified, or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.
(c) The building official may issue a permit for the construction of part of the building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of such permit shall proceed at the holder's own risk without assurance that the permit for the entire building or structure will be granted.
(d) The building permit shall be posted in a conspicuous place on the site during the progress of work.
(e) No permit issued shall authorize any person or contractor to do work upon any phase of the building, structure or project unless specifically identified in the permit application, including any attachment or amendments thereto, as the contractor or subcontractor designated to do that particular phase of work.
(f) If there is a change in the designation of any contractor for any phase of work subsequent to the issuance of a permit, the permittee shall submit the change in writing to the building official requesting approval of the change, and include a non-refundable payment of $25 for the transferring of the building permit.

(2012, ord 12-27, sec 2.)

Section 5-29. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-30. Reserved.
(2012, ord 12-27, sec 2.)

Division 4. Fees.

Section 5-31. Permit fees.

A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the addition fee, if any, has been paid.

(1) The fee for each permit shall be as set forth in section 5-35, Table 1A – BUILDING PERMIT FEES.

(2) The determination of value or valuation under any of the provisions of this code shall be made by the building official. The valuation to be used in computing the permit fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent work or permanent equipment.

(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.

(2012, ord 12-27, sec 2.)

Section 5-32. Refunds.

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

(2012, ord 12-27, sec 2.)

Section 5-33. Compliance with Hawaiʻi Revised Statues.

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, Hawaiʻi Revised Statutes, relating to the licensing of contractors.

(2012, ord 12-27, sec 2.)

Section 5-34. Exemption.

(a) The County, all agencies of the County, and contractors with the County, shall be exempted from the requirement of paying any permit fees.

(b) 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.

(2012, ord 12-27, sec 2.)

Section 5-35. Table 1-A.

TABLE 1-A – BUILDING PERMIT FEES	
Fees shall be as follows:	
A. County of Hawai'i, Department of Public Works, Building Division pre-approved single-family dwelling package model homes or single family dwelling with architect or structural engineer stamp 900 s.f. - 1,100 s.f. (living area only with one car or two car carport).	$150
B. County of Hawai'i, Department of Public Works, Building Division pre-approved single-family dwelling package model homes or single-family dwelling with architect or structural engineer stamp 1,101 s.f. - 1,400 s.f. (living area only with one car or two car carport).	$200
C. Dwellings over 1,401 s.f. including all single-family model homes with no minimum s.f. requirement which is part of a development. (To include all enclosed areas under roof except for areas listed under "D").	$20 per 100 sq. ft. or fraction thereof
D. Carport, garages, porches, patios or lanais and detached U structures.	$10 per 100 sq. ft. or fraction thereof
E. All other occupancies shall be based on valuation and the schedule below:	
$0 to $500	$10
$501 to $2,000	$10 for the first $500 plus $1.50 for each additional $100 or fraction thereof, to and including $2,000
$2,001 to $25,000	$32.50 for the first $2,000 plus $7.50 for each additional $1,000 or fraction thereof, to and including $25,000.
$25,001 to $50,000	$205 for the first $25,000 plus $6 for each additional $1,000 or fraction thereof, to and including $50,000.
$50,001 and up	$355 for the first $50,000 plus $3 for each additional $1,000 or fraction thereof.

(2012, ord 12-27, sec 2.)

Section 5-36. Fees for extra and courtesy inspections.

(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.

(2012, ord 12-27, sec 2.)

Section 5-37. Reserved.

(2012, ord 12-27, sec 2.)

Section 5-38. Reserved.

(2012, ord 12-27, sec 2.)

Section 5-39. Reserved.

(2012, ord 12-27, sec 2.)

Division 5. Inspections.

Section 5-40. Inspections.

(a) All construction or work for which a permit is required shall be subject to inspection by the building official. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of any other ordinance. Inspections presuming to give authority to violate or cancel the provisions of this code or of any other ordinances shall not be valid.

(b) It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the County shall be liable for any expense entailed in the removal or replacement of any material required to allow inspection.

(c) A survey of the lot may be required by the building official to verify that the structure is located in accordance with the approved plans.

(2012, ord 12-27, sec 2.)

Section 5-41. Inspection requests.

(a) Whenever any work regulated by this chapter, or any portion thereof, is ready for inspection, the building official shall be notified by the permit holder that same is ready for inspection. The notice shall be in writing on forms furnished by the authority having jurisdiction, by e-mail to the area inspectors or may be faxed or by telephone at the option of the building official. The notice shall be filed with the department not less than forty-eight hours and not more than seventy-two hours before any such inspection is desired.

(b) The building official shall proceed to inspect the same or to make inspection arrangements or notify the contractor of a reschedule within forty-eight hours, not including weekends or holidays, after receipt of such notice. When work conforms in all respects with the provisions of this chapter, a notice granting authority to proceed with installations shall be given.

(c) No permitted work shall be covered or concealed until forty-eight hours have expired after a scheduled inspection or until the building official has approved the installation and given permission to cover or conceal the same. If the permitted work is covered or concealed without an inspection, the licensed contractor will provide verification that the concealed work complies with all the provisions of this chapter in a letter stamped and signed by an architect or structural engineer licensed in the State of Hawai‘i. Should the building official condemn any of said work or equipment as not being in accordance with the provisions of this chapter, notice in writing to that effect shall be given to the permit holder engaged in the work or posted at the jobsite.

(d) Within a reasonable time thereafter, the work or equipment shall be altered or removed as required, and necessary changes shall be made so that all such work and equipment may fully comply with the provisions of this chapter before further work is connected on or with the condemned work or equipment. In default, the general contractor or owner builder shall be liable to the penalties provided in this chapter, and any and every owner, contractor or other person engaged in construction of the building or structure, or otherwise, covering or allowing to be covered such portion of work or equipment, or removing any notice not to cover same placed thereon by the building official shall likewise be liable to the penalties provided for in this chapter.

(e) Owner builders will be required to have inspections, unless done by a licensed contractor or certified by licensed architects/engineers.

(2012, ord 12-27, sec 2.)

Section 5-42. Required inspections.

The building official, upon notification from the permit holder or the permit holder’s agent, shall make the following inspection and shall either approve that portion of the construction as completed or shall notify the permit holder or the permit holder’s agent if the same fails to comply with this code:

(1) Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

(2) Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

(3) Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.
(4) Lathing inspections, to be made after all lathing and gypsum board, interior and exterior, in construction required to be fire-resistive is in place but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

Exception: Lath and gypsum board installed in Group R, Division 3 and Group U Occupancies.

(2012, ord 12-27, sec 2.)

Section 5-43. Final inspection.

The final inspection shall be made after all work required by the building permit is completed.

(2012, ord 12-27, sec 2.)

Section 5-44. Special inspections.

For special inspections, see Section 1704 and 1707.

(2012, ord 12-27, sec 2.)

Section 5-45. Certificate of occupancy.

(a) Certificate Requirement. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Exception: Group R, Division 3 and Group U occupancies will not be issued a certificate of occupancy.

(b) Certificate Issuance. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of public works, the building official shall issue a certificate of occupancy that contains the following:
(1) The building permit number.
(2) The address of the structure.
(3) The name and address of the owner.
(4) A description of that portion of the structure for which the certificate is issued.
(5) A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
(6) The name of the building official.
(7) The edition of the code under which the permit was issued.

(8) The use and occupancy, in accordance with the provisions of chapter 3.
(9) The type of construction as defined in chapter 6.
(10) The design occupant load.
(11) If an automatic sprinkler system is provided, whether the sprinkler system is required.
(12) Any special stipulations and conditions of the building permit.

(c) Temporary Certificate. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

(d) Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

(2012, ord 12-27, sec 2.)

Section 5-46. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-47. Reserved.
(2012, ord 12-27, sec 2.)

Division 6. Substandard and Unsafe Buildings.

Section 5-48. Substandard buildings.

Any building or portion thereof in which there exists any of the following listed conditions to an extent that it endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a "substandard building:"

(1) Inadequate sanitation shall include but not limited to the following:
   (A) Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit.
   (B) Lack of, or improper water closets, lavatories, and bathtubs or showers in a hotel.
   (C) Lack of, or improper kitchen sink in a habitable building.
   (D) Lack of hot and cold water to basins, sinks, tubs and showers in R-1 Occupancies.
   (E) Lack of hot and cold water to basins, sinks, tubs and showers in a dwelling unit or efficiency living unit.
   (F) Lack of, or improper operation of required ventilating equipment.
   (G) Lack of minimum amounts of natural light and ventilation required by this code.

(H) Room area or space dimensions less than the minimum required by this code.
(I) Lack of required lighting.
(J) Dampness of habitable rooms as determined by the Health Department.
(K) Infestations of insects, vermin or rodents as determined by the health officer.
(L) General dilapidation or improper maintenance.
(M) Lack of connection to required sewage disposal system.
(N) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(2) Structural hazards shall include but not be limited to the following:
(A) Deteriorated or inadequate foundations.
(B) Defective or deteriorating flooring or floor supports.
(C) Flooring or floor supports of insufficient size to carry imposed loads with safety.
(D) Members of walls, partitions or other vertical supports that split, lean, or buckle due to defective material or deterioration.
(E) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
(F) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
(G) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads safely.
(H) Fireplaces or chimneys that separate, bulge or settle due to defective material or deterioration.
(I) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(3) Presence of a nuisance including:
(A) Any public nuisance known at common law or in equity jurisprudence.
(B) Any attractive nuisance which may prove detrimental to children whether in a building or on the premises of a building. This includes any unfenced man-made swimming pools, abandoned wells, shafts, or basements; any structurally unsound fences; and any debris or vegetation affecting the structural stability of structures.
(C) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
(D) Overcrowding a room with occupants.
(E) Insufficient ventilation or illumination.
(F) Inadequate or unsanitary sewage or plumbing facilities.
(G) Uncleanliness, as determined by the health officer.
(H) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

(4) Faulty weather protection, which shall include but not be limited to, the following:
   (A) Deteriorating, crumbling or loose plaster.
   (B) Deteriorating or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.
   (C) Defective or lack of weather protection for exterior wall covering, including lack of paint, weathering due to lack of paint or other approved protective covering.
   (D) Broken, rotted, split or buckled exterior wall covering or roof coverings.
(5) Inadequate Maintenance. Any building or portion thereof which is determined to be an unsafe building in accordance with this code.
(6) Inadequate Exits. All buildings or portions thereof not provided with adequate exit facilities as required by this code except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of its construction and which have been adequately maintained. When an unsafe condition exists through lack of, or improper location of exits, additional exits may be required to be installed.
(7) Any building or portion thereof that is not being occupied or used as intended or permitted.

(2012, ord 12-27, sec 2.)

Section 5-49. Unsafe buildings.

All substandard buildings which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment, as specified in this code or any other effective ordinance are, for the purpose of this chapter, "unsafe buildings."

(2012, ord 12-27, sec 2.)

Section 5-50. Examination of buildings or structures reported dangerous or damaged.

The building official shall examine or cause to be examined every building or portion thereof appearing to the building official to be or having been reported as dangerous or damaged.

(2012, ord 12-27, sec 2.)

Section 5-51. Buildings found to be unsafe; Notice to owner.

(a) Whenever the building official has examined or caused to be examined any building and has determined that such building is an unsafe building:
   (1) The building official shall commence proceedings to cause the repair, rehabilitation, vacating, removal and/or demolition of the building;
   (2) Such building shall automatically be deemed and are hereby declared to be a public nuisance;
   (3) The building official shall give to the owner of such building written notice of violation in accordance with section 5-59 and as further described below; and
   (4) The building official shall cause to be posted at each entrance to the buildings ordered vacated a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. DEPARTMENT OF PUBLIC WORKS. COUNTY OF HAWAI'I."

(b) The notice required by subsection (a)(3) above shall require the owner or person in charge of the building or premises, to commence the required repairs or improvements or demolition and removal of the building or structure or portions thereof within forty-eight hours, and to complete all such work within ninety days from date of notice, provided that the building official may provide for more time for completion if deemed reasonably necessary. The notice shall also require the building or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the building official.

(c) The notice required by subsection (a)(4) above shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed without written permission of the building official, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

(2012, ord 12-27, sec 2.)

Section 5-52. Restricted use signs.

In the event of a major natural disaster, the building official may post "Restricted Use" placards at each entrance to a building or portion of a building if an inspection warrants such posting. Entry or occupancy in a building or portion of a building posted with a "Restricted Use" placard shall be limited to the restrictions stated on the placard. Placards shall not be removed or altered unless authorized by the building official.
(2012, ord 12-27, sec 2.)

Section 5-53. Action upon noncompliance.

In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or demolish and remove a building or portion thereof, the building official may order the owner of the building prosecuted as a violator of the provisions of this code.
(2012, ord 12-27, sec 2.)

Section 5-54. Remedies cumulative.

Nothing contained herein shall be construed to limit or restrict the building official from instituting, on behalf of the County, any other legal or equitable proceedings, in addition to those specified herein, to obtain compliance with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, and to recover the cost of such work from owner to attach a lien to the property. The remedies provided in this code shall be cumulative and not exclusive.
(2012, ord 12-27, sec 2.)

Section 5-55. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-56. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-57. Reserved.
(2012, ord 12-27, sec 2.)

Division 7. Violations, Enforcement, and Penalties.

Section 5-58. General provisions.

(a) It shall be unlawful for any person, firm, corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this code.

(b) 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.

(2012, ord 12-27, sec 2.)

Section 5-59. Notice of violation.

(a) Whenever the administrative authority determines that there exists a violation of any provision of this code, the administrative authority shall serve a notice of violation upon the parties responsible for the violation, which may include, but shall not be limited to the owner and any lessee of the property where the violation is located, to make the building 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.

(b) Proper service of such notice shall be by personal service, registered mail, or certified mail upon the owner of record, provided, that if such notice is by registered mail or certified mail, the designated period within which the owner or person in charge is required to comply with the order of the building official shall begin as of the date the owner or person in charge receives such notice.

(2012, ord 12-27, sec 2.)

Section 5-60. 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 5-67 below. 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.

(2012, ord 12-27, sec 2.)

Section 5-61. Penal enforcement.

(a) General Provisions. The provisions of this section are in addition to any other applicable remedy or penalty provided by law.

(b) In case the parties responsible for violating any provisions of this code fail, neglect, or refuse to comply or correct a violation, the administrative authority may submit the matter to the proper authority for penal enforcement.

(c) Any person, firm or corporation violating any provisions of this code shall, upon conviction, be deemed guilty of a petty misdemeanor and each person so convicted shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision 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 thirty days, or by both fine and imprisonment.

(d) 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"), pursuant to section 803-6, Hawai‘i Revised Statutes, 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.

(e) 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.

(f) 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.

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

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

(2012, ord 12-27, sec 2.)

Section 5-62. Injunctive action.

The County 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.
(2012, ord 12-27, sec 2.)

Section 5-63. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-64. Reserved.
(2012, ord 12-27, sec 2.)

Division 8. Variances and Appeals.

Section 5-65. 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.

(2012, ord 12-27, sec 2.)

Section 5-66. 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.

(2012, ord 12-27, sec 2.)

Section 5-67. Other appeals.

Any person aggrieved by the decision of the administrative authority in the administration or application of this code, other than that prescribed in sections 5-65 and 5-66, 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.

(2012, ord 12-27, sec 2.)

Section 5-68. 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.
(2012, ord 12-27, sec 2.)

Section 5-69. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-70. Reserved.
(2012, ord 12-27, sec 2.)

Article 3. Installation Requirements.

Section 5-71. Amendments to adopted International Building Code.

The International Building Code, 2006 Edition, adopted and incorporated by reference into this code as provided in section 5-3 of this chapter, shall be subject to the amendments hereinafter set forth.

(1) Amending Section 202. Section 202 is amended by adding the following definitions:

"BUILDING. A building is any structure used or intended for supporting any use or occupancy. The term shall include but not be limited to any structure mounted on wheels such as a trailer, wagon or vehicle which is parked and stationary for any 24-hour period, and is used for business or living purposes; provided, however, that the term shall not include a push cart or push wagon which is readily movable and which does not exceed 25 square feet in area, nor shall the term include a trailer or vehicle, used exclusively for the purpose of selling any commercial product therefrom, which hold a vehicle license and actually travels on public or private streets.

BUILDING OFFICIAL is the director of the County department of public works or the director's authorized deputy.

CARPORT is a private garage which is at least 100 percent open on one side and with 50 percent net openings on another side or which is provided with an equivalent of such openings on two or more sides.

A private garage which is 100 percent open on one side and 25 percent open on another side with the latter opening so located to provide adequate cross ventilation may be considered a carport when approved by the building official.

EXISTING BUILDING is a building for which a legal building permit has been issued, or one which complied with this Code in effect at the time the building was erected.

FAMILY shall be as defined in the Zoning Code except that a nursing, care home, or other similar facility with not more than five patients may be considered a family under this code.

FIRE CODE. The State Fire Code as adopted by the State Fire Council."

(2) Amending Section 308.2. Section 308.2 is amended to read as follows:

"**308.2 Group I-1**. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services in an assisted living facility.

The residents participate in fire drills, are self starting, and may require some physical assistance from up to one staff to reach a point of safety in an emergency situation. Facilities with residents who require assistance by more than one staff member, are not self starting, who are bedridden beyond 14 days, or require intermittent nursing care beyond 45 days, shall reside on the first floor in all Type III, IV, and V construction, or shall be classified as Group I-2.

A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4."

(3) Amending Section 308.3. Section 308.3 is amended to read as follows:

"**308.3 Group I-2**. This occupancy shall include buildings and structures used for personal, medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals
Nursing homes (both intermediate-care facilities and skilled nursing facilities)
Mental hospitals
Detoxification facilities

Specialized Alzheimer's Facilities or areas
Assisted Living Facilities (with residents beyond group I-1 limitations for capability)

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2."

(4) Amending Section 310.1. Section 310.1 is amended to read as follows:

"**310.1 Residential Group R**. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code in accordance with Section 101.2. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

Boarding houses (transient)
Hotels (transient)
Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, and facilities providing personal care services that have residents that are capable of self evacuation in an emergency situation, including:

Apartment houses
Boarding houses (not transient)
Convents
Dormitories
Facilities providing personal care services (with residents that are capable of self evacuation)
Fraternities and sororities
Hotels (nontransient)
Monasteries
Motels (nontransient)
Vacation timeshare properties

Facilities providing personal care services with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I including:

Buildings that do not contain more than two dwelling units.
Adult facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.
Child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.
Congregate living facilities with 16 or fewer persons.

Adult and child care facilities that are within a single-family home are permitted to comply with the International Residential Code in accordance with Section 101.2.

R-4 Residential occupancies shall include buildings arranged for occupancy as assisted living facilities including more than five but not more than 16 occupants, excluding staff. Residents shall meet the ability to evacuate requirements and other limitations as required in Group I-1.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code."

(5) Amending Section 310.2. The definition of "Personal Care Service" in Section 310.2 is amended to read as follows:

"PERSONAL CARE SERVICE**.** The care of residents who do not require chronic or convalescent, health, medical or nursing care. Personal care involves responsibility for the safety of the resident while inside the building. The types of facilities providing personal care services shall include, but not be limited to, the following: assisted living facilities, residential care facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities."

(6) Amending Section 310.2. The definition of "Residential Care/Assisted Living Facilities" in Section 310.2 is amended to read as follows:

"ASSISTED LIVING FACILITIES. A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services and are licensed by the State."

(7) Adding Section 310.3. Section 310.3 is added as an interim provision until the International Residential Codes are adopted, to read as follows:

"**310.3.1 Dwellings and Lodging Houses.** Congregate residences (each accommodating 10 persons or less).

310.3.2 Construction, Height and Allowable Area. Buildings or parts of building classed Group R because of the use or character of the occupancy shall be limited to the types of construction set forth in Table 503 and shall not exceed allowable height as allowed by the IBC.

310.3.3 Location on Property. For fire-resistive protection of exterior walls and openings, as determined by location on property, see Section 503, Section 601, Section 704, Section 705 and Section 715 of the IBC.

310.3.4 Access and Exit Facilities and Emergency Escapes. Exits shall be provided as specified in Chapter 10.

Access to, and egress from, buildings required to be accessible shall be provided as specified in Chapter 11.

Basements in dwelling units and every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue which shall open directly into a public street, public alley, yard or exit court. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

All escape or rescue windows shall have a minimum net clear openable area of 5.7 square feet. The minimum net clear openable height dimension shall be 24 inches. The minimum net clear openable width dimension shall be 20 inches. When windows are provided as a means of escape or rescue they shall have a finished sill height of not more than 44 inches above the floor.

Bars, grilles, grates or similar devices may be installed on emergency escape or rescue windows or doors, provided:

(1) The devices are equipped with approved released mechanisms which are openable from the inside without the use of a key or special knowledge or effort; and
(2) The building is equipped with smoke detectors installed in accordance with Section 310.3.10.

Exceptions:

(1) Glass jalousie blade windows and fixed glass may be used for emergency escape or rescue.
(2) Escape or rescue windows in Group R, Division 1 Occupancies opening into an exterior exit balcony serving more than two dwelling units or hotel guest rooms shall have a finished sill height not more than 68 inches above the floor.

310.3.5 Light, Ventilation and Sanitation.

(a) **General**. For the purpose of determining the light or ventilation required by this section, any room may be considered as a portion of an adjoining room when half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet, whichever is greater.

Exterior openings for natural light or ventilation required by this section shall open directly onto a public way or a yard or court located on the same lot as the building.

Exceptions:

(1) Required windows may open into a roofed porch where the porch:
   (A) Abuts a public way, yard or court; and
   (B) Has a ceiling height of not less than 7 feet; and
   (C) Has a longer side at least 65 percent open and unobstructed.
(2) Skylights.

(b) **Light**. Guest rooms and habitable rooms within a dwelling unit or congregate residence shall be provided with natural light by means of exterior glazed opening with an area not less than one tenth of the floor area of such rooms with a minimum of 5 square feet.

(c) **Ventilation**. Guest rooms and habitable rooms within a dwelling unit or congregate residence shall be provided with natural ventilation by means of an openable exterior opening with an area of not less than one twentieth of the floor area of such rooms with a minimum of 5 square feet.

In lieu of required exterior opening for natural ventilation, a mechanical ventilating system may be provided. Such system shall be capable of providing two air changes per hour in all guest rooms, dormitories, habitable rooms and in public corridors. One fifth of the air supply shall be taken from the outside.

Bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one twentieth of the floor area of such rooms with a minimum of 1½ square feet.

In lieu of required exterior openings for natural ventilation in bathrooms containing a bathtub or shower or combination thereof, laundry rooms and similar rooms, a mechanical ventilation system connected directly to the outside capable of providing five air changes per hour shall be provided. The point of discharge of exhaust air shall be at least 3 feet from any opening into the building. Bathrooms which contain only a water closet or lavatory or combination thereof, and similar rooms may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(d) **Sanitation**. Every building shall be provided with at least one water closet. Hotels or subdivisions thereof where both sexes are accommodated shall contain at least two separate toilet facilities which are conspicuously identified for male or female use, each of which contains at least one water closet. The water closet stool shall be located in a clear space not less than 30 inches in width. The clear space in front of the water closet stool shall not be less than 24 inches.

Dwellings shall be provided with a kitchen equipped with a kitchen sink. Dwelling units, congregate residences and lodging houses shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory and either a bathtub or shower. Each sink, lavatory and either a bathtub or shower shall be equipped with hot and cold running water necessary for its normal operation.

No dwelling or dwelling unit containing two or more guests rooms shall have room arrangements such that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

310.3.6 Yards and Courts.

(a) **Scope**. This section shall apply to yards and courts having required windows opening therein.

(b) **Yards**. Yards shall not be less than 3 feet in width for one-story and two-story buildings. For buildings more than two stories in height, the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. For buildings exceeding 14 stories in height, the required width of the yard shall be computed on the basis of 14 stories.

(c) **Courts shall not be less than 3 feet in width.** Courts having windows opening on opposite sides shall not be less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall not be less than 10 feet in length unless bounded on one end by a public way or yard. For buildings more than two stories in height, the court shall be increased 1 foot in width and 2 feet in length for each additional story. For buildings exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire resistive.

310.3.7 Room dimensions.

(a) **Ceiling Heights**. Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

If any room has a furred ceiling, the prescribed ceiling height is required in two thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

(b) **Floor Area**. Dwelling units and congregate residences shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms except kitchens shall have an area of not less than 70 square feet. Efficiency dwelling units shall comply with the requirements of Section 310.3.8.

(c) **Width**. Habitable rooms other than kitchen shall not be less than 7 feet in any dimension.

310.3.8 Efficiency Dwellings Units.

An efficiency dwelling unit shall conform to the requirements of the code except as herein provided:

(1) The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.
(2) The unit shall be provided with a separate closet.
(3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
(4) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

310.3.9 Shaft and Exit Enclosures.

Exits shall be enclosed as specified in Section 1020. Elevator shafts, vent shafts, dumbwaiter shafts, clothes chutes and other vertical openings shall be enclosed and the enclosure shall be as specified in Section 707.

310.3.10 Smoke Detectors.

(a) **General**. Dwelling units, congregate residences and hotel or lodging house guest rooms that are used for sleeping purposes shall be provided with smoke detectors. Detectors shall be installed in accordance with the approved manufacturer's instructions.

(b) **Additions, alterations or repairs to Group R Occupancies**. When the valuation of an addition, alteration or repair to a Group "R Occupancy sleeping room exceeds $1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, smoke detectors shall be installed in accordance with subsections (c), (d), and (e) of this section.

(c) **Power Source**. In new construction, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source and shall be equipped with a battery backup. The detector shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings; or in buildings without commercial power; or in buildings which undergo alterations, repairs or additions regulated by subsection (b) of this section.

(d) **Location within dwelling units**. In dwelling units, a detector shall be installed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwellings units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

(e) **Location in efficiency dwelling units, congregate residences and hotels**. In efficiency dwelling units, hotel suites and in hotel and congregate residences sleeping rooms, detectors shall be located on the ceiling or wall of the main room or each sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

310.3.11 Fire Alarm Systems. Fire alarm systems shall comply with the Fire Code and be approved by the fire chief.

310.3.12 Cooking Unit Clearance.

(a) **Minimum Vertical Clearance**. There shall be a minimum vertical clearance of not less than 30 inches between the cooking top of domestic oil, gas, and electric ranges and the underside of unprotected combustible material above such ranges. When the underside of such combustible material is protected with insulated millboard of at least ¼ inch thick covered with sheet metal of not less than 0.021 inch thick (No 28 U.S. gauge) or a metal ventilating hood, the distance shall be not less than 24 inches.

(b) **Minimum Horizontal Clearance**. The minimum horizontal clearance from edge of the burner head(s) of top (or surface) cooking unit to combustible walls extending above the cooking surface shall be not less than 12 inches.

Exception: Walls of combustible materials to be installed within 12 inches of a cooking unit shall be provided with protection equivalent to ½-inch gypsum wallboard covered with laminated plastic. The height of the laminated plastic shall be 12 inch minimum.

(c) **Alternate Materials**. Where alternate materials other than as specified in subsections (a) and (b) are used as approved by the building official, the surface of such material shall have a smooth nonabsorbent finish."

(8) Amending Section 403.8. Section 403.8 is amended to read as follows:

"**403.8 Fire command station.** Fire command stations shall comply with the Fire Code and be approved by the fire chief."

(9) Adding Section 419.4. Section 419.4 is added to read as follows:

"**419.4 Group I-1 Assisted Living Facilities.** Group I-1 Assisted Living Facilities shall comply with the provisions of Sections 419.4.1 and 419.4.2.

419.4.1 Building Story Limitations. Buildings shall not exceed one story in Type VB construction, two stories in Types IIB, III, IV, and VA construction, and three stories in Type IIA construction, including any allowable automatic sprinkler increases. Other construction type limitations on stories shall be limited by the provisions of Chapter 5.

4.19.4.2 Group I-1 Smoke Barriers. Group I-1 occupancies shall be provided with at least one smoke barrier in accordance with Section 709. Smoke barriers shall subdivide every story used by residents for sleeping or treatment into at least two smoke compartments. Each compartment shall have not more than 16 sleeping rooms, and the travel distance from any point in a smoke compartment to a smoke barrier door shall not exceed 150 feet (45,720 mm). At least 10 square feet (0.93 m^2) of refuge area per resident shall be provided within the aggregate area of corridors, treatment rooms, or other low hazard common space rooms on each side of each smoke barrier."

(10) Amending Section 903.2.5. Section 903.2.5 is amended to read as follows:

"**903.2.5 Group I**. An automatic sprinkler system shall be provided throughout buildings with Group I fire area."

(11) Amending Section 903.2.7. Section 903.2.7 is amended to read as follows:

"**903.2.7 Group R**. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: R-3 residential occupancies."

(12) Amending Section 911.1. Section 911.1 is amended to read as follows:

"**911.1 Features**. Where required by other sections of this code, a fire command center for fire department operations shall be provided and shall comply with the Fire Code and be approved by the fire chief."

(13) Amending Section 1008.2. Section 1008.2 is amended to read as follows:

"**1008.2 Gates**. Gates serving the means of egress system shall comply with the requirements of this section. Gates used as a component in a means of egress shall conform to the applicable requirements for doors.

Exceptions:

(1) Horizontal sliding or swinging gates exceeding the 4-foot (1219 mm) maximum leaf width limitation are permitted in fences and walls surrounding a stadium.
(2) Security gates may be permitted across corridors or passageways in school buildings if there is a readily visible durable sign on or adjacent to the gate, stating 'THIS GATE IS TO REMAIN SECURED IN THE OPEN POSITION WHENEVER THIS BUILDING IS IN USE'. The sign shall be in letters not less than one inch high on a contrasting background. The use of this exception may be revoked by the building official for due cause."

(14) Repealing and Replacing Chapter 11. Chapter 11 is deleted in its entirety and replaced to read as follows:

"**Chapter 11 - Accessibility**

1101 Scope. Buildings or portions of buildings shall be accessible to persons with disabilities in accordance with the following regulations:

(1) For construction of buildings or facilities of the State and County Governments, compliance with section 103-50, Hawai'i Revised Statutes, administered by the Disability and Communication Access Board, State of Hawai'i.
(2) Americans with Disabilities Act, administered and enforced by the U.S. Department of Justice.

(3) Fair Housing Act, administered and enforced by the U.S. Department of Housing and Urban Development.
(4) Other pertinent laws relating to disabilities shall be administered and enforced by agencies responsible for their enforcement.

Prior to the issuance of a building permit, the owner (or the owner's representative, professional architect, or engineer) shall submit a statement that all requirements, relating to accessibility for persons with disabilities, shall be complied with."

(15) Adding Section 1203.2.2. Section 1203.2.2 is added to read as follows:

"**1203.2.2 Unvented Attic Spaces.** The attic space shall be permitted to be unvented when the design professional determines it would be beneficial to eliminate ventilation openings to reduce salt-laden air and maintain relative humidity 60 percent or lower to:

(1) Avoid corrosion to steel components,
(2) Avoid moisture condensation in the attic space, or
(3) Minimize energy consumption for air conditioning or ventilation by maintaining satisfactory space conditions in both the attic and occupied space below."

(16) Amending Section 1603.3. Section 1603.3 is amended to read as follows:

"**1603.3 Live loads posted**. Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 100 psf (4.80 kN/m^2), such design live loads shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices."

(17) Amending Section 1611.1. Section 1611.1 is amended to read as follows:

"**1611.1 Design rain loads**. Each portion of a roof shall be designed to sustain the load of rainwater that will accumulate on it if the primary drainage system for that portion is blocked plus the uniform load caused by water that rises above the inlet of the secondary drainage system at its design flow. The design rainfall rate shall be based on the 100-year 1-hour rainfall rate indicated in Figure 1611.1 as published by the National Weather Service or on other rainfall rates determined from approved local weather data."

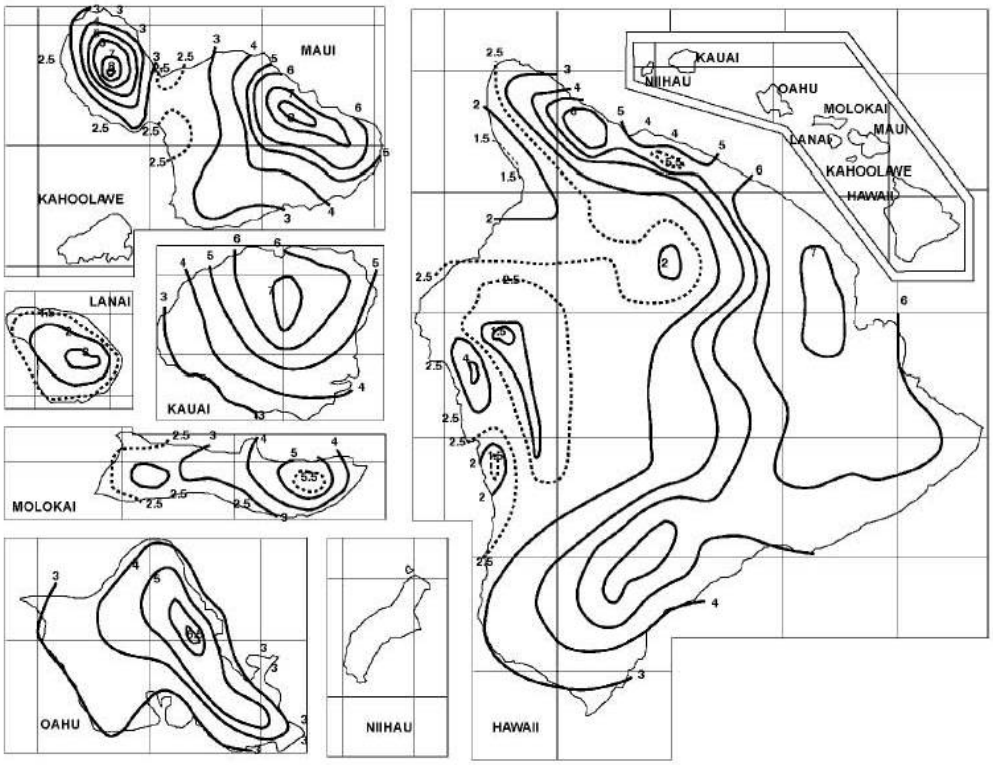


FIGURE 1611.1—continued
100-YEAR, 1-HOUR RAINFALL (INCHES) HAWAII

For SI: 1 inch = 25.4 mm.
Source: National Weather Service, National Oceanic and Atmospheric Administration, Washington D.C.

(18) Amending Table 1613.5.6(1). Table 1613.5.6(1) is amended to read as follows:

TABLE 1613.5.6(1)
SEISMIC DESIGN CATEGORY BASED ON
SHORT-PERIOD RESPONSE ACCELERATIONS

VALUE OF S_{DS}	Occupancy Category		
	I or II	III	IV
$S_{DS} < 0.167g$	A	A	A
$0.167g \leq S_{DS} < 0.33g$	B	B	C
$0.33g \leq S_{DS} < 0.50g$	C	C	D
$0.50 \leq S_{DS} < 0.60g$	C	D	D
$0.60g \leq S_{DS}$	D	D	D

(19) Amending Table 1613.5.6(2). Table 1613.5.6(2) is amended to read as follows:

TABLE 1613.5.6(2)
SEISMIC DESIGN CATEGORY BASED ON
1-SECOND PERIOD RESPONSE ACCELERATION

VALUE OF S_{DI}	Occupancy Category		
	I or II	III	IV
$S_{DI} < 0.067g$	A	A	A
$0.067g \leq S_{DI} < 0.133g$	B	B	C
$0.133g \leq S_{DI} < 0.20g$	C	C	D
$0.20g \leq S_{DI} < 0.25g$	C	D	D
$0.25g \leq S_{DI}$	D	D	D

(20) Amending Section 1702. The definition of "Structural Observation" in Section 1702 is amended to read as follows:

> "STRUCTURAL OBSERVATION. Structural Observation defined in accordance with Hawai'i Administrative Rules of the Department of Commerce and Consumer Affairs, Title 16, Chapter 115, implementing Hawai'i Revised Statutes chapter 464. Structural observation does not include or waive the responsibility for the inspection required by Section 109, 1704 or other sections of this code."

(21) Amending Section 1704.1. Section 1704.1 is amended to read as follows:

"**1704.1 General**. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more special inspectors to provide inspections during construction on the types of work listed under Sections 1704 and 1707. The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the building official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in Section 109.

Exceptions:

(1) Special inspections are not required for work of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
(2) Special inspections are not required for building components unless the design involves the practice of professional engineering or architecture as defined by applicable state statutes and regulations governing the professional registration and certification of engineers or architects.
(3) Unless otherwise required by the building official, special inspections are not required for occupancies in Group R-3 as applicable in Section 101.2 and occupancies in Group U that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1."

(22) Amending Section 1704.1.1. Section 1704.1.1 is amended to read as follows:

"**1704.1.1 Statement of special inspections.** The construction drawings shall include a complete list of special inspections required by this section."

(23) Amending Section 1704.1.2. Section 1704.1.2 is amended to read as follows:

"**1704.1.2 Report requirement.** Special inspectors shall keep records of inspections. The special inspector shall furnish inspection reports to the owner, and licensed engineer or architect of record. Reports shall indicate that work inspected was done in conformance to approved construction documents. Discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the licensed engineer or architect of record and to the building official. The special inspector shall submit a final signed report to the owner and licensed engineer or architect of record, stating whether the work requiring special inspection was, to the best of the inspector's knowledge, in conformance to the approved plans and specifications and the applicable workmanship provisions of this code. Prior to the final inspection required under Section 109.3.10, the licensed engineer or architect of record shall submit a written statement verifying receipt of the final special inspection reports and documenting that there are no known unresolved code requirements that create significant public safety deficiencies."

(24) Repealing Section 1705. Section 1705 is deleted in its entirety.

(25) Amending Section 1709. Section 1709 is amended to read as follows:

"**1709 Structural Observations.** Structural observations shall be performed in accordance with Hawaiʻi Revised Statutes, chapter 464, section 5, administered and enforced by the department of commerce and consumer affairs."

(26) Amending Section 1808.2.7. Section 1808.2.7 is amended to read as follows:

"**1808.2.7 Splices.** Splices shall be constructed so as to provide and maintain true alignment and position of the component parts of the pier or pile during installation and subsequent thereto and shall be of adequate strength to transmit the vertical and lateral loads and moments occurring at the location of the splice during driving and under service loading. Splices occurring in the upper 10 feet (3048 mm) of the embedded portion of the pier or pile shall be capable of resisting at allowable working stresses the moment and shear that would result from an assumed eccentricity of the pier or pile load of 3 inches (76 mm), or the pier or pile shall be braced in accordance with Section 1808.2.5 to other piers or piles that do not have splices in the upper 10 feet (3048 mm) of embedment."

(27) Adding Section 2104.1.9. Section 2104.1.9 is added to read as follows:

"**2104.1.9 Cleanouts.** Cleanouts shall be provided for all grout pours over 5 feet 4 inches in height. Special provisions shall be made to keep the bottom and sides of the grout spaces, as well as the minimum total clear area required by ACI 530.1-05/ASCE 6-05/TMS 602-05 clean and clear prior to grouting.

Exception: Cleanouts are not required for grout pours 8 feet or less in height providing all of the following conditions are met:

(1) The hollow masonry unit is 8-inch nominal width or greater with specified compressive strength f_m less than or equal to 1,500 psi;
(2) Fine grout is used complying with ASTM C-476 minimum compressive strength of 2,500 psi; and
(3) Special Inspection is provided."

(28) Amending Section 2303.1.8. Section 2303.1.8 is repealed and replaced in its entirety to read as follows:

"**2303.1.8 Preservative-treated wood**. Structural lumber, including plywood, posts, beams, rafters, joists, trusses, studs, plates, sills, sleepers, roof and floor sheathing, flooring and headers of new wood-frame buildings and additions shall be:

(1) Treated in accordance with AWPA Standard U1 (UC1 thru UC4B) for AWPA Standardized Preservatives, all marked or branded and monitored by an approving agency. Incising is not required, providing that the retention and penetration requirements of these standards are met.

(2) For SBX disodium octaborate tetrahydrate (DOT), retention shall be not less than 0.28 pcf B_2O_3 (0.42 pcf DOT) for exposure to Formosan termites. All such lumber shall be protected from direct weather exposure as directed in AWPA UC1 and UC2.

(3) For structural glued-laminated members made up of dimensional lumber, engineered wood products, or structural composite lumber, pressure treated in accordance with AWPA U1 (UC1 thru UC4B) or by Light Oil Solvent Preservative (LOSP) treatment standard as approved by the building official. Water based treatment processes as listed in paragraphs 1 and 2 are not allowed to be used on these products unless specified by a structural engineer for use with reduced load values and permitted by the product manufacturer.

(4) For structural composite wood products, treated by non-pressure processes in accordance with AWPA Standard U1 (UC1, UC2 and UC3A) or approved by the building official.

2303.1.8.1 Treatment. Wood treatment shall include the following:

(1) A quality control and inspection program which meets or exceeds the current requirements of AWPA Standards M2-01 and M3-03;

(2) Inspection and testing for the treatment standards as adopted by this code shall be by an independent agency approved by the building official, accredited by the American Lumber Standards Committee (ALSC) and contracted by the treating company;
(3) Field protection of all cut surfaces with a preservative, which shall be applied in accordance with AWPA Standard M-4-02 or in accordance with the approved preservative manufacturer's ICC-Evaluation Services report requirements.

2303.1.8.2 Labeling. Labeling shall be applied to all structural lumber 2 inches or greater nominal thickness, with the following information provided on each piece as a permanent ink stamp on one face or on a durable tag permanently fastened to ends with the following information:

(1) Name of treating facility;
(2) Type of preservative;
(3) AWPA use category;
(4) Quality mark of third party inspection agency;
(5) Retention minimum requirements; and
(6) Year of treatment.

All lumber less than 2 inches in nominal thickness, shall be identified per bundle by means of a label consisting of the above requirements. Labels measuring no less than 6 inches by 8 inches shall be placed on the lower left corner of the strapped bundle.

2303.1.8.3 Moisture Content of Treated Wood. When wood pressure treated with a water-borne preservative is used in enclosed locations where drying in service cannot readily occur, such wood shall be at a moisture content of 19 percent or less before being covered with insulation, interior wall finish, floor covering or other material."

(29) Amending Section 2304.9.5. Section 2304.9.5 is amended to read as follows:

"**2304.9.5 Fasteners in non-borate-preservative-treated and fire-retardant-treated wood.** Fasteners for preservative-treated and fire-retardant-treated wood, other than Borate (SBX, ZB) or LSOP treatments as approved in Section 2303.1.8 Preservative-Treated Wood, shall be of hot dipped zinc-coated galvanized steel, stainless steel, silicone bronze or copper. The coating weights for zinc-coated fasteners shall be in accordance with ASTM A 153.

Exception: Fasteners other than nails, timber rivets, wood screws and lag screws shall be permitted to be of mechanically deposited zinc-coated steel with coating weights in accordance with ASTM B 695, Class 55 minimum.

Fastenings for wood foundations shall be as required in AF&PA Technical Report No. 7."

(30) Amending Section 2304.11. Section 2304.11 is amended to read as follows:

"**2304.11 Protection against decay and termites.**

2304.11.1 General. Where required by this section, protection from decay and termites shall be provided by the use of naturally durable or preservative-treated wood.

2304.11.2 Wood used above ground. Structural lumber installed above ground shall be preservative-treated wood in accordance with Section 2303.1.8.

2304.11.2.1 Soil Treatment and Termite Barriers. Where structural lumber of wood frame buildings or structures are supported directly on the ground by a concrete slab, or concrete and/or masonry foundation Formosan subterranean termite protection shall be provided by either chemically treating the soil beneath and adjacent to the building or structure by a Hawaiʻi licensed pest control operator, or stainless steel termite barrier, or other termite protection measures approved by the Building Official.

All soil treatment, stainless steel termite barrier, and termite protection measures shall be installed according to manufacturer's recommendations for control of Formosan subterranean termites.

2304.11.3 Wood in Ground Contact. Wood supporting permanent buildings and structures, which is in direct soil contact or is embedded in concrete or masonry in direct contact with earth shall be treated to the appropriate commodity specification of AWPA Standard U1.

Wood in direct soil contact but not supporting any permanent buildings or structures shall be treated to the appropriate commodity specification of AWPA Standard U1 for ground contact.

2304.11.4 Retaining Walls. Wood in retaining or crib wall shall be treated to AWPA Standard U1.

2304.11.5 Wood and Earth Separation. Where wood is used with less than 6-inch vertical separation from earth (finish grade), it shall be treated for ground-contact use.

Where planter boxes are installed adjacent to wood frame walls, a 2-inch-wide (51 mm) air space shall be provided between the planter and the wall. Flashings shall be installed when the air space is less than 6 inches (152 mm) in width. Where flashing is used, provisions shall be made to permit circulation of air in the air space. The wood-frame wall shall be provided with an exterior wall covering conforming to the provisions of section 2304.6.

2304.11.6 Under-Floor Clearance for Access and Inspection. Minimum clearance between the bottom of floor joists or bottom of floors without joists and the ground beneath shall be 24 inches; the minimum clearance between the bottom of girders and the ground beneath shall be 18 inches.

Exception: Open slat wood decks shall have ground clearance of at least 6 inches for any wood member.

Accessible under-floor areas shall be provided with a minimum 18 inch-by 24 inch access opening, effectively screened or covered. Pipes, ducts and other construction shall not interfere with the accessibility to or within under-floor areas.

2304.11.7 Wood used in retaining walls and cribs. Wood installed in retaining or crib walls shall be preservative treated in accordance with AWPA U1 (Commodity Specifications A or F) for soil and fresh water use.

2304.11.8 Weather Exposure. All portions of timbers (over 5-inch nominal width) and glued-laminated timbers that form structural supports of a building or other structure shall be protected by a roof, eave, overhangs, flashings, or similar coverings.

All wood or wood composite panels, in weather-exposed applications, shall be of exterior type.

2304.11.9 Water Splash. Where wood-frame walls and partitions are covered on the interior with plaster, tile or similar materials and are subject to water splash, the framing shall be protected with approved waterproof paper conforming to section 1404.2.

2304.11.10 Pipe and Other Penetrations. Insulations around plumbing pipes shall not pass through ground floor slabs. Openings around pipes or similar penetrations in a concrete or masonry slab, which is in direct contact with earth, shall be filled with non-shrink grout, BTB, or other approved physical barrier."

(31) Amending Section 2308.1. Section 2308.1 is amended to read as follows:

"**2308.1 General.** The requirements of this section are intended for conventional light-frame construction. Other methods are permitted to be used, provided a satisfactory design is submitted showing compliance with other provisions of this code. Interior nonload-bearing partitions, ceilings and curtain walls of conventional light-frame construction are not subject to the limitations of this section. Alternatively, compliance with AF&PA WFCM shall be permitted subject to the limitations therein and the limitations of this code."

(32) Amending Section 2701.1. Section 2701.1 is amended to read as follows:

"**2701.1 Scope.** This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the National Electrical Code, NFPA 70."

(33) Amending Section 2901.1. Section 2901.1 is amended to read as follows:

"**2901.1 Scope.** The provisions of this chapter and the Uniform Plumbing Code shall govern the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing equipment and systems. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the Uniform Plumbing Code and adopted amendments. Private sewage disposal systems shall conform to the International Private Sewage Disposal Code."

(34) Amending Section 3001.1. Section 3001.1 is amended to read as follows:

"**3001.1 Scope.** This chapter shall be a guideline and governs the design, construction, installation, alteration and repair of elevators and conveying systems and their components. If this chapter conflicts with another applicable law of the jurisdiction, then said applicable law shall prevail over this chapter."

(35) Amending Section 3109.3. Section 3109.3 is amended to read as follows:

"**3109.3 Public swimming pools.** Public swimming pools shall be completely enclosed by a fence at least 4 feet (1219 mm) in height or a screen enclosure. Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

EXCEPTION: Swimming, dipping, or wading pools located on the premises of a hotel are not required to be enclosed."

(36) Amending Section 3405.1. Section 3405.1 is amended to read as follows:

"**3405.1 Conformance.** The installation or replacement of glass shall be as required by Chapter 24 for new installations."

(37) Amending Section 3410.3.2. Section 3410.3.2 is amended to read as follows:

"**3410.3.2 Compliance with other codes.** Buildings that are evaluated in accordance with this section shall comply with the State Fire Code."

(2012, ord 12-27, sec 2.)

Section 5-72. Reserved.
(2012, ord 12-27, sec 2.)

Section 5-73. Reserved.
(2012, ord 12-27, sec 2.)

Article 4. Adoption, Amendment, and Addition of Appendices.

Division 1. Appendices of International Building Code Adopted.

Section 5-74. Appendices not applicable.
Provisions in the appendices of the International Building Code, 2006 Edition, shall not apply unless specifically adopted.
(2012, ord 12-27, sec 2.)

Section 5-75. Appendices adopted.
The following appendices of the IBC are hereby adopted and incorporated by reference herein and made a part of this code, subject to the amendments hereinafter set forth in this article:
(1) Appendix C, Group U-Agricultural Buildings; and
(2) Appendix I, Patio Covers.
(2012, ord 12-27, sec 2.)

Section 5-76. Amendments to Appendix C; Group U – Agricultural Buildings.
Section C101, General, is amended by adding the following:

"**C101.2 Horticulture buildings.** Buildings and structures of Group U Occupancy for horticultural use with covering of wire screen, cheesecloth, or non-rigid plastic sheets are not required to conform to the requirements of Chapters 4-9, 11-26, 28, 30, 31, 34 and 35 of this code when located in areas zoned for agricultural use and not part of any other structure.

C101.3 Fences.

C101.3.1 General. Fences shall be constructed in accordance with this code and all applicable County and State regulations.

C101.3.2 Barbed or razor wire fences. Barbed or razor wire shall not be used for construction of any fence.

Exceptions:

(a) Barbed or razor wire may be used in fences enclosing the following premises, provided that barbed or razor wire shall be placed along or above the height of 6 feet from the ground, subject to the approval of the fire department:

(1) Any "public utility" as defined in section 269-1, Hawai'i Revised Statutes;
(2) Premises in industrial zoned districts and used for storage or handling of hazardous materials, and premises zoned I-2 or I-3, intensive or waterfront industrial districts which are used for industrial purposes and are not adjacent to premises used for other purposes;
(3) Zoos for keeping animals and birds for public view or exhibition;
(4) Jails, prisons, reformatories, and other institutions which are involved in law enforcement or military activities where security against entry is an important factor.

(b) Barbed wire may be used in premises used for pasturing cattle or raising swine or to keep pigs or other wild animals out.

Section C101.3.3 Construction barrier. See Section 3306 for fences allowed during construction or demolition."

(2012, ord 12-27, sec 2.)

Section 5-77. Reserved.
(2012, ord 12-27, sec 2.)

Division 2. Appendices Added to the International Building Code.

Section 5-78. Appendices added to International Building Code.

The following appendices are hereby added to the International Building Code and made a part of this code, as set forth in full in this article:

(1) Appendix L, Factory-Built Housing;
(2) Appendix M, Thatch Material on Exterior of Buildings – Protection Against Exposure Fires;
(3) Appendix U, Hawaiʻi Hurricane Sheltering Provisions for New Construction;
(4) Appendix W, Hawaiʻi Wind Design Provisions for New Constructions; and
(5) Appendix X, Indigenous Hawaiian Architecture Structures.

(2012, ord 12-27, sec 2.)

Section 5-79. Appendix L; Factory-built Housing.

Appendix L is added to read as follows:

"APPENDIX L
FACTORY-BUILT HOUSING

SECTION L101
APPLICABILITY

L101.1 Purpose. These provisions are applicable to the design, construction, installation and transportation of factory-built housing (FBH) within the County. Unless otherwise specified this article shall be applicable only to FBH which is sold or offered for sale to first users as defined below.

Exception: Manufactured homes manufactured and certified in accordance with the Manufactured Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development. Foundation, exterior stairs, additions and accessory structures shall comply with Article 1, Adoption of the International Building Code and International Residential Code for One- and Two-Family Dwellings.

All provisions of the building, housing, electrical and plumbing codes shall be applicable unless indicated otherwise in this article.

L101.2 Definitions. The following terms are defined for specialized use within this article:

"Factory-built housing" means any structure or portion thereof designed primarily for residential occupancy by human beings, which is either entirely prefabricated or assembled at a place other than the building site.

"First user" means a person, firm or corporation who initially installs FBH within this State. A person who subsequently purchases an installed FBH is not a first user within the meaning of this definition.

"Insignia of approval" means a tag, tab, stamp, label or other device issued by the building official to indicate compliance with the statutes and these rules.

"Installation" means the assembly of FBH on site and the process of affixing FBH to land, a foundation or an existing building.

"Manufacture" means the process of making, fabricating, constructing, forming or assembling a product from raw, unfinished or semi-finished materials to produce FBH.

"Site" means the parcel of land on which FBH is installed.

L101.3 Building permit required. No person shall install FBH or cause the foregoing to be done without first obtaining a building permit from the building official for each FBH.

L101.4 Building permit fee. A fee for each building permit as set forth in section 5-35 of this chapter, shall be paid to the building official. The fee shall be based on the valuation of the building in place complete including the cost of carport, fences, walls, etc.

L101.5 Insignia of approval.

(a) FBH manufactured in this County which is sold or offered for sale to first users within this County shall bear the insignia of approval issued by the building official indicating that the FBH is in compliance with this article.

(b) FBH manufactured outside the county shall bear the insignia of approval issued by any governmental or inspectional agency approved by the building official.

L101.6 Performance of plumbing and electrical work.

(a) All electrical and plumbing work performed within this state shall comply with State of Hawaiʻi contracting and licensing laws and regulations.

(b) All electrical and plumbing work to be performed at the factory outside of this state must be accomplished:

(1) By licensed electricians or plumbers, respectively, of the county in which the factory is located, if the manufacturer does not submit a quality control manual which is approved by the building official; or
(2) Under the supervision of a licensed supervising electrician or master plumber, respectively, of the county in which the factory is located, if the manufacturer submits a quality control manual which is approved by the building official.

L101.7 Plans and specifications.

(a) For each model of FBH, three sets of plans and specifications shall be submitted and approval obtained prior to fabrication.

(b) With each application for a building permit, three sets of installation plans and specifications including the plot plan shall be submitted.

(c) Preparation of plans and observation of construction shall be by a professional architect or structural engineer licensed in the State of Hawaiʻi.

L101.8 Inspections.

(a) FBH manufactured outside of the County shall be inspected by an approved third party inspectional agency.

(b) The building official may make periodic in-plant inspections to verify that the FBH produced comply with the plans as approved by the building official.

(c) Special inspectors shall be hired as required by the building code. Once construction has been completed, the special inspector shall submit a final signed special inspection report along with a copy of the third party inspection worksheet showing special inspection done at the manufacturing plant.

L101.9 Manufacturer's label. A manufacturer's label on a metal plate showing the manufacturer's name, serial number of the building, manufacture date, design load criteria, and third party inspection stamp shall be securely fastened on the FBB.

L101.10 Transporting Factory-Built Housing. The transportation of FBH shall be governed by the provisions of the County and State traffic codes."

(2012, ord 12-27, sec 2.)

Section 5-80. Appendix M; Thatch Material on Exterior of Buildings - Protection Against Exposure Fires.

Appendix M is added to read as follows:

"APPENDIX M
THATCH MATERIAL ON EXTERIOR OF BUILDINGS; PROTECTION AGAINST EXPOSURE FIRES

SECTION M101
GENERAL

M101.1 General. Thatched materials used on the roof on a building shall be protected by manually operated sprinkler heads, with adequate water supply, pipe size, and sprinkler head spacing in accordance with sprinkler system requirements set forth in this section.

Thatched materials used on the wall of a building shall be protected by manually operated outside sprinklers. Size and spacing of sprinklers and pipe size shall be in accordance with Chapter 7, "Outside Sprinklers and Protection Against Exposure Fires," of the National Fire Codes of the National Fire Protection Association. Controls shall be set forth in this section.

SECTION M102
APPLICABILITY

M102.1 Applicability. Thatched material on the exterior of buildings shall be permitted only upon buildings located in areas zone for resort (V Resort-Hotel by the Planning Department) uses which primarily service the tourist trade when approved by the building official.

The thatched material permitted in this section shall be used for decorative purposes on the roof or wall of buildings. The building, independent of the thatched material, shall comply with all applicable provisions of this appendix.

When thatched material is used as permitted in this section, and an appropriate permit is obtained therefore, outside sprinklers for protection against exposure fires shall be required as hereinafter provided.

SECTION M103
SPRINKLER

M103.1 General. Sprinklers shall be located at the high point of the roof. Upright or pendant sprinklers shall be used for gable roofs. Sidewall sprinklers shall be used for shed roofs.

M103.2 Spacing of Sprinklers. The maximum width of roof with one row of sprinklers shall be as follows:

Roof Slope	Orifice Size (In inches)	Width of Roof
1:3 or greater	3/8	15'
1:3 or greater	½	20'
1:3 or greater	17/32	25'
Less than 1:3	3/8	10'
Less than 1:3	½	15'
Less than 1:3	17/32	20'

Maximum spacing of sprinklers on branch lines (along ridge) shall be as follows: 3/8- inch orifice – 6 feet; ½-inch orifice – 8 feet; 17/32-inch orifice – 10 feet.

Conical roofs may be protected with one sprinkler at the apex if the diameter of the roof does not exceed the width of roof referred to in this section.

Where the width of a roof exceeds the width allowed for one row of sprinklers, as provided in the table in this section, two or more rows of sprinklers shall be required. The rows of sprinklers shall be placed such that the entire roof area is protected.

M103.3 Areas Protected. Each area (zone) of thatched material that is separated from another thatched area by an open space of 20 feet or more or by incombustible construction of 20 feet or more shall be considered a separate area (zone).

Risers to each separate zone shall not be less than that shown in subsection M103.5, Riser and Pipe Size, except as modified as follows:

(1) More than one zone may be protected by one valve, if the supply is adequate.

(2) If one area (zone) is larger than can be protected with the existing supply, the zones can be subdivided into subzones if the following criteria are met: An area of at least 800 square feet is protected by the subzone control valve; there is at least a 10 percent overlap in coverage of adjoining subzones; and operation of the manual control valves will automatically transmit an alarm to the fire department.

M103.4 Water Supply. The sprinkling system shall have a separate connection to the water main in the street, to an approved automatic fire-extinguishing system supply line, to a wet standpipe supply line, or to a domestic supply of adequate size. The water supply required shall be determined from either of the following:

(1) Flow per sprinkler for the largest zone, with residual pressure at the highest sprinkler at 15 pounds per square in with all heads operating, shall be as follows:

Orifice Size (In inches)	Gallons Per Minute
3/8	15
1/2	20
17/32	25

(2) The flow shall be hydraulically calculated so as to discharge at least 0.11 gallons per minute per square foot of surface area to be sprinkled.

M103.5 Riser and Pipe Size. Pipe sizes shall be determined from the flow as calculated in subsection M103.4, Water Supply. However, no pipe less than one inch in size shall be used. The following table may be used in conjunction with this flow calculated for the selection of pipe or riser sizes.

Orifice Size (In inches)	Pipe or Riser Size							
	1"	1-1/4"	1-1/2"	2"	2-1/2"	3"	3-1/2"	4"
	No. of Sprinklers							
3/8	3	4	7	11	21	37	40	40
1/2	2	3	5	8	15	27	40	40
17/32	1	2	4	6	11	19	30	38

M103.6 Number of Sprinklers Served. The number of sprinklers on a branch line shall not exceed six. Center feet shall be used for six or more sprinklers. The number of sprinklers under control of each control valve shall not exceed forty. At the location of each valve, there shall be a drain connection and a ¼-inch valve test connection to accommodate pressure gauge.

M103.7 Material Installed Above Grade. Piping shall be galvanized steel schedule 40 with galvanized malleable iron fittings or hard drawn copper with silver solder fittings. Pipes shall be securely fastened to the structure.

Valves shall be manual type approved and listed by the Underwriters' Laboratories or by other approved testing agencies. Valves shall be installed outdoors and so located as to be readily accessible in case of fire. Signs indicating the use of valves shall be conspicuously posted.

M103.8 Local Alarm. Any one system with 20 or more sprinklers under control of one valve shall be complemented with a local fire alarm, either electrically or mechanically operated."

(2012, ord 12-27, sec 2.)

Section 5-81. Appendix U; Hawaiʻi Hurricane Sheltering Provisions for New Construction.

Appendix U is added to read as follows:

"APPENDIX U
HAWAIʻI HURRICANE SHELTERING PROVISIONS FOR NEW CONSTRUCTION

Section U101. Community Storm Shelters.

Chapter 4 is amended by adding Section 421 to read as follows:

"SECTION 421
COMMUNITY STORM SHELTERS

421.1 General. In addition to other applicable requirements in this code, community storm shelters and the following specific Occupancy Category IV buildings shall be constructed in accordance with ICC/NSSA-500:

(1) Designated earthquake, hurricane or other emergency shelters.
(2) Designated emergency preparedness, communication, and operation centers and other facilities required for emergency response.

421.1.1 Scope. This section applies to the construction of storm shelters constructed as separate detached buildings or constructed as safe rooms within buildings for the purpose of providing safe refuge from storms that produce high winds, such as hurricanes. Such structures shall be designated to be hurricane shelters.

421.2 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

COMMUNITY STORM SHELTER. A building, structure, or portions(s) thereof, constructed in accordance with ICC 500-08 ICC/NSSA Standard on the Design and Construction of Storm Shelters and designated for use during a severe wind storm event such as a hurricane."

Section U102. Hawai‘i Residential Safe Room.

Chapter 4 is amended by adding Section 422 to read as follows:

“SECTION 422
HAWAI‘I RESIDENTIAL SAFE ROOM

422.1 Performance-Based Design Criteria. The Residential Safe Room shall meet the minimum performance specifications of Sections 422.1.1 through 422.9, and the owner of the Residential Safe Room shall comply with Section 422.10.

422.1.1 Intent and Scope. The intent of the Residential Safe Room is to temporarily provide an enhanced protection area that is either: (1) fully enclosed within a dwelling or within an accessory structure to a residence; or (2) a separate structure outside of the dwelling that meets standards pursuant to 422.1.2.1 or 422.1.2.2. All Residential Safe Rooms shall be designed and constructed to withstand the wind pressures, windborne debris impacts, and other requirements of this section.

422.1.2 Alternative Standards.

(1) Manufactured Safe Room Designs Subject to Approval. A manufactured safe room or safe room kit may be substituted if documentation is submitted and approved by the building official. The safe room shall be engineered, tested, and manufactured to meet or exceed the criteria of this section.

(2) FEMA 320 Shelter Designs Permitted. It shall be permissible to build FEMA Shelters of up to 64 square feet of floor area with walls up to 8 feet long that are built in accordance with construction details of FEMA 320.

422.2 Site Criteria. Residential Safe Rooms shall not be constructed within areas subject to stream flooding, coastal flooding or dam failure inundation within any of the following areas:

(1) FEMA Special Flood Hazard Areas (SFHA) subject to rainfall runoff flooding or stream or flash flooding;
(2) Coastal zones "V" or "A" identified in the Flood Insurance Rate Map (FIRM) issued by FEMA for floodplain management purposes, in which the flood hazard are tides, storm surge, waves, tsunamis, or a combination of these hazards; and
(3) Areas subject to dam failure inundation as determined by the Department of Land and Natural Resources.

422.3 Maximum Occupancy. The safe room is permitted to be used for a maximum occupancy based on at least 15 square feet per person with a maximum of 8 persons in a room of up to 128 square feet of floor area.

422.4 Provisions for Exiting. The room shall be equipped with an inward-swinging door and an impact-protected operable window suitable for a means of alternative exiting in an emergency.

422.5 Design for Dead, Live, Wind, Rain, and Impact Loads.

422.5.1 Structural Integrity Criteria.

(1) The safe room shall be built with a complete structural system and a complete load path for vertical and lateral loads caused by gravity and wind.
(2) The building that the safe room is built within shall be assumed to be destroyed by the storm and shall not be taken as offering any protective shielding to the safe room enclosure.
(3) The ceiling structure and wall shall be capable of supporting a superimposed debris load of the full weight of any building floors and roof above, but not less than 125 psf.

(4) The safe room enclosure shall be capable of simultaneously resisting lateral and uplift wind pressures corresponding to a 160 mph 3-second peak gust, determined in accordance with ASCE Standard 7, Minimum Design Loads for Buildings and Other Structures, calculated using load and importance Factors of 1.0. The site exposure factor shall be based on exposure C. The gust factor and the directionality factor shall be taken as 0.85. Topographic wind amplification caused by mountainous terrain shall be considered in accordance with the building code. Internal pressure shall be determined in accordance with ASCE – 7.

(5) The safe room shall be anchored to a foundation system capable of resisting the above loading conditions.

422.5.2 Windborne Debris Impact Protection of Building Enclosure Elements. The entire enclosure of the safe room, including all walls, ceilings, and openings, fixed or operable windows, and all entry doors into the safe room, shall meet or exceed Level D requirements of ASTM E 1996 (Table 422.5-1). Any wall or ceiling penetration greater than 4 square inches shall be considered an opening.

Exception: Electrical outlet boxes and interior lighting switches not penetrating more than 2.5-inches into the interior wall surface and a plumbing piping or conduit not greater than 1.5-inch in diameter shall be exempted from this requirement.

422.5.3 Cyclic Pressure Loading of Glazing and Protective Systems. Impact protective systems shall meet the ASTM E 1996 cyclic pressure requirement for the loading given in Table 422.5-1.

Table 422.5-1
Windborne Debris Protection and Cyclic Pressure Criteria for Residential Safe Rooms

ASTM E 1996 Missile Level Rating	Debris Missile Size	Debris Impact Speed	Enclosure Wall Ceiling, and Floor Cyclic Air Pressure Testing - maximum inward and maximum outward pressures
D	2 x 4 weighing 9.0 lb. +/- 0.25 lb., and with min. length 8 ft. +/- 4-inch	50 ft./sec. or at least 34 mph	35 psf inward 45 psf outward

422.6 Ventilation. The room shall be naturally ventilated to allow the enclosure to have approximately one air change every 2 hours. This requirement may be satisfied by 12 square inches of venting per occupant. There shall be at least two operable vents. The vents shall be protected by a cowling or other device that shall be impact tested to comply with ASTM E 1996 Level D. Alternatively, the room shall be evaluated to determine if the openings are of sufficient area to constitute an open or partially enclosed condition as defined in ASCE 7.

422.7 Communications. The safe room shall be equipped with a phone line and telephone that does not rely on a separate electrical power outlet. Alternatively, a wireless telephone shall be permitted to rely on an Uninterruptible Power Supply (UPS) battery device.

422.8 Construction Documents. Construction documents for the Residential Safe Room shall be directly prepared by a Hawai'i licensed professional structural engineer.

422.9 Special Inspection. The construction or installation of the safe room shall be verified for conformance to the drawings in accordance with Chapter 17.

422.10 Notification. The owner of the safe room shall notify the State Department of Defense and county civil defense agency of the property's Tax Map Key or Global Positioning System coordinates."

Section U102. State and County-owned Public High Occupancy Buildings - Design Criteria for Enhanced Hurricane Protection Areas.

Chapter 4 is amended by adding Section 423 to read as follows:

"SECTION 423
STATE AND COUNTY-OWNED HIGH OCCUPANCY BUILDINGS - DESIGN CRITERIA FOR ENHANCED HURRICANE PROTECTION AREAS

423.1 Intent. The purpose of this section is to establish minimum life safety design criteria for enhanced hurricane protection areas in high occupancy state- and county-owned buildings occupied during hurricanes of up to Saffir Simpson Category 3.

423.2 Scope. This section shall apply to state- and county-owned buildings which are of Occupancy Category III and IV defined by Table 1604.5 and of the following specific occupancies:

(1) Enclosed and partially enclosed structures whose primary occupancy is public assembly with an occupant load greater than 300.
(2) Health care facilities with an occupant load of 50 or more resident patients, but not having surgery or emergency treatment facilities.
(3) Any other state- and county-owned enclosed or partially enclosed building with an occupant load greater than 5,000.

(4) Hospitals and other health care facilities having surgery or emergency treatment facilities.

Exception: Facilities located within flood zone V and flood zone A that are designated by the owner to be evacuated during hurricane warnings declared by the National Weather Service, shall not be subject to these requirements.

423.3 Site Criteria.

423.3.1 Flood and Tsunami Zones. Comply with ASCE 24-05, Flood Resistant Design and Construction, based on provisions for Occupancy Category III.

(1) Floor slab on grade shall be 1.5 foot above the Base Flood Elevation of the county's flood hazard map, or at higher elevation as determined by a modeling methodology that predicts the maximum envelope and depth of inundation including the combined effects of storm surge and wave actions with respect to a Category 3 hurricane.

(2) Locate outside of V and Coastal A flood zones unless justified by site-specific analysis or designed for vertical evacuation in accordance with a method approved by the building official. When a building within a V or Coastal A zone is approved, the bottom of the lowest structural framing member of any elevated first floor space shall be 2 feet above the Base Flood Elevation of the county's flood hazard map, or at higher elevation as determined by a modeling methodology that predicts the maximum envelope and depth of inundation including the combined effects of storm surge and wave actions with respect to a Category 3 hurricane.

(3) Locate outside of Tsunami evacuation zones unless justified by site-specific analysis or designed for vertical evacuation in accordance with a method approved by the building official.

423.3.2 Emergency Vehicle Access. Provide at least one route for emergency vehicle access. The portion of the emergency route within the site shall be above the 100-year flood elevation.

423.3.3 Landscaping and Utility Laydown Impact Hazards. Landscaping around the building shall be designed to provide standoff separation sufficient to maintain emergency vehicle access in the event of mature tree blowdown. Trees shall not interfere with the functioning of overhead or underground utility lines, nor cause laydown or falling impact hazard to the building envelope or utility lines.

423.3.4 Adjacent Buildings. The building shall not be located within 1,000 feet of any hazardous material facilities defined by Table 1604.5. Unanchored light-framed portable structures shall be not permitted within 300 feet of the building.

423.4 Enhanced Hurricane Protection Area Program Requirements.

423.4.1 Applicable Net Area. At least 50 percent of the net square feet of a facility shall be constructed to qualify as an enhanced hurricane protection area. The net floor area shall be determined by subtracting from the gross square feet the floor area of excluded spaces, exterior walls, columns, fixed or movable objects, equipment or other features that under probable conditions cannot be removed or stored during use as a storm shelter.

423.4.2 Excluded spaces. Spaces such as mechanical and electrical rooms, storage rooms, attic and crawl spaces, shall not be considered as net floor area permitted to be occupied during a hurricane.

423.4.3 Occupancy Capacity. The occupancy capacity shall be determined by dividing the net area of the enhanced hurricane protection area by 15 square feet net floor area per person.

423.4.4 Toilets and hand washing facilities. Provide a minimum of 1 toilet per 50 enhanced hurricane protection area occupants and a minimum of 1 sink per 100 enhanced hurricane protection area occupants, as determined per Section 423.4.3, located within the perimeter of the enhanced hurricane protection area. These required toilet and hand-washing facilities are not in addition to those required for normal occupancy and shall be included in the overall facility fixture count.

423.4.5 Accessibility. Where the refuge occupancy accommodates more than 50 persons, provide an ADA-accessible route to a shelter area at each facility with a minimum of 1 wheelchair space for every 200 enhanced hurricane protection area occupants determined per Section 423.4.3.

423.5 Design Wind, Rain, and Impact Loads.

423.5.1 Structural Design Criteria. The building Main Wind Force Resisting System and structural components shall be designed per ASCE 7 for a 115 mph minimum peak 3-second gust design speed with a load factor of 1.6, and an Importance Factor for Occupancy Category III. Topographic and directionality factors shall be the site-specific values determined per Appendix W. Design for interior pressure based on the largest opening in any exterior facade or roof surface.

423.5.2 Windborne Debris Missile Impact for Building Enclosure Elements. Exterior glazing and glazed openings, louvers, roof openings and doors shall be provided with windborne debris impact resistance or protection systems conforming to ASTM E1996-05 Level D, i.e., 9 lb. 2 X 4 @ 50 fps (34 mph).

423.5.3 Cyclic Pressure Loading of Impact Resistive Glazing or Windborne Impact Protective Systems. Resistance to the calculated maximum inward and outward pressure shall be designed to conform to ASTM E1996-05.

423.5.4 Windows. All unprotected window assemblies and their anchoring systems shall be designed and installed to meet the wind load and missile impact criteria of this section.

423.5.5 Window Protective Systems. Windows may be provided with permanent or deployable protective systems, provided the protective system is designed and installed to meet the wind load and missile impact criteria and completely covers the window assembly and anchoring system.

423.5.6 Doors. All exterior and interior doors subject to possible wind exposure and/or missile impact shall have doors, frames, anchoring devices, and vision panels designed and installed to resist the wind load and missile impact criteria or such doors, frames, anchoring devices, and vision panels shall be provided with impact protective systems designed and installed to resist the wind load and missile impact criteria of this section.

423.5.7 Exterior envelope. The building enclosure, including walls, roofs, glazed openings, louvers and doors, shall not be perforated or penetrated by windborne debris, as determined by compliance with ASTM E1996-05 Level C.

423.5.8 Parapets. Parapets shall satisfy the wind load and missile impact criteria of the exterior envelope.

423.5.9 Roofs.

423.5.9.1 Roof Openings. Roof openings (e.g., HVAC fans, ducts, skylights) shall be provided with protection for the wind load and missile impact criteria of Sections 423.5.2 and 423.5.3.

423.5.9.2 High Wind Roof Coverings. Roof coverings shall be specified and designed according to the latest ASTM Standards for high wind uplift forces.

423.5.9.3 Roof Drainage. Roofs shall have adequate slope, drains and overflow drains or scuppers sized to accommodate 100-year hourly rainfall rates in accordance with Section 1611.1, but not less than 2-inches per hour for 6 continuous hours.

423.6 Ventilation.

423.6.1 Mechanical ventilation. Mechanical ventilation as required per the International Mechanical Code. Air intakes and exhausts shall be designed and installed to meet the wind load and missile impact criteria of Sections 423.5.2 and 423.5.3.

423.6.2 HVAC Equipment anchorage. HVAC equipment mounted on roofs and anchoring systems shall be designed and installed to meet the wind load criteria. Roof openings for roof-mounted HVAC equipment shall have a 12-inch-high curb designed to prevent the entry of rain water.

423.7 Standby Electrical System Capability. Provide a standby emergency electrical power system per Chapter 27 and NFPA 70 Article 700 Emergency Systems and Article 701 Legally Required Standby Systems, which shall have the capability of being connected to an emergency generator or other temporary power source. The emergency system capabilities shall include:

(1) An emergency lighting system,
(2) Illuminated exit signs,
(3) Fire protection system(s), alarm and sprinkler, and
(4) Minimum mechanical ventilation for health/safety purposes.

423.7.1 Emergency Generator. When emergency generators are pre-installed, the facility housing the generator, permanent or portable, shall be an enclosed area designed to protect the generators from wind and missile impact. Generators hardened by the manufacturer to withstand the area's design wind and missile impact criteria shall be exempt from the enclosed area criteria requirement.

423.8 Quality assurance.

423.8.1 Information on Construction Documents. Construction Documents shall include design criteria, the occupancy capacity of the enhanced hurricane protective area, and Project Specifications shall include opening protection devices. Floor plans shall indicate all enhanced hurricane protection area portions of the facility and exiting routes there from. The latitude and longitude coordinates of the building shall be recorded on the construction documents.

423.8.2 Special Inspection. In addition to the requirements of Chapter 17, special inspections shall include at least the following systems and components:

(1) Roof cladding and roof framing connections.
(2) Wall connections to roof and floor diaphragms and framing.
(3) Roof and floor diaphragm systems, including collectors, drag struts and boundary elements.
(4) Vertical windforce-resisting systems, including braced frames, moment frames and shear walls.
(5) Windforce-resisting system connections to the foundation.
(6) Fabrication and installation of systems or components required to meet the impact-resistance requirements of Section 1609.1.2.

Exception: Fabrication of manufactured systems or components that have a label indicating compliance with the wind-load and impact-resistance requirements of this code.

423.8.3 Quality Assurance Plan. A construction quality assurance program shall be included in the Construction Documents, including:

(1) The materials, systems, components and work required to have special inspection or testing by the building official or by the registered design professional responsible for each portion of the work.
(2) The type and extent of each special inspection.
(3) The type and extent of each test.
(4) Additional requirements for special inspection or testing for seismic or wind resistance.
(5) For each type of special inspection, identification as to whether it will be continuous special inspection or periodic special inspection.

423.8.4 Peer Review. Construction Documents shall be independently reviewed by a Hawaiʻi-licensed Structural Engineer. A written opinion report of compliance shall be submitted to State Civil Defense, the Building Official, and the owner.

423.9 Maintenance. The building shall be periodically inspected every three years and maintained by the owner to ensure structural integrity and compliance with this section. A report of inspection shall be furnished to State Civil Defense.

423.10 Compliance Re-certification when Altered, Deteriorated, or Damaged. Alterations shall be reviewed by a Hawaiʻi-licensed structural engineer to determine whether any alterations would cause a violation of this section. Deterioration or damage to any component of the building shall require an evaluation by a Hawaiʻi-licensed structural engineer to determine repairs necessary to maintain compliance with this section."

(2012, ord 12-27, sec 2.)

Section 5-82. Appendix W; Hawai'i Wind Design Provisions for New Constructions.

Appendix W is added to read as follows:

"APPENDIX W
HAWAI'I WIND DESIGN PROVISIONS FOR NEW CONSTRUCTIONS

W101 Revisions to Chapter 16. When Appendix W is adopted, wind design shall be in accordance with Chapter 16 as amended by Sections W101.1 through W101.10.

W101.1 Revisions to Section 1603.1. Section 1603.1 is amended to read as follows:

"**1603.1 General.** Construction documents shall show the size, section, and relative locations of structural members with floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.8 shall be indicated on the construction documents.

Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

(1) Floor and roof live loads.
(2) Ground snow load, P_g.
(3) Basic wind speed (3-second gust) and Effective wind speed V_{eff} (3-second gust), miles per hour (mph)(km/hr) and wind exposure.
(4) Seismic design category and site class.
(5) Flood design data, if located in flood hazard areas established in Section 1612.3."

W101.2 Revisions to Section 1603.1.4. Section 1603.1.4 is amended to read as follows:

"**1603.1.4 Wind Design Data.** The following information related to wind loads shall be shown, regardless of whether wind loads govern the design of the lateral-force-resisting system of the building:

(1) Basic wind speed (3-second gust), miles per hour (km/hr), V, and effective windspeed V_{eff}.
(2) Wind importance factor I, and building category.

(3) Wind exposure, if more than one wind exposure is utilized, the wind exposure for each applicable wind direction shall be indicated.
(4) The applicable internal pressure coefficient.
(5) Components and cladding. The design wind pressures in terms of psf (kN/m²) used for the design of exterior components, and cladding not specifically designed by the registered design professional."

W101.3 Revisions to Section 1609.1.1. Section 1609.1.1 is amended to read as follows:

"**1609.1.1 Determination of wind loads.** Wind loads on every building or structure shall be determined in accordance with Chapter 6 of ASCE 7. Minimum values for Directionality Factor, K_d, Velocity Pressure Exposure Coefficient, K_z, and Topographic Factor, K_{zt}, shall be determined in accordance with Section 1609. The type of opening protection required, the basic wind speed and the exposure category for a site is permitted to be determined in accordance with Section 1609 or ASCE 7. Wind shall be assumed to come from any horizontal direction and wind pressures shall be assumed to act normal to the surface considered.

Exceptions:

(1) Subject to the limitations of Section 1609.1.1.1, the provisions of SBCCI SSTD 10 shall be permitted for applicable Group R-2 and R-3 buildings.
(2) Subject to the limitations of Section 1609.1.1.1, residential structures using the provisions of the AF &PA WFCM.
(3) Designs using NAAMM FP 1001.
(4) Designs using TIA/EIA-222 for antenna-supporting structures and antennas."

W101.4 Revisions to Section 1609.1.2. Section 1609.1.2 is amended to read as follows:

"**1609.1.2 Protection of openings.** In wind-borne debris regions, glazing in building shall be impact-resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resisting standard or ASTM E 1996 and of ASTM E 1886 referenced therein as follows:

(1) Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the Large Missile Test of ASTM E 1996.
(2) Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the Small Missile Test of ASTM E 1996.

Exceptions:

(1) Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and a maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7. Attachment in accordance with Table 1609.1.2 is permitted for buildings with a mean roof height of 33 feet (10,058 mm) or less where wind speeds do not exceed 130 mph (57.2 m/s).
(2) Glazing in Occupancy Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected.
(3) Glazing in Occupancy Category II, III or IV buildings located over 60 feet (18,288 mm) above the ground and over 30 feet (9,144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

(4) Glazing in Occupancy Category II and III buildings that can receive positive external pressure in the lower 60 feet (18,288 mm) shall be assumed to be openings unless such glazing is impact-resistant or protected with an impact-resistant system.

Exception: Glazing in Occupancy Category III buildings defined by Table 1604.5 of the following occupancies shall be provided with windborne debris protection:

(a) Covered structures whose primary occupancy is public assembly with an occupant load greater than 300.
(b) Health care facilities with an occupant load of 50 or more resident patients, but not having surgery or emergency treatment facilities.
(c) Any other public building with an occupant load greater than 5,000.

1609.1.2.1 Building with openings. Where glazing is assumed to be an opening in accordance with Section 1609.1.2, the building shall be evaluated to determine if the openings are of sufficient area to constitute an open or partially enclosed building as defined in ASCE 7. Open and partially enclosed buildings shall be designed in accordance with the applicable provisions of ASCE 7. Partially enclosed Occupancy R-3 buildings shall also include a residential safe room in accordance with Section 422, Hawaiʻi Residential Safe Room.

1609.1.2.2 Louvers. Louvers protecting intake and exhaust ventilation ducts not assumed to be open that are located within 30 ft (9,144 mm) of grade shall meet requirements of an approved impact-resisting standard or the Large Missile Test of ASTM E 1996.

TABLE 1609.1.2
WIND-BORNE DEBRIS PROTECTION FASTENING SCHEDULE FOR WOOD STRUCTURAL PANELS [a,b,c]

FASTENER TYPE	FASTENER SPACING		
	Panel span ≤ 4 feet	**4 feet < Panel span ≤ 6 feet**	**6 feet < Panel span ≤ 8 feet**
No. 6 screws	16"	12"	9"
No. 8 screws	16"	16"	12"

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound = 0.454 kg, 1 mile per hour = 1.609 km/h.

a. This table is based on a maximum wind speed (3-second gust) of 130 mph and mean roof height of 33 feet or less.
b. Fasteners shall be installed at opposing ends of the wood structural panel. Fasteners shall be located a minimum of 1 inch from the edge of the panel.
c. Fasteners shall be long enough to penetrate through the exterior wall covering a minimum of 1.75 inches into wood wall framing; a minimum of 1.25 inches into concrete block or concrete; or into steel framing by at least three threads. Fasteners shall be located a minimum of 2.5 inches from the edge of concrete block or concrete.
d. Where screws are attached to masonry or masonry/stucco, they shall be attached utilizing vibration-resistant anchors having a minimum withdrawal capacity of 490 pounds."

W101.4.1 Revisions to Section 1609.2. Section 1609.2 is amended to read as follows:

"**1609.2 Definitions.** The following words and terms shall, for the purposes of Section 1609, have the meanings shown herein.

HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes defined as:

(1) The U.S. Atlantic Ocean and Gulf of Mexico coasts where the basic wind speed is greater than 90 mph (40 m/s) and
(2) Hawai'i, Puerto Rico, Guam, Virgin Islands and American Samoa.

WIND-BORNE DEBRIS REGION. Portions of hurricane-prone regions that are within 1 mile (1.61 km) of the coastal mean high water line where the basic wind speed is 110 mph (48 m/s) or greater; or portions of hurricane-prone regions where the basic wind speed is 120 mph (53 m/s) or greater."

W101.5 Revisions to Section 1609.3. Section 1609.3 is amended to read as follows:

"**1609.3 Basic wind speed and Topographic and Directionality Factors**. The basic wind speed, in mph, for the determination of the wind loads shall be determined by Figure 1609.

Special wind regions near mountainous terrain and valleys are accounted within the Topographic Factor defined in Section 1609.3.3. Wind speeds derived from simulation techniques shall only be used in lieu of the basic wind speeds given in Figure 1609 when, (1) approved simulation or extreme-value statistical-analysis procedures are used (the use of regional wind speed data obtained from anemometers is not permitted to define the hurricane wind speed risk in Hawaiʻi) and (2) the design wind speeds resulting from the study shall not be less than the resulting 700-year return period wind speed divided by √1.6."

W101.6 Addition of Section 1609.3.2. Section 1609.3.2 is added to read as follows:

"**1609.3.2 Effective basic wind speed conversion.** For Section 2308.10.1, the provisions of ASCE Section 6.4, and the exceptions permitted under Section 16099.1.1, the basic wind speed value used for determination of the wind loads, shall be the Effective Basic Wind Speed, V_{eff}, determined by Figure 1609.1.1.1, which adjusts the basic wind speed for special topographic wind regions."

W101.7 Addition of Effective Wind Speed Contour Maps. Figure 1609.1.1.1(a) is added as follows:

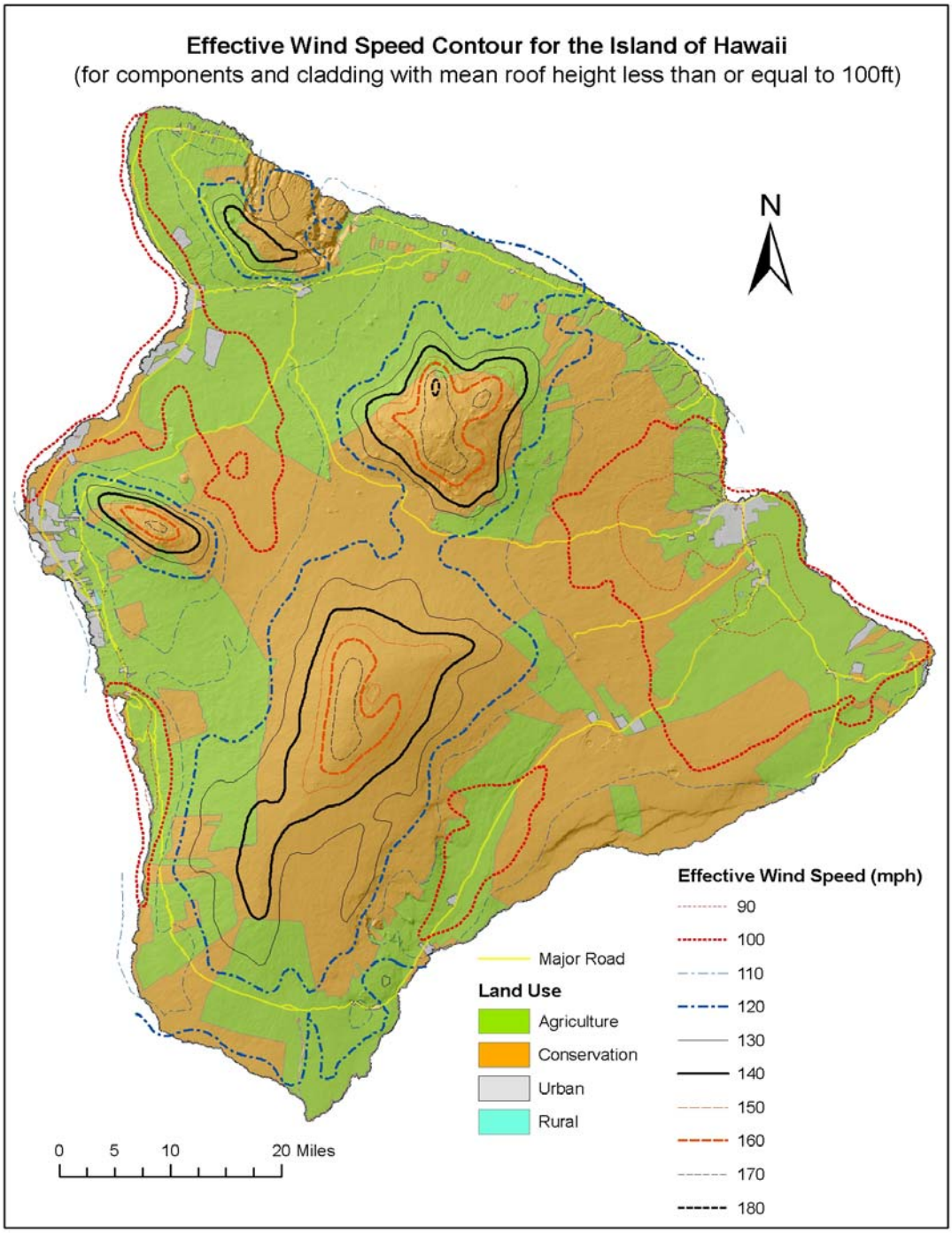


Figure 1609.1.1.1(a)
County of Hawai'i Effective Basic Wind Speed, V_{eff}, for Components and Cladding for Buildings less than 100 ft. tall

W101.8 Addition of Section 1609.3.3. Section 1609.3.3 is added to read as follows:

"**1609.3.3 Topographic Effects.** Wind speed-up effects caused by topography shall be included in the calculation of wind loads by using the factor K_{zt}, where K_{zt} is given in Figure 1609.3.3(a).

Exception: Site-specific probabilistic analysis of directional K_{zt} based on wind-tunnel testing of topographic speed-up shall be permitted to be submitted for approval by the Building Official."

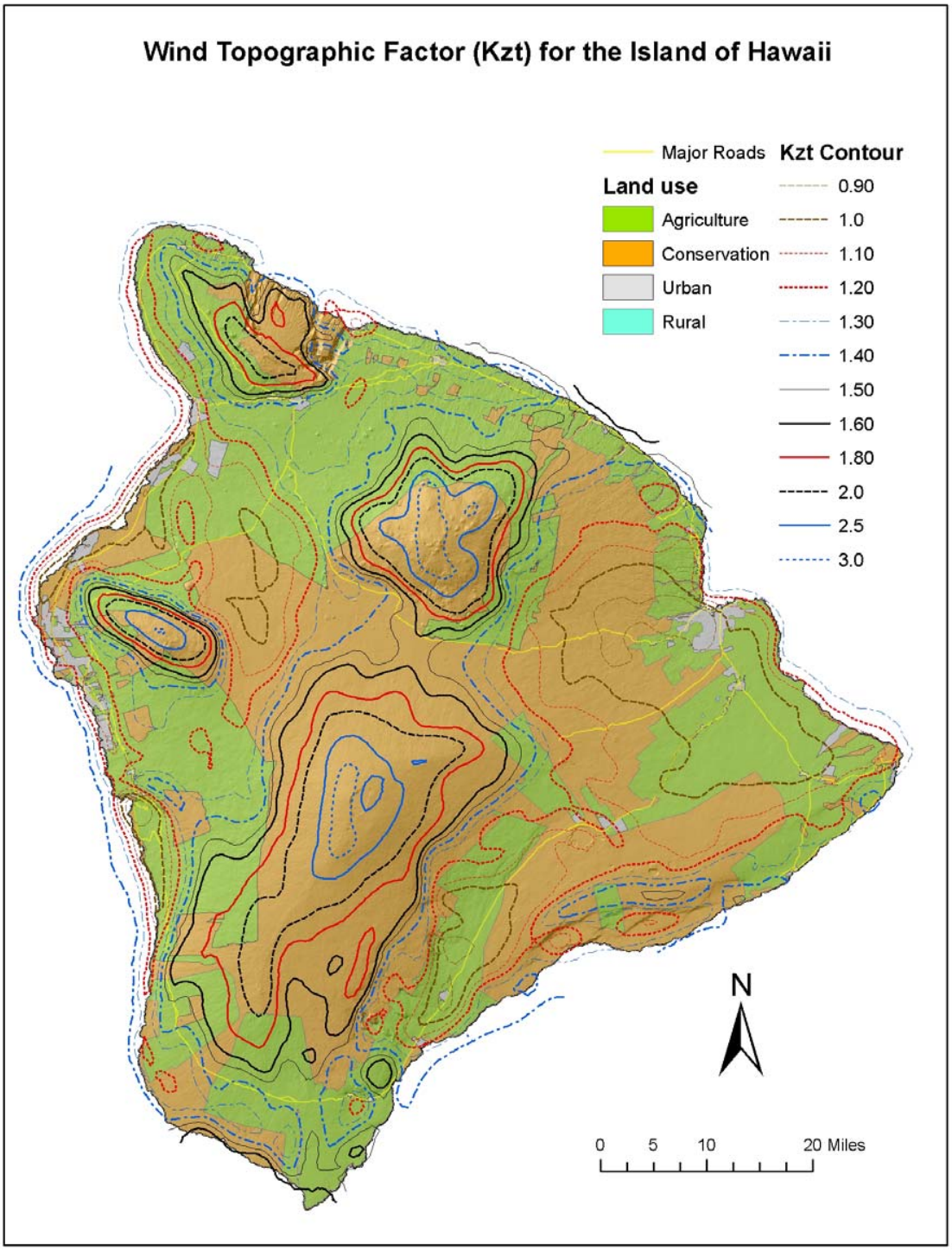


Figure 1609.3.3(a)
County of Hawai'i Peak Gust Topographic Factor K_{zt}

W101.9 Directionality Factor. Section 1609.3.4 is added to read as follows:

"**1609.3.4 Directionality Factor.** The wind directionality factor, K_d, shall be determined from Tables 1609.3.4(a) and 1609.3.4(b).

Table 1609.3.4(a)(1)
K_d Values for Main Wind Force Resisting Systems Sited in Hawai'i County [a,b]

Topographic Location on the Island of Hawai'i	Main Wind Force Resisting Systems		Main Wind Force Resisting Systems with totally independent systems in each orthogonal direction		Biaxially Symmetric and Axisymmetric Structures of any Height and Arched Roof Structures
	Mean Roof Height less than or equal to 100 ft.	Mean Roof Height greater than 100 ft.	Mean Roof Height less than or equal to 100 ft.	Mean Roof Height greater than 100 ft.	
Sites in North Kohala, South Kohala, South Kona, South Hilo, and Puna Districts at an elevation not greater than 3000 ft.	0.65	0.70	0.70	0.75	0.85
All other sites	0.70	0.80	0.75	0.80	0.95

[a] The values of K_d for other non-building structures indicated in ASCE-7 Table 6-4 shall be permitted.

[b] Site-specific probabilistic analysis of K_d based on wind-tunnel testing of topography and peak gust velocity profile shall be permitted to be submitted for approval by the Building Official, but K_d shall have a value not less than 0.65.

Table 1609.3.4(b)(1)
K_d Values for Components and Cladding of Buildings Sited in Hawai'i County [a,b]

Topographic Location on the Island of Hawai'i	Components and Cladding		
	Mean Roof Height less than or equal to 100 ft.	Mean Roof Height greater than 100 ft.	Occupancy Category IV Buildings and Structures
Sites in North Kohala, South Kohala, South Kona, South Hilo, and Puna Districts at an elevation not greater than 3000 ft.	0.65	0.70	0.75
All other sites	0.75	0.80	0.85

[a] The values of K_d for other non-building structures indicated in ASCE-7 Table 6-4 shall be permitted.

[b] Site-specific probabilistic analysis of K_d based on wind-tunnel testing of topography and peak gust velocity profile shall be permitted to be submitted for approval by the Building Official, but in any case subject to a minimum value of 0.65."

W101.10 Addition of Exposure category maps. Section 1609.4.4 is added to read as follows:

"**1609.4.4 Exposure category maps.** Exposure categories are permitted to be determined using Figure 1609.4.4(a).

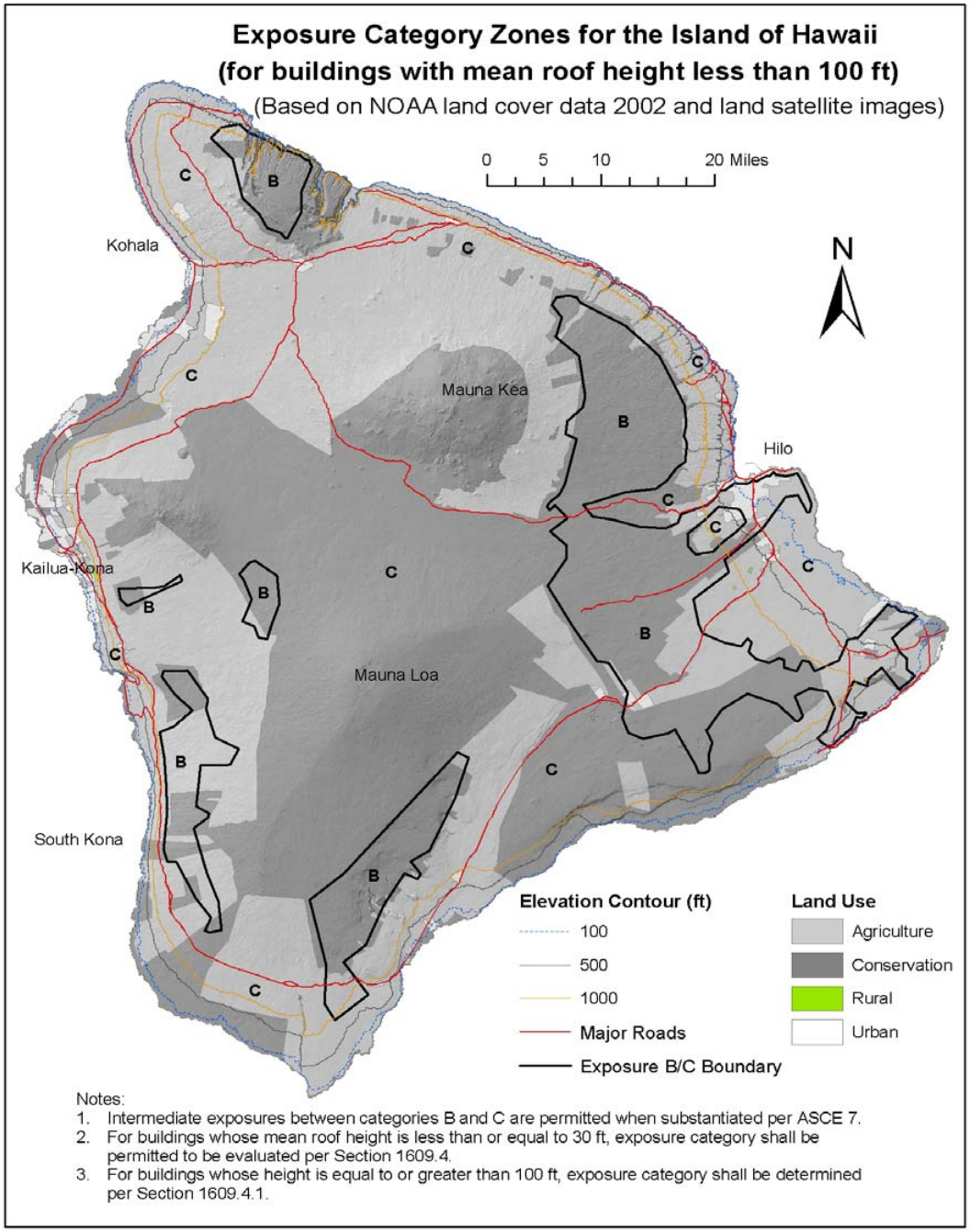


Figure 1609.4.4(a)
Exposure Category Zones for Hawai'i County

W102 Revisions to Chapter 23. When Appendix W is adopted, wood construction shall be in accordance with Chapter 23 as amended by Sections W102.1 and W102.2.

W102.1 Revisions to Section 2308.2.1. Section 2308.2.1 is amended to read as follows:

"**2308.2.1 Basic wind speed greater than 100 mph.** Where the Effective Basic Wind Speed exceeds 100 mph, the provisions of the AF&PA WFCM, or the SBCCI SSTD 10 are permitted to be used."

W102.2 Revisions to Table 2308.10.1. Table 2308.10.1 is amended to read:

TABLE 2308.10.1
REQUIRED RATING OF APPROVED UPLIFT CONNECTORS (pounds)[a,b,c,d,e,f,g,h,i]

Effective Basic Wind Speed	Roof Span (feet)							Overhangs (pounds/ft)[d]
V_{eff}, 3-sec gust	**12**	**20**	**24**	**28**	**32**	**36**	**40**	
85	-72	-120	-144	-168	-192	-216	-240	-38.55
90	-91	-152	-182	-213	-243	-274	-304	-43.22
100	-131	-218	-262	-305	-349	-392	-436	-53.36
110	-175	-292	-350	-409	-467	-526	-584	-64.56
120	-240	-400	-480	-560	-640	-720	-800	-76.83
130	-304	-506	-607	-708	-810	-911	-1012	-90.17

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 mile per hour = 1.61 km/hr, 1 pound = 0.454 Kg, 1 pound/foot = 14.5939 N/m.

a. The uplift connection requirements are based on a 30-foot mean roof height located in Exposure B. For Exposure C and for other mean roof heights, multiply the above loads by the adjustment coefficients below.

EXPOSURE	**Mean Roof Height (feet)**									
	15	**20**	**25**	**30**	**35**	**40**	**45**	**50**	**55**	**60**
B	1.00	1.00	1.00	1.00	1.05	1.09	1.12	1.16	1.19	1.22
C	1.21	1.29	1.35	1.40	1.45	1.49	1.53	1.56	1.59	1.62

For SI: 1 inch – 25.4 mm, 1 foot = 304.8 mm, 1 mile per hour = 1.61 km/hr, 1 pound = 0.454 Kg, 1 pound/foot = 14.5939 N/m.

b. The uplift connection requirements are based on the framing being spaced 24 inches on center. Multiply by 0.67 for framing spaced 16 inches on center and multiply by 0.5 for framing spaced 12 inches on center.

c. The uplift connection requirements include an allowance for 10 pounds of dead load.

d. The uplift connection requirements do not account for the effects of overhangs. The magnitude of the above loads shall be increased by adding the overhang loads found in the table. The overhang loads are also based on framing spaced 24 inches on center. The overhang loads given shall be multiplied by the overhang projection and added to the roof uplift value in the table.
e. The uplift connection requirements are based upon wind loading on end zones as defined in Figure 6-2 of ASCE 7. Connection loads for connections located a distance of 20 percent of the least horizontal dimensions of the building from the corner of the building are permitted to be reduced by multiplying the table connection value by 0.7 and multiplying the overhang load by 0.8.
f. For wall-to-wall and wall-to-foundation connections, the capacity of the uplift connector is permitted to be reduced by 100 pounds for each full wall above. (For example, if a 500-pound rated connector is used on the roof framing, a 400-pound rated connector is permitted at the next floor level down.)
g. Interpolation is permitted for intermediate values of basic wind speeds and roof spans.
h. The rated capacity of approved tie-down devices is permitted to include up to a 60-percent increase for wind effects where allowed by material specifications.
i. V_{eff} is given by Figure 1609.1.1.1."

(2012, ord 12-27, sec 2.)

Section 5-83. Appendix X; Indigenous Hawaiian Architecture Structures. Appendix X is added to read as follows:

"APPENDIX X
INDIGENOUS HAWAIIAN ARCHITECTURE STRUCTURES

SECTION X101
GENERAL

X101.1 Scope. The provisions of this appendix shall apply exclusively to Indigenous Hawaiian Architecture Structures. The purpose of these provisions is to acknowledge and establish procedures for designing and constructing indigenous Hawaiian architecture structures.

X101.2 Publications incorporated by reference. The following publications are incorporated by reference and made a part of these provisions. Where there is a conflict between Appendix X and the referenced documents, Appendix X shall prevail.

(1) "Hawaiian Thatched House" (1971), by Russell A. Apple, published by the United States Department of the Interior,
(2) "Hale Construction Standards" (2000), by Francis Sinenci and Bill Sides,

(3) "The Hawaiian Grass House in Bishop Museum" (1988), by Catherine C. Summers, and
(4) "Arts and Crafts of Hawaii, Section II, Houses" (1957) by Te Rangi Hiroa (Peter H. Buck)

X101.3 Definitions. For purposes of this appendix, the following words and terms shall have the meanings shown herein. Refer to Chapter 2 for general definitions.

CERTIFIED HALE BUILDER. Means a person who has obtained a certificate of completion for satisfactorily completing a course in Hawaiian hale construction from the University of Hawaiʻi, or any of its community colleges, or as approved by the Building Official.

GROUP OF STRUCTURES. A group of indigenous Hawaiian architecture structures that are in close proximity to each other and have an aggregate floor area of 1,800 square feet or less.

INDIGENOUS HAWAIIAN ARCHITECTURE STRUCTURE or HALE. A structure that is consistent with the design, construction methods and uses of structures built by Hawaiians in the 1800's, which uses natural materials found in the Hawaiian islands, and complies with this appendix and references.

SEPARATION. The clear distance between two structures.

SETBACK. The clear distance between a structure and a property line.

SECTION X201
MATERIAL REQUIREMENTS

X201.1 Hale Materials. Hale shall be constructed using only materials grown and harvested in the State of Hawaiʻi.

X201.2 Wood Framing Material. The wood members for the hale, such as posts and rafters, shall be, but not limited to hardwoods of unmilled, straight sections of trunks or branches of the following species:

(1) Casaurina equisitafolia (ironwood).
(2) Prosopis-allid (kiawe).
(3) Eucalyptus robusta (eucalyptus).

(4) Psidium cattleianum (strawberry guava).
(5) Metrosideros polymorpha (ohia).
(6) Rizophora mangle (mangrove).

Exception: Ardisia elliptica (inkberry) may be used only for roof purlins as an alternative to specified woods listed in Items 1 through 6.

X201.3 Roofing and Siding. Thatched roofing and siding materials for the hale may be any grass or leaf material grown and harvested in the State of Hawai‘i, to include but not be limited to pili, kualohia, pueo, kawelu, sugar-cane leaves, and ti leaves.

X201.4 Cord. Natural or synthetic cord used for lashing structural members of the hale shall be 400 pound test. Cord used for tying floating purlins and thatched materials shall be 100 pound test. All cord used on the hale shall be shades of green, tan, brown or black.

X201.5 Metal Prohibited. Metal shall not be used for the construction of the hale.

SECTION X202
SIZE AND LOCATION

X202.1 Height and Size Limitation. Hale shall be one-story, detached structure(s) not to exceed 1,800 square feet. Hale shall not exceed the size indicated in Table X202.1.

Table X202.1
Maximum Size of Hale (feet)

Hale Halawai	Hale Ku‘ai	Hale Noa	Hale Wa‘a
30 X 60	14 X 20	14 X 24	30 X 60

X202.2 Zoning Requirements. Hale shall comply with minimum yard requirements in chapter 25, Zoning Code, Hawai‘i County Code.

X202.3 Minimum Separation. The minimum separation between a hale and another structure shall be at least 10 feet for a one-story structure; 15 feet for a two-story structure; or a distance equal to the height of the hale, whichever is more. The minimum separation between two hale shall be at least 10 feet or a distance equal to the height of the taller hale.

X202.4 Hale Noa. Hale noa structures may only be constructed on property where a separate residence exists on the property.

SECTION X203
ALLOWABLE AND PROHIBITED USES

X203.1 Allowable uses. To the extent permitted by other applicable law, allowable uses for hale structures shall be in accordance with Table X203.1.

Table X203.1
Allowable Use for Each Hale Type

Use	Hale Halawai	Hale Kuʻai	Hale Noa	Hale Waʻa
Eating (ai)	Allowed	Allowed	Not permitted	Allowed
Assembling (halawai)	Allowed	Allowed	Not permitted	Allowed
Sleeping (moe)	Not permitted	Not permitted	Allowed	Not permitted
Retailing (e.g., fruits) (kuʻai)	Allowed	Allowed	Not permitted	Allowed
Storage (papaʻa)	Not permitted	Allowed	Not permitted	Allowed

X203.2 Prohibited Uses and Activities. The following uses and activities shall be prohibited from occurring within or near the hale:

(1) Cooking.
(2) Open flames.
(3) Generators.
(4) Extension cords.
(5) Electrical switches, fixtures, or outlets.
(6) Plumbing faucets, fixtures, or drains.
(7) Power tools.
(8) No screen, mesh, plastic or any other similar material shall be attached to the hale.
(9) Hale shall not be used as a food establishment as defined in the administrative rules adopted by the State of Hawaiʻi, Department of Health.

X203.3 Maintenance. The hale shall be maintained by the owner to ensure structural integrity. Repairs for maintenance of the hale shall not require additional building permits.

SECTION X301
FIRE PROTECTION

X301.1 Fire Protection Classifications. Fire protection for Indigenous Hawaiian architecture structures shall be as required in Table X301.1.

Table X301.1
Fire Protection Requirements Based on Setback

CLASS	SETBACK REQUIREMENTS	FIRE PROTECTION REQUIREMENTS
A	The structure (or a group of structures) is: 1. Located at least 100 feet from any existing structure on the same or neighboring properties; and 2. Located at least 100 feet from any property line, except as follows: a. If the property line abuts a public way, the 100 feet minimum setback for that property line shall be reduced by the width of the public way, b. If the property line abuts the shoreline, the minimum setback for that property line shall be the shoreline setback, or c. For any hale ku‘ai in the agricultural district that is less than 200 square feet, that is completely open on three sides, and that is used as an agricultural products stand and if the property line abuts a public way, the minimum setback for that property line shall be 15 feet.	No fire protection is required for the structure.
B	The structure (or a group of structures) that conforms to applicable zoning setback requirements but does not satisfy Class A setback requirements.	Automatic fire sprinkler system shall be installed in accordance with design standards in Section X301.2. An electrical permit is required for fire sprinklers systems.

X301.2 Automatic Fire Sprinklers. The design standards for automatic fire sprinklers for Class B indigenous Hawaiian architecture structures shall be in accordance with NFPA 13.

Exception: The design standards for automatic fire sprinklers for Class B indigenous Hawaiian architecture structures shall be permitted as follows:

(1) 18 gallons per minute for a single head at 140 square feet maximum coverage of roof area.
(2) 13 gallons per minute for each subsequent head at 140 square feet maximum coverage of roof area per head.
(3) The minimum supply pressure at the base of the riser shall not be less than 40 pounds per square inch.
(4) The minimum residual pressure at the highest sprinkler shall be not less than 12 pounds per square inch.
(5) Sprinkler head spacing shall not exceed 14 feet.
(6) Sprinkler heads shall be open type upright, pendent, or sidewall with 1/2-inch or 17/32-inch orifice and have a wax corrosion resistant coating.
(7) The total number of sprinklers on a branch shall not exceed 6 heads.
(8) The total number of sprinklers shall not exceed the quantity shown in the following table:

Piping Size	Number of Sprinklers
1 inch diameter	2 sprinklers
1¼ inch diameter	3 sprinklers
1½ inch diameter	5 sprinklers
2 inch diameter	10 sprinklers
2½ inch diameter	30 sprinklers
3 inch diameter	60 sprinklers

(9) The above pipe schedule shall not apply to hydraulically designed systems.
(10) The water density shall not be less than 0.10 gpm per square foot.
(11) The source of water may be by domestic water meters, detector check meter, underground well, storage tank, swimming pool, ponds, etc., but must meet the design requirements for adequate pressure and duration.

(12) Water supply shall be sufficient to provide 30 minutes duration.

(13) If domestic water meters are used as the source of water for the fire sprinklers, without a storage tank and booster pump, the maximum number of heads shall not exceed the following table:

Size of Water Meter	Number of Sprinklers
5/8 inch water meter	1 sprinkler
¾ inch water meter	2 sprinklers
1 inch water meter	3 sprinklers
1½ inch water meter	7 sprinklers
2 inch water meter	11 sprinklers
3 inch water meter	27 sprinklers

(14) The piping material shall be hard drawn copper with silver solder or brazed fittings, or carbon steel with corrosion-resistant coatings. Plastic pipes shall not be allowed, except for below grade supply pipes.

(15) Fire sprinkler system shall be actuated by smoke detectors located at the highest points of the roof and spaced as recommended by the manufacturer.

(16) Flow control valves shall be either hydraulically or electrically operated with a manual override switch.

(17) Where the width of a roof exceeds the width allowed for one row of sprinklers, two or more rows of sprinklers shall be placed such that the entire roof area is protected.

(18) Prevailing wind direction shall be considered in the placement of sprinklers.

(19) Deflectors for sprinklers shall be parallel with the roof surface or tilted slightly towards the peak of the roof.

(20) Fire sprinklers system shall have a local alarm activated by a smoke detector.

X301.3 Certification of Water Supply. For any hale that requires fire protection pursuant to X301.1, the applicant shall provide a certification from a licensed engineer or a licensed C-20 contractor that the water supply for the fire sprinkler system has been tested and is capable of delivering the required fire flow for 30 minutes duration.

X302 Smoke Alarm. Any hale used for sleeping shall have an approved battery operated smoke alarm installed in the hale.

SECTION X401
DESIGN STANDARDS

X401.1 General Design standards. All types of hale shall be designed and constructed in accordance with the standards set out in this section.

(1) The minimum diameter size of all structural members shall be measured at the member's midpoint, except that the minimum diameter size of posts shall be measured at the smaller end. For structure sizes not specifically shown in the tables, the requirements in the next larger width size shall be applicable.

(2) The specifications for structural members were estimated based on no wind loads. Hale shall be constructed to allow all thatching materials to separate from the structure prior to adding significant loads.

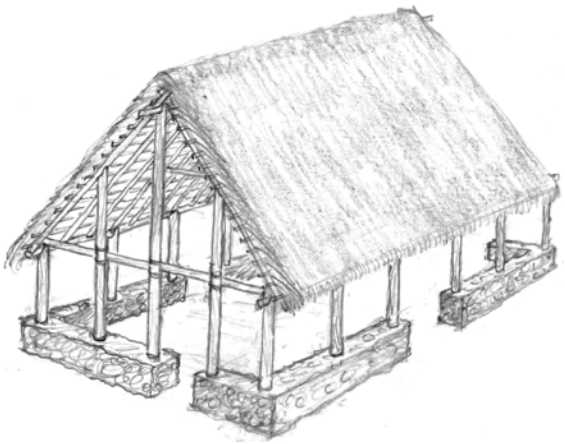
(3) The mix formula for mortar specified in these rules shall be one part portland cement, four parts clean sand, and sufficient fresh water to make the mixture workable.

(4) Every hale, except hale noa, shall have at least two sides completely open.

(5) Lashing and thatching methods shall comply with illustrations found in "Arts and Crafts of Hawaiʻi" or "The Hawaiian Grass House in Bishop Museum."

X402 Allowable Designs. Hale shall be designed and constructed in accordance with the requirements in Sections 402.1 through 402.4.

X402.1 Hale Halawai. Each end of the Hale Halawai may be open or thatched. The ends may also be constructed with a thatched roof hip as an alternate design. Hale Halawai shall be designed in accordance with the following schematics and illustrations. Structural components for Hale Halawai shall meet the size and spacing requirements in Table X402.1(a). Foundations for Hale Halawai shall be designed in accordance with Table X402.1(b).



HALE HALAWAI
Open End Style

HALE HALAWAI
Thatched End Style

FRAMING SCHEMATIC

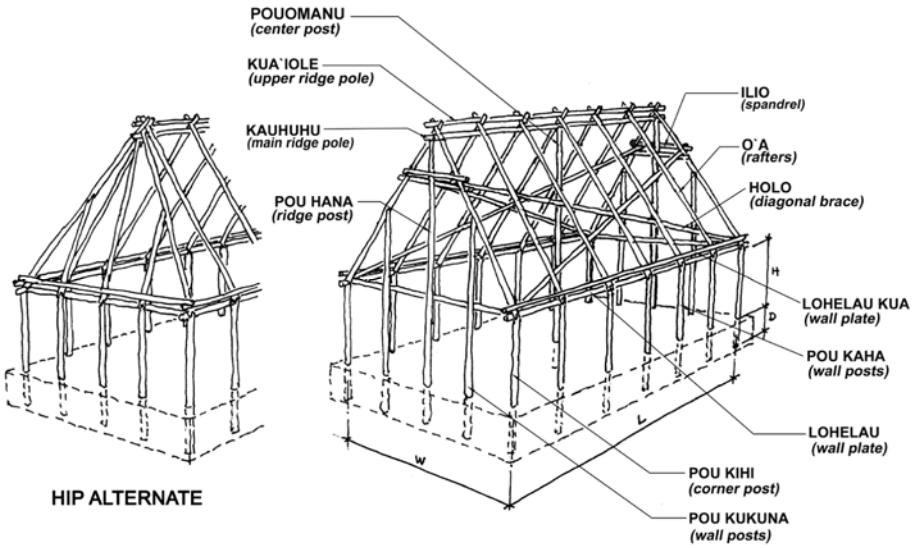
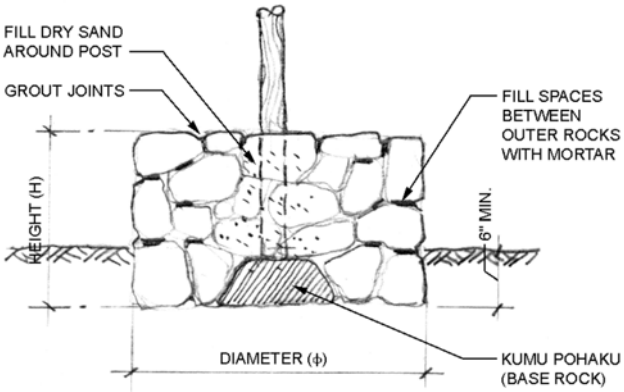
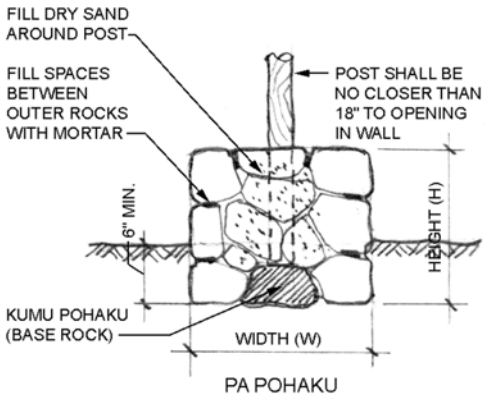


Table X402.1(a)
Size and Spacing Requirements for Structural Components used in Hale Halawai

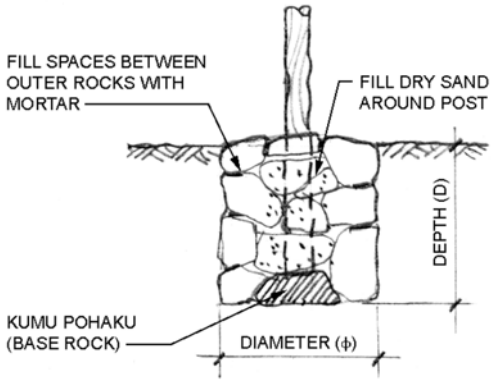
Size W x L x H	***Pou Kihi***	***Pou Kukuna & Pou Kaha***	***Pou Hana***	***Pouomanu***	***O'a***	***Kuaiole & Holo***	***Kauhuhu***	***Lohelau***	Maximum post spacing (feet)	Maximum rafter spacing (feet)
	Minimum Diameter (inches)									
12' x 20' x 7'	4	3½	4	4	3½	2½	3	3	5	3
14' x 24' x 7'	4	4	4½	4½	3½	2½	3	3½	5	3
24' x 30' x 7'	5	4½	4½	4½	4	2½	3	3½	5	3
25' x 50' x 7'	5½	5	5½	5½	4	2½	3	3½	5	3
30' x 60' x 7'	6	5½	6	6	4½	2½	3	4	5	3



KAHUA
(PEDESTAL)



PA POHAKU
(FOUNDATION WALL)

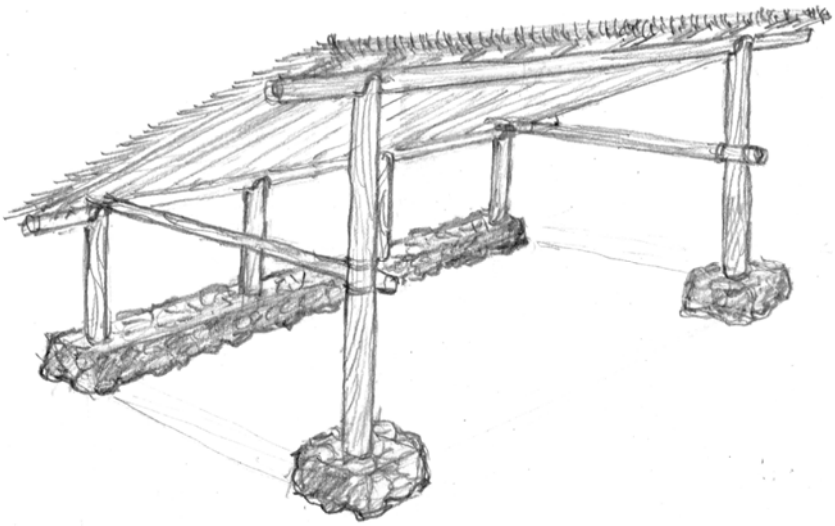


POU KANU
(BURIED POST)

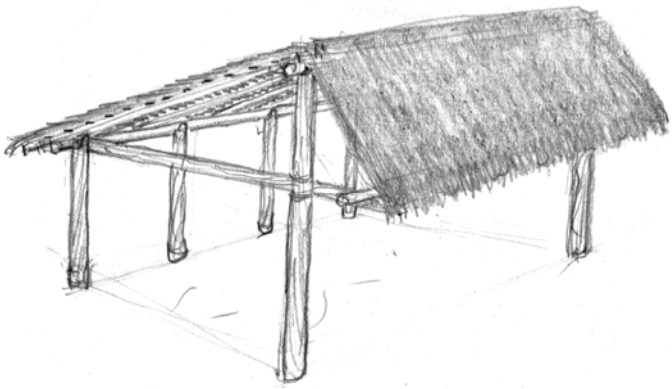
Table X402.1(b)
Foundation Design for Hale Halawai

Size (W x L x H)	**Foundation Type**		
	Kahua Diameter x Height	**Pa Pohaku** Width x Height x Length	**Pou Kanu** Diameter x Depth
12' x 20' x 7'	3'6"φ x 24"H	2'6"W x 2'8"H x 4'0"L	30"φ x 2'8"D
14' x 24' x 7'	3'8"φ x 24"H	2'6"W x 2'8"H x 4'0"L	30"φ x 2'9"D
24' x 30' x 7'	4'0"φ x 30"H	3'0"W x 3'0"H x 4'0"L	36"φ x 3'0"D
25' x 50' x 7'	4'0"φ x 30"H	3'0"W x 3'0"H x 4'0"L	36"φ x 3'0"D
30' x 60' x 7'	4'0"φ x 30"H	3'0"W x 3'3"H x 4'0"L	36"φ x 3'3"D

X402.2 Hale Ku‘ai. Hale Ku‘ai shall be designed in accordance with the following schematics and illustrations. Structural components for Hale Ku‘ai shall meet the size and spacing requirements in Table X402.2(a). Foundations for Hale Ku‘ai shall be designed in accordance with Table X402.2(b).

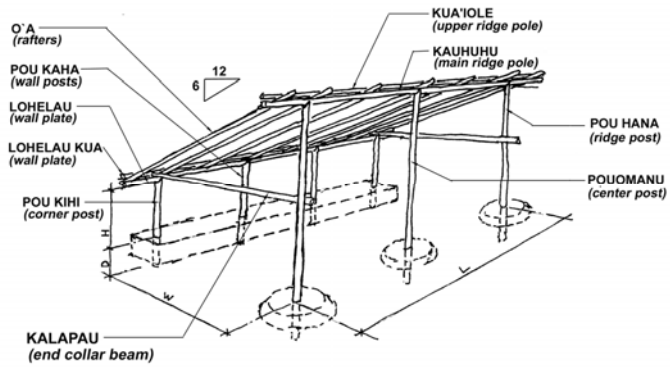


HALE KU‘AI
SHED STYLE



HALE KU‘AI
GABLE STYLE

FRAMING SCHEMATIC 1



FRAMING SCHEMATIC 2

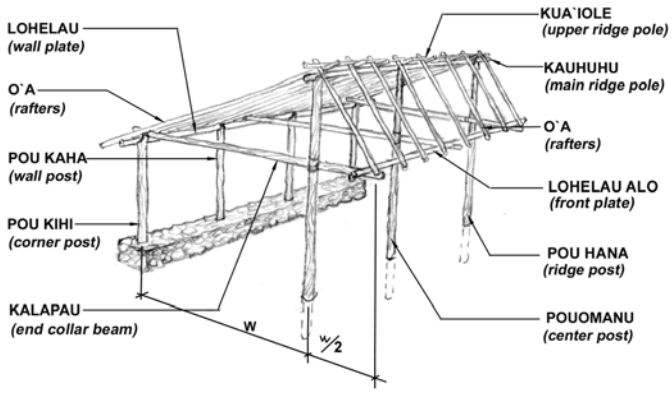
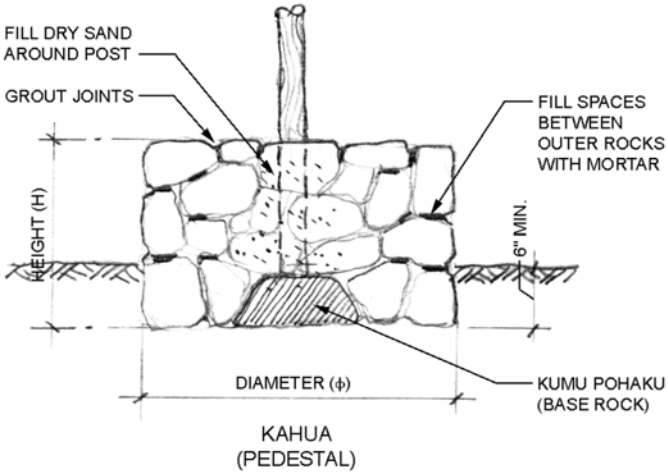


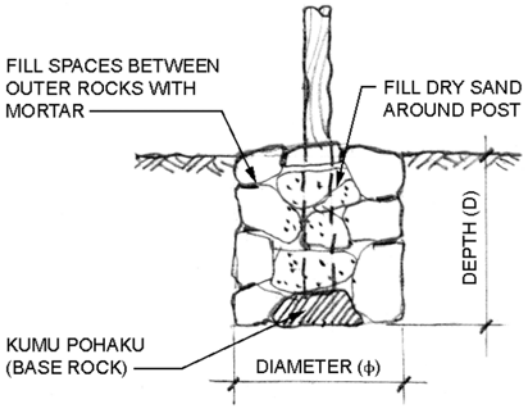
Table X402.2(a)
Size and Spacing Requirements for Structural Components used in Hale Ku'ai

Size (W x L x H)	***Pou Kihi***[a]	***Pou Kaha***[a]	***Pou Hana***[b]	***Pouo Manu***[b]	***O'a***	***Kuaiole & Holo***	***Kauhuhu***	***Lohelau***	Maximum rafter spacing (feet)
	Minimum Diameter (inches)								
5' x 10' x 5'	4	3	3	4	3	2	3	2	4
9' x 12' x 5'	4	3	3	4	3	2	3½	2	4
12' x 16' x 5'	4½	3½	4	4	3½	2	4	2½	4
14' x 20' x 5'	4½	3½	4	4	3½	2½	4½	2½	4

[a] The maximum post spacing for pou kihi and pou kaha is five feet.
[b] The maximum post spacing for pou hana and pouomanu is twelve feet.



KAHUA
(PEDESTAL)

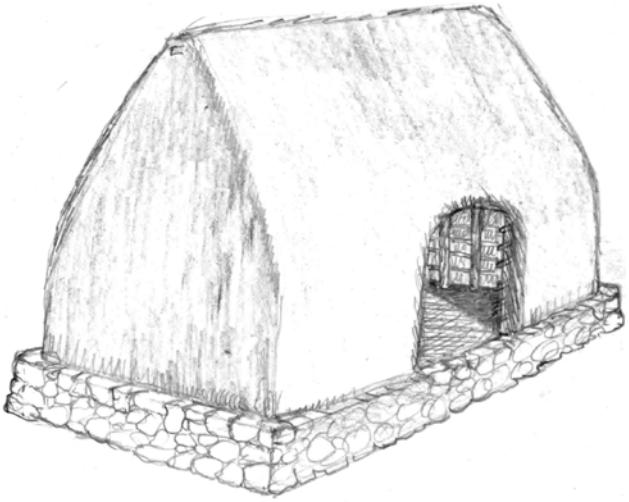


POU KANU
(BURIED POST)

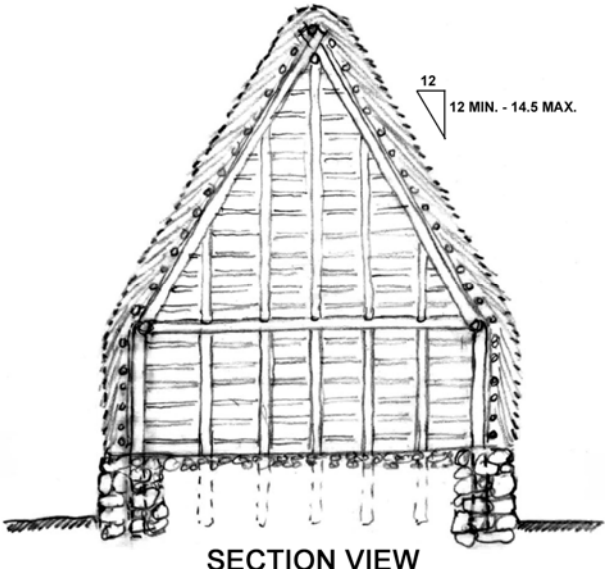
Table X402.2(b)
Foundation Design for Hale Ku'ai

Size (W x L x H)	**Foundation Type**		
	Kahua Diameter x Height	**Pa Pohaku** Width x Height x Length	**Pou Kanu** Diameter x Depth
5' x 10' x 5'	3'0"φ x 24"H	2'6"W x 2'0"H x 4'0"L	30"φ x 2'6"D
9' x 12' x 5'	3'4"φ x 24"H	2'6"W x 2'0"H x 4'0"L	30"φ x 2'6"D
12' x 16' x 5'	3'6"φ x 24"H	2'6"W x 2'8"H x 4'0"L	30"φ x 2'8"D
14' x 20' x 5'	3'8"φ x 24"H	2'6"W x 2'8"H x 4'0"L	30"φ x 2'9"D

402.3 Hale Noa. Hale Noa shall have at least two openings. One opening shall be at least 3 feet wide and 5 feet high, and the other opening shall be at least 2 feet wide and 3 feet high. Hale Noa shall be designed in accordance with the following schematics and illustrations. Structural components for Hale Noa shall meet the size and spacing requirements in Table X402.3(a). Foundations for Hale Noa shall be designed in accordance with Table X402.3(b).



HALE NOA



FRAMING SCHEMATIC

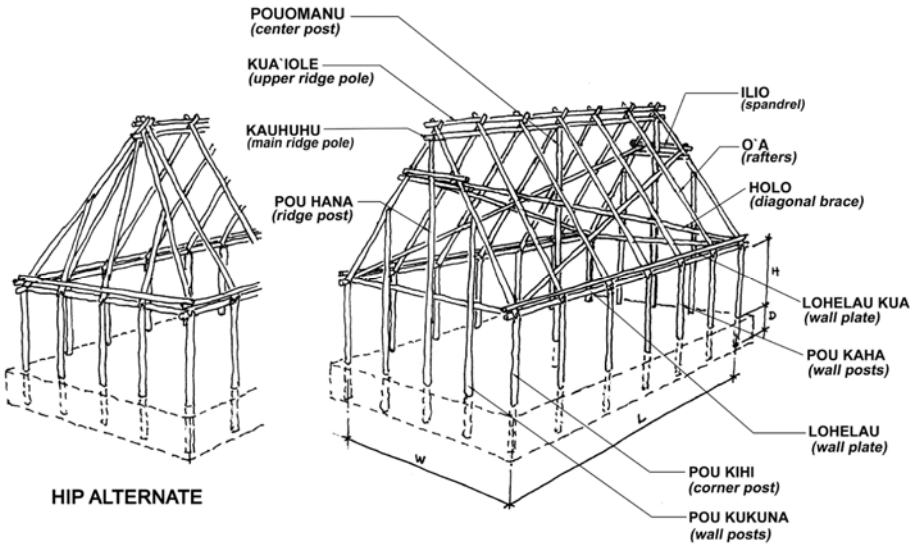
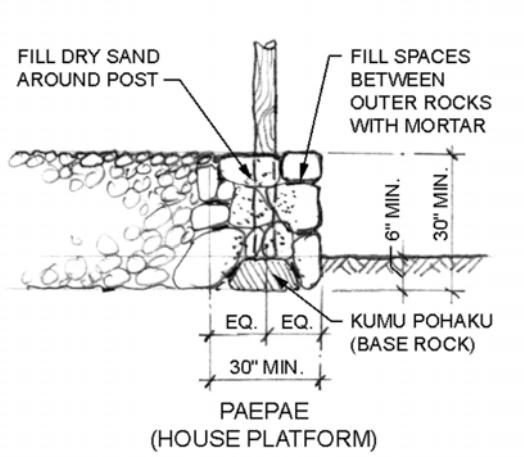
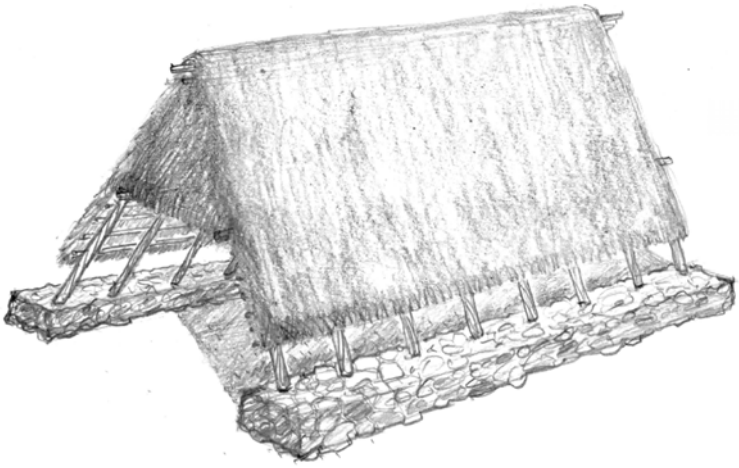


Table X402.3(a)
Size and Spacing Requirements for Structural Components used in Hale Noa

Size W x L x H	***Pou Kihi***	***Pou Kukuna & Pou Kaha***	***Pou Hana***	***Pouomanu***	***O'a***	***Kuaiole & Holo***	***Kauhuhu***	***Lohelau***	Maximum post spacing (feet)	Maximum rafter spacing (feet)
	Minimum Diameter (inches)									
9' x 12' x 7'	3½	3	4	3	3	2½	3½	2½	6	4
12' x 20' x 7'	4	4½	4	3	3½	2½	3½	2½	6	4
4' x 24' x 7'	5½	4½	4	3	3½	2½	3½	3	6	4



402.4 Hale Waʻa. Hale Waʻa shall be designed in accordance with the following schematics and illustrations. Structural components for Hale Waʻa shall meet the size and spacing requirements in Table X402.4.



HALE WAʻA

FRAMING SCHEMATIC

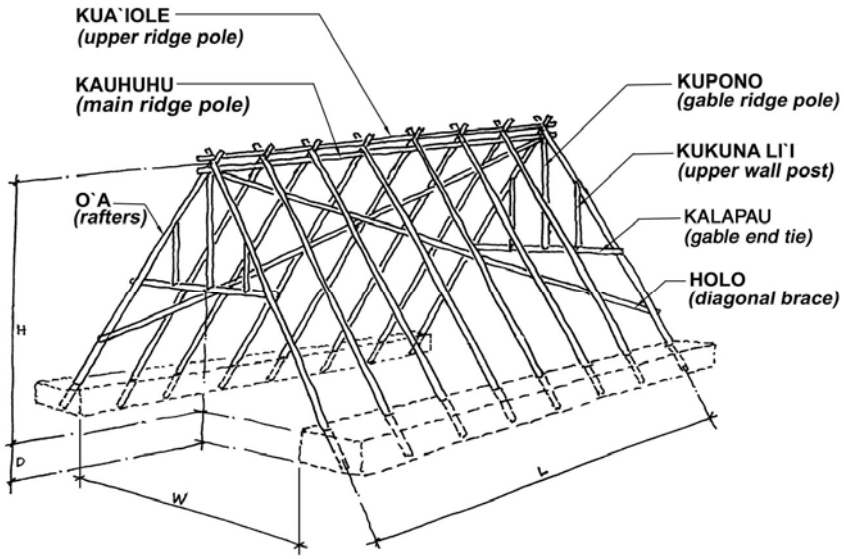
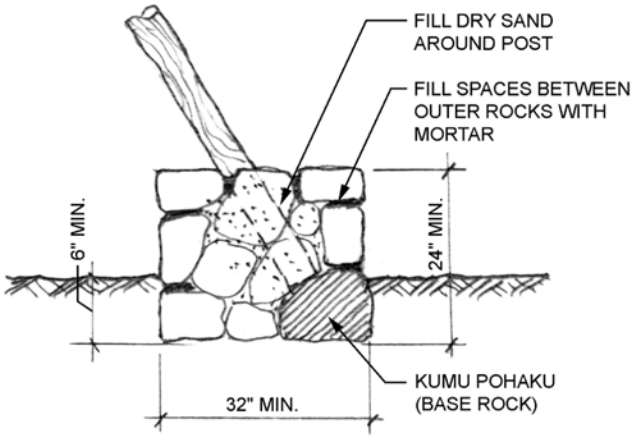


Table X402.4
Size and Spacing Requirements for Structural Components used in Hale *Wa'a*

Size (W x L)	***O'a***	***Kuaiole* & *Holo***	***Kauhuhu***	Spacing between Rafters	Minimum ridge Height (H)
20' x 60'	4"	3"	4"	4' to 5'	22½'
25' x 60'	5"	3"	4"	4' to 5'	27½'
30' X 60'	5½"	3"	4"	4' to 5'	27½'



PA POHAKU
(FOUNDATION WALL)

(2012, ord 12-27, sec 2.)

Article 5. Adoption of the International Energy Conservation Code.

Section 5-84. International Energy Conservation Code adopted.

The "2006 International Energy Conservation Code", March 2007 Edition, published by the INTERNATIONAL CODE COUNCIL, INC., Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 is adopted by reference and made a part of this code, subject to the amendments hereinafter set forth in this article. Copies of the 2006 International Energy Conservation Code, March 2007 Edition, and amendments thereto shall be available for public inspection at the department of public works and the office of the county clerk.

(1) Amending Section 101.1. Section 101.1 is amended to read:

> "**Section 101.1 Title.** This code shall be known as the International Energy Conservation Code of the County of Hawai'i, and shall be cited as such. It is referred to herein as 'this code.'"

(2) Amending Section 202. Section 202, General Definitions, is amended by adding a definition for "Fully Shaded Windows" to read:

> "FULLY SHADED WINDOWS. Windows protected from direct solar heat gain by a projection factor of no less than 1.0."

(3) Amending Table 402.1.1. Table 402.1.1 is amended by amending Floor *R*-Value for Climate Zone 1 and adding footnote h to read:

"TABLE 402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT[a]

Climate Zone	Fenestration U-Factor	Skylight[b] U-Factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement[c] Wall R-Value	Slab[d] R-Value & Depth	Crawl Space Wall R-Value
1	1.20	0.75	0.40	30[h]	13	3	0	0	0	0
2	0.75	0.75	0.40	30	13	4	13	0	0	0
3	0.65	0.65	0.40[e]	30	13	5	19	0	0	5 / 13
4 except Marine	0.40	0.60	NR	38	13	5	19	10 / 13	10, 2 ft	10 / 13
5 and Marine 4	0.35	0.60	NR	38	19 or 13+5[g]	13	30[f]	10 / 13	10, 2 ft	10 / 13
6	0.35	0.60	NR	49	19 or 13+5[g]	15	30[f]	10 / 13	10, 4 ft	10 / 13
7 and 8	0.35	0.60	NR	49	21	19	30[f]	10 / 13	10, 4 ft	10 / 13

For SI: 1 foot = 304.8 mm.

a. *R*-values are minimums. *U*-factors and SHGC are maximums. R-19 shall be permitted to be compressed into a 2 × 6 cavity.
b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
c. The first *R*-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

d. *R*-5 shall be added to the required slab edge *R*-values for heated slabs.
e. There are no SHGC requirements in the Marine zone.
f. Or insulation sufficient to fill the framing cavity, R-19 minimum.
g. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.
h. The ceiling insulation alternative in Section 402.1.1.1 can be used as an equivalent alternative for R-30."

(4) Amending Section 402.1.1. Section 402.1.1 is amended by adding Section 402.1.1.1 to read:

"**402.1.1.1 Ceiling insulation alternative.** When Table 402.1.1 requires R-30 for insulation of ceiling areas, the following alternate methods of insulation and construction are acceptable:

(1) The opaque portions of roof assemblies shall include at least one of the following:
(1.1) R-19 insulation between roof or ceiling framing members;
(1.2) Two inches of foam board insulation;
(1.3) A radiant barrier as provided in Subsection 5 and ventilation as provided in Subsection 4;
(1.4) A cool roof as provided in Subsection 6 and a radiant barrier as provided in Subsection 5; or
(1.5) Roof heat gain factor is less than 0.05 when calculated in accordance with Subsection 8.

(2) For the purpose of this section, the following terms shall be defined as follows:
(2.1) NET FREE VENT AREA. Net free vent area means the total area through which air can pass in a screen, grille face or register.
(2.2) ROOF AREA. Roof area means attic floor area; or, if there is no attic, "roof area" means the horizontal projection of roof area measured from the outside surface of the exterior walls.
(2.3) GROSS AREA OF OPAQUE ROOF SURFACES. Gross area of opaque roof surfaces means the total surface of the roof assembly exposed to outside air or unconditioned spaces. The opaque roof assembly shall exclude skylight surfaces, service openings, and overhangs.

(3) Plans shall indicate insulation type, thickness, and location; ventilation opening types, sizes and locations; radiant barrier location; and roof surface type as appropriate, depending on the option selected from Subsection 1.

(4) For compliance with Subsection 1.3, additional ventilation of the space containing a radiant barrier shall be provided by at least one of the following:

(4.1) A baffled ridge vent installed in accordance with the manufacturer's instructions in addition to lower inlet openings to provide a total of no less than one square foot of net free vent area for each 300 square feet of roof area. No less than 30 percent of the total vent area shall be in either the ridge vent or the lower half of the ventilated space.

(4.2) A solar-powered exhaust fan that provides at least one cubic foot per minute of airflow for each square foot of roof area.

(4.3) Upper and lower vents with total net free vent area of at least one square foot for each 150 square feet of roof area. At least 30 percent of the total vent area shall be in the upper half of the ventilated space and at least 30 percent of the total vent area shall be in the lower half of the ventilated space.

(5) For compliance with Subsections 1.3 or 1.4, a radiant barrier shall have an emissivity of no greater than 0.05 as tested in accordance with ASTM E-408. The radiant barrier shall be installed with the shiny side facing down and with a minimum air gap thickness of ¾ inch below. The radiant barrier may be securely attached to the roof framing or may be laminated to the bottom of the roof sheathing.

A radiant barrier is a sheet of material with a low emissivity on at least one side that is used to reduce radiant heat transfer. Radiant barriers typically have a shiny metallic appearance.

(6) For compliance with Subsection 1.4, a cool roof shall have an infrared emissivity of no less than 0.75 when tested in accordance with ASTM E-408 and a high solar reflectance. Alternatively, the corresponding Solar Radiance Index (SRI) for a cool roof can be used. The manufacturer's test results shall be acceptable for compliance. A cool roof has both a light color (high solar reflectance) and a high emissivity (can reject heat back to the environment). White painted surfaces and other smooth white coatings typically meet these requirements. Surfaces that do not meet the requirements include unpainted metal and metalized roof coatings (silver appearance).

(7) At building sites higher than a 2,400-foot elevation, only Subsections 1.1 or 1.2 shall be acceptable for compliance.

(8) For purposes of compliance with Subsection 1.5, the Roof Heat Gain Factor (RHGF) shall be calculated as described in Equation 8-1.

Equation 8-1

$$RHGF = U_r \times \alpha \times RB$$

Where:

RHGF = Roof Heat Gain Factor [Btu/ft^2-h-°F]

U_r = overall thermal transmittance value for the gross area of opaque roof surfaces [Btu/ft2-h-°F]

α = roof surface absorptivity. Between 0.3 and 1.0 [unitless]

RB = Radiant Barrier credit. Equals 0.33 if a radiant barrier is installed and 1.00 otherwise [unitless]. Radiant barrier installation must comply with subsection 8.1 to qualify for Radiant Barrier credit.

(8.1) To qualify for the radiant barrier credit (RB) described in Subsection 8, the installation of the radiant barrier must meet the following criteria:

(8.1.1) The emissivity of the radiant barrier must be 0.10 or less. The manufacturer must provide test data or documentation of the emissivity as tested in accordance with ASTM E-408.

(8.1.2) The radiant barrier must be securely installed in a permanent manner using one of the following installation methods:

(8.1.2.1) The radiant barrier shall be draped with the shiny side facing down over the top cord of the truss before the roof deck is installed. A minimum air gap of ¾ inch must be provided between the radiant barrier and the roof deck above at the center of the span. A minimum ¾ inch air gap must also be provided between the radiant barrier and the ceiling or insulation below.

(8.1.2.2) The radiant barrier shall be stretched with the shiny side facing down between the top cords of the truss and stapled or otherwise secured at each side. A minimum air space of ¾ inch above and below is required.

(8.1.2.3) For attic installations only, the radiant barrier shall be stapled or otherwise secured to the bottom surface of the top cord of the truss and draped below with the shiny side facing down. A minimum air space of ¾ inch above and below is required.

(8.1.2.4) For open beam ceiling construction only, the radiant barrier shall be laid on top of the roof deck with the shiny side facing up and a minimum ¾ inch air gap between the radiant barrier and the roofing material above. The roof slope must be greater than or equal to 14° from horizontal.

(8.1.3) At least one square foot of free area for ventilation shall be provided per 150 square feet of attic floor area, or in the case of vaulted or open-beam ceilings, per 150 square feet of ceiling area. In vaulted or open beam ceilings, the air space shall be vented with vent area approximately evenly distributed between the top and the bottom. In vaulted ceilings, vents shall be provided for each air space between rafters."

(5) Amending Table 402.1.3. Footnote b is added to Table 402.1.3 to read:

"TABLE 402.1.3
EQUIVALENT *U*-FACTORS [a]

Climate Zone	Fenestration *U*-Factor	Skylight *U*-Factor	Ceiling *U*-Factor	Frame Wall *U*-Factor	Mass Wall *U*-Factor	Floor [b] *U*-Factor	Basement Wall *U*-Factor	Crawl Space Wall *U*-Factor
1	1.2	0.75	0.035	0.082	0.197	0.064	0.360	0.477
2	0.75	0.75	0.035	0.082	0.165	0.064	0.360	0.477
3	0.65	0.65	0.035	0.082	0.141	0.047	0.360	0.136
4 except Marine	0.40	0.60	0.030	0.082	0.141	0.047	0.059	0.065
5 and Marine 4	0.35	0.60	0.030	0.060	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.060	0.06	0.033	0.059	0.065
7 and 8	0.35	0.60	0.026	0.057	0.057	0.033	0.059	0.065

a. Nonfenestration *U*-factors shall be obtained from measurement, calculation or an approved source.
b. Including framed floors and knee walls."

(6) Amending Section 402.2.2. Section 402.2.2 is amended to read:

"**402.2.2 Ceilings without attic spaces.** Where Section 402.1.1 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-19."

(7) Amending Section 402.3.3. Section 402.3.3 is amended to read:

"**402.3.3 Glazed fenestration exemption.** Fully shaded windows, north-facing windows and up to 15 square feet (1.4 m^2) of glazed fenestration per dwelling unit shall be permitted to be exempt from *U*-factor and SHGC requirements in Section 402.1.1."

(8) Amending Section 402.4.1. Section 402.4.1 is amended by adding Section 402.4.1.1 to read:

"**402.4.1.1. Non-conditioned building exemption.** Non-conditioned residential buildings are exempt from compliance with Section 402.4. The free-vent fenestration area of non-conditioned buildings shall be no less than 14 percent of the floor area. All interior doors shall be capable of being secured in the open position and ceiling fan stub-ins shall be provided to living areas and bedrooms."

(9) Amending Section 402.4.2. Section 402.4.2 is amended to read:

"**402.4.2 Fenestration air leakage.** Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot (1.5 L/s/m^2), and swinging doors no more than 0.5 cfm per square foot (2.6 L/s/m^2), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and listed and labeled by the manufacturer.

Exceptions:

(1) Site-built windows, skylights and doors;
(2) Jalousie windows shall not exceed 1.2 cfm per square foot (6.1 L/s/m^2)."

(10) Amending Section 403. Section 403 is amended by adding Section 403.7 to read:

"**403.7 Residential pools.** Residential pools shall be provided with energy conserving measures in accordance with Sections 403.7.1 through 403.7.3.

403.7.1 Pool heaters. All pool heaters shall be equipped with a readily accessible on-off switch to allow shutting off the heater without adjusting the thermostat setting. Pool heaters fired by liquid propane or natural gas shall not have continuously burning pilot lights.

403.7.2 Time switches. Time switches that can automatically turn off and on heaters and pumps according to a preset schedule shall be installed on swimming pool heaters and pumps.

Exceptions:

(1) Where public health standards require 24-hour pump operation;
(2) Where pumps are required to operate solar- and waste-heat-recovery pool heating systems.

403.7.3 Pool covers. Heated pools shall be equipped with a vapor retardant pool cover on or at the water surface. Pools heated to more than 90ºF (32ºC) shall have a pool cover with a minimum insulation value of R-12.

Exception: Pools deriving over 60 percent of the energy for heating from site-recovered energy or solar energy source."

(11) Amending section 503.2.9. Section 503.2.9 is amended by repealing section 503.2.9 in its entirety and replaced to read as follows:

"**503.2.9 Mechanical systems commissioning and completion requirements.**

503.2.9.1 System commissioning. Commissioning is a process that verifies and documents that the selected building systems have been designed, installed, and function according to the owner's project requirements and construction documents. Drawing notes shall require commissioning and completion requirements in accordance with this section. Drawing notes may refer to specifications for further requirements. Copies of all documentation shall be given to the owner.

503.2.9.1.1 Commissioning plan. A commissioning plan shall include as a minimum the following items:

(1) A detailed explanation of the original owner's project requirements,
(2) A narrative describing the activities that will be accomplished during each phase of commissioning, including guidance on who accomplishes the activities and how they are completed,
(3) Equipment and systems to be tested, including the extent of tests,
(4) Functions to be tested (for example calibration, economizer control, etc.),

(5) Conditions under which the test shall be performed (for example winter and summer design conditions, full outside air, etc.), and

(6) Measurable criteria for acceptable performance.

503.2.9.1.2 Systems adjusting and balancing. All HVAC systems shall be balanced in accordance with generally accepted engineering standards. Air and water flow rates shall be measured and adjusted to deliver final flow rates within 10 percent of design rates. Test and balance activities shall include as a minimum the following items:

(1) Air systems balancing: Each supply air outlet and zone terminal device shall be equipped with means for air balancing in accordance with the requirements of Chapter 6 of the 2006 International Mechanical Code, International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, IL. 60478-5795. Discharge dampers are prohibited on constant volume fans and variable volume fans with motors 10 hp (18.6 kW) and larger. Air systems shall be balanced in a manner to first minimize throttling losses then, for fans with system power of greater than 1 hp, fan speed shall be adjusted to meet design flow conditions.

Exception: Fan with fan motors of 1 hp or less.

(2) Hydronic systems balancing: Individual hydronic heating and cooling coils shall be equipped with means for balancing and pressure test connections. Hydronic systems shall be proportionately balanced in a manner to first minimize throttling losses, then the pump impeller shall be trimmed or pump speed shall be adjusted to meet design flow conditions. Each hydronic system shall have either the ability to measure pressure across the pump, or test ports at each side of each pump.

Exception: Pumps with pump motors of 5 hp or less."

(12) Amending Section 505.7. Section 505.7 is amended to read:

"**505.7 Electrical energy consumption. (Mandatory).** In buildings having individual dwelling or subtenant units, provisions shall be made to determine the electrical energy consumed by each tenant by separately metering individual dwelling and subtenant units. Tenants shall have ready physical access to meters. Meters shall display kWh consumption and be calibrated in accordance with ANSI C12.1-2008."

(13) Amending Chapter 6. Chapter 6, Referenced Standards, is amended by adding the following specifications to the ANSI and ASTM categories, to read:

Standard reference number	Title	Referenced in code section number
ANSI		
C12.1-2008	Electric Meters Code for Electricity Metering	505.7
ASTM		
E 408-2008	Standard Test Methods for Total Normal Emittance of Surfaces Using Inspection Meter Techniques	402.1.1.1 #5, 402.1.1.1 #6, 402.1.1.1 #8.1.1

(2012, ord 12-27, sec 2.)

CHAPTER 6

BUSINESSES

Article 1. Cemeteries.

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Section 6-36. Authority to conduct auctions.
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Section 6-38. Receipts to purchasers required.
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CHAPTER 6

BUSINESSES

Article 1. Cemeteries.

Section 6-1. Prohibition.

No cemetery shall be established, nor shall the area of any existing cemetery be enlarged or extended without the approval of the council, evidenced by a resolution. (1983 CC, c 6, art 1, sec 6-1.)

Section 6-2. Application.

(a) Any person requesting that the council pass a resolution establishing, enlarging or extending a cemetery shall submit with the person's application:
   (1) A certificate of approval by the State department of health of the proposed cemetery site or extension as evidence of compliance with its regulations.
   (2) A complete description of the land included within the proposed cemetery site or extension.
   (3) A map or plan showing the proposed project.
   (4) Evidence of approval relative to noncontamination of water services by the department of water supply.
   (5) A deposit of $100 to cover cost of publication of notices and other expenses that may be incurred in connection with the application.
   (6) An abstract or certificate of title of the proposed cemetery site or extension.

(1983 CC, c 6, art 1, sec 6-2.)

Section 6-3. Referral to planning commission.

Before final action is taken by the council, the application and related maps and documents will be referred to either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The designated planning commission, or joint commission, shall:
   (1) Study the proposed project in relation to any zoning ordinances, statutes, general plan, and policies and rules and regulations of the planning commission.
   (2) Conduct a public hearing on the application, pursuant to provisions governing public hearings under this Code.
   (3) Submit its recommendation to the council.

(1983 CC, c 6, art 1, sec 6-3; am 2009, ord 09-118, sec 13.)

Section 6-4. Other requirements.

No cemetery shall be located on land which is not owned in fee simple. The section of a proposed location which is set aside for interment shall be free of any financial encumbrance. After the approval of a proposed location, it shall be unlawful to encumber any section thereof which is set aside for interment. Lands which are transferred to the County by State executive order for the establishment, enlargement, or extension of any cemetery shall be exempt from the conditions of this section.
(1983 CC, c 6, art 1, sec 6-4.)

Section 6-5. Penalty.

Any person convicted of violating sections 6-1 and 6-4 of this article shall be punished by a fine not exceeding $500.
(1983 CC, c 6, art 1, sec 6-5.)

Section 6-6. County plots; fee; dimensions.

For each County owned cemetery plot sold at the Alae Cemetery, the director of the department of parks and recreation of the County shall collect a fee established by duly promulgated rules of the department, exclusive of the cost of digging and covering the plot. Each cemetery plot shall not exceed nine feet in length and four feet in width.
(1983 CC, c 6, art 1, sec 6-6; am 1996, ord 96-22, sec 2.)

Section 6-7. Cemetery fund.

The moneys collected under section 6-6 shall be deposited with the County finance director in a cemetery fund. All moneys deposited in the cemetery fund shall be expended for the improvement, maintenance, and upkeep of Alae Cemetery.
(1983 CC, c 6, art 1, sec 6-7.)

Article 2. Dance Halls.

Section 6-8. Definition.

(a) A "public dance house" or "hall" within the meaning of this article is any house, hall, building, or room used for public dancing, for admission to which fees are charged or collected, whether directly for tickets or indirectly in any manner by way of cover charges, fees for partners, or other charges of any nature, or in which female dancing partners receive or have agreed to receive compensation.
(b) Church halls, club houses, or halls which are occasionally used for dances, at which no compensation is paid or agreed to be paid to any female dancing partners, are not included within the meaning of this article.
(c) A license fee of $1 shall be paid to the County finance director for each day or night when dances are held in such church halls, club houses, or halls to which admission charges or fees are collected.

(1983 CC, c 6, art 2, sec 6-8.)

Section 6-9. License.

It shall be unlawful for any person to keep or conduct a public dance house or hall in the County, unless licensed to do so.
(1983 CC, c 6, art 2, sec 6-9.)

Section 6-10. License application.

(a) Any person desiring to keep or conduct a public dance house or hall in the County shall make an application in writing, verified under oath, to the County finance director, which shall set forth:
   (1) The full name and address of the applicant, if an individual, or, if a firm, corporation, or club, the full name and address of the principal officers, including the full name and address of the person who is to be responsible for the conduct of dances or hall.
   (2) The application of the occupant.
   (3) A brief description of the place and the location of the public dance house or hall for which a license is desired.
   (4) The full name and address of the owner, or of the person or persons in control of the premises.
   (5) The term for which the applicant desires a license.
   (6) A statement under oath that neither the applicant, the person to have charge of the public dances nor any person intended to be employed have been convicted of any offense against the laws of the State or the United States involving moral turpitude or intoxicating liquors.

(1983 CC, c 6, art 2, sec 6-10.)

Section 6-11. Location.

Every public dance house or hall shall be located next to or contiguous to a public road or highway, or in a building located next to or contiguous to a public road or highway.
(1983 CC, c 6, art 2, sec 6-11.)

Section 6-12. Consent of property owners.

No license shall be issued for a public dance house or hall unless there is first filed with the County finance director the written consent of seventy-five percent of the owners of property within a radius of two hundred fifty feet of the center of the dance house or hall or any proposed dance house or hall. No property owner shall be considered as having consented unless all lessees of any property, the owner of which is required to consent, shall have joined with such owner in a written consent to the issuance of such license.
(1983 CC, c 6, art 2, sec 6-12.)

Section 6-13. Written permit.

Every application for a license shall have attached to it a written permit setting forth the fact that the dance house or hall is fit and in proper condition for dances to be held therein, which shall be signed and approved by the County building inspector, the fire chief, or a State deputy fire marshal, and the department of health or its appointed agent.
(1983 CC, c 6, art 2, sec 6-13.)

Section 6-14. Issuance of license.

When the application, written consent and written permit have been filed by the applicant and accepted by the County finance director, the applicant shall pay the specified fee to the finance director for the term or terms stated in the application, upon which the director shall issue a license to operate the described house or hall as a public dance house or hall for the term or terms for which the fees have been paid.
(1983 CC, c 6, art 2, sec 6-14.)

Section 6-15. Nontransferability.

No license issued under this article shall be transferable or transferred except to a transferee approved by the County finance director after such transferee has filed an application as provided by section 6-10 of this article.
(1983 CC, c 6, art 2, sec 6-15.)

Section 6-16. License fees.

The fee for a license to operate a public dance house or hall for one year shall be $150; the fee for thirty days shall be $50; and the fee for one day or night or for any number of days or nights less than thirty days shall be at the rate of $5 per day or per night. All fees shall be paid in advance prior to the issuance of a license.
(1983 CC, c 6, art 2, sec 6-16.)

Section 6-17. Conditions of license.

(a) All licenses to operate a public dance house or hall shall be subject to the following conditions which shall be written and placed upon the license:
   (1) The dance house or hall and the premises shall be brightly lighted during all the time it is in use.
   (2) No undue familiarity between partners shall be permitted at any dance. No violation of law shall be allowed or countenanced in any dance house or hall.
   (3) No person under the influence of liquor shall be permitted to be or remain in the dance house or hall or upon the premises used in that connection.
   (4) Dancing shall cease at 1:00 a.m.
   (5) No person shall be employed with the conduct or operation of such public dance house or hall, who has been convicted of any offense involving immorality, moral turpitude, or intoxicating liquor, or who is under the age of eighteen.

(6) There shall be employed and be present at such public dance house or hall when dances are being carried on, one person who shall be approved in writing by the chief of police of the County or his deputy. The duties of the person so employed shall be to keep order and enforce the observance of law and the conditions of the license.

(7) No female shall be permitted to dance, as a dancing partner, in any public dance house or hall, until she produces or shows a birth certificate or other documentary proof to the holder of a license or his manager and to the person employed as provided in the previous paragraph that she is over the age of eighteen.

(1983 CC, c 6, art 2, sec 6-17.)

Section 6-18. Bond.

The County finance director shall require the licensee to furnish a bond to the County in the sum of $500 for the faithful observance of law and order in such public dance house or hall and of the conditions of the license.

(1983 CC, c 6, art 2, sec 6-18.)

Section 6-19. Inspection.

The chief of police, his deputy or any regular police officer of the County, members of the department of health, the Hilo fire department, and any County official, may at any time enter any public dance house or hall for the purpose of inspecting the conditions therein.

(1983 CC, c 6, art 2, sec 6-19.)

Section 6-20. Display of license.

Any license issued under this article shall be displayed in a conspicuous place upon the premises for which the license is issued.

(1983 CC, c 6, art 2, sec 6-20.)

Section 6-21. Liquor prohibited.

No person attending any public dance house or hall shall take to or into said public dance house or hall any intoxicating liquor; and no person shall drink or consume any intoxicating liquor in any public dance house or hall or any premises connected therewith.

(1983 CC, c 6, art 2, sec 6-21.)

Section 6-22. Minors prohibited.

It shall be unlawful for any licensee of any public dance house or hall, or any agent or servant of such licensee, to permit children under the age of eighteen years to visit or remain in a public dance house or hall during its use for dancing.

(1983 CC, c 6, art 2, sec 6-22.)

Section 6-23. Penalties.

Any person who violates any of the provisions of this article, or who operates or assists in the operation of a public dance house or hall without a license, shall be punished by a fine not exceeding $500.

In the event any licensee or any owner of any public dance house or hall is convicted of any misdemeanor under this article, then in addition to the above penalty, the judge or district magistrate in imposing sentence may suspend or revoke the license of such person and may prescribe any period not more than one year during which such person may be prohibited from obtaining any license under this article; further, the judge or district magistrate may suspend the use of such public dance house or hall for dances for any period of time not exceeding one year.

(1983 CC, c 6, art 2, sec 6-23.)

Section 6-24. Revocation of license.

(a) The County finance director may revoke any license issued under this article upon a proper showing made to him that any of the conditions of the license have been violated by its holder or any of his servants, agents or employees; or that there has been rowdyism, fights or intoxicating liquor furnished or consumed in and upon the premises, dance house or hall for which a license has been issued.

(b) After a license has been issued as provided herein and if the County finance director finds that any false statement had been knowingly made in any application, he shall revoke such license.

(1983 CC, c 6, art 2, sec 6-24.)

Article 3. Mobile Homes.

Section 6-25. Definitions.

(1) "Mobile home" means any vehicle or similar portable structure having no foundation other than wheels, jacks or blocks and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

(2) "Mobile home park" means any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.

(3) "Persons" means any natural individual, firm, trust, partnership, association or corporation.

(1983 CC, c 6, art 3, sec 6-25.)

Section 6-26. License.

It shall be unlawful for any person to maintain or operate a mobile home park within the County, unless such person first obtains a license.

(1983 CC, c 6, art 3, sec 6-26.)

Section 6-27. License application; initial; transfer.

(a) Application for an initial mobile home park license shall be filed with and issued by either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The application shall be in writing, signed by the applicant and shall include the following:
   (1) The name and address of the applicant;
   (2) The location and legal description of the mobile home park; and
   (3) Such further information as may be requested by the designated planning commission, or joint commission, to enable it to determine if the proposed park will be compatible with existing and proposed land uses and complies with all legal requirements.

(b) If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this article and all other applicable statutes, ordinances, and regulations, the designated planning commission, or joint commission, may approve the application, and upon completion of the park according to the plans shall issue the license. A ruling by the joint commission shall require the affirmative vote of a majority of the combined membership of both commissions.

(c) Upon application in writing for transfer of a license, the designated planning commission, or joint commission, shall issue a transfer if the transferee is of good moral character.

(1983 CC, c 6, art 3, sec 6-27; am 2009, ord 09-118, sec 14.)

Section 6-28. Conformity with other laws.

All mobile homes shall conform to the County building code, and the public health housing code (chapter 2 of the State public health regulations),* except:
   (1) When parked in a licensed mobile home park;
   (2) When occupied for dwelling or sleeping purposes outside of a licensed mobile home park for less than thirty days in any one location.

(1983 CC, c 6, art 3, sec 6-28.)

*** Editor's Note:** The public health regulations of the department of health relating to housing were repealed.

Article 4. Miscellaneous Business Licenses.

Section 6-29. County business licenses.

The director of finance shall issue County licenses to businesses as required by chapter 445, Hawai'i Revised Statutes, as amended, except as provided in section 6-30 of this article.

(1989, ord 89-41, sec 2.)

Section 6-30. Elimination of business licenses.

The following businesses are not required to obtain an annual County license or to pay an annual County license fee:

(1) The sale of beef or pork.
(2) The manufacture of food products.
(3) The operation of a laundry.
(4) The keeping of a lodging or tenement house, hotel, boarding house or restaurant.
(5) The production, processing or preparation of milk.
(6) The sale of tobacco, cigars, and cigarettes.
(7) The carrying of freight and baggage.
(8) The carrying of passengers.

(1989, ord 89-41, sec 2.)

Article 5. Licensing of Auctioneers.

Section 6-31. Purpose.

The purpose of this article is to provide for a licensing mechanism for auctioneers which was eliminated by Act 232 of the 1992 State Legislature, but which is still required in the Federal Bankruptcy Court.

(1995, ord 95-140, sec 1.)

Section 6-32. Definitions.

"Auction" means a sale, offering for sale or exposing for sale to the highest bidder of any goods, wares, merchandise or other personal property in an auction room.

"Auctioneer" means any person who is licensed by the director pursuant to chapter 445, Hawaiʻi Revised Statutes, and this article to sell goods, wares, merchandise or other personal or real property at auction.

"Director" means the director of finance of the County of Hawaiʻi or the director's duly authorized subordinate(s).

(1995, ord 95-140, sec 1.)

Section 6-33. Exceptions.

(a) Nothing contained in this article shall be construed to apply to any type of auction which is exempt from the requirements of section 445-22, Hawaiʻi Revised Statutes.
(b) Auctions conducted by nonprofit organizations for charitable purposes shall also be exempt from the provisions of this Article.

(1995, ord 95-140, sec 1.)

Section 6-34. Applicability.

It shall be unlawful for any person to sell, offer for sale or expose for sale at public auction any personal property without obtaining a license issued by the director in accordance with the terms, conditions and penalties enumerated in chapter 445, Hawaiʻi Revised Statutes and this article.

(1995, ord 95-140, sec 1.)

Section 6-35. Fee.

The annual fee for a license to sell, offer for sale or expose for sale any property at auction shall be $100, payable to the County of Hawai'i, department of finance.
(1995, ord 95-140, sec 1.)

Section 6-36. Authority to conduct auctions.

(a) It is unlawful for any person, other than an auctioneer who has obtained a license, to conduct an auction, provided that the auctioneer may appoint an agent or assistant who may conduct the auction in the auctioneer's presence. Where the licensee is a corporation, it shall appoint and designate a person to be its "auctioneer" within the meaning of this article.
(b) The auctioneer, its agent or assistant or if a corporation shall post a copy of the license and bond, if required, in a conspicuous place that is visible and accessible to any interested persons at the time of the auction.

(1995, ord 95-140, sec 1.)

Section 6-37. Adverse interest of auctioneer prohibited.

Every auctioneer conducting an auction shall, in accepting a bid from any person, become the agent of such bidder and remain so until a higher bid is accepted or until the transaction involving the bid is completed. The auctioneer must disclose publicly to all prospective buyers any proprietary interest that the auctioneer has in any personal or real property to be sold at the auction.
(1995, ord 95-140, sec 1.)

Section 6-38. Receipts to purchasers required.

The auctioneer shall give each purchaser at an auction a receipt with each purchase setting forth:
(a) The name and permanent address of the auctioneer.
(b) The date.
(c) The price paid for the article.
(d) The amount of tax paid.
(e) A description of the article.
(1995, ord 95-140, sec 1.)

Section 6-39. Violation - penalty.

Any person violating any provision of this article shall, upon conviction, be punished by a fine not exceeding $500, and such person's license to conduct a public auction shall be subject to suspension or forfeitures.
(1995, ord 95-140, sec 1.)

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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.	Repealed.
Section 7-9.	Loitering during tsunami warning.
Section 7-10.	Loitering and refusal to evacuate during impending disaster or disaster.
Section 7-11.	Penalty.
Section 7-12.	Unauthorized parking in designated area prohibited.

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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. (1983 CC, c 7, art 1, sec 7-1; am 2007, ord 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.

(1983 CC, c 7, art 1, sec 7-2.)

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.
(1983 CC, c 7, art 1, sec 7-3.)

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.
(1983 CC, c 7, art 1, sec 7-4.)

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.
(1983 CC, c 7, art 2, sec 7-5; am 2007, ord 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, volunteers, or designees.

(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.

(1983 CC, c 7, art 2, sec 7-6; am 2005, ord 05-9, sec 2; am 2008, ord 08-53, 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.
(1983 CC, c 7, art 2, sec 7-7.)

Section 7-8. Repealed.
(1983 CC, c 7, art 2, sec 7-8; rep 2010, ord 10-62, sec 2.)

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.

(1983 CC, c 7, art 2, sec 7-9; am 2007, ord 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.

(1983 CC, c 7, art 2, sec 7-10; am 2005, ord 05-9, sec 3; am 2007, ord 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.
(1983 CC, c 7, art 2, sec 7-11; am 2005, ord 05-9, sec 4.)

Section 7-12. Unauthorized parking in designated area prohibited.

(a) Except when authorized by an authorized person or specific traffic control device, no person shall stop, stand or park a vehicle within an impending disaster or disaster area as described in a Mayor's and/or Governor's emergency declaration.

(b) The police officer citing any driver or owner for a violation of this section may have the motor vehicle towed to and stored at a private tow yard at the registered owner's expense pursuant to section 291C-165.5(a) of the Hawaiʻi Revised Statutes.

(c) Any person convicted of unauthorized parking in a designated area shall be punished by a fine of not more than $100 for the first conviction; not more than $200 for the second conviction of a second offense committed within one year after the date of the first offense; not more than $500 for the third or subsequent conviction of a third or subsequent offense committed within one year after the date of the first offense.

(2011, ord 11-49, sec 2.)

CHAPTER 8

DEDICATION OF LAND

Article 1. Park Dedication Code.

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Section 8-2.	Definitions.
Section 8-3.	Applicability.
Section 8-4.	Exemptions.
Section 8-5.	Dedication of park land by subdivider.
Section 8-6.	Population density requirements.
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Section 8-11.	Credit for existing parks and playgrounds.
Section 8-12.	Option of land dedication or payment of fee; determination by County.
Section 8-13.	Appeals.

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CHAPTER 8

DEDICATION OF LAND

Article 1. Park Dedication Code.

Section 8-1. Title.

This article may be cited as the park dedication code.
(1983 CC, c 8, art 1, sec 8-1.)

Section 8-2. Definitions.

(a) As used in this article:

(1) "Approval" means the final approval granted to a proposed subdivision where the actual division of land into smaller parcels is sought, provided that, where construction of a building or buildings is proposed without further subdividing an existing parcel of land, the term "approval" means the issuance of the building permit.

(2) "Director" means the planning director of the County.

(3) "District" means the judicial districts of Puna, South Hilo, North Hilo, Hamakua, North Kohala, South Kohala, North Kona, South Kona or Ka'ū, as defined by the department of research and development.

(4) "Dwelling unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen.

(5) "Fair market value" means the highest price estimated in terms of money which a property will bring if exposed for sale in the open market allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used.

(6) "Hotel" means a building containing sleeping accommodations in six or more rooms for use of persons, on a commercial basis, whether such establishment is called a hotel, inn, motel, motor hotel, motor lodge or otherwise, which rooms do not constitute dwelling units.

(7) "Lodging unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family, which does not contain any kitchen.

(8) "Parks and playgrounds" means areas and facilities used for active or passive recreational pursuits.

(9) "Provide land in perpetuity" means the conveyance of land, improvements, easements, streets and facilities, or any interest therein, to the County for a definite use and purpose, which shall be a perpetual and everlasting easement or dedication in fee simple title or ownership.

(10) "Resident population" means the official resident population as determined by the County department of research and development. It includes residents temporarily absent, and armed forces personnel and their dependents. It excludes visitors present.

(11) "Subdivider" means any person who divides land as specified under the definition of subdivision or who constructs a building or group of buildings containing or divided into two or more dwelling units or lodging units.

(12) "Subdivision" includes:

(A) The division of improved or unimproved land into two or more lots, parcels, sites or other divisions of land and for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to, or interest in, any or all such lots, parcels, sites or divisions of land;

(B) Resubdivision; and

(C) A building or group of buildings, other than a hotel or hotels, containing or divided into two or more dwelling units or lodging units. When appropriate to the context, it also refers to the land subdivided.

(1983 CC, c 8, art 1, sec 8-2.)

Section 8-3. Applicability.

(a) This article shall apply to:

(1) Changes in use of buildings from hotel to residential dwelling use;

(2) Any additional dwelling or lodging units added to an existing building or lot;

(3) Any dwelling or lodging units of a building constructed in the stead of a building that is demolished, but only to the extent that such units exceed the number of units of the demolished building;

(4) All subdivisions except those excluded in section 8-4; and

(5) Where zoning allows, the construction of more than one dwelling unit on a lot.

(1983 CC, c 8, art 1, sec 8-3.)

Section 8-4. Exemptions.

(a) This article shall not apply to:

(1) Subdivision of land in any district where the ratio of acres of public parks and playgrounds within the district and not federally owned, to the resident population within the district is greater than the minimum ratio of five acres of land for parks and playground purposes for each one thousand persons;

(2) Subdivision of land for which tentative approval has been granted prior to December 27, 1977;

(3) Subdivisions for a public utility or public facility and which will not be provided with or developed into dwelling units;

(4) Subdivision of land for industrial or commercial use subdivisions;

(5) Subdivisions of land into two or more lots only for the purpose of clarifying public records or adjustment of boundaries, provided that no additional lots will be created;

(6) Subdivision of land into two or more lots for agricultural purposes and which will not be developed under this subdivision application, into dwelling or lodging units. The subdivider desiring such an exception shall file with the director a certified statement therefor, stating fully the grounds for the exception and that the subdivided land shall not be provided with dwelling or lodging units. These conditions shall be duly recorded with the bureau of conveyances and shall run with the land. These conditions may be revoked if the subdivider or landowner agrees to pay a fee pursuant to section 8-8;
(7) A planned unit development project for which the planning commission has held a public hearing prior to December 27, 1977;
(8) Subdivisions of buildings, for which a preliminary plan approval has been given in accordance with the provisions of chapter 25, article 2, of the zoning code; and
(9) Subdivision by any governmental agency or nonprofit organization, or subdivision involving the construction of homes pursuant to chapter 359G, Hawai‘i Revised Statutes.*

(1983 CC, c 8, art 1, sec 8-4.)

*** Editor's Note:** Chapter 359G, Hawai‘i Revised Statutes, was repealed.

Section 8-5. Dedication of park land by subdivider.

Every subdivider, prior to final approval of a subdivision by the director, shall:
(1) Provide land and any required improvements in perpetuity;
(2) Pay a fee;
(3) Agree to a combination of providing land and any required improvements in perpetuity and payment of a fee; or
(4) Provide land and any required improvements for private recreational use, as set forth in this article for the purpose of providing park and playground facilities for occupants or purchasers of lots or units in the subdivision.

(1983 CC, c 8, art 1, sec 8-5.)

Section 8-6. Population density requirements.

(a) In the public interest, convenience, health, welfare and safety, there shall be a minimum ratio of five acres of land for park and playground purposes for each one thousand persons in every district.
(b) Population density for the purpose of this article shall be:
(1) Single-family dwelling units and duplexes = 3.5 persons per dwelling unit; and
(2) Multiple-family dwelling units = 2.1 persons per dwelling unit.

(1983 CC, c 8, art 1, sec 8-6.)

Section 8-7. Calculation of land and facilities to be provided.

(a) Land required to be provided in perpetuity by a subdivider pursuant to this article shall be determined on the following basis:

(1) In subdivision of land, the basis for determining the total number of dwelling or lodging units for computation purposes shall be the number of such units permitted by the County in the subdivision as shown on the final subdivision map filed with the County.

(2) In building permit applications, the total number of dwelling or lodging units for computation purposes shall be the total number of such units as shown on the building permit application, except as provided by section 8-3.

(3) Land Requirement Formula. The land requirement formula shall be as follows:

C x P = Area to be Dedicated Required Land in Acres

Where,

$C = \frac{5.0 \text{ ac}}{1{,}000}$ = Park acres per 1,000 persons per section 8-6(a) (218 square feet per person)

P = Total population within the subdivision per section 8-6(b)

(b) Any improvements on the land to be provided in perpetuity by the subdivider pursuant to this article shall be determined by the director of parks and recreation, upon conferring with the director of public works, and approved by the director and shall include a minimum of lot grading and grass planting, adequate drainage and comfort station. The director may waive a portion or all of the minimum improvements required, provided that the minimum improvements are available within close proximity of the park and meet other code requirements or deemed impracticable or unnecessary by the director upon consultation with the director of parks and recreation and the director of public works.

(c) Land and building subdivisions involving six or less lots or units and new units falling under the purview of section 8-3(a)(2) and (5) shall be required to pay fees in the amount of $150 per lot or unit; provided that:

(1) Other terms of payment may be required if the proposed subdivision does not represent the maximum feasible development possible for the subject land as determined by the director; and

(2) Fees for new dwelling units referred to in section 8-3(a)(5) shall be assessed for all but one dwelling unit at the time of building permit action.

(1983 CC, c 8, art 1, sec 8-7; am 2001, ord 01-108, sec 1.)

Section 8-8. Monetary fee in lieu of dedicating land and improvement.

(a) Where a monetary fee is required to be paid in lieu of dedicating or providing the land and improvements in perpetuity, the monetary fee shall be a sum equal to the fair market value of the amount of land required by section 8-7(a).

(b) The fair market value shall be determined as of the time of filing the final subdivision plat or building permit in accordance with the following:

(1) The fair market value shall include the value of the subdivided land, including the site improvements and utilities which would have otherwise been installed should the land area for the park be required.

(2) The County and the subdivider shall agree on the fair market value of the land. If the County and the subdivider fail to agree on the fair market value of the land, the value shall be fixed and established by majority vote of three land appraisers; one shall be appointed by the subdivider, one appointed by the County, and the third appointed by the mutual agreement of the County and the subdivider. The subdivider and the County shall equally bear the costs of the third appraisal.

(c) If the area of land which is provided in perpetuity by the subdivider and approved by the director pursuant to section 8-12 is less than the land area required under section 8-7(a), the subdivider shall be required to pay a fee equal to the fair market value as determined in subsection (b) of this section which is the difference between the land area provided in perpetuity and the land area required under section 8-7(a).

(d) Fees paid pursuant to this section shall be made directly to the director of finance and shall be deposited in a park and recreation fund. Payment may be in a lump sum prior to final approval of the land subdivision or final plan approval for a building subdivision, or fifty percent at the time of preliminary approval of the land subdivision or preliminary plan approval of the building subdivision, and the balance paid prior to final approval of the land subdivision or final plan approval of the building subdivision.

(1983 CC, c 8, art 1, sec 8-8.)

Section 8-9. Use of fees.

(a) All moneys received pursuant to this article shall be used for the acquisition and development of park and recreational facilities to serve the area in which the subdivision is located. Moneys received may be expended on neighborhood or community facilities in reasonable proximity to the subdivision. Where a public park and playground presently serves a subdivision, such fees may be used for the purpose of providing additional facilities for that park or playground. The director of parks and recreation shall determine the various park areas for funding purposes.

(b) When funds are needed for implementing a plan to provide or develop land and facilities or for preparing site plans such as design and engineering work, the director of parks and recreation shall submit a written request to the director and the mayor for approval. Upon the mayor's approval, the finance director shall be authorized to release moneys from the fund.
(c) No refunds shall be made for any land and building subdivision which the director had granted final approval, except that credit may be given to subsequent subdivision of the same area.
(d) All moneys, interests and other forms of earnings resulting from the fee shall thereafter be the property of the County. The interests or earnings accrued from the fee shall be expended in the same manner as the fee itself.

(1983 CC, c 8, art 1, sec 8-9.)

Section 8-10. Credit for private recreational areas and improvements.

(a) Where parks and playgrounds, including improvements, are to be provided in a proposed subdivision, and are to be privately owned and maintained by the future residents of the subdivision, such areas and improvements shall be credited towards the requirements set forth in section 8-7 or the payment of fees in lieu thereof, set forth in sections 8-8 and 8-9.
(b) The credit shall be subject to the approval of the planning director, upon consultation with the director of parks and recreation, subject to the following requirements:
    (1) Yards and other open areas required to be maintained by the zoning and building regulations shall not be included in the computation of such private recreational areas and facilities.
    (2) The size, shape, topography, geology, access, use and location of the site shall be suitable for park and playground purposes.
    (3) The physical improvements provided for shall meet the needs of the purchasers or occupants of the subdivision, and are in accordance with the policies and standards of the recreational element of the general plan and park master plan.
    (4) The use of the site shall be restricted for park and playground purposes by recorded covenants which shall run with the land for the use of the purchasers or occupants in the subdivision.
    (5) There is adequate assurance as determined by the corporation counsel, for perpetual maintenance of such private parks and playgrounds by recorded covenant running with the land which shall include but not necessarily be limited to the following:
        (A) Obligate the subdividers, purchasers, occupants or association in the subdivision to maintain the private parks and playgrounds in perpetuity; and

(B) Empower the County, through the parks and recreation director, to enforce the covenants to maintain the private parks and playgrounds and authorize the performance of maintenance work by the County in the event of failure by the subdivider, purchaser or occupant, to perform such work and permit the subjecting of the land and properties in the subdivision to a lien until the cost of work performed by the County has been reimbursed.

(6) The site improvements and physical facilities to be provided and constructed shall be made available to all purchasers or occupants in the subdivision and an agreement and adequate security are filed and accepted by the County to guarantee the construction of the improvements and facilities within a specified time as required by the director prior to final subdivision or plan approval.

(7) The type of park improvements in land subdivisions shall be determined by the director of parks and recreation upon conferring with the director of public works, and approved by the director and shall include at a minimum:

(A) Lot grading and grass planting;

(B) Parking area;

(C) Adequate drainage; and

(D) Comfort station.

The director may waive a portion or all of the minimum improvement required, provided that the improvements are available within close proximity of the park and meet other code requirements or deemed impracticable or unnecessary by the director upon consultation with the director of parks and recreation and director of public works.

(8) The minimum type of improvements for building permit subdivisions shall be determined in the same fashion as land subdivisions.

(9) Equitable credit by cost estimates of the improvements being provided shall be determined by the director of public works.

(1983 CC, c 8, art 1, sec 8-10; am 2001, ord 01-108, sec 1.)

Section 8-11. Credit for existing parks and playgrounds.

Where lands for parks and playgrounds and their improvements were provided in perpetuity or kept in private ownership with a maintenance agreement acceptable to the corporation counsel prior to December 27, 1977, such land, including physical facilities, shall be credited toward the park land/facilities which would otherwise be required under section 8-7; provided that such area and facilities shall satisfy the provisions of section 8-12(b)(3), (4), and (5).

(1983 CC, c 8, art 1, sec 8-11.)

Section 8-12. Option of land dedication or payment of fee; determination by County.

(a) The option to provide land in perpetuity, pay a fee or a combination thereof, or to provide private recreational areas, shall be determined as follows:

(1) The owner of the property shall file a preliminary subdivision map or building plan, and indicate the owner's intentions to:

(A) Provide land in perpetuity for recreational purposes;

(B) Pay a fee;

(C) Agree to a combination of provision of land in perpetuity and payment of fee; or

(D) Provide private recreational areas.

If the owner of the property intends to provide land in perpetuity, the owner shall designate the area thereof on the preliminary subdivision plat or building plans as submitted.

(2) Prior to preliminary approval of a land subdivision or preliminary plan approval of a building subdivision, upon concurrence by the director of parks and recreation, the director shall determine whether to require a provision of land in perpetuity, payment of a fee, a combination of dedication or provision of land in perpetuity and payment of fee, or provide private recreational areas. The director shall also determine the location of the area to be provided in perpetuity at the time of preliminary subdivision or preliminary plan approval.

(A) Prior to granting of preliminary subdivision or plan approval by the director, the council, pursuant to section 13-12 of the Charter, shall review and act on the area proposed to be dedicated for park and its proposed improvements. Acceptance shall be effective no earlier than receipt of final subdivision or final plan approval by the director.

(B) If the council declines the offer, the director shall require an alternative method of assessment in accordance with sections 8-8, 8-9, and 8-10.

(b) Whether the council accepts land and any required improvements for dedication and County maintenance shall be determined by consideration of the following:

(1) Proximity to existing County or State parks and relationship to proposed general planned parks or park master plan.

(2) Conformity to the policies and standards of the recreation, open space, natural beauty, historic sites or natural resource and shoreline elements of the general plan and recreational master plan.

(3) Suitability of the size, shape, topography, geology, access, use and location of the site for park and playground purposes.

(4) The kinds of park improvements available or to be constructed or installed.

(5) Feasibility for the County to improve and maintain such land and any improvements thereon.

(c) The required site improvements and physical facilities shall be made available at the time of final subdivision approval or prior to the issuance of occupancy permit in the case of building subdivisions. The completion of required improvement may be reasonably deferred, provided, that an agreement and adequate surety bond guaranteeing their construction are filed and accepted by the County.
(d) Upon acceptance of the land and the improvements by the council, the County shall thereafter assume the cost of future improvements and maintenance of the entire area and facilities, except those private parks and playgrounds accepted under the provisions of section 8-10.
(1983 CC, c 8, art 1, sec 8-12.)

Section 8-13. Appeals.
(a) Action of the director taken pursuant to this article may, within thirty days after the action is taken, be appealed in writing to the board of appeals.
(b) The appeal shall be accompanied by a filing fee of $100.
(c) The appeal shall set forth the basis of the appeal and shall specifically detail the manner in which it is alleged the director's action was based on an erroneous finding of a material fact, or that the director had acted in an arbitrary or capricious manner, or had manifestly abused the director's discretion.
(d) The board of appeals, upon receipt of such appeal, shall set the matter for a hearing. The hearing shall be conducted according to the Hawai'i Administrative Procedure Act.
(e) Within sixty days after the filing of the appeal, the board of appeals shall affirm, modify or reverse the action of the director.
(1983 CC, c 8, art 1, sec 8-13.)

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CHAPTER 9

ELECTRICITY

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CHAPTER 9

ELECTRICITY

Article 1. General Provisions.

Section 9-1. Title.

This chapter shall be known and may be cited as the County electrical code.
(1994, ord 94-72, sec 3.)

Section 9-2. Purpose.

The purpose of this chapter is to reduce the hazards to persons and property from electrical causes. To accomplish this, the requirements set forth herein are intended to provide a minimum standard for electrical installations in the County.
(1994, ord 94-72, sec 3.)

Section 9-3. Scope; exceptions.

The provisions of this chapter shall apply to all electrical work and installations in the County, with exceptions as noted in the 2008 National Electrical Code as adopted by the State of Hawai‘i and the following:

(1) Electrical work on buildings or premises owned by or under the direct control of the Federal government.
(2) Electrical work by employees of a public utility within the State under a franchise or charter granted by the State which is regulated by the public utility commission and, while so employed, pursuant to section 448E-13, Hawai‘i Revised Statutes.
(3) The provisions of this chapter shall not apply to public State and County road right of ways for utility installations, street lighting, traffic signal or police and fire alarm where installed outside the proposed premises or boundary lines in a subdivision under development, or an approved subdivision, where the work is in the planned or actual roadways or other common infrastructure areas.
(4) Existing electrical installations which complied with the laws, ordinances and regulations in effect when the electrical work thereon was performed, provided that such installations shall be subject to the provisions of section 9-4.
(5) All buildings moved into or relocated within the County shall comply with all requirements of this chapter for new buildings and all unused or abandoned wiring and devices shall be removed.
(6) Electrical work related to work regulated by chapter 397, Hawai‘i Revised Statutes, as amended relating to the Elevator Code, but not including electrical work for the supply of power to the control panels of elevators, dumbwaiters, escalators, moving walks, and manlifts.

(7) Replacement or repair of devices and apparatus of air conditioning, refrigeration, and heating systems, except electrical work on overcurrent devices which are not physically attached to, or physically mounted on, such systems.

(8) The construction, alteration or repair of electrical devices commonly used in the home such as portable appliances as defined in section 9-5.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 1; am 2011, ord 11-69, sec 1.)

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

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

(1994, ord 94-72, sec 3.)

Section 9-5. Definitions.

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

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

"Assistant" means the authorized representative(s) of the authority having jurisdiction.

"Authority having jurisdiction" means the director of public works of the County or the director's authorized representative.

"Board" means the board of appeals.

"Demolition" means removal of electrical work when a demolition building permit is issued.

"Department" means the department of public works of the County.

"Ductline" means electrical conduit installation.

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

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

"Electrical specialty work" means the installation of any electronic equipment, electronic controls, including but not limited to public address systems, intercommunication systems, music distribution systems, CATV systems, master and program clock systems, electronic teaching devices, fire and security systems, telephone, computer, and data systems.

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

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

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

"Inundation level" means the maximum expected water level due to flooding by rainfall runoff, wind, waves, and tsunamis as established by the authority having jurisdiction.

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

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

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

"Permanent electrical service" means permanent power as provided by the serving utility company after notification by the authority having jurisdiction.

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

"Portable appliances" means any device that is readily moveable and cord/plug connected.

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

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

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

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 2; am 2011, ord 11-69, secs 2, 3, and 4; ord 11-114, sec 1.)

Article 2. Administration and Enforcement.

Section 9-6. Administration and enforcement.

Unless otherwise provided for by law, the department of public works of the County shall have jurisdiction over and administer all matters covered by this chapter.
(1994, ord 94-72, sec 3.)

Section 9-7. Nonliability of the County or its employees for damages.

(a) This chapter shall not be construed to relieve from or lessen the responsibility of such person owning, operating or installing any electrical wires, appliances, apparatus, construction, or equipment for damages to anyone injured by any defect therein.

(b) Neither the County nor any department, board, commission, officer, employee, or the authority having jurisdiction shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of any permit issued, or any inspection or approval or issuance of a certificate of inspection, made under the provisions of this chapter.

(c) 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 there shall be assumed by the County.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, secs 3 and 5.)

Section 9-8. Right of entry.

Upon presentation of proper credentials, the authority having jurisdiction 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.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, secs 3 and 6.)

Section 9-9. Inspections.

(a) All electrical wiring, for which a permit is required, shall be inspected and approved by the authority having jurisdiction before being concealed, energized, or used. All fees required by this chapter shall be paid by the permit applicant prior to the energizing or use of such wiring.

(b) No person shall use, operate, or maintain, or cause or permit to be used, operated, or maintained, any electric wiring until it is approved.
(c) No serving agency shall supply or cause or permit to be supplied, permanent electric energy to any electric service until the service has been inspected and approved by the authority having jurisdiction.
(d) No person shall conceal, enclose, or cover, or cause or permit to be concealed, enclosed, or covered, any portion of any electric wiring or equipment in any manner which will interfere with or prevent the inspection and approval thereof.
(e) Fixtures, appliances, devices, or equipment shall not be connected to any electric wiring until the rough electric wiring, including conductors, have been inspected and approved by the authority having jurisdiction.
(f) All obstructions, covers, plates, tapes, light fixtures, etc., which make impracticable the making of a thorough inspection of electric wiring shall be removed upon notice (either verbal or in writing) to do so, and shall be kept removed until the electric wiring has been inspected and approved.
(g) The supervising electrician or electrical contractor shall be present on the job site upon request of the authority having jurisdiction.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 3; am 2011, ord 11-69, secs 3 and 7.)

Section 9-10. Nonconforming and defective installations.

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

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 4.)

Section 9-11. Request for inspection.

(a) Whenever any work regulated by this chapter, or any portion thereof, is ready for inspection, the authority having jurisdiction shall be notified by the permit holder that same is ready for inspection. The notice shall be in writing on forms furnished by the authority having jurisdiction, by e-mail to the area inspectors or may be faxed or by telephone at the option of the authority having jurisdiction. The notice shall be filed with the department not less than forty-eight hours and not more than seventy-two hours before any such inspection is desired.

(b) The authority having jurisdiction shall proceed to inspect the same or notify the contractor of a reschedule within forty-eight hours, not including weekends or holidays, after receipt of such notice. When work conforms in all respects with the provisions of this chapter, a notice granting authority to proceed with installations shall be given.

(c) No electrical wiring shall be covered or concealed until forty-eight hours have expired after the scheduled inspection or until the authority having jurisdiction has approved the installation and given permission to cover or conceal the same. If the permitted work is covered or concealed without inspection, the electrical contractor will provide verification that the concealed work complies with all the provisions of this chapter. Should the authority having jurisdiction condemn any of said work or equipment as not being in accordance with the provisions of this chapter, notice in writing to that effect shall be given to the permit holder engaged in the work or posted at the job site.

(d) Within a reasonable time thereafter, the work or equipment shall be altered or removed as required, and necessary changes shall be made so that all such work and equipment may fully comply with the provisions of this chapter before further work is connected on or with the condemned work or equipment. In default, the electrical contractor shall be liable to the penalties provided in this chapter, and any and every owner, contractor or other person engaged in construction of the building or structure, or otherwise, covering or allowing to be covered such portion of work or equipment, or removing any notice not to cover same placed thereon by the authority having jurisdiction shall likewise be liable to the penalties provided for in this chapter.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 5; am 2011, ord 11-69, secs 3 and 8.)

Section 9-12. Final inspection required.

(a) A final inspection is required after all work required by the electrical permit is completed and complies with all the requirements of this chapter.

(b) A certificate of inspection may be issued upon request by the electrical contractor on record, provided all fees required by this chapter have been satisfied.

(c) The supervising electrician shall be present on the job site upon the request of the authority having jurisdiction.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 6; am 2011, ord 11-69, sec 9.)

Section 9-13. Permanent electrical service.

Permanent electrical service shall be authorized by the authority having jurisdiction upon completion of the following requirements:

(1) All permanent service equipment shall be inspected by the authority having jurisdiction;

(2) For non residential installations, all rooms containing permanent service equipment shall be completed and securable by means of a temporary or permanent door and lock system;

(3) For residential installations, permanent service equipment shall be installed on permanent buildings, meter poles or meter pedestals with provisions for locking out the main service disconnects; and
(4) The electrical contractor shall be responsible and in control of all permanent power access and usage.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, secs 10 and 11.)

Article 3. National Electrical Code.

Division 1. General.

Section 9-14. National Electrical Code adopted.

The National Electrical Code, 2008 Edition, copyrighted 2007 by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts, 02169-7471, is hereby adopted by reference and made a part hereof. A copy of this code shall be kept on file and be available for public inspection in the clerk's office. The scope, technical specifications, and exemptions set forth in this code are hereby adopted as the standard for electrical work covered by this chapter, provided there are no specific provisions in any other section of this chapter covering the particular matter.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 7; am 2011, ord 11-69, sec 12.)

Section 9-15. Compliance; standards of performance.

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

(1994, ord 94-72, sec 3.)

Section 9-16. Qualification to perform work.

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

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 8.)

Division 2. Violations, Enforcement, and Penalties.

Section 9-16.1. General provisions.

(a) It shall be unlawful for any person, firm, or corporation to perform any electrical work 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.

(2011, ord 11-69, sec 12; am 2011, ord 11-114, sec 2.)

Section 9-16.2. Notice of violation.

(a) Whenever the authority having jurisdiction determines that there exists a violation of any provision of this code, the authority having jurisdiction shall serve a notice of violation upon the parties responsible for the violation, which may include, but shall not be limited to the owner and any lessee of the property where the violation is located, to make the building 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.

(b) Proper service of such notice shall be by personal service, registered mail, or certified mail upon the owner of record, provided, that if such notice is by registered mail or certified mail, the designated period within which the owner or person in charge is required to comply with the order of the authority having jurisdiction shall begin as of the date the owner or person in charge receives such notice.

(2011, ord 11-69, sec 12; am 2011, ord 11-114, sec 2.)

Section 9-16.3. Administrative enforcement.

(a) If the authority having jurisdiction determines that any person, firm or corporation is not complying with a notice of violation, the authority having jurisdiction 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 authority having jurisdiction'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 authority having jurisdiction under this section shall become final thirty calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the board of appeals as provided by section 9-19. 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 provisions of the order.

(d) Judicial enforcement of order. The authority having jurisdiction 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 authority having jurisdiction 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.

(2011, ord 11-69, sec 12; am 2011, ord 11-114, sec 2.)

Section 9-16.4. Criminal prosecution.

(a) General provisions. Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a petty 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 thirty days, or by both fine and imprisonment.

(b) Any officer or inspector designated by the authority having jurisdiction, 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"), pursuant to Section 803-6, Hawai'i Revised Statues, 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 authority having jurisdiction, 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 the authority having jurisdiction a form of summons or citation for use in citing violators of this chapter which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaiʻi and County of Hawaiʻi.

(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.

(2011, ord 11-69, sec 12; am 2011, ord 11-114, sec 2.)

Section 9-16.5. Injunctive action.

The County 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.

(2011, ord 11-69, sec 12.)

Division 3. Variances and Appeals.

Section 9-17. 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. However 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 or create additional fire hazards, and will not otherwise be detrimental to the public welfare. In making its determination, the board of appeals shall take into account the character, use and type of occupancy and construction of adjoining buildings, buildings on adjoining lots, and the building or land involved.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 9; 2011, ord 11-69, sec 12.)

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

Any person denied the use of new or alternate materials, methods of construction, equipment, fixtures, devices, or appliances by the authority having jurisdiction, may, within thirty days after the authority having jurisdiction'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 authority having jurisdiction, 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.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 10; am 2011, ord 11-69, secs 3 and 12.)

Section 9-19. Other appeals.

Any person aggrieved by the decision of the authority having jurisdiction in the administration or application of this code, other than that prescribed in sections 9-17 and 9-18, may, within thirty days after the date of the authority having jurisdiction's decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the authority having jurisdiction, 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.

(1994, ord 94-72, sec 3; am 2005, ord 02-129, sec 11; am 2011, ord 11-69, secs 3 and 12; ord 11-114, sec 2.)

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

The board of appeals shall adopt rules pursuant to chapter 91, Hawaiʻi Revised Statutes, necessary for the purposes of this article.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 12; ord 11-114, sec 2.)

Section 9-21. Repealed.
(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 12; rep 2011, ord 11-69, sec 12.)

Section 9-22. Prior offenses.

Nothing contained in any provision of this chapter shall apply to an act done or omitted, or to an offense committed at any time before the enactment of this chapter. Such act or omission shall be governed by, and any such offense shall be punished according to the provisions existing when such act, omission or offense occurred in the same manner as if this chapter had not been enacted.
(1994, ord 94-72, sec 3.)

Article 4. Modifications to National Electrical Code.

Section 9-23. Deleting Annex H, Administration and Enforcement of the 2008 NEC.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 13.)

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

The National Electrical Code is amended by adding the following:

Rain Water and Sea Water Flooding Standards. The following paragraphs shall supplement the requirements of the National Electrical Code for electrical work subject to inundation by rainfall run-off or sea waves in areas designated as FLOOD ZONE by a Federal, State, or County agency. All installations shall comply with chapter 27, Floodplain Management Ordinance.

1. Services:

   a. Location. Service equipment shall be located above the inundation level or shall be installed in water-tight enclosure, room, or vault, and shall be readily accessible in any case.

   b. Ground Fault Protection. Ground fault protection shall be provided for all grounded wye electrical services.

2. Ground Fault Protection:

   a. Approved ground fault circuit protection shall be provided for all feeder and branch circuits below or extending into inundation level.

3. Wiring Method and Material:

   a. Distribution Equipment. Equipment such as transformers, fuses, panelboards, switchboards, disconnects, circuit breakers, controllers and other devices used for control, disconnecting means, ground fault protection, or overcurrent protection shall be located above the inundation level, unless made of water-tight construction.

4. The director of public works shall have the authority to consider exceptions to the provisions of the requirements of this section and may grant variance from the provisions thereof, if local topographic conditions clearly indicate that the possibility of flooding is not present.

5. Contractor will provide a certified bench mark on jobsite for flood zone elevation reference point.

6. Residential and nonresidential electrical only permit application requirements: Electrical design drawings stamped and signed by an electrical engineer registered in the State of Hawai‘i. Plans shall include a site or plot plan showing the certified flood zone elevation mark.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 13.)

Section 9-25. Repealed.
(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 13; rep 2011, ord 11-69, sec 13.)

Article 5. Permits for Electrical Work.

Division 1. Application, Issuance and Contents.

Section 9-26. Permit required; exceptions.

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

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

(2) Installation of any portable motor or other portable appliance energized by means of a cord or cable having an attachment plug, and if such cord or cable is permitted by this chapter.
(3) Repair of any fixed motor, water heater, air conditioning controls or other appliance, or replacement of any fixed motor with another having the same horsepower rating and situated at the same location.
(4) Replacement of receptacles and switches.
(5) Maintenance work by a licensed electrician per chapter 448E, Hawaiʻi Revised Statutes.
(6) Emergency electrical work by a person to whom a permit may be issued (see sections 9-28 and 9-41 of this chapter).
(7) The provisions of the foregoing exceptions shall not apply to any repairs or replacement of electrical devices, apparatus, or appliances which were originally installed without a permit, when such permit is required for the original installation, or when energized by or a part of any hazardous or illegal wiring system.
(8) The foregoing exceptions from permit requirements shall not be deemed to allow any electrical wiring to be done in a manner contrary to other provisions of this chapter.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 14; am 2011, ord 11-69, secs 3 and 14.)

Section 9-27. Permit scope.

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

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

Section 9-28. Emergency work.

When emergency electrical work is commenced without a permit, an application for a permit for the work shall be made pursuant to the provisions of section 9-30, as soon as possible after the work is commenced.
(1994, ord 94-72, sec 3.)

Section 9-29. Separate permits required.

A separate electrical permit shall be obtained for each building permit.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 15.)

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

(a) To obtain a permit, the applicant shall file an application on forms furnished by the authority having jurisdiction. The application shall contain all information necessary to the lawful enforcement of the provisions of this chapter.

(b) The application shall be accompanied by approved plans and specifications or a suitable diagram when and as required by section 9-33.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

Section 9-31. Permit issuance; fees.

When the authority having jurisdiction determines that the information on the application and plans is in conformance with this chapter, the authority having jurisdiction shall issue a permit upon receipt of the total fees.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

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

Nothing contained in this chapter shall be construed to require the authority having jurisdiction to immediately accept or reject any application, whenever it is necessary to investigate the proposed wiring and premises as to its compliance with this chapter, or it is necessary to check plans and specifications accompanying the application.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

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

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

EXCEPTIONS:

(1) If the demand load of the proposed installation is less than thirty kilovoltamperes, this requirement shall be applicable only if the authority having jurisdiction so directs.

(2) For single family dwellings, plans and specifications shall not be required provided the installation meets all of the following criteria:

(A) The installation shall not be located in a rain water or sea water flood zone; and

(B) Service size disconnect does not exceed 200 amperes.

(b) Installation of photovoltaic systems shall require:

(1) A building permit for residential and non residential installations;

(2) Electrical design drawings and specifications bearing the approval of an electrical engineer registered in the State of Hawai‘i for residential and non residential installations; and

(3) Plans and specifications for building work bearing the approval of an architect or structural engineer registered in the State of Hawaiʻi for non residential installations only.

(c) No person shall materially deviate from any reviewed plan or specifications or fail, neglect or refuse to comply herewith, unless permission to do so has first been obtained from the electrical engineer on record. Revised drawings and or a letter approving such deviations shall be submitted to the authority having jurisdiction for review.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 15; am 2011, ord 11-69, secs 3 and 16; am 2012, ord 12-149, sec 1.)

Section 9-34. Issuance.

If the authority having jurisdiction is satisfied that the installation described in the application will conform to the provisions of this chapter and all pertinent laws, and the fee prescribed in division 2 of this article has been paid, the authority having jurisdiction may issue a permit to the persons specified in section 9-35.

(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

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

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

(1) A contractor who is licensed under the provisions of chapter 444, Hawaiʻi Revised Statutes, and possesses a valid, unexpired, unrevoked license which qualifies the contractor to perform electrical or electrical specialty work.

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

(3) A supervising electrician or supervising specialty electrician:

(A) Who is employed as a maintenance electrician by someone other than a contractor described above;

(B) Who is employed by the County or State; or

(C) Who is applying for electrical work for such person's own dwelling.

(4) A journeyman electrician licensed per chapter 448E, Hawaiʻi Revised Statues, and employed by the County of Hawaiʻi.

(1994, ord 94-72, sec 3; am 2005, ord 05-129, sec 16; am 2011, ord 11-69, secs 3 and 17.)

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

Every permit shall be issued in such form and detail as shall be prescribed by the authority having jurisdiction, shall specify the geographical location of the premises whereon the work authorized thereby is to be done, shall be valid only for the location so specified, and shall be conspicuously posted by the holder thereof on the premises. If the work authorized by any permit is continuously suspended for a period of one hundred twenty days, such permit shall thereupon, and thereafter, be null and void.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, secs 3 and 18.)

Section 9-37. Permit transferability.

No permit shall be assigned, transferred or loaned to another by the person to whom it was issued.
(1994, ord 94-72, sec 3.)

Section 9-38. Suspension or revocation of permit.

The authority having jurisdiction may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit has been issued in error or on the basis of incorrect information supplied, or in violation of any ordinance, regulation or provision of this chapter. In such event, the permit fee shall not be refunded.
(1994, ord 94-72, sec 3; am 2011, ord 11-69, sec 3.)

Division 2. Fees and Charges.

Section 9-39. Fee payment.

A fee in accordance with the schedule set forth in this division shall be paid to the director of finance for each electrical permit.
(1994, ord 94-72, sec 3.)

Section 9-39.1. Refunds.

Refunds for permits shall be made in accordance with section 2-12 of the Hawai‘i County Code.
(2011, ord 11-69, sec 19.)

Section 9-40. Fee schedule.

(a) Issuing Permits.

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

(b) Service Installations.

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

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

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

Not over 100 amperes	$10
Over 100 but not over 200 amperes	12
Over 200 but not over 400 amperes	14
Over 400 amperes	16

(c) Feeder Circuits.

For required size of feeder equipment.

Not over 100 amperes	$ 6
Over 100 but not over 200 amperes	8
Over 200 but not over 400 amperes	10
Over 400 amperes	12

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

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

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

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

(f) Cooking Appliances.

Single- and multiple-family dwellings and apartments:

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

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

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

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

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

(h) Heaters.

(1) Single- and Multiple-Family Dwellings and Apartments.

For each water heater circuit	$ 6
For each air heater circuit, capacity up to 1,650 watts	4
For each air heater circuit, capacity 1,650 watts or more	6

(2) Commercial or Industrial.

Water heaters:

Each circuit	$ 6

Air and/or space heaters:

For each circuit not over 5 kw	$ 6
For each circuit over 5 kw but not over 15 kw	8
For each circuit over 15 kw	10

Electric kilns:

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

Electric furnaces:

For each circuit not over 12 kw	$ 8
For each circuit over 12 kw but not over 24 kw	10
For each circuit over 24 kw but not over 48 kw	12
For each circuit over 48 kw but not over 96 kw	14
For each circuit over 96 kw	16

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

(i) Laundry Dryer Circuit.

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

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

(j) High Potential Gas Tube Lighting and Signs.

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

(k) Temporary Lights.

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

(l) Permanent Decorative Lighting, etc.

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

(m) Portable Electric Signs.

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

(n) Lighting Fixtures.

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

(o) Motors.

For each separate motor fixed:

Not over 1/3 HP	$ 4
Over 1/3 HP but not over 1 HP	6
Over 1 HP but not over 3 HP	8
Over 3 HP but not over 8 HP	10
Over 8 HP but not over 15 HP	12
Over 15 HP but not over 50 HP	14
Over 50 HP but not over 100 HP	16
Over 100 HP	40

(p) Temporary Motors, Installation.

First 2 circuits	$12
Each additional circuit	8

No fee shall be required for moving any temporary construction motor from one place to another, when such temporary motor is attached to an outlet for which a permit has been issued and the permit fee therefor has been once paid. Temporary motor installations for carnival rides, etc., a flat fee of $50 shall be charged.

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

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

(r) Miscellaneous.

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

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

(s) Repairs, Alterations, Additions.

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

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

(1994, ord 94-72, sec 3.)

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

Where work for which a permit is required by this chapter is started or proceeded prior to obtaining of said permit, the fee shall be $100 plus the fees specified by section 9-40, or the fees specified by section 9-40 shall be doubled, whichever is greater, but payment of such fee shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed herein. This provision does not apply to emergency work when proved to the satisfaction of the authority having jurisdiction 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 94-72, sec 3; am 2011, ord 11-69, sec 3.)

Section 9-41.1. Repealed.
(Rep 2006, ord 06-122, sec 2.)

Section 9-41.2. Requirements for as built work.

Penalty fees per section 9-41 shall apply. Residential and Nonresidential work will require electrical as built drawings certifying that all work has been installed and complies with all applicable ordinances and codes. These drawings shall bear the stamp and signature of an electrical engineer duly licensed in the State of Hawaiʻi.
(2011, ord 11-69, sec 20.)

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 94-72, sec 3; am 2007, ord 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 94-72, sec 3.)

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CHAPTER 10

EROSION AND SEDIMENTATION CONTROL

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CHAPTER 10

EROSION AND SEDIMENTATION CONTROL

Article 1. General Provisions.

Section 10-1. Definitions.

(a) Wherever used in this chapter, the following words shall have the meaning indicated:

(1) "Designated historic and archaeological sites" means those sites listed with the County general plan or the Hawai'i register of historic places.

(2) "Engineer" means a professional engineer (civil or structural) registered in the State of Hawai'i.

(3) "Engineer's soils report" means a report on soils conditions prepared by an engineer experienced in the practice of soil mechanics and foundations engineering.

(4) "Erosion" means the wearing away of the ground surface as a result of action by wind and/or water.

(5) "Excavation," "cut" or "borrow" means any act by which soil, sand, gravel, rock or any similar material is cut into, dug, uncovered, removed, displaced, relocated or bulldozed. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.

(6) "Fill" means any act by which soil, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.

(7) "Grading" means any excavation or fill or any combination thereof.

(8) "Grubbing" means any act by which vegetation, including trees, timber, shrubbery and plants, is removed, dislodged, uprooted or cleared from the surface of the ground.

(9) "Land surveyor" means a person duly registered as a professional land surveyor in the State.

(10) "Overburden" means a soil material overlaying another geologic formation.

(11) "Permittee" means the person or party to whom the permit is issued and shall include but not be limited to the property owner, his lessee, developer, agent, or attorney in fact.

(12) "Plasticity" means the property of a soil which allows it to be deformed beyond the point of recovery without cracking or appreciable volume change.

(13) "Sedimentation" means the deposition of erosional debris-soil sediment displaced by erosion and transported by water from a high elevation to an area of lower gradient where sediments are deposited as a result of slack water.

(14) "Soil and water conservation districts" means the legal subdivisions of the State of Hawaiʻi authorized under chapter 180, Hawaiʻi Revised Statutes.
(15) "Stockpiling" means the temporary storage of soil, sand, gravel, rock or other similar material in excess of five hundred cubic yards upon any premises for the purpose of using the material as fill material at some future time.

(1983 CC, c 10, art 1, sec 10-1; am 2001, ord 01-108, sec 3.)

Section 10-2. Hazardous conditions.

(a) Whenever the director of public works determines that any existing excavation, fill, grubbing or stockpiling has become a hazard to property, or adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation, fill, grubbing or stockpiling is located, or other person or agent in control of said property, upon receipt of notice in writing from the director of public works shall within the period specified therein repair or eliminate the hazard and be in conformance with the requirements of this chapter.
(b) The director of public works or the director's authorized representatives are hereby authorized to enter any property to determine or to enforce the provisions of this chapter.

(1983 CC, c 10, art 1, sec 10-2; am 2001, ord 01-108, sec 1.)

Section 10-3. Exclusions.

(a) All work in this section must conform to the provisions of section 10-26 to be considered for exclusion.
(b) This chapter shall not apply to the following:
    (1) Mining or quarrying operations regulated by other County ordinance or governmental agencies.
    (2) Grading within the building lines for basements and footings of a building, retaining wall, or other structure, authorized by a valid building permit.
    (3) Grading and grubbing on individual cemetery plots.
    (4) Sanitary filling and operation of rubbish dumps.
    (5) Agricultural operations, including ranching incidental to or in conjunction with crop or livestock production and all other operations that are in conformance with soil conservation practices acceptable to the applicable soil and water conservation district directors and in accordance with an actively pursued comprehensive conservation program, providing:
        (A) Such operations do not alter the general and localized drainage patterns with respect to abutting properties.
        (B) A conservation program for the affected properties acceptable to and approved by the applicable soil and water conservation district directors is filed with the soil conservation district.

(C) The conservation program, with appropriate modifications is reviewed and re-approved by the soil and water conservation district directors periodically but not less than once every five years.

(6) Excavation which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site, and does not exceed five feet in vertical height at its highest point; provided that the cut meets the cut slopes and the distance from property lines requirements in article 3 of this chapter.

(7) Fill which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site and does not exceed five feet in vertical depth at its deepest point, provided that the fill meets the fill slopes and distance from property lines requirements in article 3 of this chapter.

(8) Grubbing which does not alter the general and localized drainage pattern with respect to abutting properties and does not exceed a total area of one acre.

(9) Exploratory excavations not to exceed fifty cubic yards under the direction of an engineer for the purpose of subsurface investigations required by the director of public works and provided that the director of public works has been advised in writing prior to the start of such excavation.

(10) Clearing, excavation and filling required in conjunction with the installation of pole lines by electric, telephone and public utilities.

(1983 CC, c 10, art 1, sec 10-3; am 2001, ord 01-108, sec 1.)

Section 10-4. Completion by County; recovery of cost.

(a) In the event that any permittee under this chapter fails to:

(1) Comply with all the terms and conditions of the permit to the satisfaction of the director of public works;

(2) Complete all of the work authorized under the permit within the time limit specified in the permit;

(3) Comply with all special precautions enumerated in section 10-24 and with all the requirements of the director of public works pursuant to section 10-24; or

(4) Proceed under section 10-15(b); within thirty days after a permittee has been served with written notice thereof, either by mail or personal service, the council may order the permittee to be prosecuted as a violator of the provisions of this chapter and may order the director of public works to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council who shall cause the same to be paid. Such cost shall be charged to the permittee or owner or both of the premises involved.

(b) The County may enforce payment of such cost in any manner provided by law, including proceedings under chapter 507, part II, Hawaiʻi Revised Statutes. For the purposes of the operation of part II of chapter 507, Hawaiʻi Revised Statutes, the permittee shall be deemed to come within the definition of "owner" as defined in said chapter; the County shall be deemed to come within the definition of "general contractor" as defined in that chapter and the execution of work specified in the notice shall be deemed a contract between the permittee and the County.

(1983 CC, c 10, art 1, sec 10-4; am 2001, ord 01-108, sec 1.)

Section 10-5. Waivers.

In all applicable cases, if a permittee, supported by accompanied engineer's report, finds that strict adherence to the provisions of this chapter causes undue hardship or practical difficulty, the permittee may seek waivers from these provisions and the director of public works may grant a waiver with conditions if the director finds that the request will not likely create any problems to the adjoining properties nor endanger any life or limb nor be in conflict with existing ordinances and statutes.

(1983 CC, c 10, art 1, sec 10-5; am 2001, ord 01-108, sec 1.)

Section 10-6. Appeals.

Any person aggrieved by the decision of the director of public works in the administration or application of this chapter, may, within thirty days after the director of public works' decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the director of public works or it may reverse or modify the decision if the decision is:

(a) In violation of this chapter or other applicable law;

(b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(c) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

The board of appeals shall adopt rules pursuant to chapter 91, Hawaiʻi Revised Statutes, necessary for the purposes of this section.

(1983 CC, c 10, art 1, sec 10-6; am 2001, ord 01-108, sec 1.)

Section 10-7. Liability.

The provisions of this chapter shall not be construed to relieve or alleviate the liability of any person for damages resulting from performing, or causing to be performed, any grading, grubbing or stockpiling operation. The director of public works or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the County in the discharge of their duties, shall not thereby render themselves liable personally and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any required act or omission in the discharge of their duties.

(1983 CC, c 10, art 1, sec 10-7; am 2001, ord 01-108, sec 1.)

Section 10-8. Violations and penalty.

(a) No person shall do any act forbidden, or fail to perform any act required by the provisions of this chapter.

(b) The failure to comply with the requirements set forth under the provisions of this chapter shall be deemed a new offense for each day of such noncompliance.

(c) Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed $500, or by imprisonment not to exceed fifty days, or both, for each offense.

(1983 CC, c 10, art 1, sec 10-8.)

Article 2. Permits.

Section 10-9. Required.

(a) Except as excluded in section 10-3:

(1) No grading work shall be commenced or performed without a grading permit.

(2) No grubbing work shall be commenced or performed without a grubbing permit except where grubbing concerns land for which a grading permit has been issued.

(3) No stockpiling work shall be commenced or performed without a stockpiling permit.

(b) No grading, grubbing, or stockpiling permit shall be issued without the director of public works' review of the applicant's compliance with the County general plan or with chapters 6,* 205 and 343, Hawai'i Revised Statutes.

(1983 CC, c 10, art 2, sec 10-9; am 2001, ord 01-108, sec 1.)

*** Editor's Note:** Chapter 6, Hawai'i Revised Statutes, was repealed and replaced with chapter 6E.

Section 10-10. Application.

(a) An applicant for a grading, grubbing, or stockpiling permit shall first file an application on a form furnished by the County department of public works. Each application shall:

(1) Describe by tax key or street address the land on which the proposed work is to be done;

(2) State the estimated dates for the starting and completion of the proposed work; and

(3) Show the name of the permittee and owner including engineer, if applicable, who shall be responsible for the work to be performed by the engineer, the engineer's contractors and employees and for requesting the inspections required herein.

(b) Each application for a grading permit shall also be accompanied by two sets of plans and specifications, including:

(1) For all areas:

(A) A vicinity sketch or other data adequately indicating the site location;

(B) Boundary lines of the property on which the work is to be performed;

(C) Location of any buildings, structures, or designated historic and archaeological sites, on the property where the work is to be performed and location of any building or structure on land of adjacent property which is within fifteen feet of the property to be graded when the grading may affect the buildings, structures, or designated historic and archaeological sites;

(D) Contours showing the topography of the existing ground and extending five feet into adjacent property when required by the director of public works. The scale and contour are to be appropriate to the work in question;

(E) Elevations, dimensions, location, extent and the slopes of all proposed grading shown by contours and other means;

(F) The area in square feet of the land to be graded and the quantities of excavation and fill involved. Show separately quantities for excavation within and outside of building lines; and

(G) Any additional plans, drawings, or calculations required by the director of public works.

(2) For grading of areas of more than fifteen thousand square feet, a contour map prepared by an engineer or land surveyor and approved by the director of public works and showing the contours and elevations of the land before and after the completion of the proposed grading. This map shall include the location of existing large trees, designated historic and archaeological sites, and definable rock outcroppings, lava tubes, detailed plans, and specifications of all drainage devices and utilities, including bank protection, walls, cribbing, dams, silting or sediment basins, landscaping, screen planting, erosion control planting, or other protective devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the drainage area and estimated runoff of the area served by any drains.

(3) Where a proposed cut or fill is greater than fifteen feet in height, or on land with slopes exceeding fifteen percent in an area with high plasticity soils, or when any fill is to be placed over a swamp, pond, gully, or lake, the permittee shall submit an engineer's soils report which shall include data regarding the nature, distribution and strength of existing soils and substantiating data from an engineer regarding the safety of the proposed grading, the fill, and the material to be used, and describing the cut sections showing the height, cut slope, benches, and material composing the cut bank.

(c) An applicant for a grubbing permit shall furnish two sets of plot plans showing the location, the property boundaries, and any other pertinent information as may be required by the director of public works. Grubbing or land clearing by bulldozer for the purpose of making topographic survey shall not be permitted without an authorized grubbing permit. No permit will be required for cutting or bulldozing of trails for survey lines and access for soil exploration equipment.

(d) An applicant for a stockpiling permit shall furnish two sets of plot plans showing the property lines and the location of the proposed stockpile, quantities, height of stockpile, duration of stockpile, source, and type of the material to be stockpiled and furnish any other pertinent information as may be required by the director of public works to control the creation of dust, drainage, or sedimentation problems. The plot plan for stockpiling shall be approved by the director of public works.

(e) If no action (approval, disapproval, deferral, or modification) is taken by the director of public works within thirty days after submittal of the initial request the permit shall be deemed approved.

(1983 CC, c 10, art 2, sec 10-10; am 2001, ord 01-108, sec 1.)

Section 10-11. Fees.

(a) Before issuing a grading permit, the director of public works shall collect a permit fee for grading on the same site based on the volume of excavation or fill, whichever is greater, according to the following schedule:

Volume of Material	Permit Fee
0 — 100 cubic yards	$5
101 — 1,000 cubic yards	$5 for the first 100 cubic yards plus $2 for each additional 100 cubic yards or fraction thereof.
1,001 — 10,000 cubic yards	$25 for the first 1,000 cubic yards plus $2 for each additional 1,000 cubic yards or fraction thereof.
10,001 cubic yards or more	$41 for the first 10,000 cubic yards plus $2 per 1,000 cubic yards or fraction thereof.

(b) Before issuing a grubbing permit, the director of public works shall collect a permit fee of $5 for grubbing in excess of one acre, plus $2 for each additional five acres or fraction thereof.

(c) Before issuing a stockpiling permit the director of public works shall collect a permit fee of $5 for stockpiling in excess of the first five hundred cubic yards plus $2 for each additional one thousand cubic yards or fraction thereof.

(d) Where work for which a permit is required by this chapter is started or proceeded prior to obtaining the 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 chapter in the execution of the work nor from any other penalties prescribed herein.

(e) When grading, grubbing, or stockpiling is performed by or on behalf of the County, State, or Federal government, the director of public works shall waive the collection of any permit fee required in subsections (a), (b), and (c) above.
(f) All permit fees shall be deposited in the general fund.
(1983 CC, c 10, art 2, sec 10-11; am 1986, ord 86-124, sec 1; am 2001, ord 01-108, sec 1.)

Section 10-12. Conditions and limitations.
(a) The issuance of a grading permit shall constitute an authorization to do only that work which is described on the permit and on the plans and specifications approved by the director of public works.
(b) Permits issued under the requirements of this chapter shall not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other code, department or division of the governing agency.
(c) In granting any permit, the director of public works may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:
    (1) Improvement of any existing grading to bring it up to the standards of this chapter;
    (2) Requirements for fencing of excavations or fills which otherwise would be hazardous;
    (3) Screen planting, landscaping, erosion control planting, or other treatments to maintain good appearance of graded area and reduce the detrimental impact on adjacent properties of the community;
    (4) Cleaning up the area; and
    (5) Days and hours of operation.
(1983 CC, c 10, art 2, sec 10-12; am 2001, ord 01-108, sec 1.)

Section 10-13. Expiration.
(a) Every grading or grubbing permit shall expire and become void unless the work permitted herein is started within ninety days after the date of issuance or within ninety days after the completion date specified thereon but not later than one year after the date of issuance. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.
(b) Every stockpiling permit shall expire and become void one year after the date of issuance. All stockpiled material temporarily stored on the premises shall be removed from the premises or used on the premises as fill material under a grading permit for fill prior to the expiration date. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.
(1983 CC, c 10, art 2, sec 10-13; am 2001, ord 01-108, sec 1.)

Section 10-14. Denial.

(a) If the director of public works finds that the work as proposed by the applicant is likely to endanger any property or public way or structure or endanger the public health or welfare, the director shall deny the grading, grubbing or stockpiling permit. Factors to be considered in determining probability of hazardous conditions shall include, but not be limited to, possible saturation of the ground by rains, earth movements, geological or flood hazards, undesirable surface water runoff, subsurface conditions such as the stratification and faulting of rock and the nature and type of soil or rock.

(b) Failure of the director of public works to observe or recognize hazardous conditions or the director's failure to deny the grading, grubbing or stockpiling permit shall not relieve the permittee or the permittee's agent from being responsible, or cause the County, its officers or agents, to be held responsible for the conditions or damages resulting therefrom.

(1983 CC, c 10, art 2, sec 10-14; am 2001, ord 01-108, sec 1.)

Section 10-15. Suspension or revocation.

(a) The director of public works may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever:
   (1) The permit has been issued on the basis of incorrect or insufficient information supplied by the permittee;
   (2) The grading, grubbing, or stockpiling is not being performed in accordance with the terms and provisions of the permit; or
   (3) The grading, grubbing, or stockpiling discloses objectionable or unsafe conditions.

(b) When a permit has been suspended or revoked, the permittee may submit detailed plans and proposals for compliance with the provisions of this chapter and for correcting the objectionable or unsafe conditions. Upon approval of such plans and proposals by the director of public works, the director may authorize the permittee in writing, to proceed with the work.

(1983 CC, c 10, art 2, sec 10-15; am 2001, ord 01-108, sec 1.)

Section 10-16. Construction prohibited prior to grading.

No construction of any structure upon the premises involved shall be permitted until the director of public works has received the notice of completion that the grading, grubbing, or stockpile work has been completed in accordance with the grading permit.

(1983 CC, c 10, art 2, sec 10-16; am 2001, ord 01-108, sec 1.)

Section 10-17. Inspections.

(a) Each permit issued under this chapter shall be deemed to include the right of the director of public works or the director's authorized representatives to enter upon and to inspect the grading, grubbing, or stockpiling operations.

(b) The permittee shall notify the director of public works at least two days before the permittee or the permittee's agent begins any grading, grubbing or stockpiling. A copy of the permit, approved plans and specifications for grading, grubbing, or stockpiling shall be maintained at the site during the progress of any work. Where it is found by inspection that the soil or other conditions are not the same as stated or shown in the application for grading, grubbing, or stockpiling permit, the director of public works may stop the grading, grubbing, or stockpiling until revised plans, based upon the existing conditions, are submitted by the permittee and approved by the director of public works. Approval or disapproval of applicant's revised plan shall be made within fourteen days from the date of receipt by the director of public works.

(c) If the director of public works or the director's representative finds that the work is not being done in conformance with this chapter or the plans and specifications approved by the director of public works, the director shall immediately notify the person in charge of the grading work of the nonconformity and immediately notify the responsible party of need for corrective measures to be taken. Grading operations shall cease until corrective measures satisfactory to the director of public works have been taken.

(d) When a permittee has been served with a written notice, either by mail or personal service for failure to comply with any provision of this chapter, or when a permittee has had the permittee's permit suspended or revoked by the director of public works, the permittee and any person connected with execution of the work authorized by the permit shall be denied a grading, grubbing, or stockpiling permit for such work until the permittee has complied and initiated action satisfactory to the director of public works to comply with the provisions of this chapter.

(1983 CC, c 10, art 2, sec 10-17; am 2001, ord 01-108, sec 1.)

Article 3. Conditions and Specifications.

Section 10-18. Conditions of permit.

(a) The requirements of this section may be waived by the director of public works after the permittee submits an engineer's soils report substantiating data regarding the stability of the cut or fill slopes without complying with any of the requirements therein.

(1) Height. Where a cut or fill is greater than fifteen feet in height, terraces or benches shall be constructed at vertical intervals of fifteen feet except that where only one bench is required, it shall be at the midpoint. The minimum width of such terraces or benches shall be eight feet or as determined by the director of public works, based upon the type of material encountered and shall have suitable drainage provisions to control erosion on the slope face.

(2) Cut Slopes. Under the following soil conditions, no cut may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:
½ horizontal to 1 vertical in unweathered rock;
1½ horizontal to 1 vertical in decomposed rocks or rock and soil mixture;
2 horizontal to 1 vertical in low plasticity soils;
3 horizontal to 1 vertical in high plasticity soils for cuts up to five feet in vertical depths. Slopes for cuts exceeding this depth shall be as recommended in the engineer's soils report.

(3) Fill Slopes. Under the following soil conditions, no fill may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:
1½ horizontal to 1 vertical in rock and soil mixture;
2 horizontal to 1 vertical in low plasticity soils;
3 horizontal to 1 vertical in high plasticity soils for fills up to five feet in vertical height. Slopes for fills exceeding this height shall be as recommended in the engineer's soils report.

(1983 CC, c 10, art 3, sec 10-18; am 1986, ord 86-6, sec 1; am 2001, ord 01-108, sec 1.)

Section 10-19. Distance from property line of cut or fill slope.

(a) The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall be as follows:

Height of Cut or Fill	Distance from Property Line (in feet)
Zero feet to 4 feet	2
More than 4 feet to 8 feet	4
More than 8 feet to 15 feet	6
More than 15 feet	8

These requirements may be modified by the director of public works when cuts or fills are supported by retaining walls, approved by the building department, or when the permittee submits an engineer's soils report stating that the soil conditions will permit a lesser horizontal distance without causing damage or danger to the adjoining property.

(b) A retaining wall of six feet and over shall be designed by a professional engineer when deemed necessary by the director of public works. Setback requirements of the County zoning ordinance are referenced herein and the State land use commission and County zoning ordinance and other agencies' requirements on shoreline improvements shall be complied with.

(1983 CC, c 10, art 3, sec 10-19; am 2001, ord 01-108, sec 1.)

Section 10-20. Maximum cleared area.

The maximum area of land that may be cleared for grading or grubbing is twenty acres. The area of land that may be cleared may be increased or reduced by the director of public works to control pollution and minimize storm damage. Additional area shall not be cleared for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been completed.
(1983 CC, c 10, art 3, sec 10-20; am 2001, ord 01-108, sec 1.)

Section 10-21. Fill materials.

The fill material may consist of rock, gravel, sand, soil, or a mixture thereof. Except for slopes, the fill shall be compacted to ninety percent of maximum density as determined by the ASTM soil compaction test D1557, as amended. The director of public works shall inspect the work and may require adequate inspection and compaction control substantiated by test results by an engineer qualified to prepare an engineer's soils report. These requirements may be modified by the director of public works if the permittee submits an engineer's soils report substantiating with appropriate investigation and analysis that the required ninety percent compaction density may be lowered without causing excessive settlement, creep, or stability problems.
(1983 CC c 10, art 3, sec 10-21; am 2001, ord 01-108, sec 1.)

Section 10-22. Preparation of ground surface; vegetation.

(a) Before placing fill or stockpiling, the natural ground surface shall be prepared by removing the vegetation and, if required by the director of public works, shall be keyed by a series of benches. No fill shall be placed over any water spring, marsh, refuse dump, nor upon a soggy or springy foundation, provided that this requirement may be waived by the director of public works if the permittee submits an engineer's soils report substantiating data regarding the safety of the fill.

(b) Whenever feasible natural vegetation should be retained. If removed, trees, timber, plants, shrubbery, and other vegetation, after being uprooted, displaced, or dislodged from the ground by excavation, clearing, or grubbing, shall not be stored or deposited along the banks of any stream, river, or natural water course. After being uprooted, displaced or dislodged, such vegetation shall be disposed of and removed from the site within a reasonable time, but not to exceed three months. Exceptions providing for burial in open areas may be allowed as determined by the director of public works.

(1983 CC, c 10, art 3, sec 10-22; am 2001, ord 01-108, sec 1.)

Section 10-23. Report after grading; notification on completion.

(a) When grading involves cuts or fills for which an engineer's soils report is required, the permittee shall submit a report summarizing the construction technique and inspection data as well as a statement regarding conformity to this chapter and the project specifications.

(b) The permittee or the permittee's agent shall notify the director of public works or the director's representative when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage structures and their protective devices have been completed and the required reports have been submitted.

(1983 CC, c 10, art 3, sec 10-23; am 2001, ord 01-108, sec 1.)

Section 10-24. Special conditions and requirements.

(a) Any person performing or causing to be performed an excavation or fill shall, at that person's own expense, provide the necessary means to prevent the movement of earth of the adjoining properties, to protect the improvements thereon, and to maintain the existing natural grade of adjoining properties.

(b) Any person performing or causing to be performed, any excavation or fill shall be responsible for the maintenance or restoration of street pavements, sidewalks, curbs, and improvements of public utilities which may be affected. The maintenance or restoration of street pavements, sidewalks and curbs shall be performed in accordance with the requirements of the County and the maintenance and restoration of improvements of public utilities shall be in conformity with the standards of the public utilities companies affected.

(c) Any person depositing or causing to be deposited, any silt or other debris in ditches, water courses, drainage facilities, and public roadways, shall remove such silt or other debris. In case such person shall fail, neglect, or refuse to comply with the provisions of this section within forty-eight hours after written notice, served upon the person, either by mail or by personal service, the director of public works may proceed to remove the silt and other debris or to take any other action the director deems appropriate. The costs incurred for any action taken by the director of public works shall be paid by such person.

(d) At any stage of the grading, grubbing or stockpiling work, if the director of public works finds that further work as authorized by an existing permit is likely to create soil erosion problems or to endanger any life, limb, or property, the director may require safety precautions, which may include but shall not be limited to the construction of more gradual slopes, the construction of additional silting or sediment basins, drainage facilities or benches, the removal of rocks, boulders, debris, and other dangerous objects which, if dislodged, are likely to cause injury or damage, the construction of fences or other suitable protective barriers, the planting and sodding of slopes and bare areas and the performance of additional soil compaction. All planted or sodded areas shall be maintained. An irrigation system or watering facilities may be required by the director of public works.

(e) At any stage of the grading, grubbing, or stockpiling operations, if the director of public works finds that further work as authorized by an existing permit is likely to create dust problems which may jeopardize health, property, or the public welfare, the director of public works may require additional dust control precautions and, if these additional precautions are not effective in controlling dust, may stop all operations. These additional dust control measures may include such items as sprinkling water, applying mulch treated with bituminous material, or applying hydro mulch.

(1983 CC, c 10, art 3, sec 10-24; am 2001, ord 01-108, sec 1.)

Section 10-25. Drainage.

(a) Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloping surfaces of a fill. All drainage provisions shall be designed to carry surface waters to a street, storm drain, natural water course, or other area, approved by the director of public works as a safe place to deposit and receive such waters. The director of public works may require such drainage structures and pipes to be constructed or installed, which in his opinion, are necessary to prevent erosion damage and to satisfactorily carry off surface waters.

(b) Whenever the surface of a lot is excavated or filled, positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes, or similar depressions which may create a hazard or nuisance.

(c) The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

(1983 CC, c 10, art 3, sec 10-25; am 2001, ord 01-108, sec 1.)

Section 10-26. Erosion and sedimentation control.

All grading, grubbing, and stockpiling permits and operations shall conform to the erosion and sedimentation control standards and guidelines established by the department of public works in conformity with chapter 180C, Hawaiʻi Revised Statutes.

(1983 CC, c 10, art 3, sec 10-26.)

CHAPTER 11*

HOUSING

Article 1. Affordable Housing.

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*** Editor's Note:** Chapter 11, "Housing," was repealed by Ordinance 96-162, section 21, and replaced with "Affordable Housing," pursuant to Ordinance 98-1.

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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 98-1, sec 2; am 2005, ord 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 98-1, sec 2; am 2005, ord 05-23, sec 2.)

Section 11-3. Definitions.

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

“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;

“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;

“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;

“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;

"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 Hawaiʻi as stated in this chapter;

"Eligible buyer" means a person who meets eligibility requirements, including income limitations, as established by rule.

"Homeownership counselor" means a nonprofit or government entity that provides homeownership readiness education within the County;

"Agency" shall be the same as is defined under chapter 2, article 13 of this Code, therein referred to as the "housing agency."

"Office of housing and community development (OHCD)" means the County entity responsible for the planning, administration and operation of all of the County's housing programs with the goal of providing for the development of viable communities in Hawaiʻi County by providing decent housing, suitable living environments and the expansion of economic opportunities, as provided in chapter 2, article 13 of this Code. (1998, ord 98-1, sec 2; am 2005, ord 05-23, sec 2; am 2005, ord 05-111, sec 1; am 2007, ord 07-109, sec 1; am 2011, ord 11-84, sec 1; am 2014, ord 14-8, sec 2.)

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) Rezonings 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 11-4(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 98-1, sec 2; am 2005, ord 05-23, sec 2; am 2005, ord 05-111, sec 2; am 2007, ord 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 and sell affordable for-sale units on-site;

(2) Construct and sell affordable finished lots on-site, but only if the entire project consists of finished lots;
(3) Construct and sell affordable for-sale units off-site, but within a fifteen-mile radius of the project site;
(4) Construct and rent affordable rental units on-site, or off-site, within a fifteen-mile radius of the project site;
(5) Convey to the County or, at the County's direction to a non-profit entity, developable land within a fifteen-mile radius of the project site. The land to be conveyed shall be acceptable to and approved by the OHCD, with availability of road access, water, electricity, telephone service and without unusual site conditions that make it difficult to build a home, to accommodate the number of homes the developer would be required to provide if its required credits were earned by selling completed dwelling units to households with a family size of four earning 110% of median income per section 11-7(a); developers conveying finished lots with road access, drainage, water, electricity and sewer when sewer lines are available, shall be entitled to a 50% reduction of the affordable housing requirement.
(6) Convey to the County or, at the County's direction to a non-profit entity, infrastructure within a fifteen-mile radius of the project site. The value of the infrastructure to be conveyed shall be determined by appraisal and shall be not less than 100% of the sales price of the affordable homes that the developer would be required to provide level if its required credits were earned by selling completed dwelling units to households with a family size of four earning 110% of median income per section 11-7(a). Any infrastructure provided must be directly related to the future provision of affordable housing;
(7) Obtain excess credits from another developer pursuant to section 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 to qualified households earning 120-140% of median: 0.5 credit per unit;
(2) Sale of completed dwelling units affordable to qualified households earning 100-120% of median: 1.0 credit per unit;
(3) Sale of completed dwelling units affordable to qualified households earning 80-100% of median: 1.5 credits per unit;
(4) Sale of completed dwelling units affordable to qualified households earning less than 80% of median: 2.0 credits per unit;
(5) Construction and rental of rental units affordable to qualified households earning 100-120% of median: 0.5 credit per unit;
(6) Construction and rental of rental units affordable to qualified households earning 80-100% of median: 1.0 credit per unit;

(7) Construction and rental of rental units affordable to qualified households earning 60-80% of median: 1.5 credits per unit;
(8) Construction and rental of rental units affordable to qualified households earning less than 60% of median: 2.0 credits per unit;
(9) Sale of finished lots affordable to qualified households earning no more than 100% of median: 0.5 credit per lot;
(10) Sale of finished lots affordable to qualified households earning no more than 80% of median: 1.0 credit per lot;
(11) Conveyance 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 conveyance 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.

(d) Affordable housing percentage requirements.
(1) If the developer will satisfy its affordable housing requirements by constructing completed dwelling units for sale or rental, the affordable prices at which the units are sold shall be such that:
(A) A minimum of 20% of the required affordable housing credits are earned at a 1 or greater credit per unit level;
(B) A minimum of 30% of the required affordable housing credits are earned at a 1.5 or greater credit per unit level; and
(C) A minimum of 40% of the required affordable housing credits are earned at the 2 per unit credit level.
(2) If the developer will satisfy its affordable housing requirements by offering finished lots, the lots shall be sold at a range of affordable prices, such that:
(A) A minimum of 20% of the required affordable housing credits are earned at a .5 or greater per unit credit level; and
(B) A minimum of 20% of the required affordable housing credits are earned at the 1.0 per unit credit level.

(e) The units shall be constructed so that the unit size, the number of bedrooms, and the bedroom sizes of the affordable units are respectively consistent to the unit size, the number of bedrooms, and the bedroom sizes of the market units.

(1998, ord 98-1, sec 2; am 2005, ord 05-23, sec 2; am 2005, ord 05-111, sec 3; am 2006, ord 06-119, sec 1; am 2007, ord 07-109, sec 2; am 2011, ord 11-38, sec 1; ord 11-84, sec 2; am 2012, ord 12-81, sec 1.)

Section 11-6. Repealed.

(1998, ord 98-1, sec 2; am 2005, ord 05-23, sec 2; am 2007, ord 07-10, sec 1; rep 2011, ord 11-84, sec 3.)

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 Hawaiʻi, using the Housing and Community Development Corporation of Hawaiʻi 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 Hawaiʻi, 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 98-1, sec 2; am 2005, ord 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 or by donating finished lots with infrastructure 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 98-1, sec 2; am 2005, ord 05-23, sec 2; am 2014, ord 14-37, sec 1.)

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 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.
(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, there shall be a second ninety-day period wherein the developer shall, in consultation with one or more OHCD-approved homeownership counselors, actively market the unsold units or lots to clients of those homeownership counselors, provided those clients either are or may be qualified to purchase the unsold units or lots. If a unit or lot is not under contract for sale by the end of the one hundred and eighty days, such unit or lot 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 is not under contract for sale after the two hundred ten-day period, the developer may sell the unit or lot to any person at the affordable sales price. Notwithstanding the foregoing, at any time after the initial ninety-day preferential marketing period, the housing administrator may authorize the County to purchase any unsold unit or lot at the affordable sales price.
(f) For sale units shall be sold on a per unit basis using mortgages where the term is fixed for a minimum of at least fifteen years.

(2005, ord 05-23, sec 2; am 2011, ord 11-84, sec 4; am 2014, ord 14-8, sec 3.)

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 housing 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 County, or, at the election of the housing 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 05-23, sec 2; am 2014, ord 14-8, sec 4.)

Section 11-11. Rental units.

(a) The housing administrator 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 05-23, sec 2; am 2014, ord 14-8, sec 5.)

Section 11-12. Repealed.

(2005, ord 05-23, sec 2; rep 2011, ord 11-84, sec 5.)

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 05-23, sec 2.)

Section 11-14. Resale restrictions.

The housing administrator 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 housing administrator may be delegated the authority to select the resale restriction applicable to a particular project. Notwithstanding any provision or rule to the contrary, for a period of ten years from the first date of sale of any affordable unit created in satisfaction of the requirements of this chapter, said unit may only be sold to another eligible buyer in the same or lower median income level as the original purchaser of said unit. Organizations classified under Section 501 (c) of the United States Internal Revenue Code and those that utilize United States Department of Agriculture funding programs are exempt from resale restrictions applicable to eligible buyers in the same or lower median income level.

(2005, ord 05-23, sec 2; am 2011, ord 11-38, sec 2; am 2014, ord 14-8, sec 6.)

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 05-23, sec 2; am 2005, ord 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 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 05-23, sec 2.)

Section 11-18. Adoption of rules.

The housing administrator is authorized to adopt such rules pursuant to Chapter 91, Hawaiʻi Revised Statutes, as are necessary to carry out this ordinance.
(2005, ord 05-23, sec 2.)

Section 11-19. Reports by housing administrator.

The housing administrator may provide timely periodic reports to the council 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 05-23, sec 2; am 2014, ord 14-8, sec 7.)

CHAPTER 12

IMPROVEMENTS BY ASSESSMENTS

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CHAPTER 12

IMPROVEMENTS BY ASSESSMENTS

Article 1. General Provisions.

Section 12-1. Definitions.

(a) As used in this chapter:

(1) "Assessment unit" means, with respect to a special assessment, a subdivided parcel of land and/or condominium unit that will be subject to such special assessment; provided, however, that every assessment unit shall have a unique tax map key number.

(2) "Condominium unit" means an "apartment" as defined in section 514A-3, Hawai'i Revised Statutes, and may include, if so determined by the council, the common elements and/or limited common elements appurtenant thereto, as set forth in the declaration of condominium property regime or horizontal property regime which created such apartment.

(3) "Cooperating department" means a department of the County, other than the responsible department, that undertakes or supervises the construction and installation of a portion of the special improvements for an improvement district.

(4) "Cost" means the cost, either estimated or actual, as the case may be, of the improvements to be opened, constructed or improved in proceedings taken pursuant to this chapter for which assessments are to be levied. There may be included within the definition of "cost," amounts for construction contingencies, bond discounts, reserve funds, capitalized interest, and incidentals.

(5) "Improvement district" means any contiguous or noncontiguous area within the County which has been designated by the council as an improvement district for the purposes of this chapter.

(6) "Incidentals" means expenses in carrying out proceedings pursuant to this chapter for:

(A) Preparation of maps, notices, and other documents;

(B) Posting, mailing and publication costs;

(C) Preparation and printing of bonds, bond registers and transfer books;

(D) Fees of financial, legal, engineering and surveying consultants; and

(E) Such other administrative or miscellaneous expenses which relate directly to the proceedings.

(7) "Owner" of an assessment unit means the person to whom the real property tax for such assessment is assessed, as shown on the real property tax assessment roll, regardless of whether such person is exempt from the payment of such tax.

(8) "Premium" means:
   (A) An amount payable by a property owner at the time the owner makes an advance payment of unpaid installments of the assessment in accordance with the provisions of section 12-35 (Advance payment of assessment installment) which amount is in addition to the unpaid principal amount the owner's assessment and the interest thereon to the next date for the payment of installments;
   (B) An amount payable to the holder of a bond issued pursuant to this chapter which is called by the director of finance for payment before maturity in accordance with the provisions of section 12-54 (Payment of bonds), and which is in addition to the face amount of such bond and the interest thereon payable to such bondholder; or
   (C) An amount paid by the purchaser of the bonds in excess of the par value of the bonds.

(9) "Responsible department" means: (a) in the case of a water system improvement district, the department of water supply of the County; (b) in the case of a sewer system improvement district, the department of environmental management of the County; and (c) in all other cases, the department of public works of the County or, if applicable, such other department of the County as shall have primary responsibility for undertaking or supervising the construction and installation of the special improvements for the improvement district in question.

(10) "Responsible director or manager" means the director or manager of the responsible department.

(11) "Special improvement," "improvement," "the making of a special improvement," "make any special improvement" and equivalent expressions include any one or any combination of the following:
   (A) The establishment, opening, extension, widening, or altering of any street, alley, or other highway or sidewalk;
   (B) The grading, paving, curbing, or otherwise improving of the whole or any part of any existing public street, alley, or other highway or sidewalk;
   (C) The construction of a storm drainage facility;
   (D) The construction of a street lighting system;
   (E) The construction of a water system;
   (F) The construction and installation of underground or overhead utility facilities including gas, electrical, telephone or television facilities, and the removal, relocation, replacement or reconstruction thereof;
   (G) The establishment, extension, or construction of public off-street parking facilities, pedestrian malls, parks, playgrounds, beach areas, or other public recreational areas and facilities;
   (H) Improvements related to the foregoing, and to otherwise improve any of the foregoing to an extent exceeding maintenance or repair thereof;
   (I) Any other public improvement, which will specially benefit the assessment units to be assessed.

(12) "Sewer system improvement district" means an improvement district in which the improvements to be made are exclusively those to construct a sewer system or upgrade an existing sewer system, including the restoration of roadways or other facilities incidental to such construction or upgrading.
(13) "Storm drainage facility" includes "sanitary sewerage system."
(14) "Water system improvement district" means an improvement district in which the improvements to be made are exclusively those to construct a water system or upgrade an existing water system, including the restoration of roadways or other facilities incidental to such construction or upgrading.

(1983 CC, c 12, art 1, sec 12-1; am 1990, ord 90-127, sec 1; am 1995, ord 95-22, sec 2; am 2002, ord 02-82, sec 2; am 2011, ord 11-66, sec 2.)

Section 12-2. Method; authority to issue bond.

(a) Whenever in the opinion of the council it is desirable to make any special improvement in any improvement district, the special improvement shall be made and done under the provisions of this chapter. The cost of the special improvement including the cost of acquiring (whether prior to or after the commencement of the proceedings for such improvements) any new land therefor, shall be assessed against the assessment unit specially benefited on the basis of any method or methods which the council finds assesses the assessment unit according to the special benefits conferred thereon, which may include, without limitation, any of the following:
    (1) Frontage;
    (2) The area of the assessment unit;
    (3) The permissible number of dwelling units permitted on each parcel under applicable zoning provisions;
    (4) The amount of water allotted to each assessment unit;
    (5) Minimum required sewer capacity of the assessment unit;
    (6) Traffic generation/usage for road improvements;
    (7) The square footage of buildings and/or other improvements; or
    (8) Any method that the council finds assesses said assessment units according to the special benefits conferred on said assessment units or any combination thereof.

(b) The County may issue and sell bonds to provide the funds for such improvements, which bonds shall be secured by such assessments as a lien upon the assessment units assessed. For such purpose, the council may create, define and establish improvement districts, all according to the provisions of this chapter.

(1983 CC, c 12, art 1, sec 12-2; am 1990, ord 90-127, sec 1; am 2002, ord 02-82, sec 3.)

Section 12-3. Repealed.

(1983 CC, c 12, art 1, sec 12-3; rep 1990, ord 90-127, sec 2.)

Section 12-4. Improvements outside designated districts.

(a) Improvements which may be outside the improvement district boundaries but which confer special benefits on assessment units within the improvement district may be included as part of the special improvements in the improvement district and the cost thereof shall be assessed as provided in this chapter.

(b) The cost of improvements described in section 12-4(a) which benefit more than one improvement district shall be apportioned among the affected improvement districts according to the special benefits conferred upon the assessment units within said improvement districts.

(1983 CC, c 12, art 1, sec 12-4; am 1990, ord 90-127, sec 3; am 2002, ord 02-82, sec 4.)

Section 12-5. Lands exempt from taxation; costs.

(a) Whenever any public land, or any land by law exempted from assessments of the character provided for in this chapter, forms part of any improvement district or fronts upon or is situated with relation to any special improvement or area to be so improved in such manner that such land would, if privately owned or not exempt from such assessment, be subject to assessment, the council shall, nevertheless, without assessing such public or exempted land for any part of the cost of such improvements, by general ordinance appropriate and pay toward such improvements out of general revenues the portion of the cost thereof which would otherwise be assessable against the same in lump sum, or, at the election of the council, in such equal installments with such interest thereon as the council shall determine. In the event, however, any part of such exempt land, except public lands, may be required for right-of-way or easement purposes within such improvement districts the value thereof shall be chargeable to the improvement district, and upon acquisition the owner shall be compensated therefor in the following manner:

(1) Where the value of the part taken together with any severance damages exceeds the portion of the cost of the improvements which would otherwise be assessable against the exempt land, the County shall pay the difference to the owner; or

(2) Where the value is less than the portion of the cost of improvements which would otherwise be assessable against such exempt lands, the value of the land shall be deducted therefrom and the County shall pay the balance of the assessment as provided herein.

(b) With respect to any such proposed improvement where any part of the cost is to be borne by the County, the council shall have the same right of approval or protest as though the County were the private owner of the public or exempted land so involved. As to such expenditure for public and exempt lands, the County shall be entitled to be reimbursed out of State revenues by appropriations to be made from time to time by the legislature to the extent of fifty percent of all assessments regularly apportioned against persons, corporations or entities, which are part of any improvement district or frontage improvement and are exempted by law from

the payment of such assessments. The County shall be entitled to be likewise reimbursed for the full amount of assessments regularly apportioned against public lands which are a part of any improvement district or frontage improvement, which public lands are owned in fee simple by the United States, or by the State, and which are not set aside for schools maintained by the County, for County parks, or for other County purposes or for street areas or frontages; provided, that in case any land exempted by law from assessments as herein provided, other than public land, or any part thereof, is sold or leased after the establishment of a frontage improvement or an improvement district, the grantee in the one case and the lessor in the other, shall assume the payment of assessments from the date of such sale or lease in the same manner as if the property had not been exempted from assessments and as if assessments apportionable against the property had been paid in installments to such date of sale or lease. All payments received from such grantee or lessor, as the case may be, shall be paid into the permanent improvement fund.

(c) Nothing in this section shall be taken to prejudice any rights of the State to reimbursement from the United States for assessments herein assumed by the State, but the latter shall be subrogated to the rights of the County on such assessments so assumed.

(1983 CC, c 12, art 1, sec 12-5.)

Section 12-6. Powers reserved to council.

Any provision of law to the contrary notwithstanding, the council reserves the following powers over any proposed improvement district, whether County-initiated under section 12-10 or initiated by petition of owners under sections 12-14, 12-15, 12-16, or otherwise.

(a) If, for any reason whatsoever, the improvement district bonds authorized under article 4 are not sold or cannot be sold to any acceptable purchaser within a reasonable time, then the council shall have the power and authority to terminate the entire improvement district project, or any part thereof. In the event that the project is terminated, in the case of petitions by owners under sections 12-14, 12-15 and 12-16 hereof, the petitioners shall be responsible for all costs incurred by the County for such improvement district. The County may assure such repayment by requiring reasonable deposits therefor.

(b) In addition to the foregoing, at any time during the proceedings of any improvement district proposal up to and including the adoption of the assessment ordinance under section 12-29, the council shall have the power and authority to terminate the entire improvement district project, or any part thereof, if it determines that the improvement district project is not in the public interest.

(c) In addition to the foregoing, at any time during the proceedings of any improvement district proposal up to and including the adoption of the assessment ordinance under section 12-29 hereof, the council shall have the power and authority to require the inclusion of costs of additional improvements including off-site improvements such as roads, water, sewers, drainage, which may be outside

the improvement district boundaries but which service the improvement district. If such costs are to be so included and said inclusion increases the proposed assessment of any owner, the council shall give appropriate notice and conduct public hearings as provided in sections 12-10, 12-27 and 12-28 (as applicable) and the appropriate resolutions and ordinances shall be amended accordingly.

(d) The council may allow as a credit against any improvement district assessment, any payment made by an owner to the County which is used to pay for costs of that improvement district, whether such payment is made before or after the creation of said improvement district. Provided, however, that such credit shall not create any obligation of the County to create or continue any improvement district, nor shall such credit impair or otherwise affect the powers of the council in this chapter.

(1983 CC, c 12, art 1, sec 12-6; am 1990, ord 90-127, sec 4.)

Section 12-7. Costs advanced and borne by owners and County.

(a) The County or an affected owner of an assessment unit may advance costs, including incidentals, for improvement districts, whether before or after the commencement of proceedings for creation of improvement districts and, to the extent that said costs are included in the cost of improvements for said improvement districts, the council may direct partial or full reimbursement to the County or such owner for such costs from improvement district funds. Upon a request by an affected owner of an assessment unit, the director of finance may apply all or part of any such refund toward payment of improvement district assessments or installments thereof. The County may expend such funds to the same extent as if it advanced its own funds for that purpose. If the improvement district is not created or if it is terminated by the council under section 12-6, said owner shall not be entitled to any refund or credit, except as authorized by the council.

(b) For main or general thoroughfares, the County may assume and pay out of all available funds, the costs of improvements thereto which: (1) exceed the special benefits conferred on the assessed assessment units or (2) the council finds should not be covered by special assessments. As used in this section "main or general thoroughfare" means a street or highway that is used as an arterial highway between substantially different or naturally separated localities or sections of the County.

(1983 CC, c 12, art 1, sec 12-7; am 1976, ord 241, sec 2; am 1990, ord 90-127, sec 4; am 2002, ord 02-82, sec 5.)

Section 12-8. Limitation on time to sue.

Any objections to any actions undertaken pursuant to this chapter shall be governed by section 46-80.5, Hawaiʻi Revised Statutes.

(1983 CC, c 12, art 1, sec 12-8; am 2002, ord 02-82, sec 6.)

Section 12-9. Ratification and validation.

The levy of all special assessments, all outstanding improvement bonds of the County payable from special assessments, and all acts and proceedings heretofore had or taken or purportedly had or taken, by or on behalf of the County under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment (or any combination thereof) of all such bonds are hereby validated, ratified, approved and confirmed, including but necessarily limited to the terms, provisions, conditions, and covenants of any resolution and ordinance appertaining thereto, the redemption of improvement district bonds before maturity and provisions therefor, and the use of the proceeds of such assessments and bonds, notwithstanding any lack of powers, authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such assessments, bonds, acts and proceedings, and in such authorization, execution, sale, issuance and payment, including without limiting the generality of the foregoing, such acts and proceedings heretofore not been levied nor purportedly levied and issued nor purportedly issued. Such outstanding assessments and bonds are and shall be, and such assessments and bonds heretofore not levied nor purportedly levied and issued nor purportedly issued shall be, after such levy or issuance, binding, legal, valid, and enforceable obligations in accordance with their terms and their authorizing proceedings, subject to the taking or adoption of acts and proceedings heretofore not had nor taken, but required by and in substantial and due compliance with laws appertaining thereto.
(1983 CC, c 12, art 1, sec 12-9.)

Article 2. Procedure.

Section 12-10. Initiation by council; study of proposed improvement; adoption of improvement; hearing.

(a) The council shall, by resolution requiring not more than one reading for its adoption, direct the responsible director or manager to prepare and submit to the council a report containing the following:
   (1) Preliminary data concerning the special improvement proposed to be opened, constructed, or improved;
   (2) The general character and extent of any improvement to be proposed;
   (3) The proposed assessment unit and method of assessment;
   (4) Whether any new land will be necessary to be acquired, and the estimated cost thereof and the proportion of the cost which should be borne by the County;
   (5) The materials recommended to meet the conditions of the improvement;
   (6) The boundaries of the proposed improvement district and any subdistricts or zones therein as to which different portions of the cost of improvements should be charged;
   (7) The estimated cost of the improvement, the portions of the cost to be borne by the County, and the portions of the cost to be assessed against the assessment units specially benefited with the maximum unit of assessment to be made against each assessment unit to be assessed; and

(8) All necessary plans and other data, details, and specifications for the improvements and any other matters or details intended to apply thereto. The report of the responsible director or manager, when so furnished and filed with the council, shall not be acted upon until one week has elapsed from the date of the filing of the report with the council.

(b) If the proposed improvement district includes the construction and installation of improvements to be undertaken or supervised by a cooperating department, the responsible director or manager shall obtain from the cooperating department preliminary plans and estimates for such cooperating department's proposed improvements, and the responsible director or manager shall furnish the cooperating department with such preliminary plans of the proposed improvements, other than those of the cooperating department, as will enable the cooperating department to make its plans and estimates. The responsible director or manager shall incorporate such preliminary plans and estimates of the cooperating department in the report to the council.

(c) Thereafter the council may, by resolution requiring one reading for its adoption, propose the making of an improvement or improvements, specifying:

(1) The special improvements to be opened, constructed, or improved;

(2) The area, owners, so far as known, and general description and location of new land to be acquired, if any;

(3) The materials proposed to be used;

(4) The proposed assessment unit and method of assessment including the minimum number of installment payments to be proposed;

(5) The maximum term of assessment bonds to be issued to represent unpaid installments;

(6) The maximum rate of interest to be borne by the bonds;

(7) The maximum premium required to be paid on the advance payment of installments or the call and redemption of any bond prior to its maturity;

(8) The maximum amount of the reserve fund either as set forth in the report of the responsible director or manager or as otherwise determined by the council;

(9) The general boundaries of the district or frontage, subdistricts and zones to be assessed; and

(10) The maximum estimated units of assessment.

The resolution shall refer to and incorporate by reference such surveys, plans, maps, and other data reported by the responsible director or manager as are approved by the council. The resolution shall also fix a date of public hearing upon the proposed improvement, which date shall be not less than fifteen days after the first publication of notice thereof in at least one newspaper of general circulation in the County.

(d) The council may adopt the plans and estimates so furnished by any cooperating department and incorporated in the report of the responsible director or manager. If the plans and estimates of a cooperating department are adopted by the council, the plans and estimates shall be referred to and incorporated by reference in such resolution.

(e) After the adoption of the resolution, the County clerk shall:
  (1) Cause a notice of the public hearing to be published twice a week for two successive weeks (four publications in all) in at least one newspaper of general circulation in the County, giving notice, generally, to all owners of assessment units proposed to be assessed or land to be acquired and to all others interested in the general details of the proposed improvements as adopted by the council and stating the time and place of public hearing and where the resolution and reports and other data may be seen and examined prior to the hearings;
  (2) Post copies of the notice described in the preceding paragraph at least ten days prior to the hearing at a public place in the district in which the proposed improvement district is located; and
  (3) Mail a notice of public hearing to all owners of the assessment units proposed to be assessed at least two weeks prior to the hearing. The notice to be mailed shall contain:
    (A) The material contained in the published and posted notices;
    (B) A description of the assessment unit of such owner set forth in such manner as to enable such owner to identify the assessment unit;
    (C) A statement that the assessment unit described on said notice is proposed to be assessed to pay for a portion of the cost of the proposed improvements;
    (D) A statement that the testimony of all interested persons and owners of assessment units for or against the establishment of the district, the extent of the district, and the levy of the special assessment will be heard; and
    (E) A statement that a protest against making all or part of the proposed improvements or against the methods by which such assessments are to be made, or the inclusion of certain costs therein must be submitted in writing, in accordance with section 12-12 of this chapter, to be considered by the council.

(f) The clerk of the County shall file with the council on or before the hearing an affidavit by the clerk of the County attesting that the clerk of the County completed the publication, posting, and mailings described in the preceding section 12-10(e) in accordance with the requirement thereof; provided, however, that the failure of the clerk to timely file such affidavit shall not invalidate the proceedings held thereafter.

(g) Any failure to post, mail, or receive the notice described above, shall not invalidate the proceedings held thereafter.

(h) No improvement district shall be approved unless:
  (1) The assessed valuation for taxation purposes of the assessment units to be improved is at least twice the estimated costs of the proposed improvement; or

(2) The council finds the appraised value of such assessment units as improved is at least twice the estimated cost of the proposed improvement. The appraisal shall be conducted in accordance with prevailing standards for appraisals used by banks for loans.

(i) No improvement district shall be approved unless the council finds that such improvement is in the public interest.

(1983 CC, c 12, art 2, sec 12-10; am 1984, ord 84-4, sec 1; am 1990, ord 90-127, sec 5; am 1995, ord 95-22, sec 3; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 7; am 2011, ord 11-66, sec 3.)

Section 12-11. Report of responsible director or manager.

In preparing the report required by section 12-10, the responsible director or manager may consult with the director of finance or with such financial consultant as has been specially employed by the council to assist in the proceedings or who may otherwise be available to the council, at the direction of the council. Upon the written advice and recommendation of the director of finance or of such a financial consultant, the responsible director or manager may include such sums as that director or manager deems proper for reserve funds, bond discount allowances, and construction contingencies in determining that director's or manager's estimate of the project cost and the amount to be assessed therefor.

(1983 CC, c 12, art 2, sec 12-11; am 1995, ord 95-22, sec 4; am 2001, ord 01-108, sec 1; am 2011, ord 11-66, sec 4.)

Section 12-12. Filing of protests.

Any owner of an assessment unit may at or before the public hearing file in writing, with the council, any protest, objection, or suggestions as to the proposed improvement, stating the reason(s) therefor, and may present such written protest, objection, or suggestions in person at the public hearing. If the owners of assessment units which are proposed to have fifty percent or more of the total assessments (whether such assessments are to be assessed by frontage, area or otherwise) file written protests, duly acknowledged by such owners, against making all or part of the proposed improvements or against the methods by which such assessments are to be made, or the inclusion of certain costs therein, then the improvements or methods of assessment shall not be made contrary to said written protests. If the protest is against the making of any improvement, the same shall not be made, and the proceedings shall not be renewed within six months from the date of closing the public hearing, unless all owners withdraw their protests.

(1983 CC, c 12, art 2, sec 12-12; am 1990, ord 90-127, sec 6; am 2002, ord 02-82, sec 8.)

Section 12-13. Waiver of objections.

All objections to any act or proceeding occurring prior to the time within which such objections are permitted to be filed in relation to the work, not made in writing and in the manner and at the time specified, shall be waived if the notices required by section 12-10 have been actually mailed, published and posted as required by law.

(1983 CC, c 12, art 2, sec 12-13.)

Section 12-14. Petition by sixty percent of owners.

If the owners of not less than sixty percent of the frontage upon any street, alley, or highway designated by them or of sixty percent of the area of land designated by them as a proposed improvement district, file with the council a petition duly acknowledged by the owners requesting the construction of special improvements, together with the surveys, maps, plans and other preliminary data and estimates mentioned in section 12-10, in the case of a proceeding initiated by the council, the council may reject or accept the petition. If the petition is accepted, the council shall proceed in the same manner as though the plan for such improvements had been initiated on its own motion, and the cost of the preliminary surveys, maps and other data, if not in excess of the estimate therefor stated in the petition, shall be deemed part of the cost of the improvement; provided, that upon such petition the council shall not have the power to abandon the proceedings or make any change or modification of the plans or the details or specifications for the proposed improvements without the written and duly acknowledged consent of the owners of not less than sixty percent of the frontage or area of the land to be assessed; except that the council may decline to acquiesce in or may modify any part of the plan which contemplates the payment by the County of any part of the cost of acquiring new land or of any part of the cost of improving any main or general thoroughfare, and in such event, if the owners of not less than sixty percent of the frontage or property to be assessed agree in writing to the change or modification, the council shall be bound to proceed with the plan as so modified.
(1983 CC, c 12, art 2, sec 12-14; am 1976, ord 241, secs 1 and 3; am 1984, ord 84-4, sec 2.)

Section 12-15. Petition by twenty percent of owners.

(a) If the owners of not less than twenty percent of the frontage upon any street, alley or highway designated by them or of twenty percent of the area of land designated by them as a proposed improvement district, file with the council a petition duly acknowledged by the owners requesting the construction of special improvements, together with the surveys, maps, plans and other preliminary data and estimates mentioned in section 12-10, the council may reject or accept the petition. If the council accepts the petition, it shall proceed in the manner hereinafter provided. The council shall act on the petition provided:
   (1) The petition of twenty percent of the owners includes the signatures of at least fifty percent of the resident owners residing in the proposed improvement district; and
   (2) A state of emergency is found to exist by the council that requires the formation of the improvement district.

(b) The cost of the preliminary surveys, maps and other data shall be deemed part of the cost of the improvement provided fifty-one percent of the owners of the improvement district hereinabove described do not object to the improvement district. If fifty-one percent or more of the owners involved in the improvement

district oppose the improvement district, all such cost of the preliminary surveys, maps and other data shall be borne by the County as if the proceeding had been initiated by the council in accordance with section 12-10.

(c) Upon such petition and prior to the hearing thereon, the council shall, at its option, have the power to abandon the proceedings or make any change or modification of the plans or the details or specifications for the proposed improvements without the written consent of the petitioning owners of the frontage or area of the land to be assessed. With regard to the petition, the council may at any time decline to acquiesce in or may modify any part of the plan which contemplates the payment by the County of any part of the cost of acquiring new land or of any part of the cost of improving any main or general thoroughfare.

(d) Upon receipt of the petition, the council shall by resolution requiring not more than one reading for its adoption, direct the responsible director or manager:

(1) To investigate and report to the council:

(A) Preliminary data concerning the special improvements proposed to be opened, constructed, or improved;

(B) The general character and extent of any improvement to be proposed;

(C) The proposed assessment unit and method of assessment;

(D) Whether any new land will be necessary to be acquired, and the estimated cost thereof and the proportion of the cost which should be borne by the County;

(E) The materials recommended to meet the conditions of the improvement;

(F) The boundaries of the proposed improvement district and any subdistricts or zones therein as to which different portions of the cost shall be charged; and

(G) The estimated cost of the improvement, the portions of the cost to be borne by the County, and the portions of the cost to be specifically assessed against the assessment units specially benefited with the maximum unit of assessment to be made; and

(2) To prepare and furnish all necessary drawings and other data, details, and specifications for the improvements and any other matters or details intended to apply thereto.

The report when so furnished and filed with the council shall not be acted upon until one week has elapsed from the date of the filing of the same.

(e) If the proposed improvement district includes the construction and installation of improvements to be undertaken or supervised by a cooperating department, the responsible director or manager shall obtain from the cooperating department preliminary plans and estimates for such cooperating department's proposed improvements, and the responsible director or manager shall furnish the cooperating department with such preliminary plans of the proposed improvements, other than those of the cooperating department, as will enable the cooperating department to make its plans and estimates. The responsible director or manager shall incorporate such preliminary plans and estimates of the cooperating department in the report to the council.

(f) The council may, by resolution requiring one reading for its adoption, propose the making of an improvement or improvements specifying:
   (1) The streets, storm drainage, sanitary sewerage system, water system or street lighting system, or combination thereof, to be opened, constructed, or improved;
   (2) The area, owners, so far as known, and general description and location of new land to be acquired, if any;
   (3) The materials proposed to be used;
   (4) The proposed unit of assessment and method of assessment including the minimum number of installment payments to be proposed;
   (5) The maximum term of assessment bonds to be issued to represent unpaid installments;
   (6) The maximum rate of interest to be borne by the bond;
   (7) The premium required to be paid on the advance payment of installments for the call and redemption of any bond prior to its maturity;
   (8) The amount of the fund either as set forth in the report of the responsible director or manager or as otherwise determined by the council;
   (9) The general boundaries of the district or frontage, subdistricts and zones to be assessed; and
   (10) The maximum amount estimated to be assessed against a unit of assessment.

(g) The council may adopt the plans and estimates so furnished by a cooperating department and incorporated in the report of the responsible director or manager. If the plans and estimates of a cooperating department are adopted by the council, the plans and estimates shall be referred to and incorporated by reference in such resolution. The resolution shall refer to and incorporate by reference such surveys, plans, maps and other data reported by the responsible director or manager as are approved by the council. The resolution shall also fix a date of public hearing upon the proposed improvement, which date shall be not less than forty-five days after the first publication of notice thereof in a newspaper of general circulation in the County. The hearing shall provide owners of assessment units within the improvement district with a reasonable opportunity to object or approve in writing of the proposed improvement.

(h) After the adoption of the resolution, the County clerk shall:
   (1) Cause a notice of the public hearing to be published twice a week for two successive weeks (four publications in all) in at least one newspaper of general circulation in the County, giving notice, generally, to all owners of assessment units proposed to be assessed or acquired and to all others interested in the general details of the proposed improvements as adopted by the council and stating the time and place of public hearing and where the resolution and reports and other data may be seen and examined prior to the hearing;
   (2) Post copies of the notice described in the preceding paragraph at least ten days prior to the hearing at a public place in the district in which the proposed improvement district is located; and

(3) Mail a notice of public hearing to all owners of the assessment units proposed to be assessed at least two weeks prior to the hearing. The notice to be mailed shall contain:
   (A) The material contained in the published and posted notices;
   (B) A description of the assessment unit of such owner set forth in such manner as to enable such owner to identify the assessment unit;
   (C) A statement that the assessment unit described on said notice is proposed to be assessed to pay for a portion of the cost of the proposed improvements;
   (D) A statement that the testimony of all interested persons and owners of assessment units for or against the establishment of the improvement district, the extent of the improvement district, and the levy of the special assessment will be heard; and
   (E) A statement that any protest, objection, or suggestion relating to the making of all or part of the proposed improvements or against the methods by which such assessment are to be made, or the inclusion of certain costs therein must be submitted in writing, in accordance with section 12-12 of this chapter, to be considered by the council.

(i) The clerk of the County shall file with the council on or before the hearing an affidavit by the clerk of the County attesting that the clerk of the County completed the publication, posting, and mailings described in the preceding section 12-15(h) in accordance with the requirement thereof; provided, however, that the failure of the clerk to timely file such affidavit shall not invalidate the proceedings held thereafter. Any failure to post, mail, or receive the notice described above shall not invalidate the proceedings held thereafter.

(j) All notices referred to in this section shall also contain a provision providing that if the owner does not object in writing at or before the time of hearing, such inaction will be construed as a conclusive presumption that said owner does not object to the proposed improvement and that the improvement district may be put into effect unless fifty-one percent of the owners who will be assessed as a result of the improvement district object in writing at or prior to the time of hearing.

(k) Should fifty-one percent or more of the owners of the assessment units affected by the improvement district fail to object prior to or at the hearing, the proposed improvement by assessment shall be approved by council passing a resolution requiring one reading for its adoption, provided, that no such improvement shall be approved unless:
   (1) The assessed valuation for taxation purposes of the assessment units to be improved is twice the estimated cost of the proposed improvement; or

(2) The council by resolution finds the appraised value of such assessment units in accordance with prevailing standards of appraisal and used by banks for loans thereon is twice the estimated cost of the proposed improvement and that such approval is in the public interest.

(l) This section shall apply only to subdivisions created prior to March 1, 1967.

(1983 CC, c 12, art 2, sec 12-15; am 1995, ord 95-22, sec 5; am 2002, ord 02-82, sec 9; am 2011, ord 11-66, sec 5.)

Section 12-16. Petition by owners of one hundred percent of frontage or area.

(a) If a petition is filed and is acknowledged by the owners of one hundred percent of the frontage upon any street, alley, or highway or of the area of land designated by them as a proposed improvement district, then the council may reject or accept the petition. If the petition is accepted, the council shall proceed in the same manner as though the plan for the improvement had been initiated on its own motion, except that it shall be unnecessary for the council to give, publish, mail, or post notices of the proposed improvements, as provided for in section 12-10. In the case of a petition acknowledged by the owners of one hundred percent of the frontage or area designated as an improvement district, section 12-12 shall be where inapplicable thereto, any other provision or section to the contrary notwithstanding. In the case the owners of one hundred percent of the frontage or area of land designated as a proposed improvement district consent in writing to the amount and apportionment of the proposed assessments for such improvements, it shall be unnecessary to give the notice or to hold the hearing specified by section 12-27 and the council may immediately proceed to fix the assessments in the manner provided by section 12-29.

(b) No such improvement shall be approved by the council unless:

(1) The assessed valuation for taxation purposes of the assessment units to be improved is twice the estimated cost of the proposed improvement; or

(2) The council by resolution finds the appraised value of such assessment units in accordance with prevailing standards of appraisal then used by banks for loans thereon is twice the estimated cost of the proposed improvement and that such approval is in the public interest.

(1983 CC, c 12, art 2, sec 12-16; am 2002, ord 02-82, sec 10.)

Section 12-17. Determination by council.

After the hearing provided in section 12-10, the council shall consider any protests, objections or suggestions which may have been made or filed and whether sufficient valid protests have been filed to compel it to abandon any part or all of the proposed improvement. If the council still has jurisdiction to continue it shall then proceed, determining whether or not the proposed improvement shall be made as proposed, or made with modifications or with changes in the total estimated costs or costs per assessment unit of the improvements set forth in the resolution adopted pursuant to section 12-10(c). In the latter event, modifications or changes may be made without

again giving notice of a hearing as provided in section 12-10; provided that such modifications or changes shall not materially alter the general character or plan so advertised or increase the total estimated costs or costs per assessment unit of the improvements by more than ten percent or as otherwise set forth in the resolution pursuant to section 12-10(c). No modification of or change in the plans and estimates furnished by the responsible department or cooperating department shall be made without the consent of such department.
(1983 CC, c 12, art 2, sec 12-17; am 2013, ord 13-125, sec 2.)

Section 12-18. Resolution to define extent of improvement.

If, after initial or further advertisement and hearing when no changes are made which will require further advertisement or hearing, the council determines to proceed with the improvements, it shall, by resolution requiring not more than one reading for its adoption:

(1) Create, define, and establish the extent of the frontage improvement or the improvement district to be assessed;
(2) Define the kind, extent, and general details of the proposed improvements;
(3) Describe each parcel of land to be acquired, if any;
(4) Declare the part or proportion of the cost of the improvement which is to be borne by the County;
(5) Describe the assessment units and method of assessment;
(6) Describe the kinds of materials to be used;
(7) Direct the responsible director or manager as provided in section 12-19; and
(8) If the proposed improvement includes construction or improvements of a water system, make requests as provided in section 12-20.

(1983 CC, c 12, art 2, sec 12-18; am 1995, ord 95-22, sec 6; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 11; am 2011, ord 11-66, sec 6.)

Section 12-19. Responsible director or manager to prepare map showing improvements, details, plans and specifications.

The council shall, by resolution required by section 12-18 direct the responsible director or manager to prepare a corrected map of the highways to be improved, showing the abutting lands or, of the improvement district showing the highways therein to be improved, or the special improvements to be constructed or improved, and showing the exact location of the improvements, together with final details, plans and specifications for the work, all in such form as will readily permit and encourage genuine competition between contractors in so far as the materials specified will permit of such competition. These maps, final details, plans, and specifications, as approved in accordance with the applicable policies and procedures of the responsible department or as otherwise approved by resolution adopted by the council, shall be used as the basis for the calling of bids and awarding of a contract for the work as provided in this chapter.
(1983 CC, c 12, art 2, sec 12-19; am 1995, ord 95-22, sec 7; am 2001, ord 01-108, sec 1; am 2011, ord 11-66, sec 7; am 2013, ord 13-125, sec 3.)

Section 12-20. Plans and specifications from cooperating department.

(a) If the proposed improvement district includes the construction and installation of improvements to be undertaken or supervised by a cooperating department, the council shall by resolution required by section 12-18 request the cooperating department to furnish final detail plans and specifications for such improvements. The resolution shall also direct the responsible director or manager to furnish the cooperating department with such copies of the final surveys, maps and plans covering the proposed improvements, other than those of the cooperating department, as may be necessary to enable the cooperating department to prepare the final plans and specifications for its improvements.

(b) The cooperating department shall furnish such final plans and specifications when requested, provided that the cooperating department may refuse to furnish such plans and specifications where funds for the amount the County is obliged to pay towards the contract price have not been included in the budget of the County for such year. The final plans and specifications so furnished by the cooperating department, as approved in accordance with the applicable policies and procedures of the coordinating department or as otherwise approved by resolution adopted by the council, shall be used as the basis for the calling of bids and awarding of a contract for such work.

(1983 CC, c 12, art 2, sec 12-20; am 2001, ord 01-108, sec 1; am 2011, ord 11-66, sec 8; am 2013, ord 13-125, sec 4.)

Section 12-21. Land acquisition; procedure; cost; condemnation award.

In case the improvements so determined under section 12-18 require the acquisition of any new land therefor, the council shall acquire the land before final award of the contract, either by deed, or other voluntary conveyance from the owners thereof, or it may, at its option, and in the name of the County cause condemnation proceedings to be brought to acquire the land. After the filing of the petition in such proceedings the final award of the contract may be made. If the cost of acquiring such land exceeds the estimate therefor, the council may provide for the excess cost by general appropriation. In the event that land has been acquired by condemnation under the provisions of chapter 101, Hawai‘i Revised Statutes and in the award made on the condemnation there has been deducted from the compensation or damages otherwise payable to the landowner, any amount by reason of the fact that land of such landowner not sought to be condemned would be benefited by the construction of improvements proposed to be made after the condemnation, it shall be unlawful to make any assessments against such land under this chapter without having first credited against the amount for which land would otherwise have been assessed the amount that has been deducted in the award made on condemnation for benefits by reason of the construction of improvements proposed to be made after condemnation.

(1983 CC, c 12, art 2, sec 12-21.)

Section 12-22. Construction of water system; inspections; costs borne by County.

(a) If any proposed special improvement includes the construction or improvement of a water system, the department of water supply shall maintain an inspector over the work to see that the plans and specifications which it has furnished have been complied with. After the work has been completed and accepted, the water system, pipes, conduits, hydrants, and other appurtenances for supplying or distributing water so installed shall constitute a part of the system of the department of water supply and shall at all times thereafter be used, operated and maintained by it as a part of its system.

(b) If any proposed special improvement includes the construction or improvement of a water system, the department of water supply may assume and pay out of its funds available for such purpose, the cost of engineering, incidentals and inspection, not to exceed thirty-three and one-third percent of the total cost of the construction or improvement of such water system.

(1983 CC, c 12, art 2, sec 12-22.)

Section 12-23. Repealed.

(1983 CC, c 12, art 2, sec 12-23; rep 2002, ord 02-82, sec 12.)

Section 12-24. Bidding; award of contract.

(a) The bid process for the construction of special improvements shall be administered by the responsible department in accordance with procedures and requirements applicable to County of Hawaiʻi projects and the state Procurement Code.

(b) The bid specifications shall contain provisions that specify that the award of the contract will not occur until the improvement district is created and the necessary funds for construction are appropriated.

(c) The responsible department may award the work as an entire contract or, in its discretion, make one or more contracts separately for the different kinds of work to be performed.

(1983 CC, c 12, art 2, sec 12-24; am 1990, ord 90-127, sec 7; am 1995, ord 95-22, sec 8; am 2002, ord 02-82, sec 12; am 2011, ord 11-66, sec 9.)

Section 12-25. Repealed.

(1983 CC, c 12, art 2, sec 12-25; rep 2002, ord 02-82, sec 12.)

Section 12-26. Contract for off-site water facilities.

(a) Notwithstanding any other provisions in this chapter to the contrary, in the event that a portion of the improvements proposed to be made consist of water facilities outside of the boundaries of a proposed improvement district which in whole or in part will serve the improvement district, and if there exists with respect to such facilities an arrangement or agreement pursuant to which:

(1) The responsibility for the costs of such facilities in excess of a specified sum has been fixed;

(2) The plans and specifications for such facilities will be approved by the department of water supply; and
(3) The plans and specifications will not be prepared nor the contract for construction of such facilities be ready to be advertised and awarded until a time or times beyond the time or times when the proceedings pursuant to this chapter for construction of the proposed improvements by assessment could otherwise be commenced and prosecuted; then the council may determine to proceed pursuant to this section.

(b) The determination to proceed shall be made in the resolution proposing to make the improvements, and the following provisions shall then be applicable to the proceedings:
(1) For the purpose of the report provided for in section 12-10 the preliminary plans for such off-site water facilities need only be general in nature and the estimates therefor shall be the sums specified by the aforementioned arrangement or agreement.
(2) Section 12-20 shall not be applicable, and for the purpose of the report provided for in sections 12-18 and 12-19 the preliminary plans used for the report provided for in sections 12-10(a) and (b) (general in nature only as provided in subsection (b)(1) above) shall be sufficient, if adopted by the council in its resolution proposing to make the improvements.
(3) For the purpose of section 12-27, the portion of the total amount of the cost of the improvements attributable to such off-site water facilities shall be based upon said sum or sums specified by the aforementioned arrangement or agreement, rather than upon a bid of a lowest responsible and reliable bidder for such off-site water facilities.
(4) If section 12-28(a)(4) is applicable to the proceedings, the council need not request a call for bids on such off-site water facilities.
(5) At such time as the final details, plans and specifications for such off-site water facilities are prepared, approved by the department of water supply and by resolution approved and adopted by the council, the contract for construction thereof shall be advertised and awarded by the department of water supply pursuant to the provisions of sections 12-23,* 12-24 and 12-25.* All remaining funds after payment of the costs of such facilities shall be transferred to and become a part of the reserve fund.

(1983 CC, c 12, art 2, sec 12-26; am 2002, ord 02-82, sec 12.)

*** Editor's Note:** Sections 12-23 and 12-25, Hawai'i County Code, were repealed by Ordinance 02-82.

Section 12-27. Corrected map; preliminary assessment roll and description; notice of authorized improvement.

(a) The council shall have the responsible director or manager prepare a corrected map, a preliminary assessment roll, description of assessment units to be assessed, a list of all known owners of the assessment units within the improvement district,

and the responsible director's or manager's estimate of cost or the bid of the lowest responsible and reliable bidder (if such bid is made).

(b) The preliminary assessment roll and description of assessment units to be assessed shall contain for the assessment units in the proposed improvement district or in the several subdistricts or zones, if any, the following:
   (1) Where assessments are based on frontage, the maximum proposed amount per foot of frontage;
   (2) Where assessments are based on area, the maximum proposed amount per square foot;
   (3) Where assessments are based on methods other than frontage or area, the method of assessment and the amount of which each unit of assessment shall be assessed;
   (4) The maximum proposed amount of assessment for each assessment unit; and
   (5) A list of all known owners of the assessment units within the proposed improvement district.

(c) Upon receipt of the corrected map, preliminary assessment roll, and description of assessment units, the council shall give notice of the following:
   (1) The total cost of improvements as established by the estimate of the responsible director or manager or by the bid of the lowest responsible and reliable bidder, or as otherwise provided in this chapter;
   (2) The contents of the preliminary assessment roll;
   (3) The availability of the corrected map, preliminary assessment roll and description of assessment units for inspection at the office of the responsible director or manager during business hours at any time prior to and including the hearing date; and
   (4) The time, date, and place of the public hearing to be held concerning said items; provided that the date shall not be less than ten days nor more than three weeks after the date of the first newspaper publication of the notice.

(d) The notice of improvement and hearing shall be advertised, mailed, and posted in the same manner as provided in section 12-10.

(e) At the public hearing, the council shall act as a board of equalization to receive complaints or objections concerning the amounts of the proposed assessments.

(1983 CC, c 12, art 2, sec 12-27; am 1990, ord 90-127, sec 8; am 1995, ord 95-22, sec 9; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 13; am 2011, ord 11-66, sec 10.)

Section 12-28. Combination hearings; applicable proceedings.

(a) The council may combine the hearings provided for in sections 12-10 and 12-27. If it does so, such determination shall be made in the resolution proposing to make the improvement or improvements, and the following provisions shall then be applicable to the proceedings:
   (1) The resolution need not specify the maximum estimated amount to be assessed on the unit of assessment nor fix the date of public hearing upon the proposed improvement, but shall direct the preparation by the responsible director or manager of the documents and data to be prepared by such person

as provided in sections 12-18 and 12-19 and in section 12-27 and if applicable shall include the request and direction provided in section 12-20. After the combined hearings, if the council determines to proceed with the improvements, the resolution specified in section 12-20 need not again direct preparation by the responsible director or manager of the documents and data as provided in sections 12-18 and 12-19. The clerk shall not cause the notices to be given as provided in section 12-10 until the documents and data have been so prepared by the responsible director or manager, and if applicable, by each cooperating department, and preliminarily approved by the council, at which time the council shall by resolution requiring not more than one reading for its adoption fix the date of combined hearings; provided that the map, details and plans and specifications specified in sections 12-19 and 12-20 shall be deemed to satisfy this requirement if such documents are determined by the responsible director or manager to be in such form and contain such information as is reasonably necessary to inform the owners and other interested parties at least generally of the nature and scope of the proposed special improvements.

(2) The matters to be contained in the notices provided for in sections 12-10 and 12-27 shall be combined into single notices to be so published, posted and mailed; for the purpose thereof the total amount of the cost of the improvement shall be based on the estimated cost of the work to be included in bids when received, not upon the bid of the lowest responsible and reliable bidder as specified in section 12-27.

(3) The council may request the responsible director or manager, to call for bids on all improvements to be constructed under contract to be received on or before the date of the combined hearings pursuant to the provisions of section 12-24

(4) The responsible director or manager shall prepare an amended preliminary assessment roll based on any revisions in the estimate of the responsible director or manager or on the results of the bids received for improvements as the case may be and shall send said amended assessment roll to the council on or before the public hearing.

(A) If the amended preliminary assessment roll shows a proposed amount of assessment for any of the assessment units to be assessed which is more than that shown on the preliminary assessment roll, then, unless the affected owner shall waive the same, the council shall postpone the public hearing and readvertise and mail an amended notice of hearing containing the amended preliminary assessment roll. Said readvertisement and mailing shall be done under the provisions of sections 12-27(c) and (d). Said postponed public hearing shall be conducted in the same manner as provided in section 12-27(e).

(B) If the amended preliminary assessment roll shows a proposed amount of assessment for each of the assessment units to be assessed which is the same or less than the preliminary assessment roll, the public hearing shall be held as scheduled and the amended preliminary assessment roll shall be considered at said public hearing.

(1983 CC, c 12, art 2, sec 12-28; am 1990, ord 90-127, sec 8; am 1995, ord 95-22, sec 10; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 14; am 2011, ord 11-66, sec 11; am 2013, ord 13-125, sec 5.)

Section 12-28.1. Termination of improvement districts.

The council by ordinance shall provide for the procedures to terminate an improvement district created under this chapter once the improvements have been completed and the obligations of the improvement district have been satisfied.

(a) The ordinance directing termination of an improvement district shall contain the provisions enumerated below:

(1) The director of finance shall be directed to set aside sufficient funds to cover all outstanding or anticipated debts or obligations of the improvement district, including cost and expenses of making any distributions to assessment unit owners and the cash refund obligations in section 12-28.1(a)(3) below.

(2) Any outstanding assessment installments which are not needed to pay the debts or obligations described in section 12-28.1(a)(1) above, shall be canceled.

(3) If assessment installments are canceled, those owners whose assessment units have prepaid assessments will be entitled to cash refunds equal to the assessment principal which would be prepaid as of cancellation. For these purposes, "prepaid assessments" shall include all payments made upon the assessments for an assessment unit, whether such payments were made before or after the assessment liens were created.

(4) The council may provide that from any funds remaining in the improvement district after the payments described in section 12-28.1(a)(1) or (3) that the director of finance be authorized to make cash refunds to assessment unit owners from remaining improvement district funds in such amounts and at such times as the director of finance finds are reasonable. Any cash refund will be made to the owner of record at the time that the director of finance authorizes such refund.

(5) The effective date of termination shall be at such time that the director of finance has determined that all outstanding or anticipated debts or obligations of the improvement district have been paid or can be satisfied and that the cash refunds provisions described above have been made.

(b) The ordinance directing termination of the improvement district shall not be enacted prior to the redemption date fixed in the call for redemption of all outstanding improvement district bonds at which time the director of finance or paying agent of the County, as the case may be, shall have sufficient funds on hand to pay all outstanding bond principal, interest and any premiums thereon.

(1990, ord 90-127, sec 9; am 2002, ord 02-82, sec 14.)

Article 3. Assessments.

Section 12-29. Assessments fixed by ordinance; owner application to pay reduced assessment.

(a) After the hearing, the council shall forthwith proceed to make such modifications or changes as to them may seem equitable or just, or shall confirm the first proposed assessment. Upon reaching a final decision the council shall by ordinance, fix the portions of the cost to be assessed against the benefited assessment units and against the owners thereof respectively. The ordinance shall incorporate by reference the assessment roll as approved by the council. After the final enactment of such ordinance the amounts of the several assessments so listed, advertised and incorporated and not previously objected to shall be conclusively presumed to be just and equitable and not in excess of the special benefits accruing or to accrue by reason of the improvement to the specific assessment unit assessed.

(b) After commencement of improvement district proceedings and prior to the adoption of the improvement district ordinance described in section 12-29(a), an owner may apply for a reduction in the proposed assessment against an assessment unit as follows: (1) file a written application with the County clerk for a reduced assessment not later than one week prior to the time that the ordinance is placed on the council agenda for first reading; (2) deposit the full amount of the proposed reduced assessment, said deposit being an irrevocable commitment by the owner to the payment of the reduced assessment. The amount of reduction shall be as provided by the council, but shall not exceed the applicant's proportionate share of the sum of the improvement district bond reserve fund and the improvement district bond discount allowance and other incidental expenses directly related to the issuance of improvement district bonds. For purposes of the deposit requirements of this section, the owner may direct that refunds due under section 12-7(a) be applied as a deposit hereunder. Such refund amounts shall thereafter be treated as a deposit under this section, except that no cash refund shall be made for or on account of such refund amounts, whether or not they are treated as deposits in this section.

(1) The director of finance shall submit a report with recommendations to the council with respect to any such applications. The council shall consider such applications and, to the extent that such applications are acceptable to the council, include the same in the improvement district ordinance. Upon approval of the application by inclusion of the reduced assessment in the ordinance, the director of finance shall immediately deposit such funds in the construction special account for the improvement district.

(2) If the assessment is not reduced by the council, the funds deposited shall be refunded to the owner, except that no refund shall be made for or on account of refunds due for advances made under section 12-7(a). In that event, the owner shall make payment of the assessment as provided in this chapter.

(1983 CC, c 12, art 3, sec 12-29; am 1990, ord 90-127, sec 10; am 2002, ord 02-82, sec 15.)

Section 12-30. Amended assessments upon consolidation or subdivision.

(a) For purposes of this section 12-30:

(1) "Subdivide," "subdivision," and "subdividing" shall refer to the subdividing of an assessment unit pursuant to chapter 23, Hawaiʻi County Code, or the subjection of real property to a condominium property regime pursuant to chapter 514A, Hawaiʻi Revised Statutes.

(2) "Consolidate," "consolidation," and "consolidating" shall refer to the consolidation of more than one assessment unit into a single assessment unit.

(b) In the event that an assessment unit previously assessed is subsequently subdivided, the assessments previously levied against such original assessment unit shall be divided pro rata among the resulting assessment units in accordance with the original method of assessment, subject to section 12-30(c).

(c) In the event of an increase in the number of assessment units within an improvement district resulting from subdivision, annexation, or otherwise, if so provided in the resolution establishing the improvement district in which such assessment units are located, the department of finance, within sixty days following receipt of notification by the planning department of such approved subdivision, annexation, or other action establishing a new assessment unit or units within the improvement district, shall reallocate the outstanding assessments within the improvement district among the assessment units subject to such outstanding assessments, including the resulting new assessment units.

(d) In the event that two or more assessment units previously assessed are subsequently consolidated, the total assessments previously levied against such original assessment units shall be levied against the resulting assessment unit.

(1983 CC, c 12, art 3, sec 12-30; am 1995, ord 95-22, sec 11; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 16.)

Section 12-31. Notice and collection of assessments.

The director of finance shall forthwith publish notice of assessment once in at least one daily newspaper of general circulation in the County, and notify the several owners of the assessment units assessed, respectively, by registered letter or certified mail with request for a return receipt, of the several amounts assessed on the respective assessment units and of the date and place the assessments are payable. Such mailed notice shall be addressed to the owners appearing in the records of the real property tax division of the department of finance, County of Hawaiʻi, as the addresses appear in the records, or as otherwise known to the director of finance if not shown in the records. The director of finance shall also collect the assessments and set aside all moneys collected in a special fund or funds for the frontage improvement or improvement district, as the case may be.

(1983 CC, c 12, art 3, sec 12-31; am 2002, ord 02-82, sec 17.)

Section 12-32. Assessment as lien; order of priority; mistakes or errors.

(a) All assessments made pursuant to this chapter shall be a lien against each assessment unit assessed from the date of the first publication of the ordinance

declaring the assessment until paid and shall have priority over all other liens except the lien of property taxes and for other public purposes. The lien of assessments levied pursuant to this chapter shall be on a parity with the lien of property taxes and liens for other public purposes. As between liens of assessments made pursuant to this chapter, the earlier lien shall be superior to the later lien.

(b) No delay, mistake, error, defect, or irregularity in any act or proceeding authorized by this chapter shall prejudice or invalidate any assessment. The delay, mistake, error, defect or irregularity may be remedied by subsequent or amended acts or proceedings and, when so remedied, the same shall take effect as of the date of the original act or proceeding.

(c) If in any court of competent jurisdiction any assessment made under this chapter is set aside for irregularity in the proceedings, the council may, upon notice as required in making an original assessment, make a new assessment in accordance with the provisions of this chapter.

(1983 CC, c 12, art 3, sec 12-32; am 2002, ord 02-82, sec 17.)

Section 12-33. Due date of payments; election to pay by installments.

All assessments under this chapter shall be due and payable within thirty days after the date of the last publication of the ordinance; provided that any assessments may, at the election of the owner of the assessment unit assessed, be paid in installments with interest, as hereinafter provided. Failure to pay the whole of any assessment within the period of thirty days shall be conclusively considered and held an election on the part of all persons interested in such assessments, whether under disability or otherwise, to pay in installments. All persons so electing to pay in installments shall be conclusively considered and held to have consented to the improvement and such election shall be conclusively held and considered as a waiver of any and all right to question all power or jurisdiction of the County to make the improvement, the regularity or the sufficiency of the proceedings, or the validity or correctness of the assessment.

(1983 CC, c 12, art 3, sec 12-33; am 2002, ord 02-82, sec 17.)

Section 12-34. Payment of installments.

(a) In case of an election to pay any assessment in installments, the assessment shall be payable in not less than five nor more than twenty annual installments of principal; provided that, in the case of improvements financed by bonds issued to secure loans from the federal government, the maximum number of annual principal installments may be increased so as to permit the repayment of the principal of such bonds over a period not to exceed thirty-five years from the date of issuance; and provided further that the council may, in its discretion, determine the date on which payment of such annual installments shall commence, which date shall be no more than three years from the thirty-first day following the last publication of the ordinance required to be enacted pursuant to section 12-29. The annual installments shall be in such amounts as determined by the council, and each annual installment may be made payable in up to twelve equal monthly or

other periodic installments; provided that principal, interest or both on any bonds outstanding due prior to collection of annual assessment shall be paid in accordance with section 12-49, and except as provided in sections 12-44, 12-45, and 12-46 regarding temporary advances, shall not be paid out of any moneys available in the County treasury. Interest in all cases shall be paid on the unpaid principal, at such rate or rates as may be determined by the council.

(b) The date on which such annual installments shall commence, the number of such annual installments, the respective amounts of the annual installments, the period of payment, and the rate of interest shall be as determined by the council. Interest for each year may be computed and collected up to the next succeeding date for payment of principal and interest on the bonds issued pursuant to sections 12-44, 12-45, and 12-46, no deduction being made by reason of any installment being due and payable prior to such date; provided, that after the annual installments are determined and fixed if it appears to be of advantage to the assessee, the council may permit the director of finance to accept payments in monthly installments as hereinabove provided.

(1983 CC, c 12, art 3, sec 12-34; am 1984, ord 84-17, sec 1; am 2002, ord 02-82, sec 17; am 2011, ord 11-65, sec 2.)

Section 12-35. Advance payment of assessment installment.

The owner of any assessment unit subject to unpaid assessment installments which are not delinquent may, at any time after the thirty day period specified in section 12-33, pay the entire unpaid principal provided the total of the following sums are also paid therewith:

(1) An amount to be fixed by the director of finance for publishing notice calling bonds;

(2) Interest on the unpaid principal to the interest due date on the bonds next succeeding forty-five days after the date of advance payment, plus interest for an additional six months on any portion of the unpaid principal which is not evenly divisible by $1,000; and

(3) The premium required to be paid on advance payment of installments, if any, as specified in the resolution adopted by the council pursuant to section 12-10. The premium shall not exceed five percent of the unpaid amount.

(1983 CC, c 12, art 3, sec 12-35; am 2002, ord 02-82, sec 17.)

Section 12-36. Installment collection expense.

The director of finance may add to each annual installment on assessments an amount not less than one-half of one percent of the amount of the installment, both principal and interest, to cover the expenses of collection; provided that the council may increase such percentage to the extent the council determines from data presented by the director of finance that an increased percentage is necessary to cover the collection expenses. Such percentage when collected shall belong to the County.

(1983 CC, c 12, art 3, sec 12-36.)

Section 12-37. Payment in bonds.

The director of finance may accept in lieu of cash in payment of any assessment, installment thereof, interest, penalty, cost, expense or any portion thereof, bonds of the improvement district in which the assessment unit is situated, whether such bonds are outstanding or hereafter issued, to a value of par, plus accrued interest to the date of acceptance of such bonds by the director of finance. Upon the receipt of such bonds, the director of finance shall cancel the bond and credit the improvement district with the amount allowed on the bonds.

(1983 CC, c 12, art 3, sec 12-37; am 2002, ord 02-82, sec 17.)

Section 12-38. Failure to pay installments.

(a) Failure to pay any installment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately, and the delinquent installment or installments shall thereafter bear penalty at the rate of two percent per month or fraction of a month from the date of delinquency until the day of sale as provided in this chapter. At any time prior to the date of sale, the owner may pay the amount of all delinquent installments, with penalty, and all costs and expenses accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been made.

(b) The council may, by resolution, approve a waiver of such amounts of penalty and upon such terms, as it finds is needed to induce payment of substantial funds to be used for the payment of obligations which are owed and which will be owing to bondholders; in approving such a waiver, due consideration shall be given to an equitable apportionment of the costs of the affected improvement district among the various assessed assessment units.

(1983 CC, c 12, art 3, sec 12-38; am 1982, ord 777, sec 2; am 2002, ord 02-82, sec 17.)

Section 12-39. Owner of undivided interest.

The owner of any undivided interest in any assessment unit may pay the whole assessment thereon and may have a joint or several right of action against the other owners of any interest in the assessment unit for their proportionate share of the assessments.

(1983 CC, c 12, art 3, sec 12-39; am 2002, ord 02-82, sec 17.)

Section 12-40. Sale for default.

(a) In case of default in the payment of any installment of principal and interest when due, the director of finance may within one hundred twenty days after such default commences advertise and sell the assessment unit concerning which default is made for the whole of the unpaid assessment thereon, interest and costs. The period of default shall not exceed one year before foreclosure action is initiated. The purchaser of such assessment unit shall be permitted to pay in cash the total amount of the delinquent installment or installments of principal and interest and penalty, and the balance in equal annual or monthly installments as originally

provided, in which event the lien of the unpaid assessment shall remain in full force and effect until final payment of such balance. Such sale and advertisement shall be made by the director of finance in the same manner, under the same conditions and penalties and with the same effect as provided by general law for sales of real property for default in payment of property taxes.

(b) In the event of the failure of the director of finance to so commence and diligently complete advertisement and sale of the assessment unit pursuant to the provisions of this section, the director of finance shall not be personally liable for such failure, but if a default exists in payment of principal or interest upon bonds, issued to represent an assessment for which any such installment of principal and interest is in default, or if the levy has been made or it appears probable that the levy will be required to be made, the holder of such bonds in the former case, and any persons who are owners of the assessment units subject to such levy and liable to pay same in the latter case, or both, shall have the right to enforce performance of the duties of the director of finance hereunder by action in the nature of mandamus, as provided by law.

(1983 CC, c 12, art 3, sec 12-40; am 2002, ord 02-82, sec 17; am 2011, ord 11-65, sec 3.)

Section 12-41. Purchase at sale.

At any sale for default in payment of any assessment levied as provided in this chapter, the director of finance may accept, in lieu of cash, in payment for the assessment unit so sold, bonds of such improvement district whether such bonds are then outstanding or hereafter issued, to a value of par plus accrued interest to date of sale. Upon the receipt of such bonds, the director of finance shall cancel the bonds and credit the improvement district with the amount allowed on the bonds.

(1983 CC, c 12, art 3, sec 12-41; am 2002, ord 02-82, sec 17.)

Section 12-42. Certificate of balance due.

The director of finance shall, on request, give a certificate in writing to any person making request for same, showing in the certificate the balance due on any individual assessment for improvements for principal, with the date of next installment payment, the number of the installment payment and the amount to be due for the installment payment and particulars of interest and penalty on the next installment date to be due and owing.

(1983 CC, c 12, art 3, sec 12-42.)

Section 12-43. Sale of land by director; terms.

Whenever any assessment unit has been bid in by the director of finance at any sale for default of the owner thereof, the director of finance, in making such sale thereof as may by law be authorized, may sell the assessment unit, upon the following terms and conditions:

(1) A down payment at the sale of twenty percent of the sale price;

(2) The balance payable in monthly installments of not less than one and one-third percent of the total sale price, plus interest at the rate of five percent per annum upon all unpaid balances;
(3) Failure for thirty days to pay any installment due shall effect an entire forfeiture of the purchaser's right, title and interest in such assessment unit in any payments previously made by the purchaser on account thereof;
(4) Such building restrictions as the director of finance may prescribe; and
(5) The assessment unit when sold shall be subject to real property taxes.

(1983 CC, c 12, art 3, sec 12-43; am 2002, ord 02-82, sec 17.)

Article 4. Finance and Payment.

Section 12-44. Improvement bonds authorized.

In the event of an election to pay all or part of any such special assessment in installments, the amount required for immediate use to pay the cost of the improvement, or the installments thereof from time to time as they fall due, may be advanced out of any funds available in the general fund or the permanent improvement fund; provided that as soon as practicable, the amounts so necessary shall be secured, and repaid if advances have been made, by the issuance of sufficient district improvement bonds of the County to raise such required amounts.

(1983 CC, c 12, art 4, sec 12-44; am 1984, ord 84-4, sec 3.)

Section 12-45. Contents of bonds.

(a) The director of finance, upon authorizing resolution from the council, may issue improvement bonds. The resolution shall require one reading for its adoption. Improvement bonds shall bear the name of the improvement district, and:
   (1) Shall bear interest at a rate or rates not exceeding a rate or rates established by resolution enacted by the council payable at such time or times;
   (2) May be made payable as to both principal and interest at such place or places and in such manner within and without the State;
   (3) May be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or in fully registrable form without coupons;
   (4) May be made registrable at such place or places within and without the State; and
   (5) May be subject to redemption, to being tendered for purchase or to being purchased prior to their stated maturity at the option of the County, the holder or either or both, all as determined by the council or the director of finance as herein provided.
(b) Unless the council shall itself perform the actions, the director of finance shall:
   (1) Determine the date, denomination or denominations, interest payment dates, maturity date or dates, place or places of payment, registration privileges and place or places of registration, redemption price or prices and time or times and terms and conditions and method of redemption;

(2) The rights of the holder to tender for purchase and the price or prices and time or times and terms and conditions upon which those rights may be exercised;
(3) The rights to purchase and price or prices and the time or times and terms and conditions upon which those rights may be exercised and the purchase may be made; and
(4) Determine all other details of bonds issued under this chapter.

(c) The principal of and interest and premium, if any, on all bonds issued under this chapter shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts. Dates of such payment shall take into account the dates that assessment installments for the improvement district are due. Improvement bonds shall be subject to call but not prior to the second interest date thereof as hereinafter provided and at such premium, if any, as may have been provided for in the resolution authorizing such bonds, but not in excess of the maximum premium provided in the resolution of the council adopted pursuant to section 12-10.

(1983 CC, c 12, art 4, sec 12-45; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11.)

Section 12-46. Execution of bonds; records; funds for payment.

(a) Improvement bonds shall be executed by the director of finance, or by a deputy of the director of finance duly designated by the director to execute such bonds, and issued pursuant to and under the authority and requirements of resolutions of the council. The bonds shall bear the lithographed or engraved facsimile signature of the mayor and shall be impressed with a lithographed or engraved facsimile of the seal of the County. If the council provides that no such improvement bond shall be valid or obligatory unless and until there shall be manually executed a certificate of authentication thereof, all signatures of County officials on the bonds may be facsimiles of their respective signatures. Interest coupons, if any, shall bear the lithographed or engraved facsimile of the signature of the director of finance.

(b) The director of finance shall preserve a record of the bonds in a suitable book kept for that purpose. The council shall provide for books of registry to be kept for the registration of improvement bonds issued in fully registered form or which are subject to registration.

(c) The bonds shall be payable only out of the moneys collected on account of assessments made for the improvement for which they are issued or from the reserve fund established pursuant to section 12-50, if the moneys collected out of assessments are insufficient to pay the bonds or the interest thereon as they become due. The County shall not otherwise guarantee payment of any bonds issued under the provisions of this chapter, provided that interest payments may be advanced by the council temporarily out of any moneys available in the County treasury.

(1983 CC, c 12, art 4, sec 12-46; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11.)

Section 12-47. General obligation bonds and special assessment revolving fund.

(a) For any improvement initiated pursuant to section 12-10 only, the council, in lieu of the issuance of improvement bonds as permitted by sections 12-44, 12-45, and 12-46 may in its sole discretion issue general obligation bonds of the County or authorize payment of the required amount from the special assessment revolving fund of the County or both.

(b) The council shall have power to issue general obligation bonds of the County for the purpose of establishing, maintaining or replenishing the special assessment revolving fund.

(c) All such general obligation bonds shall be authorized, issued and sold under, pursuant to, and in accordance with chapter 47, Hawai‘i Revised Statutes, as amended, all of the provisions of which chapter shall be applicable thereto. 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 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 any such bonds be required to conform in any way to the amounts and due dates of any assessments.

(d) The validity of such general obligation bonds shall not be dependent on or affected in any way by any proceedings taken or any contracts made, acts performed or done in connection with, or in furtherance of, any improvement or any assessments for such improvement.

(e) If the issuance of general obligation bonds are issued as provided in this section, all moneys collected on account of assessments and interest for any improvement that is financed by such bonds, may, to the extent so directed by the council, be applied to the reimbursement of the general fund of the County to the extent of the amounts paid for interest on and principal of such general obligation bonds. Any amounts collected on account of assessments and interest as aforesaid to the extent not so directed by the council to be applied to such reimbursement or in excess of the amounts required for such reimbursement, and amounts collected on account of assessments and interest for any improvement financed from the special assessment revolving fund, shall be appropriated to and become a part of the special assessment revolving fund and may be used and applied as authorized by the council.

(1983 CC, c 12, art 4, sec 12-47; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11.)

Section 12-48. Exemption of general obligation bonds from certain requirements.

The provisions of sections 12-49, 12-50, 12-51,* 12-52, 12-53, 12-54 and 12-55* shall not apply to the general obligation bonds authorized by section 12-47 and such sections shall be restricted in their application to improvement bonds, nor shall the provisions of article 5 of this chapter apply to such general obligation bonds unless the council in its

sole discretion shall consent to the application of such provisions to such bonds. The refunding of any such general obligation bonds shall not in any way affect the payment of assessment installment and the interest thereon or the amounts and times of such payments unless such refunding is part of a plan consented to by the council and adopted under article 5 of this chapter.
(1983 CC, c 12, art 4, sec 12-48; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11.)

*** Editor's Note:** Sections 12-51 and 12-55, Hawaiʻi County Code, were repealed by Ordinances 84-4 and 90-127.

Section 12-49. Special fund for administrative and pre-formation costs and payment of bonds; use of surplus; insufficient funds.

(a) All moneys collected on account of assessments and interest for any improvement after the issuance of any bonds shall be kept by the director of finance in a special fund and applied to the payment of interest and principal of bonds and administrative costs issued for the improvement until the bonds have been paid. The director of finance of the County shall pay the principal of the bonds at maturity and the interest thereon as and when the same become due at the place or places and in the manner prescribed for the payment under this chapter and the proceedings authorizing those bonds from such special fund.

(b) If any surplus remains in any special fund after the disbursement of funds described in section 12-28.1 of this chapter, such surplus or premium shall be credited to and become a part of a fund to be known as the improvement district revolving fund, the moneys in which shall be available to make up deficiencies in the proceeds of bonds sold below par, to cover deficiencies in interest realized on account of diminishing balances of installments outstanding, and to advance interest due on bonds outstanding prior to collection of annual assessments, and also for the purpose of paying all expenses in connection with the sale of delinquent improvement district assessment units and the prices of the delinquent assessment units as are bid for and purchased by the director of finance. The director of finance may upon such purchase, transfer the proper amounts so bid to the proper special funds for the respective improvement districts concerned. The director of finance may also use the improvement district revolving fund to advance the cost of pre-formation activities pursuant to section 12-7 with the expectation that the improvement district revolving fund will be reimbursed after the improvement district is formed.

(c) If moneys in the applicable special fund prove insufficient at any time to pay the principal and interest, or the interest only, as the case may be, on bonds outstanding, moneys shall be transferred from the reserve fund established pursuant to section 12-50, or from the improvement district revolving fund into such special fund in such amounts as will enable the director of finance to make the payments of principal or interest, or interest only, as the same becomes due.

(1983 CC, c 12, art 4, sec 12-49; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11; am 2002, ord 02-82, sec 18; am 2011, ord 11-101, sec 2.)

Section 12-50. Reserve fund.

(a) The council may provide in the resolution adopted pursuant to section 12-10 for a reserve fund as additional security for the payment of principal and interest on improvement bonds issued in proceedings taken pursuant to this chapter. The reserve fund shall be initially funded from the proceeds from the sale of improvement bonds with respect to which such reserve fund is established in such amount as is designated by the council in the resolution authorizing such bonds. Moneys in a reserve fund shall be used in accordance with the provisions of section 12-49 and to pay the principal or interest, or both, in whole or in part, on the last outstanding maturity or maturities of the bonds, and assessment installments or such portions thereof which would otherwise be collected to make such payments shall be canceled, provided that in making use of moneys in the reserve fund to pay principal or interest, or both, on the last outstanding maturity or maturities of the bonds, the director of finance shall make provisions for expected delinquencies in payment of any portions of assessment installments which will not be canceled by such use of the reserve fund, and provided further that insofar as the moneys are attributable to fully paid assessments rather than to cancellation of installments or portions thereof, the moneys shall be paid pro rata to the persons who at the time of such apportionment own (as shown on the records of the County tax office) the assessment units subjected to the assessments.

(b) There shall be transferred to the improvement district revolving fund of the County:

(1) Any portion of such moneys which shall not have been paid to or claimed by the persons entitled thereto within two years after the due date of the last bonds; and

(2) Any interest earned from the investment of such moneys during the two year period.

(1983 CC, c 12, art 4, sec 12-50; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 11; am 2002, ord 02-82, sec 18.)

Section 12-51. Repealed.

(1983 CC, c 12, art 4, sec 12-51; rep 1984, ord 84-4, sec 3.)

Section 12-52. Place of payment of bonds.

The principal and interest of the bonds shall be payable at the office of the director of finance and may also be made payable at the office of any bank, fiduciary company, or in such other places as may be determined by the council, provided that interest on registered bonds may be payable by check or draft mailed to the registered holders as provided by the council. In all cases, the bonds and coupons, if any, shall recite the places and manner of payment. In case any bonds are made payable elsewhere than in Hilo, Hawai‘i, the director of finance shall remit the funds necessary to pay the interest and principal when due, of any such bonds, to the institution so designated, first assuring that such institution is then solvent.

(1983 CC, c 12, art 4, sec 12-52; am 1984, ord 84-4, sec 3.)

Section 12-53. Sale of bonds; use as payment to contractor.

(a) The director of finance may make such arrangements as may be necessary or proper for the sale of each issue of bonds or part thereof as are issued under this article, including without limitation, arranging for the preparation and printing of the bonds, the official statement and any other documents or instruments deemed required for the issuance and sale of bonds and retaining those financial, accounting, and legal consultants, all upon such terms and conditions as the director of finance deems advisable and in the best interest of the County. The council may authorize the director of finance to offer the bonds at competitive sale or to negotiate the sale of the bonds to:

(1) Any person or group of persons;

(2) The United States of America, or any board, agency, instrumentality, or corporation thereof;

(3) The employees retirement system of the State;

(4) Any political subdivision of the State;

(5) Any board, agency, instrumentality, public corporation, or other governmental organization of the State; or of any political subdivision of the State.

(b) Subject to any limitation imposed by the council by the ordinance or resolution authorizing the bonds, the sale of the bonds by the director of finance by negotiation shall be at such price or prices and upon such terms and conditions, from time to time in such manner, as the director of finance shall approve.

(c) Subject to any limitation imposed by the council by the resolution authorizing the bonds, the sale of the bonds by the director of finance at competitive sale shall be at such price or prices and upon such terms and conditions, and the bonds shall bear interest at such rate or rates or such varying rates determined from time to time in the manner, as specified by the successful bidder, and the bonds shall be sold in accordance with this subsection. The bonds offered at competitive sale shall be sold only after published notice of sale advising prospective purchasers of the proposed sale. The bonds offered at competitive sale may be sold to the bidder offering to purchase the bonds at the lowest interest cost, the interest cost, for the purpose of this subsection, being determined on one of the following bases as selected by the director of finance:

(1) The figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;

(2) Where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment); or

(3) Where the interest on the bonds is payable other than annually or semiannually or will vary from time to time, upon such basis as, in the opinion of the director of finance, shall result in the lowest cost to the County; provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Bonds offered at competitive sale, without further action of the council, shall bear interest at the rate or rates specified by the successful bidder or varying rate or rates determined from time to time in the manner specified by the successful bidder with the consent of the director of finance. The notice of sale required by this section shall be published at least once and at least five days prior to the date of the sale in a newspaper circulating in the County and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in such form and contain such terms and conditions as the director of finance shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to the prospective purchasers and which sets forth the specific details of the bonds and terms and conditions upon which such bonds are to be offered. The notice of sale published and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either published in the same newspapers in which the notice of sale has been published or transmitted via electronic communication systems deemed proper by the director of finance which is generally available to the financial community, in either case at least forty-eight hours prior to the time fixed for the sale.

(e) The proceeds of the sale of bonds shall be applied to pay the contract price. If no purchaser is found, the County may be the purchaser of any such bonds, using any funds available and unspent. Bonds sold to a purchaser other than the County may be sold for such discount as is acceptable to the council.

(f) The council may provide for payment to the contractor of the contract price of the improvement by means of progress payments during the period of the work, such payments in bonds at par or in cash or both.

(1983 CC, c 12, art 4, sec 12-53; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 12.)

Section 12-54. Payment of bonds.

(a) All improvement bonds not previously paid shall be paid at maturity together with interest thereon as the same become due at the places and in the manner prescribed by this chapter.

(b) The resolution of the council authorizing improvement bonds may provide that such bonds may be called for redemption prior to the stated maturity. In such event, on and after the second interest due date of any such improvement bonds issued pursuant to this chapter, whenever sufficient funds are in the hands of the director of finance by reason of payment of assessment installments, exceeding the next interest payment on the unpaid balance of any bonds so issued, the director of finance is authorized to call for payment prior to the stated maturity thereof such

number of improvement bonds as there are funds to pay. The resolution of the council authorizing the improvement bonds shall provide for proper and adequate notice of such redemption to be published or mailed or both prior to the date fixed for redemption. A copy of such notice shall also be mailed to the person who purchased such bonds at the original sale thereof. Interest on the bonds so called for payment shall cease on the date of call, provided that the notice shall be published or mailed at least fifteen days before the date of such call. If notice must be made by publication, a second publication shall be made not less than one week after the date of first publication. The moneys provided for the payment of such bonds with the interest unpaid to the date of their call for payment, together with any applicable premium payable, shall be set aside by the director of finance in a special deposit to which fund only the owners of the bonds shall thereafter look for payment.

(c) Improvement bonds shall be selected for redemption in the manner prescribed by the council.

(d) Any premium paid on redemption may not exceed five percent of the face amount of the improvement bond.

(1983 CC, c 12, art 4, sec 12-54; am 1984, ord 84-4, sec 3; am 1990, ord 90-127, sec 12.)

Section 12-55. Repealed.

(1983 CC, c 12, art 4, sec 12-55; am 1984, ord 84-4, sec 3; rep 1990, ord 90-127, sec 13.)

Section 12-55.1. Exemption from taxes.

(a) All bonds heretofore or hereafter issued under the authority of this chapter and the income therefrom shall be exempt from any and all taxation by the State or any County or other political subdivision thereof, except inheritance, transfer, and estate taxes.

(b) Bonds issued under this chapter, to the extent practicable, shall be issued so as to comply with requirements imposed by valid Federal law providing that the interest on those bonds shall be excluded from gross income for Federal income purposes (except as certain minimum taxes or environmental taxes may apply). The director of finance is authorized to enter into arrangements, establish funds or accounts, and take any action required in order to comply with any valid Federal law. Nothing in this chapter shall be deemed to prohibit the issuance of bonds, the interest on which may be included in gross income for Federal income tax purposes.

For the purpose of ensuring that interest on bonds issued pursuant to this chapter which is excluded from gross income for Federal income tax purposes (except as provided above) on the date of issuance shall continue to be so excluded, no County officer or employee or user of an undertaking or loan program shall authorize or allow any change, amendment, or modification to an undertaking or loan program financed or refinanced with the proceeds of the bonds which change,

amendment or modification would affect the exclusion of interest on the bonds from gross income for Federal income tax purposes unless the change, amendment, or modification shall have received the prior approval of the director of finance. Failure to receive the approval of the director of finance shall render any change, amendment, or modification void.

(1990, ord 90-127, sec 14.)

Section 12-56. Bonds not chargeable against general revenue.

No improvement bonds issued under the provisions of this chapter shall be considered as County bonds within the meaning of section 248-5, Hawai‘i Revised Statutes, nor shall the payment of same be a charge against the general revenues of the County.

(1983 CC, c 12, art 4, sec 12-56; am 1984, ord 84-4, sec 3.)

Section 12-57. Errors in computation of amount due.

No improvement bond, coupon, assessment or installation thereof or of the interest or penalties thereon, or certificate of sale or deed shall be held invalid for any error in the computation of the proper amount due on the same, if the error is found to be comparatively negligible.

(1983 CC, c 12, art 4, sec 12-57; am 1984, ord 84-4, sec 3.)

Article 5. Refunding.

Section 12-58. Refunding authorized.

The council may provide for the refunding of the outstanding indebtedness of improvement districts located within the County in the manner provided in this article.

(1983 CC, c 12, art 5, sec 12-58.)

Section 12-59. Initiation of refunding.

(a) The owners of assessment units in any improvement district whose assessment units represent seventy-five percent or more of the outstanding improvement assessments at the time of the filing of the petition shall, if it is desired that the indebtedness of the district be refunded, file with the council a petition, which petition shall set forth the indebtedness of the district, that it is desired that the indebtedness be refunded, and the proposed method of refunding the outstanding indebtedness.

(b) The council shall thereupon, by resolution requiring not more than one reading for its adoption, direct the director of finance to investigate and report to the council:
   (1) The amount of unpaid assessments and the assessment units subject to the assessment in the improvement district;
   (2) The detail of any delinquent assessments and of any unpaid penalties;
   (3) Whether the petitioners own assessment units representing seventy-five percent or more of the unpaid assessments in the district;

(4) The proposed method of reassessment of the assessment units subject to existing assessments;
(5) A new assessment roll showing the proposed new assessments;
(6) The cost of the proposed refunding scheme; and
(7) Other details which may be necessary to carry into effect the proposed refunding project.

(c) The report of the director of finance shall be filed with the council.

(d) Thereafter the council shall, by resolution requiring one reading for its adoption, propose the adoption of the suggested refunding plan specifying:
(1) The outstanding indebtedness of the district;
(2) That the owners of assessment units representing not less than seventy-five percent of the unpaid improvement assessments have petitioned that the outstanding indebtedness of the district be refunded;
(3) The proposed refunding plan in detail; and
(4) The proposed method of reassessment, including the minimum number of installment payments to be proposed, and the maximum amount to be assessed against a unit of assessment.

The resolution shall refer to and incorporate by reference the preliminary assessment roll and such other data reported by the director of finance as shall be approved by the council. The resolution shall also fix the date of public hearing upon such plan, which date shall not be less than fifteen days after the first publication of notice thereof in a newspaper of general circulation in the County. In addition, the resolution may require the petitioners to deposit with the director of finance, within seven days after adoption of such resolution, a sum sufficient to meet the cost of the refunding project as reported by the director of finance, in which case the holding of the public hearing and any other actions of the County with respect to the refunding shall be conditioned on the making of such deposit within such period.

(e) After the adoption of the resolution, the clerk shall cause a notice of the public hearing to be published as provided in section 12-10, giving notice generally to all owners of the assessment units still under assessment in the improvement district, stating the time and place of the public hearing and where the resolution, preliminary assessment roll and other data may be seen and examined prior to the hearing. Like notices shall be posted in three of the most conspicuous places in the improvement district for which the outstanding bonds are issued. Affidavits of publication, both in the newspaper and of the posting, respectively, shall be filed with the council at the hearing.

(1983 CC, c 12, art 5, sec 12-59; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 19; am 2011, ord 11-66, sec 12.)

Section 12-60. Protest against refunding.

(a) Any owner of an assessment unit, the assessments on which to pay the outstanding indebtedness have not been fully discharged, may at any time prior to or at the public hearing, file in writing with the council any protest, objection or suggestion

as to the proposed refunding measure, stating briefly the reason therefor, or may present the same in person orally at the public hearing. If the owners of assessment units representing thirty percent or more of the outstanding improvement assessments shall at the hearing, or prior thereto, file with the council written protests duly acknowledged by the owners against the proposed refunding project, or against any part of the refunding plan, the refunding shall not be made contrary to protest. If the protest is against the adoption of any refunding plan, the plan shall not be made, and the proceedings shall not be renewed within one year from the date of closing the public hearing, unless each owner protesting shall sooner withdraw the protest.

(b) The council shall also at the hearing sit as a board of equalization to receive complaints or objections respecting the total amounts of the proposed assessments.

(1983 CC, c 12, art 5, sec 12-60; am 2002, ord 02-82, sec 19.)

Section 12-61. Determination by council.

(a) After the hearing, the council shall consider any protests or suggestions which may have been made or filed and whether sufficient valid protests have been filed to compel it to abandon the proposed refunding plan. If the council has jurisdiction to continue, it shall then proceed to determine whether or not the refunding plan shall be adopted as proposed, or adopted with modifications. In the latter event the clerk shall be directed to give notice again of the hearing as provided in section 12-59.

(b) If after such initial and further advertisement and hearing the council determines to proceed with the refunding measure, it shall, by ordinance, promulgate the refunding measure. Should the refunding project provide for the issuance of new bonds in the improvement district, the ordinance shall provide for the form of new bonds to be issued, approve of the assessment roll, and incorporate the assessment roll by reference. The assessment roll, as provided in section 12-26* shall contain only the names of the owners of assessment units who have not fully paid the assessments originally provided for the payment of the outstanding improvement bonds and shall provide for the levying of new assessments in amounts sufficient to retire the refunding bonds to be issued pursuant to the terms hereof.

(c) After the final enactment of the ordinance, the amounts of the several assessments listed, advertised or incorporated, not previously objected to, shall conclusively be presumed to be just and equitable and not in excess of the special benefits accruing or to accrue by reason of the original improvement project. Upon final passage of the ordinance as provided above, all assessments therein made shall be a lien in the same manner and to the same extent as provided in section 12-32; provided, that in no case shall this new assessment constitute a lien on any assessment unit which has been discharged from the payment of the original assessment.

(1983 CC, c 12, art 5, sec 12-61; am 2001, ord 01-123, sec 2; am 2002, ord 02-82, sec 19.)

*** Editor's Note:** See section 12-27, Hawai'i County Code, regarding preliminary assessment rolls.

Section 12-62. Refunding bonds.

(a) Improvement bonds issued for the refunding of the outstanding indebtedness of any improvement district shall bear the name of the improvement district for which they are issued, and shall be issued and sold under all the conditions and terms as prescribed by article 4 of this chapter, except as otherwise prescribed in this chapter.

(b) A lower rate of interest than that authorized in the original issue of improvement bonds may be prescribed and the refunding bonds may be authorized to run for a term not to exceed fifteen years from the final maturity date of the outstanding bonds.

(1983 CC, c 12, art 5, sec 12-62; am 1984, ord 84-4, sec 4.)

Section 12-63. Petition by all owners.

If the petition is filed and acknowledged by the owners of assessment units representing one hundred percent of the unpaid assessments in any improvement district, and by all lessees of any assessment unit to be assessed, who, by the express terms of their respective leases must pay the kind of assessments contemplated by this article, unless the lessor of such lease files with the petition a duly acknowledged waiver of the stipulation in the lease which requires the lessee to pay such special assessments, and a written undertaking by the lessor or owner to pay the special assessments to be made under the proposed refunding plan, then the council shall proceed as provided above to have a hearing on the proposed new method of assessment and the assessment roll; provided that in case the owners of assessment units representing one hundred percent of the unpaid assessment as provided in this section consent, in writing, to the amount and apportionment of the proposed assessments under the refunding plan, it shall be unnecessary to give the notice or to hold any of the hearings specified above and the council may immediately proceed to fix the assessment in the manner provided; and provided further that the council may by resolution require the petitioners to deposit with the director of finance, within seven days after adoption of such resolution, a sum sufficient to meet the cost of the refunding project as reported by the director of finance, in which case the holding of the public hearing (if applicable) and any other actions of the County with respect to the refunding shall be conditioned on the making of such deposit within such period.

(1983 CC, c 12, art 5, sec 12-63; am 2001, ord 01-108, sec 1; am 2002, ord 02-82, sec 19; am 2011, ord 11-66, sec 13.)

Section 12-64. Cancellation of retired bonds.

Should the refunding project provide for the retirement of the outstanding bonds of the improvement district, the director of finance shall stamp the retired bonds "canceled" and shall keep such canceled bonds in his possession.

(1983 CC, c 12, art 5, sec 12-64.)

Section 12-65. Obligations unimpaired.

Nothing in this article shall be construed as giving the council or any improvement district authority to impair the obligations of the improvement district under any outstanding improvement district bonds.

(1983 CC, c 12, art 5, sec 12-65.)

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CHAPTER 13

MINORS

Article 1. Curfew.

Section 13-1.	Minors under fifteen prohibited on public streets or places during certain hours; exceptions.
Section 13-2.	Minors under eighteen prohibited on public streets or places during certain hours; exceptions.
Section 13-3.	Penalty.
Section 13-4.	Parent or guardian responsible; penalty.
Section 13-5.	Business operator's responsibility; penalty.
Section 13-6.	Child under six to be with parent or guardian; exception.
Section 13-7.	Duty of parent and guardian; penalty.

Article 2. Intoxicating Liquors.

Section 13-8.	Definitions.
Section 13-9.	Minors drinking intoxicating liquor prohibited.
Section 13-10.	Penalty.

Article 3. Toy Rifles.

Section 13-11.	Definition.
Section 13-12.	Minor prohibited from use of toy rifle; exceptions.
Section 13-13.	Parent or guardian responsible.
Section 13-14.	Transfer to minor prohibited.
Section 13-15.	Forfeiture to County.
Section 13-16.	Penalty.

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CHAPTER 13

MINORS

Article 1. Curfew.

Section 13-1. Minors under fifteen prohibited on public streets or places during certain hours; exceptions.

No person under the age of fifteen years shall remain or loiter on any public street, highway, park, or any other public place, including any establishment catering to the public where food, drink, entertainment, or recreational activities are provided, between the hours of 10:00 p.m. and 4:00 a.m. except in case of necessity or unless accompanied by the person's parent, legal guardian, or an authorized person eighteen years or older.
(1983 CC, c 13, art 1, sec 13-1.)

Section 13-2. Minors under eighteen prohibited on public streets or places during certain hours; exceptions.

No person under the age of eighteen years shall remain or loiter on any public street, highway, park, or any other public place, including any establishment catering to the public where food, drink, entertainment, or recreational activities are provided, between the hours of 12:30 a.m. and 4:00 a.m. unless accompanied by the person's parent, legal guardian, or an authorized person eighteen years or older.
(1983 CC, c 13, art 1, sec 13-2.)

Section 13-3. Penalty.

Any minor violating section 13-1 or section 13-2 of this article shall be subject to adjudication under section 571-11(1), Hawai'i Revised Statutes.
(1983 CC, c 13, art 1, sec 13-3.)

Section 13-4. Parent or guardian responsible; penalty.

Any parent or legal guardian of a person under the age of eighteen years who knowingly permits the person to violate either section 13-1 or section 13-2 hereof shall be fined not more than $500.
(1983 CC, c 13, art 1, sec 13-4.)

Section 13-5. Business operator's responsibility; penalty.

Any keeper of an establishment catering to the public where food, drink, entertainment, or recreational activities are provided who knowingly permits any child under the age of fifteen years to remain upon the premises between the hours of 10:00 p.m. and 4:00 a.m. unless the child is accompanied by the child's parent, legal guardian, or an authorized person eighteen years or older, or who knowingly permits a child between the ages of fifteen and eighteen years to remain or loiter upon the premises between the hours of 12:30 a.m. and 4:00 a.m. unless accompanied by the child's parent, legal guardian, or an authorized person eighteen years or older, shall be fined not more than $25.
(1983 CC, c 13, art 1, sec 13-5.)

Section 13-6. Child under six to be with parent or guardian; exception.

(a) No child under the age of six years shall be permitted to go or remain on any public street or highway in the County except in the company of the child's parents, guardian or an adult person.

(b) This section shall not be applicable where a child under the age of six years is going to or from public or private schools.

(1983 CC, c 13, art 1, sec 13-6.)

Section 13-7. Duty of parent and guardian; penalty.

Any parent or guardian, having the care, custody and control of a child under the age of six years, who knowingly, voluntarily, or carelessly permits such child to go or remain on any public street or highway in the County unaccompanied by an adult person when the child is not going to or from schools, public or private, shall be punished by a fine of not less than $5 and not more than $100.

(1983 CC, c 13, art 1, sec 13-7.)

Article 2. Intoxicating Liquors.

Section 13-8. Definitions.

(a) As used in this article:

(1) "Intoxicating liquor" includes alcohol, brandy, whiskey, rum, gin, ʻōkolehao, sake, beer, ale, porter, and wine; and also includes, in addition to the foregoing, any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, in whatever form and of whatever constituency and by whatever name called, containing one-half percent or more of alcohol by volume, which are fit for use or readily converted for use for beverage purposes.

(2) "Minor" means any person below the age of twenty-one years.

(3) "Public place" means any place, building or passenger conveyance to which the public resort or are generally permitted to have access, except duly licensed establishments regulated and controlled by the liquor commission of the County.

(1983 CC, c 13, art 2, sec 13-8; am 1987, ord 87-3, sec 1.)

Section 13-9. Minors drinking intoxicating liquor prohibited.

(a) No person shall provide, serve, or offer for drink, any intoxicating liquor in any public place to any minor. The duty to ascertain the age of any person drinking in any public place is the responsibility of such provider, server, or offerer.

(b) No minor shall drink or consume any intoxicating liquor in any public place.

(1983 CC, c 13, art 2, sec 13-9.)

Section 13-10. Penalty.

Any person violating any provision of this article shall be punished by a fine not to exceed $200.

(1983 CC, c 13, art 2, sec 13-10.)

Article 3. Toy Rifles.

Section 13-11. Definition.

As used in this article, "toy rifle" means any weapon using compressed air or spring as the propelling force to eject therefrom a projectile in the shape of a ball, pellet, or rod of any type of material or any weapon of similar design, nature, or function, whether usable or unusable, serviceable or unserviceable, or modern or antique.
(1983 CC, c 13, art 3, sec 13-11.)

Section 13-12. Minor prohibited from use of toy rifle; exceptions.

(a) No minor under the age of eighteen years shall own, acquire by purchase, gift or otherwise, possess, use, operate, or play with a toy rifle.
(b) Any person under the age of eighteen years, while under the immediate supervision of an adult, may possess, use, operate, or play with a toy rifle.
(c) No person under the age of eighteen years, under any circumstances, shall possess, use, operate, or play with a toy rifle in any public place, except while under supervision of an adult upon a bona fide public range.

(1983 CC, c 13, art 3, sec 13-12.)

Section 13-13. Parent or guardian responsible.

No parent, guardian or any other person having the care, custody, or control of any minor under the age of eighteen shall permit the minor to own, acquire by purchase, gift, or otherwise, possess, use, operate, or play with a toy rifle, except as provided in section 13-12.
(1983 CC, c 13, art 3, sec 13-13.)

Section 13-14. Transfer to minor prohibited.

No person shall sell, transfer or give a toy rifle to any minor under the age of eighteen years.
(1983 CC, c 13, art 3, sec 13-14.)

Section 13-15. Forfeiture to County.

All toy rifles owned, carried, or possessed contrary to this article shall be forfeited to the County, and shall be destroyed or retained by the chief of police for use by and under the control of the police department.
(1983 CC, c 13, art 3, sec 13-15.)

Section 13-16. Penalty.

Any person violating any of the provisions of this article shall, upon conviction, be punished by a fine not to exceed $100.
(1983 CC, c 13, art 3, sec 13-16.)

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CHAPTER 14

GENERAL WELFARE

Article 1. Alcoholic Beverages.

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CHAPTER 14

GENERAL WELFARE

Article 1. Alcoholic Beverages.

Section 14-1. Intoxicating liquors prohibited in certain public places.

(a) No person shall drink, offer to drink, or display in public view in the following public areas or buildings located thereon, any intoxicating liquors, whether in a bottle, jug, container or otherwise:

(1) Public highways and public rights-of-way, public sidewalks, public breakwaters and public seawalls, except seawalls in parks where drinking is not prohibited;

(2) Public parking lots, which for the purposes of this section shall mean the entire area within any County-owned or operated off-street parking lot or facility, including but not limited to parking and loading stalls, designated parking areas within County parks, landscaping strips, stairwells and pedestrian passageways, internal roadways, and roadways for ingress to and egress from such parking lot or facility;

(3) Public school grounds and buildings;

(4) Public areas or buildings contiguous to all public school grounds and buildings, except as provided herein;

(5) Public parks, except parks enumerated in section 14-2, on which children's playground equipment, such as slides, jungle gyms, seesaws and swings are located;

(6) That certain portion of parcel 24 consisting of some twenty-seven thousand ninety-nine square feet, more or less, being a portion of the property designated upon the tax maps of the Third Taxation Division as Tax Map Key No. (3)1-5-2-24, and located in Pāhoa, District of Puna, County and State of Hawai‘i;

(7) South Hilo:

(A) Ainaola Park;

(B) Clem Akina Park;

(C) Ahualani Park;

(D) All public areas, except Coconut Island, located on the Waiākea Peninsula, makai of Kamehameha Avenue-Kalaniana‘ole Avenue from the Wailoa River estuary to the site of the former Reeds Bay Restaurant (TMK Nos. 2-1-06:11, 12, 19, and 20);

(E) Drag Strip, Hilo;

(F) Kalākaua Park;

(G) Kaūmana Caves;

(H) Keikiland;

(I) Lanakila Center;

(J) Lincoln Park;

(K) Lōkahi Park;
(L) Moʻoheau Park;
(M) Panaʻewa Park;
(N) Honoliʻi Beach Park;
(O) Richardson Park and Center;
(P) Skeet and Trap Range;
(Q) Waiākea Recreation Center;
(R) Waiākea-Waena Playground;
(S) Waiolama Canal Archery/Jogging Area;
(T) Zoo, Panaʻewa Rainforest;
(U) All cemeteries;
(V) All swimming pools;
(W) All tennis courts (except Edith Kanakaole);
(X) Bakers Beach;
(Y) Hualani Park;
(Z) Mohouli Park;
(AA) Waiʻolena and Waiʻuli Beach Parks, portion located between the pavilions and the west end of the seawall beginning at a point four-tenths of a mile west of Leleiwi Street and extending three hundred twelve feet in the westerly direction.

(8) North/South Kona:
(A) Kailua Playground;
(B) Kuʻemanu Heiau;
(C) Kailua Park, except as provided in section 14-2(a)(2)(F);
(D) All swimming pools;
(E) All tennis courts;
(F) Higashihara Park;
(G) Hillcrest Park;
(H) Kona Scenic Park;
(I) Laʻaloa Bay Beach Park.

(9) Kaʻū:
(A) Pāhala School Ground;
(B) All swimming pools;
(C) All tennis courts.

(10) Puna:
(A) Glenwood Park;
(B) Kalapana Playground;
(C) All swimming pools;
(D) All tennis courts.

(11) North Hilo/Hāmākua:
(A) Laupāhoehoe Playground;
(B) All swimming pools;
(C) All tennis courts;
(D) Waipiʻo Lookout.

(12) North/South Kohala:
(A) Church Row;
(B) All swimming pools;
(C) All tennis courts;
(D) Waikoloa Highway Park;
(E) Spencer Beach Park.

(1982, ord 810, sec 1; am 1983 CC, c 14, art 1, sec 14-1; am 1987, ord 87-70, sec 1; am 1990, ord 90-104, sec 1; am 1993, ord 93-7, sec 1; am 1996, ord 96-54, sec 1; am 2008, ord 08-7, sec 3; am 2010, ord 10-5, sec 1; am 2013, ord 13-77, sec 1.)

Section 14-2. Areas requiring permits for intoxicating liquors between the hours of 10:00 a.m. and 10:00 p.m.

(a) Permits shall allow drinking of intoxicating liquors only between the hours of 10:00 a.m. and 10:00 p.m.
(1) South Hilo:
(A) Bayfront Beach;
(B) Coconut Island;
(C) Hilo Armory;
(D) Hoʻolulu Complex;
(E) Pōmaikaʻi Senior Center;
(F) Wainaku Gym;
(G) Equestrian Center, Panaʻewa;
(H) Hakalau Park;
(I) Honomū Park;
(J) Carvalho Park;
(K) Pepeʻekeo Community Center;
(L) University Heights Park.
(2) North/South Kona:
(A) Hale Hālāwai;
(B) Hōnaunau Arena;
(C) Imin Center;
(D) Yano Hall;
(E) Greenwell Park;
(F) That area in the terminal at Kailua Park specifically designated by the director of parks and recreation;
(G) Old Kona Airport Park picnic pavilions and Events Pavilion excluding the runway and areas surrounding the runway, Pawai Bay, and the park area at the end of the runway;
(H) Kahaluʻu Beach Park;
(I) Magic Sands Beach Park, otherwise known as Disappearing Sands Beach Park or White Sands Beach Park;
(J) Pāhoehoe Beach Park.

(3) Kaʻū:
  (A) Nāʻālehu Park;
  (B) Pahala Community Center.
(4) Puna:
  (A) Pāhoa Neighborhood Facility;
  (B) Volcano Community Center;
  (C) Kurtistown Park;
  (D) Mt. View Park;
  (E) Shipman Park;
  (F) Isaac Kepoʻokalani Hale Beach Park.
(5) North Hilo/Hāmākua:
  (A) Honokaʻa Rodeo Arena;
  (B) Haina Park;
  (C) Honokaʻa Park.
(6) North/South Kohala:
  (A) Kamehameha Park;
  (B) Kohala Senior Center;
  (C) Waimea Park;
  (D) Waimea Senior Center.

(1982, ord 810, sec 2; am 1983 CC, c 14, art 1, sec 14-2; am 1987, ord 87-70, sec 1; am 1990, ord 90-122, sec 2; am 2008, ord 08-121, sec 1; am 2009, ord 09-144, sec 2; am 2010, ord 10-6, sec 2.)

Section 14-2.1. Intoxicating liquors allowed between the hours of 6:00 p.m. and 10:00 p.m.

(a) No person shall drink, offer to drink, or display in public view in the following public areas or buildings located thereon, any intoxicating liquors, whether in a bottle, jug, container or otherwise, except between the hours of 6:00 p.m. and 10:00 p.m.
  (1) South Hilo:
    (A) Ainako Park;
    (B) Kaiwiki Park;
    (C) Kaūmana Park and Playground;
    (D) Kaūmana Lani Park;
    (E) Kulaʻimano Park;
    (F) Malama Park;
    (G) Pāpaʻikou Park;
    (H) Waiākea-Uka Park;
    (I) Wainaku Playground.
  (2) North/South Kona:
    (A) Reserved.
  (3) Kaʻū:
    (A) Hawaiian Ocean View Park;
    (B) Waiʻōhinu Park.

(4) Puna:
  (A) Hawaiian Beaches Park.
(5) North Hilo/Hāmākua:
  (A) Āhualoa Park;
  (B) Laupāhoehoe Senior Center;
  (C) Pa‘auilo Park;
  (D) Pāpa‘aloa Park.
(6) North/South Kohala:
  (A) Waikoloa Village Park.

(1987, ord 87-70, sec 1.)

Section 14-2.2. Intoxicating liquors allowed between the hours of 10:00 a.m. and 10:00 p.m.

(a) Persons may drink intoxicating liquors in the following public areas or buildings located thereon between the hours of 10:00 a.m. and 10:00 p.m.:
  (1) South Hilo:
    (A) Carlsmith Park;
    (B) Hilo Senior Center;
    (C) James Kealoha Beach Park;
    (D) Kolekole Beach Park;
    (E) Wai‘olena and Wai‘uli Beach Parks, except a portion located between the pavilions and the west end of the seawall beginning at a point four-tenths of a mile west of Leleiwi Street and extending three hundred twelve feet in the westerly direction;
    (F) Onekahakaha Beach Park.
  (2) North/South Kona:
    (A) Hōnaunau Boat Ramp;
    (B) Ho‘okena Beach Park;
    (C) Manini Point;
    (D) Miloli‘i Beach Park;
    (E) Nāpō‘opo‘o Beach Park;
    (F) Oneo Park.
  (3) Ka‘ū:
    (A) Punalu‘u Beach Park;
    (B) Whittington Beach Park.
  (4) Puna:
    (A) Harry K. Brown Park;
    (B) Kaimū Beach Park.
  (5) North Hilo/Hamakua:
    (A) Kukuihaele Social Hall;
    (B) Laupāhoehoe Beach Park;
    (C) Waikaumalo Park.

(6) North/South Kohala:
   (A) Kapaʻa Beach Park;
   (B) Kēōkea Beach Park;
   (C) Māhukona Beach Park;
   (D) Māhukona Boat Ramp.

(1987, ord 87-70, sec 1; am 1990, ord 90-104, sec 2; am 1990, ord 90-122, sec 3; am 1996, ord 96-54, sec 2; am 2008, ord 08-7, sec 4; am 2009, ord 09-144, sec 1; am 2010, ord 10-6, sec 1.)

Section 14-3. Permit application.

(a) Only persons twenty-one years of age or older who show satisfactory proof of their age and who comply with the requirements set forth in this section shall be entitled to a permit.

(b) Any person desiring to obtain a permit, required by section 14-2, shall make application in writing to the chief of police or the chief's authorized representative. The application shall be signed by the applicant and the person who will be responsible for the conduct of all persons at the gathering or occasion, and shall include:
   (1) The full name and address of the applicant, if an individual, and, if a firm, association, corporation or club, the full names and addresses of its principal officers.
   (2) The full name and address of the person who will be responsible for the conduct of all persons at the occasion or gathering. Such person shall be of good moral character. The chief of police or the chief's authorized representative may, in the chief of police's or the chief's authorized representative's discretion, require proof of good moral character if they have good reason to doubt the moral character of the person. The proof shall be in the form of an affidavit signed by two or more responsible persons stating the duration and nature of their knowledge and acquaintance with the person and that the person is of good moral character.
   (3) The place for which a permit is desired.
   (4) The date and time for which a permit is desired. In no event shall the permit extend beyond 10:00 p.m.
   (5) The nature of the occasion or gathering.
   (6) The approximate number of persons to be in attendance.

(1983 CC, c 14, art 1, sec 14-3; am 1987, ord 87-70, sec 1; am 1990, ord 90-122, sec 4.)

Section 14-4. Permit conditions.

(a) Permits shall be subject to all applicable laws and ordinances and to the following conditions which shall be set forth in the permit:
   (1) No person who is intoxicated shall be permitted to be or remain upon the premises.
   (2) No person shall intentionally destroy, damage or injure any property.
   (3) No person shall dispose of any refuse, except in receptacles placed on the premises for that purpose.
   (4) The responsible person shall be present at all times.

(1983 CC, c 14, art 1, sec 14-4.)

Section 14-5. Interpretation of article.

The provisions of this article shall not be construed to permit a person to sell intoxicating liquor by obtaining a special license or otherwise.

(1983 CC, c 14, art 1, sec 14-5.)

Section 14-6. Penalty.

A violation of this article shall constitute a petty misdemeanor. Any person violating any provision of this article shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punishable by a term of imprisonment of not more than thirty days, a fine not to exceed $1,000, or both.

(1983 CC, c 14, art 1, sec 14-6; am 2012, ord 12-57, sec 2.)

Article 2. Firearms and Explosives.

Section 14-7. Definitions.

(a) As used in this article, unless the context clearly requires otherwise:
   (1) "Agency" means organizations, public and private, whose operations are determined by the chief of police to require the use of one or more of the devices enumerated in section 14-9 to accomplish a proper purpose.
   (2) "Chief of police" means the chief of police of the County or the chief's authorized subordinate.
   (3) "Devices" means a shell, cartridge, bomb, gun, or aerosol capable of emitting an obnoxious substance in gas, vapor, liquid, or solid form.
   (4) "Employee" means all officers, agents, and employees of an agency whether or not such officer, agent, or employee has been issued a permit.
   (5) "Gun" means revolvers, pistols, rifles, fountain pen guns, riot guns, shot guns, and cannons, portable or fixed, except those regularly manufactured, and used with firearm ammunition.
   (6) "Obnoxious substance" means a substance enumerated in section 14-8 or its derivative.
   (7) "Shell, cartridge, or bomb" means a shell, cartridge, or bomb capable of being discharged or exploded by the use of a percussion cap, fuse, electricity, or other means to cause or permit the release or emission of an obnoxious substance.

(1983 CC, c 14, art 2, sec 14-7.)

Section 14-8. Possession and use of obnoxious substance prohibited.

(a) No person shall use a shell, cartridge, bomb, gun, or other device capable of emitting any liquid, gaseous, or solid substance or any combination thereof, which is injurious to a person or property, or which is nauseous, sickening, irritating or offensive to any of the senses; to injure, molest, discomfort, discommode, or coerce another in the use or control of their person or property or engage in a "crime of violence" as defined in Hawaiʻi Revised Statutes Title 37, which involves injury or threat of injury to the person or property of another.

(b) No person shall possess, discharge, use, transport, sell, or offer to sell any shell, cartridge, bomb, gun, or other device capable of emitting chloroacetophenone (CN), orthochlorobenzylmalononitrile (CS), or their derivatives in any form.

(1983 CC, c 14, art 2, sec 14-8; am 1995, ord 95-90, sec 2.)

Section 14-9. Exceptions.

(a) The chief of police and his subordinates may purchase, possess, discharge, use, and transport shells, cartridges, bombs, guns, and obnoxious substances in carrying out their duties.

(b) Notwithstanding the prohibitions prescribed in subsections 14-8(a) and (b), private security officers who are employees of licensed private police or security agencies may purchase, possess, discharge, use, or transport shells, cartridges, bombs, guns, and other devices in carrying out their duties, subject however, to the conditions prescribed in sections 14-11 and 14-12.

(c) An employee of a government or private organization who, by necessity of employment, is required to go on private property to carry out a duty, may possess, discharge, use, or transport shells, cartridges, bombs, guns, and other devices subject to the conditions prescribed in section 14-12.

(1983 CC, c 14, art 2, sec 14-9; am 1995, ord 95-90, sec 2.)

Section 14-10. Permit required for agency.

(a) Any agency desiring to purchase, possess, discharge, use or transport an obnoxious substance shall first file an application for a permit on forms provided by the chief of police. The application shall include the name of the officer or employee who has been authorized to purchase the obnoxious substance from a vendor.

(b) The agency shall submit the name of each employee who is to possess, discharge, use or transport the device together with its application for permit, so that the chief of police may issue separate permits to each of the named employees.

(c) Each agency except for government agencies shall pay to the director of finance a sum of $50 for its permit and a sum of $5 for each permit issued to its employees.

(d) Each agency is authorized to purchase only the device emitting an obnoxious substance listed on its permit. The device shall at all times remain in the exclusive ownership and control of the agency.

(1983 CC, c 14, art 2, sec 14-10; am 1995, ord 95-90, sec 2.)

Section 14-11. Investigation of agency; issuance of permit.

(a) The chief of police, upon application by an agency, shall determine that the possession, discharge, use, and transportation of a device is necessary due to the nature of the service or services performed by the agency. The chief of police shall have the sole authority to determine the specific service or services for which there is a necessity for the use of a device. The device shall be used only in connection with the performance of the authorized service or services.

(b) The chief of police shall issue a permit to the individual employee only upon finding that the employee:
   (1) Is of good moral character;
   (2) Is at least eighteen years of age;
   (3) Has not been convicted in this State or elsewhere of a crime of violence or of the illegal use, possession or sale of narcotics; and
   (4) Has not been adjudged insane.

   The agency shall cooperate in providing all such evidence as to fitness of the employee as may be required by the chief of police in making the foregoing findings. The permit furnished by the chief of police shall be carried on the employee's person whenever the employee is in possession of a device.

(c) Upon making a determination under subsections (a) and (b) favorable to the requesting agency, the chief of police shall issue to the agency a permit authorizing it to purchase, own, and control the device or devices listed. A copy of the permit shall be retained on file at the police department.

(1983 CC, c 14, art 2, sec 14-11.)

Section 14-12. Conditions; storage and transportation.

(a) Agencies described in subsections 14-9(b) and (c) shall be subject to the following conditions of purchase, use, storage, possession, transportation, and other requirements in connection with an obnoxious substance.

(b) All devices emitting obnoxious substances owned by an agency except those enumerated in subsection 14-9(c), which may be secured in a locked compartment in the agency vehicle, shall be stored at a single location which is under the exclusive control of the agency and approved by the chief of police. The issuance and reissuance of the devices shall only be to employees authorized under subsection 14-11(b) according to controls approved by the chief of police. In addition, an accurate record of the issuance and return of all devices as well as the number of devices in the possession of each employee and the number in possession of the agency shall be kept by the agency.

(c) The possession and transportation of a device by an employee shall be, unless otherwise provided, restricted to:
   (1) Transportation between the place of storage and the place of performance of the approved service;
   (2) The location where the services for which the use of the device was approved are being performed; and

(3) Transportation from one place of performance of an approved service to another, if during the course of the employee's duties the employee is required to provide services at more than one place.

(d) The employee shall discharge or use the device only within the scope of and when reasonably necessary to employment.

(e) The agency will be liable for the negligent use or misuse of a device under its control whether or not the device is being used by its employee within the scope of employment; provided, the penalty provision of section 14-16 shall not apply to the agency for the unlawful act of its employee unless the act is permitted or induced by the action of the agency.

(f) The records and procedures for the possession, use, and transportation of a device shall be subject to inspection by the chief of police from time to time.

(1983 CC, c 14, art 2, sec 14-12.)

Section 14-13. Vendor's license required; fee.

(a) Any person vending an obnoxious substance shall first obtain a license from the director of finance.

(b) The annual fee for a license under this section shall be $25, which shall be payable to the director of finance.

(1983 CC, c 14, art 2, sec 14-13.)

Section 14-14. Vendor's records; deliveries.

(a) The vendor shall keep an accurate record of the sale of obnoxious substances including monthly inventories showing the quantity and type of device received, inventories showing the quantity of devices on hand, accurate records of the sale of devices including the name of the purchasing agency, date of purchase, type of obnoxious substance sold and the number of each type, and such other records as the chief of police may require.

(b) The chief of police shall have access to the vendor's books and records pertaining to the purchase and sale of obnoxious substance at reasonable times during business hours.

(c) The sale of obnoxious substance shall be made in case sized units as packaged at the factory and unopened except that the unopened case may be placed in a container provided by the local vendor prior to the sale. Sales of obnoxious substance shall be made only to the authorized representative of the purchasing agency as provided in sections 14-10, 14-11, and 14-12 or in the case of delivery to the agency, the delivery shall be only to the location specified in the agency's permit. Deliveries as provided under this article shall be made only by the personnel of the vendor or the delivery service. No permit shall be required for the personnel of the vendor or delivery service making such deliveries.

(1983 CC, c 14, art 2, sec 14-14.)

Section 14-15. Renewal of licenses and permits.

A license or permit issued under this article shall be renewed every year before July 2.

(1983 CC, c 14, art 2, sec 14-15.)

Section 14-16. Penalty.

A person who violates any provision of this article shall upon conviction be punished by imprisonment not to exceed one year or by a fine not to exceed $1,000 or both. Upon conviction, the license or permit issued to the person shall be revoked.

(1983 CC, c 14, art 2, sec 14-16.)

Article 3. Noise Control.

Section 14-17. Definition.

(a) As used in this article, unless the context clearly requires otherwise:
   (1) "Machine or device for reproducing sound" includes any magnifying sound instrument used in the production or replication of music, spoken words, or other sounds, other sound amplification designed to enlarge the volume of sound produced by any instrument or by the human voice.

(1983 CC, c 14, art 3, sec 14-17; am 1990, ord 90-65, sec 2.)

Section 14-18. Use of sound reproducing devices in public areas.

(a) It shall be a violation of law for any person or persons to play, use, operate, or permit to be played, used, or operated, any radio, tape recorder, cassette player, or other machine or device for reproducing sound, if:
   (1) Such machine or device is located in or on:
      (A) Any public property, including any public street, highway, building, sidewalk, park, or thoroughfare; or
      (B) Any motor vehicle on a public street, highway, or public space; and
   (2) The sound generated by such machine or device is audible at a distance of fifty feet from the machine or device producing the sound.

(b) Possession by a person or persons of any of the machines or devices enumerated in subsection (a) shall be prima facie evidence that that person, or those persons, operated the machine or device at the time in question, in violation of this section.

(1983 CC, c 14, art 3, sec 14-18; am 1990, ord 90-65, sec 2.)

Section 14-19. Enforcement.

(a) Powers of arrest or citation. Any police officer shall be authorized to issue a citation for any violation under this article. An arrest under the provisions of this article may only be effected by a police officer, and only in instances where:
   (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator.

(2) When the alleged violator refuses to cease such activity after being issued a citation.

(b) Citation.

(1) There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this article which does not mandate physical arrest of such violators. The form and content of such 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 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 Hawaiʻi and the County of Hawaiʻi.

(2) In every case when a citation is issued, a copy of the same shall be given to the violator.

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

(1983 CC, c 14, art 3, sec 14-19; am 1990, ord 90-65, sec 2.)

Section 14-19.1. Permits.

(a) A permit for a temporary exemption from the provisions of subsection 14-18(a) of this article may be issued by the chief of police to commercial, religious, political, civic, charitable, athletic, and other organizations, or individuals, for activities such as carnivals, parades, fund raisers, fairs, bazaars, public speeches and meetings.

(b) The chief of police shall prescribe a form of application for such a permit which shall be completed by the applicant and which, when completed, shall state the date, time of day, duration, and nature of the proposed activity, the reason for the proposed activity, the name of the person who shall be in charge of the proposed activity, and such other pertinent information as the chief shall deem necessary.

(c) In determining whether to grant or deny an application for a permit hereunder, the chief shall consider the information provided in the application together with the impact of the proposed noise on the health, safety and welfare of the residents of and visitors to the surrounding area. If more information is needed in order for the chief to make a determination on the application, the chief may request further information from the applicant by means of a supplemental application.

(d) The applicant shall submit the completed form to the chief not later than five days prior to the proposed activity; thereafter, the chief shall notify the applicant of the decision to grant or deny the permit within three days of the submission of the completed application and any required supplemental application.

(e) The permit shall state the date, place, time, duration, and nature of the proposed activity, shall be in the possession of the person in charge of the activity, and shall be produced for inspection upon the request of any law enforcement officer.

(f) The chief may issue a permit subject to conditions which shall be stated upon the permit; including limitations upon the sound level, duration, or time of day of the activity, or the requirement that breaks be taken in the activity.

(g) The chief may adopt rules not inconsistent herewith for the implementation of the permit system established in this section. Such rules may include provisions for the granting of a permit when an application is received less than five days prior to the proposed activity.

(1990, ord 90-65, sec 2.)

Section 14-19.2. Exemptions.

The following shall be exempt from the prohibitions set forth in section 14-18:

(1) Activities of the County of Hawai‘i, State of Hawai‘i, or the United States;

(2) Activities of private persons or entities acting within the permitted uses of a permit issued by the County of Hawai‘i, State of Hawai‘i, or the United States;

(3) Amplifying devices within sight-seeing cars, buses, motor coaches, or other similar vehicles, designed primarily to address passengers within the vehicles; and

(4) Amplifying devices on or within ambulances or authorized emergency vehicles.

(1990, ord 90-65, sec 2.)

Section 14-19.3. Penalty.

(a) Any person convicted of a violation of the provisions of this article shall be punished by a fine of:

(1) Up to $100 for the first offense; or

(2) Up to $500 for the second offense, if such offense is committed within six months of the first offense; or

(3) Up to $1,000, or forfeiture of the sound system or components of the sound system up to $1,000 in value, or a combination of a fine and forfeiture, up to a total of $1,000, for conviction of the third or more offense, if such offense is committed within one year of the first offense.

(b) Any offense occurring after the first year of the first offense, and each successive year thereafter, shall be subject to the provisions of subsection (a) as though it were the first instance of the offense.

(1990, ord 90-65, sec 2.)

Article 4. Prohibition of Smoking in Certain Places.

Section 14-20. Definitions.

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

"Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets. "Incidental" means that for the prior calendar year, gross sales of food are less than one-third of gross sales of alcoholic beverages. A "bar" is authorized under a license issued by the department of liquor control.

"Bowling alley" means a building where people go to bowl.

"Building" means any area enclosed by a roof and at least three walls.

"Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

"Commercial building" means a building occupied by two or more commercial tenants.

"Electronic smoking devices" means any electronic product that can be used to simulate smoking in the delivery of nicotine or other substances to the person inhaling from the device, including but not limited to and electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, and any cartridge or other component of the device or related product.

"Enclosed or partially enclosed area(s)" means area(s) closed in by a roof or overhang and at least two walls.

"Hotel" means a transient vacation rental, other than a bed and breakfast home containing lodging or dwelling units.

"Multifamily dwelling" means a building containing more than two dwelling units.

"Nightclub" means a bar in which live entertainment is provided and in which facilities for dancing by patrons either by live entertainment or recorded music are provided.

"Open to the public" means areas within any building available for use by or accessible to the general public during the normal course of business conducted therein by either private or public entities.

"Restaurant" means any retail eating establishment where food is served or provided for on-site consumption by seated patrons that is authorized by the State department of health to operate as a food establishment, including any private food service establishment or club in which only members or their guests are permitted. The term "restaurant" includes a bar area within the restaurant and outdoor areas of restaurants.

"Retail tobacco store" means a store which primarily sells tobacco products, electronic smoking devices, and accessories, with an entrance door opening directly to the outside, that derives more than fifty-one percent of its gross revenue from the sale of tobacco products, electronic smoking devices, and other smoking accessories, and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of another business with any type of liquor, food, or restaurant license, or a store within or part of an indoor public place or a workplace, such as a shopping mall.

"Smoke" or "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

"Tobacco product" means any product made or derived from tobacco that contains nicotine or other substances, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking devices. "Tobacco product" does not include any product specifically approved by the United States Food and Drug Administration for legal sale as a tobacco cessation product that is being marketed and sold solely for that approved purposes.
(1983 CC, c 14, art 4, sec 14-20; am 1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2; am 2007, ord 07-4, sec 1; am 2015, ord 15-11, sec 1.)

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

(a) Except as otherwise provided in this article, smoking or the use of electronic smoking devices shall be prohibited in all enclosed places within the County, including but not limited to, the following places:
   (1) Patient rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and medical and dental offices.
   (2) Restaurants and bowling alleys. If a restaurant or bowling alley contains an outdoor, open air or partially enclosed seating area where food and beverages are served, smoking is prohibited in this area of the establishment.
   (3) Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County, except for residential dwelling units which shall be regulated herein as multifamily dwellings.
   (4) Except as provided in section 14-22, all business and not-for-profit establishments, including but not limited to, auditoriums, theaters, halls, museums, libraries, galleries, classrooms, private offices, conference or meeting rooms and all other enclosed facilities. This also includes common areas, including but not limited to, work areas, elevators, hallways, cafeterias, employee lounges, stairs, and restrooms.
   (5) All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to, lobbies, elevators, restrooms, hallways, corridors, stairways, waiting areas and recreation areas.
   (6) All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, including but not limited to, common entrance areas, restrooms, lobbies, elevators, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings.
   (7) In the event a building is both a multifamily dwelling and a commercial building, as defined in this article, all common use areas except for private residences.

(8) All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees, including but not limited to, restrooms, lobbies, elevators, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms.
(9) In the event a building is both a commercial building and a hotel, all common use areas except for hotel rooms rented to guests and designated as smoking rooms.
(10) All vehicles owned or leased by the County.
(11) Taxicabs.
(12) In any motor vehicle, whenever occupied by a person less than eighteen years of age.
(13) Private residences, during hours of operation, when used as a licensed child care, adult day care or health care facility, except in residences where the care facility is physically detached from the residence or is separated from the owner's area.
(14) Smoking or the use of electronic smoking devices is prohibited within a presumptively reasonable minimum distance of twenty feet from any entrance to, exit from, or any fresh air intake of any enclosed area to insure that tobacco smoke or vapor does not enter the enclosed area through entrances, windows, ventilation systems, or other means.
(15) Areas within private residences, during hours of operation, that are used for the care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.
(16) Bars.

(b) Smoking or the use of any tobacco products, or the use of electronic smoking devices shall be prohibited at all County parks and recreational facilities listed in section 15-68.1.

(1983 CC, c 14, art 4, sec 14-21; am 1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2; am 2007, ord 07-4, sec 2; am 2008, ord 08-56, sec 1; am 2010, ord 10-33, sec 1; am 2015, ord 15-11, sec 2.)

Section 14-22. Exceptions.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt:

(1) Private residences, except as prohibited in sections 14-21(a)(13) and 14-21(a)(15).
(2) Individual hotel and motel rooms that are rented to guests and are designated as smoking rooms.

(3) Retail tobacco stores; provided that smoke or vapor from these places shall not infiltrate into areas where smoking is prohibited under this article.

(1983 CC, c 14, art 4, sec 14-22; am 1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2; am 2015, ord 15-11, sec 3.)

Section 14-23. Posting of signs.

(a) Clearly legible signs that include the words "Smoking is Prohibited by Law Including E-cigarettes and All Other Electronic Smoking Devices" or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette and a symbol of an electronic smoking device enclosed in a red circle with a red bar across it), or both, shall be clearly and conspicuously posted in every public place and place of employment where smoking or the use of electronic smoking devices is prohibited by this article, by the owner, operator, manager, or other person having control of such place.

(b) Alternate means of notification may be employed provided the effect thereof is equivalent to the notice given by signs described in subsection (a).

(c) Every public place and place of employment where smoking or the use of electronic smoking devices is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking or the use of electronic smoking devices is prohibited.

(d) Any person violating any of the provisions of this section shall be issued a notice of violation and shall comply with the provisions of this section within ten days. Thereafter, the violation shall carry a fine as provided in section 14-24(b) and/or 14-24(c). Each violation cited shall constitute a separate offense.

(1983 CC, c 14, art 4, sec 14-23; am 1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2; am 2015, ord 15-11, sec 4.)

Section 14-24. Violations and penalties.

(a) It is unlawful for any person to smoke in a place within the County where smoking is prohibited.

(b) Any person violating any of the provisions of subsection 14-21(a) shall be fined not less than $25 and not more than $50. Any person violating subsection 14-21(b) shall be fined $100 for each separate offense.

(c) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:

(1) A fine not exceeding $100 for a first violation;

(2) A fine not exceeding $200 for a second violation within one year of the date of the first violation; and

(3) A fine not exceeding $500 for each additional violation within one year of the date of the preceding violation.

(1983 CC, c 14, art 4, sec 14-24; am 1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2; am 2007, ord 07-4, sec 3.)

Section 14-24.1. Enforcement and administration.

(a) Summons or citation.

(1) There shall be provided for use by an officer or employee of the County duly authorized to issue a summons or citation, or any police officer a form of summons or citation for use in citing violators of this article which does not provide for the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court, shall be printed on a form commensurate with the form of other summons or citations used in modern methods of arrest, and so designed to include all necessary information to make the same valid within the laws and regulations of the State and the County.

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

(3) Every citation shall be numbered, and each carbon copy shall bear the same number as its original.

(b) Enforcement and administration of the provisions of section 14-23 shall be under the jurisdiction of the department of public works of the County, which department shall have the power to formulate any applicable rules and regulations necessary to carry out the provisions of section 14-23.

(c) Except as provided in section 14-24.1(b), enforcement of this ordinance shall be under the jurisdiction of the County police department.

(d) In addition to the foregoing, any police officer or other officer or employee of the County duly authorized to issue a summons or citation may eject from the premises any person to whom a citation has been issued and who continues to smoke after the person has been requested by the police officer or other duly authorized officer or employee to stop smoking.

(1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2.)

Section 14-24.2. Fire code.

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

(1987, ord 87-1, sec 2; am 2003, ord 03-112, sec 2.)

Article 5. Fireworks.

Section 14-25. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-25; rep 2000, ord 00-137, sec 1.)

Section 14-25. Title.
This article shall be known as the Fireworks Code and shall apply to the importation, storage, possession, sale, purchase, transfer and discharge of fireworks within the County of Hawai‘i.
(2000, ord 00-137, sec 2.)

Section 14-26. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-26; am 1983, ord 83-18, sec 1; am 1990, ord 90-58, sec 1; ord 90-95, sec 1; rep 2000, ord 00-137, sec 1.)

Section 14-26. Definitions.
(a) Whenever used in this article, unless the context otherwise requires:
(1) “Aerial common fireworks” means any firework, classified as in the regulations of the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to rise into the air and explode or detonate in the air or to fly about above the ground and which is prohibited for use by any person who does not have a permit for public display issued by the County under section 132D-16, Hawai‘i Revised Statutes. “Aerial common fireworks” include firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, and jumping jacks, which move above the ground farther than inside a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.
(2) “Common fireworks” means any firework designed primarily for retail sale to the public during prescribed dates and which produces visible or audible effects through combustion and which is classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G.
(3) “County fire code” means the “Uniform Fire Code, 1988 Edition” (UFC), and the “1989 and 1990 Uniform Fire Code Supplements,” as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials.
(4) “County safety code” means the “Uniform Building Code, 1991 Edition” as copyrighted and published by the International Conference of Building Officials.
(5) “Cultural” means relating to the arts, customs, traditions, mores, and history of all of the various ethnic groups of Hawai‘i.

(6) "Department" means the fire department, of the County of Hawaiʻi.

(7) "Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not include automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its or other devices which contain twenty-five hundredths of a grain or less of explosive substance. The term "fireworks" also shall include any explosives and pyrotechnics regulated under chapter 396, Hawaiʻi Revised Statutes.

(8) "Import" (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in these rules) means to bring or attempt to bring fireworks into the State or to cause fireworks to be brought into the State.

(9) "License" means a nontransferable, formal authorization, valid for a period not to exceed one year from the date of issuance to March 31 of the following year and which the department is hereby authorized to issue under chapter 132D, Hawaiʻi Revised Statutes, to engage in the act or acts specifically designated therein.

(10) "Nonaerial common fireworks" means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to remain on or near the ground and which, while stationary or spinning rapidly on or near the ground, emits smoke, a shower of colored sparks, whistling effects, flitter sparks or balls of colored sparks and combination items which contain one or more of these effects. "Nonaerial common fireworks" includes firework items commonly known as firecrackers which are single paper cylinders not exceeding one and one-half inches in diameter containing a charge of not more than fifty milligrams of pyrotechnic composition, snakes, sparklers, fountains, and cylindrical or cone fountains which emit effects up to a height not greater than twelve feet above the ground, illuminating torches, bamboo cannons, whistles, toy smoke devices, wheels, and ground spinners which when ignited remain within a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, novelty or trick items, combination items, and other fireworks of like construction which are designed to produce the same or similar effects.

(11) "Permit" means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which a county is authorized to issue under chapter 132D, Hawaiʻi Revised Statutes, to engage in the act or acts specifically designated herein.

(12) "Public display" means a public exhibition and the use of fireworks for commercial activities (including such activities as movie or television production).
(13) "Pyrotechnic composition" or "pyrotechnic contents" means the combustible or explosive component of fireworks.
(14) "Special fireworks" means any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a display permit issued by the County.
(15) "State Fire Code" means the State Model Fire Code as adopted by the State of Hawai'i on March 27, 1992, pursuant to chapter 132, Hawai'i Revised Statutes, which model code adopts, with modifications, the "Uniform Fire Code, 1988 Edition" (UFC), and the "1989 and 1990 Uniform Fire Code Supplements," as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials.
(16) "Unit" means one individual firecracker.

(2000, ord 00-137, sec 2.)

Section 14-27. [Former] Repealed.

(1983 CC, c 14, art 5, sec 14-27; am 1983, ord 83-18, sec 2; rep 2000, ord 00-137, sec 1.)

Section 14-27. General license provisions.

(a) Any person desiring to import, store, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or nonaerial common fireworks, or any person desiring to possess aerial common fireworks or special fireworks within the County of Hawai'i shall obtain a license issued by the department.
(b) A license may only be issued to a person eighteen years of age or older.
(c) Licenses are nontransferable.
(d) Licenses are valid only from the date of issuance or effect to March 31 of each year.
(e) Licenses shall be prominently displayed in public view and secured at the location for which the license has been issued.
(f) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks to a licensed retailer, to sell or offer to sell any fireworks at any time to any person who does not present a permit duly issued as required by section 14-29.
    (1) The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks, and the seller or transferor shall indicate on the permit the amount and type of fireworks sold or transferred;
    (2) No fireworks shall be sold or delivered to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit previously to have been purchased; and

(3) No fireworks shall be sold to a permittee holding a permit issued for purposes of section 14-29, more than five calendar days prior to the designated periods for use as set forth in section 14-29.

(g) Persons to whom licenses are issued shall comply with the applicable provisions of section 14-29 and with all applicable Federal, State, and County laws.

(h) If a licensee fails to comply with the requirements of chapter 132D, Hawaiʻi Revised Statutes, or applicable County laws, or if the department determines that the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard the department may immediately revoke the license.

(i) If the department discovers at a later date that a licensee has been convicted of a felony under chapter 132D, Hawaiʻi Revised Statutes, the department shall revoke the licensee's license and no new license shall be issued to the licensee for a period of two years from the date of the license revocation.

(2000, ord 00-137, sec 2.)

Section 14-28. [Former] Repealed.

(1983 CC, c 14, art 5, sec 14-28; rep 2000, ord 00-137, sec 1.)

Section 14-28. Applications for licenses.

(a) Applications for licenses to import, store, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or nonaerial common fireworks, or applications for licenses to possess aerial common fireworks or special fireworks within the County of Hawaiʻi may be obtained at the department or at those locations so designated by the department.

(b) Applications for all licenses shall be submitted to the department at least twenty working days from the date on which importing, storage, wholesaling or retailing activities would begin.

(c) The fee for each license is payable to the County director of finance and must be submitted to the department with the application. The fee is nonrefundable. The fee for each license required under this section shall be for each year, fraction of a year, or event in which the licensee plans to conduct business in the County of Hawaiʻi where the permitted activity is to occur. The fee schedules are as follows:

(1) $3,000 for each importer;

(2) $2,000 for each wholesaler's site;

(3) $1,000 for each storage site; and

(4) $500 for each retailer's site.

(d) The department shall provide an exemption from the fees to nonprofit community groups for importation and storage of fireworks for displays once a year.

(e) Completed applications for licenses may be delivered in person during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department, or to those locations so designated by the department. The application must include a self-addressed envelope of adequate size and sufficient postage.

(f) The department shall determine whether or not to issue the license. Licenses or denials of licenses will be mailed to the applicant by the department.

(g) Applications for all licenses shall state the following:
  (1) The date of the application and the name, address, telephone number, and age of the applicant:
    (A) If the applicant is a sole proprietor, the name of the proprietor;
    (B) If the applicant is a partnership, the name of the partnership and the names of all partners; or
    (C) If the applicant is a corporation, the name of the corporation and the names and titles of its officers.
  (2) If the license is to import fireworks, the application shall also include the following:
    (A) The address of the location of the importer;
    (B) The date upon which importation will begin; and
    (C) Class and estimated quantity of fireworks to be imported.
  (3) If the license is to store, offer to sell, or to sell fireworks, the application shall also include the following:
    (A) The date upon which the storage, sale, or offers for sale will begin;
    (B) The address of the location of the licensee;
    (C) The address where the fireworks will be stored, and the address where the sales or offers to sell will occur;
    (D) The name of the proprietor; or
    (E) If a partnership, the name of the partnership and the names of all partners; or
    (F) If a corporation, the name of the corporation and the names of its officers.

(h) Anytime prior to or following the issuance of a license the department may at its discretion, inspect the proposed location where the fireworks will be stored or sold, at wholesale or retail to ensure that the applicant is in compliance with the State Fire Code, County Fire Code and County Safety Code.

(i) The department may deny a license if the applicant is not in compliance with the requirements of these rules or chapter 132D, Hawai‘i Revised Statutes.

(j) If the department discovers at a later date that a licensee has been convicted of a felony under chapter 132D, Hawai‘i Revised Statutes, the licensee’s license shall be revoked and no new license shall be issued to the licensee for a period of two years from the date of the license revocation.

(2000, ord 00-137, sec 2.)

Section 14-29. [Former] Repealed.

(1983 CC, c 14, art 5, sec 14-29; rep 2000, ord 00-137, sec 1.)

Section 14-29. Fireworks permit.

(a) Types of permits.
  (1) The following types of fireworks permits are available to the public:
    (A) Permits for the purchase of any nonaerial common fireworks may be issued for events set forth in section 14-29(b);

(B) Permits for the purchase and use of any nonaerial common fireworks may be issued for cultural purposes or events as set forth in section 14-29(b);

(C) Permits for the purchase and use of aerial common fireworks, special fireworks, or both, may be issued when the aerial common fireworks, special fireworks, or both, are to be set off, ignited or discharged for public displays.

(b) Use of nonaerial common fireworks; when permit required.

(1) Nonaerial common fireworks, other than firecrackers, may be used within the County of Hawaiʻi during the following periods without a permit:

(A) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day;

(B) From 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and

(C) From 1:00 p.m. to 9:00 p.m. on the Fourth of July.

(2) A permit is required for the purchase and use of not more than five thousand individual firecrackers when such use occurs during the time specified above in paragraph (1).

(3) A permit is required if the proposed cultural use of nonaerial common fireworks, including firecrackers, is to occur at any time not specified above in paragraph (1).

(4) A permit issued pursuant to this section shall authorize purchase and the use of nonaerial common fireworks from 9:00 a.m. to 9:00 p.m. on the date for which the permit is issued; provided that not more than five thousand individual nonaerial fireworks shall be allowed under each permit.

(c) Permits for the permissible uses of aerial common fireworks and special fireworks. Aerial common fireworks and special fireworks may be purchased, set off, ignited, or otherwise caused to explode within the County of Hawaiʻi only if for public display and permitted in writing pursuant to section 14-30(d).

(d) General permit provisions. Any person desiring a permit as described in section 14-29(a) shall obtain a permit issued by the department. The following provisions shall apply to all permits:

(1) A permit may only be issued to a person eighteen years of age or older.

(2) An application for a permit may be issued to any person for cultural purposes.

(3) Permits are nontransferable.

(4) Permits are valid only when the fireworks are used at the site, time, and date so indicated on the permit.

(5) Permits shall be prominently displayed in public view at the site on the day at the time of the firing.

(6) A permit may be denied if the proposed use of fireworks presents a substantial inconvenience to the public or presents an unreasonable fire or safety hazard.

(7) If the permittee fails to remain in compliance with the requirements as set forth in these rules or in chapter 132D, Hawai'i Revised Statutes, the department may immediately revoke the permit.
(8) The date of issuance or effect and the date of expiration shall be noted on the permit, but in no case shall the expiration date exceed the period of one year from the date of issuance or effect of the permit.

(2000, ord 00-137, sec 2.)

Section 14-30. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-30; rep 2000, ord 00-137, sec 1.)

Section 14-30. Application for permits.
(a) The following provisions shall apply to all permit applications:
(1) Applications for permits shall be obtained at the department or at those locations so designated by the department.
(2) Completed applications for permits may be delivered in person during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department or at those locations so designated by the department. The application must include a self-addressed envelope of adequate size and sufficient postage.
(3) The department shall determine whether or not to issue the permit. Permits or denials of permit applications will be mailed to the applicant by the department.
(b) Permits for the purchase of nonaerial common fireworks for designated periods prescribed in section 14-29 relating to New Year's, Chinese New Year and the Fourth of July.
(1) Applications for permits to purchase nonaerial common fireworks for use during the designated periods prescribed in section 14-29(b) shall be in writing, signed by the applicant and shall include:
(A) Name, age, telephone number, and address of the person and permittee, if different;
(B) Name(s) of the organization's, corporation's, club's, establishment's, or other entity's proprietor(s), partner(s), or officer(s) and verification that the person making the application is the authorized agent of the entity;
(C) Date of the permitted activity;
(D) Location where the permitted activity is to occur; and
(E) Estimated quantity of nonaerial common fireworks to be used under the permit, but not exceeding five thousand units.
(2) The fee for this permit is $25, payable to the County director of finance, is nonrefundable and must be submitted at the time of the application.
(3) Any purchase of nonaerial common fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated periods for use as set forth in section 14-29(b).
(4) A permit issued pursuant to this section shall not allow purchase of nonaerial common fireworks for more than one event as set forth in section 14-29(b).

(c) Permits for the purchase of nonaerial common fireworks for proposed cultural use during time periods other than designated time periods prescribed in section 14-29(b).

(1) The application shall be in writing, signed by the applicant and shall include the following:

(A) Name, age, telephone number, and address of the person and permittee, if different;

(B) Name(s) of the organization's, corporation's, club's, establishment's, or other entity's proprietor(s), partner(s) or officer(s) and verification that the person making the application is the authorized agent of the entity;

(C) Name, address, telephone number and age of the person who will supervise the use of the nonaerial common fireworks;

(D) Estimated quantity of nonaerial common fireworks to be used under the permit, but not exceeding five thousand units; and

(E) Date, time period and proposed cultural use of the nonaerial common fireworks.

(2) A person, including the proprietor, partner, corporate officer or duly authorized agent of any temple, cemetery, or any cultural association, lion dance club, or other similar organization desiring to purchase, discharge, fire, or explode nonaerial common fireworks for cultural purposes or occasions, or desiring to provide for the discharging, firing, or exploding of nonaerial common fireworks by members of their organizations, clients, patrons or customers, for cultural purposes or occasions may obtain a permit pursuant to this subsection.

(A) The fee for this permit is $25, payable to the County director of finance, is nonrefundable and must be submitted at the time of the application.

(B) A permit issued pursuant to paragraph 2 of this subsection shall not allow purchase of nonaerial common fireworks for more than one event.

(3) A permit may be issued to an establishment for the use of nonaerial common fireworks at the establishment during the period of the permit. Such permit may allow the establishment to purchase nonaerial common fireworks for cultural purposes specified in the permit.

(A) The fee for this permit is $25, payable to the County director of finance, is nonrefundable, and must be submitted at the time of the application.

(B) The time period of the permit for the establishment shall not exceed six months.

(4) Any purchase of nonaerial common fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated periods for use as set forth in section 14-29(b), and as stated on the permit.

(d) Permits for aerial common fireworks and for special fireworks, known as public display permits.
  (1) A permit may be issued to purchase and set off, ignite, or discharge aerial common fireworks, special fireworks, or both, for a public display.
  (2) The application shall be in writing, signed by the applicant and state the following:
    (A) The name, age, and address of the applicant;
    (B) The name, age, and address of the person who will operate the display, and verification that the person is a licensed pyrotechnic operator as duly authorized by the State of Hawai‘i;
    (C) The time, date, and plot plan of the place for the display;
    (D) The type and quantity of aerial common fireworks, special fireworks, or both, to be displayed; and
    (E) The purpose or occasion for which the display is to be presented.
  (3) An application for a public display permit shall be submitted to the department not less than twenty working days before the proposed date of the public display.
  (4) The fee for this permit is $110 for each year or fraction of a year in which the permittee plans to conduct business, payable to the County director of finance, is nonrefundable, and must be submitted with the application.
  (5) No public display permit shall be issued unless the applicant presents, at the applicant's option, either:
    (A) A written certificate of an insurance carrier or a policy providing for the payment of damages in the amount of not less than $5,000 for injury to, or death of, any person, and subject to the foregoing limitation for one person; in the amount of not less than $10,000 for injury to, or death of, two or more persons; and in the amount of not less than $5,000 for damage to property, caused by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the public display; or
    (B) The bond of a surety company duly authorized to transact business within the State, or a bond with not less than two individual sureties who together have assets in the State equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than $10,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect for not less than ten days after the date of the public display.

(6) The department may require coverage in amounts greater than the minimum amounts set forth in paragraph 5 of this subsection if deemed necessary or desirable in consideration of such factors as:
   (A) Location and scale of the display;
   (B) Type of aerial common fireworks, special fireworks, or both, to be used; and
   (C) Number of spectators expected.
(7) Prior to the issuance of a public display permit and at the discretion of the department, an inspection of the proposed firing area may be required. Inspections, when conducted, shall ascertain compliance with National Fire Protection Association Standards 1123 entitled "Outdoor Display of Fireworks" or 1126 entitled, "Pyrotechnics Before A Proximate Audience," 1995 Edition, which are incorporated herein by reference.
(8) A public display permit may be denied by the department if the requirements imposed by this article or chapter 132D, Hawaiʻi Revised Statutes are not met.
(9) Notwithstanding the foregoing, any public display permit issued by the department may be revoked or suspended immediately by the department for the following reasons:
   (A) The climatic, atmospheric, or other conditions on the day of the proposed firing may reasonably be believed to make the use of aerial common fireworks, special fireworks, or both, hazardous to persons or property; or
   (B) Any requirement imposed by this article or chapter 132D, Hawaiʻi Revised Statutes, or any condition of the permit necessary to minimize the danger to persons or property is not met.

(2000, ord 00-137, sec 2.)

Section 14-31. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-31; rep 2000, ord 00-137, sec 1.)

Section 14-31. Importation, bill of lading, notification and storage.
(a) Licensee's duty of notification.
   (1) Any person who has obtained a license pursuant to section 132D-7, Hawaiʻi Revised Statutes, and ships fireworks into the County of Hawaiʻi shall:
      (A) Clearly designate the types of fireworks in each shipment on the bill of lading or shipping manifest.
      (B) Declare on the bill of lading or shipping manifest the gross weight of aerial common fireworks, nonaerial common fireworks, and special fireworks to be imported in each shipment.
      (C) Declare on the bill of lading or shipping manifest, the location of the storage facility, if applicable, in which the fireworks are to be stored.

(D) Prior to shipment, notify the fire chief of the department regarding whether the shipment will be distributed from:
(i) Pier to pier;
(ii) Pier to warehouse or storage facility; or
(iii) Pier to redistribution.
(E) At the time shipping is booked, the importer or consignee shall notify the fire chief of the department in writing of the expected shipment's landing date.

(b) Discretionary inspection of shipment of fireworks. The department shall be allowed to inspect, if it chooses, any shipment declared on the shipping manifest as fireworks when a shipment of fireworks has landed and becomes subject to the jurisdiction of the department.

(c) Approval to store fireworks.
(1) The facility in which fireworks are to be stored must:
(A) Obtain the approval of the department fifteen days prior to the shipment's arrival; and
(B) Satisfy the requirements of the State Fire Code, County Fire Code and County Safety Code.

(d) Importation of aerial common fireworks, special fireworks, or both, for public display. Aerial common fireworks, special fireworks, or both, shall only be imported and stored, if necessary, in an amount sufficient for an anticipated three-month inventory; except that if a licensee under section 14-28 provides aerial common fireworks, special fireworks, or both, for public displays as allowed under section 14-30(d) more than once a month, the licensee may import or store, if necessary, sufficient aerial common fireworks, special fireworks, or both for a six-month inventory.

(2000, ord 00-137, sec 2.)

Section 14-32. [Former] Repealed.

(1983 CC, c 14, art 5, sec 14-32; rep 2000, ord 00-137, sec 1.)

Section 14-32. Public information.

(a) The public may obtain information about matters within the jurisdiction of the department by inquiring at:
(1) The office of the county clerk, where there are on file all rules of the department; or at
(2) The office of the Hawai'i County fire department.

(b) Department files which are subject to inspection by the public pursuant to chapter 91, Hawai'i Revised Statutes, may be examined upon request.

(c) Inquiry may be made in person at the department's office during regular business hours, or by submitting a request for information in writing to the fire chief.

(d) Copies of the department's proposed and final rules and all public records of the department are available upon payment of the fees established by statute or county ordinance.

(2000, ord 00-137, sec 2.)

Section 14-33. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-33; rep 2000, ord 00-137, sec 1.)

Section 14-33. General prohibitions.

It shall be unlawful for any person to:

(a) Remove or extract the pyrotechnic contents from any fireworks.
(b) Throw any ignited fireworks from a moving vehicle.
(c) Set off, ignite, discharge or otherwise cause to explode any fireworks:
  (1) At any time not within the periods for use prescribed in section 14-29 unless permitted pursuant to section 14-30 of this article;
  (2) Within one thousand feet of any operating hospital, convalescent home, home for the elderly or animal hospital;
  (3) In any school building or on any school grounds and yards on any occasion; and
  (4) On any highway, alley, street, sidewalk or other public way; in any park; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; except as may be permitted pursuant to section 14-30.
(d) It shall be unlawful for any person to offer for sale, sell, or give any fireworks to minors, and for any minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, except that the parents or guardians may allow the minor to use fireworks while under the immediate supervision and control of an adult.

(2000, ord 00-137, sec 2.)

Section 14-34. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-34; rep 2000, ord 00-137, sec 1.)

Section 14-34. Penalties.

(a) Any person importing aerial common fireworks or special fireworks without having a valid license under section 132D-7, Hawaiʻi Revised Statutes, shall be guilty of a class C felony.
(b) Any person purchasing, possessing, setting off, igniting, or discharging aerial common fireworks or special fireworks without a valid permit under sections 132D-10 and 132D-16, Hawaiʻi Revised Statutes, or storing, selling, or possessing aerial common fireworks or special fireworks without a valid license under section 132D-7, Hawaiʻi Revised Statutes:
  (1) If the total weight of the aerial common fireworks or special fireworks is twenty-five pounds or more, shall be guilty of a class C felony; or
  (2) If the total weight of the aerial common fireworks or special fireworks is less than twenty-five pounds, shall be guilty of a misdemeanor.
(c) Any person who transfers or sells aerial common fireworks or special fireworks to a person who does not have a valid permit under sections 132D-10 and 132D-16, Hawaiʻi Revised Statutes, shall be guilty of a class C felony.

(d) Any person who removes or extracts the pyrotechnic contents from any fireworks and uses the contents to construct fireworks or a fireworks related device shall be guilty of a misdemeanor.
(e) Except as provided in subsections (a), (b), (c), and (d), or as otherwise specifically provided for in chapter 132D, Hawai‘i Revised Statutes, any person violating any other provision of chapter 132D, Hawai‘i Revised Statutes, shall be prosecuted pursuant to section 13-11, penalties section of the Hawai‘i County Charter, as amended.

(2000, ord 00-137, sec 2.)

Section 14-35. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-35; rep 2000, ord 00-137, sec 1.)

Section 14-35. Sale to minors.

It shall be unlawful for any person to offer for sale, sell or give any fireworks to minors, and for any minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, except as provided in section 14-36 and section 14-33(d).
(2000, ord 00-137, sec 2.)

Section 14-36. [Former] Repealed.
(1983 CC, c 14, art 5, sec 14-36; rep 2000, ord 00-137, sec 1.)

Section 14-36. Liability of parents or guardians.

The parents, guardians, and other persons having the custody or control of any minor, who knowingly permit the minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, shall be deemed to be in violation of this article and shall be subject to the penalties thereunder, except that the parents or guardian may allow the minor to use fireworks while under the immediate supervision and control of the parent or guardian, or under the supervision and control of another adult.
(2000, ord 00-137, sec 2.)

Article 6. Property Offenses.

Section 14-39. Duty of chief of police; cultivated grounds.

It shall be the duty of the chief of police to protect lawns, gardens, grass plots, and other cultivated grounds belonging to the State and the County within the County, and all lawns, gardens, grass plots, and other cultivated grounds of a public nature within the County, and to place or cause to be placed on these places signs and notices warning persons to keep off these places; provided that this section shall not apply, during the period from February 1 through October 31 of each year, to the Hilo bayfront area, situated makai of the Hawai‘i Belt Road, from the intersection of Kamehameha Avenue and Hawai‘i Belt Road as delineated in the attached map.*
(1983 CC, c 14, art 6, sec 14-39.)

* **Editor's Note:** No map is attached.

Section 14-40. Trespass prohibited; penalty.

(a) A person who trespasses or walks on or over a lawn, garden, grass plot or other cultivated ground, on which there is a sign or notice to keep off shall be guilty of a misdemeanor. Upon conviction, the person convicted shall be fined not less than $2.50 nor more than $25, in the discretion of the judge having jurisdiction of the case.

(1983 CC, c 14, art 6, sec 14-40.)

Section 14-40.1. Property damage prohibited; penalty.

(a) It shall be unlawful for any person maliciously or wilfully to mar, injure, damage, destroy, or deface or aid in marring, injuring, damaging, destroying, or defacing any public building, sign, sidewalk, light pole, wall fixture, playground, structure, facility, or other property of the County without its consent.

(b) Any person violating this provision shall be punished, upon conviction, by a fine not exceeding $1,000 or by imprisonment not to exceed ninety days, or both. In addition to the penalties provided herein, the County may recover for damages to its property, the measure of which shall be the cost of repairing, replacing, or rebuilding the property injured or destroyed.

(1986, ord 86-99, sec 2.)

Article 7. Radio Interference.

Section 14-41. Scope of article.

This article shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any act of the Congress of the United States.

(1983 CC, c 14, art 7, sec 14-41.)

Section 14-42. Operation of device causing electrical interference prohibited.

(a) No person shall knowingly or wantonly operate or cause to be operated, any machine, device, apparatus or instrument of any kind whatsoever within the County between the hours of 6:00 a.m. and 12:00 p.m., the operation of which shall cause reasonably preventable electrical interference with radio reception within the County.

(b) X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and are not negligently operated.

(1983 CC, c 14, art 7, sec 14-42.)

Section 14-43. Penalty.

Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $100. Each day shall constitute a separate offense during which such violation continues.

(1983 CC, c 14, art 7, sec 14-43.)

Article 8. Nuclear Energy.

Section 14-44. Purpose.

The purpose of this article is to maintain a clean and healthy environment for present and future generations in the County, to protect the health and safety of the residents of the County from radiation exposure resulting from dangers of accidents involving the transportation or storage of nuclear materials or the development of nuclear reactors, and to protect the general health, safety, comfort and welfare of the citizens of the County.

The purpose of article 8 shall not in any way inhibit or prohibit the military from carrying out their duties and responsibilities.

(1983 CC, c 14, art 8, sec 14-44; am 1984, ord 84-39, sec 1.)

Section 14-45. Definitions.

(a) As used in this article, unless the context clearly requires otherwise:
- (1) "Person" means any individual, firm, partnership, association, corporation, company, governmental entity or department thereof, or organization of any kind.
- (2) "Store" means to hold for any period of time.
- (3) "Transport" means the transportation by any mode, including but not limited to rail, highway, waterway or air.
- (4) "Radioactive material or substance" means any material or combination of materials which spontaneously emits ionizing radiation and includes, but is not limited to accelerator-produced isotopes and by-product materials.
- (5) The term "radioactive material or substance" shall include:
  - (A) All materials which enter into or are produced as part of the nuclear fuel cycle, including milled uranium ore, fissile material, and all fission by-products.
  - (B) Any quantity of radioactive material specified as a "large quantity" by the Nuclear Regulatory Commission in 10 CFR, part 71.
  - (C) Any quantity of radioactive waste, including nonradioactive material contaminated with radioactive material, which has been produced as part of the nuclear fuel cycle.

(6) For the purposes of this article, the term "radioactive material or substance" shall not include:
   (A) Radiation sources or materials employed in therapeutic radiology, in biomedical research, or in educational endeavors, or medical devices designed for individual application (as for example cardiac pacemakers) or commercial devices, processes, or facilities, as approved by the appropriate regulatory and licensing agencies.

(1983 CC, c 14, art 8, sec 14-45.)

Section 14-46. Transportation of radioactive material, unlawful.

It shall be unlawful for any person to transport radioactive material within or through the County.

(1983 CC, c 14, art 8, sec 14-46.)

Section 14-47. Storage of radioactive material, unlawful.

It shall be unlawful for any person to store radioactive material within the County.

(1983 CC, c 14, art 8, sec 14-47.)

Section 14-48. Nuclear energy facilities, prohibited.

It shall be unlawful for any person to locate or build a nuclear energy facility which utilizes nuclear material for the production of energy within the County.

(1983 CC, c 14, art 8, sec 14-48.)

Section 14-49. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned for not more than one year, or both, for each violation.

(1983 CC, c 14, art 8, sec 14-49.)

Article 9. Outdoor Lighting.*

Section 14-50. Applicability and scope of article.

(a) This article shall apply to the installation of all outdoor lighting fixtures within the County.

(b) The provisions of this article, including provisions for the imposition upon any person of the penalties by fine for any violation of this article, shall not be construed to exclude the operation of applicable State statutes or other County ordinances. In the case of conflict with other County ordinances, the stricter ordinance shall apply.

(1988, ord 88-122, sec 3.)

Section 14-51. Definitions.

(a) As used in this article, unless the context clearly indicates otherwise:

(1) "Outdoor lighting fixture" means any outdoor artificial lighting device, fixture, lamp, or other similar device, permanently installed or portable, which is intended to provide illumination for either visibility or decorative effects. Such device shall include, but not be limited to, search, spot, and flood lighting used for:

(A) Buildings and structures;
(B) Recreational facilities;
(C) Parking lots;
(D) Landscape lighting;
(E) Business and advertising signs;
(F) Roadways;
(G) Walkways.

(2) "Class I lighting" means all outdoor lighting used for, but not limited to, outdoor sales and eating areas, assembly or repair areas, advertising or business signs, recreational facilities, and other similar applications in which color rendition is important.

(3) "Class II lighting" means all outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor security, and other similar applications in which general illumination of the grounds is the primary concern.

(4) "Class III lighting" means any outdoor lighting used for decorative effects. It includes, but is not limited to, waterfall and pond lighting and architectural highlighting for buildings and landscapes.

(5) "Building official" means the director of public works or the director's designated representative.

(6) "Individual" means any private individual, governmental entity, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures, or corporations.

(7) "Fully shielded" means that the outdoor lighting fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

(8) "Partially shielded" means that the outdoor lighting fixture is constructed so that at least ninety percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

(9) "Blue light content" means the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm.

(10) "Traffic color compliant" means the 1931 CIE x y color coordinates of the outdoor light fixture is outside of any of the traffic signal color boxes as defined by ITE ST-052 500/AGS-PM/1105.

(1988, ord 88-122, sec 3; am 2001, ord 01-108, sec 1; am 2011, ord 11-18, sec 1.)

Section 14-52. General requirements.

(a) Standard fixture. All class types of outdoor light fixtures shall follow the requirements set forth in Table 14-A.

(b) Shielding. All outdoor lights shall be shielded pursuant to the requirements set forth in Table 14-A.

(c) Hours of operation. All outdoor light fixtures shall be subject to the hours of operation as required by Table 14-A.

(d) Mercury vapor lights prohibited. Mercury vapor lamps shall not be used for any new outdoor lighting installations or for the replacement of any existing installation. All existing mercury vapor outdoor lighting fixtures shall be removed by August 17, 1998.

(e) Blue light content. The blue light content of the outdoor light fixture shall be pursuant to the requirements set forth in Table 14-A.

(f) Traffic color compliant. The color of the outdoor light fixture shall be pursuant to the requirements set forth in Table 14-A.

(1988, ord 88-122, sec 3; am 2011, ord 11-18, sec 2.)

Section 14-53. Exemptions.

(a) Existing light fixtures. All outdoor light fixtures planned and approved by the County or existing and legally installed prior to September 1, 1988, are exempt from the installation and shielding requirements of this article, except that when existing outdoor light fixtures become inoperable, the outdoor light fixtures which replace them shall comply with the requirements of this article.

(b) Fossil fuel light. All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene and gasoline, shall be exempt from the requirements of this article.

(c) Holiday decorative lighting. Low wattage fixtures used for holiday decorations shall be exempt from the requirements of this article.

(d) Residential incandescent illumination. Private residential incandescent light fixtures which are fully shielded or have a lumen output of less than eight thousand one hundred lumens for each acre of property that is intended to be illuminated shall be exempt from the requirements of this article.

(e) Business signs. Outdoor advertising signs, if constructed of translucent material, and illuminated totally from within and colored with an opaque background using translucent letters or symbols, shall be exempt from the requirements of this article, except that the hours of operation shall be the same as those for Class I outdoor lighting.

(f) Searchlights. Searchlights used for advertising purposes shall be exempt from the requirements of this article, except that the operation of such lights is limited to the hours of 6:00 p.m. to 10:00 p.m.

(g) Emergency lighting. Emergency lighting required for public safety is exempt from the requirements of this article.

(1988, ord 88-122, sec 3.)

Section 14-54. Submission of plans.

(a) All outdoor lighting fixtures shall be installed in conformance with the provisions of this article and those of the electrical code of the County as applicable and subject to the appropriate permit and inspection requirements thereof. The applicant for any permit required by the County for work involving nonexempt outdoor light fixtures shall submit to the building official proof that the proposed work will comply with the article requirements. The submission shall contain, but not be limited to, the following:

(1) The location of the site where the outdoor light fixtures will be installed;

(2) Plans indicating the type(s) of outdoor light fixtures to be used and their location on the premises;

(3) A description of the outdoor light fixtures including, but not limited to, manufacturer's catalog cuts and drawings.

(b) The plans and descriptions required by subsection (a) sufficiently complete to enable the building official to readily determine whether compliance with the requirements of this article will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices or fixtures proposed, the applicant shall be required to submit further proof of compliance. Furthermore, any design, material, or method of installation not specifically forbidden by this article may be used, provided any such alternate has first been approved by the building official. The building official may approve any such proposed alternate provided:

(1) It is at least approximately equivalent to the applicable specific requirements of this article; and

(2) It is otherwise satisfactory and complies with the intent of this article.

(1988, ord 88-122, sec 3.)

Section 14-55. Tables.

Table 14-A		
Lamp Type	**Shielding Requirement**	**Operation Restrictions**
Class I		
Low pressure sodium	Fully shielded	None
Low pressure sodium	Partially shielded	Existing fixtures only. New installations as of October 2010 prohibited
Others above 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Others above 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
LED fixtures with less than 2% blue light content	Fully shielded	Off at 11:00 p.m. to sunrise*
Class II		
Low pressure sodium		
90 watts or less	None	Existing fixtures only. New installations as of October 2010 prohibited
greater than 90 watts	Partially shielded	Existing fixtures only. New installations as of October 2010 prohibited
Low pressure sodium	Fully shielded	None
LED fixtures with less than 2% blue light content and traffic color compliant	Fully shielded	None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens		Prohibited
Class III		
Low pressure sodium	Fully shielded	None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Neon	None	Off from 11:00 pm to sunrise*

*These lights may remain on after 11:00 p.m. if bona fide business or recreational activities are taking place.

(1988, ord 88-122, sec 3; am 2011, ord 11-18, sec 3; am 2013, ord 13-60, sec 2.)

Section 14-55.1. Penalty.

Any person violating any provision of this article shall, upon conviction, be punished by a fine not to exceed $500. Such person shall be deemed guilty of a separate offense for each and every day any violation of this article is committed. Furthermore, payment of such a fine shall not relieve the individual from the responsibility of correcting the violative condition, nor shall it preclude the County from instituting any action for its removal.
(1988, ord 88-122, sec 3.)

*** Editor's Note:** Article 9 was repealed on its entirety and replaced by ordinance 88-122.

Article 10. Exceptional Trees.

Section 14-56. Intent.

In accordance with section 58-2, Hawai'i Revised Statutes, to safeguard exceptional trees from destruction due to land development, the County desires to enact protective regulations to preserve exceptional trees within the County.
(1984, ord 84-22, sec 1.)

Section 14-57. Definitions.

For purposes of this article, "exceptional trees" means a tree or grove of trees with historic or cultural value, or which by reason of its age, rarity, location, size, aesthetic quality, or endemic status has been designated by the council as worthy of preservation. The term exceptional trees does not apply to trees planted for commercial forestry operations. Exceptional trees may be designated generally by biotaxy or individually by location or class.
(1984, ord 84-22, sec 1.)

Section 14-58. Arborist advisory committee.

There shall be an arborist advisory committee consisting of six members who shall be appointed by the mayor. The committee shall include the following: the planning director, or the director's designee; one member who shall be actively employed in the practice of landscape architecture; and four other members selected on the basis of active participation in programs of community beautification, or research or organization in the ecological sciences, including ethnobotany, or Hawaiiana.
(1984, ord 84-22, sec 1; am 1992, ord 92-12, sec 1.)

Section 14-59. Powers and duties.

The arborist advisory committee shall have the following powers and duties:

(a) To research, prepare and recommend to the council exceptional trees to be protected by County ordinance or regulation.
(b) To advise property owners relative to the preservation and enhancement of exceptional trees.
(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 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 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 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 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 84-22, sec 1; am 2004, ord 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 84-22, sec 1.)

Section 14-65. [Former] Repealed.
(1984, ord 84-53, sec 1; am 1989, ord 89-102, sec 1; rep 1991, ord 91-140, sec 2.)

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	Ords
Bo or Peepul Tree *Ficus religiosa*	2-3-15:1 Old Riverside School	State of Hawai'i Dept. of Education	91-140
Brazilian Fern Tree *Schizolobium parahyba*	7-5-1:114 Moeauoa 1, North Kona	Gwendolyn C. Hobbs	06-135
Chinese Weeping Banyan	2-2-28:08 Kilauea Avenue	State of Hawai'i	99-27
Coconut Trees *Cocos nucifera*	2-2-4:02 Waiolama Canal, Hilo	State of Hawai'i	91-140
Divi-Divi *Caesalpinia coriaria*	2-3-05:1 Kalākaua Park	County of Hawai'i	91-140
False Kamani *Terminalia catappa*	2-3-12:09 Haili Street	Haili Church	91-140
Gardenia Remyi	2-3-29-02 Waianuenue Avenue	John & Dorothy Cross	00-121
Gold Tree *Cybistax donnell-smithii*	2-2-27:01 Forestry Arboretum	State of Hawai'i	91-140, 00-121
Grove of Mangoes *Mangifera indica*	1-3-08 Pohoiki Road	County of Hawai'i	93-8, 06-26
Grove of Mangoes	1-4-3, 4, 5, & 28 Government Beach Road	County of Hawai'i	02-123
Grove of Monkeypod Trees	2-2-04:35 Kamehameha Avenue & Pauahi Street	County of Hawai'i	99-27
Grove of Monkeypod Trees	2-2-04:56 Kamehameha Avenue & Pauahi Street	County of Hawai'i	99-27
Hame *Antidesma platyphyllum*	4-4-14:01 Kalōpā State Park	State of Hawai'i	91-140, 00-121
Indian Banyan *Ficus benghalensis*	2-3-05:1 Kalākaua Park	County of Hawai'i	91-140
Koa *Acacia koa*	4-4-14:01 Kalōpā State Park	State of Hawai'i	91-140
Kōpiko *Psychotria hawaiiensis*	4-4-14:01 Kalōpā State Park	State of Hawai'i	91-140, 00-121

Tree	Tax Map Key and Location	Owner	Ords
Kōpiko *Psychotria hawaiiensis*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
Loulu Palm *Pritchardia beccariana*	2-3-05:1 Kalākaua Park	County of Hawaiʻi	91-140
Loulu Palm *Pritchardia schattaueri*	8-9-6:04 South Kona	Farms of Kapua, Ltd.	91-140
Monkeypod *Samanea saman*	2-1-03:27 Lihiwai Street	Suisan Company	91-140
Moreton Bay Fig *Ficus macrophylla*	7-5-6:12 Portion of Kailua Village, North Kona	Burgess, Inc.	06-136
ʻŌhiʻa	1-5-1:56 Kaʻohe Homesteads, Pāhoa	Robert E. O'Neill	03-145
ʻŌhiʻa Lehua *Metrosideros polymorpha*	2-3-27:01 Rainbow Falls Park, Hilo	State of Hawaiʻi	91-140, 00-121
ʻŌhiʻa Lehua *Metrosideros polymorpha*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
ʻŌhiʻa Lehua *Metrosideros polymorpha*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
ʻŌhiʻa Lehua *Metrosideros polymorpha*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
ʻŌhiʻa Lehua *Metrosideros polymorpha*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
ʻŌhiʻa Lehua *Metrosideros polymorpha*	4-4-14:01 Kalōpā State Park	State of Hawaiʻi	91-140, 00-121
Pili nut *Canarium sp.*	8-1-9:01 South Kona	George Schattauer	91-140
Pua Kenikeni *Fagraea berteriana*	3-6-09:31 Laupāhoehoe Police Station	County of Hawaiʻi	91-140
Surinam Cherry *Eugenia uniflora*	2-3-14:07 Waiānuenue Avenue	Hilo United Methodist Church	91-140
Terminalia Chebula	2-3-01:2 Kamehameha Avenue	County of Hawaiʻi	02-123
Valencia Orange (Vancouver) *Citrus sinensis*	8-1-9:1 Kaawaloa, South Kona	Margaret Schattauer	07-124

(1991, ord 91-140, sec 2; am 1993, ord 93-8, sec 1; am 1999, ord 99-27, sec 1; am 2000, ord 00-121, sec 1; am 2002, ord 02-123, sec 1; am 2003, ord 03-145, sec 1; am 2005, ord 05-158, sec 1; am 2006, ord 06-26, sec 2; ord 06-135, sec 1; ord 06-136, sec 1; am 2007, ord 07-124, sec 1; ord 07-125, sec 1; ord 07-126, sec 1.)

Article 11. Neighborhood Watch Signs.

Section 14-66. Purpose.

The purpose of this article is to establish a process to request, purchase, construct, and install neighborhood watch signs at approved locations.
(1987, ord 87-118, sec 1; am 2015, ord 15-70, sec 1.)

Section 14-67. Definitions.

As used in this article:

"Area coordinator" means a neighborhood watch member designated as the community's liaison with the police department.

"Chief of police" means the administrative head of the County police department.

"County highway" means every highway, street, or roadway under the jurisdiction and control of the County of Hawai'i.

"Neighborhood watch" means a citizen crime prevention program under the County police department.

"Neighborhood watch sign" means a sign constructed and installed at the direction of the police department and pursuant to the provisions of this article.

"Police officer" means the community police officer for the appropriate community, or any police officer designated as such by the chief of police."
(1987, ord 87-118, sec 1; am 2001, ord 01-108, sec 4; am 2015, ord 15-70, sec 2.)

Section 14-68. Powers and duties.

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

(1) Approve the size and design of all neighborhood watch signs;
(2) Approve the construction and installation of neighborhood watch signs on County highways; allow signs to be purchased, constructed, and installed on private roadways open to the public; and remove signs or cause signs to be removed;
(3) Work with the director of public works or the director's duly authorized representative to facilitate the construction, installation, removal, or replacement of neighborhood watch signs on County highways;
(4) Work with area coordinators or duly authorized representatives to facilitate the purchase and installation of neighborhood watch signs on private roads open to the public; and
(5) Provide to a council member upon request, a listing of all active neighborhood watches by location.

(1987, ord 87-118, sec 1; am 2001, ord 01-108, sec 1; am 2015, ord 15-70, sec 3.)

Section 14-69. Application for approval.

(a) Any area coordinator wishing to have a neighborhood watch sign placed in the person's neighborhood shall submit an application to the chief of police. The area coordinator shall fill out the current application form provided by the police department.

(b) No application for the construction and installation of signs shall be approved by the chief of police unless the neighborhood watch is determined by the chief of police to be in compliance with the policies of the police department.

(1987, ord 87-118, sec 1; am 2015, ord 15-70, sec 4.)

Section 14-70. Rules.

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

(1987, ord 87-118, sec 1.)

Article 12. Official Bulletin Board.

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

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

(1994, ord 94-43, sec 1; am 2006, ord 06-140, sec 2; am 2009, ord 09-148, sec 2.)

Section 14-72. Official bulletin board location.

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

(1994, ord 94-43, sec 1; am 2006, ord 06-140, sec 2; am 2009, ord 09-148, sec 3.)

Section 14-73. Official bulletin board custodian.

Each agency and department of the County of Hawaiʻi shall be responsible for the posting and removal of their agendas and notices on the official bulletin board.

(1994, ord 94-43, sec 1; am 2006, ord 06-140, sec 2.)

Article 13. Soliciting for Money or Objects of Value.

Section 14-74. Definitions.

As used in this article, unless otherwise specified:

"Aggressive manner" means:

(1) Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into agreeing to the matter being solicited;

(2) Following a person after the person has given a negative response to such soliciting;

(3) Intentionally or knowingly touching or causing physical contact with another person without that person's consent in the course of soliciting;

(4) Intentionally or knowingly blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to stop or to take evasive action to avoid physical contact;

(5) Using violent or threatening gestures toward a person solicited;

"Intentionally" shall be as defined in section 702-206, Hawai'i Revised Statutes.

"Knowingly" shall be as defined in section 702-206, Hawai'i Revised Statutes.

"Public place" means a place to which the public or a substantial group of persons has access including, but not limited to, any street, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

"Soliciting" means to ask, request, plea for, or urge support from another. Soliciting includes, but is not limited to, requests for money or objects of value, signing of petitions, participation in surveys, support for political candidates or other election related matters, and support for religious or other moral beliefs. Soliciting does not include passively standing or sitting, nor does it include performing music, singing, or conducting other street performances.

(1999, ord 99-1, sec 1; am 1999, ord 99-153, sec 4; am 2008, ord 08-21, sec 1; am 2015, ord 15-51, sec 2.)

Section 14-75. Prohibited acts.

No person shall solicit in an aggressive manner in any public place.

(1999, ord 99-1, sec 1; am 1999, ord 99-153, sec 4; am 2008, ord 08-21, sec 1; am 2015, ord 15-51, sec 3.)

Section 14-76. Enforcement.

It shall be the duty of the officers of the police department and such officers as are assigned by the chief of police to enforce the provisions of this article.

(1999, ord 99-1, sec 1; am 1999, ord 99-153, sec 4.)

Section 14-77. Form of summons or citations.

There shall be provided for use by authorized police officers a form of summons or citation for use in citing violators of those traffic laws which do not mandate the physical arrest of such violators.
(1999, ord 99-1, sec 1; am 1999, ord 99-153, sec 4.)

Section 14-78. Penalties.

Any violation of this article shall constitute a petty misdemeanor punishable by imprisonment for not more than thirty days or by a fine not to exceed $100, or by both.
(1999, ord 99-1, sec 1; am 1999, ord 99-153, sec 4.)

Article 14. Street Addressing And Naming.

Division 1. General Provisions.

Section 14-79. Purpose and applicability.

(a) The establishment of a uniform and systematic procedure for the assignment of addresses is vital for the health, safety and welfare of the community to provide an effective means of emergency location through the E911 system; expedite postal, utility service, and commercial delivery services; and reduce confusion for people trying to find a residence or business.
(b) An address shall be assigned to all buildings, as defined in this article, and units within buildings which will be occupied for work or residence uses.
(c) All streets shall be named, whether public or private, in accordance with this article.
(d) No application for a building permit or subdivision shall be approved that does not conform to the requirements in this article.

(2004, ord 04-82, sec 2.)

Section 14-80. Definitions.

(a) "Address" shall mean that combination of street name, building number, and when necessary, a unit number that is assigned to a parcel, building, or unit within a building, and is unique to it, to indicate its location.
(b) "Building" shall mean any structure that is designed for human occupation for working or living purposes. Structures which provide accessory uses to a business or residence, such as accessory storage, animal shelters, barns, housing of mechanical or scientific equipment, power generation, greenhouses, or other accessory uses located on the same parcel of land are not required to have an address.
(c) "Director" means the planning director or designated representative.

(d) "Private street" shall mean any street which is not under the control or ownership of any governmental agency.
(e) "Street" means a vehicular way providing access to three or more lots or units, or with the potential to serve three or more lots or units; a vehicular way that is not a street shall be considered a driveway. The address for a building along a driveway shall use the name of the street which the driveway intersects.
(2004, ord 04-82, sec 2.)

Section 14-81. Administration.
(a) The director shall assign street names and building numbers within the County of Hawai'i pursuant to this article.
(b) The director shall maintain official maps and databases of street names and addresses in a system that enables efficient searches or listing by property owner, address, and tax map key.
(c) The director may grant reasonable exceptions to the requirements in this article upon consultation as appropriate with the director of public works, fire chief, and/or police chief to accommodate existing conditions or unusual street or land use patterns.
(d) The director may adopt rules to implement this article.
(2004, ord 04-82, sec 2.)

Division 2. Address Numbers.

Section 14-82. Procedures for assigning and changing addresses.
(a) Assignment of new address. The director is authorized to assign an appropriate number to each building upon application for a building permit or upon request by the property owner, lessee, tenant, renter or government agency. If circumstances indicate a reasonable need for consultation and consent by the property owner to any new or change of address application by a nonowner, the director may require such consultation and consent before issuing a new or change of address.
    (1) For existing buildings without an address, the following information shall be provided to the director when applying for an address:
        (A) Tax map key number of the property.
        (B) Name of the property owner, and name of the applicant (if not the owner).
        (C) Plot plan of the parcel showing all driveways and buildings.
        (D) The director may request additional information as needed to determine the assignment of the correct number.
    (2) Prior to the assignment of an address, the street that is to be part of the address shall have an official name. If the street does not have an official name, the applicant shall work with the planning department to name the street in accordance with the procedures and requirements set forth in Street Names, division 3 of the article.

(3) Provided the street has an official name, within fourteen calendar days of the filing of the application with the director, the director shall assign a building number and notify the applicant in writing of the assigned building number and any special requirements as to posting location, number size or other requirements.

(4) For new buildings, the director will assign building numbers as part of the building permit process. If the location of the driveway to the property should change after the issuance of the building permit, the applicant or the applicant's builder must notify the planning department prior to occupancy to determine whether a change in the building number is necessary.

(b) Changing an address.

(1) The director may change an address when it is out of sequence, does not conform to the numbering standards established in this article, is confusing, or might delay emergency response. If an address is changed, the director must notify the owner in writing at least thirty days before the effective date.

(2) A property owner may apply for an address change for personal reasons by submitting an application for number change and paying a fee of $50. The director may deny the application if the proposed address does not meet the requirements of this article.

(2004, ord 04-82, sec 2.)

Section 14-83. Address numbering standards.

(a) Numbering convention. Building numbers shall consist of whole numbers (no fractions) and shall be assigned based on an equal interval system. Under this system, the address is derived by measuring the distance along a street and dividing that distance by some equal interval to determine the address for a building. The number assigned shall be the numbered interval closest to the driveway or front entrance. The interval unit shall be small enough to provide an address to each potential building permitted in the zoning district. The director shall determine the appropriate interval unit for urban and rural areas.

(b) Point of origin; odd and even numbering. For numbers assigned after August 14, 2004, numbers shall increase from the point of origin with even numbers on the right-hand side. In determining the point of origin, the director may consider any of the following: the existing pattern of surrounding streets; numbering pattern relative to mauka/makai directions; entrance to a cul-de-sac; and/or numbering pattern relative to east/west or north/south direction of the street.

(c) Prefixes and suffixes. On parcels with multiple buildings, or in situations approved by the director, the assigned number may be followed by an alphabet letter to distinguish each building or units within a building. The director may add a prefix to any number, such as the tax map key zone.

(d) Corner lots. The address for corner lots shall be the street where the main driveway intersects or where the main entry faces. If there is no driveway or the structure does not directly face either street, the number should be determined based on the predominate street frontage.

(2004, ord 04-82, sec 2.)

Section 14-84. Display of address numbers.

(a) Display requirement.
  (1) Each property owner shall post building numbers in accordance with the provisions of this article.
  (2) During construction of new buildings, assigned address numbers shall be posted temporarily at the driveway location to facilitate inspections and assist emergency responders prior to occupancy.
  (3) Upon written notice from the director that a posted number is erroneous or changed, the property owner shall remove or erase any wrong building number and shall post the correct building numbers in compliance with this article.
  (4) All buildings required to be numbered shall be numbered at the expense of the owner.
  (5) The property owner shall be responsible to maintain all posted numbers such that they are visible and readable at all times.

(b) Display standards.
  (1) Single-family residences.
    (A) For parcels with single mailboxes, numbers shall be posted on the mailbox to be visible from either direction. Where the entrance of a residence is more than fifty feet from the street travelway edge or when the residence is not clearly visible from the street, a second set of numbers shall be placed on, above, or at the side of the main entrance to the building.
    (B) In areas without mailboxes, or when multiple mailboxes are located in one location, numbers shall be placed on a post, fence, wall, or some structure within the property line near the intersection of the driveway and the street so that the number is distinguishable and legible from the street. Where the main entrance of the building is clearly visible and within fifty feet of the street travelway edge, the address may instead be conspicuously placed on, above, or at the side of the main entrance so that the number is distinguishable and legible from the street. Where the entrance of a residence is more than fifty feet from the street travelway edge or when the residence is not clearly visible from the street, a second set of numbers shall be placed on, above, or at the side of the main entrance to the building.

(C) When owners share a common driveway, a sign not exceeding two square feet in area and showing the range of addresses shall be attached to a permanent structure or post with the top of the sign not exceeding six feet in height, and located within the property line near the intersection of the driveway and the street. Each building along the driveway shall be numbered in accordance with this article.

(D) Address numbers for residences shall be Arabic numerals not less than three inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.

(2) Duplexes, apartments, townhouses, shopping centers.

(A) Duplexes, apartments, townhouses, shopping centers, or other similar groupings where only one number is assigned shall display such number at the main driveway from the street.

(B) Numbers for individual units or establishments within the complex shall be displayed on, above, or to the side of the main doorway of each unit or establishment.

(C) Address numbers, including unit numbers, shall be Arabic numerals not less than three inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.

(3) Commercial and industrial buildings.

(A) For buildings within fifty feet of the street, the number may be displayed over the main entrance to the structure or at the driveway entrance upon a wall, ground, or marquee sign. For buildings located more than fifty feet from the street, the number shall be displayed at the driveway entrance. If there are more than one building on the property, the address shall also be displayed over the main entrance to each building.

(B) Address numbers for commercial and industrial buildings shall be Arabic numerals not less than four inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.

(C) To avoid confusion, there shall be no other wording or numbers within two feet of the address number.

(4) Directories.

For multiple-address developments, the director may require a directory board with a map to be posted at the driveway entrance and/or main entrance walkway. Directories must clearly show the location of all addresses that can be reached via that driveway or walkway. Directories must be easily seen from the street or sidewalk, as appropriate, but placed so that a vehicle or pedestrian pausing to read them can be out of the street and not block the sidewalk or driveway. Additional interior directories may be required where necessary to locate an address.

(c) The director shall have final approval authority over any aspect of building numbering reasonably related to the legibility, durability and location of the building numbering, and the building owner shall comply with all lawful orders of the director regarding such matters.

(2004, ord 04-82, sec 2.)

Division 3. Street Names.

Section 14-85. Procedures for naming and renaming streets.

(a) New streets. Streets to be created by land division, whether public or private, serving or with the potential to serve three or more lots or units shall be named by the subdivider and approved by the director during the review and approval of the subdivision.

(b) Naming or renaming existing streets. The County council, director, street owner, or property owner along the street may initiate the naming or renaming of an existing street. When naming or renaming is initiated by the street owner or property owner, the petition must be signed by owners representing at least two-thirds of the parcels, dwelling units or businesses located along the affected street or portion of the street. When initiated by the County council, the council may direct the director by resolution. The director will name or rename a street in accordance with the criteria set forth in this article.

(c) Notification. After a street is named, the director must notify all appropriate public agencies and the property owners along the affected street.

(2004, ord 04-82, sec 2.)

Section 14-86. Street name criteria.

Street names shall meet the following criteria:

(a) No duplication. To eliminate potential confusion, duplication of street names within the same judicial district or zip code zone shall not be permitted. Streets with the same name but different street type designations shall be considered duplicate street names.

(b) Continuity. Streets continuing through an intersection or are segments of a planned alignment shall keep the same name.

(c) Directionals. The director may add directional indicators, such as north and west, to street name proposals as deemed appropriate.

(d) Other Criteria. The director may specify other street naming criteria in rules.

(2004, ord 04-82, sec 2.)

Section 14-87. Street name signs.

(a) Requirement. Every intersection must have signs naming all the intersecting streets.

(b) Standards. The design and installation of street name signs, whether public or private street, must meet the minimum standards of the department of public works.

(c) Responsibility. For new streets created by land division, the subdivider shall be responsible to provide and install the street name signs prior to final subdivision approval. For existing public streets, the State or County as appropriate shall install and maintain the street name signs. For private streets, the street owner is responsible to install and maintain the street name signs. At the request of the majority of the owners of a private street, and upon receipt of a fee sufficient to cover the cost of materials and labor as determined by the County, the County may fabricate, erect, and thereafter maintain the street name signs.

(2004, ord 04-82, sec 2.)

Division 4. Violations.

Section 14-88. Enforcement of numbering or street name requirements.

(a) Notice and order. Whenever there is reason to believe there has been a violation of the requirements of this article, the director shall give notice to the owner to comply and order corrective action within thirty days from the date of notification. Such notice and order shall be sent via certified mail, with return receipt requested, to the owner. The date shown on the return receipt shall be the date from which the thirty-day period shall commence for compliance.

(b) Appeal. Any person adversely affected by any order issued under this section, may within thirty days after the service of the order, appeal the order to the board of appeals as provided by section 6-9.2, County Charter. An appeal to the board of appeals shall stay the provisions of the director's order pending the final decision of the board of appeals.

(c) Penalty. If the owner fails to comply within the thirty-day period, the owner will be subject to a fine of $25, and a further penalty of a like sum for every thirty days thereafter that such person shall neglect or refuse to correct the violation. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, and provided that administrative appeals have been exhausted or the time for filing such appeals has elapsed without appeal, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(2004, ord 04-82, sec 2; am 2011, ord 11-103, sec 6.)

Section 14-89. Enforcement of street name sign or address tampering or defacement.

(a) Violation. Except for repair, replacement, or relocation within twenty-four hours, no person may alter, deface, or remove any address number or street sign.

(b) Criminal prosecution.

(1) Any person violating or causing or permitting the violation in the preceding paragraph, shall be guilty of a violation, and upon conviction thereof shall be sentenced as follows:

(A) For a first offense, by a fine not exceeding $500.

(B) For a subsequent conviction which occurs within five years of any prior conviction for violation of this chapter, by a fine of not less than $500 but not exceeding $1,000.

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

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

(2004, ord 04-82, sec 2.)

Article 15. Genetically Engineered (Transgenic) Taro (Kalo) and Coffee.

Section 14-90. Purpose.

The purpose of this article is to protect the taro (kalo) and coffee industry from genetic engineering and preserve agriculturally-based practices and cultural traditions associated with taro (kalo) and coffee within the County of Hawai‘i.
(2008, ord 08-154, sec 1.)

Section 14-91. Definitions.

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

"Genetic engineering" means a process or technology employed whereby the hereditary apparatus of a living cell is altered, modified, or changed so that the cell can produce more or different chemicals or perform completely new functions.

"Person" includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, in any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.

"Recombinant DNA" means the transfer of genes, regulatory sequences, or nucleic acid between hosts by the use of vectors or laboratory manipulations and includes the insertion, excision, duplication, inactivation, or relocation of specific genes, regulatory sequences, or sections of nucleic acid. This term does not apply to a material or an organism developed exclusively through traditional methods of breeding, hybridization, or nondirected mutagenesis.

"Release" means a discharge, emission or liberation of any genetically engineered organisms, or the product of a genetically engineered organism, into the open environment.
(2008, ord 08-154, sec 1.)

Section 14-92. Genetically engineered (transgenic) taro (kalo), unlawful.
It shall be unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA taro (kalo).
(2008, ord 08-154, sec 1.)

Section 14-93. Genetically engineered (transgenic) coffee, unlawful.
It shall be unlawful to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA coffee.
(2008, ord 08-154, sec 1.)

Section 14-94. Penalty.
Any person violating any provision of this article shall be guilty of a violation, and upon conviction thereof, shall be sentenced by a fine not exceeding $1,000.
(2008, ord 08-154, sec 1.)

Section 14-95. Injunctive relief.
Proceedings for injunctive relief in a court of competent jurisdiction may be heard for potential violations of this article.
(2008, ord 08-154, sec 1.)

Article 16. Lowest Law Enforcement Priority of Cannabis Ordinance.*

Section 14-96. Purpose.
The purpose of this article is to:
(1) Provide law enforcement more time and resources to focus on serious crimes;
(2) Allow our court systems to run more efficiently;
(3) Create space in our prisons to hold serious criminals;
(4) Save taxpayers money and provide more funding for necessities such as education and health care; and
(5) Reduce the fear of prosecution and the stigma of criminality from non-violent citizens who harmlessly cultivate and/or use cannabis for personal, medicinal, religious, and recreational purposes.
(2008, ord 08-181, sec 2.)

Section 14-97. Findings.

(a) The Institute of Medicine has found that cannabis (marijuana) has medicinal value and is not a gateway drug.

(b) According to the U.S. Centers for Disease Control, the use of cannabis (marijuana) directly results in zero deaths per year.

(c) According to the National Institute of Drug Abuse (NIDA), the marijuana eradication program has not stopped cannabis cultivation in the county, rather the program has only decreased the availability of the plant, which increases its "street" value, resulting in more crime.

(d) The National Institute of Drug Abuse (NIDA) also reported that a large increase of the use of methamphetamine, crack cocaine, and other hard drugs was related to the marijuana eradication program's implementation.

(e) According to public record, the 'mandatory program review' for the marijuana eradication program, required by section 3-16 of the County Charter to be performed at least once every four years, has never been performed in the thirty years that the program has existed.

(f) Law abiding adults are being arrested and imprisoned for nonviolent cannabis offenses, clogging our court dockets, overcrowding our prisons, tying up valuable law enforcement resources and costing taxpayers hundreds of thousands of dollars in Hawai'i County alone each year.

(g) The citizens of the Cities of Hailey, Idaho; Denver, Colorado; Seattle, Washington; Columbia, Missouri; Eureka Springs, Arkansas and Santa Barbara, Oakland, Santa Monica and Santa Cruz, in California, and the citizens of Missoula County, Montana, all voted for cannabis (marijuana) to be placed as law enforcement's lowest priority within the past five years.

(2008, ord 08-181, sec 3.)

Section 14-98. Definitions.

"Adult" means any individual who is twenty one years of age or older.

"Adult personal use" means the use of cannabis on private property by adults. It does not include:

(1) Distribution or sale of cannabis;
(2) Distribution, sale, cultivation, or use of cannabis on public property;
(3) Driving under the influence; or
(4) The commercial trafficking of cannabis, or the possession of amounts of cannabis in excess of the amounts defined as being appropriate for adult personal use.

"Marijuana", (as defined in the Hawai'i Revised Statutes of Chapter 712-1240) means cannabis.

"Cannabis" means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the cannabis plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

"Lowest Law Enforcement Priority" means a priority such that all law enforcement activities related to all offenses other than the possession or cultivation of cannabis for adult personal use shall be a higher priority than all law enforcement activities related to the adult personal use of cannabis. The Lowest Law Enforcement Priority regarding possession or cultivation of cannabis shall apply to any single case involving twenty four or fewer cannabis plants at any stage of maturity or the equivalent in dried cannabis, where the cannabis was intended for adult personal use.

The "dried equivalent" of twenty four or fewer cannabis plants shall be presumed to be twenty four or fewer ounces of usable cannabis, excluding stems and other non active parts. A greater amount may also fall under the Lowest Law Enforcement Priority provisions described herein if such amount is shown by competent evidence to be no more than the dried equivalent of twenty four plants.
(2008, ord 08-181, sec 4.)

Section 14-99. Lowest law enforcement priority policy relating to the adult personal use of cannabis.

(a) The cultivation, possession and use for adult personal use of cannabis shall be the Lowest Law Enforcement Priority for law enforcement agencies in the county.

(b) The council, the police commissioner, the chief of police and all associated law enforcement staff, deputies, officers and any attorney prosecuting on behalf of the county shall make law enforcement activity relating to cannabis offenses, where the cannabis was intended for adult personal use, their Lowest Law Enforcement Priority. Law enforcement activities relating to cannabis offenses include but are not limited to the prosecution of cannabis offenses involving only the adult personal use of cannabis.

(c) Neither the chief of police, the police commissioner, nor any attorney prosecuting on behalf of the county, nor any associated law enforcement staff, deputies, nor officers shall seek, accept or renew any formal or informal deputization or commissioning by a federal law enforcement agency for the purpose of investigating, citing, or arresting adults, nor for searching or seizing property from adults for cannabis offenses subject to the Lowest Law Enforcement Priority of cannabis where such activities would be in violation of that policy, nor shall such authorities exercise such powers that may be ancillary to deputization or commissioning for another purpose.

(d) The council shall not authorize the acceptance or the issuing of any funding that is intended be used to investigate, cite, arrest, prosecute, search or seize property from adults for cannabis offenses in a manner inconsistent with the county's Lowest Law Enforcement Priority policy.

(2008, ord 08-181, sec 5.)

Section 14-100. County prosecuting attorneys.

To the full extent allowed by the Constitution of the State of Hawai'i, the people, through their county government, request that neither the county prosecuting attorney nor any attorney prosecuting on behalf of the county shall prosecute any violations of the sections of chapter 712-1240 of the Hawai'i Revised Statutes regarding possession or cultivation of cannabis in a manner inconsistent with the Lowest Law Enforcement Priority, as described in section 14-98 and 14-99 of this article; in cases where the amount possessed or grown is less than twenty four plants or the dried equivalent, possession for adult personal use shall be presumed.
(2008, ord 08-181, sec 6.)

Section 14-101. Expenditure of funds for cannabis enforcement.

(a) Neither the council, nor the police commissioner, nor the chief of police, nor any attorneys prosecuting on behalf of the county, nor any associated law enforcement staff, deputies, or officers shall spend or authorize the expenditure of any public funds for the investigation, arrest, or prosecution of any person, nor for the search or seizure of any property in a manner inconsistent with the Lowest Law Enforcement Priority as defined in section 14-98 and 14-99 of this article.
(b) The council shall not support the acceptance of any funds for the marijuana eradication program.

(2008, ord 08-181, sec 7.)

Section 14-102. Community oversight.

The council shall ensure the timely implementation of this chapter by working with the chief of police and/or the police commissioner to:

(1) Provide for procedures to receive grievances from individuals who believe that they were subjected to law enforcement activity contrary to the Lowest Law Enforcement Priority of cannabis, which is described in section 14-98 and 14-99 of this article; and
(2) Publish a report semi-annually on the implementation of this chapter every first day of June and every first day of December, from this day forward, with the first report being issued June 1, 2009. These reports shall include but not be limited to: the number of all arrests, citations, property seizures, and prosecutions for all cannabis offenses in the county, the number of complaints regarding marijuana eradication over-flights; the breakdown of all cannabis arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony, the estimated time and money spent by the county on law enforcement and punishment for adult cannabis offenses, and any instances of officers or deputies assisting in state or federal enforcement of adult cannabis offenses. These reports shall be published with the cooperation of the county prosecuting attorney, the chief of police, and all associated law enforcement staff in providing needed data.

(2008, ord 08-181, sec 8.)

Section 14-103. Notification of local, state, and federal officials.

(a) After the enactment of this article, the county clerk shall send letters on an annual basis (every June 1st of each year) to the mayor of the county, the county of Hawaiʻi voters' Congressional Delegation, Hawaiʻi's U.S. senators, the county of Hawaiʻi voters' representatives in the Hawaiʻi State Legislature, the Governor of Hawaiʻi, and the President of the United States. This letter shall state; "The citizens of the County of Hawaiʻi have passed an initiative to make Cannabis offenses the Lowest Law Enforcement Priority, where the Cannabis is intended for adult personal use, and request that the federal and state branches of government remove criminal penalties for the cultivation, possession and use of Cannabis for adult personal use; the citizens also request that Cannabis policies here within the county of Hawaiʻi be dealt with from our local law enforcement only." The letters may also state, be it the will of the county council; that according to the three year study performed by the National Institute on Drug Abuse, more people used methamphetamine as a result of the marijuana eradication program; they may also express that methamphetamine is a growing problem in our community and more help would be appreciated in that area, and that the first action that would help in that area would be to end the marijuana eradication program.

(b) This duty shall be carried out until state and federal laws are changed accordingly.

(2008, ord 08-181, sec 9.)

Section 14-104. Statutory and constitutional interpretation.

All provisions in this article shall only be implemented to the full extent that the Constitution of the State of Hawaiʻi and the Hawaiʻi Revised Statutes allows, and in the event, and only in the event, that a court of competent jurisdiction determines that any provision in any section of this article may not be directed by voter initiative or by action of the council, then that specific mandatory provision only shall be deemed advisory and expression of the will of the people that the provision shall be implemented into law by whichever government branch or official who has the power to implement it, and that the council shall take all actions within their power to work with those branches of government to express the will of the people and encourage, support, and request the implementation of those provisions.

(2008, ord 08-181, sec 10.)

Section 14-105. Severability.

In the event, and only in the event, that a court of competent jurisdiction should find one or more of the sections, or parts of the sections of this article illegal, or any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the article and the application of such provisions to other persons or circumstances shall not be affected thereby.

(2008, ord 08-181, sec 11.)

Article 17. Regulation of Axis Deer.

Section 14-106. Transporting live axis deer into the County; unlawful.

It is a violation of this article for any person to transport live axis deer into the County.
(2011, ord 11-116, sec 2.)

Section 14-107. Transporting live axis deer within the County; unlawful.

It is a violation of this article for any person to transport live axis deer within the County.
(2011, ord 11-116, sec 2.)

Section 14-108. Harboring axis deer; unlawful.

It is violation of this article for a person to give shelter or refuge to axis deer on private property.
(2011, ord 11-116, sec 2.)

Section 14-109. Exemptions.

The Panaʻewa Rainforest Zoo is exempt from this article.
(2011, ord 11-116, sec 2.)

Section 14-110. Penalty.

Any person who violates this article shall, upon conviction thereof, be guilty of a misdemeanor, and be sentenced to a fine of up to $2,000, or imprisonment for a period of up to one year, or both.
(2011, ord 11-116, sec 2.)

Article 18. Animal Eradication.

Section 14-111. Findings and purpose.

(a) The County of Hawaiʻi is charged with the ultimate responsibility to protect, preserve, and enhance the health, safety, and welfare of the people of Hawaiʻi Island. With regard to the bond between the people and the land, the County of Hawaiʻi hereby finds:
   (1) Animal eradication by aerial shooting is in conflict with the cultural and traditional values of the people of Hawaiʻi County;
   (2) Aerial hunting eradication creates unnecessary risk to human life, while also disturbing endangered flora and fauna; and
   (3) Animal population control measures can be performed in a manner that is harmonious with the culture, values, and principles of the people.

(b) The purpose of this article is to declare:
   (1) Animal eradication by aerial shooting on Hawaiʻi Island shall no longer be practiced;

(2) The State of Hawaiʻi should conform and comply with the provisions of this article;
(3) Other methods of animal population control must be used. Any such method to be enacted will take in to account the will of the people, which requires effective communication and a concerted effort to remain linked to the people that take responsibility for the land and its resources; and
(4) The State of Hawaiʻi should increase public access to the areas of Hawaiʻi Island that will allow hunters and gatherers the opportunity to provide subsistence to the families of Hawaiʻi Island. Valuable food resources should be consumed rather than wasted.

(2012, ord 12-109, sec 2.)

Section 14-112. Aerial eradication of animals; unlawful.

It is a violation of this article for any person to engage in the eradication of any animal for any reason while being transported by helicopter, airplane, or any other similar means.

(2012, ord 12-109, sec 2.)

Article 19. Geothermal Drilling.

Section 14-113. Definitions.

For the purposes of this article, the following words and phrases, unless the context otherwise requires, shall be defined as indicated:

"Residence" means a building or a part thereof permitted and designed for or used for a home.

"One mile" means the measurement made from the well bore, in a straight line, without regard to intervening structures or objects, to the property line of the nearest residence.

(2012, ord 12-151, sec 1.)

Section 14-114. Restrictions.

Geothermal resources exploration drilling and geothermal production drilling operations being conducted one mile or less from a residence, shall be restricted to the operating hours of 7:00 a.m. – 7:00 p.m.

(2012, ord 12-151, sec 1.)

Article 20. Plastic Bag Reduction.

Section 14-115. Purpose.

The purpose of this article is to reduce the use of plastic bags and to encourage the use of environmentally preferable alternatives, such as reusable cloth or paper bags.

(2013, ord 12-1, sec 2.)

Section 14-116. Definitions.

As used in this article:

"Business" means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, or any other legal entity, and includes any independent contractors associated with the business.

"Plastic checkout bag" means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and that is made from non-compostable or compostable plastic and not specifically designed and manufactured for multiple re-use.

"Reusable bag" means a bag that is specifically designed and manufactured for multiple re-use and is (1) made of cloth or other machine washable fabric or (2) made of paper specifically designed for multiple and long-term use.

(2013, ord 12-1, sec 2.)

Section 14-117. Administration.

The director of the department of environmental management shall administer this article including providing education and enforcement and shall adopt administrative rules including defining permissible bags and establishing penalties pursuant to chapter 91, Hawai'i Revised Statutes, by July 16, 2013.

(2013, ord 12-1, sec 2.)

Section 14-118. Plastic checkout bags prohibited.

Businesses shall not provide plastic checkout bags to their customers.

(2013, ord 12-1, sec 2.)

Section 14-119. Exemptions.

(a) Organizations classified under Section 501 (c) of the United States Internal Revenue Code and non-incorporated community booster organizations are exempt from the provisions of this article.

(b) Businesses may make plastic checkout bags available for purchase until January 17, 2014.

(2013, ord 12-1, sec 2.)

Article 21. Hydraulic Fracturing Policy.

Section 14-120. Definitions.

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

"Department" means the planning department.

"Director" means the director of the planning department, or the director's authorized representative(s).

"Drilling operation" means the boring, piercing, or penetration into an underground geologic formation.

"Hydraulic fracturing" means a drilling operation into an underground geologic formation and the injection of fluids, gases, chemicals, sand or any other substance with the intention to cause or enhance fractures in the geologic formation for the purpose of instigating or increasing the porosity or permeability of the geologic formation to initiate or increase the production of a desired commodity from a well. Hydraulic fracturing is also known as "fracking," "hydro-fracking," "hydro-fracturing," "hydro-shearing," "hydraulic shearing," "hydro-stimulation," or "enhanced geothermal drilling."
(2013, ord 13-115, sec 2.)

Section 14-121. Hydraulic fracturing prohibited.

Hydraulic fracturing or the practice by any other name shall be prohibited for any purpose. No permit or exemption to this policy shall be provided by the County. Any permit issued by the County that allows for a drilling operation shall include a written condition prohibiting hydraulic fracturing.
(2013, ord 13-115, sec 2.)

Section 14-122. Right of entry.

Upon presentation of proper credentials, the director may enter at reasonable times any property in the County which utilizes drilling operations to inspect the property for potential violations of this article, provided that such entry shall be made in such a manner as to cause the least possible inconvenience to the person in possession. An order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.
(2013, ord 13-115, sec 2.)

Section 14-123. Violation.

Any hydraulic fracturing for any purpose at any time using any method constitutes a violation of this article. Single or multiple violations shall be listed on the notice of violation and penalties shall be applied for each violation.
(2013, ord 13-115, sec 2.)

Section 14-124. Notice of violation.

(a) Whenever the director determines that there exists a violation of any provision of this article, the director shall serve a notice of violation upon the parties responsible for the violation, which may include, but shall not be limited to the owner and any lessee of the property where the violation is located, to make the location where the violation is occurring compliant with this article. 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.

(b) Proper service of such notice shall be by personal service, registered mail, or certified mail upon the owner of record, provided, that if such notice is by registered mail or certified mail, the designated period within which the owner or person in charge is required to comply with the order of the director shall begin as of the date the owner or person in charge receives such notice.

(2013, ord 13-115, sec 2.)

Section 14-125. Administrative enforcement.

(a) If the director of planning determines that any entity is not complying with a notice of violation, the director may have the party responsible for the violation served, by mail or delivery, with an order pursuant to this section.

(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(s) within the time specified in the order;

(B) Pay a civil fine in the amount, at the place, and before the date 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 County's action may be appealed to the board of appeals.

(c) Civil fines.

(1) Any person who violates this article shall pay a civil fine not to exceed $25,000 for each separate offense. Each day a violation persists shall constitute a separate offense. Any action taken in court to impose or collect the fine provided for in this section shall be considered a civil action.

(2) Any person who denies, obstructs, or hampers the director from the entrance to or inspection of any building, place, or vehicle pursuant to this article shall pay a civil fine not to exceed $10,000 for each day of denial, obstruction, or hampering. Any action taken in court to impose or collect the penalty provided for in this section shall be considered a civil action.

(3) Factors to be considered by the director in imposing a civil fine shall include but not be limited to the following:

(A) The nature, circumstances, extent, gravity, and history of the violation and of any prior violations;

(B) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;

(C) The opportunity, difficulty, and history of corrective action;

(D) Good faith efforts to comply;

(E) Degree of culpability; and/or

(F) Such other matters as justice may require.

(d) Effect of Order; Right to Appeal. The provisions of the order issued by the County 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 in chapter 91 of the Hawaiʻi Revised Statutes. 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.

(e) Judicial Enforcement of Order. The County 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 County 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.

(f) From the date the order takes effect, the date on which an appeal has been rendered against the appellant, or the date on which the judicial enforcement of order has been rendered, whichever shall have standing, the violator shall make immediate remediation. If remediation is not initiated within five calendar days or completed within fifteen calendar days, the County may initiate or complete such remediation, including but not limited to: brownfield cleanup; bioremediation; soil remediation; ground or surface water restoration and remediation; environmental restoration; biohazard remediation; hazardous waste remediation; cleaning, removal, and safe disposal of chemicals and toxins at an appropriate disposal facility; monitoring costs; replanting the negatively impacted area with appropriate native or other plants at the discretion of the County, and safe disposal of poisoned flora and fauna by composting or other means to prevent further negative impacts. Best management practices shall be used to compost poisoned flora and fauna. The County shall charge the violator or its bonding agent for the cost of remediation accrued by the County.

(2013, ord 13-115, sec 2.)

Section 14-126. Penal enforcement.

(a) General Provisions. The provisions of this section are in addition to any other applicable remedy or penalty provided by law.

(b) In case the parties responsible for violating any provisions of this article fail, neglect, or refuse to comply or correct a violation, the County may submit the matter to the proper authority for penal enforcement.

(c) Any person, firm, or corporation violating any provisions of this article shall, upon conviction, be deemed guilty of a petty misdemeanor and each person so convicted shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this article 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 thirty days, or by both fine and imprisonment.

(d) Any officer or inspector designated by the County, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of this article, pursuant to section 803-6, Hawai‘i Revised Statutes, 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.
(e) Any authorized personnel designated by the County, upon making an arrest for a violation of this article, 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.
(f) There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of this article 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.
(g) In every case when a citation is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district court may prescribe by giving to the violator a copy of the citation and provide for the disposition of the original and any other copies.
(h) Every citation shall be consecutively numbered and each copy shall bear the number of its respective original.

(2013, ord 13-115, sec 2.)

Section 14-127. Injunctive relief.

Proceedings for injunctive relief in a court of competent jurisdiction may be heard for potential violations of this article.

(2013, ord 13-115, sec 2.)

Article 22. Restriction of Genetically Engineered Crops and Plants.

Section 14-128. Purpose.

The purpose of this article is to protect Hawai‘i Island’s non-genetically modified agricultural crops and plants from genetically modified organism cross pollination and to preserve Hawai‘i Island’s unique and vulnerable ecosystem while promoting the cultural heritage of indigenous agricultural practices. The prohibition of open air cultivation, propagation, development, or testing of genetically engineered crops and plants is intended to prevent the transfer and uncontrolled spread of genetically engineered organisms on to private property, public lands, and waterways.

(2013, ord 13-121, sec 3.)

Section 14-129. Definitions.

As used in this article, unless otherwise specified:

"Genetically engineered" means an organism that has been modified at the molecular or cellular level by means that are not possible under natural conditions or processes. Such means include recombinant DNA and RNA techniques, cell fusion, microencapsulation, macroencapsulation gene deletion and doubling, introducing a foreign gene, and changing the position of genes. Such organisms are sometimes referred to as "genetically modified organisms" or "transgenic organisms." Genetically engineered or genetically modified crops and plants include crops and plants for human consumption or for any other purpose. Genetic engineering does not include modification that consists exclusively of breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

"Open air" means a location or facility that is not enclosed in a greenhouse or in another completely enclosed structure so as to prevent the uncontrolled spread of genetically engineered organisms.

"Person" includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, or any other personal representative thereof, in any capacity, acting either for himself, his heirs, or for any other person under personal appointment pursuant to law.

"Plant pestilence" means a virulent plant disease or infestation that is causing substantial harm to one or more crops or plants.

"Register" or "Registration" means registration by persons engaged in the cultivation, propagation, development, or indoor testing of genetically engineered crops or plants. Registration shall include: the tax map key and the council district of the property or properties; a detailed description of the location on the property where genetically engineered crops or plants are being cultivated, propagated, developed, or tested, which description shall include the size of the location and scope of usage; the name of the owner of the property or properties; the lessee or any other party in control of the genetically engineered plant or crop operation or usage; the type of genetically modified organism or transgenic manipulation used; the produce or products involved; the type, frequency, and customary amount of pesticides, inclusive of herbicides and insecticides, used; a description of any containment procedures employed; and relevant contact information.

(2013, ord 13-121, sec 3.)

Section 14-130. Prohibition.

No person shall knowingly engage in the open air cultivation, propagation, development, or testing of genetically engineered crops or plants.

(2013, ord 13-121, sec 3.)

Section 14-131. Exemptions.

The following persons shall be exempt from the provisions of this article:

(1) Persons engaged in the open air cultivation, propagation, or development of genetically engineered crops or plants, other than genetically engineered papaya, but only in those specific locations where genetically engineered crops or plants have been customarily open air cultivated, propagated, or developed by that person prior to December 5, 2013, provided that those specific locations or facilities are registered on or before March 5, 2014; and

(2) Any person engaged in the open air cultivation, propagation, or development of genetically engineered papaya, whether prior or subsequent to December 5, 2013, provided that each location or facility wherein open air cultivation, propagation, or development of genetically engineered papaya occurs or will occur is registered as provided in this article.

Notwithstanding any other provision of law, these exemptions shall not allow for open air testing of genetically engineered organisms of any kind.

(2013, ord 13-121, sec 3.)

Section 14-132. Emergency exemption.

(a) A person who is engaged in the cultivation, propagation, or development of a non-genetically engineered crop or plant that is being harmed by a plant pestilence as defined in this article may apply to the council for an emergency exemption from the provisions of this article to use a genetically engineered remedy. The council may grant an emergency exemption by way of resolution, provided the council makes an affirmative finding that:

(1) The cited plant pestilence is causing substantial harm to that person's crop or plant;

(2) There is no other available alternative solution; and

(3) All available measures will be undertaken to insure that non-genetically engineered crops and plants, as well as neighboring properties and any water sources, will be protected from contamination or any other potentially adverse effects that may be caused by the genetically engineered organism or associated pesticides.

(b) Any exemption granted pursuant to subsection (a) shall include reasonable restrictions and conditions, including, but not limited to, full compliance with the registration requirements of this article and that the exemption shall expire on a certain day occurring within five years from the date of its issuance. Prior to expiration of the exemption, the council may adopt a resolution to extend the exemption for a specified period of time.

(2013, ord 13-121, sec 3.)

Section 14-133. Registration.

(a) All persons engaged in any form of cultivation, propagation, development, or indoor testing of genetically engineered crops or plants of any kind shall register annually beginning on or before March 5, 2014, and shall pay an annual registration fee of $100 per location, payable to the director of finance. All contiguous land shall be treated as a single location. The director of the department of research and development, or the director's authorized representative(s), shall administer the registration provision of this section.

(b) All persons engaged in non-commercial cultivation or propagation of genetically engineered papaya, in any stage or form, shall be exempt from this section. This registration exemption does not exempt persons engaged in research, development, or testing of genetically engineered papaya.

(c) Pursuant to section 92F-13 of the Hawaiʻi Revised Statutes, information such as the name of the registrant and the exact location of the genetically engineered crops or plants may be withheld from the public to the extent that disclosure of that detailed information would otherwise frustrate the ability of the County to obtain accurate information.

(2013, ord 13-121, sec 3.)

Section 14-134. Penalties.

Any person who violates any provision of this article shall be guilty of a violation, and upon conviction thereof, shall be sentenced to a fine of up to $1,000 for each separate violation. The person shall be deemed to be guilty of a separate offense for each and every day a violation of this article is committed, continued, or permitted for each location. To the extent permitted by law, the person found in violation of this article shall also be responsible for all costs of investigation and testing, as well as for court costs, including but not limited to witness fees and witness expenses.

(2013, ord 13-121, sec 3.)

Section 14-135. Declaratory and injunctive relief.

A court of competent jurisdiction may hear proceedings for declaratory relief or injunctive relief, or both, for violations or potential violations of this article. To the extent permitted by law, the person found in violation of this article shall be responsible for all costs of investigation and testing, as well as for court costs, including, but not limited to, attorney's fees, witness fees, and witness expenses.

(2013, ord 13-121, sec 3.)

Section 14-136. Cumulative remedies.

The provisions of this article are cumulative. Nothing in this article shall affect any other remedy or relief that may be available to any adversely affected person or to the County or other governmental entity.

(2013, ord 13-121, sec 3.)

Article 23. Distribution of Tobacco Products.

Section 14-137. Definitions.

As used in this article:

"Department" means the Hawai'i police department.

"Distribute" means to give, deliver or sell, or cause or hire any person to give, deliver or sell, or offer to give, deliver or sell.

"Person" includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, on any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.

"Proof of age" means a driver's license, license for identification only, or other generally accepted means of identification with a photograph of the individual affixed thereon that indicates that the individual is twenty one years of age or older or was born before or on June 30, 1996.

"Tobacco product" means any product that contains tobacco and is intended for human consumption or use, including, but not limited to, cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and electronic smoking devices as defined in section 709-908 of the Hawai'i Revised Statutes. Tobacco product does not include products that have been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and are marketed and sold solely for such an approved purpose.
(2013, ord 13-124, sec 1.)

Section 14-138. Prohibition; verification of age; penalties.

(a) It is unlawful for any person to distribute a tobacco product to any person under twenty one years of age, with the exception of any person who is eighteen years of age or older before or on June 30, 2014, and at such time could be a lawful recipient of a tobacco product.
(b) A person who distributes tobacco products shall verify proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that the prospective recipient may be less than twenty seven years of age.
(c) Any person who violates this section shall be subject to a fine of $500 for the first offense. Any subsequent offenses shall subject the person to a fine of not less than $500 nor more than $2,000.

(2013, ord 13-124, sec 1.)

Section 14-139. Posted signs required.

(a) From July 1, 2014, through June 30, 2017, every person who sells or displays tobacco products shall post conspicuously and keep so posted at the place of business at each point of sale a sign which states, "The sale of tobacco products to persons born after June 30, 1996 is prohibited," in letters at least one-half inch high.

(b) As of July 1, 2017, every person who sells or displays tobacco products shall post conspicuously and keep so posted at the place of business at each point of sale a sign which states, "The sale of tobacco products to persons under twenty-one years of age is prohibited," in letters at least one-half inch high.
(c) Any person failing to post a notice in compliance with this section shall be subject to a fine of $100 for the first offense, $250 for the second offense, and $500 for the third and all subsequent offenses.

(2013, ord 13-124, sec 1.)

Section 14-140. Enforcement.

The department or its authorized delegates may conduct random, unannounced inspections at locations where tobacco products are distributed to test and ensure compliance with this article, and shall generally enforce the provisions of this article. This article shall not apply to controlled purchases as part of a law enforcement activity or a study authorized by the State department of health under the supervision of law enforcement.

(2013, ord 13-124, sec 1.)

CHAPTER 15

PARKS AND RECREATION

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CHAPTER 15

PARKS AND RECREATION

Article 1. General Provisions.

Section 15-1. Purpose of chapter.

The purposes of this chapter are:

(1) Preservation of the beauty of Hawai'i, its way of life and its Aloha spirit;

(2) Moral, physical and economic well-being of the citizens and residents of the County;

(3) Utilization of land resources in the County in an intelligent and reasonable manner based on the capabilities and characteristics of the soil, its physical surroundings, climate, and the needs of the people in the County together with any other relevant and material considerations;

(4) Establishment of recreational and cultural facilities that will provide healthful, educational, and aesthetic advantages for the people in the County and its visitors, and for the orderly and progressive development of such facilities to accommodate the expanding and diversified needs of the people; and

(5) Protection and enhancement of the scenic and historic resources of the area.

(1983 CC, c 15, art 1, sec 15-1.)

Section 15-2. Applicability and scope of chapter.

(a) This chapter shall apply to all County parks and recreational areas.

(b) The provisions in this chapter, including provisions for the imposition upon any person of the penalties by fine or imprisonment for any violation of this chapter, are not to be construed to exclude the operation of applicable State statutes or other County ordinances. In the case of conflict with other County ordinances, the stricter ordinance may apply.

(c) The director, or the director's authorized representative, shall implement and administer the provisions of this chapter.

(1983 CC, c 15, art 1, sec 15-2; am 2001, ord 01-3, sec 1.)

Section 15-3. Definitions.

As used in this chapter:

(1) "Authorized person" means any person authorized to enforce the provisions of this chapter.

(2) "Camper" means any person who remains in a park area between the hours of 11:00 p.m. and 6:00 a.m.

(3) "Camping" means the act of remaining in any park area between the hours of 11:00 p.m. and 6:00 a.m.

(4) "Department" means the department of parks and recreation.

(5) "Director" means the director of the department of parks and recreation.

(6) "Park area" means all County-owned or controlled areas administered by the County.
(7) "Recreational area" means all beach parks, and all other park areas administered by the department primarily for the purpose of public recreation.
(8) "Picnicking" means an outing by one or more persons who consume or intend to consume food while within the boundaries of a public premises under the jurisdiction of the department of parks and recreation, but who do not remain or intend to remain on the premises past the hour of 11:00 p.m. If the outing is past the hour of 11:00 p.m., it shall be known as camping and shall be governed by those provisions relating to camping.
(9) "Picnicker" means any person on an outing, who consumes or intends to consume foodstuffs while within the boundaries of a public premises under the jurisdiction of the department of parks and recreation, but who does not remain or intend to remain upon the premises past the hour of 11:00 p.m. If any person remains past the hour of 11:00 p.m., the person shall be known as a camper and shall be governed by those provisions relating to camping.

(1983 CC, c 15, art 1, sec 15-3; am 1979, ord 479, sec 1; am 1987, ord 87-130, sec 2.)

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

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

(1983 CC, c 15, art 1, sec 15-4.)

Section 15-5. Special rules for Kahaluʻu Park, North Kona.

Camping and the use of trailers or other camper units are prohibited at Kahaluʻu Park.

(1983 CC, c 15, art 1, sec 15-5.)

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

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

(1983 CC, c 15, art 1, sec 15-6; am 1978, ord 340, sec 1; am 2001, ord 01-3, sec 2.)

Section 15-7. Penalty.

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

(1983 CC, c 15, art 1, sec 15-7; am 1986, ord 86-100, sec 2; am 2007, ord 07-2, sec 2.)

Article 2. Restrictions and Prohibitions.

Division 1. Park Areas.

Section 15-8. Visiting hours; closing areas.

The director may establish a reasonable schedule of visiting hours for all or portions of a park area and close or restrict the public use of all or any portion of a park area, when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs and designating closed areas and visiting hours.
(1983 CC, c 15, art 1, sec 15-8.)

Section 15-9. Disorderly conduct prohibited; defined.

(a) Disorderly conduct is prohibited.
(b) A person is guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:
    (1) Engages in fighting or in threatening, violent, or tumultuous behavior;
    (2) Makes unreasonable noise or subjects another person to offensively coarse utterances, gestures, displays, or abusive language in a manner which is likely to provoke a violent response; or
    (3) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

(1983 CC, c 15, art 1, sec 15-9; am 2015, ord 15-52, sec 2.)

Section 15-10. Explosives and fireworks prohibited; exception.

(a) The use or possession of explosives is prohibited except upon written permission of the director. Any authorized use or possession of explosives shall conform with all applicable Federal, State, and County laws.
(b) The use or possession of fireworks and firecrackers is prohibited, except upon written permission of the director.

(1983 CC, c 15, art 1, sec 15-10.)

Section 15-11. False reports prohibited.

The giving of any false or fictitious report or other information to any authorized person investigating an accident or any violation of law or regulations is prohibited.
(1983 CC, c 15, art 1, sec 15-11.)

Section 15-12. Weapons restricted.

In recreational areas the use and possession of all firearms or other implements designed to discharge missiles, which are capable of destroying animal life, shall conform with all applicable Federal, State and County laws. Such firearms or other implements shall not be used in a manner so as to endanger persons or property. The possession of loaded firearms or other implements, except by law enforcement officers, in developed, populated, or concentrated use areas is prohibited.
(1983 CC, c 15, art 2, sec 15-12.)

Section 15-13. Regulation of fires.

(a) The kindling of any fire is permitted only:
   (1) In designated camping and picnicking grounds when the fire is confined in a fireplace provided for the use of visitors, in grills, or in locations marked by the director; or
   (2) In other locations, including backcountry, wilderness, and remote sections of the park areas when a written permit has been secured from the director;
   (3) In portions of the park areas designated by the director where fires may be kindled without a written permit. Portions of the park areas so designated shall be marked on a map which shall be available for public inspection in the office of the department of parks and recreation; or
   (4) In stoves or lanterns using gasoline, propane, butane gas or other fuels.
(b) Fires must be kindled in such manner that no tree, shrub, grass, or other inflammable or combustible matter will be set on fire or caused to be set on fire.
(c) When no longer needed, the fire shall be completely extinguished. Leaving a fire unattended is prohibited.
(d) Throwing or dropping a lighted cigarette, cigar, pipe heel, match, or other burning material is prohibited.

(1983 CC, c 15, art 2, sec 15-13.)

Section 15-14. Fishing regulations.

(a) In addition to the restrictions set forth in subsections (b) and (c) herein, fishing shall be in accordance with the laws and regulations of the State, and such laws and regulations which are now or may be in effect are hereby adopted and made a part of this chapter.
(b) Use of the following are prohibited in the gathering and collection for any purpose of fish, crustaceans or mollusks from any body of water located in any park area owned or controlled by the County, including, but not limited to, the pond at Liliʻuokalani Park, Richardson Ocean Park, and Kahaluʻu Beach Park:
   (1) Cross nets;
   (2) Throw nets;
   (3) Spears;
   (4) Bows and arrows;
   (5) Chemicals;

(6) Explosives;
(7) Electrical devices;
(8) All types of nets which measure more than three feet at the widest span.

(c) No aquatic life taken from waters within park areas shall be sold or offered for sale.
(1983 CC, c 15, art 2, sec 15-14; am 1987, ord 87-74, sec 1.)

Section 15-15. Gambling prohibited.

Gambling in any form, or the operation of gambling devices, whether for merchandise or otherwise, is prohibited.
(1983 CC, c 15, art 2, sec 15-15.)

Section 15-16. Person under the influence of alcohol or drugs.

Entering or remaining in a park area when manifestly under the influence of alcohol, narcotics or other drugs, to a degree that may endanger oneself or other persons or property, or unreasonably annoy persons in the vicinity is prohibited.
(1983 CC, c 15, art 2, sec 15-16.)

Section 15-17. Returning lost property.

All lost articles shall be deposited by the finder at the office of the director or at the nearest police station, leaving the finder's name and address.
(1983 CC, c 15, art 2, sec 15-17.)

Section 15-18. Abandoned property prohibited; impoundment.

(a) No person shall abandon any vehicle or other personal property. Any abandoned property shall be subject to removal and impoundment by the director or the police to be dealt with according to law.
(b) Leaving any vehicle or other personal property unattended after 11:00 p.m. and before 7:00 a.m., without prior permission of the director shall be considered abandoned and is prohibited. Any property so left shall be subject to impoundment by the director or the police. In the event unattended abandoned property interferes with the safe and orderly management of the park area, it shall be subject to impoundment by the director at any time.

(1983 CC, c 15, art 2, sec 15-18; am 2001, ord 01-3, sec 3.)

Section 15-19. Use of audio devices restricted; permits; authorization.

(a) The operation or use of any audio devices including radios, television sets, musical instruments, and noise producing devices such as electric generating plants, or other equipment driven by motors or engines in such a manner and at such times so as to unreasonably annoy persons in campgrounds, picnic areas, or at other public places or gathering is prohibited.

(b) The operation or use of public address systems, whether fixed, portable, or vehicle mounted, on lands, waters, and highways, is prohibited except when such use or operation is in connection with public gatherings or special events for which permits have been issued.
(c) The installation of aerials or other special radio, telephone, or television equipment is prohibited unless authorized by the director.
(1983 CC, c 15, art 2, sec 15-19.)

Section 15-20. Hitchhiking and commercial activities; exceptions.
(a) Hitchhiking or the soliciting of transportation is prohibited.
(b) Commercial activity without a permit is prohibited; provided, that this section shall not apply to transactions with authorized concessionaires. Commercial activity includes, but is not limited to, the exchange or buying and selling of commodities; the providing of services related to or connected with the trade, traffic or commerce in general; any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services. Commercial activity does not include commercial speech or the distribution of handbills.
(1983 CC, c 15, art 2, sec 15-20; am 2015, ord 15-52, sec 3.)

Section 15-21. Repealed.
(1983 CC, c 15, art 2, sec 15-21; rep 2015, ord 15-52, sec 6.)

Section 15-22. Permission required for television and motion pictures.
Before any motion picture may be filmed or any television production or sound track may be made, which involves the use of professional casts, settings, or crews, by any person other than bona fide newsreel or news television personnel, written permission must first be obtained from the director.
(1983 CC, c 15, art 2, sec 15-22.)

Section 15-23. Permission required for installation of commemoratives.
The installation of any monument, memorial, tablet, or other commemorative installation in a park area without permission of the director is prohibited.
(1983 CC, c 15, art 2, sec 15-23.)

Section 15-24. Nuisances prohibited.
The creation or maintenance of a nuisance in a County park area is prohibited.
(1983 CC, c 15, art 2, sec 15-24.)

Section 15-25. Residence in park area restricted.
Residing in park areas is prohibited, except in accordance with a permit or other written agreement with the County authorizing such use, or by employees of the department of parks and recreation.
(1983 CC, c 15, art 2, sec 15-25.)

Section 15-26. Parking restricted.

No unauthorized vehicle shall be driven upon or parked within a park area except on roads and parking areas laid out and provided for public use. Parking of motor vehicles shall be in places designated by appropriate signs and within stalls as they may be provided.

(1983 CC, c 15, art 2, sec 15-26.)

Division 2. Recreation and Park Areas.

Section 15-27. Permission required for advertising and signs in park areas.

(a) Commercial notices or advertisements shall not be displayed, posted or distributed on County lands within a park area unless prior written permission has been given by the director. Such permission may be granted by the director under any of the following circumstances:
   (1) If the notice or advertisement is of goods, services or facilities available within the park area and such notices and advertisements are found by the director to be desirable and necessary for the convenience and guidance of the public; or
   (2) If a sign is temporary in nature and is exhibited only during the time the event is actually occurring, provided that a payment is made to the County of Hawai‘i as established by administrative rules.

(b) Permanent signs.
   (1) The Council, by resolution, may allow a permanent sign in a County park which displays the name and/or logo of any company or organization that sponsors, constructs or donates the permanent sign for the purpose of displaying future and current public events in exchange for the construction of the permanent sign and/or for advertising purposes. The permanent sign shall comply with chapter 3, Hawai‘i County Code.
   (2) Permanent signs are allowed in the Ho‘olulu Complex only.

(c) Notwithstanding any provision to the contrary, the director may allow any type of commercial advertising on golf scorecards.

(1983 CC, c 15, art 2, sec 15-27; am 1987, ord 87-11, sec 2; am 1995, ord 95-145, sec 1.)

Section 15-28. Prohibited activities in recreational areas.

The following activities are prohibited in recreational areas:
   (1) The intentional or wanton destruction, defacement or removal of any natural feature or nonrenewable natural resource.
   (2) The intentional or wanton possession, destruction, injury, defacement, removal, or disturbance, in any manner of any public building, sign, equipment, monument, marker, or other structure, or of any relic, artifact, ruin, or historic or prehistoric feature or of any other similar public property.

(3) Gathering or collecting for personal use, reasonable quantities of natural products of a renewable nature, including, but not limited to, seashells, fruits, berries, driftwood, and marine deposits of natural origin, and the gathering or collecting of such products for the purpose of sale.
(4) The destroying, digging, removing, or possessing of any tree, shrub, or other plant.
(5) The gathering or collecting of small quantities of pebbles or small rocks by hand for personal use is permitted. The collection of such objects for the purpose of sale is prohibited.

(1983 CC, c 15, art 2, sec 15-28.)

Section 15-29. Injury or damage report required.

All incidents resulting in injury to persons or damage to property must be reported by the person or persons involved as soon as possible to the director. This report does not relieve persons from the responsibility of making any other accident reports which may be required under State or County law.

(1983 CC, c 15, art 2, sec 15-29.)

Section 15-30. Sanitation and refuse regulations.

(a) All garbage, papers, cans, bottles, waste materials, and rubbish of any kind must be burned in authorized fires or disposed of only at points or places designated for the disposal thereof, or removed from the area. All noncombustible waste materials shall be deposited only in places designated for the disposal of such materials or removed from the area. Removal of refuse or garbage from refuse containers and removal or relocation of such containers, except by authorized persons, are prohibited.
(b) Draining or dumping refuse or wastes from any trailer or other vehicle except in places or receptacles provided for such use is prohibited.
(c) Cleaning food or washing clothing or articles of household use is permitted only in designated areas.
(d) Polluting or contaminating in any manner any watershed, water supplies, or water used for drinking purposes is prohibited.
(e) Fish entrails or other inedible parts of fish may be disposed of into salt waters except within two hundred feet of boat docks or swimming areas but shall not be thrown into fresh waters or onto park area lands in areas of public concentration.
(f) Depositing any body waste in or on any portion of any comfort station or other public structure except into fixtures provided for that purpose is prohibited. Placing any bottle, can, cloth, rag, metal, wood, or stone substances in any of the plumbing fixtures in such station or structure is prohibited. All comfort stations shall be used in a clean, sanitary, and orderly manner.

(g) Urinating or defecating other than at the place provided therefor is prohibited, except in backcountry, wilderness, or other remote areas.
(h) Using government refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property is prohibited.
(1983 CC, c 15, art 2, sec 15-30.)

Section 15-31. Skating and skateboards restricted.

The use of roller skates and skateboards is prohibited except in locations designated by the director by the posting of appropriate signs.
(1983 CC, c 15, art 2, sec 15-31.)

Section 15-32. Swimming, bathing, surfing and use of flotation devices.

(a) Swimming and bathing are permitted except in waters and at times where such activities are prohibited in the interest of public health or safety, which excepted waters shall be designated by the posted signs.
(b) The director may prohibit the use of flotation devices within designated swimming areas by the posting of appropriate signs.
(c) The use of surfboards and similar devices is prohibited within the limits of designated swimming beaches.
(1983 CC, c 15, art 2, sec 15-32.)

Section 15-33. Tampering with vehicle or vessel.

Tampering or attempting to tamper with any vehicle, vessel, or other equipment which is not lawfully in one's possession or control, or entering or going upon, moving or manipulating any of the parts or components of any vehicle, vessel, or other equipment or starting or setting the same in motion, except under such lawful possession or control is prohibited.
(1983 CC, c 15, art 2, sec 15-33.)

Section 15-34. Boating in swimming areas prohibited.

No vessel, including but not limited to, boat, motorboat, houseboat, rowboat, powerboat, jet boat, sailboat, fishing boat, towboat, scow, flatboat, cruiser, motor vessels, ship barge, tug, floating cabana, party boat, charter boat, ferryboat, canoe, raft or any buoyant device permitting or capable of free flotation, shall be operated or anchored within the swimming areas of all beach parks.
(1983 CC, c 15, art 2, sec 15-34.)

Article 3. Public Meetings and Assemblies.

Section 15-35. Public assembly; permit required; exception.

(a) As used in this section, "expressive activities" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas and for which no fee is charged or required as a condition of the participation in or attendance at such activity. Expressive activity generally would not include sports events, fundraising events, beauty contests, commercial events, cultural celebrations or other events where the principal purpose is entertainment.

(b) Public meetings, assemblies, gatherings, demonstrations, parades, and other expressive activities are permitted within park areas on lands which are open to the general public, provided a permit issued by the director shall be required when the public meeting, assembly, gathering, demonstration, parade, or expressive activity involves seventy-five or more persons.

(c) Exceptions. This section shall not apply:

(1) To expressive activities organized or planned fewer than twenty days in advance of such expressive activity in response to news or affairs coming into public knowledge in which case the organizer shall provide written notice to the County as soon as practicable prior to such expressive activity; or

(2) To students when constituting a part of their educational activities and under the immediate direction and supervision of the proper school authorities or to any government agency within the scope of its functions.

(1983 CC, c 15, art 3, sec 15-35; am 2015, ord 15-52, sec 4.)

Section 15-36. Permits for special events required; conditions.

(a) Sports events, pageants, re-enactments, regattas, entertainments, and the like, characterized as public spectator attractions, are prohibited unless written permission therefor has been given by the director. Such permits may be issued only after a finding that the issue of the permit will not be inconsistent with the purposes for which the area is established and maintained, and will cause the minimum possible interference with use of the area by the general public.

(b) The permit may contain such reasonable conditions and restrictions as to duration and area occupied as are necessary for protection of the area and public use thereof.

(1983 CC, c 15, art 3, sec 15-36.)

Section 15-37. Application for permit; filing.

(a) Applications for a permit shall be filed with the director at least twenty days but not more than one hundred eighty days before the date on which it is proposed to conduct any such activity, provided that this requirement shall not apply to "expressive activity" as defined in section 15-35.

(b) The application shall state:
  (1) The name of the person or organization proposing to conduct such activity;
  (2) If the activity is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of headquarters of the organization, and of the authorized agent of such organization;
  (3) The name, address, and telephone number of the person who will be the chairman of such activity and who will be responsible for its conduct;
  (4) The name, address, and telephone number of the person or organization to whom the permit is to be issued;
  (5) The date when such activity is to be conducted;
  (6) The park or portion thereof for which such permit is desired;
  (7) An estimate of the anticipated attendance;
  (8) The hours when such activity will start and terminate;
  (9) If the activity is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the director a communication in writing from the person proposing to hold such activity, authorizing the applicant to apply for the permit on that person's behalf; and
  (10) A statement of equipment and facilities to be used in connection with the activity.

(1983 CC, c 15, art 3, sec 15-37; am 2015, ord 15-52, sec 5.)

Section 15-38. Permit issuance; denial; conditions.

(a) The director shall issue a permit on proper application unless:
  (1) A prior application for the same time and place has been made which has been or will be granted;
  (2) The event will present a clear and present danger to the public health or safety; or
  (3) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area applied for.

(b) The permit may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is maintained. It may also contain reasonable limitations on the time and area within which the event is permitted.

(1983 CC, c 15, art 3, sec 15-38.)

Article 4. Camping.

Section 15-39. Camping and trailer areas.

Camping and the use of trailers or other camper units are only permitted as follows:

(1) At Laupāhoehoe Beach Park, Kolekole Beach Park, Isaac Hale Memorial Park,* Punaluʻu Black Sand Beach Park, Whittington Beach Park, Miloliʻi Beach Park, Hoʻokena Beach Park, Mahukona Park, Kapaa Park, and Samuel Spencer Beach Park,* the use of trailers or other camper units are permitted on any suitable place other than picnic or lawn areas. The camper shall give due regard to the rights and convenience of other users of the park, shall not obstruct any roadway or pathway, and shall not monopolize any facility intended for the use of all users of the park.

(2) At Samuel Spencer Beach Park,* camping is permitted in two camping areas known as areas "A" and "B." Area "A" is mauka of the large pavilion between the Hapuna boundary of the park and the outdoor courts. Area "B" is between the north side restroom and the central restroom.

(1983 CC, c 15, art 4, sec 15-39; am 2001, ord 01-3, sec 4.)

*** Editor's Notes:** Samuel Spencer Beach Park was renamed "Spencer Park at ʻŌhaiʻula Beach" pursuant to Ordinance 03-135. Isaac Hale Memorial Park was renamed "Isaac Kepoʻokalani Hale Beach Park" pursuant to Ordinance 08-35.

Section 15-40. Maps of camping areas.

The areas described in section 15-39 are outlined in red on the maps marked Exhibit A for Samuel Spencer Beach Park,* and by reference made a part of this chapter. Copies of these maps are kept on file and are available for public inspection in the office of the department of parks and recreation.

(1983 CC, c 15, art 4, sec 15-40; am 2001, ord 01-3, sec 5.)

*** Editor's Note:** Samuel Spencer Beach Park was renamed "Spencer Park at ʻŌhaiʻula Beach" pursuant to Ordinance 03-135.

Section 15-41. Director to establish time limits.

The director may establish limitations on the length of time persons may camp within a park area, either in a single period or in combined separate periods. Such limitations shall be posted at campgrounds or other appropriate locations.

(1983 CC, c 15, art 4, sec 15-41.)

Section 15-42. Regulations governing camping areas.

(a) The installation of permanent camping facilities is prohibited.

(b) The digging or leveling of the ground at any campsite is prohibited, except with the permission of the director.

(c) Camping equipment must be completely removed and the sites cleaned before departure.

(d) Camping within twenty-five feet of any water hydrant, main road, or well-defined water course, except upon the direction of the director is prohibited.
(e) Quiet shall be maintained in all campgrounds between the hours of 11:00 p.m. and 6:00 a.m.
(f) The gathering of wood for use as fuel in campgrounds or picnic areas shall be limited to dead material on the ground, except where such gathering is prohibited by the director by the posting of appropriate signs.

(1983 CC, c 15, art 4, sec 15-42; am 1987, ord 87-131, sec 2.)

Section 15-43. Camping permit required; issuance; denial.

(a) Any person eighteen years of age or older, representing such person or such person's family, a group, organization, or association wishing to camp at a designated camping area shall be required to obtain a camping permit authorizing the use of the grounds and facilities for camping purposes.
(b) These permits may be obtained from the administrative office of the department of parks and recreation in Hilo or from any official of the department designated by the department to issue such permits. Each permit will reserve the use of the desired camping area for the stated date requested. The means of requesting for camping permits and receiving confirmation of the same can be done either through a direct visit to the above office or designated authority or by means of telephone or through the mail.
(c) All permits shall be issued on a first-come, first-served basis but may be denied any person, group, organization or association when the use of the desired camping area may be dangerous to the campers or unreasonably inconvenient to the department such as:
    (1) When the group is of an extraordinarily large size;
    (2) When severe weather conditions are threatening;
    (3) When there are inadequate facilities to meet the immediate needs of the camper or campers; or
    (4) When repairs or improvements are being made to develop the campsite.

(1983 CC, c 15, art 4, sec 15-43.)

Section 15-44. Time limits.

No person shall be allowed to remain at any one specific camping area for a period longer than one week during the months of June through August and for a period not longer than two weeks during the other nine months of the year unless special permission is granted to extend the stay by the director. A camping period for the use of pavilions and sheds in camping areas is limited to three days and two nights' duration throughout the year unless special permission is granted by the director to extend the time limit.

(1983 CC, c 15, art 4, sec 15-44.)

Section 15-45. Assigned camping spaces.

The department may apportion and delineate the space within the camping area for the exclusive use of any person granted a permit to utilize the area; but the area shall not be less than forty square feet nor more than eighty square feet per person.
(1983 CC, c 15, art 4, sec 15-45.)

Section 15-46. Camping permit; minors.

All responsible persons eighteen years of age or older shall be allowed to secure a permit on their own to camp in any of the campsites. All minors below the age of eighteen shall be allowed to camp in the camping area provided that they will be under the direct supervision of a responsible adult for every ten minors. All minors from the same family accompanied by at least one of their parents shall be allowed to camp, regardless of the ratio of supervision between parent and children.
(1983 CC, c 15, art 4, sec 15-46.)

Section 15-47. Cancellation of permits.

Permits shall be automatically cancelled if they are not picked up or if the department is not notified of final verification of usage by the requesting party within forty-eight hours of actual usage. The department also reserves the right to terminate camping privileges, aside from natural causes, for the following reasons:

(1) Tampering with or injuring signs, posters, markers, plants and other ornamental artifacts in the area;
(2) Abuse of and physical damage to any building or other facility in the area;
(3) Unnecessary and excessive littering of the area;
(4) Common nuisance and disorderly behavior;
(5) Being uncontrollably under the influence of liquor; and
(6) For the violation of any other provision covered in this chapter.

(1983 CC, c 15, art 4, sec 15-47.)

Section 15-48. Display of permit.

The holder of a camping permit shall, upon request, show the permit to any law enforcement officer, park caretaker or any personnel of the department.
(1983 CC, c 15, art 4, sec 15-48.)

Article 5. Picnics.

Section 15-49. Director to establish locations and time limit.

In recreational areas picnicking is permitted except in those locations designated by the director by the posting of appropriate signs. The director may also establish reasonable limitations on the length of time any person may use any picnicking facility by the posting of appropriate signs when such limitations are necessary for the accommodation of the visiting public.
(1983 CC, c 15, art 5, sec 15-49.)

Section 15-50. Picnic permit; reserved spaces.

(a) Any group larger than fifteen members shall be allowed to reserve specified space and facilities within a public picnic area by obtaining a picnic permit from the administrative office of the department of parks and recreation in Hilo or from any official designated by the department to issue such permits. Each permit shall reserve the space or facility in the desired picnic area for use on the stated date requested. The means of requesting for a picnic permit and receiving confirmation of the same can be done by a direct visit to the above office or designated authority or by telephone or through the mail.

(b) All permits shall be issued on a first-come, first-served basis but may be denied to any person when the use of the desired picnic area may be dangerous to the picnickers or unreasonably inconvenient to the department such as:

(1) When the group is of an extraordinarily large size;

(2) When severe weather conditions are threatening;

(3) When there are inadequate facilities to meet the needs of the picnicker or picnickers; or

(4) When repairs or improvements are being made to develop the picnic area.

(1983 CC, c 15, art 5, sec 15-50.)

Section 15-51. Hours of use.

Permits for use of picnic areas shall be granted on requests for any particular day between the hours of 6:00 a.m. and 11:00 p.m. An earlier starting time may be granted by the department to accommodate special functions. Requests for use of pavilions and shed facilities within picnic areas shall be for the same duration as above.

(1983 CC, c 15, art 5, sec 15-51; am 1987, ord 87-132, sec 2.)

Section 15-52. Picnic permit; minors; hours.

All persons eighteen years or older shall be allowed to secure a permit on their own to reserve space in any of the picnic areas for their group. All minors below the age of eighteen shall be allowed to picnic in the picnic areas on their own if the adult who secures the permit for them will be responsible for them and also provided that their picnicking is done during the normal daylight hours of 6:00 a.m. to 6:00 p.m. Minors staying beyond 6:00 p.m. shall be under the supervision of adults on the same ten minors to one adult ratio as is required in camping. All minors from the same family, who are accompanied by at least one of their parents, shall be allowed to remain in the picnic area past the 6:00 p.m. deadline regardless of the ratio of supervision between parent and children.

(1983 CC, c 15, art 5, sec 15-52.)

Section 15-53. Display of permit.

The holder of a picnic permit shall, upon request, show the permit to any law enforcement officer, park caretaker, or any personnel of the department.

(1983 CC, c 15, art 5, sec 15-53.)

Section 15-54. Use of portable engines or motors restricted.

The operation or use of a portable motor-driven electric generating plant, pump or other equipment driven by a portable engine or motor outside any developed or public use area without written permission from the director, is prohibited. The director may issue a permit for the use if the director determines that the applicant has submitted satisfactory justification for the use of such equipment, that natural resources will not be impaired, and that no undue interference with public enjoyment of the park area will result.

(1983 CC, c 15, art 5, sec 15-54.)

Article 6. Credit Against User Fees for Private Improvements to Parks and Recreational Facilities.

Section 15-55. Purpose.

Private citizens and civic groups wish to make improvements to County parks and recreational facilities to enable the general public to benefit from those improvements and wish to make such improvements by advancing the cost of improvements from their own funds.

Budgetary constraints limit the County in making improvements which the department of parks and recreation wishes to make to its parks and recreational facilities.

The council wishes to provide a means by which private citizens and civic groups may be encouraged to make such improvements with the approval of the department of parks and recreation.

The council wishes to provide a means by which such private citizens or civic groups may, after donating the completed improvements to the County for the use and benefit of the general public, receive a setoff against certain user fees imposed by the department of parks and recreation for the use of the facility at which the improvements are made.

(1983 CC, c 15, art 6, sec 15-55.)

Section 15-56. Procedure.

A credit against user fees of the department of parks and recreation may be allowed as provided in this section. In order to receive a credit under the provisions of this section, the following procedure shall be followed:

(a) Persons proposing to make any improvement at their expense to real property of the County used for or set aside for recreational purposes shall submit to the department of parks and recreation, a written proposal with attached plans and description of the proposed improvement together with an itemized list of those anticipated expenses that the persons wish to use in computing any credit against future user fees of the department.

(b) After receipt of the written proposal, the director shall review the proposal. On review, the director will decide whether the proposal is in the public interest and is consistent with the goals and priorities of the director's department. Among the factors that the director may consider are future maintenance costs of the improvement, the demand for the improvement, the ability of the director's department to provide alternative facilities with equivalent improvements.
(c) The director may require further information and plans and, with mutual consent of the person making the proposal, may alter the proposal. The original proposal with any alterations made by mutual consent shall constitute the final proposal.
(d) After the director reviews the final proposal, the director may reject the proposal or authorize the proposal.

(1983 CC, c 15, art 6, sec 15-56.)

Section 15-57. Duties of director.

Upon authorization of the proposal, the director shall:

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

(1983 CC, c 15, art 6, sec 15-57.)

Section 15-58. Limitation on application of credit.

(a) The amount of credit allowed in section 15-57 shall be applied only as a credit against user fees otherwise payable for the facility on which the improvements will be located.

(b) No credit shall be allowed against user fees incurred more than twenty years after the date that the improvement is accepted by the County.

(c) The credit may not be assigned or transferred to any other person.

(d) The credit shall not be used in lieu of any fee or charge not a user fee, including security or clearing deposits or fees, nor shall the credit be used in lieu of any requirement of insurance or surety.

(1983 CC, c 15, art 6, sec 15-58.)

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

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

(1983 CC, c 15, art 6, sec 15-59.)

Section 15-60. Restoration of credits.

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

On or before January 1, 1980, any person, who has made improvements on County land before July 16, 1979 and which improvements have not been accepted for dedication by the council, may apply to the director for credit in the manner prescribed above. The director shall allow a credit only if such improvements are in dedicable condition and only upon submission of a written document offering the improvement as constructed for dedication to the County. The director shall compute the credit as provided above.

(1983 CC, c 15, art 6, sec 15-60.)

Article 7. Veterans Advisory Committee.

Section 15-61. Organization.

The veterans advisory committee shall be composed of sixteen members, who shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor with the approval of the council. In addition, the Hawai'i Island Veterans Services Counselor of the Office of Veterans Services (Department of Defense of the State of Hawai'i) and the Director of the Department of Parks and Recreation, or their designated representatives, shall serve as ex-officio members of the committee, without the power to vote.

(1986, ord 86-123, sec 2; am 1990, ord 90-5, sec 2; am 1994, ord 94-21, sec 1; am 2002, ord 02-117, sec 2; am 2006, ord 06-159, sec 1.)

Section 15-62. Membership and tenure.

(a) The members shall serve staggered terms of five years.

(b) The membership of the committee shall include one representative each from the American Legion, Big Island National Guard Retirees Association, Big Island Retired Military Association, Club 100, Disabled American Veterans, Hawai'i Island Veterans Memorial, Inc., 442nd Veterans Association, Hilo Interpreters Club, Hawai'i Island Women Veterans Association, Veterans of Foreign Wars, the Veterans of the Vietnam War, the Military Order of the Purple Heart, the Korean War Veterans Organization and the Camp Tarawa Detachment #1255 of the Marine Corps League. The committee shall also include three at-large members.

(c) Initially, two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, three members shall be appointed for a term of three years, three members shall be appointed for a term of four years, and three members shall be appointed for a term of five years.

(d) Any vacancy on the committee shall be filled for the remainder of the unexpired term, but members whose terms have expired may continue to serve until their successors have been appointed and confirmed.

(e) Members shall be eligible to succeed themselves for an additional term, provided that no member shall serve on the committee for more than two consecutive terms.

(1986, ord 86-123, sec 2; am 1990, ord 90-5, sec 3; am 1994, ord 94-21, sec 1; am 1996, ord 96-124, sec 1; am 1997, ord 97-125, sec 1; am 2002, ord 02-117, sec 2; am 2006, ord 06-159, sec 2; am 2007, ord 07-53, sec 2.)

Section 15-63. Meetings of the committee.

There shall be a chairman and vice-chairman of the committee who shall be elected biennially by the members from their membership. The meetings of the committee shall be called at the discretion of the chairman or at the request of the majority of the members of the committee with the time and place to be determined by the chairman.

(1986, ord 86-123, sec 2; am 1994, ord 94-21, sec 1.)

Section 15-64. Powers and duties of the committee.

It shall be the duty of the committee to act in an advisory capacity to the mayor and the council concerning all matters pertaining to the operation, management, and maintenance of the veterans cemeteries in the County. At the request of the mayor or the council, the committee shall discuss and make recommendations on other veterans-related issues. The committee may recommend such rules and regulations as it may deem necessary for the enhancement and proper management of the veterans cemeteries, or for the orderly transaction of matters referred to it.
(1986, ord 86-123, sec 2; am 1994, ord 94-21, sec 1.)

Article 8. Naming of Facilities.

Section 15-65. Purpose.

The council wishes to establish systematic guidelines to be used in the naming of County parks and recreational facilities.
(1987, ord 87-134, sec 1.)

Section 15-66. Definitions.

As used in this article:

(1) "Aesthetic areas" shall include scenic and historic sites, ponds and waterfalls.
(2) "Open areas" shall include parks, playgrounds, fields and totlots.
(3) "Recreational facilities" means all County facilities classified herein as aesthetic areas, open areas, special interest areas, and structures.
(4) "Special interest areas" shall include tennis courts, golf courses, zoos, botanical gardens, equestrian center and rodeo arenas, archery ranges, rifle and skeet ranges, drag strips and other raceways, and any other facility operated or owned by the County of Hawaiʻi which has as its purpose the recreation, entertainment or leisure activity of members of the public as either participants or spectators.
(5) "Structures" shall include gymnasiums, community centers, senior centers, cultural centers, pavilions, covered arenas and courts, stadiums, theaters, and any other construction which is under the administration of the department of parks and recreation of the County.

(1987, ord 87-134, sec 1.)

Section 15-67. Naming of recreational facilities.

(a) The names of all recreational facilities shall be designated in accordance with requirements set forth herein:

(1) Aesthetic areas.

Any aesthetic area shall:

(A) Retain any existing name which has been historically accepted through common usage; or

(B) Be named, preferably in the Hawaiian language, in a manner which describes significant features or the geographic location of said aesthetic area.

(2) Open areas.

Any open area shall:

(A) Be named for its neighborhood, community, region, district or other identifying geographical location; or

(B) Be named for a former member of the Hawaiian monarchy; or

(C) Be named or re-named for a person or persons alive or deceased, who meet one or more of the following criteria:

(i) The person has contributed significantly to the recreational programs in the community in which the open area is located;

(ii) The person has achieved significant recognition on the national or international level;

(iii) The person has been honored for service with the armed forces of the United States of America; or

(iv) The person has accomplished significant achievements in other fields of endeavor which have been of benefit to other persons.

(D) Where the use of a geographical name as described in subsection (2)(A) would lead to duplication of an already existing name of a recreational facility, the facility shall be named after the primary street which it abuts, or be given a name in the Hawaiian language which describes its site.

(3) Special interest areas.

Any special interest area shall:

(A) Be named for its neighborhood, community, region, district, or other identifying geographic location; or

(B) Where use of a geographical name as described in subsection (3)(A) would lead to duplication of an already existing name of a recreational facility, the facility shall be named after the primary street which it abuts, or be given a name in the Hawaiian language which describes its site.

(4) Structures.
Any structure shall:
(A) Be named for its neighborhood, community, region, district, or other identifying geographic location; or
(B) Be named or re-named for a person or persons alive or deceased, who meet one or more of the following criteria:
(i) The person has contributed significantly to the recreational programs in the community in which the structure is located;
(ii) The person has achieved significant recognition on the national or international level;
(iii) The person has been honored for service with the armed forces of the United States of America; or
(iv) The person has accomplished significant achievements in other fields of endeavor which have been of benefit to other persons.

(b) Where the name of any person or persons is proposed as the name for an open area or structure, pursuant to subsection (2)(C) or (4)(B), the following information shall be included in the proposal:
(1) The full name of the person;
(2) The date of birth and, if appropriate, the date of the death of the person;
(3) The current or last residence of the person, including street address, town, and district;
(4) Association, if any, of the person with the open area or structure to be named; and
(5) A brief biography of the person, including all data relevant to the commemorative naming.

(1987, ord 87-134, sec 1; am 2005, ord 05-45, sec 2.)

Section 15-68. Procedure for naming parks and recreational facilities.

All parks and recreational facilities shall be named by ordinance and included within Schedule 15-68.1 of the Hawaiʻi County Code.

(1987, ord 87-134, sec 1; am 2000, ord 00-15, sec 1.)

Section 15-68.1. Parks and recreational facility schedule.

PARKS

Hilo/Hāmākua	
Afook-Chinen Civic Auditorium	Kalākaua Park
Āhualani Park	Kamanā Senior Center
ʻĀinakō Park	Kanakea Pond
ʻĀinaola Park	Kaūmana Caves
Aunty Sally Kaleohano's Lūʻau Hale	Kaūmana Lani Park
Bakers Beach	Keikiland Playground
Carlsmith Beach Park	Kolekole Gulch Park
Charles "Sparky" Kawamoto Swim Stadium	Kūhiō Kalanianaʻole Park
Clem Akina Park	Kukuihaele Park
East Hawaiʻi Cultural Center	Kulaʻimano Park
Edith Kanakaole Multi-purpose Stadium	Lālākea Pond Beach Park
Francis F.C. Wong Stadium	Laupāhoehoe Point Beach Park
Frank M. Santos Park	Laupāhoehoe Senior Center
Gilbert Carvalho Park	Laupāhoehoe Swimming Pool
Haina Park	Leleiwi Beach Park
Hakalau Veterans Park	Liholiho Garden
Hilo Armory	Liliʻuokalani Gardens
Hilo Bayfront Beach	Lincoln Park
Hilo Bayfront Soccerfields	(1) Dr. Ruth E. Oda Playground
Hilo Drag Strip	Lōkahi Park
Hilo Municipal Golf Course	Machado Acres Park
Hilo Pōmaikaʻi Senior Center	Mālama Park
Hilo Skeet Range	Mohouli Park
Honokaʻa Park	Mokuola Island
Honokaʻa Rodeo Arena	Moʻoheau Park
(1) Rose Andrade Correia Stadium	NAS Swimming Pool
Honokaʻa Swimming Pool	Onekahakaha Beach Park
Honoliʻi Beach Park	(1) Uncle David K. Calles, Sr. Horseshoe Courts
Honomū Park	ʻŌʻōkala Park
Hoʻolulu Complex	Paʻauilo Park
Hualani Park	Panaʻewa Equestrian Center
(1) Ronald Futoshi "Harpo" Saiki Officials' Stand	Panaʻewa Park
James Kealoha Beach Park	Panaʻewa Rainforest Zoo and Gardens
Kaiwiki Park	Pāpaʻaloa Park

PARKS (continued)

Hilo/Hāmākua (continued)	
Pepeʻekeo Community Center Princess Abigail Wahīikaʻahuʻula Kawananakoa Center Reeds Bay Beach Park Richardson Ocean Park University Heights Park Waiākea Recreation Center Waiākea-Uka Park (1) Stanley Costales Waiākea-Uka Gym	Waiākea Waena Park Waikaumalo Park Wainaku Gym Wainaku Playground Waiʻolena Beach Park Waipiʻo Community Park Waipiʻo Look Out Waiʻuli Beach Park Walter C.K. Victor Baseball Complex

Kaʻū	
Kahuku Park Nāʻālehu Park Pāhala Ballfield Pāhala Community Center Pāhala Swimming Pool	Pāhala Tennis and Basketball Courts Punaluʻu Black Sand Beach Park Waiohinu Park Whittington Beach Park

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

PARKS (continued)

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

Puna	
‘Āhalanui Park/Maunakea Pond	Kurtistown Park
A.J. Watt Gym	Mt. View Park
Glenwood Park	Pāhoa Aquatic Center
Hawaiian Beaches Park	Pāhoa Neighborhood Facility
Herbert Shipman Park	Volcano Park
Isaac Kepo‘okalani Hale Beach Park	
Kahakai Park	
Kea‘au Community Center	

CEMETERIES

Hilo/Hāmākua	
ʻAlae Cemetery Kainehe Cemetery (Kūkaʻiau) Kihalani Cemetery (Laupāhoehoe) Kukuihaele Cemetery	Paʻalaea Cemetery (Honokaʻa) Veterans Cemetery No. 1 Veterans Cemetery No. 2 Waiākea Uka Cemetery

Kaʻū	
Nāʻālehu Cemetery	

North/South Kohala	
Kahei Cemetery Waimea Cemetery	

Kona	
West Hawaiʻi Veterans Cemetery-Puʻu Hoʻomaha O Na Poʻe Koa O Hawaiʻi Komohana Hienaloli Cemetery (Keōpū)	

(2000, ord 00-15, sec 2; ord 00-66, sec 2; ord 00-113, secs 1 and 2; am 2002, ord 02-58, sec 2; am 2003, ord 03-99, sec 2; ord 03-135, sec 2; am 2004, ord 04-79, sec 2; am 2005, ord 05-40, sec 2; ord 05-96, sec 2; am 2006, ord 06-127, sec 2; ord 06-149, sec 3; am 2007, ord 07-22, sec 4; am 2008, ord 08-7 sec 5; ord 08-22, sec 2; ord 08-35, sec 2; ord 08-121, sec 2; ord 08-142, sec 2; am 2009, ord 09-32, sec 3; am 2010, ord 10-11, sec 3; am 2011, ord 11-90, sec 3; am 2012, ord 12-164, sec 2; am 2014, ord 14-57, sec 2; am 2015, ord 15-60, sec 4.)

Article 9. Farmers Markets.

Section 15-69. Intent.

It is the intent of this article to allow for the establishment of farmers markets at various County parks and facilities. Farmers markets will offer the general public the opportunity to buy and sell homegrown and homemade products and wares.
(1993, ord 93-97, sec 1.)

Section 15-70. Director to establish time limits.

The director may establish reasonable limitations on the duration and frequency of any farmers market activities that may be allowed.
(1993, ord 93-97, sec 1.)

Section 15-71. Site map.

The department may apportion and/or delineate the area within the County park as the facility where the farmers market activity is allowed. The department shall provide a map of the farmers market site clearly delineating all farmers market spaces reserved for the exclusive use of any person granted a permit.
(1993, ord 93-97, sec 1.)

Section 15-72. Designated areas.

The following are authorized designated areas:
(a) Waimea.
(b) Kona.
(c) Honokaa County Park Complex.
(1993, ord 93-97, sec 1.)

Section 15-73. Permit; fee.

(a) All responsible persons, eighteen years of age or older, shall be allowed to secure a permit on their own to sell their products and wares grown, produced or made on the island of Hawai‘i in any of the designated farmers market sites subject to policies, rules and regulations established by the director. Permits shall be issued on a first-come, first-served basis and shall be based upon a fee of $5 per day. Each permit shall identify the permittee, the specific market space and site and the date(s) of said permit.
(b) No permit shall be issued for more than five consecutive days, nor shall any person be granted a permit for more than fifteen days in any given calendar month. The holder of a farmers market permit shall, upon request, show the permit to any law enforcement officer, park caretaker, or any personnel of the department or any administrator or manager contracted by the department therefor.
(c) Permit fees may be used by the department to enter into a purchase of services contract with a nonprofit organization for the administration and management of a farmers market program and/or site.
(1993, ord 93-97, sec 1.)

Article 10. Municipal Golf Course Funds.

Section 15-74. Creation.

There is created and established special funds to be known as the "municipal golf course funds."
(1995, ord 95-53, sec 1.)

Section 15-75. Purpose.

All income generated from each municipal golf course shall be deposited into its respective, individual municipal golf course fund to be expended by the department solely for the operation, maintenance and improvement of that particular municipal golf course.
(1995, ord 95-53, sec 1.)

Section 15-76. Administration.

The director shall be responsible for the administration of all municipal golf course funds in accordance with prescribed laws and procedures applicable to the expenditure of county funds.
(1995, ord 95-53, sec 1.)

Article 11. Dog Parks.

Section 15-77. Purpose.

The purpose of this article is to create a policy for establishing County park areas to be used exclusively by dogs and their handlers.
(2009, ord 09-113, sec 1.)

Section 15-78. Definitions.

For purposes of this article:

"Adult dog" means a dog over twelve months of age.

"Dangerous dog" means any dog that, without provocation, attacks a person or animal. A dog's breed shall not be considered in determining whether or not it is dangerous.

"Dog park" means an enclosed area within a County park that has been designated for use as an off-leash dog area or a park for the exclusive use of dogs and their handlers, and listed in the facility schedule in this article.

"Enforcement Officer" means a police officer or animal control officer.

"Handler" means the person who brought the dog to the dog park and is responsible for the dog. The handler shall either be the owner of the dog or a responsible person that has been permitted by the owner to bring the dog to the dog park.

"Mobility device" means a device used by individuals with mobility impairment for the purpose of locomotion. A mobility device may be powered by the individual or some other source.

"Off-leash area" means the fenced, secured section where the dog is allowed to exercise and train without a leash.

"On-leash area" means any area not included inside the fenced and secured dog park section, the transition areas between the park, or a handler's vehicle and the off-leash area.

"Puppy" means a dog between birth and twelve months of age.

"Shared-use or multi-use park" means a park that has playground equipment, an athletic playing field, or any other use that attracts children and also has a designated dog park on the same property.
(2009, ord 09-113, sec 1.)

Section 15-79. Applicability

This article applies to any County-owned and designated dog park or any portion of a multi-use park where an area is designated as a dog park, and is appropriately fenced and signed. Only areas listed in the facility schedule of this article shall be authorized as County dog parks. The provisions of Hawai'i Revised Statutes section 663-9, regarding dog owner liability and Hawai'i County Code, chapter 4, as it relates to dogs, are applicable to all users of designated dog parks.
(2009, ord 09-113, sec 1.)

Section 15-80. Designation and regulation of dog parks.

(a) The director, with the approval of the council, may designate any County park as a shared-use park and allocate an area as an off-leash area for dogs, or authorize a location exclusively for a dog park.
   (1) In designating County parks for the exclusive use of dogs and their handlers or portions of county parks or areas therein as a shared-use park with an off-leash area, the director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary, actual, or designed use of each park or area.
   (2) The director shall post signs that notify the public of such off-leash or on-leash areas for dogs and describe or map the park or park areas so designated.
   (3) Areas for off-leash dogs shall be appropriately fenced.
(b) If practicable, the director may designate a separate, fenced, and secure section within a dog park to accommodate dogs that weigh twenty pounds or less. In addition, the director may also designate a play and training section for the protection of puppies that shall be similarly segregated and secure from other areas of the dog park.
(c) The director shall adopt rules pertaining to dog parks.
(2009, ord 09-113, sec 1.)

Section 15-81. Liability; responsibility of handler.

(a) The handler shall be responsible for all actions, behavior, injuries, or damage caused by its dogs while on County park property.

(b) The handler shall be responsible for removing any feces, vomit or other waste matter produced by its dogs from the park and depositing it in an appropriate container.

(c) The handler shall keep its dogs on a leash no longer than six feet in length when entering the park and moving the dogs into the off-leash area.

(d) When in the off-leash area, the handler shall control its dogs by sound or voice command.

(e) The handlers shall closely supervise minor children that accompany them to the dog park.

(f) The County is not liable for any injury or harm to any person or dog incurred or caused by any other person or dog entering or remaining in the on-leash or off-leash park. The provisions of Hawaiʻi Revised Statutes section 663-9, regarding dog owner liability and Hawaiʻi County Code, chapter 4, as it relates to dogs, are applicable to all users of designated dog parks.

(g) The director has the right to deny any person or dog access to any or all dog parks in accordance with administrative rules of the department of parks and recreation.

(2009, ord 09-113, sec 1.)

Section 15-82. No alcohol, drug use, or food shall be allowed in dog parks.

(a) Alcohol and/or drug use is prohibited in dog parks at all times and the handler shall not be under the influence of alcohol or drugs while escorting, transiting, or training a dog in a dog park subject to the provisions of this article as well as other State and County codes for violations.

(b) Absolutely no food, including dog food or treats, shall be allowed in the off-leash area.

(2009, ord 09-113, sec 1.)

Section 15-83. Noise-producing devices prohibited.

(a) Due to the need for each handler to keep its dog under voice and sound control within the dog park, the use of any noise-producing devices including radios, television sets, musical instruments, boom boxes, electric generating plants, or other equipment driven by motors or engines is prohibited in a dog park or in a shared-use park where a designated area for a dog park exists, or at the discretion of the director.

(b) This section shall not prohibit the use of equipment for law enforcement or custodial maintenance purposes, or the use of mobility devices in a dog park.

(2009, ord 09-113, sec 1.)

Section 15-84. Current dog vaccinations required.

(a) To protect all dogs using a dog park, each handler shall keep its dog's vaccination current and provide documentation of such to enforcement officers, upon request. Documentation shall consist of medical records, vaccine certificates, and/or receipts. Each dog shall have required vaccinations against common infectious diseases, be free of internal parasites, and be treated for ticks and other external parasites before entering a dog park.

(b) Required vaccinations:
  (1) Distemper virus
  (2) Infectious Canine Hepatitus
  (3) Leptospirosis
  (4) Parvo virus

(c) Recommended, but non-essential vaccinations:
  (1) Parinfluenza
  (2) Bordetella

(2009, ord 09-113, sec 1.)

Section 15-85. Handler's responsibilities; control of dogs.

(a) Any dog transiting to and from the handler's vehicle or outside the designated off-leash area shall be on a leash no longer than six feet.

(b) The handler shall carry a leash no longer than six feet for each dog in its care in the off-leash area.

(c) The handler shall not bring more than two dogs into the off-leash area at any one time.

(d) To prevent injury, the handler shall remove pinch or choke collars from the dog when it is in the off-leash area.

(e) For health and safety reasons:
  (1) A handler shall not bring a puppy under the age of sixteen weeks into any dog park.
  (2) Female dogs in estrus shall be prohibited from entering any on-leash or off-leash parks.
  (3) When any dog is in the off-leash area, the handler shall remain in the off-leash area to supervise its dogs, and keep the dogs within view and under verbal, sound, or signal control at all times.
  (4) Each handler in the off-leash section shall be at least eighteen years of age. Minor children entering the off-leash section shall be accompanied by an adult.
  (5) All dogs shall have a valid dog license tag attached to the dog's collar while in the dog park.
  (6) The handler shall comply with all other dog park rules, as established by the director and posted in an easily visible location of each dog park.

(2009, ord 09-113, sec 1.)

Section 15-86. Dog behavior.

(a) The handler shall ensure that its dogs demonstrate appropriate social interaction at all times toward people and other dogs.

(b) Dogs displaying aggressive behavior toward people or other dogs shall be immediately leashed and removed from the off-leash area, out of the dog park, and any other portion of the County park.

(c) The provisions and penalties set forth in chapter 4, article 4, section 4-31, Regulation of dangerous dogs, are applicable to this article. In addition to the penalty provisions set forth in that section, any enforcement officer may also issue a trespass notice against the handler of any dog that is dangerous or vicious toward any other dog or person.

(2009, ord 09-113, sec 1.)

Section 15-87. Dog park entry requirements; fees.

(a) Each dog entering a dog park shall have a dog license tag pursuant to Hawaiʻi County Code, chapter 4, article 3. The dog license tag shall be attached to the dog's collar, and such collar shall remain on the dog at all times while in the dog park or moving to or from the dog park.

(b) Each dog entering a dog park shall wear an individual dog park entry tag indicating that the annual dog park entry fee has been paid to the County or the County's designated representative. Payment of the annual dog park entry fee entitles the handler to a single, colorized dog park entry tag applicable only to the dog to whom it was issued. The dog park entry tag shall be colored by calendar year. There shall be a one month's grace period (January) during which time a dog may still have the dog park entry tag for the previous calendar year. The dog park entry tag allows the authorized dog to enter any county dog park unless the handler has been issued a trespass notice against personally entering a dog park or against that particular dog.

(c) Dog park entry tag fees:

(1) Each puppy $5
(No pictures shall be required. Includes the administrative fee.)

(2) Initial adult dog park entry application, per dog $25
(Initial application shall include pictures of both sides and the face of the dog. Includes the administrative fee.)

(3) Renewal fee for an adult dog, per dog $10
(Does not require additional pictures or an additional dog license tag for identification purposes. Includes the administrative fee.)

(4) Administrative fee $5

(d) If the ownership of the dog changes, the new owner shall complete an application, have new dog pictures taken, and pay the administrative fee to the County or the County's designated representative to transfer ownership of the dog and its dog park entry tag.

(e) All fees shall be paid to the County of Hawaiʻi within thirty days and deposited in the general fund of the County of Hawaiʻi.

(2009, ord 09-113, sec 1.)

Section 15-88. Violation of regulations; penalties.

(a) Each separate violation of the provisions of this article is a violation and upon conviction, shall be punished by a fine not to exceed $1,000. Conduct that is proscribed under Hawai‘i County Code, chapter 4, article 4, as it relates to dogs, shall be enforced under that chapter.

(b) Failure to have a current dog license tag on the dog's collar when entering a dog park constitutes a violation of this article.

(c) Failure to have a current dog park entry tag on the dog's collar when entering a dog park constitutes a violation of this article. In addition to any penalty, the owner shall pay the dog park entry tag fee for that calendar year.

(d) Failure to maintain current vaccinations for a dog entering a dog park constitutes a violation of this article. Medical records, vaccination certificates, and/or receipts showing current vaccination shall be provided by the handler upon request of the enforcement officer.

(e) All fines collected under this article shall be deposited within thirty days into the general fund of the County of Hawai‘i.

(f) A one-year, no-trespassing notice against a person or dog may be issued by an enforcement officer for any violation of this article or any violation of posted park rules. A court of competent jurisdiction may extend the no-trespass period of time beyond one year for any violation of any section this article.

(2009, ord 09-113, sec 1.)

Section 15-89. Dog park facility schedule.

All dog parks shall be named by ordinance and added to the following facilities schedule:

DOG PARKS	
Hāmākua	Kohala
Hilo	Kona
Ka‘ū	Puna

(2009, ord 09-113, sec 1.)

Section 15-90. Severability.

If any provision of this article is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.

(2009, ord 09-113, sec 1.)

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CHAPTER 16

PLANNING

Article 1. General Plan.

Section 16-1. The County of Hawai‘i general plan.

Article 2. Community Development Plans.

Section 16-2. Adoption of community development plans.
Section 16-3. Review and amendment.

Article 3. CDP Action Committees.

Section 16-4. CDP action committees.
Section 16-5. Membership and tenure.
Section 16-6. Duties and responsibilities of the CDP action committees.

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CHAPTER 16

PLANNING

Article 1. General Plan.

Section 16-1. The County of Hawai‘i general plan.

(a) That certain planning code known and designated as “County of Hawai‘i general plan,” as adopted on December 5, 1971, by the council of the County of Hawai‘i, is hereby adopted by reference, subject to later amendments by ordinance, and may be cited as the “general plan.”*

(b) A copy of the general plan and amendments shall be available for public inspection at the planning department.

(1983 CC, c 16, sec 16-1; am 2006, ord 06-153, sec 1; am 2007, ord 07-70, secs 2, 3 and 4; am 2008, ord 08-98, sec 2; am 2009, ord 09-150, sec 2, ord 09-161, secs 1, 2, 3 and 4.)

Article 2. Community Development Plans.

Section 16-2. Adoption of community development plans.

The community development plans listed below are adopted and incorporated by reference. A copy of the plans and amendments shall be available for public inspection at the planning department.

KONA. The document identified as “Mapping the Future: Kona Community Development Plan Volume 1” is adopted by reference subject to later amendments by ordinance, and may be cited as the “Kona CDP.” The planning area for the Kona CDP encompasses the judicial districts of North and South Kona.

NORTH KOHALA. The document identified as “North Kohala Community Development Plan” is adopted by reference subject to later amendments by ordinance, and may be cited as the “North Kohala CDP.” The planning area for the North Kohala CDP encompasses the judicial district of North Kohala.

PUNA. The document identified as “Puna Community Development Plan” is adopted by reference subject to later amendments by ordinance, and may be cited as the “Puna CDP.” The planning area for the Puna CDP encompasses the judicial district of Puna and the Volcano Census Designated Place that includes the Volcano Golf Course subdivision in the district of Ka‘ū.

SOUTH KOHALA. The document identified as “South Kohala Community Development Plan” is adopted by reference subject to later amendments by ordinance, and may be cited as the “South Kohala CDP.” The planning area for the South Kohala CDP encompasses the judicial district of South Kohala.

(2008, ord 08-98, sec 3; am 2008, ord 08-116, sec 2; ord 08-131, sec 2; ord 08-151, sec 2; am 2008, ord 08-159, sec 2.)

Section 16-3. Review and amendment.

A comprehensive review of the community development plans shall commence within ten years from the date of adoption.

(2008, ord 08-98, sec 3.)

Article 3. CDP Action Committees.

Section 16-4. CDP action committees.

(a) A community development plan (CDP) action committee shall succeed each CDP steering committee upon adoption of a community development plan.

(b) The purpose of the CDP action committee is to be a proactive, community-based steward of the plan's implementation and update.

(c) The planning department shall administer the CDP action committees and be responsible for developing a selection process for committee members and establishing rules of procedure, as needed.

(2008, ord 08-98, sec 4.)

Section 16-5. Membership and tenure.

(a) The CDP action committee shall consist of nine members. All members shall have a primary residence in the area covered by the CDP. The members shall be appointed by the mayor and approved by the County council. Prior service as a member of a CDP steering committee shall not disqualify an individual from serving on the CDP action committee.

(b) The members shall serve staggered terms of four years. Upon the initial appointment of the committee, three members shall serve for a term of two years, three members for a term of three years, and three members for a term of four years. When the term of a member expires, the member shall continue to serve until a successor is appointed. Members whose terms expire may not be reappointed for at least two years, however, members appointed for one year or less may be reappointed for an additional term without the passage of two years' time.

(c) The membership should reflect a broad cross-section of the community. The community development plan may specify more detailed selection criteria consistent with this objective.

(d) A chairperson shall be elected from its membership annually.

(e) Except as provided for in this section, the committee shall be governed by the County Charter, section 13-4.

(2008, ord 08-98, sec 4.)

Section 16-6. Duties and responsibilities of the CDP action committees.

The duties and responsibilities of the committee are:

(1) Provide ongoing guidance and advocacy to advance implementation of the CDP goals, objectives, policies, and actions;

(2) Broaden community awareness of the CDP and build partnerships, as appropriate, with governmental and community-based organizations to implement CDP policies and actions;

(3) Take into consideration statewide objectives and legislation for long-term and sustainable plans for the island as a whole;

(4) Provide timely recommendations to the County on priorities relating to the County operational budget and the CIP budget and program;

(5) Receive briefings, as requested, from the planning department on pending and approved permit applications involving property located within the planning area, and on other issues related to the CDP;

(6) Receive briefings from other County agencies, as requested, on priority actions identified in the CDP, which briefings may be integrated and consolidated by the mayor's office or the planning department into a plan of action for the forthcoming year and a status report on the current year's plan of action;

(7) Monitor the progress and effectiveness of the CDP including the need for CDP revisions based on emerging statewide plans, new technologies, innovative ideas, or changing conditions;

(8) Review and make recommendations on interim amendments to the CDP;

(9) Serve as the steering committee, as set forth in the general plan, in any comprehensive update of the CDP;

(10) Provide recommendations to amend the general plan; and

(11) Carry out other duties specified in the CDP and/or in agreement with the planning department.

(2008, ord 08-98, sec 4.)

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CHAPTER 17

PLUMBING

Article 1. General Provisions.

Section 17-1. Title and purpose.
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Section 17-3. Definitions.
Section 17-4. Reference to the Uniform Plumbing Code; conflicting provisions.

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Division 7. Variances and Appeals.

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Section 17-55. Water supply systems.
Section 17-56. Plumbing piping under buildings.

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, gas, and drainage systems and the inspection thereof.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 1.)

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 07-84, sec 2.)

Section 17-3. Definitions.

As used in this code, unless otherwise specified:

"Authority having jurisdiction" means the director of the department of public works, or the director's authorized representative(s).

"Assistant" means the authorized representative(s) of the authority having jurisdiction.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, secs 2 and 8.)

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 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 07-84, sec 2.)

Section 17-8. Duties of the authority having jurisdiction.

The authority having jurisdiction 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 authority having jurisdiction;

(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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 Hawaiʻi County Code to which a permittee may also be subject.

(2007, ord 07-84, sec 2.)

Section 17-10. Adoption of rules.

The authority having jurisdiction may adopt rules pursuant to chapter 91, Hawaiʻi Revised Statutes, necessary for the purposes of this code.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-11. Right of entry.

Upon presentation of proper credentials, the authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 07-84, sec 2.)

Section 17-13. Nonliability of the County or its employee for damages.

(a) This chapter shall not be construed to relieve from or lessen the responsibility of such person owning, operating or installing any plumbing, gas, or drainage systems for damages to anyone injured by any defect therein.
(b) Neither the County nor any department, board, commission, officer, employee, or the authority having jurisdiction shall be held liable or responsible for any damage or injury caused by or resulting from the issuance of any permit issued, or any inspection or approval or issuance of a certificate of inspection, made under the provisions of this chapter.
(c) 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 there shall be assumed by the County.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 3; ord 11-121, sec 1.)

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 authority having jurisdiction.

(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 authority having jurisdiction. Failure to comply with this provision shall subject the violator to a $25 fine.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 and water closets, for non-commercial residential and County government 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, Hawaiʻi Revised Statutes.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 4; ord 11-121, 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, Hawaiʻi 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 authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 authority having jurisdiction may require plans, specifications, or drawings and such other information as the authority having jurisdiction 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 authority having jurisdiction. Two sets shall be retained by the authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction as indicated under subsection (a).

(c) Issuance. If the authority having jurisdiction determines that the plans, specifications, drawings, descriptions, or information furnished by the applicant are in compliance with this code, the authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-19. Amnesty period.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 5; ord 11-121, sec 3.)

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 07-84, sec 2.)

Division 4. Inspections.

Section 17-24. Inspection required.

(a) All plumbing, gas, and drainage systems shall be inspected by the authority having jurisdiction to ensure compliance with all the requirements of this code. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of any other ordinance. Inspections presuming to give authority to violate or cancel the provisions of this code or of any other ordinance shall not be valid.

(b) It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the authority having jurisdiction nor the County shall be liable for any expense entailed in the removal or replacement of any material required to perform the inspection.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, secs 6 and 8.)

Section 17-25. Notification to authority having jurisdiction 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 authority having jurisdiction orally or in writing, that said work is ready for inspection. The authority having jurisdiction may require that every request for inspection be filed and ready at least forty-eight hours before such inspection is desired. Such request may be in writing or by phone at the option of the authority having jurisdiction.

(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.

(c) 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.

(d) Whenever any work regulated by this chapter, or any portion thereof, is ready for inspection, the authority having jurisdiction shall be notified by the permit holder that same is ready for inspection. The notice shall be in writing on forms furnished by the authority having jurisdiction, by e-mail to the area inspectors or may be faxed or by telephone at the option of the authority having jurisdiction. The notice shall be filed with the department not less than forty-eight hours and not more than seventy-two hours before any such inspection is desired.

(e) The authority having jurisdiction shall proceed to inspect the same or notify the contractor of a reschedule within forty-eight hours, not including weekends or holidays, after receipt of such notice. When work conforms in all respects with the provisions of this chapter, a notice granting authority to proceed with installations shall be given.

(f) No plumbing work shall be covered or concealed until forty-eight hours have expired after the scheduled inspection or until the authority having jurisdiction has approved the installation and given permission to cover or conceal the same. If the permitted work is covered or concealed without inspection, the plumbing contractor will provide verification that the concealed work complies with all the provisions of this chapter. Should the authority having jurisdiction condemn any of said work or equipment as not being in accordance with the provisions of this chapter, notice in writing to that effect shall be given to the permit holder engaged in the work or posted at the job site.

(g) Within a reasonable time thereafter, the work or equipment shall be altered or removed as required, and necessary changes shall be made so that all such work and equipment may fully comply with the provisions of this chapter before further work is connected on or with the condemned work or equipment. In default, the plumbing contractor shall be liable to the penalties provided in this chapter, and any and every owner, contractor or other person engaged in construction of the building or structure, or otherwise, covering or allowing to be covered such portion of work or equipment, or removing any notice not to cover same placed thereon by the authority having jurisdiction shall likewise be liable to the penalties provided for in this chapter.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, secs 7 and 8.)

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 authority having jurisdiction 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 07-84, sec 2; am 2007, ord 07-113, sec 4; am 2011, ord 11-70, sec 8.)

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 authority having jurisdiction has the authority to waive inspection fees.
(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 07-84, sec 2.)

Section 17-33. Notice of violation.
Whenever any person, firm or corporation violates any provision of this code, the authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-34. Administrative enforcement.

(a) If the authority having jurisdiction determines that any person, firm or corporation is not complying with a notice of violation, the authority having jurisdiction 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 authority having jurisdiction'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 authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

***Editor's Note:** Section 5-1.0.5 was repealed. See section 5-67.

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 authority having jurisdiction, 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 authority having jurisdiction, 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 Hawaiʻi and County of Hawaiʻi.

(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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-36. Injunctive action.

The County of Hawaiʻi 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 07-84, sec 2.)

Section 17-37. Dangerous and insanitary construction.

(a) Any portion of a plumbing system found by the authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction 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 authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-38. Remedies cumulative.

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

(2007, ord 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 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 authority having jurisdiction, may, within thirty days after the authority having jurisdiction'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 authority having jurisdiction 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

Section 17-43. Other appeals.

(a) Any person aggrieved by the decision of the authority having jurisdiction 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 authority having jurisdiction's decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the authority having jurisdiction, 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 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 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, 2006 Edition," published by the International Association of Plumbing and Mechanical Officials, 5001 E. Philadelphia Street, Ontario, California 91761-2816, including 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 that 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 (5) feet (1524 mm) 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 – Health Officer shall mean the Director of Health of the Department of Health, State of Hawaiʻi, 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:

> "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 314.8. Section 314.8 is added to read:

> "**314.8 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."

(6) Deleting Section 412.0, Table 4-1 and Table A. Section 412.0, Table 4-1 and Table A are deleted in their entirety, and replaced to read:

"**412.0 Minimum Number of Required Fixtures**. Plumbing fixtures shall be provided for the type of building occupancy and in the minimum number required in Chapter 29 of the International Building Code."

(7) Amending Section 715.1. Section 715.1 is amended to read:

"**715.1** The building sewer, beginning five (5) feet (1524 mm) from any building or structure, shall be of such materials as prescribed in this code."

(8) Adding Section 911.0. Section 911.0 is added to read:

"**911.0 Single Stack System**. When approved by the authority having jurisdiction, a single-stack system based on engineered studies and tests 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 State of Hawai'i licensed mechanical engineer."

(9) Amending Section 1101.11.1. Section 1101.11.1 is amended to read:

"**1101.11.1 Primary Roof Drainage.** Roof areas of a building shall be drained by roof drains or gutters. The location and sizing of drains and gutters shall be coordinated with the structural design and pitch of the roof. Unless otherwise required by the authority having jurisdiction, roof drains, gutters, vertical conductors or leaders, and horizontal storm drains for primary drainage shall be sized based on a storm of sixty (60) minutes duration and 100-year return period. Refer to the National Weather Service rainfall map for 100-year, 60 minute storms at various locations."

(10) Amending Section 1301.1. Section 1301.1 is amended by adding two new sentences at the end to read:

"The provisions of Chapter 13 Health Care Facilities and Medical Gas and Vacuum Systems shall be used as REFERENCE ONLY, for the design and construction of medical gas and vacuum systems. This Chapter will not be regulated or enforced by the County of Hawai'i. Responsibility shall be by the company and mechanical engineer who designs and sizes the system."

(11) Amending Section 1327.0 Testing and Inspection. Section 1327.0 is amended by replacing the term "Authority Having Jurisdiction" with "Certified Medical Gas System Verifier" (Individuals who have successfully passed a National Inspection Testing Certification Service competency examination in accordance with ASSE Series 6000 Standard, Section 6030) for all instances in Sections 1327.1 to 1327.15.

(12) Amending Section 1601.0 (A). Section 1601.0 (A) is amended to read:

"(A) The provisions of this chapter shall apply to the construction, alteration, and repair of gray water systems for underground landscape irrigation. Installations shall be allowed only in single-family dwellings or as allowed by the Health Officer. The system shall have no connection to any potable water system and shall not result in any surfacing of the gray water. Except as otherwise provided for in this chapter, the provisions of this code shall be applicable to gray water installation."

(13) Amending Section 1601.0 (D). Section 1601.0 (D) is amended to read:

"(D) No permit or approval for any gray water system shall be issued until a plot plan with appropriate data or design plans satisfactory to the authority having jurisdiction has been submitted and approved for use. When there is insufficient lot area or inappropriate soil conditions for adequate absorption of the gray water, as determined by the authority having jurisdiction, no gray water system shall be permitted."

(14) Amending Section 1601.0 (E). Section 1601.0 (E) is amended to read:

"(E) No permit or approval shall be issued for a gray water system on any property in a geologically sensitive area as determined by the Health Officer."

(15) Amending Section 1603.0. Section 1603.0 is amended to read:

"**1603.0 Permit or Approval.** It shall be unlawful for any person to construct, install, or alter, or cause to be constructed, installed, or altered any gray water system in a building or on a premises without first obtaining a permit or approval to do such work from the Health Officer."

(16) Amending Section 1604.0. Section 1604.0 is amended by amending the opening paragraph to read:

"**1604.0 Drawings and Specifications.** The Health Officer may require any or all of the following information to be included with or in the plot plan before a permit or approval is issued for a gray water system, or at any time during the construction thereof:"

(17) Amending Section 1604.0 (A). Section 1604.0 (A) is amended to read:

"(A) Plot plan drawn to scale and completely dimensioned, showing lot lines and structures, direction and approximate slope of surface, location of all present or proposed retaining walls, drainage channels, water supply lines, wells, paved areas and structures on the plot, number of bedrooms and plumbing fixtures in each structure, location of private sewage disposal system or building sewer connecting to the public sewer, and location of the proposed gray water system."

(18) Amending Section 1607.0. Section 1607.0 is amended to read:

"**1607.0 Required Area of Subsurface Irrigation/Disposal Fields** (See Figure 16-5.) The Health Officer may require that each valved zone shall have a minimum effective irrigation area in square feet as determined by Table 16-2 for the type of soil found in the excavation, based upon a calculation of estimated gray water discharge pursuant to Section 1606.0 of this chapter, or the size of the holding tank, whichever is larger. The area of the irrigation/disposal field shall be equal to the aggregate length of the perforated pipe sections within the valved zone multiplied the width of the proposed irrigation/ disposal field. Each proposed gray water system shall include at least three (3) valved zones, and each zone shall be in compliance with the provisions of the section. No excavation for an irrigation/disposal field shall extend within three (3) vertical feet of the highest known seasonal groundwater, nor to a depth where gray water may contaminate the groundwater or ocean water. The applicant shall supply evidence of groundwater depth to the satisfaction of the Health Officer."

(19) Amending Section 1608.0. Section 1608.0 is amended to read:

"**1608.0 Determination of Maximum Absorption Capacity**.

(A) Wherever practicable, irrigation/disposal field size shall be computed from Table 16-2 and Table 16-3, or Water Demand based on Evapotranspiration (ET) data.

(B) In order to determine the absorption quantities of questionable soils other than those listed in Tables 16-2 and 16-3, the proposed site may be subjected to percolation tests acceptable to the authority having jurisdiction.

(C) When a percolation test is required, no gray water system shall be permitted if the test shows the absorption capacity of the soil is not acceptable as determined by the Health Officer or is less than eighty-three hundredths (0.83) gallons per square foot (33.8 L/m^2) or more than five and twelve hundredths (5.12) gallons per square foot (208.5 L/m^2) of leaching area per twenty-four (24) hours.

(D) The following formula can be used to estimate the square footage of landscape to be irrigated based on ET data:

$$LA = \frac{GW}{ET \times PF \times 0.62}$$

Where: GW = estimated gray water produced (gallons per week)

LA = landscaped area (ft^2)
ET = evapotranspiration (inches per week)
PF = plant factor, based on climate and type of plants
0.62 = conversion factor (from inches of ET to gallons per week)."

(20) Amending Section 1611.0. Section 1611.0 is amended to read:

"**1611.0 Irrigation/Disposal Field Construction**. (See Figure 16-5.)
The Health Officer may permit subsurface drip irrigation, mini-leach field or other equivalent irrigation methods which discharge gray water in a manner which ensures that the gray water does not surface. Design Standards for subsurface drip irrigation systems and mini-leach field irrigation systems are as follows:

(A) Standards for a subsurface drip irrigation system:

(1) Minimum 140 mesh (115 micron) filter with a capacity of 25 gallons per minute, or equivalent, filtration, sized appropriately to maintain the filtration rate, shall be used. The filter back-wash and flush discharge shall be caught, contained and disposed of to the sewer system, septic tank, or with approval of the authority having jurisdiction, a separate mini-leach field sized to accept all the back wash and flush discharge water. Filter backwash water and flush water shall not be used for any purpose. Sanitary procedures shall be followed when handling filter back-wash and flush discharge of gray water.

(2) Emitters shall have a minimum flow path of 1200 microns and shall have a coefficient of manufacturing variation (Cv) of no more than seven percent. Irrigation system design shall be such that the emitter flow variation shall not exceed plus or minus ten percent. Emitters shall be recommended by the manufacture for subsurface use and gray water use, and shall have demonstrated resistance to root intrusion.

(3) Each irrigation zone shall be designed to include no less than the number of emitters specified in Table 16-3, or through a procedure designated by the Health Officer. Minimum spacing between emitters is 14 inches in any direction.

(4) The system design shall provide user controls, such as valves, switches, timers, and other controllers as appropriate, to rotate the distribution of gray water between irrigation zones.

(5) All drip irrigation supply lines shall be polyethylene tubing or PVC class 200 pipe or better and schedule 40 fittings. All joints shall be properly solvent-cemented, inspected and pressure tested at 40 psi, and shown to be drip tight for five minutes, before burial. All supply lines will be buried at least eight inches deep. Drip feeder lines can be poly or flexible PVC tubing and shall be covered to a minimum depth of nine inches.

(6) Where pressure at the discharge side of the pump exceeds 20 pounds per square inch (psi), a pressure reducing valve able to maintain downstream pressure no greater than 20 psi shall be installed downstream from the pump and before any emission device.

(7) Each irrigation zone shall include a flush valve/anti-siphon valve to prevent back siphonage of water and soil.

(B) Standards for a mini-leach field system:

(1) Perforated sections shall be a minimum three (3) inch (80 mm) diameter and shall be constructed of perforated high-density polyethylene pipe, perforated ABS pipe, perforated PVC pipe, or other approved materials, provided that sufficient openings are available for distribution of the gray water in to the trench area. Material, construction, and perforation of the pipe shall be in compliance with the appropriate absorption fields drainage piping standards and shall be approved by the Health Officer.

(2) Filter material, clean stone, gravel, slag, or similar filter material acceptable to the authority having jurisdiction, varying in size from three-quarter (3/4) inch (20 mm) to two and one-half (2-1/2) inch (65 mm) shall be placed in the trench to the depth and grade required by this section. The perforated section shall be laid on the filter material in an approved manner. The perforated section shall then be covered with filter material to the minimum depth required by this section. The filter material shall then be covered with untreated building paper, straw, or similar porous material to prevent closure of voids with earth backfill. No earth backfill shall be placed over the filter material cover until after inspection and acceptance."

(21) Deleting Chart for Section 1611.0 (C). The corresponding chart for Section 1611.0 (C) is deleted.

(22) Amending Section 1612.0 (A). Section 1612.0 (A) is amended to read:

"(A) Other collection and distribution systems such as laundry only gray water systems may be approved by the local Health Officer."

(23) Amending Table 16-1. Table 16-1, Location of Gray Water Systems, is amended as follows:

A) Deleted "100% expansion area" as relating to "Disposal Field."

B) Changed the values for the following Irrigation/Disposal Field:

- Building Structures
- Water Supply Wells
- Disposal Field

As amended, Table 16-1 shall read:

"**Table 16-1**
Location of Gray Water System

Minimum Horizontal Distance in Clear Required From:	**Holding Tank Feet**	**(mm)**	**Irrigation/Disposal Field Feet**	**(mm)**
Building structures[1]	5[2]	(1,524 mm)	5	(1,524 mm)
Property line adjoining private property	5	(1,524 mm)	5	(1,524 mm)
Water supply wells[3]	50	(15,240 mm)	1000	(304,800 mm)
Streams and lakes[3]	50	(15,240 mm)	50[4]	(15,240 mm)
Sewage pits or cesspools	5	(1,524 mm)	5	(1,524 mm)
Disposal field	5	(1,524 mm)	5	(1,524 mm)
Septic tank	0	(0)	5	(1,524 mm)
On-site domestic water service line	5	(1,524 mm)	5	(1,524 mm)
Pressurized public water main	10	(3,048 mm)	10[5]	(3,048 mm)

Note: When irrigation/disposal fields are installed in sloping ground, the minimum horizontal distance between any part of the distribution system and the ground surface shall be fifteen (15) feet (4,572 mm).

[1] Including porches and steps, whether covered or uncovered, breezeways, roofed porte cocheres, roofed patios, carports, covered walks, covered driveways, and similar structures or appurtenances.

[2] The distance may be reduced to zero feet for aboveground tanks when first approved by the authority having jurisdiction.

[3] Where special hazards are involved, the distance required shall be increased as may be directed by the authority having jurisdiction.

[4] These minimum clear horizontal distances shall also apply between the irrigation/disposal field and the ocean mean higher hightide line.

[5] For parallel construction/for crossings, approval by the authority having jurisdiction shall be required."

(24) Adding Table 16-3. A new Table 16-3 is added as follows:

"**Table 16-3**
Subsurface Drip Design Criteria for Six Typical Soils

Type of Soil	Maximum Emitter Discharge (gal/day)	Minimum Number of Emitters per gdp of gray water production
Sand	1.8	0.6
Sandy loam	1.4	0.7
Loam	1.2	0.9
Clay loam	0.9	1.1
Silty Clay	0.6	1.6
Clay	0.5	2.0"

(25) Amending Section 1614.0. Section 1614.0 is amended to read:

"**1614.0 Definitions**.
Reclaimed water is water that, as a result of tertiary treatment of domestic wastewater, is at all times oxidized, then filtered, and then exposed, after the filtration process, to:

(1) A disinfection process that, when combined with the filtration process, has been demonstrated to inactivate and/or remove 99.999 percent of the plaque-forming units of F-specific bacteriophage MS2, or polio virus in the wastewater. A virus that is at least resistant to disinfection as polio virus may be used for purposes of demonstration; and

(2) A disinfection process that limits the concentration of fecal coliform bacteria to the following criteria:

(i) The median density measure in the disinfected effluent does not exceed 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed; and

(ii) The density does exceed 23 per 100 milliliters in more than one sample in any 30-day period; and

(iii) No sample shall exceed 200 per 100 milliliters.

The level of treatment and quality of the reclaimed water shall be approved by the Department of Health.

Specifically excluded from this definition is gray water, which is defined in Part I of this chapter.

For the purposes of this section, the words "reclaimed" and "recycled" may be used interchangeably."

(26) Amending Section K1 (A). Appendix K is amended by adding at the end of Section K1 (A) the following:

"Construction plans for private sewage disposal systems shall be prepared by or under the supervision of a Hawaiʻi licensed engineer registered in the State of Hawaiʻi. All private sewage disposal systems shall be constructed or modified by a person meeting the requirements of chapter 444, Hawaiʻi Revised Statutes and any pertinent rules promulgated by the department of commerce and consumer affairs, State of Hawaiʻi."

(27) Amending Section K1 (E). Appendix K is amended by amending Section K1 (E) to read:

"(E) The lot area shall not be less than 10,000 square feet except for lots created and recorded before August 30, 1991. For lots less than 10,000 square feet which were created and recorded before August 20, 1991, only one private sewage disposal system shall be allowed. The total wastewater flow into one private sewage disposal system shall not exceed 1,000 gallons, and one private sewage disposal system shall not serve more than five bedrooms, whether they are in one dwelling unit or two. For buildings, other than dwellings with highly variable wastewater flow rates, such as but not limited to schools, parks, and churches, the private sewage disposal system may exceed a design flow rate of 1,000 gallons per day."

(28) Amending Section K1 (J). Appendix K is amended by adding at the end of Section K1 (J) the following:

> "Aerobic systems shall be required for the direct disposal of sewage to groundwater."

(29) Amending Section K2. Appendix K is amended by amending Section K2 to read:

> "**K2 Capacity of Septic Tanks**.
> The liquid capacity of all septic tanks shall conform to Tables K-2 and K-3 as determined by the number of bedrooms in dwelling occupancies and the estimated waste/sewage design flow rate or the number of plumbing fixture units as determined from Table 7-3 of this Code, whichever is greater in other building occupancies. The capacity of any one septic tank and its drainage system shall be limited by the soil structure classification, as specified in Table K-4."

(30) Amending Section K3. Appendix K is amended by amending Section K3 to read:

> "**K3 Area of Disposal Fields and Seepage Pits.**
> The minimum effective absorption area in disposal fields in square feet (m^2) of sidewall, shall be predicated on the required septic tank capacity in gallons (liters) and/or estimated waste/sewage flow rate, whichever is greater, and shall conform to Table K-4 as determined for the type of soil found in the excavation. The minimum effective absorption area could also be based upon a flow of 200 gallons per bedroom per day in accordance with Table K-6. Soil percolation tests shall be conducted at a minimum depth of three feet."

(31) Amending Section K4 (C). Appendix K is amended by amending the first sentence of Section K4 (C) to read:

> "(C) When a percolation test is required, the test shall be conducted at a minimum depth of three feet, and no private disposal system shall be permitted to serve a building if that test shows the absorption capacity of the soil is less than 0.83 gallons per square foot (33.8 L/m^2) or more than 5.12 gallons per square foot (208 L/m^2) of leaching area per 24 hours."

(32) Amending Section K5 (N)(1). Appendix K is amended by amending Section K5 (N)(1) to read:

> "(1) The septic tank shall be certified by IAPMO or a third party certification body accredited in accordance with ISO Guide 65, entitled "General Requirements for bodies operating product certification systems.""

(33) Amending Section K7 (C). Appendix K is amended by amending the first sentence of Section K 7(C) to read:

> "(C) Each seepage pit shall be circular in shape and shall have an excavated diameter of not less than six (6) feet (1,829 mm)."

(34) Amending Table K-1. Appendix K is amended by amending Table K-1, Location of Sewage Disposal System, as follows:

> The minimum horizontal distances are revised to be consistent with Hawaiʻi Administrative Rules Chapter 11-62 "Wastewater Systems" distances. The revision to Table K-1 is limited to increasing from 100 feet to 1,000 feet the minimum horizontal distance in clear from a water supply well to a disposal field.

As amended, Table K-1 shall read:

"**TABLE K-1**
Location of Sewage Disposal System

Minimum Horizontal Distance In Clear Required From:	**Building Sewer**	**Septic Tank**	**Disposal Field**	**Seepage Pit or Cesspool**
Buildings or structures[1]	2 feet (610 mm)	5 feet (1,524 mm)	8 feet (2,438 mm)	8 feet (2,438 mm)
Property line adjoining private property	Clear[2]	5 feet (1,524 mm)	5 feet (1,524 mm)	8 feet (2,438 mm)
Water supply wells	50 feet[3] (15,240 mm)	50 feet (15,240 mm)	1,000 feet (304,800 mm)	150 feet (45.7 m)
Streams and other bodies of water	50 feet (15,240 mm)	50 feet (15,240 mm)	100 feet[7] (30,480 mm)[7]	150 feet[7] (45.7 m)[7]
Trees	-	10 feet (3,048 mm)	-	10 feet (3,048 mm)
Seepage pits or cesspools	-	5 feet (1,524 mm)	5 feet (1,524 mm)	12 feet (3,658 mm)
Disposal Field	-	5 feet (1,524 mm)	4 feet[4] (1,219 mm)	5 feet (1,524 mm)
On-site domestic water service line	1 foot[5] (305 mm)	5 feet (1,524 mm)	5 feet (1,524 mm)	5 feet (1,524 mm)
Distribution box	-	-	5 feet (1,524 mm)	5 feet (1,524 mm)
Pressure public water main	10 feet[6] (3,048 mm)	10 feet (3,048 mm)	10 feet (3,048 mm)	10 feet (3,048 mm)

Note: When disposal fields and/or seepage pits are installed in sloping ground, the minimum horizontal distance between any part of the leaching system and ground surface shall be fifteen (15) feet (4,572 mm).

1 Including porches and steps, whether covered or uncovered, breezeways, roofed porte cocheres, roofed patios, carports, covered walks, covered driveways, and similar structures or appurtenances.

2 See also Section 313.3 of the Uniform Plumbing Code.

3 All drainage piping shall clear domestic water supply wells by at least fifty (50) feet (15,240 mm). This distance may be reduced to not less than twenty-five (25) feet (7,620 mm) when the drainage piping is constructed of materials approved for use within a building.

4 Plus two (2) feet (610 mm) for each additional one (1) foot (305 mm) of depth in excess of one (1) foot (305 mm) below the bottom of the drain line. (See also Section K6.)

5 See Section 720.0 of the Uniform Plumbing Code.

6 For parallel construction - For crossings, approval by the Health Department shall be required.

7 These minimum clear horizontal distances shall also apply between disposal fields, seepage pits, and the mean high tide line."

(35) Amending Table K-2. Appendix K is amended by amending Table K-2, Capacity of Septic Tanks, as follows:

A) Under column "Single-Family Dwellings-Number of Bedrooms," delete "1 or 2 and 3" and replace with "4 or less"; also delete "or 6" from "5 or 6."

B) Under column "Multiple Dwelling Units or Apartments-One Bedroom Each," delete "3 through 10."

C) Delete entire column "Other Uses: Maximum Fixture Units Served per Table 7-3."

D) Under "Minimum Septic Tank Capacity in Gallons/Liters" delete the first two rows, amend the third and fourth rows, and delete rows five through eleven.

E) Delete "*Note: Extra Bedroom, 150 gallons (568 liters) each. Extra dwelling units over 10: 250 gallons (946 liters) each. Extra fixture units over 100: 25 gallons (95 liters) per fixture unit."

As amended, Table K-2 shall read:

"**TABLE K-2**
Capacity of Septic Tanks

Single-Family Dwellings – Number of Bedrooms	Multiple Dwelling Units or Apartments – One Bedroom Each	Minimum Septic Tank Capacity in Gallons (Liters)
4 or less	--	1,000 (3,785)
5	2 units	1,250 (4,731)

Septic tank sizes in this table include sludge storage capacity and the connection of domestic food waste disposal units without further volume increase."

(36) Adding Table K-6. Appendix K is amended by adding a new Table K-6 as follows:

"**TABLE K-6**
Minimum Required Absorption Area

Percolation Rate (min/inch) Less than or equal to	Required Absorption Area (ft^2/bedroom or 200 gallons)	Percolation Rate (min/inch) Less than or equal to	Required Absorption Area (ft^2/bedroom or 200 gallons)
1	70	31	253
2	85	32	257
3	100	33	260
4	115	34	263
5	125	35	267
6	133	36	270
7	141	37	273
8	149	38	277
9	157	39	280
10	165	40	283
11	170	41	287
12	175	42	290
13	180	43	293
14	185	44	297
15	190	45	300
16	194	46	302
17	198	47	304
18	202	48	306
19	206	49	308
20	210	50	310
21	214	51	312
22	218	52	314
23	222	53	316
24	226	54	318
25	230	55	320
26	234	56	322
27	238	57	324
28	242	58	326
29	246	59	328
30	250	60	330"

(2007, ord 07-84, sec 2; am 2011, ord 11-70, secs 9 and 10.)

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, Hawaiʻi County Code.
(2007, ord 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, Hawaiʻi 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, Hawaiʻi County Code; or
(3) Any plumbing system lawfully existing prior to November 8, 1993, subject to the provisions of chapter 27, Hawaiʻi County Code.

(2007, ord 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, Hawaiʻi County Code:

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

(2007, ord 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 authority having jurisdiction.

(2007, ord 07-84, sec 2; am 2011, ord 11-70, sec 8.)

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 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 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 07-84, sec 2.)

CHAPTER 18

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CHAPTER 18

PUBLIC TRANSPORTATION

Article 1. Common Carriers.

Division 1. General Provisions.

Section 18-1. Definitions.

As used in this chapter:

"Carrier" means every person, individual, corporation, joint stock company, firm, association, lessee, trustee, receiver, or trustee appointed by any court, who or which owns, controls, operates, or manages a passenger-carrying motor vehicle, such as a sampan bus, taxi or other vehicle exempted from chapter 271, Hawai'i Revised Statutes, operated in the transportation of the general public, over a prescribed route on a regular schedule over any public street or highway within the County, but not including:

(1) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter;
(2) Sightseeing buses;
(3) Private transportation services of churches and employers;
(4) Student transportation; and
(5) Any mass transit system owned, maintained, and operated by the County including, but not limited to, motor buses, street railroads, and fixed rail facilities.

"Commission" means the County transportation commission.

"Director of finance" means the director of finance or a person designated by the director of finance.

"Handicapped" means any individual meeting one or more of the following standards and guidelines:

(1) Any individual who by reason of illness, injury, advanced age, congenital malfunction, or other incapacity or disability, is unable to compete in the open job market for a period of more than one year.

(2) Any individual unable to perform one or more of the following functions necessary to effectively utilize public transportation facilities without significant difficulty:
   (A) Negotiate a flight of stairs;
   (B) Boarding or alighting from a public transit vehicle; or
   (C) Walking more than two hundred feet.
(3) Any individual unable without special facilities, special assistance, and special planning or design to utilize the public transit system as effectively as persons who are not so affected.

Supporting evidence of the handicap shall be required by a licensed physician or agency involved in physical or mental handicap programs. The handicap identification card issued by the County transportation agency shall be recognized for certified handicapped individuals.

"Public highways" mean the same as the definition of public highways in section 264-1, Hawaiʻi Revised Statutes, including both State and County highways, but operation upon rails is not transportation on the public highways.

"Safety glass" means any product composed of glass, manufactured, fabricated, or treated so as to substantially prevent shattering and flying of the glass when struck or broken or any other or similar product as may be approved by the director of finance.

"Senior citizen" means any individual age sixty and over who maintains a senior citizen identification card issued by the County department of parks and recreation, elderly activities division.

"Student" means any individual currently attending an educational institution certified by the State and maintains supporting evidence of present enrollment such as a student identification card.

"Taxi" or "taxicab" means a vehicle designed to carry not more than eight passengers operated by a taxicab driver, which is used in the movement of passengers for hire on the public highways and which is directed to a destination by the passenger for hire or on the passenger's behalf and which operates on call or demand.
(1983 CC, c 18, art 1, sec 18-1; am 1979, ord 464, sec 1; am 1982, ord 805, sec 1; am 1986, ord 86-15, sec 1; am 1990, ord 90-19, sec 2; am 2008, ord 08-107, sec 2; am 2009, ord 09-74, sec 2.)

Section 18-2. Safety glass required.

No person shall sell any new motor vehicle nor shall a reconstructed motor vehicle be registered which is designed or to be used for the purpose of transporting passengers for compensation or as a school bus unless the vehicle is equipped with safety glass wherever glass is used in doors, windows, and windshields.
(1983 CC, c 18, art 1, sec 18-2.)

Division 2. County Transportation Commission.

Section 18-3. Membership.

There shall be a County transportation commission composed of nine commissioners. One commissioner shall be appointed from each of the nine respective County council districts. Commissioners shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. Commissioners shall serve staggered terms of five years, one member to be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. No member shall be eligible for a second appointment to the commission prior to the expiration of two years, provided that members of the commission initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term. In the transitional period following the amendment of this section of the code, vacancies on the transportation commission shall be filled in ascending council district order as such order may exist at the time an appointment is made by the mayor.
(1983 CC, c 18, art 1, sec 18-3; am 1987, ord 87-57, sec 1; am 1993, ord 93-69, sec 1.)

Section 18-4. Mass transit administrator as chief administrator.

The mass transit administrator shall be the chief administrator and may assign any clerk, stenographer, agent or other assistant from the mass transportation agency* to the commission as may be necessary and define their powers and duties.
(1983 CC, c 18, art 1, sec 18-4; am 1995, ord 95-18, sec 2; am 2004, ord 04-58, sec 4.)

*** Editor's Note:** The mass transportation agency was renamed the mass transit agency, by Ordinance 04-58, section 3.

Section 18-5. Commission's powers and duties.

The commission shall have general supervision over carriers including taxicabs and shall perform the duties and exercise the powers imposed or conferred upon it by division 3 of this article and article 2 of this chapter. In addition, the commission may serve as an advisory body to the mass transit agency and, upon request of the mayor or council, advise on other transportation-related matters.
(1983 CC, c 18, art 1, sec 18-5; am 1987, ord 87-57, sec 1; am 1990, ord 90-19, sec 3.)

Division 3. Certificate of Public Convenience and Necessity.

Section 18-6. Required; hearing; issuance.

(a) No carrier operating upon and using the public highways of the County shall furnish any service without first obtaining from the commission a certificate declaring that public convenience and necessity require the operation and service.
(b) Before issuing any certificate the commission shall hold a public hearing to determine whether there is a need for the operation and service. Any carrier who was in operation on May 8, 1972, shall be presumed to be engaged in an operation that is necessary to public convenience and necessity. Every certificate issued whether an original issuance or a renewal, shall be valid for an indefinite term.

(c) The commission, after hearing, may suspend, alter, amend, or revoke any certificate issued, or may issue a temporary certificate. Every carrier shall operate and furnish service in strict conformity with the terms and provisions of the carrier's certificate, except in cases of emergency defined by the commission.

(1983 CC, c 18, art 1, sec 18-6; am 1979, ord 464, sec 2; am 1990, ord 90-119, sec 2.)

Section 18-7. Issuance in two or more names.

Any certificate issued in the names of two or more persons shall be presumed to be owned in joint tenancy, unless otherwise specifically stated by a written form submitted to the commission.

(1983 CC, c 18, art 1, sec 18-7.)

Section 18-8. Revocation; causes.

Any certificate of a carrier issued under this division may be suspended or revoked only for any of the following causes:

(1) The failure of the carrier to comply with the terms and conditions of its certificate.

(2) The discontinuance by the carrier of the business of transporting passengers as a common carrier of passengers operating upon and using the public highways for a period of thirty consecutive days or more; provided that this paragraph shall not prevent the commission from altering or amending any certificate by reducing the service required thereunder when the discontinuance of the business relates only to one or more but less than all of the vehicles operated by the carrier.

(3) The conviction of any driver of a vehicle operated by a certificated carrier of the charge of driving while intoxicated or under the influence of intoxicating liquor or of violating chapter 329 or chapter 281, Hawai'i Revised Statutes.

(4) The wilful refusal of the owner of a bus to pay for use of parking area in the bus terminal as provided in division 5 of this article.

(5) The failure of the carrier to comply with this division and any lawful order of the commission.

(1983 CC, c 18, art 1, sec 18-8.)

Section 18-9. Rates, routes, safety standards, and insurance set by commission.

(a) The commission by order shall fix, prescribe, and establish routes, schedules, rates, standards of safety, and insurance requirements as set forth in this section. All these matters shall be determined as to each carrier upon the hearing in connection with the original application for certificate of convenience and necessity, and thereafter, after a hearing upon application, complaint, or the commission's own motion, may be changed, amended or altered.

(b) Any rate, fare, and charge made or charged by any carrier or by two or more carriers jointly shall be just and reasonable. Any schedule and route shall be established in accordance with the public convenience and necessity. Any standard of safety shall accord with best practices for the safety of the public.

No common carrier shall operate and use the public highways until it has filed a bond or policy of insurance or other contract in writing with the commission under the same conditions as are required for common carriers under the control of the public utilities commission, except that in the case of taxicabs, the insurance requirement shall be as set forth in article 2 of this chapter.

(c) No hearing shall be held regarding any matter covered by this section except after published notice, that is, notice by publication in a daily newspaper of general circulation in the County in accordance with the requirements of chapter 91, Hawai‘i Revised Statutes.

(1983 CC, c 18, art 1, sec 18-9; am 1979, ord 464, sec 3; am 1990, ord 90-119, sec 3.)

Section 18-10. Rules; procedure and evidence.

The commission may make and amend rules not inconsistent with law respecting the procedure before it and shall not be bound by the strict rules of evidence but may exercise its own discretion in those matters with a view to doing substantial justice.
(1983 CC, c 18, art 1, sec 18-10.)

Section 18-11. Notice of hearing.

Whenever any hearing is conducted by the commission, reasonable notice in writing of the hearing and of any subject to be considered shall be given to the carrier concerned, together with a copy of the complaint, if any, and a notice in writing of the date and place fixed by the commission for beginning the hearing shall be served upon the carrier and the complainant, if any, by registered or certified mail with return receipt requested at least fifteen days before the hearing.
(1983 CC, c 18, art 1, sec 18-11; am 1979, ord 464, sec 4.)

Section 18-12. Penalty; injunction.

Any carrier violating this division shall be fined not more than $500 and may be enjoined by the circuit court from carrying on its business while the violation continues.
(1983 CC, c 18, art 1, sec 18-12.)

Section 18-13. Appeals.

Any carrier who has been refused a certificate of convenience and necessity or whose certificate has been suspended, altered, amended, or revoked by the commission, may appeal from the refusal, suspension, alteration, amendment, or revocation to the circuit judge of the third circuit, at chambers, by filing a petition in the court within twenty days of the date of the order or decision appealed from; provided that the appeal shall not operate as a stay to the order or decision of the commission. The appeal shall be subject to the rules prescribed by the court and the Hawai‘i Rules of Civil Procedure.
(1983 CC, c 18, art 1, sec 18-13.)

Section 18-14. Applicability of other laws.

A carrier shall not be deemed a public utility within the meanings of chapters 381, 269, 270,* and 239, Hawaiʻi Revised Statutes, and chapters 381, 269, 270,* and 239, Hawaiʻi Revised Statutes, shall not apply to carriers regulated under this article except as specifically provided otherwise.
(1983 CC, c 18, art 1, sec 18-14.)

*** Editor's Note:** Chapter 270, Hawaiʻi Revised Statutes, was repealed pursuant to Act 102, SLH 1986.

Division 4. Passenger Capacity.

Section 18-15. Determination of carrier capacity.

The seating (i.e., passenger carrying) capacity of each motor vehicle common carrier of passengers, as defined in section 288-2, Hawaiʻi Revised Statutes, operating over any public street or highway within the County shall be determined and rated as follows:

(1) If the length of any seating space in the vehicle is twenty-two inches or less, the seating capacity of the space is one passenger.

(2) If the length of any seating space is more than twenty-two inches but not more than thirty-eight inches, the seating capacity is two passengers; provided, that for any motor vehicle common carrier transporting children to and from school or during school excursions and outings under any school bus transportation contract with the State, if the length of any seating space is more than thirty-eight inches but less than forty inches, the seating capacity is three passengers below nineteen years of age.

(3) Each additional fifteen inches shall be seating space for an additional passenger.

(4) In determining the seating capacity of a vehicle of the so-called "sampan bus" type, where there is no divisional space between the side and end seats, the inside perimeter of the seat shall be measured to determine the length of the seat and the same shall be considered as but one continuous seating space.

(5) The seating space occupied by the chauffeur shall be included in and considered as part of the rated seating space of each vehicle.

(6) In fixing the capacity of any vehicle whose passenger seating capacity, as determined by subsection (a), is in excess of seventeen passengers, if the examiner of chauffeurs of the County department of finance finds that the minimum inside distance from the aisle floor to the ceiling of any vehicle is seventy-four inches, except any vehicle used exclusively for the transportation of school students in which case the minimum inside distance shall be seventy inches, and that the construction of the vehicle may safely carry an additional number of standing passengers in excess of the actual passenger seating capacity of the vehicle, then the examiner of chauffeurs may fix and allow a rated passenger carrying capacity to the vehicle in excess of the "rated seating capacity," and for all purposes of this article, the rated passenger carrying capacity, so determined, shall be the "rated seating capacity" of the vehicle, except that the motor vehicle common carrier transporting children to and from school or during school excursions and outings under any school bus transportation contract with the County, the rated passenger carrying capacity shall be the actual passenger seating capacity of the vehicle.

(A) In determining the number of standing passengers which the vehicle may carry in excess of its actual passenger seating capacity, the examiner of chauffeurs shall consider as a basis for a determination, but not be limited to, a minimum area of one and one-half square feet of aisle floor space per standing passenger.

(B) No vehicle, whose "rated seating capacity," includes standing passengers therein shall be permitted to carry passengers in excess of its actual passenger seating capacity (as distinguished from its "rated seating capacity") within any area of the County outside the geographical limits of the City of Hilo; provided that the council may by resolution extend and take away the privilege of carrying standing passengers in any vehicle to any other area of the County and for any period as the council finds necessary.

(1983 CC, c 18, art 1, sec 18-15; am 2008, ord 08-107, sec 3.)

Section 18-16. Children excepted from consideration.

A child under the age of five years not occupying seating space shall not be considered a passenger within the meaning of this division.

(1983 CC, c 18, art 1, sec 18-16.)

Section 18-17. Seating capacity determined by examiner of chauffeurs.

The examiner of chauffeurs of the County department of finance shall measure the seating space of every common carrier vehicle and shall determine the seating capacity of each vehicle.

(1983 CC, c 18, art 1, sec 18-17; am 2008, ord 08-107, sec 4.)

Section 18-18. Vehicle to bear notice of seating capacity.

The seating capacity of each vehicle, except a sedan operated as a taxicab, shall be painted in numerals at least six inches high upon the right exterior of the vehicle, in a place and color as the examiner of chauffeurs shall direct. The seating capacity of each vehicle shall also be indicated in numerals two inches high, painted in the upper right corner of the windshield in a manner as to be readily legible from the inside of the vehicle.
(1983 CC, c 18, art 1, sec 18-18.)

Section 18-19. Rated capacity limit.

No license shall be issued in the County under section 445-222,* Hawaiʻi Revised Statutes, for any motor vehicle common carrier of passengers allowing for the carrying of passengers of a number in excess of the rated seating capacity of the vehicle.
(1983 CC, c 18, art 1, sec 18-19.)

*** Editor's Note:** Section 445-222, Hawaiʻi Revised Statutes, was repealed pursuant to Act 67, SLH 1996.

Section 18-20. Penalty.

If any common carrier motor vehicle for passengers operating upon or using the public streets or highways of the County carries passengers (including the chauffeur) in excess of the rated seating capacity, the chauffeur of the vehicle shall be guilty of a misdemeanor and shall be sentenced to pay a fine up to $500.
(1983 CC, c 18, art 1, sec 18-20.)

Division 5. Bus Terminals and Parking.

Section 18-21. Bus terminal location; city buses.

The Waiākea portion of the bayfront parking area next to Moʻoheau Park is set aside for the purpose of a bus terminal for city buses.
(1983 CC, c 18, art 1, sec 18-21.)

Section 18-22. Bus terminal location; country buses.

The Waiākea-makai portion of the bayfront parking area is set aside for the purpose of a bus terminal for country buses.
(1983 CC, c 18, art 1, sec 18-22.)

Section 18-23. Rules and regulations.

The council shall make rules and regulations for the parking of city and country buses.
(1983 CC, c 18, art 1, sec 18-23.)

Section 18-24. Parking fee.

The finance director shall collect from the owner or operator of each bus parking in a bus terminal the sum of $3.50 per month.
(1983 CC, c 18, art 1, sec 18-24.)

Article 2. Taxicabs.

Division 1. General Provisions.

Section 18-31. Purpose; scope; definitions.

(a) Because the transportation of passengers or property for hire in a taxicab is a vital and integral part of the public transportation system in the County, it shall be supervised, regulated and controlled exclusively pursuant to this chapter.

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

"Chief of police" means the chief of police of the County of Hawai'i or the chief of police's duly authorized subordinates.

"Commission" means the County transportation commission.

"Council" means the council of the County of Hawai'i.

"Cruise" or "cruising" means the movement or standing of a taxicab on a public highway or at a public place in the County for the purpose of searching for or soliciting a passenger for hire.

"Director" means the director of finance of the County, or the director's duly authorized subordinates.

"Multiple loading" means individuals or groups of individuals, not traveling together, who agree to share a taxicab to destinations in the same area or along the same route, from a common origin. (Multiple loading, when radio dispatched, may be initiated from other than points of common origin.)

"Passenger for hire" means a person transported in a taxicab for consideration.

"Property for hire" means property transported in a taxicab for consideration.

"Road taxi stand" means a space set aside on a public street or County-controlled facility by the council for the exclusive use of taxicabs.

"Shared-ride taxi" shall mean a taxicab operating under a public transit program administered by the County of Hawai'i.

"Taxicab" means a vehicle designed to carry not more than eight passengers, operated by a taxicab driver, which is used in the movement of passengers for hire on the public highways and which is directed to a destination by the passenger for hire or on the passenger's behalf and which operates on call or demand.

"Taxicab company" means any person or entity which holds licenses for one or more taxicabs, leases motor vehicles to drivers to be used as taxicabs, or which operates a central dispatch service for one or more taxicabs.

"Taxicab driver" means a person duly licensed as a driver of a motor vehicle who has obtained a valid taxicab driver's permit.

"Waiting time" means the period during which a taxicab is standing at the direction of or on behalf of a passenger for hire and the time consumed due to traffic delays while transporting a passenger for hire, which time is automatically computed by the taximeter when the speed of the vehicle falls at or below the speed at which the fare computed using the basic distance rate is equal to the fare computed using the basic time rate.

(1983 CC, c 18, art 2, sec 18-31; am 1990, ord 90-19, sec 4; ord 90-37, sec 2.)

Section 18-32. Certificate of public convenience and necessity.

No person or company shall operate a taxicab without first obtaining from the commission a certificate declaring that the public convenience and necessity require the operation and service, in accordance with section 18-6 of this chapter. The procedure for obtaining a certificate to operate a taxicab is hereby established.

(a) An applicant for a certificate to operate a taxicab shall submit an application to the director at least forty-five days before a scheduled meeting of the commission. The application shall be accompanied by a nonrefundable filing fee of $10 and shall contain the following information:
   (1) The full name and address of applicant.
      (A) If applicant is a partnership, the full name and address of all partners.
      (B) If applicant is a corporation or association, the full name and address of all the officers and directors thereof.
   (2) A statement detailing any previous experience in the taxicab business, if any, of the applicant, the partners, or if the applicant is a corporation or association, the officers and directors thereof.
   (3) A criminal abstract of the applicant. If the applicant is a partnership, then a criminal abstract of the partners. If the applicant is a corporation or association, then a criminal abstract of the officers, directors, and supervising employees thereof, including the general manager, if any.
   (4) The number of taxicabs the applicant desires to operate.
   (5) The passenger capacity of each vehicle the applicant intends to use as a taxicab according to the manufacturer's rating, along with the type of vehicle to be used and the name of the manufacturer.
   (6) Written assurance that each vehicle employed under this certificate shall be kept clean and in good mechanical and physical condition at all times.
   (7) The insurance proposed to be carried, the amount and name of provider.
   (8) Details of the service to be provided, including the geographic area of the island to be served and the hours of the proposed service.
   (9) Any written evidence available to support the contention by the applicant that the public convenience and necessity justify the issuance of this certificate. The burden of proof of this is on the applicant.

(b) The director shall review each application for completeness and accuracy. Upon a determination by the director that the application is complete in compliance with this section, a public hearing on the application will be scheduled for the next meeting of the commission. Notice of the hearing will be given to the applicant, any other interested parties as determined by the director, and to the public by publication of the notice of hearing in a newspaper as required by chapter 91, Hawai‘i Revised Statutes.

(c) The applicant will appear at the hearing and present an overview of intended operations, experience, and financial responsibility. If the applicant does not appear, the commission may defer action on the application until the next commission meeting. The director will present any evidence or recommendations as the director may deem necessary to the commission. Any other interested parties may also appear and testify or submit written testimony either in favor of or against the issuance of the certificate.

(d) Any certificate which is in effect at July 1, 1990 to operate a taxicab shall continue to be valid for an indefinite term as if it had been issued in accordance with these provisions.

(1990, ord 90-119, sec 5.)

Section 18-33. Hearing; factors considered; revocation.

(a) After a hearing held in accordance with section 18-32, the commission will either grant or refuse to grant a certificate based on consideration of the following factors:
   (1) The current status of the public transportation system in the County, including but not limited to that system's current and future ability to provide for the timely and effective movement of people;
   (2) The demonstrated need, as shown by the applicant for a certificate, for additional taxicab service in the County that is not, or cannot be, accomplished by existing companies;
   (3) The financial responsibility of the applicant;
   (4) In consideration of the current status of the County's public transportation system, the ratio of population in the area to be served to the number of taxicabs currently in operation;
   (5) Any prior experience by the applicant in the taxicab industry, and the moral character of the applicant;
   (6) The interests of the applicant in establishing a local business to legitimately serve the citizens of this County as well as visitors to the island; and
   (7) Any other factors which the commission may deem advisable or necessary.

(b) Upon approval by the commission of an application, an applicant will be issued a certificate. Each certificate will authorize the applicant to operate one taxicab. The certificate may contain such other terms or conditions as the commission deems appropriate. It will be a condition of the certificate that the applicant has thirty days to comply with the requirements of this chapter regarding taxicabs and obtain a taxicab license for the current year.

(c) Certificates to operate taxicabs are transferable with the prior approval of the commission. An application must be submitted for approval to the commission by the proposed new owners in accordance with the requirements of section 18-32 in the same manner as an application for a new taxicab. The commission shall hold a hearing on the proposed change of owner in the same manner as for a new application, except that if the service is to be provided under the same terms and conditions as provided in the original certificate, the service will be assumed to be justified by public convenience and necessity. Upon the approval of a transfer of ownership, the new certificate holder will have thirty days to comply with the requirements of this chapter regarding taxicabs and obtain a taxicab license in the certificate holder's name for the current year.

(d) A successful applicant for a certificate who fails to obtain a taxicab license for the current year within thirty days after the certificate is granted shall be subject to revocation proceedings by the commission under section 18-8 of this chapter.

(e) An applicant whose application for a certificate is denied by the commission shall receive in writing a statement detailing the reasons for denial of the application. An appeal of the decision of the commission may be made to the circuit court of the third circuit in accordance with section 18-13 of this chapter.

(1990, ord 90-119, sec 6.)

Section 18-34. Personal use by driver.

(a) Whenever a taxicab equipped with a taximeter is in personal use of the driver and not for hire, a "special" sign shall be affixed to the flag of the taximeter.

(b) The director of finance shall prescribe the size and specification of the "special" metal sign and the sign shall be furnished by the director at cost.

(1983 CC, c 18, art 2, sec 18-34; am 2008, ord 08-107, sec 5.)

Section 18-35. Cruising.

(a) Except in those areas controlled by the Federal or State government or its agencies where cruising is prohibited by statute, rule, regulation, directive, or order, a driver of a taxicab shall be permitted to cruise in search of patronage at anytime.

(b) This section shall not apply to any taxicab driver soliciting patronage at any steamship wharf or airplane terminal.

(1983 CC, c 18, art 2, sec 18-35.)

Section 18-36. Unauthorized possession of taxicab paraphernalia.

No person who does not possess a valid taxicab license issued pursuant to the provisions of this article shall permit any motor vehicle owned, operated or otherwise under the control of such person to be equipped with, carry or display any:

(a) Taximeter;

(b) Fare box;

(c) Taxicab driver's permits; or

(d) Any sign, light, or other device that identifies such motor vehicle as a taxicab.

(1983 CC, c 18, art 2, sec 18-36; am 1990, ord 90-19, sec 6.)

Section 18-37. Penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding $500.
(1983 CC, c 18, art 2, sec 18-37.)

Section 18-37.1. Taxicab license.

(a) The director of finance shall issue taxicab licenses and collect the required fees in accordance with the provisions of this article and any other applicable provisions of the law. Each license issued shall allow the applicant to operate one taxicab. The issued licenses shall not be transferable.

(b) No taxicab license shall be issued to any applicant unless the applicant has been granted a certificate of public convenience and necessity by the commission and submit evidence of compliance with the requirements of this article regarding:
   (1) Posting of taxicab driver's permit;
   (2) Posting of fare schedule;
   (3) Physical condition of taxicab;
   (4) Taxicab roof sign;
   (5) Taxicab control number;
   (6) Taximeter inspection;
   (7) Trade name and markings; and
   (8) Financial responsibility.

(c) Fees.
   (1) All licenses issued under this section shall expire on June 30 of the current licensing year. An application for the renewal of such license for the following year may be made on or after the first day of June.
   (2) The annual fee for a taxicab license shall be $120; provided that, when a license fee has already been paid on a vehicle and that vehicle is, within the year, replaced by another vehicle, the unexpired portion of the license fee paid on the vehicle so replaced shall be credited to the license fee payable for the substitute vehicle. For the purposes hereof the unexpired portion of the license fee paid on the vehicle which has been replaced shall be that portion of the annual fee which is equal to one-twelfth of said fee multiplied by the number of full months remaining during the current licensing year.

      Whenever a vehicle licensed as a taxicab is replaced by another vehicle under the provisions of this article, the sum of $10 in addition to the license fee shall be assessed against the owner of the vehicle so replaced to defray the administrative costs incurred by the County.

      When the initial application for such license is made in any month other than July, the license fee shall be reduced by one-twelfth of the annual fee for each full month of the license year which shall have elapsed at time of the application.

(3) Upon payment of fees required by this section, the director of finance shall issue a decal to be placed on the left side of the rear bumper as evidence that current fees have been paid. When a decal is lost, stolen or mutilated, a replacement shall be issued upon collection of a fee of $1.

(d) Surrender and cancellation.

(1) The holder of a taxicab license shall immediately surrender said license and decal to the director of finance when the taxicab license thereunder has not been used to carry passengers for hire for a consecutive period of thirty days.

(2) The above period shall be extended to a total of one hundred eighty days if the nonuse is caused by the vacation, illness or injury of the regular taxicab driver or due to the delay of repair due to parts or receipt of a replacement taxicab.

(3) Upon surrender, the taxicab license shall be cancelled.

(e) License revocation or suspension.

(1) Any taxicab license issued pursuant to this article may be suspended or revoked by the commission after a hearing held in compliance with section 18-11 of this chapter and chapter 91, Hawaiʻi Revised Statutes, whenever the holder of the taxicab license fails to comply with the requirements of any section of this article.

(2) Any taxicab license issued pursuant to this article may be suspended for up to thirty days by the director for violations of this article. Within the thirty-day suspension period, the commission shall conduct a hearing to either uphold or rescind the actions of the director.

(f) Use of fees.

Annual license fees collected pursuant to this section shall be used exclusively for enforcement of County taxi industry regulations.

(1990, ord 90-19, sec 15; am 1997, ord 97-127, sec 2.)

Section 18-37.2. Establishment of road taxi stands.

The council may establish road taxi stands on public streets and County-controlled facilities upon recommendation of the commission. The commission shall study and recommend to the council the site placement of such stands. The director shall issue, upon application therefor on forms furnished by the director and upon the payment of annual fees as hereinafter provided, permits for the parking of taxicabs. All permits issued under this section shall be valid for a permit year commencing with the first day of July. A permit, deemed granted upon approval of the application, shall expire on June 30 of the permit year issued. However, an application for the renewal of such permit for the following year may be made on or after the first day of June and approval thereof may be granted upon the payment of the permit fee. The permit shall be evidenced by an appropriate decal furnished by the director which shall be placed on the left side of the rear bumper adjacent to the taxicab license decal.

The director shall charge and collect a permit fee, consisting of an annual fee to be determined by the council for each permit, and a fee of $1 for each decal; provided that, where the application for such permit is made in any month other than July, the permit fee shall be reduced by one-twelfth of the annual fee amount for each full month of the then permit year which shall have elapsed at time of the application; provided further that, when an annual permit fee has already been paid on the vehicle and that vehicle is within the year replaced by another vehicle, the unexpired portion of the permit fee paid on the vehicle so replaced shall be credited to the permit fee payable for the substituted vehicle and for the purpose hereof, the unexpired portion of the permit fee shall be reduced by one-twelfth of the annual fee amount for each full month remaining of the current permit year. Where a decal is mutilated, defaced or lost, a replacement decal shall be issued upon payment of $1.
(1990, ord 90-19, sec 16.)

Section 18-37.3. Prohibited acts.

(a) Intoxicating liquor.
   (1) Intoxicating liquor, as defined by section 281-1, Hawai‘i Revised Statutes, as amended, shall not be carried in any taxicab during the business hours of such taxicab, except as the property of a passenger riding in said taxicab, or as property for hire.
   (2) No person shall consume any intoxicating liquor as defined by section 281-1, Hawai‘i Revised Statutes, as amended, while a passenger in any taxicab upon any public street, road, or highway.
   (3) No person shall possess, while a passenger in a taxicab upon any public street, road, or highway, any bottle, can or other receptacle containing any intoxicating liquor as defined by section 281-1, Hawai‘i Revised Statutes, as amended, which has been opened, or a seal broken, or the contents of which have been partially removed.
   (4) No person shall drive a taxicab while having any alcohol in that person’s blood, body or breath.

(b) The operator of a taxicab or taxicab company shall not refuse to furnish an unengaged, available taxicab and driver during the business hours of such stand upon call or request from an orderly person located within one mile of such taxicab or taxicab company, by the most direct street route.

(c) Taxicab companies and drivers are prohibited from paying kickbacks to hotel doorpersons or other persons that dispatch taxicabs. It shall also be unlawful for a hotel doorperson or other person to solicit or receive such a kickback from a taxicab company or taxicab driver. This provision shall not apply to legitimate commissions paid to tour and travel companies, legitimate payments to taxicab companies, or salaries or wages paid to dispatchers employed by taxicab companies.

For the purpose of this subsection, "kickback" means a payment by a taxicab company or driver to a hotel doorperson or other person who dispatches the taxicab company or driver to carry a passenger for hire, property for hire, or both, when the payment is required, explicitly or implicitly, by the hotel doorperson or other person as consideration for the dispatch.

(1990, ord 90-19, sec 17.)

Section 18-37.4. Fraudulent call and nonpayment.

It shall be unlawful for any person to call for a taxicab for purposes of hire without intending to use such taxicab or to use a taxicab for hire without intending to pay the legal fare upon completion of the trip.

(1990, ord 90-19, sec 18.)

Section 18-37.5. Notice required.

Each vehicle used as a taxicab shall display at all times a notice in the taxicab interior in both English and Japanese which is readily visible to and readable by passengers. This notice shall be provided by the director and shall read as follows:

"The driver of this taxicab is required to give a receipt for service provided to any customer who requests a receipt. Any complaint about taxicab service or charges may be directed to the County Director of Finance, (mailing address), (telephone number)."

(1990, ord 90-19, sec 19.)

Section 18-37.6. Bulky items.

A taxicab driver may refuse to transport any item not capable of being transported within the confines of the rear passenger compartments or the trunk of the taxicab.

(1990, ord 90-19, sec 20.)

Section 18-37.7. Disorderly persons.

Notwithstanding any of the foregoing provisions, the operator of a taxicab or taxicab company may refuse to dispatch a taxicab to, and a taxicab driver may refuse to furnish transportation to a disorderly person.

(1990, ord 90-19, sec 21.)

Section 18-37.8. Soiling of taxicab.

A taxicab driver may require a passenger for hire, whose condition may be likely to soil the seats of the taxicab, to sit upon protective material furnished by such driver. Upon noncompliance with the request, the taxicab driver may refuse to transport such passenger.
(1990, ord 90-19, sec 22.)

Section 18-37.9. Condition of taxicabs.

No vehicle shall be operated as a taxicab unless it is in a reasonably clean and safe condition inside, so as not to damage the person, clothing or possessions of a passenger. The vehicle's exterior shall be reasonably clean and shall be essentially free from cracks, breaks and major dents. It shall be painted to provide adequate protection and appearance. Each operating wheel shall be equipped with hub caps, wheel covers, or other suitable covering. Repairs done to comply with this section shall be done within a reasonable time based on availability of parts and labor.
(1990, ord 90-19, sec 23; am 2008, ord 08-107, sec 6.)

Section 18-37.10. Taxi sign.

A taxicab shall be identified with a sign (which may be a dome light sign) on the roof of the taxicab. The name of the individual owning or operating the taxicab or the name of the firm shall be shown on the front of the sign and it will be optional to place either the name or telephone number of such individual or firm on the rear of the sign. Except as provided in this article, the type, design, and placement of the sign shall be as specified by the director of public works of the County of Hawai'i. The sign may be a detachable type so that it may be removed when the vehicle is not used for taxicab purposes.
(1990, ord 90-19, sec 24; am 2001, ord 01-108, sec 1; am 2008, ord 08-107, sec 7.)

Section 18-37.11. Taxicab control numbers.

No person may operate a taxicab unless the taxicab is clearly identified and marked as prescribed herein with a taxicab control number assigned by the director of finance. The taxicab control number shall be prominently posted on the exterior surfaces of the front and rear bumpers of the taxicab. The taxicab control number posted on the taxicab as prescribed herein may be either painted onto the surfaces or be comprised of decals provided by the taxicab company owner, or operator, and shall conform to such other requirements or specifications as the director of finance may prescribe by rule.
(1990, ord 90-19, sec 25.)

Section 18-37.12. Trip route.

No operator of a taxicab may transport a passenger except to the requested destination by the most direct or economical route unless specifically instructed or agreed to by the passenger.
(1990, ord 90-19, sec 26.)

Section 18-37.13. Evidence of financial responsibility.

(a) The director of finance shall require evidence of financial responsibility from the owner and/or operator of a taxicab or taxicab company before issuing a taxicab license and decal to engage in the taxicab business. The owner and/or operator shall have insurance in force and other evidence of financial responsibility so long as the taxicab is used in business.

Such evidence of financial responsibility shall be evidenced by an insurance policy as required below.

The director of finance shall retain the original copy of the insurance policy issued by a company licensed to do business in the State of Hawaiʻi. The policy shall be duly countersigned by its authorized Hawaiʻi agent complete with all endorsements and attachments or a certified copy thereof. Such policy shall provide for primary public liability insurance coverage in the amount of $100,000 because of bodily injury to or death of one person in any accident, and in the amount of $200,000 because of bodily injury to or death of two or more persons in any one accident, and property damage insurance in the amount of $50,000 because of damage to or destruction of property of owners in any one accident for each taxicab for hire. All policies shall be on a fiscal year basis ending on June 30 of each year. Insurance policies on vehicles regulated under this article shall contain a provision that the policy will not be reduced in coverage or cancelled without thirty calendar days' prior written notice to the director of finance by the authorized Hawaiʻi agent for the insurance company.

In addition to the coverage above, if the taxicab operator or taxicab company is participating in a County sponsored shared-ride taxi program or renting a road taxi stand space from the County, they shall comply with the insurance requirements of those programs and the County of Hawaiʻi shall be named as additional insured on the policy.

(b) If at any time after the issuance of the taxicab license and license decal the required insurance coverage is reduced or cancelled, the director of finance shall revoke or suspend the taxicab license and license decal. Such revocation shall be done in accordance with section 18-11 hereof and chapter 91, Hawaiʻi Revised Statutes.

(1990, ord 90-19, sec 27.)

Section 18-37.14. Rulemaking powers.

The director of finance and the chief of police are authorized to promulgate any rules or regulations not inconsistent with this chapter, having the force and effect of law, as provided for in chapter 91, Hawaiʻi Revised Statutes, in the administration and enforcement of this article.

(1990, ord 90-19, sec 28.)

Section 18-37.15. Appeals.

An applicant whose application for a taxicab license has been denied, revoked or suspended by the director of finance may file within thirty days after receipt of said revocation, suspension or denial an appeal for a hearing with the commission.
(1990, ord 90-19, sec 29.)

Section 18-37.16. Trade names and markings.

The director shall have the power to approve or disapprove the use of a trade name or marking by a taxicab or taxicab company. A trade name or marking may be disapproved if its use may cause confusion or misidentification, or it is in any other way undesirable.
(1990, ord 90-19, sec 30.)

Section 18-37.17. Shared-ride taxi service.

Notwithstanding any provision contained in this article to the contrary, any taxicab company or operator may provide public transit service by participating in a County-sponsored shared-ride taxi program.
(1990, ord 90-37, sec 6.)

Division 2. Driver's Permit.

Section 18-38. Permit required; content.

No person shall drive a taxicab without first obtaining a taxicab driver's permit from the director of finance. The permit shall be mounted in a prominent place within the taxicab being driven by the person to whom it was issued. The permit shall be mounted so that it is visible to all passengers. The permit shall bear a permit number, the name of the person, name of the taxicab company, and a recent color photograph of the person, two copies of which shall be furnished by the applicant, the photograph to be no less than three inches in height and two inches in width. It shall be a violation of this section for any person to alter such taxicab driver's certificate.
(1983 CC, c 18, art 2, sec 18-38; am 1990, ord 90-19, sec 7; am 2008, ord 08-107, sec 8; Am 2009, ord 09-74, sec 3.)

Section 18-39. Issuance requirements; exception.

No taxicab driver's permit shall be issued to any person unless such person shall:

(1) Have a reasonable knowledge of the traffic laws of the County;
(2) Have a reasonable knowledge of the locations of streets, roads, and highways, and of important County and State buildings and places within the County;
(3) Be able to speak and understand the English language well enough to converse satisfactorily with English-speaking people, except that this paragraph shall not apply to any applicant whose sole occupation from September 1, 1955, has been that of a taxicab driver;
(4) Be eighteen years of age or older at the time of application;
(5) Have a valid State of Hawai'i driver's license; and

(6) Be in compliance with the standards promulgated by the director of finance relating to moral character and physical fitness of the applicant based on prior records or certified documents thereto.

(1983 CC, c 18, art 2, sec 18-39; am 1990, ord 90-19, sec 8; am 2008, ord 08-107, sec 9.)

Section 18-40. Expiration; renewal; waiver of examination.

(a) Every taxicab driver's permit issued under this article shall expire, unless otherwise revoked or cancelled, one year after the issuance thereof and shall be renewed on or before its expiration date upon reexamination. A new set of color photographs shall be furnished by an applicant with each application for renewal.

(b) The director of finance may waive examination upon renewal of a permit.

(c) Whenever a driver's license of any taxicab driver is suspended or revoked, the director of finance shall require that the taxicab driver's permit be surrendered to and be retained by the director of finance, except that at the end of the period of suspension, the permit so surrendered shall be returned to the licensee.

(1983 CC, c 18, art 2, sec 18-40; am 1990, ord 90-19, sec 9; am 2008, ord 08-107, sec 10.)

Section 18-41. Permit fee.

The following fees are established for the issuance of a taxi driver permit; the fees to be deposited in the general fund of the County:

(1) Initial issuance, $10.

(2) Renewal, $5.

(3) Duplicate to replace lost or mutilated certificate, or corrected certificate, $5.

(1983 CC, c 18, art 2, sec 18-41; am 1977, ord 315, sec 1; am 1990, ord 90-19, sec 10.)

Section 18-42. Permit revocation or suspension.

Any taxicab driver's permit issued pursuant to this article may be suspended or revoked by a court of competent jurisdiction whenever:

(1) The holder of the permit is found to be disqualified by any of the provisions of this article;

(2) The holder of the permit has been convicted for a violation of this article;

(3) The holder of the permit ceases to drive a taxicab for a period of thirty consecutive days without previously having filed with the director of finance a written notice of intention to cease driving and having been granted permission by the director of finance authorizing the cessation of operation or driving; or

(4) The holder of the permit has been convicted of driving while intoxicated or of violating chapter 329, Hawaiʻi Revised Statutes, or the Federal narcotics laws.

(1983 CC, c 18, art 2, sec 18-42; am 1990, ord 90-19, sec 11; am 2008, ord 08-107, sec 11.)

Section 18-43. Appeal to circuit court.

Any applicant who has been refused a taxicab driver's permit after at least three examinations, or who has been refused any examination, may appeal the refusal to the circuit court by filing a petition in the court within thirty days of the date of the refusal. The appeal shall not operate as a stay to the order or decision appealed from. The appeal shall be subject to the procedure and rules prescribed by the court.
(1983 CC, c 18, art 2, sec 18-43; am 1990, ord 90-19, sec 12.)

Division 3. Taximeters and Fares.

Section 18-44. Installation requirements.

(a) Every taxicab while operating within the County shall be equipped with a taximeter so mounted in the taxicab that the reading indicator showing the amount of fare to be charged shall at all times be plainly visible to the passenger. The taximeter shall also be attached to the taxicab so that it is possible for a person standing outside the vehicle to tell whether the taximeter is in use or not.
(b) Between the hours of sunset and sunrise, the reader indicator showing the amount of fare to be charged shall be well lighted and readily discernible by the passenger riding in the taxicab.
(c) The taximeter shall be operated mechanically by a mechanism of standard design and construction. Except when a taximeter is being cleared, the primary indicating element shall be susceptible of advancement only by motion of the vehicle wheels or by time mechanism.
(d) The taximeter shall have a position recording mileage only and another position waiting time. The taximeter may also have a position to calculate fares upon the basis of a combination of mileage traveled and time elapsed, as provided in section 18-49.
(e) The taximeter shall have thereon a flag or other convenient and effective means to denote when the taxicab is employed and when it is not employed.
(f) The taximeter shall be sealed at all points and connections which, if manipulated, would affect its correct reading and recording.

(1983 CC, c 18, art 2, sec 18-44; am 1979, ord 501, sec 1.)

Section 18-45. Operation during taxi use.

(a) When a taxicab equipped with a taximeter is employed by a passenger, it shall be the duty of the driver to throw the flag or other convenient and effective means of the taximeter into the appropriate employed position, so as to record mileage while the taxicab is in motion and to record waiting time while the taxicab is standing at the direction of the passenger.

(b) When a taximeter designed to calculate fares upon the basis of a combination of mileage traveled and time elapsed is operative with respect to fare indication, the fare-indicating mechanism shall be actuated by the mileage mechanism whenever the vehicle is in motion at such a speed that the rate of mileage revenue equals or exceeds the time rate, as determined by the division of measurement standards of the State department of agriculture, and may be actuated by the time mechanism whenever the vehicle speed is less than this and when the vehicle is not in motion.
(c) Means shall be provided for the vehicle operator to render the time mechanism either operative or inoperative with respect to the fare-indicating mechanism.
(d) The flag or other convenient and effective means of the taximeter shall be kept in the appropriate employed position until the termination of the trip. At the termination of the trip, it shall be the duty of the driver to throw the flag or other convenient and effective means of such taximeter into the nonemployed position.
(e) This section shall not apply when a taxicab is being operated as a shared-ride taxi under a County-sponsored public transit program.

(1983 CC, c 18, art 2, sec 18-45; am 1979, ord 501, sec 1; am 1990, ord 90-37, sec 3.)

Section 18-46. Registration and inspection required.

(a) No driver or owner of a taxicab shall offer or let the taxicab for hire unless the taximeter installed therein or adjusted for any change in mileage rate is first registered with and inspected by the State division of measurements standards and found to calculate and register fares correctly in conformity with the rates as set forth in this article and a seal attesting thereto is placed on the taximeter.
(b) It shall be the duty of the owner or driver of any taxicab equipped with a taximeter to submit the taxicab to the State division of measurements standards for inspection, testing, and sealing on the date established by the division. Every inspection shall include the examination and inspection of the taximeter affixed in the taxicab, every wheel, tire, gear shaft, and every part of the taxicab which may affect or control the operation of the taximeter.

(1983 CC, c 18, art 2, sec 18-46.)

Section 18-47. Inspection fees.

The taxicab driver shall pay the fees as may be established by the State division of measurements standards for each taximeter inspection, the frequency of which shall be established by the division.

(1983 CC, c 18, art 2, sec 18-47.)

Section 18-48. Repair and testing of defective meter.

(a) If, upon the required inspection, the State division of measurements standards finds that a taximeter is not calculating and registering a fare in conformity with the rates set forth in this article, no person shall operate the taxicab for business purposes or permit the taxicab to be operated until its taximeter is repaired, inspected, tested, and found to be calculating and registering a fare in conformity with the rates set forth in this article and a seal is placed thereon.

(b) Nothing contained in this section shall prohibit the replacement of a taximeter with another which conforms with this article.

(1983 CC, c 18, art 2, sec 18-48.)

Section 18-49. Schedule of fares.

(a) No driver or owner of a taxicab while operating the taxicab within the County shall charge, demand, collect, or receive a fare other than that based on the following schedule, except as provided by this section:
   (1) Initial meter actuation shall equal $3 and shall entitle customer to one-eighth of a mile or less, or one minute waiting or elapsed time or less.
   (2) Thereafter, 40 cents for each additional one-eighth of a mile or fraction thereof.
   (3) Forty cents for each additional one minute of waiting or elapsed time or fraction thereof.

(b) Where a taximeter is designed to calculate fares upon the basis of a combination of mileage traveled and time elapsed, as provided in section 18-44 the rates of fare upon the combination of mileage traveled and time elapsed shall be the same as fixed by subsection (a).

(c) The foregoing rates or charges shall be subject to the following exceptions and conditions whichever the case may be:
   (1) Fares are only applicable to the use of the taxicabs when actually occupied by or standing at the direction of the passenger for hire or when occupied by parcels, baggage or property transported for hire; provided that no other charges shall be made for the use of a taxicab for hire except as provided herein.
   (2) A driver, owner or lessee who owns, operates, controls or dispatches a taxicab may give a discount to handicapped persons, senior citizens, or students. Such discount shall not exceed twenty percent of the meter fare.
   (3) The driver, owner or lessee of a taxicab may waive the baggage charges prescribed in section 18-52.

(d) This section shall not apply when a taxicab or taxicab company is carrying passengers under a County-sponsored public transit program.

(e) The schedule of fares may be evaluated on an annual basis, no later than June 30 of each year, to make a determination of either proposed increase or decrease to the current taxi fares.

(1983 CC, c 18, art 2, sec 18-49; am 1988, ord 88-19, sec 1; ord 88-39, sec 1; am 1990, ord 90-19, sec 13; ord 90-37, sec 4; am 1996, Ord. 96-161, sec 1; am 2005, ord 05-24, sec 1; am 2008, ord 08-149, sec 1.)

Section 18-50. Waiting time stipulation.

No taxicab driver shall charge for waiting time, unless a passenger directs the taxicab driver to wait.

(1983 CC, c 18, art 2, sec 18-50.)

Section 18-51. Computation of distance for fares.

Whenever, pursuant to a request, it is necessary for a taxicab to leave its fixed taxi stand to pick up a passenger, the distance between the fixed taxi stand and the point of pickup shall not be added to the distance over which the passenger is actually transported, when computing the total amount of fare which may be charged under section 18-49. The distance a taxicab must travel in order to return to its fixed taxi stand after discharging a passenger shall not be included in the mileage for which any fare may be charged.

(1983 CC, c 18, art 2, sec 18-51.)

Section 18-52. Baggage charge.

A taxicab driver may charge $1 for each piece of baggage, except that any small bag such as a train case, briefcase, or a package that is carried into the cab by the passenger shall be conveyed without charge. For each surfboard or bicycle transported a charge of $3 may be made.

(1983 CC, c 18, art 2, sec 18-52; am 1990, ord 90-19, sec 14.)

Section 18-53. Rate charges.

The rates of fare effective on January 3, 1980 shall not be charged by individual taxicabs until taximeters have been adjusted by owners and the meters have been tested and sealed by the State division of measurements standards no later than ninety days after January 3, 1980.

(1983 CC, c 18, art 2, sec 18-53.)

Section 18-54. Multiple loading.

(a) Multiple loading of passengers is prohibited except in cases where the first passenger engaging the taxicab consents to the multiple loading.

(b) Each separate party of individuals or groups of individuals not traveling together who agree to share a taxicab shall pay the normal shortest route fare from point of origin to their destination, except that each fare of $1.20 or more (not including nonmeter charges for baggage, surfboards, or bicycles) shall be reduced by twenty percent.

(c) A copy of a rate schedule containing the reduced rates for multiple loading shall be posted conspicuously within the taxicab in clear view of passengers. The rate schedule shall be purchased from the commission.
(d) This section shall not apply when a taxicab is being operated as a shared-ride taxi under a County-sponsored public transit program.
(1983 CC, c 18, art 2, sec 18-54.)

Section 18-55. Posting of rates of fare.
(a) A schedule of the rates of fare as provided in this article shall be posted in a conspicuous place within each taxicab so as to be readily visible to any passenger riding within the taxicab.
(b) The schedule of the rates of fare shall be legibly printed in bold-type letters not less than three thirty-seconds of an inch in height.
(1983 CC, c 18, art 2, sec 18-55.)

Article 3. School Buses.

Division 1. General Provisions.

Section 18-56. Definitions.
As used in this article:
(1) "Driver" means any person in actual physical control of a school bus.
(2) "School bus" means the same as the definition for school bus in section 296-47,* Hawai'i Revised Statutes.
(3) "School bus operator" means and includes every natural person, firm, copartnership, association, or corporation, binding itself into contract with the County to furnish transportation of school children to or from school as provided by section 296-47,* Hawai'i Revised Statutes.
(1983 CC, c 18, art 3, sec 18-56.)

*** Editor's Note:** Section 296-47, Hawai'i Revised Statutes, was repealed.

Section 18-57. Penalty.
Any person convicted of a violation of this article shall, in addition to any penalty provided by contract, be sentenced to pay a fine of not more than $500.
(1983 CC, c 18, art 3, sec 18-57.)

Division 2. Specifications and Equipment.

Section 18-58. School bus construction; inspections.
No vehicle shall be used as a school bus unless the County director of finance determines that the vehicle is safely constructed.
(1983 CC, c 18, art 3, sec 18-58; am 2008, ord 08-107, sec 12.)

Section 18-59. Fuel tank location; diesel exception.

(a) Any gasoline tank shall be located entirely outside that part of the school bus utilized for carrying passengers. Each gasoline tank shall be equipped with an inlet for filling on the exterior of the bus.

(b) This section shall not apply to any diesel-powered bus.

(1983 CC, c 18, art 3, sec 18-59.)

Section 18-60. Exhaust pipe requirements.

The placement and installation of exhaust pipes of each school bus shall be as approved by the County department of finance. Every school bus shall be constructed and maintained as to prevent exhaust gases from entering the vehicle through the floor.

(1983 CC, c 18, art 3, sec 18-60; am 2008, ord 08-107, sec 13.)

Section 18-61. Door specifications.

The entrance and exit door of any school bus, shall be placed on the right-hand side of the front of the bus, and shall be directly within the view and under the control of the driver. The entrance and exit shall at all times be kept clear for the ingress and egress of passengers. Every door shall be capable of positive uniform operation at all times.

(1983 CC, c 18, art 3, sec 18-61.)

Section 18-62. Emergency exits.

Each school bus shall be equipped with an emergency exit in the rear, or on the opposite side of the entrance door, to be opened outward and capable of being opened from either the interior or exterior of the bus. The emergency exit shall be equipped with positive devices to keep it closed when not in use and of a character to permit it to be opened readily when necessary without undue accessibility for unauthorized use. The size, location, and type of the emergency exit must meet with the approval of the County department of finance.

(1983 CC, c 18, art 3, sec 18-62; am 2008, ord 08-107, sec 14.)

Section 18-63. Aisles and ceilings.

No aisle in a school bus shall be less than twelve inches in width. The ceiling of every school bus must be free from any projection likely to cause injury to a pupil. The ceiling over the aisle and backrest of seats of a school bus must be free from any projection.

(1983 CC, c 18, art 3, sec 18-63.)

Section 18-64. Seat location.

No seats for pupils shall be placed ahead of a line drawn crosswise of the bus immediately back of the driver's seat.

(1983 CC, c 18, art 3, sec 18-64.)

Section 18-65. Seat specifications.

Each pupil carried shall be provided with a sitting space which shall be free from any projection, safe, and of sufficient size to accommodate the student. Every seat shall be securely fastened to the part of the school bus supporting the seat.
(1983 CC, c 18, art 3, sec 18-65.)

Section 18-66. Required safety equipment.

Every school bus shall be equipped with an adequate horn, dual or supplementary braking system, rear vision mirror, headlights, taillights, speedometer, windshield constructed of safety glass, windshield wiper, steering, mechanical hand-signalling device if needed, and other equipment required by law.
(1983 CC, c 18, art 3, sec 18-66.)

Section 18-67. Sanitary condition required.

Every school bus shall be cleaned daily and kept in a sanitary condition at all times.
(1983 CC, c 18, art 3, sec 18-67.)

Section 18-68. Metal screening required; exception.

(a) Every side opening between the driver's seat and the rear shall be screened with metal screen of not more than one and three-fourths inch mesh and not less than no. sixteen gauge, all to the satisfaction of the County department of finance.
(b) This section shall not apply to any school bus equipped with safety glass windows which are permanently adjusted to permit not more than fifty percent of the top portion of the side openings from being opened.

(1983 CC, c 18, art 3, sec 18-68; am 2008, ord 08-107, sec 15.)

Section 18-69. Identification markings.

The words "School Bus" shall be painted on the front and rear of each vehicle used as a school bus in a place and color as the examiner of chauffeurs shall direct. The wordings shall be in letters of not less than eight inches in height and in strokes of not less than three-quarters inch in width.
(1983 CC, c 18, art 3, sec 18-69.)

Division 3. Drivers and Bus Operations.

Section 18-70. Liquor prohibited.

No intoxicating liquor shall at any time be carried in a school bus or upon the person of the driver.
(1983 CC, c 18, art 3, sec 18-70.)

Section 18-71. Smoking restricted.

Smoking by the bus driver shall be prohibited whenever pupils are being carried.
(1983 CC, c 18, art 3, sec 18-71.)

Section 18-72. Driver hours limited.

No driver shall work as an operator or be otherwise employed for more than twelve hours in any twenty-four hour period.
(1983 CC, c 18, art 3, sec 18-72.)

Section 18-73. Talking with driver unnecessarily prohibited.

No driver of a school bus shall carry on unnecessary conversation while the bus is in motion.
(1983 CC, c 18, art 3, sec 18-73.)

Section 18-74. Inspection before operating vehicles.

Each school bus shall be inspected daily by the driver before use, to ascertain that the windshield is clean and that the lights, horn, and other equipment and mechanical features of the bus are in good and safe operating condition.
(1983 CC, c 18, art 3, sec 18-74.)

Section 18-75. Unsafe vehicle; alternative transportation.

When any accident or damage occurs to or defect develops in the bus so as to make it unsafe for traveling, the driver shall immediately thereupon discontinue the use of the bus. The driver shall make all necessary arrangements for the safe transportation of the pupils to and from their respective destinations by another means.
(1983 CC, c 18, art 3, sec 18-75.)

Section 18-76. Repair of deficient vehicle; certification required.

If any school bus is at any time found or known by the driver to be dangerous or unsafe for operation or reported by anyone to the driver as being dangerous or unsafe, the use of the school bus for the transportation of pupils shall be discontinued immediately, until properly examined, and if necessary, repaired, and a certification that the bus is in a safe condition must first be obtained in writing from an official inspection station appointed by the County director of finance.
(1983 CC, c 18, art 3, sec 18-76; am 2008, ord 08-107, sec 16.)

Section 18-77. Conduct of passengers; driver's responsibility.

Pupils being transported in a school bus shall be under the authority and control of and responsible directly to the driver of the bus. Continued disorderly conduct, or persistent refusal to submit to the authority of the driver shall be sufficient reason for refusing transportation to any pupil and for other punishment as the local school regulations may provide. The driver of any school bus shall be held responsible for the orderly conduct of pupils transported and shall immediately report any case of misconduct to the principal of the school.
(1983 CC, c 18, art 3, sec 18-77.)

Section 18-78. Discharging riders in a safe manner required.

Whenever a school bus stops to discharge pupils who must cross the street or highway in order to reach their destination, the pupils must cross the street or highway in front of the bus, except that when it is not practicable to cross the street or highway in front of the bus, pupils may cross behind the bus. In either case, the bus shall not be moved until all pupils have crossed the street or highway. In either case, also, it shall be the responsibility of the driver to see that pupils do not cross the street or highway until they may safely do so.
(1983 CC, c 18, art 3, sec 18-78.)

Section 18-79. Driving violations to be reported to police.

Each school bus operator shall report to the police department the license number of any motor vehicle, the operator of which is guilty of a violation of any traffic regulation, when the violation in any way endangers the safety of the pupils being transported.
(1983 CC, c 18, art 3, sec 18-79.)

Section 18-80. Manner of operation.

Drivers of a school bus shall at all times operate the vehicle in a safe, prudent, and careful manner with due regard to the traffic and the use of highway by others.
(1983 CC, c 18, art 3, sec 18-80.)

Section 18-81. Bus operation.

No driver while transporting school children shall leave the bus while the engine is running or the brakes are released.
(1983 CC, c 18, art 3, sec 18-81.)

Section 18-82. Dangerous loading prohibited.

No person shall operate a school bus when it is so loaded or when any person is so seated as to interfere or obstruct the vision of the driver to the front, side, or, by means of the mirror, to the rear, or interfere with the operation of the bus.
(1983 CC, c 18, art 3, sec 18-82.)

Section 18-83. Doors closed while vehicle in motion.

Every door shall be kept closed while the bus is in motion.
(1983 CC, c 18, art 3, sec 18-83.)

Section 18-84. Manner of stopping vehicle outside city.

A school bus stopping to load or discharge pupils outside the City of Hilo shall stop as far to the right of the roadway as possible whenever the stop can be made with safety.
(1983 CC, c 18, art 3, sec 18-84.)

Section 18-85. Manner of backing vehicle.

No school bus shall be put in reverse or be backed while on the school grounds or at any point or place where children enter or leave the bus unless the movement can be made in safety.

(1983 CC, c 18, art 3, sec 18-85.)

Section 18-86. Use of clutch.

No school bus shall be operated with the clutch disengaged except when coming to a stop, or with the gears in neutral except when the bus is not in motion.

(1983 CC, c 18, art 3, sec 18-86.)

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.

(1983 CC, c 18, art 3, sec 18-87.)

Division 4. Inspections.

Section 18-88. Inspection of vehicles; issuance of certificate.

The County director of finance or the director of finance'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.

(1983 CC, c 18, art 3, sec 18-88; am 2008, ord 08-107, sec 17.)

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 department of finance or any official inspection station so designated and authorized by the director of finance. 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, Hawaiʻi island schools.

(1983 CC, c 18, art 3, sec 18-89; am 2008, ord 08-107, sec 18.)

Article 4. Public Transit System.

Division 1. Island-Wide Fare Structure.

Section 18-90. Fares.

(a) Unless otherwise provided for in this section, every person using the mass transit service owned, maintained or operated by the County shall be charged a $2 cash one-way fare.

(b) Discounted fares for senior citizens, person with a disability and students. The following persons shall be charged a $1 cash one-way fare:

(1) Senior citizens age sixty and older after providing proof of age from a valid state ID card, County of Hawai‘i senior ID card, driver’s license, birth certificate or passport;

(2) A person with a disability with a valid, “Person With Disability Identification Card” issued by the County of Hawai‘i; and

(3) Students (through college) with a valid school identification card.

(c) Fare prepayment discounts.

(1) All tickets for travel can be prepurchased at a discount of twenty-five percent off the scheduled cash fare by purchasing a sheet of ten tickets for $15 per sheet with no expiration date (“Ten Ride Discount Sheet”).

(2) Senior citizens age sixty and older may prepurchase a sheet of ten tickets for $7.50 per sheet with no expiration date (“Ten Ride Discount Sheet”), after providing proof of age from a valid state ID card, County of Hawai‘i senior ID card, driver’s license, birth certificate or passport.

(3) A person with a disability may prepurchase a sheet of ten tickets for $7.50 per sheet with no expiration date (“Ten Ride Discount Sheet”), with a valid, “Person With Disability Identification Card” issued by the County of Hawai‘i.

(4) Students (through college) may prepurchase a sheet of ten tickets for $7.50 per sheet with no expiration date (“Ten Ride Discount Sheet”), with a valid school identification card.

(5) A monthly bus pass fare plan may be purchased at a cost of $60 for unlimited rides on all routes. Monthly passes shall be valid through the last calendar day of each month with no grace period.

(6) Senior Citizens age sixty and older may purchase a discounted monthly bus pass offered at a cost of $45 for unlimited rides on all routes, after providing proof of age from a valid state ID card, County of Hawai‘i senior ID card, driver’s license, birth certificate or passport. Monthly passes shall be valid through the last calendar day of each month with no grace period.

(7) A person with a disability may purchase a discounted monthly bus pass offered at a cost of $45 for unlimited rides on all routes, with a valid, “Person with Disability Identification Card” issued by the County of Hawai‘i Monthly passes shall be valid through the last calendar day of each month with no grace period.

(8) Students (through college) may purchase a discounted monthly bus pass offered at a cost of $45 for unlimited rides on all routes, after providing a valid school identification card. Monthly passes shall be valid through the last calendar day of each month with no grace period.

(9) The Ten Ride Discount Sheet, the monthly pass, and any pilot program pass must be purchased directly from the mass transit agency or its designated representative.

(d) Fare waived for children under the age of five. All fares for travel by children under the age of five shall be waived.

(e) 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	
Single coupon	$6
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 A in section 18-92.

(f) 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 one hundred and eighty calendar days for bus routes and services.

(1986, ord 86-15, sec 2; am 1990, ord 90-37, sec 7; ord 90-91, sec 1; am 2004, ord 04-141, sec 1; am 2005, ord 05-151, sec 1; am 2007, ord 07-141, sec 2; am 2009, ord 09-160, sec 2; am 2011, ord 11-62, sec 2; am 2012, ord 12-36, sec 1; am 2013, ord 13-32, sec 1; ord 13-76, sec 2; ord 13-109, sec 1.)

Section 18-91. Baggage.

A driver of any mass transit bus owned, maintained and operated by the County shall charge $1 for each piece of baggage, including large backpacks, except that any small bag such as a train case, handbag, briefcase, or a package that can be carried on the lap of the passenger and within the passenger's respective seat shall be conveyed without charge.

(1986, ord 86-15, sec 2; am 2011, ord 11-62, sec 2.)

Section 18-92. Fare schedules.

FARE SCHEDULE A	
Shared-Ride Fares	
One-Way Mileage	**No. of Coupons (Per Person)**
0 — 4.0 miles	1 coupon
4.1 — 9.0 miles	2 coupons

Rates are maximum charge per zone. Shared-ride carriers may charge less at their discretion.
(1990, ord 90-37, sec 8; ord 90-91, sec 4; am 2001, ord 01-82, sec 1; ord 01-84, sec 1; am 2011, ord 11-62, sec 2.)

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CHAPTER 19

REAL PROPERTY TAXES

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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.
(1983 CC, c 19, art 1, sec 19-1; am 1997, ord 97-84, sec 1.)

Section 19-2. Definitions.

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 seventy-five percent 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 Hawaiʻi or the director's authorized representative.

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

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

"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.

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

"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.

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

"Solar water heater" means a solar thermal energy system that qualifies for the State income tax credit authorized in the Hawai'i Revised Statutes, section 235-12.5. (1983 CC, c 19, art 1, sec 19-2; am 1997, ord 97-84, sec 1; am 2004, ord 04-143, sec 1; am 2007, ord 07-107, sec 2; am 2008, ord 08-93, sec 1; ord 08-130, sec 1.)

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, Hawaiʻi 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.

(1983 CC, c 19, art 1, sec 19-3; am 1997, ord 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.

(1983 CC, c 19, art 1, sec 19-4; am 1997, ord 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.
(1983 CC, c 19, art 1, sec 19-5; am 1997, ord 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.
   (2) Mailed but not received by the County or where received and the postmarked date is illegible, erroneous, or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing; and in cases of the nonreceipt of a report, tax return, statement, remittance, or other document required by law to be filed, the sender files with the County a duplicate within thirty days after written notification is given to the sender by the County of its nonreceipt of the report, tax return, statement, remittance, or other document.

(b) Registered Mail, Certified Mail, Certificate of Mailing. If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States Postal Service of the registration, certification, or certificate shall

be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was delivered to the director of finance, and the date of registration, certification, or certificate shall be deemed the postmarked date.
(1983 CC, c 19, art 1, sec 19-6; am 1997, ord 97-84, sec 1.)

Section 19-7. Tax collection; general duties, powers of director.

The director shall collect all taxes under this chapter according to the assessments and shall be liable and responsible for the full amount of the taxes assessed, unless the director shall under oath account for the noncollection of the same, or if the director shall be released from accountability as provided in section 19-9. The corporation counsel shall assist the director in the collection of all taxes under this chapter.
(1983 CC, c 19, art 1, sec 19-7; am 1984, ord 84-10, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-8. District court judges; misdemeanors and actions for tax collections.

Except as otherwise provided in this chapter, the district court judges for the Third Circuit Court for the State, as authorized in section 231-12,* Hawai‘i Revised Statutes, shall have jurisdiction to try misdemeanors arising under this chapter and all complaints for the violation of this chapter and to impose any of the penalties therein prescribed and shall also have the jurisdiction to hear and determine all civil actions and proceedings for the collection and enforcement of collection and payment of all taxes assessed thereunder, and all actions or judgments obtained in tax actions and proceedings, notwithstanding the amount claimed.
(1983 CC, c 19, art 1, sec 19-8; am 1997, ord 97-84, sec 1.)

*** Editor's Note:** Section 231-12, Hawai‘i Revised Statutes, was repealed.

Section 19-9. Director; collection, records of delinquent taxes, uncollectible delinquent taxes.

The director shall be responsible for the collection and general administration of all delinquent taxes. The director shall duly and accurately account for all delinquent taxes collected.

The department of finance shall prepare and maintain a complete record, open to public inspection, of the amounts of taxes assessed which have become delinquent and the name of the delinquent taxpayer in each case, but it shall not be necessary to periodically compute on the records the amount of penalties and interest upon delinquent taxes.

The department may from time to time prepare lists of all taxes delinquent which in its judgment are uncollectible. Such taxes as the department finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the department, and the department shall thereupon be released from any further accountability for their collection; provided, that no account shall be so deleted until it

shall have been delinquent for at least two years. Any items so deleted may be transferred back to the delinquent tax roll if the department finds that the alleged facts as previously presented to it were not true, or that such items are in fact collectible.
(1983 CC, c 19, art 1, sec 19-9; am 1984, ord 84-10, sec 3; am 1997, ord 97-84, sec 1.)

Section 19-10. Legal representative.

The corporation counsel or the prosecuting attorney shall assign a deputy as attorney and legal advisor and representative of the director. The corporation counsel or the prosecuting attorney may proceed to enforce payment of delinquent taxes by any means provided by law. Any legal proceeding may be instituted in the name of the director or the director's deputy.
(1983 CC, c 19, art 1, sec 19-10; am 1997, ord 97-84, sec 1.)

Section 19-11. Abstracts of registered conveyances, copies of corporation exhibits, etc., furnished to director.

The director may request abstract of titles. For the purpose of assisting the director in arriving at a correct valuation of the property within each district, the registrar of conveyances, or any other agency so requested by the department, shall furnish to the department, monthly, quarterly, or as otherwise required by the department, an abstract of the conveyances of, or other documents affecting title to, or assessment of, real property in each district, which have been entered for record at the bureau of conveyances, executed, or filed, as the case may be, during the period covered by such abstract. The director of regulatory agencies shall each year furnish the department as requested, copies of the annual corporation exhibits of any or all corporations owning real property in any district or any information contained in such exhibits.
(1983 CC, c 19, art 1, sec 19-11; am 1997, ord 97-84, sec 1.)

Section 19-12. Returns, made when; form; open to public; failure to file.

Whenever the director finds that the filing of returns under this section is advisable for the making of assessments and so orders, the director shall give, to the taxpayers during the month of December, of the year such order is made, public notice (by publication thereof, in English, at least three times on different days during the month, in a newspaper of general circulation in the County of Hawaiʻi, published in the English language) requiring such taxpayers to file with the director, on or before January 15 of the succeeding year, returns in the manner and form required by this section. After such publication of notice, every person owning, or having possession, custody or control of, real property whether entitled to exemption or not, shall during the month of January, file upon forms prescribed by the director and in the manner required by such forms, a return signed as provided in section 19-13 setting forth the description and location of all real property belonging to such person or of which such person had possession, custody or control on January 1, and setting forth the taxpayer's opinion of the market value thereof as of January 1. It shall be sufficient to describe the taxpayer's real property by setting forth the location and a brief description in sufficient detail to identify the real property.

Whenever the director shall determine that there are not sufficient evidences of value to form the basis of a sound appraisal, for assessment purposes, of the value of the real property or real properties or portions thereof, of any taxpayer it may, upon notice of not less than thirty days, require the taxpayer to file a return as described in the foregoing paragraph.

All returns made under this section shall be open to inspection by the public, unless protected from disclosure by the provisions of the Uniform Information Practices Act, and shall be admissible in evidence against the person making the return, in any State court in any action wherein the value of the real property, or portion thereof, covered by the return may be in dispute.

Returns made under this section shall be taken into consideration by the director in making appraisals for assessment purposes; the opinion of any taxpayer as to market value shall not be binding upon the director but no taxpayer shall be deemed to be aggrieved by any assessment made to the taxpayer's property which is based upon the opinion of value set forth in the taxpayer's return unless the taxpayer shows lack of uniformity or inequality as set forth in section 19-93. The opinion of value shall constitute a rebuttable presumption that the market value of the real property on the date of the return was not greater than the value stated in such return in any subsequent proceeding brought to condemn the property or any part thereof for public purposes.

Failure to file a return required under this section, shall render the taxpayer liable for payment of an added tax as follows: In case of failure to file any tax return required to be filed on a day described therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to neglect, there shall be added to the amount required to be shown as tax on the return, five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. For the purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of a tax which was paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(1983 CC, c 19, art 1, sec 19-12; am 1997, ord 97-84, sec 1.)

Section 19-13. Returns to be signed.

Every return required to be made for real property taxation purposes shall be signed by the person required to make the return or by some duly authorized person in the taxpayer's behalf.

The director may require that, if any person or persons actually prepare or sign a return for another person, such form of statement of such facts and of authority to sign such return as may be prescribed by the director shall be signed by the person so preparing or signing the return, and the director may by regulation define the classes of persons to whom this provision shall apply.

No oath shall be required upon any real property tax return.

(1983 CC, c 19, art 1, sec 19-13; am 1997, ord 97-84, sec 1.)

Section 19-14. Returns by fiduciaries.

Every executor, administrator, trustee, guardian, or other fiduciary shall make a return of the real property represented by said fiduciary in such capacity in the County in which returns shall be required to be made pursuant to the provisions of this chapter.
(1983 CC, c 19, art 1, sec 19-14; am 1997, ord 97-84, sec 1.)

Section 19-15. Returns of corporations and co-partnerships.

The returns, statements or answers required by this chapter shall, in the case of a corporation, be made by any officer thereof, or, in a case of a co-partnership, by any member thereof.
(1983 CC, c 19, art 1, sec 19-15; am 1997, ord 97-84, sec 1.)

Section 19-16. Notices, how given.

Unless otherwise provided, every notice, the giving of which by the director is required or authorized, shall be deemed to have been given on the date when the notice was mailed properly addressed to the addressee at the addressee's last known address or place of business.
(1983 CC, c 19, art 1, sec 19-16; am 1997, ord 97-84, sec 1.)

Section 19-17. Federal or other tax officials permitted to inspect returns; reciprocal provisions.

Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the County to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to permit a duly accredited tax official of the United States or of any state or territory or the Multistate Tax Commission to inspect any tax return of any taxpayer, or to furnish to such official, commission, or the authorized representative thereof an abstract of the return or supply them with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only. The Multistate Tax Commission may make such information available to a duly accredited tax official of the United States or to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only.
(1983 CC, c 19, art 1, sec 19-17; am 1997, ord 97-84, sec 1.)

Section 19-18. Records open to public.

All maps and records compiled, made, obtained, or received by the director or any of the director's subordinates shall be public records, and in case of the death, removal, or resignation of any such officers, shall immediately pass to the care and custody of their respective successors. The information and all maps and records connected with the assessment and collection of taxes under this chapter shall, during business hours, be open to the inspection of the public unless protected from disclosure by the provisions of the Uniform Information Practices Act.
(1983 CC, c 19, art 1, sec 19-18; am 1997, ord 97-84, sec 1.)

Section 19-19. Evidence, tax records as.

In respect of any tax imposed or assessed under this chapter, the administration of which is within the scope of the director's duties and except as otherwise specifically provided in the law imposing the tax, the notices of assessments, records of assessments, and lists or other records of payments and amounts unpaid prepared by or under the authority of the director, or copies thereof, shall be prima facie proof of the assessment of the property or person assessed, the amount due and unpaid, and the delinquency in payment and that all requirements of law in relation thereto have been complied with.
(1983 CC, c 19, art 1, sec 19-19; am 1997, ord 97-84, sec 1.)

Section 19-20. Due date on Saturday, Sunday or holiday.

When the due date for any remittance or document required by this chapter falls on a Saturday, Sunday or legal holiday, the remittance or document shall not be due until the next succeeding day which is not a Saturday, Sunday or legal holiday.
(1983 CC, c 19, art 1, sec 19-20; am 1997, ord 97-84, sec 1.)

Section 19-21. Changes, etc., in assessment lists.

Except as specifically provided in this chapter, no changes in, additions to or deductions from, the real property tax assessments on the assessment lists prepared as provided in section 19-28 shall be made except to add thereto property or assessments which may have been omitted therefrom, or to deduct therefrom adjustments on account of duplicate assessments and departmental errors, such as but not limited to, transposition in figures, typographical errors and errors in calculation.
(1983 CC, c 19, art 1, sec 19-21; am 1997, ord 97-84, sec 1.)

Section 19-22. Adjustments and refunds.

(a) This subsection shall apply to taxes assessed and collected under this chapter.
   (1) In the event of adjustments on account of duplicate assessments and departmental errors, such as but not limited to, transposition in figures, typographical errors, and errors in calculations, the adjustments may be entered upon the records although the full amount appearing on the records prior to such adjustment has been paid.
   (2) There may be refunded in the manner provided in subsection (b) of this section any amount collected in excess of the amount appearing on the records as adjusted, or any amount constituting a duplication of payment in whole or in part
   (3) Whenever any real property is deemed by the director to be exempt, except for the minimum tax, from taxation under section 19-87, if there shall have been paid prior to the effective date of the exemption any real property taxes applicable to the period following the effective date of the exemption, there shall be refunded to the nonprofit or limited distribution mortgagor owning

the property in the manner provided in subsection (b) all amounts representing the real property taxes, except for the minimum tax, which have been paid on account of the property and attributable to the period following the effective date of the exemption.

(4) No such adjustment for refund or taxes owed shall be entered on the records except within two years after the end of the tax year in which the amount to be refunded was due and payable, unless a written application for the adjustment has been filed within such period.

(b) This subsection shall apply to all real property taxes.

(1) All refunds and adjustments shall be paid by voucher approved by the director, setting forth all the details of each transaction. If the person entitled to a refund or adjustment is delinquent in the payment of the tax, the director, after notice to the delinquent taxpayer, shall withhold the amount of the delinquent taxes, together with penalties and interest thereon from the amount of the refund or adjustment and apply the same to the amount owed.

(c) This subsection shall apply to a refund for an overpayment of a tax.

(1) If the amount already paid exceeds the amount determined to be the correct amount of the tax due, and the taxpayer requests a refund of the overpayment, the amount of overpayment together with interest, if any, shall be refunded in the manner provided in subsection (b) above. The interest shall be allowed at a rate based upon the average interest rate earned on County investments during the previous fiscal year as determined by the director. The interest rate shall be established as a monthly rate and paid for each calendar month or fraction thereof beginning with the first month after the due date of the return and continuing until the date that the director approves the refund voucher. If the director approves the refund voucher within ninety days from the due date or the date the return is received, whichever is later, no interest on the overpayment will be allowed or paid. However, if the director exceeds the time allowed herein, interest will be computed from the due date of the return until the date that the director sends the refund warrant to the taxpayer.

(2) If any overpayment of taxes results or arises from (A) the taxpayer filing an amended return, or from (B) a determination made by the director and such overpayment is not shown on the original return as filed by the taxpayer, interest on the overpayment shall be allowed and paid from the first month after the due date of the original return to the date that the director signs the refund voucher. If the director does not send the refund warrant to the taxpayer within forty-five days after the director's approval, interest will continue until the date that the director sends the refund warrant to the taxpayer.

(1983 CC, c 19, art 1, sec 19-22; am 1997, ord 97-84, sec 1.)

Section 19-23. Partial payment of taxes.

Whenever a taxpayer makes a partial payment of a particular assessment of taxes, the amount received by the director shall first be credited to interest, then to penalties, and then to principal.

(1983 CC, c 19, art 1, sec 19-23; am 1997, ord 97-84, sec 1.)

Section 19-24. Abetting, etc., misdemeanor.

All persons wilfully aiding, abetting or assisting in any manner whatsoever any person to commit any act constituted a misdemeanor by this chapter, shall be deemed guilty of a misdemeanor.

(1983 CC, c 19, art 1, sec 19-24; am 1997, ord 97-84, sec 1.)

Section 19-25. Neglect of duty, etc., misdemeanor.

Any officer or employee of the department of finance, any person duly authorized by the director, or any police officer, on whom duties are imposed under this chapter, who wilfully fails or refuses or neglects to perform faithfully any duty or duties required of such person in this chapter, shall be deemed guilty of a misdemeanor.

(1983 CC, c 19, art 1, sec 19-25; am 1997, ord 97-84, sec 1.)

Section 19-26. Penalty for misdemeanor.

Any person convicted of a violation of any provision of this chapter shall be guilty of a misdemeanor, and shall be sentenced according to chapter 706, Hawai‘i Revised Statutes.

(1983 CC, c 19, art 1, sec 19-26; am 1997, ord 97-84, sec 1.)

Article 2. Notice of Assessments and Lists.

Section 19-27. Notice of assessments; addresses of persons entitled to notice.

On or before March 15 preceding the tax year, the director shall give notice of the assessment for the tax year against each known owner, by personal delivery to the owner of or by mailing to the owner on or before such date postage prepaid and addressed to the owner at the owner’s last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with section 19-53(e) and setting forth separately the valuation placed upon buildings, and the valuation placed upon all other real property, exclusive of buildings, determined pursuant to section 19-53, the exemption, if any, allowed or denied, as the case may be, and the amount of the exemption applied to the buildings and the amount applied to all other real property, exclusive of buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings.

In addition to the foregoing, the director shall in each year give notice of the assessments for the year by public notice (by publication thereof at least three times on different days during the month of March of such year in a newspaper of general

circulation, published in the English language) of a time when (which shall not be less than a period of ten days prior to March 31 preceding the tax year) and of a place where the records of taxable properties maintained for the district may be inspected by any person for the purpose of enabling that person to ascertain what assessments have been made against that person or that person's property and to confer with the director so that any errors may be corrected before the filing of the assessment list.
(1983 CC, c 19, art 2, sec 19-27; am 1997, ord 97-84, sec 1; ord 97-153, sec 1.)

Section 19-28. Assessment lists.

On or before April 19 preceding the tax year the director shall have prepared from the records of taxable properties a list in duplicate of all assessments made, which list shall be signed and sworn to by the person preparing it. The assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with section 19-53(e), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption allowed on buildings and the amount of exemption allowed on all other real property, exclusive of the buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings. The assessment lists shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to section 19-21. There shall be noted upon such lists all appeals taken for the year and the amount involved in each case. The original of the assessment lists shall be retained by the person preparing it, and one copy shall be held by the county clerk.
(1983 CC, c 19, art 2, sec 19-28; am 1997, ord 97-84, sec 1; am 2000, ord 00-28, sec 1.)

Section 19-29. Informalities not to invalidate assessments, mistakes in names or notices, etc.

No assessment or act relating to the assessment or collection of taxes under this chapter shall be illegal or invalidate such assessment, levy, or collection on account of mere informality, nor because the same was not completed within the time required by law, nor, if the notice by publication provided for by section 19-27 has been given, on account of a mistake in the name of the owner or supposed owner of the property assessed, or failure to name the owner, or failure to give the notice of assessment by personal delivery or mail provided for by section 19-27.
(1983 CC, c 19, art 2, sec 19-29; am 1997, ord 97-84, sec 1.)

Article 3. Tax Bills, Payments and Penalties.

Section 19-30. Tax rolls; tax bills.

The director shall prepare tax rolls from the assessment lists provided for by section 19-28, showing thereon, in each case, names and addresses of the assessed and amount of taxes which shall not be less than as provided for in section 19-90.

The director shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by section 19-31, to all known persons assessed for real property taxes for such year, respectively, or to their agents, tax bills demanding payment of taxes due from each such person respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on the person's part to receive, or failure on the part of the director so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at that person's last known address or place of residence. Whenever any bill covers taxes for any real property owned, as joint tenants or as tenants in common or otherwise, by more than one person, the bill may be sent to any one co-owner and upon written request shall be sent to each known co-owner but shall, in any event, demand the full amount of the taxes due upon such real property.
(1983 CC, c 19, art 3, sec 19-30; am 1990, ord 90-138, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-31. Taxes; due when; installment payments; billing and delinquent dates.

All real property taxes shall be due and payable on and after July 1 of each tax year and the payment thereof shall be determined in the following manner:

All known persons assessed for real property taxes shall be billed not later than the billing date designated in the schedule listed herein; subject however, to the limitations heretofore provided in section 19-30. Each taxpayer shall pay the real property taxes due from the taxpayer for the year in which the taxes are assessed, in two equal installments on or before the dates designated in the following schedule:

Fiscal Year Schedule		
Billing Date	**1st Payment**	**2nd Payment**
July 20	August 20	February 20

All such taxes due on the first payment date of such year from each taxpayer, which remain unpaid after the date, shall thereupon become delinquent, and the balance of such taxes due on the second payment date of such year from each taxpayer, which remain unpaid after the date, shall thereupon become delinquent. Any payment made to the County which is 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.
(1983 CC, c 19, art 3, sec 19-31; am 1997, ord 97-84, sec 1.)

Section 19-32. Penalty for delinquency.

There shall be added to the amount of all delinquent taxes, a penalty of ten percent of such delinquent taxes as determined by the director, which penalty shall be and become a part of the tax and be collected as a part thereof.

All delinquent taxes and penalties shall bear interest at the rate of one percent for each month or fraction thereof until paid, beginning with the first calendar month following the calendar month designated for payment in section 19-31. The interest shall be and become a part of the tax and be collected as a part thereof.

No taxpayer shall be exempt from delinquent penalties by reason of having made an appeal on the assessment, but the tax paid, covered by an appeal duly taken, shall be held in a trust account as provided in section 19-102.
(1983 CC, c 19, art 3, sec 19-32; am 1984, ord 84-20, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-33. Assessment of unreturned or omitted property; review; penalty.

If, when returns are required under this chapter, any person refuses or neglects to make such returns, or declines to authenticate the accuracy thereof as provided in section 19-12, or omits any property from a return, the director shall make the assessment according to the best information available and shall add to the assessment or tax lists for the year or years during which it was not taxed, the property unreturned or omitted. Likewise, if for any other reason any real property has been omitted from the assessment lists for any year or years, the director shall add to the lists the omitted property. Notice of the action shall be given the owner, if known, within ten days after the assessment or addition, by mailing the same addressed to the owner at last known place of residence. Any owner desiring a review of the assessment or the addition may appeal to the board of review by filing with the director a written notice thereof in the manner prescribed in section 19-99 at any time within thirty days after the date of mailing such notice, or may appeal to the tax appeal court by filing written notice of appeal with, and paying the necessary costs to, such court within the period and in the manner prescribed in section 19-98.

A penalty of ten percent shall be added by the director to the amount of any assessment made by the director pursuant to this section, which penalty shall be and become a part of the assessment so made; but no such penalty shall be imposed where the failure to assess or tax the property was not due to the refusal or neglect of the owner to return the property or authenticate the accuracy of the return.

For the purpose of determining the date of delinquency of taxes pursuant to assessments under this section, such taxes shall be deemed delinquent if not paid within thirty days after the date of mailing of notice of assessment, or if assessed for the current assessment year, within thirty days after the date of mailing the notice or on or before the next installment payment date, if any, for such taxes, whichever is later.
(1983 CC, c 19, art 3, sec 19-33; am 1997, ord 97-84, sec 1.)

Section 19-34. Reassessments.

Any property assessed to a person or persons who did not have the record title upon January 1 preceding the tax year in which the assessment was made, may be, and in any case where the attempted assessment of property is void or so defective as to create no real property tax lien on the property and the taxes have not been fully collected, the property shall be assessed as omitted property in the manner provided in section 19-33.
(1983 CC, c 19, art 3, sec 19-34; am 1997, ord 97-84, sec 1.)

Article 4. Remissions.

Section 19-35. Remission of taxes on acquisition by government.

Whenever any real property is acquired for public purposes by the United States, the State or the County, and whenever any government lease or other tenancy shall terminate, the director is authorized to remit the taxes due thereon for the balance of the taxation period or year from and after the date of acquisition of the property, or the termination of the government lease or other tenancy, as the case may be.

In case the State or the County takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or the County, taxes are authorized to be remitted as provided in sections 101-35 to 39, Hawai‘i Revised Statutes, subject to section 101-39(1), Hawai‘i Revised Statutes.

In case the owner of real property grants to the State or the County a right-of-entry with respect to such real property and the State or the County enters into possession under the authority of the right-of-entry with intention to acquire the fee simple estate therein and to devote the real property to public use, the State or the County shall certify to the director the date upon which it took possession, and upon receipt of the certificate the director is authorized to remit the real property tax on the parcel of land or portion of a parcel of land so coming into the possession of the State or the County for the balance of the taxation period which is subsequent to the date of possession.

In case the United States takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land, taxes are authorized to be remitted for the balance of the taxation period or year after such taking, as provided in this paragraph. The remission shall be allowed conditionally upon the presentation to the director, of a written notice and agreement, signed by the person, or one or more of the persons, owning the land, stating the date of such taking of possession by the United States, and agreeing that out of the first funds received by such owner or owners from such condemnation there shall be paid sufficient moneys to discharge the lien for any real property taxes existing upon the land prorated up to and including the date of such taking possession of the property; provided that the notice may be accompanied by payment of the prorated amount of taxes in lieu of such agreement. Section 101-39, Hawai‘i Revised Statutes, is hereby made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this paragraph. It is further provided that in the event the prorated taxes up to the time of such taking possession shall not be paid by the owner or by one or more of the owners of the land within ten days after receipt by such owner or owners of the compensation for the condemnation, or within such additional time as shall be allowed by the director, then the conditional remission of taxes shall be void, and such owner or owners shall be liable for all taxes, penalties, and interest which would have accrued had no such conditional remission been allowed.

(1983 CC, c 19, art 4, sec 19-35; am 1997, ord 97-84, sec 1.)

Section 19-36. Remission of taxes in cases of certain disasters.

In any case of the damage or destruction of real property as the result of a tidal wave, earthquake, fire, landslides or volcanic eruption, or as the result of flood waters overflowing the banks or walls of a river or stream, or other disasters, the director is authorized to remit taxes due on such property, to the extent and in the manner hereinafter set forth:

(1) The director shall determine whether the property was wholly destroyed, or was partially destroyed or damaged, and in the latter event shall determine what percentage of the value of the whole property was destroyed or otherwise lost by reason of the disaster.

(2) If the property was wholly destroyed, the amount remitted shall be such portion of the total tax on the property for the tax year in which such destruction occurred as shall constitute the portion of the tax year remaining after such destruction.

(3) If the property was partially destroyed or was damaged, the percentage of the value destroyed or otherwise lost, determined as provided in paragraph (1), shall be applied to the total tax on the property and of the amount of tax so determined there shall be remitted such portion as shall constitute the portion of the tax year remaining after such partial destruction or damage.

(4) Application for a remission of taxes pursuant to this section shall be filed with the director on or before June 30 of the tax year involved, or within sixty days after the occurrence of the disaster, whichever is the later. Any amount of taxes authorized to be remitted by this section, which has been paid, shall be refunded upon proper application therefor out of real property tax collections.

(5) The director shall have the authority to extend the period for the remission of taxes for property that was wholly or partially damaged or destroyed for the percentage of the property which was affected by such disaster, for a period not to exceed one year after the tax year in which the disaster took place.

(1983 CC, c 19, art 4, sec 19-36; am 1990, ord 90-90, sec 2; am 1995, ord 95-135, sec 2; am 1997, ord 97-84, sec 1.)

Article 5. Liens, Foreclosure.

Section 19-37. Tax liens; co-owners' rights; foreclosure; limitation.

Every tax due upon real property, as defined by section 19-2, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of said proceedings or the completion of such sale.

In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, said cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a

sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court, the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in the registrar's capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant's lien shall have the same priority as the lien or liens of the government for the taxes paid by the cotenant, and may be enforced by an action in the nature of suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun, and notice of the tenancy thereof is recorded or filed and registered as provided by law, within the period.

The director or the director's subordinate, in case of a government lien, and the creditor cotenant, in a case of a cotenant's lien, shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, shall, in the case of a cotenant's lien, which contains the reference to the book and page of the original lien, be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.

Upon enforcement or foreclosure by the government in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and however accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax liens, and (3) the amount of any recorded liens against the property, in the order of their priority, provided a claim for the surplus has been filed with the director within one year from the date of the sale.

The liens may be enforced by action of the director in the Circuit Court of the Third Circuit, and the proceedings had before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings as provided for in chapter 634, Hawai'i Revised Statutes. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time out of the County or cannot be served

within the County, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the director may request the court that service be made in the manner provided by sections 634-23 to 634-29, Hawaiʻi Revised Statutes.

In any such case, it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided.

(1983 CC, c 19, art 5, sec 19-37; am 1988, ord 88-74, sec 1; am 1997, ord 97-84, sec 1.)

Section 19-38. Tax liens; foreclosure without suit.

(a) All real property on which any lien, or part thereof, for taxes levied pursuant to this Code has existed for at least two years may be sold by way of foreclosure without suit by the director or as otherwise specified in this Code.

(b) Such delinquent real property shall be sold by the director or the director's designated representative at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and expenses due or incurred on account of the taxes, lien, and sale.

(c) The surplus funds from the tax foreclosure sale, if any, shall be rendered to the person(s) legally entitled to the surplus funds resulting from the sale.

(d) The sale shall be held at any public place proper for sales on execution of the foreclosure.

(1983 CC, c 19, art 5, sec 19-38; am 1997, ord 97-84, sec 1; am 2014, ord 14-126, sec 2.)

Section 19-39. Same; registered land.

If the land has been registered in the land court, the director shall also send by registered mail a notice for the proposed sale to any person holding a mortgage or other lien registered in the office of the assistant registrar of the land court. The notice shall be sent to any such person at that person's last address as shown by the records in the office of the registrar, and shall be deposited in the mail at least forty-five days prior to the date set for the sale.

(1983 CC, c 19, art 5, sec 19-39; am 1997, ord 97-84, sec 1.)

Section 19-40. Notice; sale of foreclosed property without suit.

(a) The notice of tax foreclosure without suit and tax sale shall contain:

(1) The names of the persons assessed;

(2) The names of the present owners as shown by the records of the director and the records if any of the assistant registrar of the land court;

(3) The character and amount of tax and year or years taxes are delinquent, with interest, penalties, costs, expenses, and charges accrued or to be accrued to the appointed date of sale;

(4) A brief description of the property;

(5) The time and place of the sale; and

(6) A warning to the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon on that property or any legal or equitable right, title, or other interest in the property, that unless the tax, together with all interest, penalties, costs, expenses, and charges accrued to the date of payment, is paid before the appointed time of sale, the property advertised for sale will be sold as advertised.

(b) The procedure for noticing a tax foreclosure without suit and sale shall be as follows:

(1) Notice shall be published at least once a week for at least four successive weeks immediately prior to the sale in any newspaper with a general circulation of at least sixty thousand published in the State and any two newspapers of general circulation published and distributed in the County;

(2) If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the director shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the director shall send a notice to the owner at the owner's last known address as shown on the records of the department of finance;

(3) The notice shall be deposited in the mail at least forty-five days prior to the date set for the sale; and

(4) The notice shall also be posted for a like period in at least three conspicuous public places within the County and if the land is improved, one of the three postings shall be on the land.

(c) The director may include in one advertisement of notice of sale the notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same tax year or years.

(1983 CC, c 19, art 5, sec 19-40; am 1997, ord 97-84, sec 1; am 2014, ord 14-126, sec 3.)

Section 19-41. Same; postponement of sale, etc.

If at the time appointed for the sale, the director shall deem it expedient and for the interest of all persons concerned therein to postpone the sale of any property or properties for want of purchasers, or for other sufficient cause, the director may postpone it from time to time, until the sale shall be completed, giving notice of every such adjournment by a public declaration thereof at the time and place last appointed for the sale; provided, that the sale of any property may be abandoned at the time first appointed or any adjourned date, if no proper bid is received sufficient to satisfy the lien, together with all interest, penalties, costs, expenses, and charges.

(1983 CC, c 19, art 5, sec 19-41; am 1997, ord 97-84, sec 1.)

Section 19-42. Same; tax deed; redemption.

The director or the director's subordinate shall, on payment of the purchase price, make, execute, and deliver all proper conveyances necessary in the premises and the delivery of the conveyances shall vest in the purchaser the title in fee thereto, and such title shall be free and clear of any lien, claim, or encumbrance against such property

except the lien for real property taxes subsequent to that for which the property was sold, subject only to any mineral rights of the State and any easements in favor of any governmental entity; provided, that the taxpayer may redeem the property sold by payment to the purchaser at the sale, within one year from the date of the sale, of the amount paid by the purchaser, together with all costs and expenses which the purchaser was required to pay, including the fee for recording the deed, and in addition thereto, interest on such amount at the rate of twelve percent a year.
(1983 CC, c 19, art 5, sec 19-42; am 1988, ord 88-74, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-43. Same; costs.

The director by rules or regulation may prescribe a schedule of costs, expenses, and charges and the manner in which they shall be apportioned between the various properties offered for sale and the time at which each cost, expense, or charge shall be deemed to accrue; and such costs, expenses, and charges shall be added to and become a part of the lien on the property for the last year involved in the sale or proposed sale, the tax for which is delinquent. Such costs, expenses, and charges may include provision for the making of and the securing of certificates of searches of any records to furnish information to be used in or in connection with the notice of sale or tax deed, or in any case where the director shall deem such advisable; provided, that the director shall not be required to make such searches or to cause them to be made except as provided by section 19-39 with respect to mortgages or other liens registered in the office of the assistant registrar of the land court.
(1983 CC, c 19, art 5, sec 19-43; am 1997, ord 97-84, sec 1.)

Section 19-44. Tax deed as evidence.

The tax deed referred to in section 19-42 is prima facie evidence that:

(1) The property described by the deed was duly assessed or taxed in the years stated in the deed and to the persons therein named;
(2) The property described by the deed was subject on the date of the sale to a lien or liens for real property taxes, penalties, and interest in the amount stated in the deed, for the tax years therein stated, and that the taxes, penalties, and interest were due and unpaid on the date of sale;
(3) Costs, expenses, and charges due or incurred on account of the taxes, liens, and sale had accrued at the date of the sale in the amount stated in the deed;
(4) The person who executed the deed was the proper officer;
(5) At a proper time and place the property was sold at public auction as prescribed by law, and by the proper officer;
(6) The sale was made upon full compliance with sections 19-38 to 19-43 and all laws relating thereto, and after giving notice as required by law; and
(7) The grantee named in the deed was the person entitled to receive the conveyance.

(1983 CC, c 19, art 5, sec 19-44; am 1997, ord 97-84, sec 1.)

Section 19-45. Disposition of surplus moneys.

The director shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in section 19-37 and further the director may pay from the surplus the cost of a search of any records where such search is deemed advisable by the director to ascertain the person or persons entitled to the surplus; provided, nothing herein contained shall be construed to require the director to make or cause any such search to be made.

All proceeds remaining after payment of the costs and expenses of the enforcement and foreclosure of the tax lien, including a title search, and the amount of subsisting real property taxes, shall be distributed to lienholders of record in the order of their priority who have filed claims for the surplus with the director within one year from the date of sale. Any lien, claim or encumbrance against the property remaining unsatisfied after the distribution of the surplus moneys shall be extinguished and unenforceable against the property and the purchaser to whom the property is conveyed by the director. If, in order to ascertain the person or persons entitled to the surplus, the director deems it advisable to conduct a search of any records, the director may pay from the surplus the cost of such search; provided, nothing herein contained shall be construed to require the director to make or cause any search to be made. Any lienholder failing to file a claim for the surplus within one year from the date of the sale shall have no right to the surplus. The director shall pay from any surplus remaining after distribution to record lienholders who have filed claims, all taxes, including interest and penalties, of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed. If after payment of all taxes surplus funds remain, the director shall pay the surplus to the taxpayer against whose property the tax lien was foreclosed, provided that the taxpayer has filed a claim for the surplus with the director within two years from the date of sale. Any surplus remaining after payment to all those entitled as herein set forth shall be deposited into the County general fund.

If the director is in doubt as to the person or persons entitled to the balance of the fund, the director may refuse to distribute the surplus and any claimant may sue the director in the Third Circuit Court. The director may require the claimants to interplead, in which event the director shall state the names of all claimants and shall cause them to be made parties to the action. If there are persons entitled to the fund who have not filed a claim, or if in the director's opinion there may be other persons entitled to the fund who are unknown, the director may apply for an order or orders joining these persons.

Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian, the court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the State or for any reason cannot be served with process

within the State shall have notice of the action as provided by sections 634-23 to 634-29, Hawaiʻi Revised Statutes, except that any publication of summons shall be in at least one newspaper of general circulation published in the State and having a general circulation in the County, and the form of notice to be published shall provide a brief description of the property which was sold.

All expenses incurred by the director shall be met out of the surplus moneys realized from the sale.

(1983 CC, c 19, art 5, sec 19-45; am 1988, ord 88-74, sec 3; am 1994, ord 94-60, sec 2; am 1997, ord 97-84, sec 1.)

Article 6. Rate; Levy.

Section 19-46. Tax base and rate.

Except as exempted or otherwise taxed, all real property shall be subject to a tax upon one hundred percent of its market value determined in the manner provided by ordinance, at such rate as shall be determined in the manner provided in section 19-90. No taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except as the result of a decision on an appeal as provided by law.

(1983 CC, c 19, art 6, sec 19-46; am 1982, ord 766, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-47. Tax year; time as of which levy and assessment made.

For real property tax purposes, "tax year" shall mean the fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year. Real property shall be assessed, and taxes shall be levied thereon, as of January 1 preceding each tax year upon the basis of valuations determined in the manner and at the time provided in this chapter.

(1983 CC, c 19, art 6, sec 19-47; am 1997, ord 97-84, sec 1.)

Section 19-48. Assessment of property; to whom in general.

Real property shall be assessed in its entirety to the owner thereof.

For the purposes of this chapter, life tenants, personal representatives, trustees, guardians, or other fiduciaries may be, and persons holding government property under an agreement for the conveyance of the same to such persons shall be considered as owners during the time any real property is held or controlled by them as such. Lessees holding under any government lease shall be considered as owners during the time any real property is held or controlled by them as such, as more fully provided in section 19-84; and further, notwithstanding any provisions to the contrary in this chapter, any tenant occupying government land, whether such occupancy be on a permit, license, month-to-month tenancy, or otherwise, shall be considered as owner where such occupancy has continued for a period of one year or more, as more fully provided in section 19-84. Persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the purchasers shall

pay the real property taxes levied on the property. Persons holding any real property under a lease for a term of ten years or more shall be considered as owners during the time the real property is held or controlled by them as such; provided that the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to January 1 preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.
(1983 CC, c 19, art 6, sec 19-48; am 1997, ord 97-84, sec 1.)

Section 19-49. Imposition of real property taxes on reclassification.

A portion of real property taxes shall be imposed upon and paid by the owner or owners thereof when:

(1) The property of the owner has been leased for a term of ten years or more;
(2) The classification of the property has been changed to a classification of a higher use during the life of the lease; and
(3) The classification to a higher use has occurred without the lessee petitioning for such higher classification. Taxes which are imposed upon the owners of property under this section shall be paid by the owner of such property without being transferred to the lessee and such tax shall be the difference between the assessed valuation of the property after the classification change times the applicable tax rate less the assessed valuation of the property as it existed prior to the classification change times the applicable tax rate.

(1983 CC, c 19, art 6, sec 19-49; am 1997, ord 97-84, sec 1.)

Section 19-50. Assessment of property of corporations or co-partnerships.

Property of a corporation or co-partnership shall be assessed to it under its corporate or firm name.
(1983 CC, c 19, art 6, sec 19-50; am 1997, ord 97-84, sec 1.)

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.
(1983 CC, c 19, art 6, sec 19-51; am 1997, ord 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.
(1983 CC, c 19, art 6, sec 19-52; am 1997, ord 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, income 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, Hawaiʻi 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, Hawaiʻi 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 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 terminate the dedication without imposition of retroactive taxes upon filing and approval of petition for such termination with the director of finance by September 1, 2009. 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.

(4) Those properties dedicated to nonspeculative residential use as of the effective date of this ordinance may terminate the dedication without the imposition of retroactive taxes upon filing and approval of petition for termination of dedication with the director of finance by September 1, 2009.

For properties with an effective date of dedication prior to July 1, 2005, or renewals after July 1, 2005, the assessed value shall be the market value at January 1, 2004 and increased compounded annually by three percent; and for properties with an effective date of dedication after July 1, 2005, the assessed value shall be the market value at the effective date of dedication and increased compounded annually by three percent as set in the table below rounded to the nearest hundred dollars of assessed value:

Effective Date of Dedication	**Market Value at**	**Assessed Value Multiplier**
Prior to July 1, 2005	January 1, 2004	1.1941
July 1, 2005	January 1, 2005	1.1593
July 1, 2006	January 1, 2006	1.1255
July 1, 2007	January 1, 2007	1.0927
July 1, 2008	January 1, 2008	1.0609

(5) Paragraphs 19-53(g)(2), (3), (4) and (5) shall be repealed upon the final participant in the nonspeculative residential use program being converted as provided above.

(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, Hawaiʻi 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 Hawaiʻi 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, Hawaiʻi 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 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.

(1983 CC, c 19, art 7, sec 19-53; am 1982, ord 834, sec 2; am 1984, ord 84-21, sec 1; am 1990, ord 90-136, sec 2; ord 90-157, sec 1; am 1991, ord 91-143, sec 2; am 1996, ord 96-71, sec 2; am 1997, ord 97-84, sec 1; ord 97-153, sec 2; am 2000, ord 00-48, sec 2; am 2003, ord 03-103, secs 2 and 3; am 2004, ord 04-67, sec 1; ord 04-121, sec 2; ord 04-143, sec 2; am 2006, ord 06-147, sec 2; am 2007, ord 07-107, secs 3 and 4; ord 07-163, sec 2; am 2008, ord 08-156, sec 2; am 2013, ord 13-72, sec 2; am 2014, ord 14-97, sec 2.)

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, Hawaiʻi 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.

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

utility business within the County of Hawai‘i. The rate of the tax upon the gross income of the public utility shall be determined as follows:

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

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

$$X=(26.75R — 2.1275)\%;$$

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

(2) The public utilities may elect to utilize the method of assessment under subsection (d)(1) rather than the method of assessment under subsections (a), (b) and (c) by filing a notice of such election on or before December 31 of the year immediately preceding when the tax would be due with the director of finance; provided, however, that for the first tax year after the effective date of the ordinance codified in this section, the public utilities may file such notice on or before May 31, 2001. If the State of Hawai‘i amends chapter 239, Hawai‘i Revised Statutes, to decrease the tax levied thereunder to a maximum rate of four percent, the director of finance shall utilize the method of assessment under subsection (d)(1) rather than the method of assessment under subsections (a), (b) and (c) without a request from the public utilities to do so.

(3) As the basis for calculating the public utility’s gross income and net income, the County shall accept the public utility’s filing for gross income and net income from public utility business within the County of Hawai‘i as made to the State of Hawai‘i pursuant to chapter 239, Hawai‘i Revised Statutes. If a public utility has not allocated its gross income and net income on a county-by-county basis, the counties, together with that public utility, shall agree upon a method by which such income can be allocated amongst the counties.

(2000, ord 00-110, sec 2.)

Section 19-54. Repealed.
(1983 CC, c 19, art 7, sec 19-54; am 1997, ord 97-84, sec 1; rep 2005, ord 05-165, sec 2.)

Section 19-55. Repealed.
(1983 CC, c 19, art 7, sec 19-55; am 1984, ord 84-21, sec 2; am 1991, ord 91-143, sec 3; am 1997, ord 97-84, sec 1; rep 2004, ord 04-143, sec 3.)

Section 19-56. Golf course assessment.

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

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

In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, sales price and the effect of the value of the golf course on the value of the surrounding lands.
(1983 CC, c 19, art 7, sec 19-56; am 1997, ord 97-84, sec 1.)

Section 19-57. [Former] Repealed.
(1983 CC, c 19, art 7, sec 19-57; rep 1997, ord 97-84, sec 1.)

Section 19-57. Nondedicated agricultural use assessment.

(a) Lands classified and used for agriculture and which are not dedicated pursuant to section 19-60, may be assessed for real property tax purposes as established in subsection (a)(2) of this section and shall be subject to the following:
   (1) The land in nondedicated agricultural use must be used on a continuous and regular basis for intensive agriculture, orchards, feed crops and fast rotation forestry or pasture and slow rotation forestry on lands zoned by the County to be in the districts of agricultural, residential and agricultural, family agricultural, intensive agricultural, and agricultural project district;
   (2) The portion of land that is committed in specific nondedicated agricultural use shall be assessed at two times the dedicated agricultural use value as established by the director of finance under this chapter; and
   (3) A farm dwelling site shall be assessed at the highest commercial agriculture use value, provided that the maximum farm dwelling site area to be assessed at the highest commercial agriculture use value shall not exceed one-fourth acre.

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

(c) Application; filings; assessment effective; renewal.
   (1) The director shall prescribe the form of the nondedicated agricultural use application.
   (2) The application shall be filed with the director by December 31 of any calendar year.

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

(d) Deferred or rollback tax.
(1) A deferred or rollback tax shall be imposed on the owner of the agricultural land upon any of the following events:
(A) Conversion to any County zoned district other than agricultural, residential and agricultural, family agricultural, intensive agricultural, or agricultural project district as a result of a petition by the owner or lessee;
(B) The property is subdivided into parcels of less than five acres in size; or
(C) A condominium property regime is declared for the property having condominium units with an area equivalent to less than five acres in size.
(2) The deferred tax shall commence from the date the conversion was made retroactive to the date the agricultural use assessment was approved, but for not more than a period of two years plus the current year.
(3) The amount of deferred taxes shall be based on the difference between the assessed market value at highest and best use and the assessed agricultural use value of the land at the tax rate applicable for the respective years, with a ten percent penalty.

(2004, ord 04-143, sec 4.)

Section 19-58. Certain lands dedicated for residential use.

(a) The term "owner" as used in this section means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least ten years from the effective date of the dedication.

(b) A special land reserve is established to enable the owner of any parcel of land within a hotel, apartment, resort, commercial, or industrial district to dedicate the owner's land for residential use and to have the land assessed at its value in residential use; provided that:
(1) The land dedicated shall be limited to a parcel used only for single-family dwelling residential use;
(2) The owner of the land dedicated shall use it as the owner's principal residence and qualify to be in the homeowner's class per section 19-53(e)(2)(A); and
(3) Not more than one parcel of land shall be dedicated for residential use by any owner.

(c) If any owner desires to use the owner's land for residential use and to have the land assessed at its value in this use, the owner shall so petition the director of finance and declare in the petition that if the petition is approved, the owner will use the land for single-family dwelling residential use only and that the land so dedicated will be used exclusively as the owner's principal residence.

Upon receipt of any such petition, the director of finance shall make a finding of fact as to whether the land described in the petition is being used by the owner for single-family dwelling residential use only and exclusively as the owner's principal residence. If the finding is favorable to the owner, the director shall approve the petition and declare the land to be dedicated.

(d) The approval of the petition by the director of finance to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of ten years. At least one hundred eighty days prior to the cancellation date, the department of finance shall notify the owner by mail of such cancellation. The owner of a dedicated property must renew the dedication on or before September 1 of the tenth year of the original dedication or any subsequent renewal period in order to continue the dedication for the next ten years.

(e) Failure of the owner to observe the restrictions on the use of the land or the sale of the property shall cancel the special tax assessment privilege retroactive to the date of the dedication, or the latest renewal ten-year period, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten percent penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.

The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter.

(f) The director of finance shall prescribe the form of the petition. The petition shall be filed with the director of finance by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, the dedication shall be effective on July 1 of the following tax year.

(g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(1983 CC, c 19, art 7, sec 19-58; am 1997, ord 97-84, sec 1.)

Section 19-58.1. Certain lands dedicated to nonspeculative residential use. Only renewal petitions will be accepted.

(a) The term "owner" as used in this section shall mean the fee owner or the lessee of real property with an unexpired lease term of not less than five years from the effective date of the dedication.

(b) Any owner of property who qualifies under sections 19-71 and 19-72 for home exemption and uses the property exclusively for residential use may dedicate said property in its entirety to nonspeculative residential use and have that parcel assessed in the manner provided by section 19-58.2, except that a husband and wife, although living separate and apart, shall be entitled to dedicate only one parcel to the nonspeculative residential use.

Exclusive residential use as used in this section shall not permit the owner to conduct any commercial activities on the property, except as otherwise permitted in sections 19-71(a) and (b). Those owners who have dedicated their property to agricultural use or receive the benefit of the agricultural use or native forest dedication shall not be eligible for this nonspeculative residential use dedication.

(c) In the case of a renewal which immediately follows an expiring term, the assessment base for the new five- or ten-year dedication term shall be the dedicated value on the expiration date plus fifty percent of the amount of increase between the dedicated value and the market valuation as of January 1, preceding the termination of the dedication term.

(d) If, during any period of dedication, any breach of the dedication requirements should occur, the special nonspeculative residential use assessment privilege shall be canceled and retroactive taxes shall be imposed. Breach of the dedication shall include termination of the dedication after September 1, 2009 or other unauthorized termination, the failure to maintain the home exemption status of the property, violating the exclusive residential use provision, dedicating the property to agricultural use or receiving the benefit of the agricultural use assessment, subdivision of the property into separate parcels, or the declaration of a condominium property regime, or the sale of the dedicated property or any portion thereof sold by way of a conveyance which is subject to conveyance tax under the terms of chapter 247, Hawai‘i Revised Statutes. Retroactive taxes due and owing as a result of the breach shall be a paramount lien on the property.

(1) Provided, that the nonspeculative residential use dedication shall not be breached if the dedicated property meets the criteria as listed below:

The following also includes provisions that are not subject to the conveyance tax under the terms of chapter 247, Hawai‘i Revised Statutes, and are included for further clarification.

(A) Transferred to the owner’s heirs by testacy or intestacy,

(B) Jointly owned by spouses and upon the death of one spouse ownership is transferred to the surviving spouse,

(C) Transferred to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation,

(D) Transferred to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

(E) Subject to a title change between spouses and said change does not result in a loss of the home exemption status,

(F) And the heirs, surviving spouse, divorced spouse, or trustee, within sixty days after receiving title to the property, petitions the director, in writing, to continue the dedication and the property continues to qualify for the home exemption as defined in sections 19-71 and 19-72, or

(G) The dedication shall not be cancelled if the lessee purchases the leased fee interest from the lessor.

(2) Provided further that, except as provided herein, retroactive taxes shall not be assessed when:

(A) A person receives title to property dedicated to nonspeculative residential use by ways of testacy or intestacy and does not petition the director to continue the dedication as provided in section 19-58.1(d)(1)(A).

(B) The dedicated property is jointly owned by spouses and upon the death of one spouse, ownership is transferred to the surviving spouse, and the surviving spouse does not petition the director to continue the dedication as provided in section 19-58.1(d)(1)(B).

(C) The property is wholly or partially destroyed or damaged as a result of fire, seismic or tidal wave, volcanic eruption, earthquake, flood waters and wind or rain storm.

The owner may cancel the dedication for the reasons enumerated in paragraph (2)(C) by submitting written notice of the cancellation within sixty days of the damage or destruction. Cancellations shall become effective July 1 of the next tax year, and the property shall be assessed in accordance with section 19-53(a).

(e) The director shall prescribe the form of the petition.

(f) Only renewal petitions will be accepted. Section 19-58.1 shall be repealed upon the final participant in the nonspeculative residential use program being converted as provided in subsection 19-53(g).

(1990, ord 90-137, sec 3; am 1991, ord 91-109, sec 2; ord 91-122, sec 2; am 1997, ord 97-84, sec 1; am 2003, ord 03-103, sec 4; am 2004, ord 04-122, sec 2; am 2008, ord 08-156, sec 3.)

Section 19-58.2. Nonspeculative residential use assessment.

Properties approved by the director for dedication to nonspeculative residential use shall be assessed for real property tax purposes in the following manner:

(a) Property, approved for nonspeculative residential use dedication, shall be assessed for real property tax valuation purposes on its market value as of the assessment date January 1 of the calendar year following the petition approval. This assessment shall be frozen for the dedication period, except for adjustments as provided for in this section.

(b) Upon approval by the director of succeeding dedications by the owner of the same property, the assessed valuation shall continue to be assessed in accordance with the provisions of section 19-58.2(a).

(c) If any improvements are undertaken on the dedicated property, and such improvements increase the market value of the dedicated property, the assessment shall be increased based on the market value of the improvements undertaken, however, the assessed valuation for ensuing tax years shall be determined in accordance with the provisions of section 19-58.2(a).

(d) If any improvements are undertaken on the dedicated property, the owner shall obtain the required building permit for the construction of new or additional improvements or renovations of the dedicated property. Violation of this reporting requirement will result in cancellation of the dedication and activate payment of retroactive taxes and penalties.

(e) In the case where additional dwelling units are constructed or a single-family dwelling unit is renovated or converted into a two or more family dwelling unit all in accordance with article 6, chapter 25, Hawai‘i County Code of 1983, as amended, the dedication shall not be cancelled provided the owners within sixty days of the change submit a written petition to continue the dedication and file the claim for home exemption and the owners would continue to be eligible for the home exemption. If the owner fails to submit the written petition in a timely manner or uses the additional dwelling units or renovated areas for rental or income-producing purposes the dedication shall be cancelled and the retroactive taxes imposed.

(f) If the dedicated property loses the home exemption under which it was dedicated, or if the dedicated property or any portion thereof is sold by way of a conveyance which is subject to conveyance tax under the terms of chapter 247, Hawai‘i Revised Statutes, the dedication shall be deemed breached. Occupancy of a separate living unit by an immediate family member is permissible under this section and is not considered a breach of dedication provided all other provisions are met. For the purpose of this section immediate family is defined as: parents, brothers, sisters, spouses, children, parents-in-law, grandparents, and grandchildren.

(g) Retroactive assessments shall be imposed upon the breach of the dedication. The retroactive assessment shall be calculated as the cumulative difference between the amount that should have been owed without the dedication less the amount actually paid for each of the years deemed to be in breach plus penalty at a rate of ten percent. If the dedicated property is sold, the retroactive assessment for that year shall be calculated as the difference between the dedicated value and the higher of either the actual selling price or the value of the property at its actual use. In the case of properties dedicated to nonspeculative use, notice of assessment as prepared under section 19-27 shall delineate the dedicated value and market value, beginning tax year 1993-94.

(h) Section 19-58.2 shall be repealed upon the final participant in the nonspeculative residential use program being converted as provided in subsection 19-53(g).

(1990, ord 90-137, sec 3; am 1991, ord 91-122, sec 3; am 1997, ord 97-84, sec 1; am 2008, ord 08-156, sec 3.)

Section 19-58.3. Repealed.
(1990, ord 90-137, sec 3; rep 1997, ord 97-84, sec 1.)

Section 19-58.4. Repealed.
(1996, ord 96-71, sec 3; am 1997, ord 97-84, sec 1; rep 2003, ord 03-103, sec 5.)

Article 8. [Former] Repealed.
(1983 CC, c 19, art 8, sec 19-59; rep 1997, ord 97-84, sec 1.)

Article 8. Dedications.

Section 19-59. [Former] Repealed.
(1983 CC, c 19, art 8, sec 19-59; rep 1997, ord 97-84, sec 1.)

Section 19-59. Native forest dedications.

(a) "Native forests" means lands which have sixty percent or greater native species forest cover.
   (1) Native species are defined as those species indigenous to the Hawaiian islands. Indigenous in this context shall mean plants that became established or evolved in the Hawaiian islands without the aid of human beings.
   (2) The forest cover requirement may be met by native species in either the tree layer or the understory layer, or a combination of the two; provided a minimum twenty-five percent of the forest cover shall contain tree cover.

(b) Native forest dedication process.
   (1) An owner who desires to dedicate the land for native forest preservation for a period of twenty years shall petition the director of finance and demonstrate in the petition that the land qualifies as native forest as provided herein. The term "owner" includes lessees of real property whose term extends at least twenty years from the effective date of the dedication.
      (A) Any property three acres or larger within agricultural, residential and agricultural, family agricultural, intensive agricultural, and agricultural project districts, or open zoned districts, which is covered with at least 2.75 intact and contiguous acres of native forest is eligible for dedication as native forest property if it meets the classification requirements of native forest.
      (B) The petition shall be filed with the director of finance by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, the dedication shall be effective on July 1 of the following tax year.

(C) The director of finance shall determine whether or not land qualifies as native forest by using current natural resource or vegetation maps or other acceptable evidence. Other acceptable evidence includes, but is not limited to:

(i) A written affidavit by a recognized professional in the field of natural resources, or

(ii) A finding by a County, State or Federal agency or department with the relevant expertise in the field of natural resources.

If the director's findings are favorable, the petition shall be approved and the land shall be declared dedicated. Approval of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the land to a use other than preservation for a minimum period of twenty years. In order to place prospective buyers on notice of the rollback tax liability, the owner shall, within sixty days of notice of approval, record the dedication in accordance with the procedures of the bureau of conveyances.

(c) Native forest dedication value.

Dedicated native forest land shall be assessed at a preferential per-acre value in its restricted preservation use. In determining the value of lands which are classified native forest, the director shall assign the value of the lowest agricultural use category that the land could qualify for if it were to be put into agricultural use. No preferential value shall be granted to native forest land unless it is dedicated.

(d) Breach of dedication.

The dedication shall be deemed breached and the tax assessment privilege cancelled retroactive to the date of the dedication, or the latest renewal period, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten percent penalty and the native forest classification shall be rescinded, upon any of the following:

(1) Failure of the owner to observe the restrictions on the use of the land; or

(2) The cover of native forest species falls below sixty percent; or

(3) The property is rezoned to a higher use at the owner's request; or

(4) The property is subdivided into parcels of less than three acres; or

(5) A condominium property regime is declared for the property having condominium units with an area equivalent to less than three acres. Each unit shall be treated as a subdivision into lots of like size; or

(6) The dedicated property or any portion thereof is sold by way of a conveyance which is subject to conveyance tax under the terms of chapter 247, Hawai'i Revised Statutes, unless the director of finance submits a notarized affidavit signed by the owner to the bureau of conveyances stating that the land shall continue to be subject to the full requirements of the dedication, including the full penalties and rollback taxes imposed for violation; or

(7) The dedicated property is not maintained according to sound land management practices such that soil erosion is minimized, foreign species are controlled, and the watershed is protected.

(e) Other provisions to the contrary notwithstanding, a portion or portions of a parcel that is being assessed and dedicated as pasture may be taken out of production as part of an approved forest restoration plan set forth in this chapter for the duration of the approved restoration period without breaching the terms of the agricultural use dedication.
   (1) Such a plan indicating the acres and area, as well as the specific forest restoration work to be done, shall be filed with and approved by the director of finance. If the plan is approved, the land shall continue to be given the same pasture assessment.
   (2) The owner shall provide to the director of finance yearly evidence that the forest restoration plan is being implemented, as well as a signed and notarized affidavit by a recognized forestry professional that the restoration plan is likely to succeed within the designated time period. The owner shall continue to fulfill all other requirements of the agricultural assessment, including providing yearly proof that any portion of the parcel not being restored to a native forest, but still being assessed for an agricultural use, continues to be used and maintained substantially and continuously in the approved agricultural use.
   (3) If at the end of the time period designated by the native forest restoration plan, the land meets the requirements of the native forest class described in this chapter, then it shall be classified and rededicated as a native forest. If, at the end of the time period designated in the plan, the land does not meet the requirements of the native forest class, the owner may return the land to its designated use as pasture or it shall be assessed and taxed at market value.

(f) At least one hundred eighty days prior to the cancellation, the department of finance shall notify the owner by mail of such cancellation. The owner may reapply for renewal of the dedication by filing an application with the director on or before September 1 of the twentieth year. The renewal petition shall, in all respects, be processed in the same manner as an original petition. Upon approval of succeeding dedications by the director of finance, the property shall continue to be assessed in accordance with the provisions of this section.

(g) If forest dedicated for native forest preservation is destroyed in whole or in part by fire, hurricane or other disasters, the director may continue the dedication upon submittal and approval of a forest restoration plan as provided in this section.

(h) The owner may appeal a petition that has been disapproved as in the case of an appeal from an assessment.

(2003, ord 03-103, sec 6.)

Section 19-60. [Former] Repealed.

(1983 CC, c 19, art 8, sec 19-60; rep 1997, ord 97-84, sec 1.)

Section 19-60. Commercial agricultural use dedication.

(a) A special land reserve is established to enable the owner of any parcel of land, or lessee of a recorded agricultural lease with a minimum of five years remaining on the lease at time of petition, to dedicate the land for a specific commercial agricultural use dedication, and to have the land assessed its value in such use for a period of ten years, or in the case of a recorded agricultural lease the term of the lease up to ten years, provided:

(1) The land dedicated for commercial activity must be used on a continuous and regular basis for intensive agriculture, orchards, feed crops and fast rotation forestry or pasture and slow rotation forestry and have a minimum lot size per farm operation for that dedicated category of commercial activity as provided for in the administrative rules and regulations of the department; and

(2) The land is within the County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural, agricultural project district, or any other County zoned district meeting with the approval of the director of planning.

(b) The owner of land under the twenty-year agricultural dedication at July 1, 2003 may continue to be assessed at fifty percent of its agricultural use value and shall be subject to the conditions and provisions of the effective commercial agricultural use dedication.

(c) Determining agricultural use value.

(1) In determining the value of lands which are classified and used for commercial agriculture use, consideration shall be given to rent, productivity, nature of actual commercial agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of persons who may be considered to have special knowledge of land values.

(2) Four general agricultural categories shall be used in determining the value of lands which are dedicated for commercial agriculture:

(A) "Intensive agriculture," which includes such crops as vegetables, ginger, taro, herbs, nurseries, foliage, cut and potted flowers, piggeries, dairy, poultry, feedlots, aquaculture, honey and honeybees.

(B) "Orchards," which includes such crops as macadamia nuts, guava, banana, papaya, avocado, grapes, passion fruit, coffee, citrus, cacao, pineapple and tropical specialty fruits.

(C) "Feed crops and fast rotation forestry," which includes forage crops, seed crops, cane, short rotation forestry, biomass, grasses, etc.

(D) "Pasture and slow rotation forestry," which includes pasture and longer rated forestry.

(3) Lands classified as tree farm property pursuant to chapter 186, Hawai'i Revised Statutes, shall be considered for classification and valuation as agricultural.

(4) The portion of land that is not dedicated for commercial agriculture use shall be assessed based on the proportional market value of the total property.

(5) A farm dwelling site shall be assessed at the highest commercial agricultural use value, provided that the maximum farm dwelling site area to be assessed at the highest commercial agriculture use value shall not exceed one-fourth acre.

(d) Commercial agricultural use dedication petition.

(1) If any owner desires to dedicate the owner's land for a commercial agricultural use and to have the land taxed as its assessed value in this use, the owner shall so petition the director of finance and declare in the petition that the land can best be used for the purpose for which the owner requests permission and that if the petition is approved the land will be used for this purpose. The director may require evidence of commercial agricultural use in such form and at such times as provided for in the administrative rules and regulations of the department.

(2) The director shall prescribe the form of the petition.

(3) The petition shall be filed with the director of finance by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, dedication shall be effective on July 1 of the following tax year.

(4) The petition for commercial agricultural use dedication must be signed by all owners of the land being dedicated.

(5) A recorded lessee of the land with a term of five or more years remaining from the date of the petition and who is responsible for payment of the real property tax shall also be deemed an owner of the land within these provisions.

(6) Action by director on petition.

(A) Upon receipt of a petition as provided above, the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the intended use. The finding shall include and be based upon the productivity ratings of the land in those uses for which it is best suited, a study of the ownership, size of operating unit, the present use of surrounding similar lands and other criteria as may be appropriate.

(B) The director shall also make a finding of fact as to whether the intended use is in conflict with the overall development plan of the State and County; provided that for lands in a zoned district other than County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural or agricultural project district, the director shall make further findings respecting the economic feasibility of the intended use of the land.

(C) If all findings are favorable, the director shall approve the petition and declare the land to be dedicated.

(D) In order to place prospective buyers on notice of the rollback liability, the petitioner shall record the dedication in accordance with the procedures of the bureau of conveyances within ninety days of notice of approval.

(e) Approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the land to a use other than commercial agriculture for a minimum period of ten years, unless otherwise provided by this chapter, subject to cancellation or renewal as follows:
   (1) At least one hundred eighty days prior to any cancellation or termination, the department of finance shall notify the owner by mail of such cancellation or termination. The owner shall reapply for renewal of the dedication by filing an application with the director on or before September 1 of the last year of dedication. The renewal petition shall, in all respects, be processed similarly to an original petition. Upon approval by the director of succeeding dedications, the property shall continue to be assessed in accordance with the provisions of the dedication.
   (2) In the case of a change in zoning not as a result of a petition by any property owner or lessee such that the owner's land is placed within any zoned district other than a County zoned district of agricultural, residential and agricultural, family agricultural, intensive agricultural, or agricultural project district, the dedication may be cancelled within sixty days of the change by the owner.
   (3) Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director.

(f) Changing between commercial agricultural categories.
   (1) If the owner desires to change from a specific commercial agricultural category to another commercial agricultural category, the owner shall so petition the director of finance and declare in the petition that:
      (A) The owner's land can best be used for a commercial agricultural activity other than that for which the petition was originally approved; and
      (B) The owner will use the land for that new commercial agricultural activity if the petition if approved.
   (2) If an owner is permitted to change the use as provided in this subsection, the owner shall be allowed up to twenty-four months from the effective date of the petition to convert to the new commercial agricultural category. This conversion must be completed prior to the end of the dedication period.
   (3) The petitioner shall submit progress reports of the petitioner's efforts in converting from one commercial agricultural category to another commercial agricultural category to the director of finance by the anniversary date of the petition approval and yearly, thereafter, as long as such conversion period remains.
   (4) If the owner fails to make the conversion within the specified time limit, the owner will be subject to the taxes and penalties provided herein.
   (5) Any other provision to the contrary notwithstanding, an approved change in use as provided herein shall not alter the original dedication period.

(g) Breach of dedication; deferred or rollback taxes; penalties and interest.

(1) A deferred or rollback tax shall be imposed on the owner of commercial agricultural use dedicated lands upon any of the following:

(A) Failure of the owner to observe any restriction, condition, or provision on the use of the land; or

(B) If the dedicated property or any portion thereof is sold by way of a conveyance which is subject to conveyance tax under the terms of chapter 247, Hawaiʻi Revised Statutes, unless a notarized affidavit is signed by the owner stating that the land will continue to be subject to the full requirements of the dedication including any penalties for violation. The director shall record the notarized affidavit with the bureau of conveyances.

(2) The deferred or rollback tax shall commence from the date the failure to observe the restriction, condition or provision, or the property's conveyance retroactive to the date the assessment was made pursuant to subsection (3)(F) of this section but for not more than ten years.

(A) Failure to observe the restrictions on the use means failure for a period of six consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period; provided that the petition by the owner for a change in use as provided in subsection (f), and the owner's subsequent change in use of such dedicated lands, shall not be deemed to constitute a failure of the owner to observe the restrictions on the use.

(B) Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than the commercial agricultural category shall be taxed as provided by this subsection.

(3) Calculating deferred or rollback taxes.

(A) The deferred or rollback tax shall be based on the difference between the assessed market value at highest and best use and the commercial agricultural use of the land at the rate applicable for the respective years.

(B) All differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be due and payable with a ten percent penalty.

(C) If the owner of dedicated land breaches a condition of the dedication before its completion, deferred or rollback taxes shall be imposed on the subject parcel pursuant to subparagraph (F) below, retroactive from the end of the tax year in which the breach occurs.

(D) In any case in which deferred or rollback taxes are imposed after successful completion of an agricultural dedication period, the deferred or rollback taxes shall be retroactive only to the end of the completed dedication period, and shall not be imposed for any time covered by a successfully completed agricultural dedication period.

(E) In cases involving a breach of a ten-year dedication, or a rollback period of ten or fewer years for breach of a twenty-year dedication, the rollback taxes under this section shall be for a maximum total of ten years, including both the breached dedication rollback period and any period of nondedicated agricultural use assessment subject to rollback. Rollback taxes for any breach of dedication affecting more than ten years under a twenty-year dedication shall not exceed ten years.

(F) Deferred or rollback tax schedule.

(i) Breach of the restrictions on use within five years of the dedication shall result in a rollback to the date of the dedication.

(ii) Breach of the restrictions on use within six years of the dedication shall result in a rollback of four years from the date of the breach.

(iii) Breach of the restrictions on use within seven years of the dedication shall result in a rollback of three years from the date of the breach.

(iv) Breach of the restrictions on use within eight or nine years of the dedication shall result in a rollback of two years from the date of the breach.

(4) The additional taxes and penalties due and owing shall be a paramount lien upon the property as provided for by this chapter.

(h) The director may cancel a dedication without rollback taxes or penalties in the event of any of the following:

(1) A recognized natural disaster beyond the farmer's control; or

(2) The land can no longer be used for the dedicated agricultural use; or

(3) The death or severe disability of the principal farmer such that the farm operation cannot continue. Corporations and partnerships are not eligible for this death or severe disability exemption.

(2004, ord 04-143, sec 5; am 2005, ord 05-30, sec 2.)

Section 19-61. Repealed.

(1983 CC, c 19, art 8, sec 19-61; rep 1997, ord 97-84, sec 1.)

Section 19-62. Repealed.

(1983 CC, c 19, art 8, sec 19-62; rep 1997, ord 97-84, sec 1.)

Section 19-63. Repealed.

(1983 CC, c 19, art 8, sec 19-63; rep 1997, ord 97-84, sec 1.)

Section 19-64. Repealed.
(1983 CC, c 19, art 8, sec 19-64; rep 1997, ord 97-84, sec 1.)

Section 19-65. Repealed.
(1983 CC, c 19, art 8, sec 19-65; rep 1997, ord 97-84, sec 1.)

Section 19-66. Repealed.
(1983 CC, c 19, art 8, sec 19-66; rep 1997, ord 97-84, sec 1.)

Article 9. Nontaxable Property; Assessment.

Section 19-67. Nontaxable property.
For purposes of accountability, the director of finance shall assess at the nominal sum of $100 each parcel of real property which is completely exempt from taxation.
(1983 CC, c 19, art 9, sec 19-67; am 1990, ord 90-138, sec 3; am 1997, ord 97-84, sec 1.)

Article 10. Exemptions.

Section 19-68. Claims for certain exemptions.
(a) (1) None of the exemptions from taxation granted in sections 19-76 to 19-78, 19-89.2 and 19-89.5 shall be allowed in any case, unless the claimant shall have filed with the department of finance, on or before December 31 preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.
(2) The exemption from taxation granted for disabilities in sections 19-73 to 19-75 shall be allowed from the next tax payment date, provided that the claimant shall have filed a claim for the disability exemption along with a copy of the physician's certificate of disability with the department on or before June 30 for the first half payment or December 31 for the second half payment on such form as shall be prescribed by the department.
(3) The exemption from taxation granted for principal home in section 19-71 shall be allowed from the next tax payment date, provided that the claimant shall have filed a claim for the home exemption on or before December 31 for the first half payment or June 30 for the second half payment on such form as shall be prescribed by the department.
(b) A claim for exemption once allowed shall have continuing effect until:
(1) The exemption is disallowed;
(2) The assessor voids the claim after first giving no less than thirty days' notice (either to the claimant or to all claimants in the manner provided for by ordinance), that the claim or claims on file will be voided on a certain date;
(3) The five-year period for exemption, as allowed in section 19-78, expires; or
(4) The claimant makes the report required by subsection (d).

(c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) may be accompanied by or combined with a new claim.

(d) Any person who has been allowed an exemption under sections 19-71, 19-73 to 19-78, 19-89.2 or 19-89.5 has a duty to report to the assessor within thirty days after that person ceases to qualify for such an exemption for one of, but not limited to, the following reasons:

(1) That person ceases to be the owner, lessee, or purchaser of the exempt premises;

(2) A change in the facts previously reported has occurred concerning the occupation, use, or renting of the premises, buildings or other improvements thereon; or

(3) Some other change in status has occurred which affects the exemption.

Such report shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4). The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable as provided for by this chapter, the fiduciary shall make the report required by this subsection within thirty days after the fiduciary's assumption of fiduciary duties or within the time otherwise required, whichever is later.

Any person who has a duty of making a report as required by this subsection, who within the time required fails to make a report, shall be liable for a civil penalty. The amount of the penalty shall be $100. The penalty shall be recovered as provided for by ordinance. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be collected as property taxes and shall be a lien on the property as provided for by ordinance.

(e) In addition to any penalty set forth in article 10, any individual who files a fraudulent claim for exemption or attests to any false statement, with the intent to defraud or to evade the payment of taxes or any part thereof, or who in any manner intentionally deceives or attempts to deceive the department of finance, shall be fined $1,000. This fine shall attach as a paramount lien against the property for which the claim for exemption is filed.

(f) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, the assessor may at any time within two years of January 1 of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided for by ordinance for the assessment of omitted property;

provided, that if an assessment or addition under this subsection is made after April 9 preceding the tax year, the taxes on the amount of value involved in the assessment or addition so made shall be made a lien as provided for by this chapter by recording a certificate setting forth the amount of tax involved, penalties, and interest.

(g) In any case of recordation of a certificate for the amount of the civil penalty under subsection (d), or for the amount of tax, penalties, and interest assessed or added under subsection (f), a person shall be deemed to have an interest arising before the recordation of the certificate only if and to the extent that a person acquired the interest in good faith and for a valuable consideration without notice of a violation of the requirements of subsection (d) having occurred.

(1983 CC, c 19, art 10, sec 19-68; am 1987, ord 87-116, sec 2; am 1990, ord 90-138, sec 4; am 1994, ord 94-24, sec 1; am 1995, ord 95-83, sec 2; am 1997, ord 97-84, sec 1; am 2004, ord 04-123, sec 2; am 2008, ord 08-11, secs 3 and 4.)

Section 19-69. Repealed.

(1983 CC, c 19, art 10, sec 19-69; rep 1997, ord 97-84, sec 1.)

Section 19-70. Assignment of partial exemptions.

Unless otherwise specifically provided, allowable exemptions shall be applied first to the value of the buildings on the land and the remainder of the unused exemption, if any, to the value of the land.

(1983 CC, c 19, art 10, sec 19-70; am 1997, ord 97-84, sec 1.)

Section 19-71. Homes.

(a) Real property owned and occupied as a principal home shall be exempt to the following extent from property taxes:
   (1) Totally exempt where the value of the property is not in excess of $40,000;
   (2) Where the value of the property is in excess of $40,000, the exemption shall be the amount of $40,000.
   Provided that:
      (A) No such exemption shall be allowed to any corporation, co-partnership, or company;
      (B) The exemption shall not be allowed on more than one home for any one taxpayer and that such taxpayer shall certify under penalty of perjury that such taxpayer has no other home exemption in any other jurisdiction;
      (C) The taxpayer has acquired said home by a recorded deed;
      (D) A husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one exemption, to be apportioned equally between each of their respective homes;

(E) A person living on premises, a portion of which is used for commercial purposes, except as provided in subsection (b) or which is legally permitted as a home occupation in accordance with the zoning code, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home;

(F) A person living on the premises, a portion of which is used as residential housing rental for a term of not less than six months and legally permitted by all codes, shall be entitled to an exemption, except as provided in subsection (b); and

(G) In the case of a lease of Hawaiian homestead lands, where either a husband or wife is of non-Hawaiian descent, either spouse shall be entitled to the home exemption in the same manner as if either spouse was considered the owner thereof, provided proof of marriage is submitted to the director of finance.

(b) The use of a portion of any real property, building or structure for the purpose of any agricultural use permitted pursuant to section 205-2(d) or 205-4.5, Hawai‘i Revised Statutes, shall not affect the exemptions provided for by this section.

(c) Where two or more individuals by life estate and remainder, jointly, by the entirety, or in common own or lease land on which their homes are located, each home, if otherwise qualified for the exemption granted by this section, shall receive the exemption. If a portion of land held by life estate and remainder, jointly, by the entirety, or in common by two or more individuals is not qualified to receive an exemption, such disqualification shall not affect the eligibility for an exemption or exemptions of the remaining portion.

(d) A taxpayer who is sixty years of age or over and who qualifies under subsection (a) shall be entitled to one of the following home exemptions:

Age of Taxpayer	Exemption Amount
60 years of age or over but not 70 years of age or over	$80,000
70 years of age or over	$100,000

For the purpose of this subsection, a husband and wife who own property by life estate and remainder, jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) has been granted shall be entitled to the applicable home exemption set forth above when at least one of the spouses qualifies each year for the applicable home exemption.

(e) For purposes of this section, the term “real property owned and occupied as a principal home” is defined as the place where an individual has a true, fixed, permanent home and principal establishment, and to which place the individual

has, whenever absent, the intention of returning. It is the place in which an individual has voluntarily fixed habitation, not for mere special, temporary, or vacation purpose, but with the intention of making a permanent home.

(1) Four elements are necessary for real property to be considered a "principal home."
   (A) The owner has no other home exemption or principal home in any other jurisdiction;
   (B) The owner maintains the principal home residence within the County;
   (C) The owner's actual physical occupancy of the principal home within the County; and
   (D) The owner has filed a Hawaiʻi state income tax return as a full time resident for each fiscal year that the exemption is sought, or:
      (i) In the case of an owner who has not earned sufficient income to require the filing of a Hawaiʻi state income tax return, the owner may seek a conditional waiver of this requirement from the director by certifying that the only reason the waiver is sought is insufficient income to require the filing of a Hawaiʻi state income tax return, and by providing evidence to the satisfaction of the director that the owner is a full time resident; or
      (ii) In the case of an owner who relocated to the County of Hawaiʻi and has not yet had the opportunity to file a Hawaiʻi state income tax return, but intends to file a Hawaiʻi state income tax return at the next tax return filing deadline, that owner may seek from the director a conditional waiver of this requirement by certifying that the owner shall file a Hawaiʻi state income tax return within the next twelve months. In the event the owner does not file a Hawaiʻi state income tax return within the twelve month period, the owner shall be charged the amount of tax that was exempted and shall not be eligible to apply for the exemption under this section for one year.

(2) Maintaining a principal residence may be evidenced by one or more of the following:
   (A) Occupancy of the home in the County for more than two hundred calendar days of the calendar year for which the exemption is sought;
   (B) Registering to vote in the County;
   (C) Being stationed in the County under military orders of the United States and must claim residency only in Hawaiʻi; or
   (D) Possession of any of the following with a reported address within the County of Hawaiʻi:
      (i) Valid Hawaiʻi driver's license.
      (ii) Hawaiʻi state identification card.
      (iii) Resident aliens possessing a valid resident alien card ("green card") must claim residency only in Hawaiʻi.

(iv) Completed and signed copy of the owner's Hawai'i County voter registration application, with only the last four digits of the owner's social security number visible.

(v) U.S. Internal Revenue Service tax return with only the last four digits of the social security number visible.

The director of finance may require documentation of the above or additional evidence of residence in the County from a property owner applying for an exemption or from an owner as evidence of continued qualification for an exemption. Failure to respond fully to the director's request, or in the event the director receives satisfactory evidence that a claimant occupies a permanent home outside the County or there is documented evidence the claimant resides outside of the County for more than one hundred sixty-five calendar days, shall be deemed grounds for denying a claim for exemption or disallowing an existing exemption.

(f) Real property qualifying under subsection (a) shall be entitled to an additional exemption of twenty percent of the assessed value of the property not to exceed an additional $80,000.

(1983 CC, c 19, art 10, sec 19-71; am 1990, ord 90-138, sec 5; am 1997, ord 97-84, sec 1; am 2004, ord 04-123, sec 3; am 2006, ord 06-147, sec 3; am 2014, ord 14-135, sec 2.)

Section 19-72. Home, lease, lessees defined.

For the purpose of section 19-71 the word "home" includes:

(1) The entire homestead when it is occupied by the taxpayer as such;

(2) A residential building on land held by the lessee or the lessee's successor in interest under a lease for a term of ten years or more for residential purposes and owned and used as a residence by the lessee or the lessee's successor in interest, where the lease and any extension, renewal, assignment, or agreement to assign the lease, have been duly entered into and recorded by the respective date set forth in subsection 19-68(a)(3), and whereby the lessee agrees to pay all taxes during the term of the lease;

(3) An apartment which is a living unit (held under a proprietary lease by the tenant thereof) in a multi-unit residential building on land held by a cooperative apartment corporation (of which the proprietary lessee of such living unit is a stockholder) under a lease for a term of ten years or more for residential purposes and which apartment is used as a residence by the lessee-stockholder, where the lease and any extension or renewal have been duly entered into and recorded by the respective date set forth in subsection 19-68(a)(3), and whereby the lessee-stockholder agrees to pay all taxes during the term of the lease;

(4) An apartment in a multi-unit apartment building which is occupied by the owner of the entire apartment building as the owner's residence;

(5) That portion of a residential duplex and that portion of land appurtenant to the duplex which are occupied by the owner of the duplex and land as the owner's residence;

(6) An apartment which is a living unit (held under a lease by the tenant thereof) in a multi-unit residential building used for retirement purposes under a lease for a term to last during the lifetime of the lessee and the lessee's surviving spouse and which apartment is used as a residence by the lessee and the lessee's surviving spouse, and where the apartment unit reverts back to the lessor upon the death of the lessee and the lessee's surviving spouse, and where the lease has been duly entered into and recorded by the respective date set forth in subsection 19-68(a)(3), and whereby the lessee agrees to pay all taxes during the term of the lease.

As used in section 19-71, in the first paragraph of section 19-48 and in section 19-68, the word "lease" shall be deemed to include a sublease, and the word "lessee" shall be deemed to include a sublessee.

(1983 CC, c 19, art 10, sec 19-72; am 1997, ord 97-84, sec 1; am 2004, ord 04-123, sec 4.)

Section 19-73. Homes of totally disabled veterans.

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

(1) That such total disability was incurred while on duty as a member of the armed forces of the United States, and that the department of finance may require proof of total disability;

(2) That the home exemption shall be granted only as long as the veteran claiming exemption remains totally disabled; and

(3) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion used exclusively as a home; provided, that this exemption shall not apply to any structure, including the land thereunder, which is used for commercial purposes.

For the purposes of this section, the word "home" includes the entire homestead when it is occupied by a qualified totally disabled veteran as a home; houses where the disabled veteran owner sublets not more than one room to a tenant; and premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to January 1 preceding the tax year for which exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.

(1983 CC, c 19, art 10, sec 19-73; am 1997, ord 97-84, sec 1.)

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

Any person who has been declared by authority of law to be a person affected with Hansen's disease in the communicable stage and is admitted to a hospital for isolation treatment, shall, so long as that person is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, shall, so long as that person remains or continues under temporary release, be exempted except for the minimum tax from real property taxes on all real property owned by the person on the date when the person was declared to be a person so affected with Hansen's disease, up to, but not exceeding, a taxable value of $50,000.
(1983 CC, c 19, art 10, sec 19-74; am 1997, ord 97-84, sec 1.)

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

(a) Definitions as used in this chapter:
   (1) "Blind" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees, as certified under this section.
   (2) "Deaf" means a person whose average loss in the speech frequencies (five hundred to two thousand Hertz) in the better ear is ninety-two decibels, or such other level as may be updated by American National Standards Institute (A.N.S.I.), or worse, as certified under this section.
   (3) "Totally disabled" means a person who is totally disabled, either physically or mentally, and who, except for such total disability, would be able to engage in substantial gainful business or occupation, as certified under this section.

(b) Any person who is qualified for the homeowner exemption under section 19-71 and who is certified as blind, deaf, and/or totally disabled as defined in this section shall be exempt from real property taxes on real property owned and occupied as the principal home by the person up to, but not exceeding a taxable value of $50,000. Except that no exemption shall apply to any minimum tax payable under section 19-90(e) of this chapter.

(c) The disability shall be certified by: (1) a physician licensed under chapter 453, Hawai'i Revised Statutes, (2) a qualified out-of-state physician who is currently licensed to practice in the state in which the physician resides, or (3) a commissioned medical officer in the United States military or public health service, engaged in the discharge of one's official duty. Certification for a person who is blind or deaf may also be made by a licensed optometrist or licensed audiologist as the case may be. Certification shall be on forms prescribed by the department of finance. For disabled veterans, the proof of disability submitted for section 19-73(1) from the Veterans Administration, may be substituted for the required certification. Official documentation from the Social Security Administration may also be substituted for the required certification.

(d) Any person who is certified as being temporarily blind, deaf, and/or totally disabled shall submit an annual certification or recertification, as required by this section. No exemption shall be allowed unless the required certification or recertification is submitted.
(e) Any person who qualifies for an exemption under this section shall be allowed to apply for only one of the exemptions established in this section.
(f) In the case of a lease of Hawaiian homestead land, where either a husband or wife is of non-Hawaiian descent, either spouse shall be entitled to the blind, deaf, or totally disabled exemption in the same manner as if either spouse was considered the owner thereof, provided proof of marriage is submitted to the director of finance.

(1983 CC, c 19, art 10, sec 19-75; am 1989, ord 89-150, sec 2; am 1990, ord 90-152, sec 2; am 1997, ord 97-84, sec 1; am 2001, ord 01-73, sec 1; am 2009, ord 09-27, sec 3; am 2014, ord 14-127, sec 1.)

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

Every association or society organized and operating under chapter 433, Hawaiʻi Revised Statutes,* solely as a nonprofit medical indemnity or hospital service association or society or both shall be, from the time of such organization, exempt except for the minimum tax from real property taxes on all real property owned by it.
(1983 CC, c 19, art 10, sec 19-76; am 1997, ord 97-84, sec 1.)

*** Editor's Note:** Chapter 433, Hawaiʻi Revised Statutes, was repealed and its provisions incorporated into chapter 432.

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

(a) There shall be exempt except for the minimum tax from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) and (c), an exemption for the same property may not also be claimed under the other of these subsections. Claimants shall submit to the director of finance documentation from the Internal Revenue Service verifying their exemption status.
(b) This subsection applies to property owned in fee simple, leased, or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.
Exemption is allowed by this subsection to the following property:
    (1) Property used for school purposes including:
        (A) Kindergartens, grade schools, junior high schools, and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, section 302A-1132, Hawaiʻi Revised Statutes, or which are for preschool children who have attained or will

attain the age of five years on or before December 31 of the school year, provided that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met;

(B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.

(2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the State department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.

(3) Property used for church purposes including incidental activities, parsonages, and church grounds, the property exempt except for the minimum tax from real property taxes being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4)).

(4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose. Property used as individual or family burial plots shall be exempted for the portion that is actually used for such purposes.

(5) Property dedicated to public use by the owner, which dedication has been accepted by the State or County, reduced to writing, and recorded in the bureau of conveyances.

(6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; property owned by any association or league of credit unions chartered by the United States or the State, the sole purpose of which is to promote the development of credit unions in the State. Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented, or otherwise let to another, if such leasing, renting, or letting is to a nonprofit association, organization, or corporation.

(c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either:
   (1) A corporation, society, association, or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association, or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or
   (2) A corporation chartered by the United States under title 36, United States Code, as a patriotic society, or
   (3) A corporation, society or association qualifying for exemption from federal income tax under section 501(c)(3) where the property used for charitable purposes which are of a community character building, social service, or educational nature, or
   (4) Senior citizen housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959 as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as amended by the Housing and Urban Development Act of 1970.

(d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.

(e) The term "for nonprofit purposes," as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private shareholder, member, or trust beneficiary. "Monetary gain" includes without limitation any gain in the form of money or money's worth. "Economic benefit" includes without limitation any benefit to a person in the course of business, trade, occupation, or employment.

(1983 CC, c 19, art 10, sec 19-77; am 1987, ord 87-116, sec 3; am 1997, ord 97-84, sec 1; am 2005, ord 05-164, sec 2.)

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

All real property in the County actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper shall be exempt except for the minimum tax from property taxes for a period of five years from the first day of January following commencement of construction of a plant or plants on the property for such purpose.
(1983 CC, c 19, art 10, sec 19-78; am 1997, ord 97-84, sec 1.)

Section 19-79. Crop shelters.

Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property. Such exemption shall continue only as long as the structure is maintained in good condition.
(1983 CC, c 19, art 10, sec 19-79; am 1997, ord 97-84, sec 1.)

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

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

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

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

(c) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's land for a minimum period of ten years. At least one hundred eighty days prior to the cancellation, the department of finance shall notify the owner by mail of such cancellation. The owner of a dedicated property must renew the dedication on or before September 1 of the tenth year of the original dedication or any subsequent renewal period in order to continue the dedication for the next ten years.

(d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of the land shall cancel the special tax exemption privilege retroactive to the date of the original dedication, or to the latest renewal date whichever is later, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of the land shall be payable together with penalty of ten percent from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve consecutive months to use, improve, and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.

(e) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year and shall be approved or disapproved by December 15 of such year. If approved, the dedication shall be effective July 1 of the following tax year.

(f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(g) The director shall make and adopt necessary rules and regulations including such rules and regulations governing minimum areas which may be dedicated for the improvement and maintenance of such areas.

(h) "Landscaping" means lands which are improved by landscape architecture, cultivated plantings, or gardening.

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

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

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

(1983 CC, c 19, art 10, sec 19-80; am 1997, ord 97-84, sec 1.)

Section 19-81. [Former] Repealed.

(1983 CC, c 19, art 10, sec 19-81; rep 1997, ord 97-84, sec 1.)

Section 19-81. Water tanks.

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

(2005, ord 05-165, sec 3.)

Section 19-82. Alternate energy improvements, exemption.

(a) The value of all improvements in the County (not including a building or its structural components, except where alternate energy improvements are incorporated into the building, and then only that part of the building necessary to such improvement) actually used for an alternate energy improvement shall be exempted from the measure of the taxes imposed by this article.

(b) As used in this section "alternate energy improvement" means any construction or addition, alteration, modification, improvement, or repair work undertaken upon or made to any building which results in:

(1) The production of energy from a source, or uses a process which does not use fossil fuels, nuclear fuels, or geothermal source. Such energy source may include, but shall not be limited to, solid wastes, wind, solar, or ocean waves, tides, or currents.

(2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation.

(c) Alternate energy production or energy by-products transferred, marketed, or sold on a commercial basis shall not qualify for exemption under the provisions of this section. Provided further, that alternate energy improvements used primarily for personal consumption and producing excess energy incidental to personal consumption may transfer, market, or sell such excess energy produced and continue to qualify for the exemption as provided for by the provisions of this section; however, the transfer, marketing, or sale shall be limited to less than twenty-five percent of the total energy output produced by such improvements. Nuclear fission and geothermal energy sources shall be excluded from the provisions of this section.

(d) Application for the exemption provided by this section shall be made with the director of finance on or before December 31, preceding the tax year for which the exemption is claimed, except that no claim need be filed for the exemption of solar water collections, heaters, heat pumps and similar devices. The director of finance may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption made under this section and may adopt rules and regulations to implement this section.

(1983 CC, c 19, art 10, sec 19-82; am 1983, ord 83-57, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-83. Repealed.

(1983 CC, c 19, art 10, sec 19-83; rep 1997, ord 97-84, sec 1.)

Section 19-84. Public property, etc.

The following real property shall be exempt from taxation:

(1) Real property belonging to the United States, to the State, or to the County; provided, that real property belonging to the United States shall be taxed upon the use or occupancy thereof as provided in section 19-85, and there shall be a tax upon the property itself if and when the Congress of the United States so

permits, to the extent so permitted and in accordance with any conditions or provisions prescribed in such act of Congress; provided, further, that real property belonging to the State or the County, or belonging to the United States and in the possession, use, and control of the State, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:

(A) Property held on January 1 preceding the tax year under an agreement for its conveyance by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made;

(B) Property held on January 1 preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided for by this chapter so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them;

(C) Property held under a government lease commencing, after January 1 preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after January 1 preceding the tax year, shall be assessed as omitted property as provided for by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of the taxes as is proportionate to the remainder of the tax year;

(D) Property where the occupancy by the tenant for commercial purposes has continued for a period of one year or more, whether the occupancy has been on a permit, license, month-to-month tenancy, or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and the property shall be assessed in the manner provided in subparagraphs (B) and (C) of this paragraph for the assessment of properties held under a government lease; provided that the property occupied by the tenant solely for residential purposes on a month-to-month tenancy shall be excluded from this paragraph;

(E) In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, under a lease for a term of one year or more, the tax shall be assessed to the tenant upon so much of the value of the entire real property as the floor space occupied by the tenant proportionately bears to the total floor space of the structure or building;

For the purposes of subdivisions (B) and (C) of this subsection: "Lease" means any lease for a term of one year or more or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation, or

termination reserved therein or provided for thereby. Whenever a lease is such that the highest and best use cannot be made of the property by the lessee, the measure of the tax imposed on such property pursuant to subdivisions (B) and (C) shall be its fee simple value upon consideration of the highest and best use which can be made of the property by the lessee.

Provided, further, that real property belonging to the United States, even though not in the possession, use, and control of the State, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:

(i) Property held on January 1 preceding the tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien, or interest of the United States.

(ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after January 1 preceding the tax year, shall be assessed as omitted property as provided by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of such taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien, or interest of the United States.

(2) Real property under lease to the State or the County under which lease the lessee is required to pay the taxes upon such property;

(3) Subject to section 101-39(B), Hawai'i Revised Statutes, any real property in the possession of the State or County which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or County; provided the fact of such possession has been certified to the director as provided by section 101-36 or 101-38, Hawai'i Revised Statutes, or is certified not later than December 31 preceding the tax year for which such exemption is claimed;

(4) Real property with respect to which the owner has granted to the State or County a right-of-entry and upon which the State or County has entered and taken possession under the authority of the right-of-entry with intention to acquire the fee simple estate therein and to devote the real property to public use; provided the State or County shall have, prior to December 31 preceding the tax year for which the exemption is claimed, certified to the director the date upon which it took possession;

(5) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance establishing setback lines thereon; provided, that in order to secure the exemption the person claiming it shall annually file between December 15 and December 31 preceding the applicable tax year a sworn written statement with the director describing the real property in detail and setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes the owner will not make use of the land in any way whatsoever during the ensuing year. Any person who has secured such exemption who violates the terms of the agreement shall be fined twice the amount of the tax which would be assessed upon the land but for such exemption;

(6) Real property exempted by any laws of the United States which exemption is not subject to repeal by the council; and

(7) Any other real property exempt by law.

(1983 CC, c 19, art 10, sec 19-84; am 1997, ord 97-84, sec 1.)

Section 19-85. Lessees of exempt real property.

(a) When any public real property which for any reason is exempt from taxation is leased to and used or occupied by a private person in connection with any business conducted for profit, such use or occupancy shall be assessed and taxed in the same amount and to the same extent as though the lessee were the owner of the property and as provided in subsection (b), provided, that:

(1) The foregoing shall not apply to the following:

(A) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed; or

(B) Any property or portion thereof taxed under any other provision of this chapter to the extent and for the period so taxed.

(2) The term "lease" shall mean any lease for a term of one year or more, or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation, or termination reserved therein or provided for thereby.

(3) The assessment of the use or occupancy shall be made in accordance with the highest and best use permitted under the terms and conditions of the lease.

(b) The tax shall be assessed to and collected from such lessee as nearly as possible in the same manner and time as the tax assessed to owners of real property, except that the tax shall not become a lien against the property. In case the use or occupancy is in effect on January 1 preceding the tax year, the lessee shall be assessed for the entire year but adjustments of the tax so assessed shall be made in the event of the termination of the use or occupancy during the year so that the lessee is required to pay only so much of the tax as is proportionate to the portion of

the tax year during which the use or occupancy is in effect, and the director is hereby authorized to remit the tax due for the balance of the tax year. In case the use or occupancy commences after January 1 preceding the tax year, the lessee shall be assessed for only so much of the tax as is proportionate to the period that the use or occupancy bears to the tax year.

The assessment of the use or occupancy of real property made under this section shall not be included in the aggregate value of taxable realty for the purposes of section 19-90 but the council, at the time that it is furnished with information as to the value of taxable real property, shall also be furnished with information as to the assessments made under this section, similarly determined but separately stated.

If a use or occupancy is in effect on January 1 preceding the tax year, the assessment shall be made and listed for that year and the notice of assessment shall be given to the taxpayer in the manner and at the time prescribed by this chapter, and when so given, the taxpayer, if deemed aggrieved, may appeal as provided for by this chapter; if a use or occupancy commences after January 1 preceding the tax year or if for any reason an assessment is omitted for any tax year, the assessment shall be made and listed and notice thereof shall be given in the manner and at the time prescribed by this chapter, and an appeal from an assessment so made may be taken as provided by this chapter.

(1983 CC, c 19, art 10, sec 19-85; am 1997, ord 97-84, sec 1.)

Section 19-86. Property of the United States leased under the National Housing Act.

Real property belonging to the United States leased pursuant to title VIII of the National Housing Act, as amended or supplemented from time to time:

(1) Shall not be taxed under this chapter upon the lessee's interest or any other interest therein, except as provided in paragraph (2).

(2) Shall be taxed under this chapter to the extent of and measured by the value of the lessee's interest in any portion of the real property (including land and appurtenances thereof and the buildings and other improvements erected on or affixed on the same) used for, or in connection with, or consisting in, shops, restaurants, cleaning establishments, taxi stands, insurance offices, or other business or commercial facilities. The tax shall be assessed to and collected from the lessee. The assessment of such property shall not impair, and shall be so made as to not impair, any right, title, lien, or interest of the United States.

(1983 CC, c 19, art 10, sec 19-86; am 1997, ord 97-84, sec 1.)

Section 19-87. Exemption for low and moderate-income housing.

(a) For the purposes of this section, "nonprofit or limited distribution mortgagor" means a mortgagor who qualifies for and obtains mortgage insurance under sections 202, 221(d)(3), or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.

(b) Real property used for a housing project which is owned and operated by a nonprofit or limited distribution mortgagor or which is owned and operated by a person, corporation or association regulated by Federal or State laws or by a political subdivision of the State or agency thereof as to rents, charges, profits, dividends, development costs and methods of operation, shall be exempt except for the minimum tax from property taxes.
(c) Exemptions claimed under section 53-38, Hawaiʻi Revised Statutes, shall disqualify the same property from receiving an exemption under this section.
(d) The director of finance shall promulgate rules and regulations necessary to administer this section.

(1983 CC, c 19, art 10, sec 19-87; am 1997, ord 97-84, sec 1.)

Section 19-88. Claim for exemption.

(a) Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under section 19-87 shall be exempt except for the minimum tax from property taxes from the date the property is qualified for the exemption; provided that a claim for exemption is filed with the director within sixty days of the qualification. As used herein, the date of the qualification shall be the date when the mortgage made by a nonprofit or limited distribution mortgagor and insured under sections 202, 221(d)(3) or 236 of the National Housing Act is filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State, whichever is applicable.
(b) After the initial year of the qualification, the claim for exemption shall be filed in the manner provided by applicable law or rule or regulation.
(c) In the event property taxes have been paid to the County in advance for real property subsequently becoming qualified for the exemption, the director of finance shall refund to the nonprofit or limited distribution mortgagor owning the property that portion of the taxes attributable to and paid for the period after the qualification.

(1983 CC, c 19, art 10, sec 19-88; am 1997, ord 97-84, sec 1.)

Section 19-89. Exemptions for certain Hawaiian Homes property, and other agencies.

Exemptions from real property taxes as set forth in chapter 53, chapter 183, and chapter 234,* Hawaiʻi Revised Statutes, and in section 208 of the Hawaiian Homes Commission Act, and which were enacted prior to November 7, 1978, shall remain in effect and be recognized by this County in its administration of the real property tax system, provided, that all references to the director of taxation or the department of taxation shall now be deemed to refer to the designated representative of the mayor who shall also be subject to approval by the council. If State legislation is enacted allowing a public utility under section 239-5(a), Hawaiʻi Revised Statutes, to pay a tax to the County of at least 1.885% upon the gross income of the public utility's business within the County, effective July 1, 2001, then notwithstanding any provision to the

contrary, the County exemption from real property taxes for a public utility under chapter 239, Hawai‘i Revised Statutes, as codified on August 1, 2000, shall be reinstated.

If reinstated, this exemption shall be construed and applied in conjunction with section 239-3,** Hawai‘i Revised Statutes, as section 239-3, Hawai‘i Revised Statutes, was codified on August 1, 2000; provided that the exemption shall be limited to real property used by the public utility in its public utility business.

As used within this section, "public utility" has the meaning ascribed to it in section 269-1, Hawai‘i Revised Statutes, except airlines, motor carriers, common carriers by water, and contract carriers subject to taxation under section 239-6, Hawai‘i Revised Statutes. The County will accept such revenues in lieu of directly collecting real property taxes from those public utilities previously exempt from real property taxation under chapter 239. The County director of finance shall deposit all funds received in connection with said claim into the general fund. Hawaiian home lands, as defined in section 201, Hawaiian Homes Commission Act, 1920, as amended, real property, exclusive of buildings, leased and used as a homestead (houselots, farm lots, and pastoral lots), pursuant to section 207(a) and subject to the conditions of sections 208 and 216 of the Hawaiian Homes Commission Act, 1920, shall be exempt from real property taxes, except for the minimum tax, and as provided for by this section. Disposition of Hawaiian home lands for other than homestead purposes is deemed fully taxable and will not qualify for the exemption granted by this section. The respective homestead lessee of Hawaiian home lands shall continue to qualify and receive other personal exemptions, provided that claims for the exemptions are timely filed, including the seven-year limitation on the exemption afforded by section 208 of the Hawaiian Homes Commission Act, 1920.

(1983 CC, c 19, art 10, sec 19-89; am 1992, ord 92-129, sec 1; am 1997, ord 97-84, sec 1; am 1999, ord 99-159, sec 2; am 2001, ord 01-36, sec 1.)

* **Editor's Note:** Chapter 234, Hawai‘i Revised Statutes, was repealed.
** **Editor's Note:** Section 239-3, Hawai‘i Revised Statutes, was repealed.

Section 19-89.1. Historic residential real property dedicated for preservation; exemption.

(a) Portions of residential real property which are dedicated and approved by the director of finance as provided for by this section, shall be exempt except for the minimum tax from real property taxation. The owners shall assure reasonable visual access to the public.

(b) An owner of taxable real property that is the site of a historic residential property that has been placed on the Hawai‘i Register of Historic Places after January 1, 1977, desiring to dedicate a portion or portions thereof for historic preservation, shall petition the director of finance.

(c) The director of finance shall approve the petition and determine what portion or portions of the real property shall be exempt except for the minimum tax from real

property taxes. The director shall consult with the State Historic Preservation Office in making this determination. The director may take into consideration whether the current level of taxation is a material factor which threatens the continued existence of the historic property, and may determine the total area or areas of the real property that shall be exempted.

(d) The approval of the petition of the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's property for a minimum period of ten years. The owner of a dedicated property must renew the dedication on or before September 1 of the tenth year of the original dedication or any subsequent renewal period in order to continue the dedication for the next ten years.

(e) Failure of the owner to observe the restrictions of subsection (d) shall cancel the tax exemption and privilege retroactive to the date of the dedication, and all differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable together with penalty at ten percent from the respective dates that these payments would have been due, provided the provision in this paragraph shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.

(f) Any person who becomes an owner of real property that is permitted an exemption under this section shall be subject to the restrictions and duties imposed under this section.

(g) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year and shall be approved or disapproved by December 15 of such year. If approved, the dedication shall be effective July 1 of the following tax year.

(h) An owner applicant may appeal any determination as in the case of an appeal from an assessment.

(i) Subject to chapter 91, Hawaiʻi Revised Statutes, the director shall adopt rules and regulations decreed necessary to accomplish the foregoing.

(1983 CC, c 19, art 10, sec 19-89.1; am 1997, ord 97-84, sec 1.)

Section 19-89.2. Credit union exemption.

(a) Real property owned in fee simple or leased for a period of one year or more by a Federal or State credit union which is actually and exclusively used for credit union purposes shall be exempt except for the minimum tax from real property taxes. If the property for which exemption is claimed is leased, the lease agreement shall be in force and recorded in the bureau of conveyances at the time the exemption is claimed. As used in this section, "Federal credit union" means a credit union organized under the Federal Credit Union Act of 1934, 12 U.S.C. chapter 14, as amended, and "State credit union" means a credit union organized under the Hawaiʻi Credit Act, chapter 412, Hawaiʻi Revised Statutes, as amended.

(b) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.

(1987, ord 87-116, sec 4; am 1997, ord 97-84, sec 1.)

Section 19-89.3. Exemptions for enterprise zones.

Buildings or other like structures which are built as a result of new construction by a qualified business within an enterprise zone shall be exempt except for the minimum tax from real property taxes for a period of three years. A qualified business in an enterprise zone must satisfy the requirements of chapter 31 of this code and section 209E, Hawai‘i Revised Statutes, as amended.

(1995, ord 95-14, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-89.4. Hawai‘i Island housing trust exemption.

There shall be exempt, except for the minimum tax from real property taxes, those properties held by the Hawai‘i Island housing trust and its nonprofit special purpose entities, until such time as the properties are leased to individual homeowners.

(2006, ord 06-111, sec 2.)

Section 19-89.5. Kuleana land exemption.*

(a) For the purposes of this section, “kuleana land” means those lands granted to native tenants pursuant to L. 1850, p. 202, entitled “An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges,” as amended by L. 1851, p.98, entitled “An Act to Amend an Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges” and as further amended by subsequent legislation.

(b) Those portions of real property in residential use, agricultural use or vacant land and designated as kuleana land, shall pay the minimum real property tax set forth in subsection 19-90(e) as long as the real property is owned in whole or in part by a lineal descendant of the person(s) that received the original title to the kuleana land. Residential use shall not include vacation rental use.

(c) An application for this exemption shall be filed with the director on forms prescribed by the director. The application shall include documents verifying ownership of the portion of the parcel and that the condition set forth in subsection (b) has been satisfied. Verification of the condition set forth in subsection (b) shall be satisfied by either genealogy verification by the Office of Hawaiian Affairs or by court order stating that the applicant is a lineal descendant of the person(s) that received the original title to the kuleana land. The applicant/landowner shall be responsible for all costs.

(2008, ord 08-11, sec 2; am 2009, ord 09-27, sec 4; am 2013, ord 13-78, sec 2.)

*** Editor's Note:** Section 19-89.5 shall apply to the tax year beginning July 1, 2009 and the tax years thereafter.

Article 11. Determination of Rates.

Section 19-90. Real property tax; determination of rates.

(a) Unless a different meaning is clearly indicated by the context, as used in this section:
   (1) "Net taxable lands" means all other real property exclusive of buildings.
   (2) "Net taxable real property" or "net taxable buildings" or "net taxable lands" means, as indicated by the context, the percentage of the market value of property determined under section 19-46 which the director of finance certifies as the tax base as provided by this chapter, less exemptions as provided by this chapter and, in all cases where appeals from the director's assessment are then unsettled, less fifty percent of the value in dispute.

(b) The council may increase or decrease the tax rate for buildings and for all other real property, exclusive of buildings for net taxable land and net taxable buildings of each class of property established in accordance with section 19-53(e) of this chapter. A resolution setting the tax rates shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures:
   (1) The council shall advertise its intention to increase or decrease tax rates and the date, time, and place of a public hearing in two newspapers of general circulation. The public hearing notice shall set forth the tax rates or range of tax rates to be considered by the council.
   (2) The resolution to set the real property tax rates shall disclose the approximate amount of revenue to be raised for net taxable lands and net taxable buildings within each class of property, the approximate percentage of revenue from net taxable lands and net taxable buildings within each class of property, and shall set the real property tax rate to be assessed, expressed in terms of tax per $1,000 of net taxable lands and net taxable buildings within each class of property computed to the nearest cent.
   (3) After the adoption of the resolution setting the real property tax rates, the council shall publish the adopted tax rates in two newspapers of general circulation.

(4) If no action is taken by the council to increase or decrease the tax rates, then the tax rates as previously set shall be applicable to the subsequent tax year.

(c) If the tax rates for the tax year are increased or decreased the council shall notify the director of finance of the increased or decreased rates, and the director shall employ such rates in the levying of property taxes as provided by this chapter.

(d) The director of finance shall on or before May 1 preceding the tax year furnish the council with a calculation certified by the director as being as nearly accurate as may be, of the net taxable real property within the County, separately stated for each class established in accordance with section 19-53(e) of this chapter for net taxable lands and for net taxable buildings plus such additional data relating to the property tax base as may be necessary.

(e) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under this chapter, a minimum real property tax of $100 per year, except under the following conditions:

(1) If the property owner receives a home exemption or totally disabled veteran exemption resulting in the minimum tax, and the assessed value of improvements is less than or equal to $75,000, then, the minimum tax for this property shall be as follows:

(i) Property with improvements assessed at $50,001 to $75,000 the minimum tax shall be $75.

(ii) Property with improvements assessed at $25,001 to $50,000 the minimum tax shall be $50.

(iii) Property with improvements assessed up to $25,000 the minimum tax shall be $25.

(2) If the property is assessed at a market value of less than or equal to $500, it shall be taxed at a minimum tax of $25.

(1983 CC, c 19, art 11, sec 19-90; am 1990, ord 90-138, sec 6; am 1997, ord 97-84, sec 1; am 2002, ord 02-01, sec 2; ord 02-102, sec 2; am 2009, ord 09-27, sec 2.)

Article 12. Appeals.

Section 19-91. Appeals.

Any taxpayer, aggrieved by an assessment made by the director or by the director's refusal to allow any exemption, may appeal from the assessment or from such refusal to the board of review or the tax appeal court pursuant to section 232-16, Hawai'i Revised Statutes, on or before April 9 preceding the tax year, as provided in this chapter. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the taxpayer appealed is adjusted to one hundred percent market value; provided, that such evidence shall not in any way affect the right of the taxpayer to any severance damages to which the taxpayer may be entitled.

(1983 CC, c 19, art 12, sec 19-91; am 1997, ord 97-84, sec 1; am 2000, ord 00-28, sec 1.)

Section 19-92. Appeals by persons under contractual obligations.

Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the board of review and the tax appeal court and the supreme court, in the person's own name, as if the tax were assessed against said person. The person against whom the tax is assessed shall also have a right to appeal and be heard on any such application or appeal.
(1983 CC, c 19, art 12, sec 19-92; am 1997, ord 97-84, sec 1.)

Section 19-93. Grounds of appeal, real property taxes.

In the case of a real property tax appeal, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown (1) assessment of the property exceeds by more than twenty percent the assessment of market value used by the director, or (2) lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or (3) denial of an exemption to which the taxpayer is entitled and for which the taxpayer has qualified, or (4) illegality, on any ground arising under the Constitution or laws of the United States or the laws of the State or the ordinances of the County in addition to the ground of illegality of the methods used, mentioned in clause (2).
(1983 CC, c 19, art 12, sec 19-93; am 1997, ord 97-84, sec 1.)

Section 19-94. Second appeal.

In every case in which a taxpayer appeals a real property tax assessment to the board of review or to a tax appeal court and there is pending an appeal of the assessment, the taxpayer shall not be required to file a notice of the second appeal; provided the first appeal has not been decided prior to April 9 preceding the tax year of the second appeal; and provided further the director gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal.
(1983 CC, c 19, art 12, sec 19-94; am 1997, ord 97-84, sec 1.)

Section 19-95. Small claims.

Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than $1,000 by reason of the protested assessment on payment in question, may elect to employ the small claims procedures of the tax appeal court as set out in section 232-5, Hawaiʻi Revised Statutes.
(1983 CC, c 19, art 12, sec 19-95; am 1997, ord 97-84, sec 1.)

Section 19-96. Appointment, removal, compensation.

There is created a board of review for the County which shall consist of five members who shall be citizens of the State and residents of the County, shall have resided at the time of appointment for at least three years in the State, and shall be appointed by the mayor and confirmed by the council as provided by Charter. A chairman shall be elected annually by members of the board. The vice-chairman shall

serve as the chairman of the board during the temporary absence or disqualification of the chairman. Any vacancy in the board shall be filled for the unexpired term as provided for in the Charter. Each member may be compensated in the same manner as board and commission members covered under section 13-4(g), Hawai'i County Charter, for each day's actual attendance and actual traveling expenses. No officer or employee of the County shall be eligible for appointment to any such board.
(1983 CC, c 19, art 12, sec 19-96; am 1997, ord 97-84, sec 1.)

Section 19-97. Board of review; duties, powers, procedure before.

(a) The board of review for the County shall hear all disputes between the director and any taxpayer in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute; provided that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return unless the taxpayer shows lack of uniformity or inequality as set forth in section 19-93. The chairperson shall dismiss those appeals which have not been timely filed or whose fee pursuant to section 19-100 has not been paid.

(b) A second or more boards of review may be created when in the opinion of the director, the volume of the work of the existing board (or boards) creates undue delay in the completion of the board's work or undue hardship upon the members of the existing board (or boards). The provisions of this chapter shall be fully applicable to each board and each board shall function independently from every other board of review created under this chapter. The boards of review may provide rules and regulations for the segregation of the real property tax appeals to be heard by each of the boards.

(c) The board shall hold public meetings at some central location in the County commencing not later than April 9 of each year and shall hear, as speedily as possible, all appeals presented for each year. The board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer or the County in the notice of appeal; provided, that the board shall not have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the director and to increase or lower any assessment.

(d) The board shall base its decision on the evidence before it, and, as provided in section 19-19, the assessment made by the director shall be deemed prima facie correct. Assessments for the same year upon other similar property situated in the County shall be received in evidence upon the hearing. In increasing or lowering any real property assessment, the board shall be governed by this chapter. The board shall file with the director its decision in writing on each appeal decided by it,

and a certified copy thereof shall be furnished by the director forthwith to the taxpayer concerned by delivery thereof to the taxpayer or by mailing the copy addressed to the taxpayer's last known place of residence or business.

(e) Upon completion of its review of the property tax appeals for the current year, the board shall compile and submit to the mayor and the council, and shall file with the director for the use of the public, a copy of a report covering such features of its work as, in the opinion of the board, will be useful in attaining the objectives set forth in this chapter. In this report the board shall additionally note instances in which, in the opinion of the board, the director, in the application of the methods selected by the director, erred as to a particular property or particular properties not brought before the board by any appeal, whether the error is deemed to have been by way of underassessment or overassessment. Before commencing this phase of its work the board shall publish, during the first week of September a notice specifying a period of at least ten days within which complaints may be filed by any taxpayer. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the taxpayer and the grounds of objection to the assessment, and shall be filed with the director who shall transmit the same to the board. Not earlier than one week after the close of the period allowed for filing complaints, the board shall hold the hearing on the complaint submitted, after first giving reasonable notice of the hearing to all interested taxpayers and the director. Like notice and hearing shall be given in order for the board to include in its report any other property not brought before it by an appeal. The board may proceed by districts designated by their tax map designation, and may from time to time publish the notice above provided for as work proceeds by districts.

(f) The director, in the making of assessments for the succeeding year, shall give due consideration to the report of the board made pursuant to subsection (e).

(g) The board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the board. It may request the tax appeal court, to order the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the board.

(1983 CC, c 19, art 12, sec 19-97; am 1985, ord 85-102, sec 2; am 1997, ord 97-84, sec 1.)

Section 19-98. Tax appeal court.

An appeal to the tax appeal court may be filed by a taxpayer or the director as provided in sections 232-8 to 232-14, Hawaiʻi Revised Statutes, and sections 232-16 to 232-18, Hawaiʻi Revised Statutes.

Appeals to the State supreme court shall conform to sections 232-19 to 232-21, Hawaiʻi Revised Statutes.

(1983 CC, c 19, art 12, sec 19-98; am 1997, ord 97-84, sec 1.)

Section 19-99. Appeal to board of review.

The notice of appeal of a real property assessment must be lodged with the director on or before the date fixed by law for the taking of the appeal. An appeal to the board of review shall be deemed to have been taken in time if the notice thereof shall have been postmarked and properly addressed to the director, on or before such date.

The notice of appeal must be in writing and any such notice, however informal it may be, identifying the assessment involved in the appeal, stating the valuation claimed by the taxpayer and the grounds of objection to the assessment shall be sufficient. Upon the necessary information being furnished by the taxpayer to the director, the director shall prepare the notice of appeal upon request of the taxpayer or County and any notice so prepared by the director shall be deemed sufficient as to its form.

The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary for the determination of the objections raised by the taxpayer in the notice of appeal. Any objection involving the Constitution or laws of the United States may be included by the taxpayer in the notice of appeal and in such case the objections may be heard and determined by the tax appeal court on appeal from a decision of the board of review; but this provision shall not be construed to confer upon the board of review the power to hear or determine such objections. Any notice of appeal may be amended at any time prior to the board's decision; provided the amendment does not substantially change the dispute or lower the valuation claimed.

(1983 CC, c 19, art 12, sec 19-99; am 1997, ord 97-84, sec 1.)

Section 19-100. Cost; deposit for an appeal.

The cost to be deposited by the taxpayer for an appeal to the board of review shall be $50 for each real property tax appeal.

The cost to be deposited by the taxpayer on any appeal to the tax appeal court or the State supreme court shall be as provided in sections 232-22 and 232-23, Hawai'i Revised Statutes.

(1983 CC, c 19, art 12, sec 19-100; am 1991, ord 91-61, sec 2; am 1997, ord 97-84, sec 1; am 2010, ord 10-22, sec 2.)

Section 19-101. Cost; taxation.

In the event of an appeal by a taxpayer to the board of review, if the appeal is determined in the favor of the appellant, or the board of review finds that an adjustment is required due to duplicate assessments or departmental errors such as but not limited to transposition in figures, typographical errors, and errors in calculations, the cost deposited shall be returned to the appellant. Otherwise, the entire amount of cost deposited shall be retained by the County.

(1983 CC, c 19, art 12, sec 19-101; am 1997, ord 97-84, sec 1; am 2010, ord 10-22, sec 3.)

Section 19-102. Taxes paid pending appeal.

The tax paid upon the amount of any assessment, actually in dispute and in excess of that admitted by the taxpayer, and covered by an appeal to the tax appeal court duly taken, shall be paid by the director into the "litigated claims account." If the final determination is in whole or in part in favor of the appealing taxpayer, the director shall repay to the taxpayer out of the account, or if investment of the account should result in a deficit therein, out of the general fund of the County, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable, together with interest at a rate to be determined by the director based upon the average interest rate earned on County investments during the previous fiscal year. Interest shall be calculated from the date of each payment into the litigated claims account. The balance, if any, of the payment made by the appealing taxpayer, or the whole of the payment, in case the decision is wholly in favor of the director, shall, upon the final determination become a realization of the general fund.

In a case of an appeal to a board of review, the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer, shall during the pendency of the appeal and until and unless an appeal is taken to the tax appeal court, be held by the director in the general fund of the County. In the event of final determination of the appeal in the board of review, the director shall repay to the appealing taxpayer out of the general fund the amount of the tax paid upon the amount held by the board to have been excessive or nontaxable, together with interest at a rate to be determined by the director based upon the average interest rate earned on County investments during the previous fiscal year. Interest shall be calculated from the date of each payment into the general fund of the County. The balance, if any, of the payment made by the appealing taxpayer, or the whole of the payment, in case the decision is wholly in favor of the director, shall, upon the final determination become a realization of the general fund.

(1983 CC, c 19, art 12, sec 19-102; am 1991, ord 91-61, sec 3; am 1997, ord 97-84, sec 1.)

Section 19-103. Amendment of assessment list to conform to decision.

The director shall alter or amend the assessment and the assessment list in conformity with the decision or judgment of the last board or court to which an appeal may have been taken.

(1983 CC, c 19, art 12, sec 19-103; am 1997, ord 97-84, sec 1.)

Article 13. Tax Credits.

Section 19-104. Solar water heater tax credit established.

(a) An owner of real property that has a single-family dwelling, ohana dwelling, farm dwelling, duplex, or double-family dwelling unit(s) and who installs a solar water heater on the owner's property on or after January 1, 2008, shall be entitled to a

one-time tax credit per tax map key of up to $300 under this article against the owner's real property tax liability, except for the minimum tax from all property taxes.

(b) The credit shall be claimed against real property tax liability for the tax year immediately following approval of the application for the credit. The tax credit shall entitle the owner to a credit only for the single tax year. There shall be no carryover tax credit.

(2008, ord 08-93, sec 2.)

Section 19-105. Administration.

(a) The director shall determine the eligibility of the owner for the tax credit upon review and verification that the owner has installed a solar water heater on the owner's property.

(b) The owner shall file an application with the department of finance on or before September 30 preceding the tax year in which the credit would be provided.

(c) The director shall adopt rules having the force and effect of law for the administration, implementation, and enforcement of this article.

(2008, ord 08-93, sec 2.)

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CHAPTER 20

REFUSE

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CHAPTER 20

REFUSE

Article 1. Littering.

Section 20-1. Definitions.

As used in this article:

(1) "Handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.

(2) "Litter" means any waste material including, but not limited to, any animal and vegetable wastes, and any other solid waste such as dirt, ashes, street cleanings, dead animals or parts of dead animals, market and industrial wastes, bagasse, cane trash, paper, wrappings, cigarettes, cardboards, tin cans, yard clippings, leaves, wood, tree trimmings, glass, bedding, crockery, furniture, appliances, scrap metal and any other waste material commonly or ordinarily regarded as being garbage, rubbish, refuse, trash or swill.

(3) "Newspaper" means a public print of general circulation issued for compensation at daily or weekly intervals reporting the news or happenings of local, national, or foreign interest, such as social, religious, political, moral, business, professional, editorial, and other kindred subjects, as well as trade, market, money reports, advertisements and announcements.

(4) "Private premises" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to a dwelling, house, building, or other structure.

(5) "Public place" means any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

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

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

(a) No person shall scatter, throw, drop, deposit, or place or cause to be scattered, thrown, dropped, deposited, or placed any litter on any highway, street, road, alley, sidewalk, sea beach, public park, or other public place in the County.

(b) Any person placing litter in a public receptacle or in an authorized private receptacle shall do so in a manner which prevents the litter from being carried or deposited by the elements upon any street, sidewalk, or other public place, or upon private property.

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

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

(a) No person shall sweep into or deposit in any gutter, street, or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

(b) Any person owning or occupying property shall keep the sidewalk in front of that person's premises free of litter.

(1983 CC, c 20, art 1, sec 20-3.)

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

(a) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

(b) Any person owning or occupying a place of business shall keep the public walking and parking areas in front of that person's business premises free of litter.

(1983 CC, c 20, art 1, sec 20-4.)

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

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

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

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

(a) No person shall throw, deposit, or distribute any handbill in or upon private premises which are inhabited, except by handling or transmitting any handbill directly to the owner, occupant, or other person then present in or upon the private premises; provided that the person distributing the handbill, unless requested not to do so by owner, occupant, or other person lawfully on the premises, may place or deposit any handbill in or upon the inhabited premises if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, except that mailboxes may not be used when prohibited by Federal postal law or regulations.

(b) Subsection (a) shall not apply to the distribution of mail by the United States, nor of any newspaper, except that a newspaper shall be placed on private property in a manner which prevents the newspaper from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

(1983 CC, c 20, art 1, sec 20-6.)

Section 20-7. Summons or citation for violation.

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

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

Section 20-8. Penalty.

(a) Any person who violates the provision of this article shall, upon conviction, be sentenced to pay of fine of not more than $1,000 and/or not more than 200 hours of community service or both for each offense and shall be required to remove their litter or shall be liable for the costs of removing that litter.

(b) Each day of violation shall constitute a separate offense.

(1983 CC, c 20, art 1, sec 20-8; am 1984, ord 84-37, sec 1; am 1986, ord 86-119, sec 2; am 1988, ord 88-7, sec 5; am 1994, ord 94-44, sec 1; am 2007, ord 07-23, sec 2.)

Article 2. Clearing Occupied and Unoccupied Lots.

Section 20-20. Definitions.

As used in this article:

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

"Undergrowth" means any bush, small tree, or other vegetation.

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

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

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

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

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

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

(a) If a majority of all the adult residents within a radius of five hundred feet from any boundary of, or the property owner of a property adjacent to or abutting, any occupied or unoccupied lot, in writing to the mayor requests that the lot be cleared of refuse, uncultivated undergrowth, or unsafe flora, the mayor shall investigate the complaint. If the mayor certifies that there is refuse, uncultivated undergrowth, or unsafe flora on the lot complained about to an extent that the lot poses or is likely to pose an imminent danger for fire, health, safety, property damage, or crime hazard, the mayor shall notify the owner of the lot to clear the occupied or unoccupied lot of the refuse, uncultivated undergrowth, or unsafe flora.

(b) If the offending uncultivated undergrowth or unsafe flora is registered as an endangered or protected species or is listed as "exceptional" pursuant to chapter 14, article 10 of this Code, or if the owner wants to keep the offending uncultivated undergrowth or unsafe flora, the owner shall submit in writing a treatment plan for its continued safe existence to the mayor's office, the department of public works, the arborist advisory committee, the offended property owner(s), and, if applicable, the homeowners association. The treatment plan shall be approved by the department of public works and, if applicable, the homeowners association.

(c) If a building is constructed in close proximity to an existing stand of trees used for wind block, boundary markers or ornamentals, the property owner may not file a complaint under this section and may seek other legal remedies should an emergency situation arise.

(d) If a person files three unsubstantiated complaints about the same refuse, uncultivated undergrowth, or unsafe flora, that person may not file a complaint for that same property, providing that property is under the same ownership at the time that the three unsubstantiated complaints were filed.

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

Section 20-23. Clearance by County; costs.

(a) If any owner, after notice to clear any occupied or unoccupied lot has been mailed to the owner and posted by the mayor, fails or refuses to comply with the order within thirty days after the notice, the County may proceed to clear the lot of the refuse, uncultivated undergrowth, or unsafe flora at the expense of the owner.

(b) The collection of any expense that has been unpaid by the property owner for clearing any unoccupied lot shall be a lien on the property so cleared, and the County may recover the amount of the lien and the expense and costs of the clearing by action at law in assumpsit, or by any action allowed by law in equity, or that may be prescribed by statute, including any proceeding allowed for the foreclosure of tax liens.

(c) The collection of recoverable expenses that has been unpaid by the property owner for clearing any occupied lot shall proceed as follows:
   (1) The department of public works shall keep an itemized record of recoverable expenses. Promptly after completion of the lot clearing, the department shall certify those expenses to the office of the corporation counsel.
   (2) The office of the corporation counsel, on behalf of the County, shall submit a written itemized claim for the total recoverable expenses incurred by the County to the responsible person or persons and a written notice stating that unless the amounts are paid in full within thirty days after receipt of the claim and notice, the County will file a civil action seeking recovery for the stated amount.
   (3) The County may bring a civil action for the recovery of all recoverable expenses against any and all persons causing or responsible for the placement of the individual or individuals in a situation of imminent danger.

(d) For the purposes of this section, "recoverable expenses" means those expenses that are reasonable, necessary, and allocable to the clearing of an occupied lot of refuse, uncultivated undergrowth, and unsafe flora pursuant to this article. Expenses allowable for recovery may include, but are not limited to:
   (1) Materials and supplies acquired, consumed, and expended specifically for the purpose of the lot clearing.
   (2) Compensation of employees for the time and efforts devoted specifically for the purpose of the lot clearing.
   (3) Rental or leasing of equipment used specifically for the lot clearing, such as protective equipment or clothing, bulldozers, or backhoes.
   (4) Repair costs for equipment owned by the County that is damaged during the lot clearing.
   (5) Replacement costs for equipment owned by the County that is damaged beyond use or repair, if the equipment was a total loss and the loss occurred during the lot clearing.
   (6) Special technical services specifically required for the lot clearing, such as costs associated with the time and efforts of technical experts or specialists not otherwise provided by the County.
   (7) Other special services specifically required for the lot clearing.
   (8) Medical expenses that may be incurred as a result of the lot clearing.
   (9) Legal expenses that may be incurred as a result of the lot clearing, including efforts to recover expenses pursuant to this article.

(e) Nothing in this section shall be construed to create any liability to the County for any damages incurred as a cause of action or inaction.

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

Section 20-24. Service of notice.

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

Article 3. Refuse Disposal.

Section 20-31. Definitions.

As used in this article:

"Business" means a sole proprietorship, partnership, firm or corporation.

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

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

"Commission" means the environmental management commission of the County.

"Department" means the department of environmental management.

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

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

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

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

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

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

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

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

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

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

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

Section 20-33. Receptacle specifications.

Any garbage or swill shall be contained in a leak-proof metal or plastic receptacle and shall be securely covered at all times so as to exclude insects and animals. Any rubbish, except hedge cuttings, stumps, branches, banana leaves, palm and coconut leaves or other similar material, shall be contained in a metal or wood receptacle, or in a paper or a cardboard carton of sufficient strength to adequately contain the contents therein.
(1983 CC, c 20, art 3, sec 20-33.)

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

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

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

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

Section 20-35. [Former] Repealed.

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

Section 20-35. Permit required for refuse disposal.

(a) No business, Federal or State agency, religious entity or nonprofit organization shall dispose of refuse at any County solid waste facility without first obtaining a disposal permit issued by the director and making payment of the permit fee as required herein.

(b) No person shall dispose of refuse at any county landfill without first obtaining a disposal permit issued by the director. Persons not representing any business, Federal or State agency, religious entity or nonprofit organization need not obtain a permit to dispose of refuse at a County transfer station.

(c) An application for a disposal permit shall be submitted to the director on a form furnished by the department.

(1) For businesses, Federal or State agencies, religious entities and nonprofit organizations, the following information is required:

(A) Name, address and telephone number of the business, Federal or State agency, religious entity or nonprofit organization.

(B) Make, model, tare weight, carrying capacity in cubic yards and license number of the vehicle(s) which would be used to dispose refuse.

(C) Approximate volume and frequency of refuse to be disposed.

(D) Other information as deemed necessary by the director.

(2) Persons not acting as or on behalf of any business, public agency, religious entity or nonprofit organization shall provide their name, residence and mailing address, residence and employer telephone numbers, drivers license number and any other information deemed necessary by the director for billing and collection purposes.

(d) The disposal permit shall be effective for a period of one year from the date of issuance.

(e) The director may suspend or revoke a disposal permit for the following reasons:

(1) Failure to pay any disposal charges or special handling fees when due.

(2) Failure to comply with the provisions of this chapter.

(3) Failure to comply with disposal procedures and/or conditions established by the department.

(f) The suspension or revocation procedure shall be as follows:
   (1) Upon determination that sufficient reasons exist to revoke or suspend a disposal permit, the director shall inform the permit holder by registered mail of the director's decision to suspend or revoke said permit;
   (2) The letter shall also inform the permit holder of the effective date of the suspension or revocation and the specific reason for suspension or revocation of the disposal permit;
   (3) The permit holder shall be given a period of ten working days to cure the complaint. At the end of the ten-day period, the County shall notify the permit holder in writing either that the complaint has been remedied or that the permit is still to be revoked or suspended. If the permit is still to be revoked or suspended said letter shall describe the process by which the permit holder may request a hearing before the director;
   (4) If the permit holder requests a hearing before the director, one shall be scheduled within two working days of the request. The decision of the director or a designated representative shall stand unless after a hearing the original decision is shown to be clearly erroneous;
   (5) A request for a hearing shall not act to stay the director's decision to revoke or suspend.

(g) There shall be a fee of $25 for the issuance of a refuse disposal permit to a business, Federal or State agency, religious entity or nonprofit organization, payable with the application therefor. There shall be no fee for the issuance of a permit to persons not acting as or on behalf of a business, public agency, religious entity or nonprofit organization.

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

Section 20-36. Refuse removal business; restrictions.

(a) Any vehicle used for the collection and removal of refuse shall be kept in a clean, inoffensive, and sanitary condition.

(b) All refuse shall be handled and hauled in such a manner so as to prevent the scattering, spilling, or leaking of the refuse.

(c) Certain transfer stations will be designated and determined to be incompatible for use by businesses or commercial activities. Use of these designated transfer stations by business or commercial activities shall be prohibited after July 1, 1989, except as authorized by written permit with conditions set forth by the director.

(d) No person, business, Federal or State agency, religious entity or nonprofit organization shall, at any County solid waste facility, dispose of any rubbish, prohibited materials or refuse which has been brought into the County of Hawai'i as rubbish, prohibited materials or refuse from outside of the County of Hawai'i. This subsection shall not apply to refuse generated en route in the ordinary course of business by aircraft or maritime passengers or crew, incidental to operations of aircraft or maritime traffic arriving in the County.

(e) Violation of these restrictions will be subject to the penalties of this article as well as revocation of the businesses' baggage and freight license.

(1983 CC, c 20, art 3, sec 20-36; am 1988, ord 88-160, sec 3; am 2001, ord 01-108, sec 1; ord 01-91, sec 1; am 2002, ord 02-66, sec 5.)

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

(a) The disposal of dead cattle, horses, mules, goats, dogs, cats and similar animals is the responsibility of the owner. If no owner can be identified, the disposal of the dead animal is the responsibility of the landowner or land occupant or both upon whose land the dead animal is found. Any dead animal shall be properly buried, burned, or disposed of in accordance with applicable rules, regulations, and standards of the State department of health within a reasonable time after death, or before the dead animal becomes a nuisance.

(b) Any small animal, such as dogs and cats, shall be accepted for disposal at the South Hilo or Kona landfill area only in accordance with applicable provisions of this article.

(1983 CC, c 20, art 3, sec 20-37; am 1988, ord 88-160, sec 4.)

Section 20-38. Abandoned vehicles prohibited.

No person shall leave, abandon, or place any wrecked or nonoperational automobile or construction equipment or part or portion of a wrecked or nonoperational automobile or construction equipment, or scrap iron, or other similar material, upon any part of a public street, road, or highway or upon any premises of another.

(1983 CC, c 20, art 3, sec 20-38.)

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

No person shall abandon any refrigerator, ice box, wardrobe trunk, or any other container, equipment or appliance having a self-locking door without first removing and detaching the door or cover from the same.

(1983 CC, c 20, art 3, sec 20-39.)

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

(a) No person shall dump, place, or remove to any County disposal facility, including transfer stations, any prohibited materials as defined in this article or by the State department of health rules, regulations and standards, including any radioactive or chemical waste, any pesticides, explosives, blasting materials, fuses, live ammunition, or other substances that may explode upon contact with heat or fire.

(b) Prohibited wastes which have been rendered nonhazardous by chemical neutralization or stabilization in accordance with applicable rules, regulations and standards of the State department of health may be delivered directly to a landfill for disposal.

(c) Any law, rule, or regulation to the contrary notwithstanding, no person shall dump, place, or remove to any County disposal facility, including transfer stations, in any amount or any form, commercial cooking oil waste or commercial FOG waste, as defined in section 20-31. The foregoing prohibition shall apply only to the extent that there are recyclers who are willing and able to accept such materials for recycling, by way of either pick-up at the place of generation, or drop-off within driving distance from the place of generation which is less than to the nearest County landfill.

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

Section 20-41. Dumping refuse prohibited.

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

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

Section 20-42. Salvage of refuse restricted.

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

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

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

(a) Acceptance at landfills or other similar disposal areas.

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

(2) Any person having any large or bulky material, such as a car, water heater or properly altered stove or refrigerator which does not contain any garbage, refuse, swill or any other rubbish at the time of disposal, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill on any weekday during the normal working hours of the landfill. All permitted materials, when properly deposited, shall be accepted by the department.

(3) Any person having any small dead animal, such as a dog or cat, as well as garbage, is authorized by the department to enter into and properly deposit such material into the designated area of the landfill from 7:00 a.m. to 3:00 p.m. Permitted small dead animals and garbage, when properly deposited, shall be accepted by the department.

(4) Any unauthorized person entering into the landfill during nonworking hours or for purposes other than that permitted in this section shall be considered to be a trespasser, and shall be subject to the penalties of this article.

(b) Acceptance at transfer stations.

(1) All acceptable household refuse, including shrubbery and yard trimmings, deposited into the transfer station solid waste container shall be accepted by the County for disposal on any day during normal working hours of the station. No item shall exceed four feet in any dimension or weigh more than fifty pounds.

(2) Prohibited materials shall include all commercially hauled rubbish, garbage, swill or refuse, prohibited materials as defined by the State department of health and partially listed herein, refuse generated by a business, Federal or State agency, religious entity or nonprofit organization, construction or demolition wastes, abandoned vehicles, dead animals, animal carcasses and other similar organic wastes.

(c) Except as permitted by the director, no material resulting from construction, land clearing, wrecking of any building or structure, or wastes generated by manufacturing, industrial, or agricultural processes such as meat, fish, poultry, vegetable, or fruit processing shall be acceptable for disposal in any County disposal facility.

(d) Improper depositing of any material in any County landfill or transfer station is considered to be littering, and violators will be subject to the penalties of this article.

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

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

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

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

Section 20-45. Penalty.

(a) Any violation of this article is a petty misdemeanor.

(b) In addition to the penalties in subsection (a), any person who violates the provisions of this article shall, upon conviction, be required to remove their refuse or shall be liable for the costs of removing that refuse.

(c) Each day of violation shall constitute a separate offense.

(1983 CC, c 20, art 3, sec 20-45; am 1984, ord 84-15, sec 1; am 2007, ord 07-23, sec 3.)

Article 4. Solid Waste Fees.

Section 20-46. Disposal fees.

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

(b) In addition to the per ton charge or volume charge, items which cannot be disposed in the working face of the landfill in accordance with usual disposal practices or which require special handling and/or arrangements by landfill personnel shall be assessed a special handling charge at rates as set forth herein. Such items shall include but may not be limited to asbestos and confidential document destruction or other disposal requiring a witness. Tires, whether whole, cut, sliced, chipped or shredded, will not be accepted at any County landfill. All wire or cable must be cut to four-foot lengths prior to disposal at any County landfill or transfer station.

(c) Administrative rules shall provide partial credit to commercial haulers for residential waste. The amount of the credit shall be no less than $2 per month for each single-family household from which the hauler collects refuse, provided the hauler's account is current. The annual credit shall be equal to the landfill disposal fee multiplied by one and one-half tons per year per single-family household. The residential credit shall not exceed the total landfill tipping fees charged to the residential hauler for the month for which the credit is being claimed.

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

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

(d) The mayor, with the approval of the council, may temporarily rescind the solid waste disposal fees for a specified period.

(e) The mayor may waive solid waste disposal fees when it is in the best interest of the County. Fees may be waived for one-time events for community organizations, nonprofit organizations, or private property owners who are remediating illegal dump sites which were not of their creation. The mayor will give notice to the council when tip fee is waived.

(f) On or before January 1, 2004, there shall be an analysis of past and projected expenses in the solid waste division. Factors to consider include, but are not limited to, capital improvement projects and any debt service for those projects, labor rates and any contractual obligations, equipment replacement and depreciation, and diversion programs. Estimates shall also be considered for total disposal expenses for businesses, Federal or State agencies, religious entities, nonprofit organizations or private citizens as compared to expenses for single-family household disposal at the island-wide solid waste transfer stations. The analysis will be done on an annual basis through January 1, 2007.

(1994, ord 94-87, sec 6; am 1995, ord 95-41, sec 2; am 1996, ord 96-21, sec 2; ord 96-45, sec 2; am 2003, ord 03-102, sec 2; am 2005, ord 05-21, sec 2; am 2005, ord 05-138, sec 2; am 2008, ord 07-182, sec 2.)

Section 20-47. Collection of fees.

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

(1994, ord 94-87, sec 6; am 1997, ord 97-46, sec 1.)

Section 20-48. Solid waste fund designation.

(a) There is hereby created and established a special fund to be known as the "solid waste fund."

(b) All funds received from the collection of fees authorized by this chapter shall be deposited with the director of finance and shall be accounted for and be known as the "Solid Waste Fund" and shall be expended for the purpose of operating, maintaining and administering the County's solid waste management, collection and disposal systems.

(1994, ord 94-87, sec 6.)

Section 20-49. Fee schedule.

(a) Charge rates shall be established as follows:

(1) Landfill disposal.

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

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

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

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

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

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

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

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

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

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

1. Compacted. Dollars per cubic yard.

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

2. Not compacted. Dollars per cubic yard.

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

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

(2) Greenwaste and Organics Diversion.

(A) All clean greenwaste and acceptable organics must be delivered to a permitted County greenwaste and organics collection facility.

(B) The greenwaste and organics disposal fee is set at 25% of the landfill disposal fee as described in section 20-49(a)(1)(A).

(C) The greenwaste and organics disposal fee is set at 65% of the landfill disposal fee as described in section 20-49(a)(1)(B) at a County greenwaste and organics collection facility without scales. These facilities are able to accept Type I and Type II trucks only.

(D) Greenwaste and organics must be separated from other solid waste in order to qualify for the reduced greenwaste and organics disposal fee.

(E) The greenwaste and organics disposal fee may be suspended by the director if the greenwaste and organics facilities are not operating.

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

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

Section 20-50. Definitions.

As used in this article:

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

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

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

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

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

Section 20-51. Transportation of materials to landfill.

(a) All materials collected at the following County transfer stations shall be transported to the South Hilo Sanitary Landfill for disposal:
   (1) Honomū Transfer Station.
   (2) Pāpaʻikou Transfer Station.
   (3) Hilo Transfer Station.
   (4) Keaʻau Transfer Station.
   (5) Glenwood Transfer Station.
   (6) Pāhoa Transfer Station.
   (7) Volcano Transfer Station.
   (8) Kalapana Transfer Station.

(b) All materials collected at the following County transfer stations shall be transported to the Puʻuanahulu Sanitary Landfill for disposal:
   (1) Laupāhoehoe Transfer Station.
   (2) Paʻauilo Transfer Station.
   (3) Honokaʻa Transfer Station.
   (4) Waimea Transfer Station.
   (5) Kaauhuhu (Hāwī) Transfer Station.
   (6) Puakō Transfer Station.
   (7) Kailua Transfer Station.
   (8) Keauhou Transfer Station.
   (9) Keʻei (Kealekekua) Transfer Station.
   (10) Waiea Transfer Station.

(11) Miloliʻi Transfer Station.
(12) Ocean View Transfer Station.
(13) Waiʻōhinu Transfer Station.
(14) Pāhala Transfer Station.

(2012, ord 12-92, sec 1.)

Section 20-52. Exemptions.

(a) During a time of declared emergency the mayor may, by executive order, direct the transportation of materials from a transfer station to a landfill as deemed practicable and necessary.

(b) For purposes of island-wide efficiency, the director may direct the transport of refuse, other than compostables and recyclables, from any transfer station to either landfill under, but not limited to, the following conditions:
(1) When transport to the alternative landfill would avoid penalty fees;
(2) When transport to the alternative landfill would meet designated minimum volumes to qualify for discounted fees; or
(3) When repairs or improvements are being made at the designated landfill.

(2012, ord 12-92, sec 1; am 2015, ord 15-144, sec 3.)

CHAPTER 21

SEWERS

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CHAPTER 21

SEWERS

Article 1. General Provisions.

Section 21-1. Intent of chapter.

It is the intention of the sewer code to regulate the use of all public sewers. A further intent of this code is to fix the rates of installing lateral and service charge on lots furnished with sewer service.
(1983 CC, c 21, art 1, sec 21-1.)

Section 21-2. Definitions.

As used in this chapter, unless the context specifically indicates otherwise:

"Accessible to a sewer" means having a sanitary sewer with laterals available to the lot.

"B.O.D. (biochemical oxygen demand)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees centigrade, expressed in milligrams per liter by weight.

"Building or house sewer" means that portion of the sewer line extending from a building to the public sewer or private disposal system.

"Cesspool" means an individual wastewater system consisting of an excavation in the ground whose depth is greater than its widest surface dimension, which receives untreated wastewater and retains the organic matter and solids discharging therein, but permits the liquid to seep through the bottom or sides to gain access to the underground formation.

"Commission" means the environmental management commission of the County.

"Connection" means an opening in the public sewer to which the building sewer may be connected.

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

"Equivalent population" means the calculated population which would normally contribute the same amount of suspended solids, biochemical oxygen demand or volume of flow per day as the daily wastes discharged by an industrial or commercial establishment, using as standard basis pounds of suspended solids or biochemical oxygen demand and one hundred gallons per capita per day.

"Extension" means the continuation of an existing public sewer through public or private property not owned, in whole or in part, by the applicant or owner of the particular property or subdivision to be served.

"Gang cesspool" means a cesspool designed to accept sewage from two or more sources.

"Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

"Garbage, properly shredded" means food wastes that have been properly shredded to such a degree that all particles will be carried freely under normal flow conditions in public sewers.

"Grease" means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate procedure in Standard Methods. (Includes fats and oils.)

"Grease traps" means a pretreatment device designed and installed to separate fats, oils, and grease from wastewater.

"Industrial wastes" means the liquid wastes from industrial processes.

"Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from inflow.

"Inflow" means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

"Lateral" means a side sewer from a public branch or main sewer to the property line to serve one or more lots.

"Main" means a sewer to which several laterals or other branch sewer lines are connected.

"Natural outlet" means any natural outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

"pH" means the logarithm of the reciprocal of the weight of hydrogen ion in grams per liter of solution.

"Public sewer" means a sewer system, including a cesspool and a gang cesspool system, controlled by the County.

"Sanitary sewer" means a sewer which carries sewage and to which storm and surface waters and drainage are not intentionally admitted.

"Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.

"Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

"Sewage works," "sewer system," or "sewer," means all public facilities for collecting, pumping, treating and disposing of sewage.

"Subdivision" means a division of a piece of property into two or more lots.

"Suspended solids" means solids that are in suspension in sewage or waste waters, and which are removable by laboratory filtering.

"Unoccupied unit" means a unit that is not occupied but has accessibility to a sewer, plumbing fixtures located on it, and currently receives a water bill.

(1983 CC, c 21, art 1, sec 21-2; am 1985, ord 85-15, sec 1; am 1986, ord 86-119, sec 3; am 1987, ord 87-71, sec 1; am 1988, ord 88-7, sec 6; am 1989, ord 89-68, sec 2; am 1992, ord 92-77, secs 2 and 3; am 2000, ord 00-82, secs 1 and 2; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 8.)

Section 21-3. Tampering with public sewers.

A written permit from the director shall be required for any person to:

(1) Obstruct or otherwise make inaccessible any portion of the public sewer;
(2) Uncover or molest in any way, any public sewer; or
(3) Throw anything into any sewer manhole.

(1983 CC, c 21, art 1, sec 21-3; am 2002, ord 02-66, sec 4.)

Section 21-4. Sealing disconnected sewers.

No person shall remove or demolish any building or structure with plumbing fixtures connected directly or indirectly with the public sewer without first notifying the director of such intention. All openings in the sewer line caused by the removal of any building or structures shall be sealed in such a manner as to prevent earth, debris, rain, surface, storm or other water from entering the public sewer system.

(1983 CC, c 21, art 1, sec 21-4; am 2002, ord 02-66, sec 4.)

Article 2. Public Sewers.

Section 21-5. Connection to sewer required.

(a) Owners of all dwellings, buildings, or properties used for human occupancy, employment, recreation, or other purposes, which are accessible to a sewer are required at their expense to connect directly with the public sewer within one hundred eighty days after date of official notice.
(b) If, due to rock, wastewater collection system depth, or other construction problems, a building cannot be practically served, the owner shall install, operate and maintain a residential pumping station.
(c) The director may grant a variance/exemption of the foregoing connection requirements to owners of single-family dwellings existing at the time of installation of the public wastewater system, if the following is found:
    (1) There are special or unusual circumstances applying to the subject real property which exist that render the ability to connect to a wastewater system an extreme physical or financial hardship; and
    (2) There are no other reasonable alternatives; and
    (3) The variance is consistent with the general purpose of the chapter and will not be materially detrimental to public health, safety, or welfare.

(d) To obtain a time extension under the provisions of subsection (a) of this section, owners must file a written request to the connection requirement before the expiration of the aforesaid one hundred eighty days. The written request shall document the need for the extension and the requested amount of time.

(e) Time extensions granted pursuant to subsection (d) of this section shall be for a period not to exceed two years.

(f) An appeal from the decision of the director in subsection (c) or (d) may be filed with the environmental management commission within thirty days of receipt of the decision. A person is aggrieved by a decision of the director if:

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

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

An appeal shall be in writing, in the form prescribed by the environmental management commission, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of $50. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the environmental management commission with the proof of service.

The appellant, the owners of the affected property, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the environmental management commission.

The director and the environmental management commission shall adopt rules to implement this section.

(1983 CC, c 21, art 2, sec 21-5; am 1989, ord 89-68, sec 3; am 1996, ord 96-51, sec 2; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 9; am 2004, ord 04-57, sec 1.)

Section 21-6. Subdivisions.

Where public sewer service is accessible to any subdivision, the subdivider shall install all necessary sewage works to serve all lots. All new sewers and connections shall be properly designed and connected. For areas planned for sewers within the ten years after May 22, 1989, developers are required to install interceptor, household, and collection sewers, even if they will not be used until the area is sewered. Where public sewers are not accessible or dry sewers planned, the requirements or interim requirements for proper disposal of sanitary sewage for the subdivision shall be determined by the State department of health and the director.

(1983 CC, c 21, art 2, sec 21-6; am 1985, ord 85-15, sec 2; am 1989, ord 89-68, sec 4; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 10.)

Section 21-7. Industrial wastes of unusual strength.

(a) The County may accept into its public sewer system, an industrial waste of unusual volume, strength or character under a special agreement or arrangement between the County and the industrial concern, subject to payment of appropriate charges agreeable to both parties. The contributing person shall pay a proportionate share of the construction costs or sewer service charge based on the ratio of population equivalent to normal design population.

(b) Where sewers, pumping stations, force main or outfall are to be provided, the population equivalent of the wastes shall be computed on the basis of the volume of the industrial wastes. Where primary treatment facilities are to be provided the population equivalent of the wastes shall be computed on the basis of the suspended solids of the industrial wastes. Where secondary treatment facilities are to be provided, the population equivalent of the wastes shall be related to the suspended solids as above or to the biochemical oxygen demand of the industrial wastes, whichever is greater.

(c) Fats and greases shall not be discharged to the sewer system if their concentration and physical dispersion results in separation and adherence to sewer structures and appurtenances. If there is evidence of adherence of such materials to said structures, or if such materials cause blockage in the sewer system, then the wastewater carrying such materials must be effectively pretreated by a process or device to effect removal from the flow before its discharge to the sewer system.

(d) Where preliminary treatment is deemed necessary by the director to render any water or wastes acceptable for discharge into the public sewage works, suitable preliminary treatment facilities shall be provided by the owner and maintained continuously in satisfactory and effective operation at his expense. In the maintaining of those interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates, amounts, and means of disposal which are subject to review by the director. Grease, oil, sand and dirt interceptors, screening devices, facilities for pH adjustment, and other necessary preliminary treatment facilities shall be of a type and capacity as approved by the director.

(e) When the standards of the director for requiring pretreatment are less stringent than those promulgated by the U.S. Environmental Protection Agency, the standards of the U.S. Environmental Protection Agency will be those used for waste flows being discharged into wastewater treatment facilities.

(1983 CC, c 21, art 2, sec 21-7; am 1987, ord 87-71, sec 2; am 2002, ord 02-66, sec 4.)

Section 21-8. Drainage of storm water and unpolluted water into sewers.

No person shall discharge or cause to be discharged, directly or indirectly, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, swimming pool water or other unpolluted drainage into any public sewer.
(1983 CC, c 21, art 2, sec 21-8.)

Section 21-9. Prohibited wastes.

Except as hereinafter provided in this chapter, no person shall, directly or indirectly, discharge or cause to be discharged into a public sewer any of the following:

(1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit;
(2) Any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil or grease;
(3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
(4) Any garbage that has not been properly shredded;
(5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
(6) Any water or wastes having pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
(7) Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters;
(8) Any noxious or malodorous gas or explosive liquids or substance capable of endangering public property and safety, or creating a public nuisance; or
(9) Other restrictions as provided in accordance with regulations or requirements of the State department of health or the U. S. Environmental Protection Agency.

(1983 CC, c 21, art 2, sec 21-9; am 1989, ord 89-68, sec 5.)

Section 21-10. Volume and rate of discharge; additional flow beyond capacity.

The director may prohibit admission into the public sewers of any additional volume of water or wastes, wherever and to the extent that the existing sewage works of the County shall not be capable of receiving and disposing of the same, together with the normal sewage flow of that tributary area.

(1983 CC, c 21, art 2, sec 21-10; am 2002, ord 02-66, sec 4.)

Article 3. Sewage Works and Connections.

Division 1. General Provisions.

Section 21-11. Disposal of sewage into natural outlet; treatment and disposal plan required.

Where sewage is to be discharged into any natural outlet, primary or complete treatment facilities shall be provided in accordance with regulations and requirements of the State department of health. The type, capacity and location of the treatment plant shall be approved by the director.
(1983 CC, c 21, art 3, sec 21-11; am 2002, ord 02-66, sec 4.)

Section 21-12. Pumping stations.

Pumping stations shall be provided where the terrain of the developable area is such as to require pumping to lift the sewage to proper elevation for discharge to a treatment plant site, public sewer or discharge outfall. These stations shall be of adequate capacity and shall include the necessary physical units for proper operation, control and maintenance. Suitable locations of these stations shall be approved by the director.
(1983 CC, c 21, art 3, sec 21-12; am 2002, ord 02-66, sec 4.)

Section 21-13. Sewer mains.

Sewer mains shall be of length, type and size necessary to provide the area with adequate sewage disposal and so located as not to be contrary to the location fixed for utilities by the County master plan.
(1983 CC, c 21, art 3, sec 21-13.)

Section 21-14. Laterals.

A lateral shall be installed to provide service to each lot in accordance with section 21-22. When a lateral is required by the County in order for the landowner to receive the final inspection approval, the County shall construct the lateral within six months from the date of the requirement.
(1983 CC, c 21, art 3, sec 21-14; am 2004, ord 04-53, sec 2.)

Section 21-15. Construction standards.

All sewage works construction shall be performed in accordance with the latest edition of the standard specifications for public works construction and the standard details for public works construction.
(1983 CC, c 21, art 3, sec 21-15.)

Division 2. Subdivisions.

Section 21-16. Cost of construction.

(a) In every subdivision where sewers, sewage pumping station, force main, outfall and sewage treatment units are deemed necessary by the director and State department of health, the cost of constructing such sewage works shall be borne by the owner of the subdivision.

(b) Additional costs brought about by increasing the pipe sizes or depths of laying or the capacity of the pumping station, force main, outfall or treatment plant to serve areas other than the subdivision shall be borne by the County.

(1983 CC, c 21, art 3, sec 21-16; am 2002, ord 02-66, sec 4.)

Section 21-17. Approval of plans required; time limit for beginning work.

All construction plans and specifications for sewage works shall be approved by the director. In the event that construction has not commenced within one year after date of approval, the construction plans and specifications shall be resubmitted for reapproval.

(1983 CC, c 21, art 3, sec 21-17; am 2002, ord 02-66, sec 4.)

Section 21-18. Inspections during construction required; costs.

(a) During the construction of all sewage works, the County shall have access thereto for inspection purposes and, if considered advisable by the director, to require an inspector on the job continuously. At no time shall sewer work be backfilled or covered until the director has been notified of and approved the work after proper inspection and test. If the work is not approved, it shall be repaired or removed and reconstructed, as directed by the director. The subdivision sewer may then be connected to the public sewer.

(b) All costs of inspection, testing and connection to the public sewers shall be borne by the owner of the subdivision.

(1983 CC, c 21, art 3, sec 21-18; am 2002, ord 02-66, sec 4.)

Section 21-19. Acceptance of sewage works and treatment facilities.

(a) All sewage works found acceptable by the director shall become the property of the County and shall be maintained and operated as part of the public system. Prior to final acceptance, the subdivider shall deliver to the County perpetual easements for all portions of the subdivision sewer system installed in other than publicly owned property. The subdivider shall also convey to the County fee simple title to all sites on which a pumping station or treatment plant is constructed by the subdivider as part of the public sewage works, together with easements for ingress and egress.

(b) Final approval and acceptance of subdivision sewage works shall not be granted until the subdivider has settled all financial accounts with the County.

(1983 CC, c 21, art 3, sec 21-19; am 2002, ord 02-66, sec 4.)

Division 3. Laterals.

Section 21-20. Application.

An application for a lateral to a lot shall be made on a prescribed form to the bureau of sewers. If the lateral has not already been run to the property line, the County will construct it as soon as possible at the expense of the applicant, except as provided by section 21-14.
(1983 CC, c 21, art 3, sec 21-20; am 2002, ord 02-66, sec 11; am 2004, ord 04-53, sec 3.)

Section 21-21. Location.

New laterals shall be installed as near as practicable to the exact location desired by the applicant, but if branches are already in the main or other outlets are available near at hand, the lateral may be run from them. The County reserves the right to establish the alignment of the lateral, the location of the connection and to provide service to other lots from the same lateral.
(1983 CC, c 21, art 3, sec 21-21.)

Section 21-22. Construction specifications.

(a) All laterals shall be six inches in diameter and constructed at right angles to the main on a minimum grade of nine-tenths of one percent, unless excepted by the director. Each lateral shall terminate at the property line with a six-inch by four-inch cast iron pipe reducer, properly capped.
(b) Connection of the building sewer to this reducer shall be made with a forty-five degree cast iron "Y," with the branch facing upward and extended about one inch above the ground with a four-inch brass cleanout at the end. This connection shall not be backfilled or covered until approved by the director.

(1983 CC, c 21, art 3, sec 21-22; am 2002, ord 02-66, sec 4.)

Section 21-23. Deposit required; inadequate deposit; refunds.

A deposit of not less than $25 and at least equal to the County's estimate of the cost of the lateral shall be required of the applicant before the lateral is installed. If the actual cost of the lateral is in excess of the deposit, the applicant will be billed and shall pay for the difference. If the actual cost is less than the deposit, the applicant shall be refunded the difference.
(1983 CC, c 21, art 3, sec 21-23.)

Section 21-24. Charge for pre-existing lateral.

No new charge shall be made for a lateral which has already been installed to the property line of the lot, the charge for which has already been paid.
(1983 CC, c 21, art 3, sec 21-24.)

Section 21-25. Permit to connect; plumbing permit prerequisite; fee.

(a) A permit to connect shall be obtained from the wastewater division, department of environmental management, before making any connection to the lateral.

(b) The connection permit shall be issued only after a plumbing permit has been obtained from the building division, department of public works.

(c) No fee shall be charged for the permit to connect.

(1983 CC, c 21, art 3, sec 21-25; am 2002, ord 02-66, sec 12.)

Division 4. Extensions.

Section 21-26. Applications for extensions.

Any individual wishing to extend or connect to the public sewer system shall submit an application to the director or designee. The application shall be in the form of a letter detailing where and why the sewer extension is being requested. The application shall be processed in the manner set forth in this article.

(1983 CC, c 21, art 3, sec 21-26; am 1996, ord 96-51, sec 4; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 13.)

Section 21-26.1. Approval of extensions of the public sewer system.

(a) All sewer extensions shall be approved by resolution of the County council.

(b) Private Development and Construction. Once an application for an extension of the public sewer system has been approved by the director or their designee, the application and a recommendation from the director shall be forwarded to the County council with all of the supporting material attached. Upon review of the recommendation of the director and the payment mechanism chosen by the applicant, the council may approve the application.

(1996, ord 96-51, sec 3; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 14.)

Section 21-27. Determination of construction specifications.

The County shall make, or allow the applicant to make, the extension, including any lateral, to serve the applicant's property. The County director shall determine or approve a plan submitted by the applicant for, the alignment, the materials to be used, and the manner of construction. The property owner shall not have any title to the extension.

(1983 CC, c 21, art 3, sec 21-27; am 1996, ord 96-51, sec 5; am 2002, ord 02-66, sec 4.)

Section 21-28. Payment of costs; construction by the applicant or by the County.

(a) If the applicant chooses to construct the extension, then the applicant shall bear the total cost of the construction. However, the applicant may receive for ten years after completion of the extension one-half of all moneys for sewer charges collected by the County from other properties connecting to the extension provided the total of such reimbursement shall not exceed the cost incurred by the applicant to construct the extension. Plans to reimburse the applicant for construction of the sewer extension shall require the approval of the County council by resolution.

(b) If the applicant chooses for the County to construct the extension, the applicant shall elect to:

(1) Pay the full cost for the extension and for ten years after completion of the extension receive all moneys for sewer charges collected by the County from other properties connecting to the extension. However, the total of such reimbursements shall not exceed the cost incurred to construct the extension. Plans to reimburse applicant for construction of sewer extensions shall require the approval of the County council by resolution; or

(2) Pay for one-half of the cost for the extension with the other half of the cost being paid by the County. If the applicant chooses this method of payment the director or designee shall make an estimate of the cost of construction and submit it to the applicant. If the applicant then deposits with the County a sum equal to one-half of such cost, then the matter shall be referred to the council for review, approval and appropriation of the County's share of the costs.

(1983 CC, c 21, art 3, sec 21-28; am 1996, ord 96-51, sec 6; am 1998, ord 98-106, sec 1; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 15.)

Article 4. Sewer Service Charges.

Section 21-29. Sewer user charges for nonresidential customers.

Sewer user charges for nonresidential customers, including those connected to gang cesspools, shall be assessed to all lots accessible to a public sewer whether connected or not. User charges for sewer service to nonresidential customers, which include industrial, commercial, agricultural, governmental and miscellaneous services users, hotels, and service stations shall be based on water volume usage based on water meter reading and shall be assessed according to the schedule shown under section 21-36.1; provided that water consumed for the purpose of coolers or swimming pools shall not be included in water consumption totals on which these rates are based. No sewer charges shall be levied on water used for irrigation or other uses when the water is not discharged into the sewer system and a separate metering system is installed to provide a method of accounting for the amount of water which is or is not subject to the sewer use charges, as the case may be. A minimum monthly charge shall be applicable and shall be equal to the schedule under section 21-36.1. Unoccupied units will be assessed a monthly maintenance fee equal to the current minimum monthly charge.
(1983 CC, c 21, art 4, sec 21-29; am 1985, ord 85-15, sec 3; am 1986, ord 86-86, sec 1; am 1987, ord 87-71, sec 3; am 1989, ord 89-68, sec 6; am 1992, ord 92-77, sec 4; am 2000, ord 00-82, sec 3; am 2004, ord 04-157, sec 2.)

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

(a) A minimum charge according to the schedule shown under section 21-36.1 shall be made for the discharging of pumped waste into any municipal system. The hauler shall be responsible for notification of the receiving facility personnel of the type of waste and of the discharge schedule. Preliminary treatment of the wastewater may be required prior to disposing of the waste into the system.

(b) "Pumped waste" shall include cesspool septage, chemical toilet waste, sludge, or any other waste not prohibited under section 21-9.

(c) Private haulers are required to have a valid permit from the wastewater division to discharge wastewater into any municipal facility and shall maintain the following records and information:
   (1) The number of cesspools and other types of wastewater facilities pumped;
   (2) The name and address of the owner of each cesspool or other facility pumped;
   (3) The date of pumping of each cesspool or other facility;
   (4) The location of each cesspool or facility pumped;
   (5) Volume of wastewater pumped at each cesspool or other facility; and
   (6) Disposal site of each for pumped waste from each cesspool or other facility.

(d) Reports containing the tabulated information shall be submitted to the wastewater division no later than thirty days after the last day of the month. Failure to provide the requested information may lead to revocation of the permit.

(1983 CC, c 21, art 4, sec 21-29.1; am 1989, ord 89-68, sec 7; am 1992, ord 92-77, sec 5.)

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

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

(1983 CC, c 21, art 4, sec 21-30; am 1985, ord 85-15, sec 4; am 2002, ord 02-66, sec 4.)

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

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

(1983 CC, c 21, art 4, sec 21-31; am 1985, ord 85-15, sec 5; am 1986, ord 86-86, sec 2; am 1987, ord 87-71, sec 5; am 1989, ord 89-68, sec 8; am 1992, ord 92-77, sec 6; am 2000, ord 00-82, sec 4.)

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

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

(1985, ord 85-15, sec 6.)

Section 21-31.2. Infiltration/inflow expenses.

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

(1985, ord 85-15, sec 6.)

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

(a) The sewer service charge levied pursuant to this chapter shall be collected by the director of finance or any bank designated by the wastewater division as an agent for collection. Billings for sewer service charges of nonresidential users shall be processed monthly or bimonthly in accordance with the department of water supply billing cycle. Billing for single unit and multi-unit residential users shall be processed monthly or bimonthly.

(b) Payment shall be due thirty days after date of bill. In addition, interest at the rate of one percent per month shall be imposed upon the outstanding balance for all accounts that are past due.

(c) Charges for sewer service shall be billed to the owner or owners of the lot, parcel of land, building or premises, (herein, referred to as the "property") to which the services are provided. If requested by the owner, the department will bill a tenant or other individual designated (herein, referred to as the "designated person") by the owner. Such request shall be in writing and signed by all parties involved, including all property owners and the designated person. The property owners and the designated person shall be jointly and severally liable for the entire sewer service charge without further notice of any delinquency to the property owners.

(d) Where a landlord has requested that the department bill a tenant pursuant to paragraph (c):

(1) the director shall notify the landlord if a tenant's payment is past due; and

(2) the interest on the outstanding balance shall not commence until thirty days after the department has sent such notice to the landlord of the delinquency.

(e) Sewer service charges levied shall be a debt due to the County. If this debt is not paid when due, it shall be deemed delinquent and may be recovered by the County by a civil action filed against the property owners, or the designated person, or both. Any judgment against the property owners or responsible parties shall be filed with the Bureau of Conveyances. As used herein, "person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, government entity, or any other legal entity, and their legal representatives, agents, and successors and assigns.

(f) The department of water supply is authorized to terminate water services for non-payment of the sewer services charges levied pursuant to this chapter when so directed by the director after due notice and opportunity for a hearing as provided by chapter 91, Hawaiʻi Revised Statutes, before the environmental management commission and the resolution of any appeal therefrom.

(1983 CC, c 21, art 4, sec 21-32; am 1989, ord 89-68, sec 9; am 1992, ord 92-77, sec 7; am 2005, ord 05-19, sec 1; am 2014, ord 14-83, sec 2, ord 14-136, sec 1.)

Section 21-33. Charges for discontinued service.

(a) For any lot, building, dwelling unit or premises for which connection is made with the sanitary sewerage systems, a sewer service charge shall be made pursuant to this chapter starting from the first day of the month following the date of the connection.

(b) Where it is proposed to discontinue any connection to the sewer from any lot, parcel of land, building or premises upon a written notice being given to the wastewater division by the owner or tenant of such lot, parcel of land, building or premises, such lateral sewer, shall be disconnected by the owner or tenant and the sewer charges for the month within which such discontinuance of sewer service takes place shall be for the full month based on the regular monthly charge to such lot, parcel of land, building, dwelling unit or premises.

(1983 CC, c 21, art 4, sec 21-33; am 1989, ord 89-68, sec 10; am 1992, ord 92-77, sec 8.)

Section 21-34. Sewer fund designated; disposition of funds.

The funds received from the collection of the sewer service charges authorized by this chapter shall be deposited daily with the director of finance, and shall be accounted for and be known as the "County sewer fund" and shall be expended for the purpose authorized.

The County sewer fund shall consist of three accounts. The first account will be the "user charge account" and the revenues for this account will come only from the sewer service charges. Expenditures from this fund shall be limited for the purpose of carrying out the operation and maintenance of the sewage treatment system, including replacement.

The second account will be the "fixed costs account." Expenditures from this account shall be for items such as billing expenses, debt service charges, construction costs, and other costs not related directly to the operation and maintenance of the sewage treatment system. The revenues for this account will come from the sewer service charges.

The third account will be the "equipment replacement expenses reserve account." This account will set aside a portion of the revenue for sewer service charges as a cushion for equipment replacement expenses to compensate for fluctuation in the amount of payment out of the account for equipment replacement.

This financial management system shall be maintained by the wastewater division and based on an adequate budget identifying the basis for determining the annual operating and maintenance cost and costs of personnel, material, energy, and administration.

(1983 CC, c 21, art 4, sec 21-34; am 1985, ord 85-15, sec 7; am 1986, ord 86-119, sec 4; am 1988, ord 88-7, sec 7; am 1992, ord 92-77, sec 9.)

Section 21-35. Miscellaneous requirements.

(a) The user charges attributed to any wastewater treatment facility shall be reviewed and evaluated annually and revised if necessary on the basis of actual operation and maintenance costs.

(b) The user charge system shall take precedence over any terms or conditions or agreements or contracts which are inconsistent with the requirements of section 204(b)(1)(A) of the Clean Water Act and 40 CFR 35.2140.

(c) Every user of the public sewer system shall be notified annually of the user's current sewer service charge rate and that portion of the rate and/or ad valorem taxes which are attributable to wastewater treatment service in accordance with 40 CFR 35.2140. Notification may be in conjunction with a regular bill, newspaper notice, or other means acceptable to the regional administrator, Environmental Protection Agency.

(1983 CC, c 21, art 4, sec 21-35; am 1985, ord 85-15, sec 8.)

Section 21-36. Penalty.

Any person convicted of violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance.

(1983 CC, c 21, art 4, sec 21-36.)

Section 21-36.1. Wastewater service charge rates.

Sewer user charges for customers connected to gang cesspools shall be effective August 1, 2000, and sewer service charges paid prior to the effective date shall be reimbursed or credited. Sewer charges not paid prior to the effective date shall be waived.

WASTEWATER SERVICE CHARGE RATE							
User Category	**Effective Date***						
	7/01/97	**2/01/98**	**7/01/00**	**7/01/02**			
A. Single Unit Residential:							
1. Monthly charge per unit		$25.00	$26.00	$27.00			
B. Multi-Unit Residential:							
1. Monthly charge per unit		25.00	26.00	27.00			
C. Nonresidential:							
1. Monthly base rate charge per unit	$20.00	20.00	21.00	22.00			
2. Monthly usage charge per 1,000 gallons (after the first 8,000 gallons) per unit	3.55	3.55	3.80	4.05			
D. Private Haulers Discharge Fee:							
1. Discharge fee per 500 gallons or fraction thereof	30.00	30.00	30.00	30.00			
2. Minimum charge per load	30.00	30.00	30.00	30.00			
E. Gang Cesspools:							
1. Monthly charge per unit			15.00	15.00			
					7/01/03	**7/01/05**	**7/1/07**
F. Recycled Water:							
1. Distribution charge per 1,000 gallons or fraction thereof					$ 1.00	$ 1.20	$ 1.20

*Rate begins on first full billing cycle after effective date.

(1997, ord 97-68, sec 2; am 1998, ord 98-21, sec 1; am 2000, ord 00-82, sec 5; am 2003, ord 03-92, sec 1.)

Section 21-36.2. Remission of charges.

Sewer users who have been charged for sewer services pursuant to section 21-29, may ask for a remission of such charges to the extent and in the manner set forth herein:

(1) The user establishes and the director determines that the user is entitled to an adjustment in water consumption totals.

(2) Any application for such adjustment must be made with the director within one year of the alleged error in determination of water consumption totals.

(2000, ord 00-83, sec 1; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 16.)

Article 5. Sewer Connection Loan Program.

Section 21-37. Findings and purpose.

Section 21-5, requires connection to the sewer of lots accessible to a sewer. The connection cost may be financially burdensome for many owners. Therefore, the council finds that, in order to assure that all possible lots are connected to the sewer to meet Federal and State requirements, it is in the public interest to create, in cooperation with a bank or other financial institution, a program by which the County of Hawaiʻi assists owners to connect to the sewer by guaranteeing loans for this purpose.

The guaranteed loan program would allow the owner to get a County-guaranteed loan from the bank or other financial institution after it agrees that the County of Hawaiʻi shall place a lien on the property at the time the loan closes. The lien would be for the loan amount and related fees and costs. The County of Hawaiʻi would guarantee the bank or other financial institution that it will pay the balance of the loan in full should the owner default on the loan.

This law shall cover the sewer connections which will be required in the following increments:

Waiākea Houselots	110 lots
Waiākea Mill Pond	100 lots
Ainako "A"	114 lots
Kalanianaʻole Laterals	125 lots
Ainako "B"	93 lots
(Optional Hookups)	100 lots
Aliʻi Drive "A" — "F"	200 lots
Honokaʻa	106 lots

(1992, ord 92-136, sec 1; am 2008, ord 08-117, sec 1; am 2012, ord 12-10, sec 2.)

Section 21-38. Definitions.

For purposes of this article, the following words and phrases, unless the context otherwise requires, shall be defined as indicated:

"Default" means the failure of a guaranteed borrower to make a required payment to a designated bank within ninety days of the date upon which the payment is due as stated in the contract between a designated bank and a guaranteed borrower.

"Designated bank" means any bank or financial institution approved by the director of finance pursuant to this article to provide loans to owners who are required to connect property to sewers by section 21-5.

"Guaranteed borrower" means an owner who has executed the appropriate agreements with the County of Hawaiʻi required by this article and whose loan with a designated bank is guaranteed by the County of Hawaiʻi in accordance with this article.

"Increment" means any one of the planned sewer construction projects stated in section 21-37.

"Owner" means:

(1) A person or persons, including joint tenants, tenants in common, tenants by the entirety, corporations, and partnerships who hold the fee title to real property which is required to be connected to sewer lines pursuant to section 21-5; or

(2) A person or persons, including joint tenants, tenants in common, tenants by the entirety, corporations and partnerships to whom has been entrusted pursuant to law the legal or equitable titles to real property which is required to be connected to sewer lines pursuant to section 21-5, and who are empowered to act as trustees of that real property for the benefit of another or others, or as trustees of a self-trusted revocable living trust; or

(3) A person or persons who hold equitable title pursuant to an agreement of sale of real property which is required to be connected to sewer lines pursuant to this chapter; or

(4) A person or persons who hold, under a lease for a term of five years or more, real property which is required to be connected to sewer lines pursuant to this chapter.

"Self-directed revocable living trust" means a trust formed for the purpose of management and administration of real property and in which the owner(s) of an interest in real property becomes settlor(s) and trustee(s) of the trust by making said real property the trust res, and administering said property for the benefit of the owner(s).

(1992, ord 92-136, sec 1; am 2012, ord 12-15, sec 2.)

Section 21-39. Sewer connection loan program.

(a) Before the director, pursuant to section 21-5, notifies property owners in an increment of the requirement that they connect their properties to the sewer line, the director of finance shall be authorized to develop a sewer connection loan program for the purpose of guaranteeing loans used to connect lots which are a part of that increment to the sewer lines. The director of finance may consult with any banks or financial institutions about participation in a program of loan guarantees for owners of properties who are required to connect to sewers pursuant to section 21-5.

(b) After consultation, the director of finance shall designate one or more banks or financial institutions to handle the County-guaranteed loan program. In designating a bank or financial institution, the director shall consider the interest rates offered on the loans by the bank, the number of months and monthly payments of the loan, and the willingness of the institution to make the same agreed-upon rate offered on the County-guaranteed loans available to others borrowing money to pay for sewer hookup fees whose loans are not guaranteed by the County of Hawai'i. Any bank or financial institution which complies with the terms of the loan program shall qualify as a designated bank.

(c) The director of finance shall require that a designated bank agree that:
   (1) The loan to a guaranteed borrower will be at a rate of interest and terms agreed upon at the inception of the program for that increment;
   (2) The loan will be guaranteed by the County of Hawaiʻi up to the assessed value of the parcel to be connected and any improvements at the time of the loan application;
   (3) In the event that a guaranteed borrower fails to pay the required payment on the loan within ninety days of the date upon which the payment is due, the loan shall be considered in default and the designated bank shall immediately notify the director of finance of the County of Hawaiʻi, as well as the guaranteed borrower;
   (4) In the event of a default of any guaranteed borrower, a designated bank shall accept payment in full from the County of Hawaiʻi as full satisfaction for the loan;
   (5) The loan amount shall be limited to hook up and cost for the reasonable restoration of the parcel and improvements to the condition existing at the time of the loan application plus loan fees and costs; and

(d) The director of finance shall inform the mayor and the County council of the names of banks and financial institutions which are designated banks, and shall provide them with copies of the agreement negotiated with the designated banks and the contract which the designated banks will execute with guaranteed borrowers.

(1992, ord 92-136, sec 1; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 17; am 2012, ord 12-15, sec 3.)

Section 21-40. Loan application.

(a) Any owner who is required to connect such owner's property to a sewer pursuant to section 21-5, and who has been rejected by any two banks or financial institutions for any type of loan to pay for the sewer connection, based on insufficient ability to repay said loan, may apply to a designated bank for a sewer connection loan which is guaranteed by the County of Hawaiʻi. Any application for a guaranteed loan must be submitted to a designated bank no more than one hundred and twenty calendar days after the date of the notification by the director requiring the owner to connect to the sewer.

(b) All such timely applications for guaranteed loans shall be sent by any receiving designated bank to the director of finance. Any owner whose application for a sewer connection loan is referred to the director of finance by a designated bank and is deemed to have a reasonable ability to repay the loan may participate in a loan guaranteed by the County of Hawaiʻi and become a guaranteed borrower. As conditions of participation, the applicant shall execute:
   (1) A loan agreement with a designated bank, with the County of Hawaiʻi as guarantor of the loan, providing that:
      (A) The money will be paid by the bank directly to the contractor performing the connection; and

(B) In the event the guaranteed borrower fails to pay the required payment on the loan within ninety days of the date upon which payment is due, the loan shall be considered in default and the County of Hawai‘i will repay the loan in full to the designated bank, and will assume the designated bank's status as creditor.

(2) An agreement with the County of Hawai‘i giving the County of Hawai‘i a lien on the property to be connected. The County of Hawai‘i may initiate foreclosure proceedings immediately upon default by the owner and any non-payment of a payment required by a payment plan under section 21-41. Upon execution, the loan agreement and the lien document shall be recorded at the bureau of conveyances.

(c) For the protection of the interest of the County of Hawai‘i, a title search for any property upon which the County of Hawai‘i will have a lien shall be conducted prior to execution of any agreements, and the cost of the search shall be paid from the loan proceeds.

(1992, ord 92-136, sec 1; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 18; am 2012, ord 12-15, sec 4; ord 12-158, sec 2.)

Section 21-41. Default procedure.

In the event of a default, after the County of Hawai‘i has paid the designated bank or financial institution, the director of finance shall have the discretion to negotiate with the guaranteed borrower a plan for repayment of the loan to the County of Hawai‘i. In negotiating the loan repayment, the director of finance shall take into consideration the following guidelines:

(a) In the event that the guaranteed borrower is capable of paying the monthly interest on the loan, the repayment plan shall include a minimum monthly payment at least equal to the amount of monthly interest, and at the same rate of interest charged by the designated bank.

(b) In the event that the guaranteed borrower is unable to pay an amount equal to the monthly interest, the director of finance may negotiate a smaller monthly payment.

(c) If no agreement on the plan for repayment is reached within ninety days of default, the County of Hawai‘i shall immediately initiate foreclosure proceedings against the subject property.

(d) In the event that the guaranteed borrower is a corporation or is an owner holding property in a trust, then the County of Hawai‘i may initiate foreclosure proceedings immediately upon default by the owner and payment of the loan by the County of Hawai‘i.

(1992, ord 92-136, sec 1; am 2012, ord 12-15, sec 5.)

Section 21-42. Reserved.

(1992, ord 92-136, sec 1; am 2001, ord 01-108, sec 1; am 2002, ord 02-66, sec 19; am 2012, ord 12-10, sec 3.)

Section 21-43. Reserved.
(1992, ord 92-136, sec 1; am 2012, ord 12-15, sec 6.)

Section 21-44. Waiver of liability.
The contractor selected pursuant to this article, as well as the guaranteed borrower shall execute agreements with the County of Hawaiʻi in which each of them agrees to defend, indemnify and hold harmless the County of Hawaiʻi in the event of any personal injury or property damage resulting from the connection of the property to the sewer.
(1992, ord 92-136, sec 1.)

Section 21-45. Reserve fund.
(a) For the purpose of payment of guaranteed loans in default, there shall be created a reserve fund, to be known as the sewer connection reserve fund, which shall at all times be not less than fifteen percent of the total amount of loans guaranteed and shall be funded by the general fund or other available sources. If a guaranteed borrower defaults on a loan, the bank shall be paid from this reserve fund without further council action. If this repayment of the loan causes the reserve fund to fall below fifteen percent of the total amount of loans guaranteed, the director of finance will then submit to the council a bill for an ordinance to transfer the money from the general fund or other available sources if such a transfer is necessary to maintain the required level of the fund. All interest generated by the fund shall be deposited into the County of Hawaiʻi general fund.
(b) In the event grant monies are available to finance sewer connection costs, the sewer connection reserve fund may be used to finance connection costs for those lot owners eligible for grant funding and only to the extent that the sewer connection reserve fund can be reimbursed from the grant.
(c) At least once every three months the director of finance shall prepare and submit to the council a report on the status of the loan program, including but not limited to the following:
    (1) The number of guaranteed loans outstanding;
    (2) The total dollar value of all guaranteed loans outstanding;
    (3) The balance in the reserve fund; and
    (4) The number of hookups to be required in the next increment.
(1992, ord 92-136, sec 1; am 2012, ord 12-158, sec 3.)

Section 21-46. Reserved.
(1992, ord 92-136, sec 1; am 2012, ord 12-15, sec 9.)

CHAPTER 22

COUNTY STREETS

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CHAPTER 22

COUNTY STREETS

Article 1. General Provisions.

Section 22-1.1. Intent and purpose.

The County council finds that the primary function of County streets is to provide safe, efficient and orderly passage of pedestrians, vehicles, and other means of transportation and where appropriate, to provide safe, efficient and orderly access to adjoining properties. This chapter seeks to establish a program which preserves and promotes this primary function by defining and regulating construction within a County street; and uses within or adjacent to a County street that are not an integral part of its infrastructure or necessary for safe and lawful operation on a street. These provisions do not apply to private streets or to streets owned by the State of Hawai‘i, including the Department of Hawaiian Home Lands, unless otherwise agreed to by the State or the Department of Hawaiian Home Lands.
(2002, ord 02-67, sec 2.)

Section 22-1.2. Definitions.

As used in this chapter unless otherwise specified:

“Building” means a structure which is occupied for residential purposes or used as a place of business.

“Business improvement district” or “district” means a district of land established by the County pursuant to chapter 35 of this Code for providing and financing supplemental services and improvements.

“Corporation counsel” means the head of the County department of the corporation counsel or its duly authorized representative.

“Chief of police” means the head of the County police department or its duly authorized representative.

“Common driveway approach” means a driveway approach that is located along the frontage of two or more properties and is used as an ingress and egress to said properties.

“Director” means the head of the County department of public works or its duly authorized representative.

“District association” means an association established pursuant to section 35-18 of this Code.

“District-wide publication dispensing rack permit” means an exclusive permit issued pursuant to article 3 of this chapter.

“Driveway” means a road on private or public property giving access from a private or public street to an established use on the property.

“Driveway approach” means an area between the edge of the roadway and property line of any County owned or maintained street that provides ingress and egress to an abutting property.

"Engineer" means a privately employed licensed professional civil engineer.

"Finance director" means the head of the County finance department or its duly authorized representative.

"Official County street name" means a street name that has been adopted by the council by duly promulgated resolution or by the planning director.

"Person" or words importing persons, for instance, "another," "others," "any," "anyone," "anybody," and the like signify not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended.

"Planning director" means the head of the County planning department or its duly authorized representative.

"Publication dispensing rack space permits" means a publication dispensing rack space allocation or reallocation invoice issued pursuant to chapter 35, section 35-63 of this Code.

"Roadway" means that portion of a County street, excluding shoulders, curbs, gutters, sidewalks or other roadside drainage facilities, used exclusively by vehicular traffic.

"Sidewalk" means that portion of a County street defined by a vehicular separation device such as a concrete, asphaltic concrete or rolled concrete curb that is intended for pedestrian or other non-vehicular use.

"Speed hump" means a gentle rise in the profile of the road that is used to regulate the speed of a vehicle.

"Street" means the entire width between property lines of any County owned and maintained street, avenue, road, alley, highway, lane, path or other place opened, improved and established for the use of vehicles, pedestrians or both.

"Vehicle" means every licensed or otherwise authorized device in, upon or by which any person or property is or may be transported or drawn upon a roadway.

"Violator" means the property owner, lessee, or the person responsible for the violation.

(2002, ord 02-67, sec 2; am 2005, ord 05-139, sec 1; am 2012, ord 12-59, sec 2.)

Article 2. Prohibitions.

Section 22-2.1. Encroachments.

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

(2002, ord 02-67, sec 2.)

Section 22-2.2. Intersection sight distance.

(a) To preserve adequate vehicular sight distance at intersections formed by two or more County streets, no object with a height between three feet and eight feet above the nearest surface of the County street shall be allowed within the area defined by the chord of an arc having a radius of thirty feet from the intersection of property lines or their extensions that form the intersection.

(b) Whenever unusual conditions exist, such as steep road grades, non-perpendicular intersections or intersections having more than two County streets, the director, may, after an appropriate analysis, establish an area greater or lesser than that defined in this section.

(2002, ord 02-67, sec 2.)

Section 22-2.3. Damage.

(a) Unless otherwise permitted by the director, no person shall transport any materials or operate any vehicle, trailer, machinery, equipment or any other means of conveyance upon or across any County street in such a manner that it scratches, mars, excavates or otherwise damages any portion of the street.

(b) Unless otherwise permitted by the director, no person shall drop or spread oil, paint, gravel, or any other substance or object upon any County street in a manner or in an amount which creates an unreasonable risk to persons or property.

(2002, ord 02-67, sec 2.)

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

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

(b) No person shall knowingly or recklessly engage in conduct which creates an unreasonable risk or harm to any person or property on any County street.

(2002, ord 02-67, sec 2.)

Section 22-2.5. Commercial use of County streets.

Except as otherwise permitted by law, no person shall use any portion of a County street for the purpose of displaying, vending, hawking, selling, renting or leasing any goods, wares, food, merchandise or other kinds of property.

(2002, ord 02-67, sec 2.)

Section 22-2.6. Signs and other advertising materials.

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

(2002, ord 02-67, sec 2.)

Article 3. Use of County Streets.

Division 1. Types of Permits.

Section 22-3.1. Types of permits.

(a) "Publication dispenser permits" include permits to place newspaper stands, news racks, or other dispensers of handbills or other printed or written materials on or over a County sidewalk.

(b) "Sidewalk use permits" include permits to place garbage receptacles, decorative planters, public benches, required provisions for the disabled or other items which will be placed in or on the County street for non-commercial purposes that are deemed by the director to promote public welfare.

(2002, ord 02-67, sec 2; am 2005, ord 05-139, sec 2.)

Section 22-3.2. Public utilities exemption.

Public utilities that have an executed utility franchise, charter, or other legally binding agreement with the County of Hawaiʻi, including provisions of the Hawaiʻi Revised Statutes, may be exempt from the provisions of this article at the discretion of the director. This exemption does not preclude the County from pursuing charging a fee for use of the County streets or property.

(2002, ord 02-67, sec 2.)

Division 2. Repealed

Section 22-3.3. Repealed.

(2002, ord 02-67, sec 2; rep 2005, ord 05-139, sec 3.)

Section 22-3.4. Repealed.

(2002, ord 02-67, sec 2; rep 2005, ord 05-139, sec 3.)

Division 3. Publication Dispenser Permits.

Section 22-3.5. Publication dispenser permits; application.

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

(1) General applicant information, i.e. name, address, phone number.

(2) A description and map of the location of the publication dispenser.

(3) The duration of time for which the permit is requested.

(4) The height of the publication dispenser.

(5) The width of the sidewalk that the dispenser will occupy and the clear space that will remain on the sidewalk after the dispenser is in place.

(6) Written statements of consent from every property owner and lessee directly fronting the proposed dispenser site.
(7) An agreement, to be approved by the corporation counsel, wherein the applicant agrees to indemnify, defend and hold harmless the County of Hawai‘i, its officers and agents from all claims, demands, suits, actions, or proceedings of every name, character, and description that may be brought against the County of Hawai‘i for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.
(8) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents and covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until the publication dispenser is removed from the County street.

(b) Any district association of a business improvement district may apply for an exclusive, district-wide publication dispensing rack permit. Permit applications shall be submitted upon a form approved by the director and shall include, at a minimum, the following information and attachments:
(1) The name of the business improvement district and the district association, copies of its respective formation documents, and a certificate of good standing of the district association.
(2) A map showing the proposed locations of the publication dispensing racks.
(3) An illustration showing the proposed design and maximum dimensions of the publication dispensing racks and a description of the standards for the size, design, color and material of publication dispensing rack inserts that publication distributors may place within the publication dispensing racks.
(4) The rules that the district association proposes to adopt pursuant to chapter 35, section 35-68 of this Code, which shall contain a statement that any changes to such rules shall be subject to the approval of the director.
(5) An agreement and acknowledgement by the district association that it will be bound to comply, and will comply, with all provisions of chapter 35, article 8 of this Code.

(2002, ord 02-67, sec 2; am 2012, ord 12-59, sec 3.)

Section 22-3.6. Publication dispenser permit; criteria for granting; revocation.

(a) The director may issue a publication dispenser permit pursuant to section 22-3.5(a) for a period not to exceed one year if all of the following criteria are met:
(1) The publication dispenser does not exceed four feet in height.
(2) The publication dispenser does not occupy more than one-fifth of the width of the sidewalk and will leave a clear width of at least three feet.

(3) Written statements of consent are received from every property owner and lessee directly fronting the proposed dispenser site.
(4) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
(5) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy as provided above, to the satisfaction of the finance director and the corporation counsel.
(6) The publication dispenser will not impede or endanger the public's use, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersection or driveway.

(b) The director may issue an exclusive, district-wide publication dispensing rack permit pursuant to section 22-3.5(b), which shall be valid until revoked, if all of the following criteria are met:
(1) The proposed locations of the publication dispenser racks will in every case leave a clear width on the sidewalk of at least three feet and will not otherwise impede use by the public, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersection or driveway.
(2) The director has approved the proposed design and maximum dimensions of the publication dispensing racks as well as the standards for the size, design, color and material of publication dispensing rack inserts.
(3) The director has approved the rules submitted by the district association pursuant to section 35-68, including all proposed fee amounts.
(4) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
(5) The applicant has agreed in writing to comply with all provisions of chapter 35 of this Code.

(c) A permit granted pursuant to this chapter may be revoked by the director if the location and condition of the dispenser or dispensing rack of the permit recipient falls out of compliance with the criteria set forth above or, for district association permit recipients, the operations of the association fall out of compliance with any criteria or conditions set forth in chapter 35.

(d) Following issuance of an exclusive, district-wide publication dispensing rack permit to a district association, no further permits shall be granted for individual dispensers in such business improvement district and, upon expiration of any then-effective permit, the permit holder shall immediately and permanently remove the dispenser from the sidewalk or County property.

(2002, ord 02-67, sec 2; am 2012, ord 12-59, sec 4.)

Division 4. Sidewalk Use Permits.

Section 22-3.7. Sidewalk use permit; application.

Any person who is an authorized representative for the use being requested may apply for a sidewalk use permit. Permit applications shall be submitted upon a form designated by the director and shall include, at a minimum, the following information and attachments:

(1) General applicant information, i.e. name, address, phone number.
(2) A description and map of the proposed location showing where the items or use will be located.
(3) A description of the items that will be placed on the County street.
(4) Dates and hours of proposed use.
(5) The height of any items that will be placed on the County street.
(6) The width of the sidewalk that the activity will occupy and the remaining clear space.
(7) Written statements of consent from every property owner and lessee directly fronting the proposed site.
(8) An agreement, to be approved by the corporation counsel, which indemnifies, defends and holds harmless the County of Hawai‘i, its officers and agents thereof, from all claims, demands, suits, actions, or proceedings of every name, character, and description which may be brought against the County of Hawai‘i for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.
(9) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until the proposed use is terminated and the permitted items are removed from the County street.

(2002, ord 02-67, sec 2.)

Section 22-3.8. Sidewalk use permit; criteria for granting.

Unless otherwise prohibited, the director may issue a sidewalk use permit for a period not to exceed one year if all of the following criteria are met:

(1) The items do not exceed four feet in height.
(2) The use or item will leave a clear width of at least three feet of sidewalk.
(3) The applicant has submitted evidence that demonstrates that the use is for noncommercial purposes and will promote public welfare.
(4) Written statements of consent from every property owner and lessee directly fronting the proposed site.

(5) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
(6) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy meeting the requirements as provided above, to the satisfaction of the finance director and the corporation counsel.
(7) The permitted use will not impede or endanger the public's use, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersections or driveways.

(2002, ord 02-67, sec 2.)

Division 5. Permit Conditions.

Section 22-3.9. Permit conditions.

In addition to any other conditions imposed by this chapter, all permits issued pursuant to this article shall be subject to all of the following conditions:

(1) All items shall be removed from the County street during all periods outside of the permitted times and days.
(2) Permittees shall comply with all laws, ordinances and regulations of the Federal, State and County governments relating to the installation, operation and maintenance of their permitted items or uses.
(3) Permittees shall be wholly responsible for the repair and maintenance of all permitted items, including any associated utility improvements.
(4) Only the use described on the permit shall be deemed to be authorized by the director. Any additional uses shall require additional authorization from the director.
(5) Should the permitted use, activity or improvement interfere or obstruct any County facility or other authorized improvements, the permittee shall, at their own expense either:
    (A) Terminate the use and remove the activity or improvement; or
    (B) Move the use to a location acceptable to the director.
(6) Should the permitted use, activity or improvement impede or obstruct any emergency repairs to a County facility or public utility, the permittee authorizes the use of all necessary action to immediately relocate the permitted activity, use or improvement and shall make no claim for any damages that may result from the relocation action.
(7) Any construction work associated with the permits of this article shall also be subject to the construction requirements of this chapter.
(8) Upon termination of all permits, the permittee shall be responsible for the restoration of the County street used or occupied by the permittee to a condition equal to or better than its original condition.

(2002, ord 02-67, sec 2.)

Division 6. Permit Fees.

Section 22-3.10. Fees.

(a) Upon submission of an application for any permit provided for this article, applicants shall submit a processing fee of $25.

(b) Fees shall be waived for any permit issued to or on behalf of County agencies including the department of water supply.

(2002, ord 02-67, sec 2.)

Article 4. Construction in County Streets.

Division 1. Permitting.

Section 22-4.1. Construction permit required.

Except as otherwise permitted by law, no person shall, in any manner or for any purpose, alter, break up, dig up, disturb, undermine or dig under or cause to be altered, broken up, dug up, disturbed, undermined or dug under any County street without having first obtained a written permit to do so from the director.

Public utilities that have an executed utility franchise, charter, or other legally binding agreement with the County of Hawai‘i, including provisions of the Hawai‘i Revised Statutes, are not required to obtain a permit if the County street is altered, broken up, dug up, disturbed, undermined or dug under as part of an emergency repair or other urgent work necessary to immediately restore lost service to their customers. However, a permit for this work must still be obtained on the first County working day following the emergency repair.

(2002, ord 02-67, sec 2.)

Section 22-4.2. Construction permits; application.

Any person or authorized representative who is responsible for the work to be performed within a County street may apply for a construction permit. Permit applications shall be submitted upon a form designated by the director and shall include the following information and attachments:

(1) General applicant information, i.e. name, address, phone number.

(2) General contractor, i.e. name, license number, address, phone number.

(3) A description and map of the location or address of the County street to be affected.

(4) A plan describing the purpose and nature of the work to be performed on the County street and a cost estimate for the work.

(5) A description of the dimensions of the area of the County street that will be affected.

(6) The approximate starting date, duration of work and working hours.

(7) An agreement, to be approved by the corporation counsel, which indemnifies, defends and holds harmless the County of Hawaiʻi, its officers and agents thereof, from all claims, demands, suits, actions, or proceedings of every name, character, and description which may be brought against the County of Hawaiʻi for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.

(8) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until all the work is completed to the satisfaction of the director.

(2002, ord 02-67, sec 2.)

Section 22-4.3. Construction permits; criteria for granting.

The director may issue a construction permit for a period not to exceed one year if all of the following criteria are met:

(1) The applicant has demonstrated that the construction will be in compliance with the requirements of this article and the other provisions of this chapter.

(2) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.

(3) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy meeting the requirements as provided above, to the satisfaction of the finance director and the corporation counsel.

(4) The construction will not impede the public use of the street or endanger pedestrians including persons with disabilities.

(5) Work within the County street shall be done by appropriately licensed contractors.

(2002, ord 02-67, sec 2.)

Section 22-4.4. Construction permits; conditions.

(a) The applicant shall notify the director at least forty-eight hours before the commencement of any work within the County street.

(b) The applicant shall maintain public safety while working in a County street by using barricades, construction signs, markings, warning lights, traffic control personnel and other devices according to the "Manual on Uniform Traffic Control Devices for Streets and Highways" on file in the department of public works.

(c) Unless otherwise permitted by law, the applicant shall keep at least one traffic lane open for two-way vehicular traffic during the working hours of the day and at least two traffic lanes open during non-working hours. When the work interferes with a sidewalk, the applicant shall also provide for the safe passage of pedestrians including persons with disabilities around or through the work area.
(d) The applicant shall be responsible for notifying all property owners/lessees who are affected by the construction at least forty-eight hours prior to commencing.
(e) No material, except the trench excavated material, shall be stockpiled closer than six feet from the existing edge of pavement.
(f) No construction equipment shall be parked or any materials stored in the County street in such a manner that the equipment or materials will obstruct or prohibit pedestrian and vehicular movements, including driveway movements, except during actual working hours.
(g) No excavation shall be left open for more than five working days.
(h) The applicant shall repair, restore, or replace all portions of a County street, including but not limited to utilities, drainage ways and structures, traffic markings and signs, driveways and private property that had been altered, broken up, dug up, disturbed, undermined, dug under or otherwise damaged during construction to a state equal to or better than its original condition. All repair, restoration or replacement work shall comply with the current requirements of the Americans with Disabilities Act, including the construction of curb cuts, accessible driveways, or other improvements for persons with disabilities.
(i) Before issuing a permit, for all work with an estimated cost equal to or exceeding $20,000, the director may require a cash bond, surety company bond, or personal surety bond in favor of the County. The value of the bond shall be double the estimated cost of restoring or replacing the County street to a state equal to or better than its original condition.
(j) Work must be completed within one year of the starting date shown on the permit unless otherwise specified. Failure to complete the work will result in the termination of the permit.
(k) Repair, restoration or replacement of County streets, highways and sidewalks shall comply with applicable specifications and plans on file in the department of public works. Copies of these specifications and plans shall be furnished to each applicant upon making a request.
(l) Driveway approaches shall be constructed or repaired according to the provisions of this chapter and applicable specifications and plans on file in the department of public works. Copies of these specifications and plans shall be furnished to each applicant upon making a request.
(m) Upon completion of the work, the applicant shall immediately remove all equipment and materials and shall leave the work area in a clean, safe and sanitary condition satisfactory to the director.
(n) All restoration and repair work of the pavement, shoulders, and any other County facilities shall be guaranteed by the applicant against any defects for a period of one year from the date of final inspection.

(2002, ord 02-67, sec 2.)

Section 22-4.5. Construction permit; fees.

Upon submission of an application, construction permit processing fees shall be paid as follows:

(1) For County street excavation, including sidewalk restoration, a fee of fifty cents per lineal foot for the first fifty feet of work and an additional five cents per lineal foot for work in excess of fifty feet, but no fee shall be less than $25.

(2) For driveway approaches a fee of $25 for each driveway approach.

(3) For all other work, construction, or installations within a County street a fee of $25.

(4) Fees shall be waived for permits issued to or on behalf of Federal, State and County agencies including the department of water supply.

(2002, ord 02-67, sec 2.)

Division 2. Sidewalk Standards.

Section 22-4.6. Maintenance of sidewalk area.

(a) Every owner of land abutting on or adjoining any County street shall, at their own expense, maintain the sidewalk area and the portions of their properties that adjoin the sidewalks by trimming, cutting, pruning, mowing, sweeping or using other methods to control landscape plants, weeds, noxious growths, trash, debris or other materials that would damage the sidewalk area or interfere with or inconvenience pedestrian traffic. The sidewalk area shall include that portion of the County street between the outside face of the curb and the abutting property line. The sidewalk area shall also include the gutter when the gutter and curb are constructed as a single unit.

(b) All landowners shall, at their own expense, be responsible for the repair of all damages to the sidewalk area that are attributed to the owner's abuse or failure to provide proper maintenance. The director shall determine the extent of repair or maintenance required and whether damages were caused by a lack of maintenance or abuse.

(2002, ord 02-67, sec 2.)

Section 22-4.7. Sidewalk repair.

All repair work shall be performed in accordance with the requirements of this chapter.

(2002, ord 02-67, sec 2.)

Division 3. Driveway Approach Standards.

Section 22-4.8. Proper driveway approach required.

(a) No County street shall be used for ingress or egress to a property without a properly located and constructed driveway approach.

(b) All driveway approaches shall be constructed in accordance with this chapter except for those County streets that do not have curbs and sidewalks and are fully paved from the lateral line of the roadway up to the property line.

(2002, ord 02-67, sec 2.)

Section 22-4.9. Standards for driveway approaches.

(a) Width of driveway approach.
  (1) Except for commercial and industrial uses, driveway approaches shall not exceed thirty-six feet in width, including flares. This width shall be measured along the outside face of the curb or the lateral line of the roadway.
  (2) Driveway approaches for commercial and industrial uses may be wider than thirty-six feet in width, including flares, if designed by an engineer and approved by the director.

(b) Common driveway approaches.
  (1) The director may permit the creation of a common driveway approach for separate parcels when requested by the affected property owners.
  (2) Except for commercial and industrial uses, common driveway approaches shall not exceed thirty-six feet in width, including flares. This width shall be measured along the outside face of the curb or the lateral line of the roadway.

(c) Distance between driveway approach and property lines. Except for a common driveway approach, no portion of a driveway approach, including flares, shall be constructed closer than two feet from the extension of any property line dividing two lots except where a property frontage is less than twenty feet, in which case the flared portions of the driveway may go beyond the property line extension.

(d) Location of driveway approaches at intersections.
  (1) Intersections without a traffic signal system.
    (A) Except for commercial and industrial uses, no portion of the driveway approach including flares shall be constructed within thirty feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than thirty feet, no portion of the driveway approach including flares shall be constructed within the curve.
    (B) For commercial and industrial uses, no portion of the driveway approach including flares shall be constructed within seventy-five feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than seventy-five feet, no portion of the driveway approach including flares shall be constructed within the curve.

(2) Intersections with a traffic signal system.
No portion of the driveway approach including flares shall be constructed within seventy-five feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than seventy-five feet, no portion of the driveway approach, including flares, shall be constructed within the curve.

(3) If a property does not have sufficient County street frontage to comply with the intersection location requirements, the driveway shall be located as far from the intersection as possible. A plot plan showing the location of the driveway shall be submitted to the director for review and approval.

(e) Maximum number of driveway approaches.

(1) Except for commercial and industrial uses, no property shall have more than two driveway approaches. A common driveway approach shall be counted as one of the two driveway approaches. Two driveway approaches will be allowed if they meet the width, spacing and location requirements of this chapter.

(2) For commercial and industrial uses, multiple driveway approaches shall be designed by an engineer and approved by the director.

(f) Spacing between driveway approaches.

(1) When more than one driveway approach is to be constructed for a property, there shall be a minimum space of thirty feet between approaches.

(g) Public facilities.

(1) No driveway approach shall interfere with any existing public facilities located within a County street. Typical public facilities include street lighting poles, traffic signal poles and equipment, signs, catch-basins, fire hydrants, crosswalks, parking spaces and meters, bus loading zones, utility poles, underground public utilities and other related public structures or improvements within a County street.

(2) If a proposed driveway approach interferes with an existing public facility, the owner of the property using the driveway approach shall bear the expense of removing, reconstructing or relocating the facility. This work shall be performed according to the provisions of this chapter.

(3) If a proposed public facility interferes with an existing driveway approach, the owner of the public facility shall bear the expense of removing, reconstructing or relocating the driveway approach and its related improvements, including paying for all damages resulting from the work and restoring all improvements to a state equal to or better than its original condition.

(4) Culverts, swales and other drainage improvements. No driveway approach shall interfere with the proper runoff of surface waters into, or passage of waters through existing drainage culverts, swales, ditches, watercourses, defiles, or depressions. When in the construction of a driveway approach, the proper runoff of surface waters and other waters require the construction of a drainage structure other than a swale, such drainage structure shall be designed by an engineer and subject to the approval of the director.

(2002, ord 02-67, sec 2.)

Section 22-4.10. Maintenance of driveway approaches.

All landowners shall, at their own expense, maintain and repair their driveway approach such that it does not cause a hazard to, interfere with or inconvenience vehicular or pedestrian traffic. Maintenance shall also include drainage structures or other improvements that are integrated or included as part of the driveway approach. These responsibilities shall continue until the driveway approach is removed and the area restored to a condition approved by the director.

(2002, ord 02-67, sec 2.)

Article 5. Addresses.

Division 1. Street Names.

Section 22-5.1. Posting street names at intersections.

The director shall post the official County names where two or more County streets intersect.

(2002, ord 02-67, sec 2.)

Section 22-5.2. Adoption of street names.

The authority to name and to approve the change of names for all streets including private and State owned streets, within the County, shall be the responsibility of the planning director to be exercised in accordance with administrative rules and regulations established by the planning department. The planning director may devise a method of adding numbers or letters to street names to show their orderly progression and/or direction. The number or letter will be in addition to the street name.

(2002, ord 02-67, sec 2.)

Section 22-5.3. Street name repository.

The planning department shall serve as a repository for all official street names.

(2002, ord 02-67, sec 2.)

Division 2. Reserved.

Article 6. Speed Humps.

Section 22-6.1. Powers and duties of director.

The director may:

(1) Construct, place, approve, remove and repair speed humps on County streets when deemed necessary for public safety.

(2) Grant or deny requests from the public pursuant to this chapter and in accordance with the administrative rules and regulations governing speed humps on County streets.

(2002, ord 02-67, sec 2.)

Section 22-6.2. Requests for approval.

All requests for speed humps must provide:

(1) The name of the County street on which the speed humps are to be placed.

(2) The proposed location of the speed humps for the highway mentioned in subsection (1).

(3) Petition of the property owners whose property abuts the County street within five hundred feet of the proposed speed hump, in support of the speed hump.

(2002, ord 02-67, sec 2.)

Section 22-6.3. Process for approval.

The director shall review all requests for approval for location, design and construction to ensure that they meet the guidelines as established in the "Guidelines for the Design and Application of Speed Humps," Institute of Transportation Engineers, May 1993, or as subsequently revised.

(2002, ord 02-67, sec 2.)

Article 7. Variances.

Section 22-7.1. Variances; application.

(a) In unique cases where strict enforcement of this chapter would result in unnecessary hardship or practical difficulty, and where desirable relief may be granted without detriment to the public interest, convenience or welfare, a request for a variance may be submitted to the director for consideration.

(b) Variance applications shall be submitted upon a form designated by the director and shall include the following information and attachments:

(1) Property owner's name, phone number, and mailing address.

(2) Tax map key number of the affected property.

(3) A map showing:

(A) The location of the driveway.

(B) The location of all structures on the property.

(4) Code section from which a variance is requested.

(5) Explanation of the applicant's unique circumstances and why consequently, compliance with the applicable code section would be difficult or cause an unnecessary hardship.
(6) Explanation of alternative measures that applicant is proposing to take in lieu of compliance with the applicable code section.
(7) Evidence that desired relief may be granted without detrimentally affecting the public interest.

(2002, ord 02-67, sec 2.)

Section 22-7.2. Variances; criteria for granting.

Only in situations where all of the following conditions exist may a variance be granted by the director:

(1) A grant of a variance is necessitated by peculiar physical conditions not ordinarily found in most districts, because of the peculiarity of a business, or as a result of a special event or circumstance.
(2) Granting the variance will not adversely affect the rights of adjacent property owners or tenants.
(3) Granting the variance will not violate the interest, safety, convenience, or general welfare of the public.
(4) A strict application of the terms of this chapter would result in unnecessary hardship and practical difficulty upon the applicant or community.

(2002, ord 02-67, sec 2.)

Section 22-7.3. Variance application fees.

(a) Upon submission of an application for a variance provided for in this article, applicants shall submit a processing fee of $25.
(b) Fees shall be waived for any variance applied for by a Federal, State or County agency including the department of water supply.

(2002, ord 02-67, sec 2.)

Article 8. Violations, Penalties, Enforcement.

Section 22-8.1. Violations.

Failure to comply with any provision of this chapter, any rule adopted pursuant to this chapter, or with conditions imposed as part of any permit or variance from the provisions of this chapter, shall constitute a violation of this chapter.

(2002, ord 02-67, sec 2.)

Section 22-8.2. Administrative enforcement.

(a) In lieu of or in addition to enforcement pursuant to the provisions of this chapter, if the director determines that any person is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any conditions imposed as part of any permit or variance from the provisions of this chapter, the director shall serve the person with a notice of violation and order pursuant to this section. Service may be accomplished through personal service or by certified mail. The director may also post a copy of the notice of violation and order at the site of the violation.

(b) The notice of violation shall include at least the following information:
  (1) Date of the notice.
  (2) Name and address of the person noticed.
  (3) Section number of the provision, rule, permit, or variance that was violated.
  (4) Nature of the violation.
  (5) Location and date of the violation.

(c) The order may require the person to do any or all of the following:
  (1) Cease and desist from the violation.
  (2) Correct the violation at the person's own expense before a date specified in the order.
  (3) Reimburse the County for costs incurred during the course of performing any corrective work.
  (4) Pay a civil fine not exceeding $1,000 in the manner, at the place and before the date specified in the order.
  (5) Pay a civil fine not exceeding $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.

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

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

(f) Any person adversely affected by any order issued under this section, may within thirty days after the service of the order, appeal the order to the County board of appeals. An appeal to the County board of appeals shall stay the provisions of the director's order pending the final decision of the board.

(g) The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine, recover County costs, or both, as imposed by said order, the director need only show that:
  (1) The notice of violation and order were served.
  (2) That a civil fine, County costs, or both were imposed.
  (3) The amount of the civil fine, County costs, or both imposed.
  (4) That the fine, County costs, or both imposed have not been paid.

(2002, ord 02-67, sec 2.)

Section 22-8.3. Criminal prosecution.

(a) This section shall not apply to violations of article 3 of this chapter.

(b) Any person whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a violation, and upon conviction thereof shall be punished by a fine not exceeding $1,000.

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

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

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

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

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

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

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

(2002, ord 02-67, sec 2.)

Section 22-8.4. Injunctive action.

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

(2002, ord 02-67, sec 2.)

Section 22-8.5. Emergency powers; procedures.

(a) Notwithstanding any other law to the contrary, if the director determines that a violation of this chapter will cause imminent peril to the public health and safety, the director, without a public hearing, may order the responsible persons to immediately cease their activities, and may perform all necessary work and other actions as may be necessary to correct the violation. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the hearings officer.

(b) Nothing in this section shall be construed to limit any power authorized by law which the director or any other County official may have to declare an emergency and act on the basis of such declaration.

(2002, ord 02-67, sec 2.)

Section 22-8.6. Corrective work by the County; costs.

(a) When the director determines that a violation of this chapter will cause imminent peril to the public health and/or safety, the department of public works may perform all necessary work to correct the violation. This work may include, but may not be limited to, clearing or removing of encroachments and obstructions, removal of equipment, materials, goods, wares or merchandise found within a County street, repair and maintenance of sidewalk areas and driveway approaches, barricading of illegal driveways and installing building numbers.

(b) All costs incurred during the course of performing any corrective work shall be paid by the violator. The department of public works shall give, by certified mail, a bill to the violator. The violator shall then have thirty days from the date of mailing to pay the bill.

(c) Should the violator fail to make full legal payment within thirty days, the County may use all legal means available to recover its expenses and costs of clearing by any action allowed in law or equity.

(d) Signs, banners, equipment, goods, wares, merchandise and other private items removed by the department of public works will be stored at the nearest County highway maintenance baseyard. Owners may recover removed items during the normal working hours of the baseyard. The County will not be responsible for the safekeeping or proper storage of these items. At the end of the calendar year all items shall be appropriately disposed or discarded no matter when they were removed during the calendar year.

(2002, ord 02-67, sec 2.)

Section 22-8.7. Limited liability of authorized personnel.

The authorized personnel charged with the enforcement of this article, acting in good faith and without malice in the discharge of the duties required by this article 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 article or other pertinent laws or ordinances implemented through the enforcement of this article shall be defended by the County of Hawai‘i until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County.
(2002, ord 02-67, sec 2.)

Section 22-8.8. Remedies cumulative.

The remedies provided in this article shall be cumulative and not exclusive.
(2002, ord 02-67, sec 2.)

Article 9. Legal Compliance and Rulemaking.

Section 22-9.1. Compliance with this chapter and other laws.

Any approval or permit issued pursuant to the provisions of this chapter shall comply with all applicable requirements of this chapter. The granting of a permit or variance under this chapter 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.
(2002, ord 02-67, sec 2.)

Section 22-9.2. Adoption of rules.

The director may adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this chapter.
(2002, ord 02-67, sec 2.)

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CHAPTER 23

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CHAPTER 23

SUBDIVISIONS

Article 1. General Provisions.

Section 23-1. Title.

This chapter may be cited as the subdivision control code.
(1983 CC, c 23, art 1, sec 23-1.)

Section 23-2. Scope of chapter.

As authorized by section 62-34(7),* Hawai‘i Revised Statutes, as amended, and applicable ordinances, all subdivision plats and all streets or ways within the County created for the purpose of partitioning land shall be approved by the director in accordance with this chapter.
(1983 CC, c 23, art 1, sec 23-2.)

*** Editor's Note:** Chapter 62, Hawai‘i Revised Statutes was repealed and replaced with chapter 46.

Section 23-3. Definitions.

Whenever used in this chapter, the following words and phrases, unless the context otherwise requires, shall be defined as indicated:

(1) "Alley" means a narrow street through a block primarily for access by service vehicles to the back or side of properties fronting on another street.
(2) "Arterial" means a street of considerable continuity, which is primarily a traffic artery for intercommunication between or through large areas.
(3) "Building line" means a line on a plat indicating the limit beyond which buildings or structures may not be erected.
(4) "Bureau of conveyances" means a bureau in the department of land and natural resources, State of Hawai‘i, where subdivisions meeting the requirements of this chapter may be filed.
(5) "City of Hilo" means that portion of the district of South Hilo, County of Hawai‘i, which is described as follows: Bounded on the south by the district of Puna; bounded on the west by the districts of Ka‘ū and North Hilo; on the north by the ahupua‘a of Paukaa in the district of South Hilo; and on the east by the sea.
(6) "Conforming" means compliance with the requirements of the applicable zoning district, including minimum building site area and minimum dimensions.
(7) "Consolidation" means the combining of two or more lots into one lot.
(8) "County general plan" means the plan adopted by the County for the guidance of growth and improvement of the County, including modifications or refinements which may be made from time to time.

(9) "Cul-de-sac" and "dead-end street" mean a street with only one end open to traffic.
(10) "Director" means the planning director of the County.
(11) "Director of transportation" means the director of the State department of transportation.
(12) "District engineer" means the district engineer of the division of highways of the State department of transportation for the County.
(13) "Easement" means a grant of the right to use a strip of land for specific purposes.
(14) "Engineer" means a person duly registered as a professional civil engineer in the State.
(15) (A) "Lot" means a parcel of land intended as a unit for transfer of ownership or for development.
(B) "Reversed corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
(C) "Reversed frontage lot" means a lot situated between an existing or proposed arterial street and a minor street with frontage and access being derived from the minor street.
(D) "Through lot" means a lot having a frontage on two parallel or approximately parallel streets other than alleys and access being derived from either of the two streets.
(16) "Manager" means the manager-chief engineer of the department of water supply of the County.
(17) "Parkway" means a road, street or highway that provides a traffic artery which provides for movement of traffic in opposite directions on either side of a dividing island or medial strip and is designated for through traffic.
(18) "Pedestrian way" means a public right-of-way through a block between lots for pedestrian traffic, which may also be used as a utility easement.
(19) "Person" means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, including any trustee, receiver, assignee, or other similar representative thereof.
(20) "Plat" means the map or drawing on which the subdivider's plan of subdivision is presented and which he submits for approval.
(21) "Pre-existing lot" means a specific area of land that will be treated as a legal lot of record based on criteria set forth in this chapter.
(22) "Reserve strip" means a nonaccess reservation, placed under public control with conditions approved by the director, along rear property lines of reverse frontage lots.
(23) "Resort subdivision" means land which: (A) is within a resort area as designated in the County general plan document or on the Land Use Pattern Allocation Guide (LUPAG) Map; (B) is zoned resort-hotel by the zoning code; or (C) is adjacent to land described in (A) or (B) and whose only ingress and egress is through land described in (A) or (B).

(24) "Right-of-way" means the area between property boundary lines for use as a street or as a drainage or utility easement.
(25) "Roadway" means the portion of a street right-of-way developed for vehicular traffic.
(26) "Sanitary engineer" means the sanitary engineer of the State department of health for the County.
(27) "Sidewalk" means a surfaced walkway for pedestrian traffic.
(28) (A) "Street" means the entire width between the boundary lines of every public way provided for public use, for vehicular and pedestrian traffic, and the placement of utilities, and includes a road, boulevard, highway, land, place, avenue, lane, court, or alley.
(B) "Business or industrial street" means a street providing primary access to business or industrial lots.
(C) "Collector street" means a street supplementary to the arterial street system which is a means of intercommunication between this system and smaller areas, and which may be used to some extent for through traffic and to some extent for access to abutting properties.
(D) "Half street" means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street is to be provided in another subdivision.
(E) "Marginal access street" or "service road" means a minor street, parallel and adjacent to an arterial, providing access to abutting properties, but protected from through traffic.
(F) "Minor street" means a street intended exclusively for access to abutting property.
(G) "Private street" means a street providing primary access to land, retained in private ownership.
(29) "Street plug" means a reservation for street purposes, placed under public control under conditions approved by the director, for the extension of streets from a subdivision into adjacent lands that may be subdivided in the future.
(30) "Subdivided land" means improved or unimproved land or lands divided into two or more lots, parcels, sites, or other divisions of land for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in, any or all such parcels, includes re-subdivision, and when appropriate to the context, relates to the process of subdividing of the land or territory subdivided. Easements for the purpose of road and utilities shall not be construed as subdivided land.
(31) "Subdivider" means a person or any combination of persons who cause land to be divided into a subdivision.
(32) "Surveyor" means a person duly registered as a professional land surveyor in the State.

(1983 CC, c 23, art 1, sec 23-3; am 1992, ord 92-138, sec 2; am 2001, ord 01-108, sec 8; am 2002, ord 02-110, sec 2; am 2009, ord 09-118, sec 15; am 2011, ord 11-103, sec 7.)

Section 23-4. Penalty.

Any person violating or failing to comply with the provisions of this chapter shall be sentenced by a fine not exceeding $500. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance.
(1983 CC, c 23, art 1, sec 23-4.)

Section 23-5. Appeals.

Any person aggrieved by the decision of the director in the administration or application of this chapter, may, within thirty days after the director's decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the director, or it may reverse, modify or remand the decision if the decision is:

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

The board of appeals shall adopt rules pursuant to chapter 91, Hawaiʻi Revised Statutes, necessary for the purposes of this section.
(1983 CC, c 23, art 1, sec 23-5; am 1999, ord 99-111, sec 2.)

Article 2. Administration.

Division 1. General Provisions.

Section 23-6. Applicability of State and County general plans.

This chapter shall be applied and administered within the framework of the County general plan which is a long range, comprehensive, general plan prepared or being prepared to guide the overall future development of the County. The County general plan includes that portion of the State's general plan that applies to the County, or such lesser portion thereof as the County may adopt, together with those comprehensive or general plans for sections of the County which may be adopted as amendments to or portions of the County general plan.
(1983 CC, c 23, art 2, sec 23-6.)

Section 23-7. Applicability to consolidation or resubdivision action.

The requirements and standards of this chapter shall not apply to consolidation and resubdivision action resulting in the creation of the same or fewer number of lots than that which existed prior to the consolidation/resubdivision action; provided that the director, upon conferring with the director of public works and manager-chief engineer of the department of water supply, may require necessary improvements to further the public welfare and safety.
(1983 CC, c 23, art 2, sec 23-7; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 8.)

Section 23-8. Issuance of building permits; zoning code.

No building permit shall be issued for any building to be erected on any lot within the area covered by any proposed subdivision unless the requirements of the zoning code are met.

(1983 CC, c 23, art 2, sec 23-8.)

Section 23-9. Permits for installation of service utilities; subdivision approval.

The department of public works shall not issue a permit to cut a curb, tap a sewer line, or install any lighting or sewer facilities and the department of water supply shall not issue a permit to tap a water line or install any water facilities in the area covered by a proposed subdivision until such subdivision has been approved as required by the provisions of this chapter.

(1983 CC, c 23, art 2, sec 23-9.)

Section 23-10. Acceptance of highways; compliance with chapter.

The council shall not take over, receive by dedication, do any repair or construction work upon streets or pavements, water lines, street lighting systems, sewer lines, or in any way accept as public highways any street in any subdivision opened or platted in the County after December 21, 1966, except upon full compliance with the provisions of this chapter.

(1983 CC, c 23, art 2, sec 23-10.)

Section 23-11. Public utility or public rights-of-way subdivisions.

The requirements, including lot sizes, and standards of this chapter shall not be applicable to public utility or public rights-of-way subdivisions and their remnant parcels; provided that the director upon conferring with the director of public works and manager-chief engineer of the department of water supply may require necessary improvements to further the public welfare and safety.

(1983 CC, c 23, art 2, sec 23-11; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 9.)

Section 23-12. Submission of application and plans; filing.

(a) A person desiring to subdivide land or desiring to partition land by creation of a street within the County shall submit an application for subdivision and preliminary and final plans and documents for approval as provided in this chapter and State law.

(b) No subdivision plat may be filed with the bureau of conveyances or land court until submitted to and approved by the director.

(1983 CC, c 23, art 2, sec 23-12; am 1992, ord 92-138, sec 3.)

Section 23-13. Large scale developments.

The director may make exceptions to this chapter where a plan and program for a complete community, a neighborhood unit, a large-scale shopping center, large industrial area development, or large agricultural area development provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated and covenants or other legal provisions are provided to assure conformity to and achievement of the plan.
(1983 CC, c 23, art 2, sec 23-13.)

Division 2. Variances.

Section 23-14. Variances.

Variances from the provisions of this chapter may be granted; provided, that a variance shall not allow the introduction of a use not otherwise permitted within the district; and provided further that a variance shall not primarily effectuate relief from applicable density limitations.
(1983 CC, c 23, art 2, sec 23-14.)

Section 23-15. Grounds for variances.

No variance will be granted unless it is found that:

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

(1983 CC, c 23, art 2, sec 23-15.)

Section 23-16. Applications for variances.

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

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

(1983 CC, c 23, art 2, sec 23-16.)

Section 23-17. Procedures for variances.

(a) Notice to Owners of Property Interests. Upon receipt and acceptance of a properly filed and completed application, the department shall fix a date for the director's consideration of the application. Within three working days after receiving notice of such date, the applicant shall serve notice of the application on owners of interests in properties within three hundred feet of the perimeter boundary of the applicant's property and to owners of interests in other properties which the director may find to be directly affected by the variance sought. Such notice shall state:

(1) The name of the applicant;

(2) The precise location of the property involved;

(3) The nature of the use sought and the proposed accompanying structures, if any;

(4) The date on which the director will consider the application; and

(5) That such date is the deadline for the director's actual receipt of written comments on the application.

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

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

(c) Notice by Posting of Signs. Within ten days of filing the application for a variance, the applicant shall post a sign on the subject property notifying the public of the nature of the variance, the proposed number of lots, the size of the property, the tax map key or keys of the property and that they may contact the planning department for additional information. The sign shall give the address and telephone number of the planning department.

(1) The sign shall remain posted until final approval, or until the application has been rejected or withdrawn. The applicant shall remove the sign promptly after such action.

(2) Notwithstanding any other provisions of law, the sign shall be not less than nine square feet and not more than twelve square feet in area, with letters not less than one inch high. No pictures, drawings, or promotional materials shall be permitted on the sign. The sign shall be posted at or near the property boundary adjacent to a public road bordering the property and shall be readable from said public road. If more than one public road borders the property the applicant shall post the sign to be visible from the more heavily traveled public road. The sign shall, in all other respects, be in compliance with chapter 3, Hawai`i County Code 1983 (2005 edition).

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

(1983 CC, c 23, art 2, sec 23-17; am 2005, ord 05-135, sec 3.)

Section 23-18. Actions on variances.

The director shall, within sixty days after the filing of a proper application or within a longer period as may be agreed to by the applicant, deny the application or approve it subject to conditions. The conditions imposed by the director shall bear a reasonable relationship to the variance granted. All actions shall contain a statement of the factual findings supporting the decision.

If the director fails to act within the prescribed period, the application shall be considered as having been denied. Such denial is appealable pursuant to section 23-20* of this division.

(1983 CC, c 23, art 2, sec 23-18.)

*** Editor's Note:** Section 23-20 was repealed. General provisions regarding appeals are set forth in section 23-5.

Section 23-19. Repealed.

(1983 CC, c 23, art 2, sec 23-19; rep 1999, ord 99-111, sec 3.)

Section 23-20. Repealed.

(1983 CC, c 23, art 2, sec 23-20; am 1984, ord 84-5, sec 1; rep 1999, ord 99-111, sec 4.)

Section 23-21. Repealed.

(1983 CC, c 23, art 2, sec 23-21; am 1984, ord 84-5, sec 2; rep 1999, ord 99-111, sec 5.)

Article 3. Design Standards.

Division 1. General Provisions.

Section 23-22. Compliance with design standards required.

Each subdivision and the plat thereof shall conform to the standards set forth in this article.

(1983 CC, c 23, art 3, sec 23-22.)

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

Subdivisions shall conform to the County general plan and shall take into consideration preliminary plans made in anticipation thereof. Subdivisions shall conform to the requirements of State law, County department of public works, State department of health, State department of transportation, and County department of water supply requirements and the standards established by this chapter.
(1983 CC, c 23, art 3, sec 23-23.)

Section 23-24. Special building setback lines.

If special building setback lines at variance with the provisions of chapter 25, zoning code, are established in a subdivision, they shall be shown on the subdivision plat and included in the deed restrictions.
(1983 CC, c 23, art 3, sec 23-24.)

Section 23-25. Monuments.

Monuments approved by the director of public works shall be placed and properly coordinated with the State survey triangulation stations at all angle points or points of curvature in streets and at such intermediate points as shall be required by the director of public works. All lot and block corners shall be properly established and marked with one-half inch round galvanized pipe or equal and firmly and permanently set in the ground.
(1983 CC, c 23, art 3, sec 23-25; am 2001, ord 01-108, sec 1.)

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

The subdivider of a parcel of land capable of supporting two hundred dwelling units shall reserve suitable areas for parks, playgrounds, schools, and other public building sites that will be required for the use of its residents. Five percent to ten percent of the land area, exclusive of streets, shall be reserved for recreational and public use, for a period of two years for acquisition by a public agency. Outstanding natural or cultural features such as scenic spots, water courses, fine groves of trees, heiaus, historical sites and structures shall be preserved as provided by the director.
(1983 CC, c 23, art 3, sec 23-26.)

Section 23-27. Cemeteries and crematoriums; exemption.

The requirements and standards of subdivisions in this chapter shall not apply to cemeteries and crematoriums; provided that the use of land for cemeteries or crematoriums shall comply with zoning requirements and ordinances pertaining to the establishment of cemeteries in the County.
(1983 CC, c 23, art 3, sec 23-27.)

Division 2. Blocks.

Section 23-28. Block general design.

The lengths, widths, and shapes of blocks shall be designed with regard to providing adequate building sites suitable to the use contemplated, needs for convenient access, circulation, control, and safety of street traffic, and limitations and opportunities of topography.

(1983 CC, c 23, art 3, sec 23-28.)

Section 23-29. Block sizes.

(a) Blocks shall not exceed two tiers of lots in width and thirteen hundred feet in length, except for:
   (1) Blocks adjacent to arterial streets; or
   (2) When the previous adjacent layout or topographical conditions justify a variation. Long blocks shall be provided adjacent to arterial streets to reduce the number of intersections. The recommended minimum distance between intersections on arterial streets is eighteen hundred feet. Longer blocks shall be used when possible.

(b) Blocks shall not be less than four hundred feet in length.

(c) The desired length for normal residential blocks is from eight hundred to one thousand feet. When the layout is such that sewers will be installed or easements for future sewer lines are provided along rear lot lines, the block should not exceed eight hundred feet in length.

(1983 CC, c 23, art 3, sec 23-29.)

Section 23-30. Drainage easements.

Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a drainage easement or drainage right-of-way conforming substantially with the lines of such water course, and of such further width as will be adequate for the purpose. Streets or parkways parallel to water courses may be required.

(1983 CC, c 23, art 3, sec 23-30.)

Section 23-31. Pedestrian ways.

In any block over seven hundred fifty feet in length, the director may require creation of a pedestrian way to be constructed to conform to standards adopted by the department of public works at or near the middle of the block. If unusual conditions require blocks longer than thirteen hundred feet, two pedestrian ways may be required. The pedestrian way shall be dedicated for public use and shall have a minimum width of ten feet.

(1983 CC, c 23, art 3, sec 23-31.)

Division 3. Lots.

Section 23-32. Lot size, shape, and setback line.

The lot size, width, shape, and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision, the type of development and uses contemplated and in conformance with the provisions of chapter 25, zoning code.
(1983 CC, c 23, art 3, sec 23-32.)

Section 23-33. Minimum lot sizes.

(a) The minimum sizes of various types of lots shall be in conformance with the provision of chapter 25, zoning code, and shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
(b) Where property will not be served by a public sewer, lot sizes for sewage disposal systems shall conform to the requirements of the State health department and shall take into consideration problems of water supply and sewage disposal.

(1983 CC, c 23, art 3, sec 23-33.)

Section 23-34. Access to lot from street.

Each subdivided lot shall abut upon a public street or approved private street. No lot shall be platted without access on a street. The director may indicate the side or sides of any lot from which driveway access shall be permitted or prohibited.
(1983 CC, c 23, art 3, sec 23-34.)

Section 23-35. Lot side lines.

The side lines of a lot shall run at right angles to the street upon which the lot faces, or on a curved street they shall be radial to the curve, as far as practicable.
(1983 CC, c 23, art 3, sec 23-35.)

Section 23-36. Through lots; planting screen easement.

(a) Through lots shall be avoided except where essential to:
    (1) Provide separation of residential development from major traffic arteries or adjacent nonresidential activities; or
    (2) Overcome specific disadvantages of topography or orientation.
(b) A planting screen easement of at least ten feet, across which there shall be no right of access, may be required along through lot lines abutting a traffic artery or other disadvantageous use. A through lot with planting screens shall have a minimum average depth of one hundred twenty-five feet.

(1983 CC, c 23, art 3, sec 23-36.)

Section 23-37. Lot suitable for intended use; inundation area.

A lot shall be suitable for the purposes for which it is intended to be sold. No area subject to periodic inundation which endangers the health or safety of its occupants may be subdivided for residential purposes.
(1983 CC, c 23, art 3, sec 23-37.)

Section 23-38. Large lot subdivision.

In subdividing tracts into large lots which at some future time are likely to be resubdivided, the director may require that the blocks shall be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.
(1983 CC, c 23, art 3, sec 23-38.)

Division 4. Street Design.

Section 23-39. Creation of streets; conditions for approval.

(a) The creation of a street shall be in compliance with requirements for subdivision.
(b) The director shall approve the creation of a street provided that any of the following conditions exist:
    (1) The establishment of the street is initiated by the council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;
    (2) The tract in which the street is to be dedicated is an isolated ownership of one acre or less; or
    (3) The tract in which the street is to be dedicated is an isolated ownership of a size and with special existing physical conditions which make it impractical to develop more than three lots.

(1983 CC, c 23, art 3, sec 23-39.)

Section 23-40. Street location and arrangement; general requirements.

The location, width, and grade of a street shall conform to the County general plan and shall be considered in its relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the street. Where the location is not shown in the County general plan, the arrangement of a street in a subdivision shall either:

(a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
(b) Conform to a plan for the neighborhood which has been approved or adopted by the director to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(1983 CC, c 23, art 3, sec 23-40.)

Section 23-41. Minimum right-of-way and pavement widths.

(a) Unless otherwise indicated on the County general plan, the width of a street in feet shall not be less than the minimums shown in the following table:

Type of Street	Minimum Right-of-Way	Pavement
Parkways	300 feet	24 feet
Primary arterials	120 feet	24 feet
Secondary arterials	80 feet	60 feet (urban) 24 feet (rural) 24 feet (agricultural)
Business & industrial streets	60 feet	36 feet (urban) 24 feet (rural) 24 feet (agricultural)
Collector streets	60 feet	24 feet (urban) 20 feet (rural) 20 feet (agricultural)
Minor streets	50 feet	20 feet (urban) 20 feet (rural) 20 feet (agricultural)
Cul-de-sac and dead-end streets	50 feet	20 feet (urban) 20 feet (rural) 20 feet (agricultural)
Radius for turn-around at end of cul-de-sac	45 feet	35 feet (urban) 35 feet (rural) 35 feet (agricultural)
Alleys	20 feet	20 feet (urban) 20 feet (rural) 20 feet (agricultural)

(b) When sidewalks, curbs, and gutters are required, pavements in collector streets in urban areas shall be thirty-six feet wide and pavements in minor and dead-end streets in urban areas shall be thirty-two feet wide.

(1983 CC, c 23, art 3, sec 23-41.)

Section 23-42. Reserve strip; street plug.

A reserve strip or street plug controlling the access to a street shall not be approved unless: (1) it is necessary for the protection of the public welfare or of substantial property rights; and (2) the control and disposal of the land composing such strips is placed definitely within the jurisdiction of the County or State under conditions approved by the director.

(1983 CC, c 23, art 3, sec 23-42.)

Section 23-43. Alignment.

(a) As far as practical, a street shall be aligned with an existing street by continuation of the centerline thereof. The staggering of streets making "T" intersections shall be designed and adjusted with curves and diagonals, so that jogs are not less than one hundred fifty feet measured along the centerline of the through street.

(b) If it is not possible to align a street of a new subdivision with an existing street of an adjacent tract, short jogs may be avoided by establishing reverse curves in the road alignment within a block. Such reverse curves shall be separated from the existing road right-of-way by a tangent, a minimum of fifty feet long to the beginning or end of the curve. Reverse curves shall be avoided in districts zoned commercial and industrial in chapter 25, zoning code.

(1983 CC, c 23, art 3, sec 23-43.)

Section 23-44. Future extensions of streets.

Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, a street shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turn-around. A reserve strip and street plug may be required to preserve the objectives of a street extension.

(1983 CC, c 23, art 3, sec 23-44.)

Section 23-45. Intersection angles; corner radius.

(a) Streets shall be laid out to intersect at right angles except where topography requires a lesser angle, but the angle shall not be less than sixty degrees unless there is a special intersection design.

(b) Intersections which are not at right angles shall have a minimum corner radius of twenty-five feet along the right-of-way lines of the acute angle. All other right-of-way lines at these intersections shall have a corner radius of not less than twenty feet. If unusual topographical conditions exist that will impair sight distances and create a traffic hazard, the director of public works may specify a larger corner radius.

(1983 CC, c 23, art 3, sec 23-45.)

Section 23-46. Improvement of existing streets.

When an existing street adjacent to or within a tract is not of the width required by this chapter additional rights-of-way shall be provided at the time of subdivision.

(1983 CC, c 23, art 3, sec 23-46.)

Section 23-47. Half streets.

(a) A half street shall not be permitted except:

(1) Where essential to the reasonable development of a subdivision;

(2) When it is in conformance with other provisions of this chapter; and

(3) When the director is shown clear evidence that the adjoining parcels will be developed and that dedication of the other half will be made when the adjoining property is subdivided.

(b) Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract.
(c) Reserve strips and street plugs may be required to preserve the objectives of a half street.
(1983 CC, c 23, art 3, sec 23-47.)

Section 23-48. Cul-de-sacs.
(a) A cul-de-sac shall be as short as possible and shall not be more than six hundred feet in length nor serve more than eighteen lots; provided that longer streets may be approved by the director when unusual conditions exist.
(b) All cul-de-sacs shall terminate with a circular turn-around of forty-five feet radius, except that a T-turn-around or other suitable turn-around may be permitted, if in the opinion of the director, this type of turn-around meets the requirements of the situation.
(1983 CC, c 23, art 3, sec 23-48.)

Section 23-49. Street names.
No street name shall be used which may duplicate or may be confused with the name of an existing street in the County, provided that identical or similar names may be used to name extensions of existing streets. Street names shall conform to the adopted policy of the County and shall be subject to the approval of either the windward or leeward planning commission, or both acting jointly, as provided in the Charter, and shall further require adoption by the council.
(1983 CC, c 23, art 3, sec 23-49; am 1984, ord 84-68, sec 2; am 2009, ord 09-118, sec 16.)

Section 23-50. Grades and curves.
(a) A grade of a street shall be a reasonable minimum but in no case be less than one-half of one percent and shall not exceed seven percent on major arterials, eight percent on secondary arterials, ten percent on collector streets, or twelve percent on any other street. No grade shall be less than one-half of one percent at the gutter. Vertical and horizontal curves shall be so designed as to give nonpassing distance visibility in conformance with the following minimum requirements:

Classification	Vertical Curve	Horizontal Curve
Primary arterial	500 feet	500 feet
Secondary arterial	500 feet	500 feet
Business or industrial street	500 feet	500 feet
Collector street	300 feet	300 feet
Minor street	300 feet	300 feet
Cul-de-sac	100 feet	200 feet

(b) Variations from the required grades or curves may be permitted by the director and the director of public works where advisable to meet unusual conditions and the director of public works may specify additional standards accordingly.

(1983 CC, c 23, art 3, sec 23-50; am 2001, ord 01-108, sec 1.)

Section 23-51. Protection from existing or proposed arterial streets.

Where a subdivision abuts or contains an existing or proposed arterial street, the director may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(1983 CC, c 23, art 3, sec 23-51.)

Section 23-52. Alleys.

Alleys shall have a minimum width of twenty feet in districts designated commercial and industrial in chapter 25, zoning code, unless adequate permanent provisions for access to off-street parking and loading facilities approved by the director have been provided. At street and alley intersections, ten feet corner radii shall be required.

(1983 CC, c 23, art 3, sec 23-52.)

Section 23-53. Private streets.

No private street or alley shall be approved unless they are improved as specified under article 6, division 2 of this chapter.

(1983 CC, c 23, art 3, sec 23-53.)

Division 5. Utilities.

Section 23-54. Utilities location within streets and State highways.

(a) In general, all utilities shall be located within the street width, and government owned water mains shall be located in the paved areas, except that water mains of a suburban water system may be located as designated in the area between the edge of pavement and the property line when approved by the director of public works and manager. Where practicable, sewer mains shall be located in the paved area between curbs.

(b) On State highways, all utilities shall be located in the area between the edge of pavement and the property line. Where practicable, a minimum distance of six feet shall be maintained between the edge of pavement and the location of the utilities. Utilities may be permitted to cross the highway on a line perpendicular to the centerline of the highway. Under certain conditions the utility may be permitted to deviate from the normal line but in no case shall the angle between the utility and a line perpendicular to the centerline exceed forty-five degrees.

(1983 CC, c 23, art 3, sec 23-54; am 2001, ord 01-108, sec 1.)

Section 23-55. Location of utilities within street impractical; alternative.

If in the opinion of the director, the director of public works and manager, the most suitable and reasonable location for any of the utilities, such as sewers, storm drains, water and gas pipes, electric and telephone pole lines and conduits, which are likely to be required within a subdivision for the service thereof or for the service of areas in the surrounding territory, does not lie wholly within the street width, the director may require provisions to be made for the location of such utilities on routes elsewhere than within said street width. The subdivider shall designate the required area for all such utility locations outside of the street width and shall deliver a proper easement or right-of-way for the area.

(1983 CC, c 23, art 3, sec 23-55; am 2001, ord 01-108, sec 1.)

Section 23-56. Easements for utilities; size; conveyance.

(a) Easements or rights-of-way for sewers, storm drains and government owned water facilities shall be fifteen feet in width and centered on rear or side lot lines except for guy-wire tie-back easements, which shall be three feet wide by twenty feet long along lot lines at change of direction points of easements, except that this width may be modified where the director of public works or the manager, whichever is appropriate, finds that a greater or lesser width is necessary or satisfactory for the purpose of the use of the area.

(b) Easements or rights-of-way for all government owned utilities including storm drains except those under the jurisdiction of the department of water supply shall be conveyed to the County and documents shall be delivered to the council for acceptance. Easements or rights-of-way for water facilities which are under the jurisdiction of the department of water supply shall be conveyed to the water commission and the documents shall be delivered to the water commission for acceptance.

(1983 CC, c 23, art 3, sec 23-56; am 2001, ord 01-108, sec 1.)

Article 4. Application for Subdivision and Preliminary Plat.

Division 1. General Provisions.

Section 23-57. Where information obtainable.

A subdivider may call at the planning department's office for information regarding procedures and general information that may have a direct influence on the proposed subdivision.

(1983 CC, c 23, art 4, sec 23-57.)

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

(a) The subdivider shall submit a written application for subdivision, a preliminary plat prepared, stamped and signed by a surveyor, and other supplementary material required to describe the nature and objectives of the proposed subdivision,

and shall submit ten copies, or more if requested by the director, of the preliminary plat and other supplementary material to the director.

(b) All pertinent information on the preliminary plat shall be drawn to scale.

(c) Where the area to be subdivided contains only part of the tract owned or controlled by the subdivider, the director may require a sketch of a tentative layout for streets in the unsubdivided portion.

(d) Application for Resort Subdivision. The subdivider may file an application for resort subdivision. An application for resort subdivision may either be filed under this section or under any other provision of this chapter. If an application for subdivision is filed under this section, it shall be clearly designated as such. Such application shall, in addition to all other information to be submitted with the subdivision application, preliminary plat and other supplementary material, include the following:

(1) A statement acknowledging that all improvements will not be approved for dedication unless and until such improvements satisfy all of the requirements for dedicable improvements.

(2) A description of the provisions made for permanent maintenance of the private roadways within the proposed resort subdivision.

(3) A description of how subsequent owners of the property will be notified of the private nature of the improvements and maintenance responsibilities.

(1983 CC, c 23, art 4, sec 23-58; am 1992, ord 92-138, sec 5; am 2006, ord 06-104, sec 2; am 2015, ord 15-19, sec 1.)

Section 23-58.1. Posting of signs for public notification.

(a) Within ten days of filing the application for a subdivision, the applicant shall post a sign on the subject property notifying the public of the following:

(1) The nature of the application;

(2) The proposed number of lots;

(3) The size of the property;

(4) The tax map key or keys of the property;

(5) That they may contact the planning department for additional information; and

(6) The address and telephone number of the planning department.

(b) The sign shall remain posted until final approval, or until the application has been rejected or withdrawn. The applicant shall remove the sign promptly after such action.

(c) Notwithstanding any other provisions of law, the sign shall be not less than nine square feet and not more than twelve square feet in area, with letters not less than one inch high. No pictures, drawings, or promotional materials shall be permitted on the sign. The sign shall be posted at or near the property boundary adjacent to a public road bordering the property and shall be readable from said public road. If more than one public road borders the property the applicant shall post the sign to

be visible from the more heavily traveled public road. The sign shall, in all other respects, be in compliance with chapter 3, Hawai`i County Code 1983 (2005 edition).

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

(2005, ord 05-135, sec 2.)

Section 23-58.2. Publication of notices.

The director shall publish, on a semi-monthly basis, a list of all applications accepted under this section in at least two newspapers of general circulation in the County. The list shall include the name of the property owner, the tax map key number(s) of the property, the land area, the number of lots proposed, and any other information deemed useful by the director.

(2006, ord 06-104, sec 3.)

Section 23-59. Size and scale of plat.

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

(1983 CC, c 23, art 4, sec 23-59.)

Section 23-60. Application fees for subdivision plans.

(a) Each application for a subdivision (including consolidation) is subject to the payment of the following fee: $250 plus $25 per lot noted on the initial preliminary plat or cluster plan development and for each additional lot resulting from any subsequent amendment of the initial preliminary plat exclusive of any lots set aside for roadway or easement purposes or lands dedicated for public use.

(b) These fees shall not apply to subdivision of land into burial or crematory lots within the confines of duly established cemetery areas; provided that a processing fee will be filed as follows: $100 per acre and proportionate fee for fraction of acre thereof.

(c) The payment of the filing fee shall be made at the planning department's office and payable to the director of finance. No portion of the fee is refundable for applications granted tentative subdivision approval. A portion of fee equivalent to ten percent of the fee or $50, whichever is greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval.

(1983 CC, c 23, art 4, sec 23-60; am 1999, ord 99-97, sec 2.)

Section 23-61. Review of plat.

The director shall furnish one copy of the preliminary plat and supplemental materials after they are submitted by the subdivider, to the manager, the director of public works, and the state department of health, and when a subdivision is adjacent to a State highway or proposed State highway, to the district engineer for their review and comment.

(1983 CC, c 23, art 4, sec 23-61; am 2001, ord 01-108, sec 1; am 2006, ord 06-104, sec 4.)

Section 23-62. Tentative approval of preliminary plat.

(a) Within forty-five days after submission of the preliminary plat, the director shall review the plan and may give tentative approval of the preliminary plat as submitted or as modified or may disapprove the preliminary plat, stating the reasons for disapproval in writing or shall defer action pending further review. Approval of the preliminary plat shall indicate the director's directive to prepare detailed drawings on the plat submitted, provided there is no substantial change in the plan of subdivision as shown on the preliminary plat and there is full compliance with all requirements of this chapter. The action of the director with reference to any attached documents describing any conditions shall be noted on two copies of the preliminary plat. One copy shall be returned to the subdivider and the other retained by the director. At such time the director shall stamp the above two preliminary plats:

"Subdivider authorized to prepare detailed drawings on plat as submitted including corrections noted."

"Recordation with the Bureau of Conveyances, State of Hawai'i, not authorized until approved for record at a later date."

(b) If no action (approval, disapproval, modification, or deferral) is taken by the director within forty-five days after submission of the preliminary plat, or such longer period as may have been agreed upon in writing, the preliminary plat shall be deemed approved. The approval shall be on condition that the subdivider construct roads to the standards required by this chapter, a water system to the standards of the department of water supply, drainage meeting with the approval of the department of public works under section 23-92, that sewage disposal shall conform with section 23-85, if applicable, and the requirements of the department of health, and that the lot sizes and dimensions must be adjusted to conform to the zoning code on the final plat. The subdivider shall comply with the provisions of this chapter in order to receive final subdivision approval.

(c) The director shall disapprove a preliminary plat or a subdivision map where the subdivider has failed to comply with the provisions of chapter 25, zoning code.

(d) The subdivider shall complete all requirements specified as conditions for approval of the preliminary plat (tentative approval) within three years of said approval. An extension of not more than two years may be granted by the director upon timely written request of the subdivider. At the end of said three year period or its approved extension, unless all said conditions are completed, the approval of the

preliminary plat shall expire and shall be of no further force or effect, or shall be subject to the technical review of the applicable agencies for compliance with current Code and rule requirements. This subsection shall be applied to all subdivision applications which have received tentative subdivision approval and which have not completed subdivision improvements, provided the three year period, and extension, if applicable, shall be taken from December 4, 1992 and not from the date of preliminary plat (tentative) approval.

(e) The director's deferral of a subdivision for further review under subsection (a) constitutes an acceptance of the contents of the preliminary plat as submitted, and the director's issuance of tentative and final subdivision approval is valid despite the failure of the preliminary plat to include all of the information specified in sections 23-63 to 23-66, provided that there has been actual compliance with the substantive requirements of this chapter and chapter 25, zoning code. The director may require the subdivider to submit supplementary information prior to tentative or final approval and may condition tentative or final approval on the submission of such information and on the performance of conditions attached to the tentative approval.

(1983 CC, c 23, art 4, sec 23-62; am 1992, ord 92-138, sec 6; am 2006, ord 06-104, sec 5.)

Division 2. Contents of Preliminary Plat.

Section 23-63. General information on preliminary plat.

The preliminary plat shall include the following general information:

(1) Name of the subdivision, if proposed, which shall not duplicate nor resemble the name of another subdivision in the County. The proposed name shall be subject to approval by the director;
(2) Date, northpoint and scale of drawing;
(3) Tax key number and other information to sufficiently describe and define the location and boundaries of the proposed subdivision according to the County real property records;
(4) Names and addresses of the owner, subdivider, and engineer or surveyor who prepared the plat;
(5) The approximate lot layout and the approximate dimension and area of each lot;
(6) Acreage of proposed subdivision and number of lots; and
(7) A title report issued by a licensed title company in the name of the owner of the land, showing all parties whose consents are necessary and their interests in the premises when required by the director.

(1983 CC, c 23, art 4, sec 23-63; am 2006, ord 06-104, sec 6.)

Section 23-64. Existing conditions shown on preliminary plat.

The preliminary plat shall include the following information on existing conditions, unless waived or deferred by the director:

(1) Location, width and names of all existing or platted streets within or adjacent to the tract, together with easements, other rights-of-way, and other important features, such as corners, property boundary lines, and control of access lines adjacent to State highways;

(2) When required by the director, contours at vertical intervals of five feet where the slope is greater than ten percent. Elevations shall be marked on the contours based on an established bench mark or other datum approved by the director of public works. In addition, the contours as may be required by the manager, State department of health, and director of public works shall be shown;

(3) The location and direction of all water courses and approximate location of areas subject to inundation or storm water overflow;

(4) Existing uses of property, including but not limited to, location of all existing structures, wells, cisterns, private sewage disposal systems, and utilities; and

(5) Zoning on and adjacent to the tract, provided that if the information required by subsection (3) is not shown, it shall be made a condition of tentative approval, and tentative approval shall also require drainage improvements pursuant to section 23-92 or their equivalent.

(1983 CC, c 23, art 4, sec 23-64; am 2001, ord 01-108, sec 1; am 2006, ord 06-104, sec 6.)

Section 23-65. Proposed plan of land partitioning on preliminary plat.

The preliminary plat plan shall include the following land partitioning information:

(1) Streets showing location, widths, approximate radii or curves. The relationship of all streets to projected streets shown on the County general plan, which may be shown on a vicinity map;

(2) Existing and proposed easements, showing width and purpose;

(3) Lots, showing approximate dimensions, proposed lot size and proposed lot numbers; and

(4) Sites, if any, allocated for purposes other than single-family dwellings, or farm dwellings.

(1983 CC, c 23, art 4, sec 23-65; am 2006, ord 06-104, sec 6.)

Section 23-66. Explanatory information on preliminary plat.

Unless waived or deferred by the director, the preliminary plat shall include the explanatory information listed in this section. If such information cannot be shown practicably on the preliminary plat, it shall be submitted in separate statements accompanying the preliminary plat:

(1) A vicinity map at a small scale, showing existing subdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets may be extended to connect with existing streets;

(2) Proposed deed restrictions in outline form if any;
(3) Statement regarding water system to be installed, including source, quality and quantity of water;
(4) Provisions for sewage disposal, conceptual drainage and flood control which are proposed. The drainage map shall include the approximate location of areas subject to inundation or storm water overflow and all areas covered by waterways, including ditches, gullies, streams and drainage courses within or abutting the subdivision; and
(5) Parcels of land proposed to be dedicated to public use, and the conditions of such dedication, provided that if the information required in subsections (3) and (4) is not shown, water supply, sewage disposal, and drainage shall be determined by conditions of tentative approval.

(1983 CC, c 23, art 4, sec 23-66; am 2006, ord 06-104, sec 6.)

Article 5. Final Plat.

Section 23-67. Time limit for completing final plat.

The final plat shall be prepared and completed within one year following the tentative approval given on the preliminary plat by the director. If the final plat has not been filed within this period, the tentative approval of the preliminary plat shall be deemed void. A time extension, for good cause may be granted as provided under section 23-72.

(1983 CC, c 23, art 5, sec 23-67.)

Section 23-68. Drafting of final plat.

(a) A surveyor shall prepare, stamp, and sign the final plat in accordance with the provisions of this chapter and sections 502-17, 502-18 and 502-19, Hawai‘i Revised Statutes, as amended.
(b) The scale and sheet size utilized on this drawing shall be the same as required under section 23-59, and dedication or other written material shall be submitted on supplemental sheets.
(c) If the final plat, following approval by the director, is to be filed with the land court for recordation, it shall comply with all requirements specified under the rules of the land court for land court subdivisions.

(1983 CC, c 23, art 5, sec 23-68; am 2015, ord 15-19, sec 2.)

Section 23-69. Information required on final plat.

In addition to any other information required to be shown thereon under provisions of any State statute or County ordinance the following information shall be shown on the final plat and supplemental sheets:

(1) Date, northpoint and scale of drawing;
(2) Legal description of the tract boundaries;
(3) Names and addresses of the owner, subdivider, and engineer, or surveyor who prepared the plat;

(4) Reference points of existing surveys identified, related to the plat by distances and azimuths, and reference to a field book or map as follows:
   (A) All stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision;
   (B) Adjoining corners of all adjoining subdivisions;
   (C) Boundary lines and grants within and adjacent to the plat;
   (D) All other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this chapter;
(5) Tract boundary lines, right-of-way lines of streets: lot lines with dimensions, azimuths and radii, points of curvature and tangent azimuths shall be shown;
(6) The width of the portion of streets being dedicated, the width of any existing right-of-way and the widths each side of the centerline. For streets and curvature, all curve data shall be based on the street centerline and, in addition to centerline dimensions, shall indicate thereon the central angle;
(7) All easements which shall be denoted by fine broken lines, clearly identified and if already on record, its recorded reference; if any easement is not definitely located on record, a statement of such easement. The widths of the easement and information sufficient to definitely locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;
(8) Lot identification which shall be according to good engineering practices;
(9) Land parcels to be dedicated for any purpose, public or private, to be distinguished from lots intended for sale and their use indicated;
(10) Minimum building setback lines, where not otherwise fixed by a building code or County ordinance;
(11) The following certificates which may be combined where appropriate:
   (A) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided consenting to the preparation and recording of the plat when required by the director.
   (B) A certificate signed and acknowledged as above, when dedicating all parcels of land shown on the final map and intended for any public use except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
   (C) A certificate with the seal of and signed by the engineer or surveyor responsible for the survey and final draft.
   (D) All other certificates now or hereafter required by law;
(12) All control of access lines adjacent to State highways which shall be denoted by the State highways division standard symbol of semicircles on the control of access line.

(1983 CC, c 23, art 5, sec 23-69; am 2006, ord 06-104, sec 7.)

Section 23-70. Supplemental information with final plat.

The following data shall be submitted with the final plat:

(1) A complete title report issued by a licensed title company in the name of the owner of the land, showing all parties whose consents are necessary and their interests in the premises when required by the director;

(2) Five copies of any deed restrictions applicable to the subdivision;

(3) Written proof that all taxes and assessments on the tract are paid to date; and

(4) For nondedicable streets in a resort subdivision, the subdivider shall submit a recordable document with the director which shall describe all nondedicable streets, the ownership thereof and access rights thereon for all lots in the subdivision and the maintenance rights and responsibilities thereof. The document shall contain statements as follows: that nondedicable streets within the resort subdivision have not been built to the standards required for streets which are dedicable to the County of Hawai‘i; that such streets will accordingly not be accepted for dedication unless they are brought into compliance with the requirements for dedication as of the time they are offered for dedication; and that the County is not responsible for maintenance of such nondedicable streets. The document shall be in a form acceptable to the director of public works and corporation counsel. For subdivided land within the jurisdiction of the land court, such document shall be recorded with the land court. For all other subdivided land, the document shall be recorded with the State bureau of conveyances.

(1983 CC, c 23, art 5, sec 23-70; am 1992, ord 92-138, sec 7; am 2001, ord 01-108, sec 1; am 2006, ord 06-104, sec 7.)

Section 23-71. Subdivision not involving streets, drains, or utilities.

The preliminary plat may be approved by the director for recordation if:

(1) The preliminary plat meets all of the requirements of a final plat; and

(2) The subdivision involves no streets, drains, or utilities.

(1983 CC, c 23, art 5, sec 23-71.)

Section 23-72. Filing of final plat.

(a) Within one year after tentative approval of the preliminary plat by the director, the subdivider shall have the subdivision surveyed and shall prepare a final plat which conforms with the preliminary plat as tentatively approved. The subdivider shall submit to the director eight copies of the final plat, prepared in conformity with these regulations, together with four additional copies of a general layout map, which was originally attached to the construction drawings and specifications (where required) showing the location of lots, streets, water mains and storm drainage systems.

(b) For good cause, the director may grant to the subdivider an extension of time within which the subdivider may file the final plat.

(c) The time of filing the final plat means the time at which the final plat, together with all required data, is received by the director. The director shall indicate the date of filing on all copies of the final plat and accompanying data.

(1983 CC, c 23, art 5, sec 23-72; am 2006, ord 06-104, sec 7.)

Section 23-73. Technical review.

Within thirty days after receipt of the final plat and other data, the director shall submit copies of the final plat and other data to the director of public works, manager, State department of health and district engineer when the subdivision involves State highways for review of the final plat with the director. The final plat shall be examined as to whether it is substantially similar to the approved preliminary plat and whether it is technically correct. The information on the final plat shall also be verified by entering upon the respective subdivision where deemed necessary by the director. If there is a variance, the subdivider shall be advised by the director of the changes or additions that must be made and given an opportunity to make corrections. The director's submission of copies of the final plat to other reviewers constitutes acceptance of the contents of the final plat, provided that the director may request supplementary information, and may require the subdivider to correct errors prior to the issuance of final subdivision approval, and after final approval pursuant to section 23-74(c). The director's issuance of final subdivision approval shall be valid despite the absence of technical information as required by section 23-69(1) and (3), or the absence of similar technical but non-substantive information required by sections 23-69 and 70.

(1983 CC, c 23, art 5, sec 23-73; am 2001, ord 01-108, sec 1; am 2006, ord 06-104, sec 7.)

Section 23-74. Final approval of plat.

(a) When all the construction work is complete and is accepted in writing by the director of public works, the subdivider may apply for approval of the subdivision map for recordation. If the director disapproves the plat, the grounds for disapproval shall be filed in the records of the planning department. No plat shall be disapproved by the director without giving the subdivider an opportunity to correct errors in the plat.

(b) Upon final approval, the director shall stamp three copies of the final plat:

"SUBDIVISION NUMBER _____ APPROVED FOR RECORDATION WITH THE BUREAU OF CONVEYANCES, STATE OF HAWAI'I."

The approval shall bear the signature of the director. The planning department shall then retain one copy of the final plat, and forward one copy of the final plat to the County real property tax office, and one copy of the final plat to the subdivider. The approval of the final plat by the director shall not be deemed to constitute or effect an acceptance by the County of the dedication of any street or other easement shown on the plat.

(c) The approval for recordation of the final plat by the director shall not relieve the subdivider of the responsibility for any error in the dimensions or other discrepancies. Such errors or discrepancies shall be revised or corrected, upon request, to the satisfaction of the director.
(d) Nondedicable Streets. In addition to all other requirements for approval of the final plat herein, if the subdivision includes any nondedicable streets, the subdivider shall, prior to final approval, deposit a duly recorded copy of the document described in section 23-70(4) of this chapter with the director.

(1983 CC, c 23, art 5, sec 23-74; am 1992, ord 92-138, sec 8; am 2001, ord 01-108, sec 1; am 2006, ord 06-104, sec 7.)

Section 23-75. Change after approval.

No change in a subdivision, or in the plan of a subdivision, already approved, may be made without the approval of the director.

(1983 CC, c 23, art 5, sec 23-75.)

Section 23-76. No conveyance of land prior to approval for recordation.

Land shall not be offered for sale, lease or rent in any subdivision, nor shall options or agreements for the purchase, sale, leasing or rental of the land be made until approval for recordation of the final plat is granted by the director.

(1983 CC, c 23, art 5, sec 23-76.)

Section 23-77. Recordation of final plat.

After the director grants approval for recordation of the final plat, the subdivider may file and record the plat.

(1983 CC, c 23, art 5, sec 23-77.)

Section 23-78. Release of surety after final approval.

Upon completion of the improvements and utilities in a subdivision as required by this chapter and certification thereof as provided by article 7 of this chapter, and after the subdivider files one set of construction plans as actually modified to meet construction requirements with the department of public works, State department of health and department of water supply (if applicable), the department of public works, State department of health and the department of water supply (if applicable), shall approve the performance and thereupon discharge the subdivider and surety (in whole or in part according to the terms of the subdivider's agreement, if any) from the obligation of any bonds and release to the subdivider any security posted by the subdivider, or authorize and direct such discharge and release by the appropriate agency.

(1983 CC, c 23, art 5, sec 23-78.)

Article 6. Improvements.

Division 1. Construction.

Section 23-79. Construction plans; contents; review.

(a) After the subdivider has secured tentative approval of his preliminary plat of the subdivision from the director, and before beginning construction of the improvements therein, the subdivider shall prepare and submit to the director construction plans and specifications showing details of road construction, drainage structures, sewers, water mains and all other utilities proposed to be installed in the proposed subdivision. The construction plans shall be drawn on acceptable tracing medium to County standards as to size and general drafting practice. Included with the construction plans shall be a general layout map showing the location of lots and streets, and the location of water lines, sewer mains and drainage systems and other utility lines. Plans shall be prepared by an engineer registered under the laws of the State provided that, when the subdivision consists of three lots or less, the director may grant tentative approval to proceed with plans without the seal of an engineer.

(b) The subdivider shall submit six copies of the construction plans and specifications to the director for examination and submission to the director of public works, the manager, the sanitary engineer and the district engineer as required under section 23-61, for their respective consideration and approval. Such construction plans and specifications shall be considered approved for construction purposes when the construction plan tracings and specifications bear the approval of the director of public works, the manager, the sanitary engineer, the district engineer and the director as required under section 23-61.

(1983 CC, c 23, art 6, sec 23-79; am 2001, ord 01-108, sec 1.)

Section 23-80. Construction required for final approval.

(a) When the construction drawings and specifications bear the approval of the director, the director of public works, the manager, the sanitary engineer and the district engineer as required under section 23-79, the subdivider may proceed with the construction of the improvements and utilities.

(b) Where construction extends into the State highway right-of-way, the contractor shall obtain a permit from the district engineer prior to commencement of work within the State right-of-way. In this case no bond or security need be posted with the department of public works or the department of water supply.

(1983 CC, c 23, art 6, sec 23-80; am 2001, ord 01-108, sec 1.)

Section 23-81. Final approval before construction completed; bond required.

A subdivider may secure final approval prior to completion of construction by entering into an agreement which conforms to section 23-82 with the County, signed by the director and the department of public works and, when appropriate, department of water supply and file with the department of public works and when required department of water supply a surety bond or other security as specified in section 23-83 to assure the department of public works and the department of water supply that the actual construction and installation of the improvements and utilities will be completed as shown on the approved construction drawings and specifications. The director shall, after the execution and acceptance of the agreement and bond, grant approval of the final plat. The subdivider may then proceed to record the final plat and sell the lots or transfer any interest therein prior to completion of the improvements.
(1983 CC, c 23, art 6, sec 23-81.)

Section 23-82. Agreement to provide improvements and utilities.

The owner of the subdivision shall submit an agreement to the director who shall refer the document to the corporation counsel for approval as to form and legality. The agreement shall specify that the subdivider shall make, install, and complete all required improvements and utilities to the satisfaction of the director of public works and when appropriate, the department of water supply, and shall also provide that:

(1) If the subdivider fails to complete:
   (A) The required improvements within the time specified; and
   (B) Any additional conditions imposed for the granting of an extension to complete the required improvements and additional conditions with the extended time period;
(2) If the subdivider fails to timely complete or abandons the subdivision prior to final approval; or
(3) If the agreement is terminated for any of the grounds stated in the agreement; the department of public works and when appropriate, the department of water supply may complete the improvements and recover the full cost and expense thereof from the subdivider.

(1983 CC, c 23, art 6, sec 23-82; am 2001, ord 01-108, sec 1.)

Section 23-83. Bond.

(a) The agreement as specified in section 23-82 shall be secured by a good and sufficient surety bond (other than personal surety), certified check or other security acceptable to the director and approved by the corporation counsel, in the sum equal to the cost of all the work required to be done by the subdivider as estimated by the director of public works and the manager, if the subdivision is within the scope of the department of water supply requirements. The surety bond shall be payable to the County and when appropriate to the department of water supply. The bond shall be conditioned upon the faithful performance of any and all work required to be done by the subdivider.

(b) The security shall be filed with the director and deposited with the County treasurer as a realization in whole or part for the completion of work, or correction of any defective or improper work called for in the original plan.

(1983 CC, c 23, art 6, sec 23-83; am 2001, ord 01-108, sec 1.)

Division 2. Improvements Required.

Section 23-84. Water supply.

A subdivision to be laid out after December 21, 1966 shall be provided with water as follows:

(1) A water system meeting the minimum requirements of the County department of water supply; and

(2) Water mains and fire hydrants installed to and within the subdivision in accordance with the rules and regulations of the department of water supply, adopted in conformity with article VIII of the Charter.

(1983 CC, c 23, art 6, sec 23-84.)

Section 23-85. Sewage disposal systems.

(a) In a subdivision to be laid out after December 21, 1966 sewer lines shall be installed where the subdivision is within three hundred lineal feet of the existing sewer system. These lines shall conform to the minimum requirements of the department of public works.

(b) In subdivisions where sewer connections cannot be made to an existing sewer system under the requirements of this chapter, the subdivider shall meet the minimum requirements of the State health department relating to sewage disposal.

(1983 CC, c 23, art 6, sec 23-85.)

Section 23-86. Requirements for dedicable streets.

(a) The subdivider shall grade, drain, and surface all streets constructed after December 21, 1966 as shown on his plat, except reserved dedication for future street purposes, so as to provide access for vehicular traffic to each lot of the subdivision.

(b) A street shall be constructed in accordance with the specifications in this section and those on file with the department of public works. A street shall be installed under the supervision of the director of public works and to permanent grades approved by him.

(c) A street shall have sufficient thickness of pavement, and compacted base course and sub-base material to support axle and wheel loads permitted under section 291-35, Hawaiʻi Revised Statutes. In no case shall the streets be less substantial than the following minimum dedicable standards of the County:

(1) A street serving areas zoned for lots seventy-five hundred square feet to and including one acre, shall have a six-inch minimum select borrow sub-base course, a base course of four inches of compacted crusher run base with filler, and a pavement of two inches of asphaltic concrete or two and one-half inches of asphaltic macadam, applied in three separate applications. Pavement width shall conform to the urban standard as set forth under section 23-41.

(2) A street serving areas zoned for lots of over one acre and up to and including three acres, shall have a six-inch minimum select borrow sub-base course, a base course of four inches of compacted crusher run base and a pavement of two inches of asphaltic concrete or two and one-half inches of asphaltic macadam, applied in three separate applications. Pavement width shall conform to the rural standard as set forth under section 23-41.

(d) A street meeting the minimum requirements of this section shall be dedicable.

(1983 CC, c 23, art 6, sec 23-86; am 2001, ord 01-108, sec 1.)

Section 23-87. Standard for nondedicable street; escrow maintenance fund.

(a) A street serving areas zoned for lots of three acres and over shall have a six-inch minimum fine select borrow base course with surface treatment acceptable to the director of public works and director. Preparation of the surface, application of surface and utilization of equipment shall conform to standards adopted by and on file in the department of public works, subject to the condition that a portion of a roadway where the grade is eight percent or greater shall be built to paved requirements of this chapter. Pavement widths shall conform to the agricultural standards as set forth under section 23-34.* Where a subdivision street connects with a State highway, the standards of the pavement within the State highway right-of-way shall conform to standards adopted by the State department of transportation.

(b) A street meeting only the minimum requirements of this section shall not be dedicable.

(c) A maintenance escrow fund, when required by the director, shall be established by the subdivider with an escrow depository approved by the director prior to final approval for recordation. The fund shall be reviewed by the corporation counsel and approved by the director.

(1983 CC, c 23, art 6, sec 23-87; am 2001, ord 01-108, sec 1.)

*** Editor's Note:** Pavement widths are set forth in section 23-41.

Section 23-88. Nondedicable street; private dead-end street.

(a) A private dead-end street may be established upon approval of the director. The street shall provide access to six lots or less conforming to the minimum area requirements set forth in this chapter and shall be restricted only to residential lots and those agricultural lots zoned for less than three acres. The following shall be the minimum pavement width and right-of-way:

Road Access	Pavement	Right-of-Way
1 lot	8 feet	12 feet
2 lots	12 feet	16 feet
3 lots	14 feet	18 feet
4 to 6 lots	16 feet	20 feet

(b) A private street shall be constructed in conformance with standards on file at the department of public works.

(c) A private street meeting only the minimum requirements of this section shall not be dedicable.

(1983 CC, c 23, art 6, sec 23-88.)

Section 23-89. Sidewalks.

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

(1983 CC, c 23, art 6, sec 23-89.)

Section 23-90. Pedestrian way.

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

(1983 CC, c 23, art 6, sec 23-90.)

Section 23-91. Curbs and gutters.

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

(1983 CC, c 23, art 6, sec 23-91.)

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

(a) The subdivider shall construct a storm water disposal system to contain runoff caused by the subdivision improvements within the boundaries of the subdivision, up to the expected one-hour, ten year storm event, as shown in Plate 1 of the Department of Public Works "Storm Drainage Standards", dated October 1970, or any approved revisions, unless those standards specify a greater recurrence interval, in which case, the greater interval shall be used. The amount of expected runoff shall be calculated according to the Department of Public Works "Storm Drainage Standards", dated October 1970, or any approved revisions thereto, or by any nationally-recognized method meeting with the approval of the director of public works. Runoff calculations shall include the effects of all required subdivision improvements, and lot improvements that may be allowed by existing zoning.

(b) Storm water shall be disposed into drywells, infiltration basins, or other infiltration methods. The subdivision shall not alter the general drainage pattern above or below the subdivision.

(c) Subdivider shall also comply with the requirements of chapter 27, Hawai'i County Code.

(1983 CC, c 23, art 6, sec 23-92; am 2001, ord 01-108, sec 1; am 2007, ord 07-56, sec 2.)

Section 23-93. Street lights.

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

(1983 CC, c 23, art 6, sec 23-93.)

Section 23-94. Street name and traffic signs.

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

(1983 CC, c 23, art 6, sec 23-94; am 2001, ord 01-108, sec 1.)

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

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

(1983 CC, c 23, art 6, sec 23-95.)

Section 23-95.1. Improvements for resort subdivision.

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

(a) Nondedicable Resort Street. A private street within the resort subdivision may be established upon approval by the director in consultation with the director of public works. Such streets shall be restricted to use only for lots within resort subdivisions. Divided roadways may include medial separations and elevation separations. Grades and curves of resort subdivision streets shall conform to section 23-50 or its successor statute. Pavement widths and minimum resort subdivision street rights-of-way shall be as specified in section 23-41(a) or its successor statute. Resort subdivision streets shall also conform to sections 23-43, 23-44, 23-45, 23-46, 23-48 or their successor statutes.

(b) Sidewalks for resort subdivisions shall be required for safety of pedestrians. In considering the need for such sidewalks and the appropriate location of sidewalks, the director shall consider the following factors in addition to any other relevant factors:

(1) Pedestrian circulation within the resort area;

(2) Interaction of vehicular traffic to pedestrian traffic;

(3) Interaction of pedestrian traffic with uses in the resort area and applicable adjacent area; and

(4) Topography and slope of the area.

If consistent with pedestrian safety and with the factors listed above, said sidewalks may be constructed along roadways or at other suitable locations to accommodate pedestrian traffic whether or not the sidewalks are adjacent to resort subdivision streets.

(c) A private resort subdivision street meeting only the minimum requirements of this section shall not be dedicable. If a private resort subdivision street is offered for dedication after final subdivision approval, said street must meet all of the requirements for a dedicable street under this chapter applicable as of the date that the street is offered for dedication.

(1992, ord 92-138, sec 9; am 2001, ord 01-108, sec 1.)

Article 7. Inspection and Certification.

Section 23-96. Inspection by director of public works and manager.

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

(1983 CC, c 23, art 7, sec 23-96; am 2001, ord 01-108, sec 1.)

Section 23-97. Inspection fee.

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

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

(1983 CC, c 23, art 7, sec 23-97.)

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

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

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

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

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

(1983 CC, c 23, art 7, sec 23-98; am 2001, ord 01-108, sec 1.)

Article 8. Safety Flood Hazard District Requirements.

Section 23-99. Tentative approval of plan for subdivision in SF district.

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

(1983 CC, c 23, art 8, sec 23-99; am 2001, ord 01-108, sec 1.)

Section 23-100. New utilities in SF district.

New utilities located in the SF district shall be located and constructed to minimize or eliminate flood damage.
(1983 CC, c 23, art 8, sec 23-100.)

Section 23-101. Water systems in SF district.

All water systems located within an SF district shall be floodproofed to a point at or above the flood elevation level defined on the zone maps. Gate valves shall be installed in all water mains crossing the limits of an SF district.
(1983 CC, c 23, art 8, sec 23-101.)

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

No sewage disposal facility located in the SF district requiring soil absorption will be approved where such system will not function due to high ground water, flood or unsuitable soil characteristics.
(1983 CC, c 23, art 8, sec 23-102.)

Article 9. Plantation Community Subdivision.

Section 23-103. Plantation community subdivision.

A plantation community subdivision is a subdivision established on lands formerly owned by sugar plantations and which had been developed into housing and community buildings for employees of the plantation.
(1994, ord 94-117, sec 2.)

Section 23-104. Criteria.

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

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

(1994, ord 94-117, sec 2.)

Section 23-105. Designation as a plantation community.

The planning director shall review and investigate any application for a plantation community subdivision to determine if the plantation community involved meets the criteria established herein, except however, due to public safety and health considerations, the established plantation community with the approval of the council by resolution, may be relocated to another area within the region.
(1994, ord 94-117, sec 2.)

Section 23-106. Notice.

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

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

(1994, ord 94-117, sec 2.)

Section 23-107. Appeals.

The applicant or other interested parties may appeal the director's determination on the designation to the board of appeals in accordance with its rules.
(1994, ord 94-117, sec 2.)

Section 23-108. Infrastructure.

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

All of the proposed lots within a plantation community subdivision shall prohibit the construction of an ohana dwelling or second dwelling unit, or any structure that will further any increase in density of the plantation community subdivision. This prohibition shall be recorded in the deeds of all the proposed lots with the bureau of conveyances and shall be submitted to the planning department for review and approval prior to final subdivision approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the county and recorded with the bureau of conveyances likewise prior to final subdivision approval.
(1994, ord 94-117, sec 2; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 10.)

Section 23-109. Lots.

The size and configuration of the lots and setback requirements in a plantation community subdivision are exempt from the provisions of this chapter and chapter 25, Hawai'i County Code.
(1994, ord 94-117, sec 2.)

Section 23-110. Agriculture district.

(a) For lands within the State land use agriculture district, lot sizes of less than one acre may be allowed, provided that:
   (1) The planning director designates the subject area as a plantation community subdivision; and
   (2) The area of the proposed subdivision is reclassified into the State land use urban district.

(b) If the above procedure is not applicable or deemed inappropriate by the planning director, then the subdivision may be considered under the procedures described in section 46-15.1 and section 201-210,* Hawai'i Revised Statutes.

(1994, ord 94-117, sec 2.)

* **Editor's Note:** Section 201-210, Hawai'i Revised Statutes, no longer exists. See section 201G-118, Hawai'i Revised Statutes.

Section 23-111. Procedure.

Except as provided in this article, the subdivision process for the plantation community subdivision shall be required pursuant to this chapter.

(1994, ord 94-117, sec 2.)

Article 10. Farm Subdivisions.

Section 23-112. Purpose.

The purpose of this Article is to allow a person(s) owning property within an agricultural zoned district by the Hawai'i County Code to lease the property for agricultural purposes, provided that structures for residential occupancy or habitation shall be prohibited. This Article is intended to encourage landowners to provide affordable agricultural lands which are leased at reduced infrastructural standards warranted by the prohibition of residential or habitable structures.

(1995, ord 95-136, sec 2.)

Section 23-113. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

(a) "Agriculture" means the care and production of livestock, livestock products, poultry or poultry products, aquaculture or aquaculture products, apiary, horticultural, agronomical or floricultural products or the planting, cultivating and harvesting of crops or trees, including tree farms. Agricultural production may include but not be limited to land preparation for crop production in accordance with acceptable agricultural practices.

(b) "Farm subdivision" means leasehold parcels within an agricultural zoned district having a minimum leasable area of five (5) acres, prohibiting any structures for temporary, seasonal or permanent residential occupancy or habitation.

(1995, ord 95-136, sec 2.)

Section 23-114. Restrictions, requirements and standards for farm subdivision.

The planning director may approve farm subdivisions under the following conditions:

(a) The minimum leasable area within a farm subdivision shall be five (5) acres, irrespective of the minimum lot size of the applicable zoning ordinance.

(b) Any structures for temporary, seasonal or permanent residential occupancy or habitation shall be prohibited.

(c) Farm subdivision provisions shall be applicable only to leasehold lands located within an agricultural zoned district and shall be a lease term of no less than ten (10) years and a maximum of thirty (30) years. The terms of the lease shall be clearly defined in the lease agreement.

(d) The owner of the parcel and lessees shall submit a soil conservation plan approved by the United States department of natural resources conservation service upon filing for a farm subdivision.

(e) The owner of the parcel shall file a map, drawn to scale, of the parcel indicating the land area under consideration for the farm subdivision and the number of leasable areas and acres.

(f) The leases within a farm subdivision shall be recorded by the bureau of conveyances and a copy of the recorded document shall be filed with the planning director upon its receipt from the bureau of conveyances. Each lease shall:

(1) Restrict uses to agriculture as defined in chapter 25, section 25-160(a),* Hawai‘i County Code, except that farm dwellings or structures suitable for residential occupancy or habitation shall be prohibited.

(2) Provide a roadway maintenance agreement for all roadways within the farm subdivision.

(3) Assure implementation of the soil conservation plan required in subsection (d) of this Article and compliance with the provisions of such plan, including maintenance of conservation improvements specified therein.

(g) Notwithstanding the provisions of Chapter 23, the following infrastructure standards shall apply:

(1) Water. A water system for a farm subdivision shall not be required.

(2) Roadway improvements. Roadway improvements within a farm subdivision which are less than those required under the County of Hawai‘i Subdivision Code may be approved.

(A) Adequate access from a government road shall be provided to a farm subdivision meeting the requirements of the department of public works for the purpose of access to a farm subdivision.

(B) Roads within a farm subdivision shall be the property and the responsibility of the subdivider, lot owner and/or lessees pursuant to an executed roadway maintenance agreement.

(1995, ord 95-136, sec 2.)

*** Editor's Note:** Section 25-160 (a), no longer exists. See section 25-5-82.

Section 23-115. Nullification.

In the event that conditions relative to the area in which a farm subdivision is located change to such extent that a farm subdivision is no longer feasible or desirable, the lessor-owner may apply to the planning director to nullify the farm subdivision, provided that the consent of all lessees within the subdivision is secured. Upon the approval of the nullification of the farm subdivision by the planning director the parcel shall revert to its original status.
(1995, ord 95-136, sec 2.)

Section 23-116. Procedure.

Except as provided in this Article, the subdivision process for a farm subdivision shall be complied with pursuant to this chapter.
(1995, ord 95-136, sec 2.)

Article 11. Pre-Existing Lots.

Section 23-117. Purpose.

The purpose of this article is to specify the criteria by which a pre-existing lot may be recognized and to state how certain uses will be accounted for during a consolidation/resubdivision action.
(2002, ord 02-110, sec 3.)

Section 23-118. Criteria to determine a pre-existing lot.

The director shall certify that a lot is pre-existing if the lot meets one of the following criteria:

(a) The lot was created and recorded prior to November 22, 1944 or the lot was created through court order (e.g. partition) prior to July 1, 1973, and the lot had never been legally consolidated, provided that no pre-existing lot shall be recognized based upon a lease except for a lease which complied with all other applicable laws when made, including Territorial statutes regulating the sale or lease of property by lot number or block number, and on September 25, 2002, the proposed lot contains a legal dwelling, or has been continuously leased since January 8, 1948, as a separate unit.

(b) The lot was created prior to December 21, 1966, as an agricultural lot in excess of twenty acres pursuant to County ordinance.

(2002, ord 02-110, sec 3.)

Section 23-119. Proof.

The owner of property seeking certification as a pre-existing lot shall provide reasonable evidence to meet the criteria set forth therein, provided that recognition of a lot based on a lease shall be supported by evidence that a valid lease was in existence on January 8, 1948, which specifies the boundaries of the claimed lot with reasonable certainty.
(2002, ord 02-110, sec 3.)

Section 23-120. Use of certain pre-existing lots in consolidation and resubdivision.

A pre-existing lot that was created for use as a road lot, a railroad right-of-way, a flume line, or a pole anchor, shall be excluded for calculating the number of lots in applying section 23-7, unless it is conforming, except to create road lots or other non-buildable lots.
(2002, ord 02-110, sec 3.)

Article 12. Condominium Property Regimes.

Section 23-121. Purpose.

The purpose of this article is to ensure that when land is placed under a condominium property regime, the individual units created are adequately served by roads, water systems, and other infrastructure, and that wastewater, drainage and flooding issues are properly addressed. It also clarifies the applicability of zoning regulations to condominium developments.
(2002, ord 02-111, sec 2.)

Section 23-122. Definitions.

"Apartment" shall mean any area designated as an "apartment" in the declaration.

"Common element" means any area designated as a "common element" in the declaration.

"Condominium" means the ownership of single units, with common elements, located on property within a condominium property regime.

"Condominium property regime" means the legal status created by chapter 514A, Hawai'i Revised Statutes.

"Declaration" means the instrument by which property is submitted to chapter 514A, Hawai'i Revised Statutes, and as such declaration is amended from time to time.

"Developer" means a person who undertakes to develop a real estate condominium project.

"Limited common element" means any common element designated in the declaration as reserved for the use of a certain apartment to the exclusion of the other apartments.

"Minimum building site area" means the minimum building site area established for the zoning district by the zoning code. For example, in the FA-3a district, the minimum building site area is 3 acres. In the RS-10 district, the minimum building site area is 10,000 square feet.

"Project" means a real estate condominium project; a plan or project whereby a condominium of two or more apartments located within the condominium property regime is offered or proposed to be offered for sale.

"Unit" means an apartment and any contiguous limited common elements.
(2002, ord 02-111, sec 2.)

Section 23-123. Applicability.

Sections 23-121 to 23-140 apply only to condominium property regimes in the RS, RA, A, FA, IA, and APD zoning districts, and to no other zoning districts.
(2002, ord 02-111, sec 2.)

Section 23-124. Approval required.

(a) No developer shall certify that the project is in compliance with all applicable County permitting requirements, pursuant to sections 514A-1.6, 514A-11(13) and 514A-40(a)(9), Hawai'i Revised Statutes, or any successor statute, unless the project has received final map approval for a condominium property regime from the director as provided herein.
(b) The director shall not certify that the project is in compliance with all applicable County permitting requirements, pursuant to sections 514A-1.6, 514A-39.5(c), and 514A-40(b)(1), Hawai'i Revised Statutes, or any successor statutes, unless the project has received final map approval for a condominium property regime from the director as provided herein.
(c) The application for map approval for a condominium property regime shall conform to the procedures for subdivision approval except as otherwise stated herein.

(2002, ord 02-111, sec 2.)

Section 23-125. Submission of preliminary map.

The applicant shall submit a preliminary map for a condominium property regime containing the information required by a preliminary plat. It shall also show the location of all apartments, limited common elements, and common elements, shall identify which apartment each limited common element is appurtenant to, and shall identify each unit. The preliminary map shall conform to the declaration.
(2002, ord 02-111, sec 2.)

Section 23-126. Standards of review.

In considering the application for preliminary map approval, the reviewing agencies shall consider each unit as a lot for the purpose of determining the necessary improvements. The applicant shall pay an application fee per unit equal to the fee required by a subdivision application containing the same number of lots.
(2002, ord 02-111, sec 2.)

Section 23-127. Common elements.

The project may have common elements that are not included within a unit.
(2002, ord 02-111, sec 2.)

Section 23-128. Maximum number of units.

The number of units shall not exceed the area of the project divided by the minimum building site area.
(2002, ord 02-111, sec 2.)

Section 23-129. Minimum building site area and unit dimensions.

(a) Each unit shall contain no less than the minimum building site area, except as stated in (b). No limited common element may be included in more than one unit for the purpose of determining the minimum building site area.

(b) The director may allow a reduction of the minimum building site area for a project not exceeding two acres, or for a project not exceeding three units, if the director finds that the overall development is consistent with the zoning district, and that the project would meet the applicable criteria for a planned unit development. In such projects, not exceeding two acres or three units, common areas not included in a unit may be apportioned to the units in determining whether the units meet the minimum building site area. The director shall not waive the requirement that the number of units shall not exceed the area divided by the minimum building site area. In the state land use agricultural or rural districts, the unit shall not be less than the minimum lot size required by the state land use law.

(2002, ord 02-111, sec 2.)

Section 23-130. Minimum unit dimensions.

The width and length of a unit shall conform to the requirements for a building site established by the zoning district in question, except that the director may allow modification of dimensions if the director finds that the overall development is consistent with the zoning district, and that the project would meet the applicable criteria for a planned unit development. Common elements not included in a unit may be considered in making this determination.

(2002, ord 02-111, sec 2.)

Section 23-131. Tentative approval.

The director shall grant tentative approval to a preliminary map for a condominium property regime in the same manner as tentative approval of a preliminary plat, with conditions consistent with those that would be imposed for a preliminary subdivision plat.

(2002, ord 02-111, sec 2.)

Section 23-132. Final approval if no infrastructure required.

If the project requires no construction of streets, private streets, drainage improvements, sewers, water systems, utilities, or other infrastructure, the director shall issue final map approval for a condominium property regime at the same time as tentative approval.

(2002, ord 02-111, sec 2.)

Section 23-133. Construction plans.

After the developer has secured tentative approval pursuant to section 23-131, and before beginning construction, the developer shall submit construction plans for approval pursuant to section 23-79.

(2002, ord 02-111, sec 2.)

Section 23-134. Final approval.

After approval of construction plans under section 23-79, the director shall issue final map approval for a condominium property regime after the developer has (1) obtained certification of completion under section 23-98; or (2) entered into a bond for completion of improvements under sections 23-81 to 83.
(2002, ord 02-111, sec 2.)

Section 23-135. Conformance with conditions of approval required.

The developer shall disclose the tentative approval and any conditions attached thereto in any filings with the real estate commission for obtaining an effective date for a final public report.
(2002, ord 02-111, sec 2.)

Section 23-136. Final condominium map.

The developer shall prepare and file a final map for a condominium property regime that conforms to the preliminary map as tentatively approved. The review and approval of the final map shall conform to sections 23-72 to 23-74, insofar as applicable.
(2002, ord 02-111, sec 2.)

Section 23-137. No change in condominium after approval.

After final approval of the map for a condominium property regime, no change may be made in the boundaries of the limited common elements or their assignment to apartments, or to the boundaries of the common elements, without the approval of the director. Approval shall be granted only if the changes also conform to the provisions of this chapter.
(2002, ord 02-111, sec 2.)

Section 23-138. Effect of condominium map approval.

A unit within a project that has received final map approval for a condominium property regime and an effective date for a final public report shall be considered a legal building site and a lot for purposes of the zoning code and subdivision code.
(2002, ord 02-111, sec 2.)

Section 23-139. Development as a PUD or CPD.

A project may be developed as a planned unit development or a cluster plan development. The standards of the approved planned unit development or cluster plan development shall supercede the standards of this chapter.
(2002, ord 02-111, sec 2.)

Section 23-140. Exemptions.

(a) Notwithstanding section 23-124, the director shall certify compliance with all County laws if requested under section 514A-40, Hawai‘i Revised Statutes, to permit the developer to obtain an effective date for a final public report for a condominium property regime creating two units on a lot, if the project complies with applicable County requirements, except for the minimum building site area, minimum dimensions, and the provisions of this article, and, on or before June 19, 2001:

(1) The declaration involving the condominium property regime had been filed with the bureau of conveyances, pursuant to section 514A-20, Hawai‘i Revised Statutes, or

(2) A notice of intent had been filed with the real estate commission, pursuant to section 514A-31, Hawai‘i Revised Statutes, or

(3) Fees had been committed for attorneys or surveys directly related to creating a condominium property regime on the lot.

Documentary evidence to qualify under paragraph (3) shall be submitted to the director within six months of the approval of this ordinance.

[Effective: September 25, 2002]

Under this section, the developer may also amend a declaration or notice of intent filed on or before June 19, 2001, creating more than two units, to allow the creation of only two units.

(b) Notwithstanding section 23-124, the director shall certify compliance with all applicable County laws under section 514A-40(b), Hawai‘i Revised Statutes, to permit the issuance of an effective date for a final public report creating two condominium units on a lot, if the lot contained, on June 19, 2001, two or more legal dwellings, either completed or with valid building permits, and the project complies with applicable County requirements, except for the minimum building site area, minimum dimensions, and the provisions of this article. The declaration establishing the condominium property regime shall be filed with the bureau of conveyances no later than one year after the effective date of this ordinance.

[Effective: September 25, 2002]

(c) Notwithstanding section 23-124 and section 23-140(a) and (b), the director shall certify compliance for no more than two units on a lot if the following exist:

(1) The lot is in the County’s RS zoned district;

(2) The lot contains at least two completed legal dwelling units;

(3) The lot has legal access on a State or County road having a minimum 20-foot wide pavement or on a private road built to current County-dedicable standards;

(4) The lot is serviced by a County or private water system with fire hydrants; and

(5) A minimum of two-off street parking spaces are provided for each unit.

(2002, ord 02-111, sec 2.)

Section 23-141. Assessments and rollback taxes on condominiums.

In all zoning districts, if a rezoning ordinance applicable to the property imposes a fair share assessment, impact fee, or other similar assessment payable upon subdivision, said fee shall be paid prior to final map approval for a condominium property regime or prior to the effective date of a final public report, if a condominium is created on the property. For purposes of rollback taxes under section 19-53, Hawaiʻi County Code, the creation of units by condominium property regime shall be treated as subdivision into lots of like size.
(2002, ord 02-111, sec 2.)

Section 23-142. Effect of modification of state law.

If state laws regulating condominium property regimes are amended or modified, the provisions of this chapter shall be interpreted to preserve the intent of this article.
(2002, ord 02-111, sec 2.)

Section 23-143. No retroactive effect.

This ordinance shall not affect the legal status of any project that had received an effective date for a final public report before the effective date of this ordinance.
[Effective: September 25, 2002]
(2002, ord 02-111, sec 2.)

CHAPTER 24

VEHICLES AND TRAFFIC

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* **Editor's Note:** **A**rticles 10 and 11, that contain Vehicle and Traffic Schedules, are located behind the "Traffic Schedules" tab.

CHAPTER 24

VEHICLES AND TRAFFIC

Article 1. General Provisions.

Section 24-1. Title.

This chapter may be cited as the Hawai‘i County traffic code.
(1983 CC, c 24, art 1, sec 24-1.)

Section 24-2. Scope and applicability of chapter and of Statewide Traffic Code.

(a) The provisions set forth in this chapter are to provide for the regulation of traffic in the County of Hawai‘i, upon the following:
  (1) The public streets of the County;
  (2) Such private streets, highways, and thoroughfares:
    (A) Which have been continuously used by the general public for more than six months, and designated by the council, or
    (B) Which are intended for dedication to the public use as provided in section 264-1, Hawai‘i Revised Statutes, and are open for public travel but have not yet been accepted by the County; and
  (3) Such private properties which have been designated and identified as a special parking stall for disabled persons pursuant to section 24-243, Hawai‘i County Code.

(b) Private streets, highways, and thoroughfares used primarily for actual agricultural and ranching purposes shall be exempt from this chapter. An agricultural zoning designation pursuant to the County zoning code, in and of itself, shall not constitute a sufficient indication that a street, highway, or thoroughfare is primarily used for actual agricultural and ranching purposes.

(c) Pursuant to the authority delegated to the County by Act 173 of 1995, all streets that have been used by the general public for a period of more than six months are hereby designated by the council to be subject to the provisions of chapter 291C of the Hawai‘i Revised Statutes, known as the “Statewide Traffic Code,” and this chapter.

(d) The County shall not be responsible for the maintenance and repair of any private street, highway, or thoroughfare when it imposes or enforces traffic regulations and highway safety laws or places or permits to be placed appropriate traffic control devices on that private street, highway, or thoroughfare.

(e) No adverse or prescriptive rights shall accrue to the general public when the County imposes or enforces traffic regulations and highway safety laws or places appropriate traffic-control devices on any private street, highway, or thoroughfare.

(1983 CC, c 24, art 1, sec 24-2; am 1995, ord 95-129, sec 1; am 1998, ord 98-97, sec 1.)

Section 24-3. Definitions.

(a) As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.

(2) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway forming a part of a major arterial system of streets or highways.

(3) "Authorized emergency vehicle" means vehicles of the fire department, police vehicles while in the course of police work, ambulances, and other vehicles as authorized by the council.

(4) "Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

(A) "Bicycle lane" means that portion of any highway which has been set aside for the preferential or exclusive use of bicycles.

(B) "Bicycle path" means any facility set aside for the preferential or exclusive use of bicycles and physically separated from a highway.

(C) "Bicycle route" means any highway that is designated to be shared by bicycles and pedestrians or motor vehicles, or both.

(D) "Bicycle/walk path" means an existing sidewalk that is converted for use by both pedestrian and bicyclists.

(E) "Bikeway" means a bicycle lane, bicycle path, bicycle route, or bicycle/walk path, or any traffic control device, shelter, parking facility, or other support facility to serve bicycles and persons using bicycles.

(5) "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(6) "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(7) "Controlled access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(8) "County engineer" means the director of public works of the County.

(9) "Crosswalk" means:
   (A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;
   (B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(10) "District engineer" means the chief engineer in the County of the highways division of the State department of transportation.

(11) "Divided highway" means a highway divided into two or more separate roadways by medial strips.

(12) "Emergency" means a situation where unforeseen, unexpected, or sudden occurrences call for immediate action by the responsible public officers, employees, or agents in order to preserve the public peace, health, or safety.

(13) "Highway" means the width between the boundary lines of every way subject to this chapter when any part thereof is open to the use of the public for vehicular travel.

(14) "Intersection" means:
   (A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
   (B) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.
   (C) The junction of an alley with a street or highway shall not constitute an intersection.

(15) "Moped" means any device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour; and a direct or automotive power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

(16) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.
(17) "Motorscooter" means every motor vehicle conforming to the definition of motorcycle, including motor-driven bicycles, and propelled by a motor which produces not more than five horsepower.
(18) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails.
(19) "Official act" means an act by a public officer, employee, or agent of the County or State in such person's official capacity, under color of such person's title and by virtue of such person's office as authorized by law.
(20) "Official traffic-control device" means any sign, signal, marking or device not inconsistent with this Code placed or erected by authority of or with the consent of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
(21) "Operator" or "driver" means every person who drives or is in actual physical control of a vehicle, or who is exercising control over or steering a vehicle being towed by a motor vehicle.
(22) "Owner" means a person, other than a lien-holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
(23) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
(24) "Passenger car" means every motor vehicle, except motorcycles and motor-driven cycles, designed and used for the transportation of persons.
(25) "Pedestrian" means any person, afoot, in an invalid chair, or in a vehicle propelled by a person afoot.
(26) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
(27) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
(28) "Private road" or "private driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, and not so used by other persons.

(29) "Protective eyewear" means any device intended to be worn over the eye area, including, but not limited to, goggles or face shields, and designed primarily to protect the eyes of the wearer from flying objects or debris. Such protective eyewear shall be designed in such a way so as not to hamper the direct or peripheral vision of the wearer and so as to reasonably protect the eyes of the wearer from the entry of flying objects.

(30) "Public holiday" means any legal holiday now existing, or such as may be subsequently specifically proclaimed by the governor of the State.

(31) "Reconstructed vehicle" means every vehicle which is materially altered from the original construction by the removal, addition, or substitution of essential parts, new or used. Essential parts are all integral and body parts of a vehicle of a type required to be registered, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle, or substantially alter its appearance, model, type, or mode of operation.

(32) "Residential district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of one-quarter mile or more is in the main improved with residences or residences and buildings in use for business.

(33) "Right-of-way" means the right of a vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision, unless one vehicle grants precedence to the other.

(34) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(35) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway shall refer to any such roadway separately, but not to all such roadways collectively.

(36) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected, marked, or indicated by adequate signs plainly visible at all times while set apart as a safety zone.

(37) "School bus" means every motor vehicle that complies with the color and identification requirements specified by rules promulgated pursuant to chapter 91, Hawai‘i Revised Statutes, by the State highway safety coordinator, and that is used to transport children to or from school, or in connection with school activities, but not including buses operated by common carriers in transportation of school children.

(38) "Semi-trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(39) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway and the adjacent property lines, intended for use of pedestrians.

(40) "Siren" means a warning device for authorized emergency vehicle use, limited to the following sounds:
  (A) Wail;
  (B) Yelp;
  (C) European Hi-low;
  (D) Riot: A combination of the Yelp and European Hi-low.

(41) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(42) "Special hazard vehicle" means any vehicle engaged in activities which create special hazards upon the highways including: (a) highway maintenance vehicles used by highway authorities when working on the highway; (b) public utility vehicles when necessarily parked other than adjacent to the curb in a highway for purposes of working on facilities; (c) trucks actually engaged in the towing of houses or buildings; (d) any pilot car required by permit issued by highway authorities while actually engaged in the movement of extra legal-size vehicles or loads; (e) tow cars while preparing a vehicle for towing and while towing a disabled vehicle; (f) vehicles used for mosquito abatement control when dispersing insecticides; and (g) other vehicles creating special hazards which may be designated by the chief of police.

(43) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(44) "Specially constructed vehicle" means every vehicle of a type required to be registered and not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(45) "Speed Limit" means the absolute maximum speed limit designated and physically displayed in the right of way for establishing the legal maximum vehicle velocity.

(46) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(47) "Stop" (when required) means complete cessation of movement.
(48) "Stop" or "stopping" (when prohibited) means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control sign or signal.
(49) "Street" means the entire width between boundary lines of every way subject to this chapter when any part thereof is open to the use of the public for purposes of vehicular travel.
(50) "Taxicab" means a chauffeur driven vehicle other than a bus or tour vehicle, available for hire or while carrying passengers for a fare.
(51) "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law.
(52) "Tour vehicle" means a chauffeur driven passenger vehicle other than a bus operated for the principal purpose of sight-seeing tours.
(53) "Tow" or "tow-away zone" means any street or highway or portion thereof, designated by the County council by ordinance as a tow or tow-away zone, whereon the parking, stopping or standing of vehicles is prohibited entirely or during specific hours.
(54) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any highway for purposes of travel.
(55) "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.
(56) "Trailer" means every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
(57) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.
(58) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
(59) "Turn around area" means that portion of a dead-end street designed primarily for turning a vehicle in the opposite direction.

(60) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(1983 CC, c 24, art 1, sec 24-3; am 1988, ord 88-84, sec 2, ord 88-168, sec 2; am 1995, ord 95-25, secs 1 - 3; am 1996, ord 96-1, sec 2; ord 96-112, sec 2; am 1998, ord 98-97, sec 2; am 2001, ord 01-108, sec 1; am 2007, ord 07-59, sec 1.)

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

(a) No person shall ride a coaster, roller skates, roller blades, skateboard, or any similar device upon any roadway except while crossing a street in a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

(b) No person shall ride a coaster, roller skates, roller blades, skateboard, or any similar device upon any sidewalk or sidewalk area, except upon a permanent or temporary driveway specifically designated and authorized for such use, in the following designated locations:

(1) Within the downtown Hilo commercial area bounded by the Wailuku River on the west; Hilo Bay on the north; twenty feet east of the eastern most boundary of Ponahawai Street (this boundary shall also continue in a northerly direction, from the point twenty feet east of the Ponahawai Street and Kamehameha Avenue intersection, across Kamehameha Avenue, through Bayfront Park and the Hawaiʻi Belt Road, to Hilo Bay) on the east; and twenty feet south of the southern most boundary of Kapiolani and Kaiulani Streets on the south (including the portion of Waianuenue Avenue which is contiguous to Kapiolani and Kaiulani Streets).

(1983 CC, c 24, art 1, sec 24-4; am 1999, ord 99-153, sec 2.)

Section 24-4.1. Penalties.

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

(1999, ord 99-153, sec 2.)

Section 24-5. Obedience to traffic laws required.

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

(1983 CC, c 24, art 1, sec 24-5.)

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

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

(1983 CC, c 24, art 1, sec 24-6.)

Section 24-7. Exercise of due care required.

Every operator of a motor vehicle shall exercise due care in the operation of such vehicle upon any street or highway so as to avoid endangering any person, vehicle or property on or off such street or highway.

(1983 CC, c 24, art 1, sec 24-7.)

Article 2. Administration.

Section 24-8. Council to exercise certain functions by ordinance.

(a) The council shall by ordinance:

(1) Determine and designate the type of all official traffic control devices; provided, such official control devices shall, with respect to size, shape and color, be uniform, shall correlate with and conform to, the system then current, as approved by the Federal Highway Administration, U.S. Department of Transportation.

(2) Create, define, redefine, eliminate or change all speed zones, safety zones, quiet zones, crosswalks other than at intersections, freight and passenger loading and unloading zones, no-parking zones, time-limit parking zones, parking meter zones, tow or tow-away zones, bus stops, U-turn areas, prohibited U-turn areas, prohibited left and right turns, one-way streets, through streets, stop intersections, roadways closed to pedestrian traffic, and roadways closed to certain classes of vehicles.

(1983 CC, c 24, art 2, sec 24-8; am 1988, ord 88-1, sec 1; ord 88-168, sec 3.)

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

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

(1) Publicly Maintained Streets. Subject to section 24-8, the director of public works is authorized, and as to those devices, signs, signals, and markings required for the purpose of traffic control, it shall be the director of public works' duty to place and maintain or cause to be placed and maintained all official traffic-control devices, signs, signals and markings on publicly maintained streets.

(2) Privately Owned and Maintained Streets. The owner(s) of privately owned and maintained streets which are subject to regulation pursuant to the provisions of section 24-2, are authorized and required to place and maintain or cause to be placed and maintained all official traffic-control devices, signs, signals and markings on their streets, upon adoption of an ordinance pursuant to section 24-8.

(b) All devices, signs, signals and markings required for the purpose of traffic control shall be uniform as to type and location throughout the County.
(c) County consent to the placement of traffic-control signs or markings on a private street shall not be deemed to constitute ownership or control over that street.

(1983 CC, c 24, art 2, sec 24-9; am 1988, ord 88-1, sec 2; am 1995, ord 95-112, sec 2; am 1998, ord 98-97, sec 3; am 2001, ord 01-108, sec 1.)

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

(a) The chief of police is empowered to make regulations necessary to make effective the provisions of this chapter, and to make and enforce temporary or experimental regulations to cover emergencies or special conditions, and to post signs pertaining thereto. No such temporary or experimental regulation shall remain in effect for more than ninety days.
(b) The department of police and the department of public works of the County may test traffic-control devices under actual conditions of traffic.

(1983 CC, c 24, art 2, sec 24-10.)

Section 24-11. Temporary changes to effectuate amendments.

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

(1983 CC, c 24, art 2, sec 24-11; am 2001, ord 01-108, sec 1; am 2007, ord 07-57, sec 2.)

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

(a) It shall be the duty of the officers of the police department and such officers as are assigned by the chief of police to enforce all street traffic laws of this County and all of the State vehicle laws applicable to street traffic in this County.
(b) Any police officer citing or arresting any driver for the following traffic violations may have the motor vehicle towed to a private tow yard at the registered owner's expense pursuant to Hawai'i Revised Statutes ("HRS") 291C-165.5(a):
    (1) Driving without a license pursuant to HRS 286-102;
    (2) Driving while license is suspended or revoked pursuant to HRS 286-132;
    (3) Operating a vehicle under the influence of an intoxicant pursuant to HRS 291E-61;
    (4) Habitually operating a vehicle under the influence of an intoxicant pursuant to HRS 291E-61.5;

(5) Operating a vehicle after license and privilege has been suspended or revoked for operating a vehicle under the influence of an intoxicant pursuant to HRS 291E-62;
(6) Operating a vehicle after consuming a measurable amount of alcohol; persons under the age of twenty-one pursuant to HRS 291E-64; or
(7) Fraudulent use plates, tags, or emblems pursuant to HRS 249-11.

(c) Pursuant to HRS section 291C-165.5(b), tow companies shall give notice to the registered owners and lien holders for vehicles towed under this section.

(d) Pursuant to HRS section 291C-165.5(b), any motor vehicle not recovered within thirty days of the notice being mailed for any violation of section (b) above, shall be deemed abandoned and may be sold or disposed of as junk.

(e) Community caretaking considerations: Vehicles are not to be towed and/or impounded under the authority of this section under any of the following circumstances:
(1) The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left in the parked location;
(2) The registered owner and/or a passenger present in the vehicle at the time of the stop has a valid driver's license and are willing and legally able to drive the vehicle at the time after the stop; or
(3) The vehicle is legally parked at a time and place where the likelihood of it being subject to theft and/or vandalism is remote and traffic or public safety is not impeded.

(f) The police department is not responsible to protect any vehicle left on any road or property after the driver has been arrested for a violation as provided in subsection (b).

(1983 CC, c 24, art 2, sec 24-12; am 2011, ord 11-102, sec 2.)

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

(a) Officers of the police department, and officers as are assigned by the chief of police, are authorized to direct all traffic by voice, hand, or signal in conformance with the traffic laws.

(b) In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(1983 CC, c 24, art 2, sec 24-13.)

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

The provisions of this chapter shall apply to the operator of any vehicle owned by or used in the service of the United States government, the State or the County. No driver or operator of any government vehicle shall violate any of the provisions of this chapter, except as otherwise permitted by this chapter or by Federal or State law.
(1983 CC, c 24, art 2, sec 24-14.)

Article 3. Citations and Penalties.

Section 24-15. Form of summons or citation.

There shall be provided for use by authorized police officers a form of summons or citation for use in citing violators of those traffic laws which do not mandate the physical arrest of such violators.
(1983 CC, c 24, art 3, sec 24-15.)

Section 24-16. Penalties.

Unless otherwise provided for elsewhere in this chapter, or in the Hawaiʻi Revised Statutes, as amended, any person convicted of a violation of any section or provision of this chapter shall be punished by a fine of not more than $100 for the first conviction; not more than $200 for the second conviction of a second offense committed within one year after the date of the first offense; not more than $500 for the third or subsequent conviction of a third or subsequent offense committed within one year after the date of the first offense.
(1983 CC, c 24, art 3, sec 24-16; am 1994, ord 94-103, sec 2.)

Article 4. Fees.

Section 24-17. Motor vehicle tax; computation.

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

(a) The rate for motor vehicles designed primarily for carrying passengers shall be 1 and 1/4 cent per pound of the net weight of such vehicle. This category shall include buses, ambulances, and hearses.
(b) The rate for trucks or noncommercial motor vehicles having a net weight of six thousand five hundred pounds or less and certified as noncommercial shall be 1 and 1/4 cent per pound of the net weight of such vehicles.

(1) The owner of a truck or noncommercial motor vehicle who desires to have the vehicle tax at the passenger rate shall file a form furnished by the director of finance certifying that the truck or noncommercial motor vehicle is not being and will not be operated for compensation or for commercial purposes.
(2) Where the vehicle is currently registered as a commercial vehicle and the owner wishes to reclassify the vehicle as noncommercial, the owner shall:
    (A) File a form furnished by the director of finance certifying that the vehicle is not being and will not be operated for compensation or for commercial purposes;
    (B) Surrender the vehicle's current certificate of registration and license plates; and
    (C) Pay a license fee of $5.50 for the passenger vehicle license plates and emblem.

(c) The rate for trucks or nonpassenger vehicles used for compensation or commercial purposes or having a net weight of over six thousand five hundred pounds shall be 2 and 1/2 cents per pound for such vehicle. This category includes trucks, truck-tractors and road tractors, trailers, and semi-trailers.
(d) Any person who is totally disabled due to injuries received while on duty with the armed forces of the United States may apply for an exemption from the County motor vehicle weight tax, including minimum tax under section 24-18, for a single noncommercial vehicle, subject to proof of total service related disability from the Veterans Administration and approval by the director of finance.

(1983 CC, c 24, art 4, sec 24-17; am 2004, ord 04-8, sec 2; am 2004, ord 04-66, sec 2; am 2013, ord 13-83, sec 2.)

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

(a) The minimum tax assessed under section 24-17 shall in no case be less than $12.
(b) Effective July 1, 2009, any vehicle weight tax imposed by section 24-17 for any year and not paid when due, shall become delinquent and a penalty of $8 for vehicles taxed at the passenger car rate and $20 for vehicles taxed at the commercial vehicle rate shall be added to, and become a part of, the tax collected.

(1983 CC, c 24, art 4, sec 24-18; am 1982, ord 795, sec 1; am 2009, ord 09-73, sec 2; am 2013, ord 13-83, sec 3.)

Section 24-19. Vehicle registration fees.

(a) The fee for issuance for a new series of number plates for vehicles shall be $5.
(b) The fee for issuance of a tag or emblem for a vehicle, upon payment of the applicable tax, in any year shall be 50 cents.
(c) The fee for replacement of a lost or mutilated number plate or plates, tag, or emblem, shall be as follows:
    (1) Number plates, $5.
    (2) Tag or emblem, 50 cents.
(d) The transfer of ownership fee for issuance of a new certificate of ownership shall be $5.

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

(1983 CC, c 24, art 4, sec 24-19; am 1982, ord 817, sec 1; am 1985, ord 85-59, sec l; am 1989, ord 89-51, sec 1; am 1994, ord 94-46, sec 2; am 2002, ord 02-90, sec 2; am 2003, ord 03-32, sec 2; am 2004, ord 04-8, sec 3; am 2013, ord 13-83, sec 4.)

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

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

(a) Application for instruction permit, $10.
(b) Application for driver's license or out-of-state transfer:
  (1) Application for driver's license (not chargeable if applicant presents evidence of having paid to Hawaiʻi County the application for instruction permit fee), $1.
  (2) Application for out-of-state transfer with a valid out-of-state license, $4.
(c) Reinstatement fee (payable upon the restoration of any license which has been suspended), $50.
(d) Driver's license valid for one year, $5.
(e) Renewal of driver's license valid for one year, $5.
(f) Driver's license valid for two years, $10.
(g) Renewal of driver's license valid for two years, $10.
(h) Driver's license valid for four years, $20.
(i) Renewal of driver's license valid for four years, $20.

(j) Driver's license valid for eight years, $40.
(k) Renewal of driver's license valid for eight years, $40.
(l) Reactivation fee for each thirty-day period after the ninety-day grace period for renewal within one year of expiration, $5.
(m) Duplicate license/permit, $6.
(n) Road test fees (categories 1, 2, and 3), $10; (category 4), $50.
(o) Written test fee, $1.
(p) Oral examination fee, $10.
(q) Provisional license valid until age nineteen, $5 per year.
(r) Request for verification of license status, $10.
(1983 CC, c 24, art 4, sec 24-20; am 1994, ord 94-88, sec 1; am 1998, ord 98-10, sec 1; am 2005, ord 05-163, sec 2; am 2009, ord 09-83, sec 2.)

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

The following fees are established for the examination of drivers applying for a driver's license:
(a) Written examination fee, $1.
(b) Oral examination fee (applicable to those requesting an oral examination, either for an instruction permit or for a license renewal in categories 1-3), $10.
(c) Fees for commercial driver's licenses will be collected pursuant to the provisions of State law.
(1983 CC, c 24, art 4, sec 24-21; am 1994, ord 94-88, sec 2.)

Section 24-22. Disposition of fees.

All fees collected under this article shall be deposited in the general fund of the County of Hawai'i as County realizations.
(1983 CC, c 24, art 4, sec 24-22.)

Article 5. Inspection of Vehicles.

Section 24-23. Department of finance to inspect vehicles.

The department of finance is designated as the County department having the responsibility for administering the periodic vehicle inspection program.
(1983 CC, c 24, art 5, sec 24-23; am 2008, ord 08-100, sec 2.)

Section 24-24. Periodic vehicle inspections.

Periodic safety inspection of vehicles shall be as provided by law and rules and regulations promulgated by the State director of transportation, formerly the State highway safety coordinator.
(1983 CC, c 24, art 5, sec 24-24; am 1986, ord 86-48, sec 1.)

Section 24-25. Cost of inspection stickers; fee for certificate of inspection.

(a) The department of finance shall charge and collect from each operator of an official inspection station the sum of 20 cents for each vehicle inspection sticker denoting the month of expiration and the sum of 20 cents for each vehicle inspection sticker denoting the year of expiration.

(b) The person operating an official inspection station may charge not more than the following fees for the certificate of inspection and approval and affixing of inspection stickers, regardless of whether a certificate of approval is issued or whether affixing of inspection stickers is done:

Vehicle Inspection Fees:

Automobiles and Trucks.....Not more than $9.75
Motorcycles, Mopeds, and Trailers .....Not more than $4.25

(1983 CC, c 24, art 5, sec 24-25; am 1987, ord 87-63, sec 1; am 2008, ord 08-100, sec 3.)

Section 24-26. Designation of inspection stations; permit required; application; bond.

(a) The director of finance shall issue permits for and furnish instructions and all forms to official inspection stations for the inspection and adjustment of brakes, wheel alignment, lighting equipment, steering mechanism, horns, mirrors, windshield wipers, and other equipment of motor vehicles, trailers, and semitrailers.

(b) Application for the permit shall be made upon an official form and shall be granted only when the director of finance is satisfied that the station is properly equipped and has competent personnel to make such inspections and adjustments. Before issuing a permit, the director of finance may require the applicant to file a bond to make compensation for any damage to a vehicle during inspection due to negligence on the part of such applicant or the applicant's employees.

(c) No permit for an official inspection station shall be issued to a station without the following equipment: Headlight testing machine and a wheel alignment gauge or tester as approved by the director of finance.

(1983 CC, c 24, art 5, sec 24-26; am 2008, ord 08-100, sec 4.)

Section 24-27. Inspection of inspection stations; permit revocation.

The director of finance shall supervise and cause inspections to be made of inspection stations and shall revoke and require the surrender of the permit issued to a station which the director of finance finds is not properly equipped or conducted.

(1983 CC, c 24, art 5, sec 24-27; am 2008, ord 08-100, sec 5.)

Section 24-28. Permit nontransferable; posting of permit.

No permit for an official station shall be assigned, transferred, or used at any location other than therein designated. Every permit shall be posted in a conspicuous place at the location designated.

(1983 CC, c 24, art 5, sec 24-28.)

Section 24-29. Safety inspectors; certificates of inspection and approval; safety stickers; inspection reports.

(a) No person may conduct motor vehicle safety inspections unless such person is first certified as a safety inspector by the director of finance.

(b) A safety inspector shall not issue a certificate of inspection and approval to the owner of an inspected vehicle, and shall not affix an official safety sticker to an inspected vehicle, unless, after inspecting the vehicle pursuant to the rules and regulations of the State director of transportation, the safety inspector determines that the vehicle's equipment is in good working condition and proper adjustment and the vehicle is in safe operating condition.

(c) A report of each inspection conducted shall be made to the director of finance pursuant to the rules and regulations promulgated by the State director of transportation.

(1983 CC, c 24, art 5, sec 24-29; am 1986, ord 86-48, sec 2; am 2008, ord 08-100, sec 6.)

Section 24-30. Representation as official inspection station; permit necessary.

(a) No person shall in any manner represent any place as an official inspection station unless such place is operating under a valid permit issued by the director of finance.

(b) No person other than a person operating an inspection station under a valid permit shall issue a certificate of inspection and approval.

(1983 CC, c 24, art 5, sec 24-30; am 2008, ord 08-100, sec 7.)

Section 24-31. False certificates prohibited.

(a) No person shall make, issue, or knowingly use any imitation or counterfeit of an official certificate of inspection and approval.

(b) No person shall display or cause or permit to be displayed upon any vehicle any certificate of inspection and approval knowing the certificate to be fictitious, or issued for another vehicle, or issued without an adequate inspection having been made.

(1983 CC, c 24, art 5, sec 24-31.)

Article 6. Equipment.

Division 1. General Provisions.

Section 24-32. Scope and effect of article.

(a) No person shall drive or move, and no owner shall cause or knowingly permit to be driven or moved on any highway, any vehicle or combination of vehicles: (1) which is in such unsafe condition as to endanger any person, (2) which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or (3) which is equipped in any manner in violation of this chapter.

(b) No person shall do any act forbidden or fail to perform any act required under this chapter.

(c) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(d) The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as specifically made applicable.

(1983 CC, c 24, art 6, sec 24-32.)

Section 24-33. Repealed.

(1983 CC, c 24, art 6, sec 24-33; rep 1996, ord 96-112, sec 3.)

Division 2. Lamps.

Subdivision 1. Generally.

Section 24-34. When lighted lamps are required.

Every vehicle upon a highway within the County at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as required by this chapter for different classes of vehicles, subject to exceptions with respect to parked vehicles.

(1983 CC, c 24, art 6, sec 24-34.)

Section 24-35. Visibility, distance, and mounted height of lamps.

(a) For a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated, this provision shall apply during the times stated in section 24-34, whenever requirement is declared in this article as to distance from which certain lamps and devices shall render objects visible, or within which such lamps or devices shall be visible.

(b) Whenever requirement is declared in this article as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when the vehicle is without a load.

(1983 CC, c 24, art 6, sec 24-35.)

Subdivision 2. Headlamps, Tail Lamps, Reflectors, Turn Signals, Brake Lights and Back-Up Lights.

Section 24-36. Headlamps on motor vehicles; specifications.

(a) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two headlamps, with at least one on each side of the front of the motor vehicle. The headlamps shall comply with the requirements and limitations set forth in this chapter.

(b) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this chapter.

(c) Every headlamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the headlamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in section 24-35(b).

(1983 CC, c 24, art 6, sec 24-36.)

Section 24-37. Tail lamp requirements.

(a) Every motor vehicle, trailer, semi-trailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as required in section 24-35, shall emit a red light plainly visible from a distance of one thousand feet to the rear. In the case of a combination of vehicles, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(b) Every above-mentioned vehicle, other than a truck tractor, shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which, when lighted as required, shall comply with the provisions of this section.

(c) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than twenty inches.

(1983 CC, c 24, art 6, sec 24-37.)

Section 24-38. Illumination of rear registration plate required.

Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear.

(1983 CC, c 24, art 6, sec 24-38.)

Section 24-39. Wiring of rear lamps.

Any tail lamp or tail lamps together with any separate lamp for illuminating the rear registration plate shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

(1983 CC, c 24, art 6, sec 24-39.)

Section 24-40. Reflector specifications.

(a) Every motor vehicle, trailer, semi-trailer, and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors except that motorcycles and motor-driven cycles shall carry at least one such reflector. Vehicles of the types mentioned in sections 24-45 through 24-51 shall be equipped with reflectors meeting the requirements of sections 24-54(a) and 24-55(a).

(b) Every such reflector shall be mounted on the vehicle at a height not less than twenty inches nor more than sixty inches measured as set forth in section 24-35(b) and shall be of such size and character and so mounted as to be visible at night from all distances within three hundred fifty feet to one hundred feet from such vehicle when directly in front of lawful upper beams of headlamps, except where visibility from a greater distance may be required on certain types of vehicles.

(1983 CC, c 24, art 6, sec 24-40.)

Section 24-41. Stop lamps and turn signal specifications.

(a) Every motor vehicle, trailer, semi-trailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of section 24-42 except that motorcycles and motor-driven cycles shall be equipped with at least one stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in section 24-42.

(b) Every motor vehicle, trailer, semi-trailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of section 24-43, except that passenger cars and trucks less than eighty inches in width, and motorcycles and motor-driven cycles, need not be equipped with electric turn signal lamps.

(1983 CC, c 24, art 6, sec 24-41.)

Section 24-42. Brake lights.

Any vehicle so required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not be incorporated with one or more other rear lamps.

(1983 CC, c 24, art 6, sec 24-42.)

Section 24-43. Electric turn signals.

(a) When required under section 24-41(b), a vehicle shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber.

(b) Turn signal lamps on vehicles eighty inches or more in over-all width shall be visible from a distance of not less than five hundred feet in normal sunlight. Turn signal lamps on vehicles less than eighty inches wide shall be visible at a distance of not less than three hundred feet in normal sunlight.

(c) Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(1983 CC, c 24, art 6, sec 24-43.)

Section 24-44. Back-up lights.

Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(1983 CC, c 24, art 6, sec 24-44.)

Subdivision 3. Identification and Clearance Lamps.

Section 24-45. Application of lighting requirements.

In addition to the other equipment required by this division, buses, trucks, truck tractors and trailers, semi-trailers and pole trailers, when operated upon the highway, shall meet the requirements of sections 24-44 et seq. and 24-53 et seq.

(1983 CC, c 24, art 6, sec 24-45.)

Section 24-46. Identification lamp specifications.

(a) Whenever required or permitted by this division, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than twenty inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical centerline.

(b) Where the cab of a vehicle is not more than forty-two inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.

(1983 CC, c 24, art 6, sec 24-46.)

Section 24-47. Bus and truck requirements.

(a) Buses and trucks eighty inches or more in over-all width shall have:

(1) On the front, two clearance lamps, one at each side, and three identification lamps meeting the specifications of section 24-46.

(2) On the rear, two clearance lamps, one at each side, and three identification lamps meeting the specifications of section 24-46 provided that reflectors may be used in lieu of clearance lamps on rear-end dump trucks and trucks equipped with hydraulic tailgates.

(3) On each side, two side marker lamps, one at or near the front and one at or near the rear.

(4) On each side, two reflectors, one at or near the front and one at or near the rear.

(1983 CC, c 24, art 6, sec 24-47.)

Section 24-48. Trailer and semi-trailer requirements.

(a) Trailers and semi-trailers eighty inches or more in over-all width shall have:

(1) On the front, two clearance lamps, one at each side.

(2) On the rear, two clearance lamps, one at each side; three identification lamps meeting the specifications of section 24-46.

(3) On each side, two side marker lamps, one at or near the front and one at or near the rear.

(4) On each side, two reflectors, one at or near the front and one at or near the rear.

(1983 CC, c 24, art 6, sec 24-48.)

Section 24-49. Truck tractor requirements.

Truck tractors shall have on the front, two cab clearance lamps, one at each side, and three identification lamps meeting the specifications of section 24-46.

(1983 CC, c 24, art 6, sec 24-49.)

Section 24-50. Trailer requirements.

Trailers, semi-trailers and pole trailers thirty feet or more in over-all length shall have on each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of the vehicle.

(1983 CC, c 24, art 6, sec 24-50.)

Section 24-51. Pole trailer requirements.

(a) Pole trailers shall have:

(1) On each side, one amber side marker lamp at or near the front of the load;

(2) One amber reflector at or near the front of the load; and

(3) On the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

(1983 CC, c 24, art 6, sec 24-51.)

Section 24-52. Wide vehicles.

Any vehicle eighty inches or more in overall width, if not otherwise required by this subdivision, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in section 24-46.
(1983 CC, c 24, art 6, sec 24-52.)

Subdivision 4. Color, Mounting, and Visibility of Lamps.

Section 24-53. Color of clearance lamps, identification lamps, side marker lamps, back-up lamps, and reflectors.

(a) Front clearance lamps, identification lamps, and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
(b) Rear clearance lamps, identification lamps, and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.
(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red or amber, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber.

(1983 CC, c 24, art 6, sec 24-53.)

Section 24-54. Mounting of reflectors, clearance lamps, and side marker lamps.

(a) Reflectors when required by subdivision 3 of this division, shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.
(b) The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.
(c) Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.
(d) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

(1983 CC, c 24, art 6, sec 24-54.)

Section 24-55. Visibility requirements for reflectors, clearance lamps, identification lamps, and marker lamps.

(a) Every reflector upon any vehicle referred to in subdivision 3 of this division shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred feet to one hundred feet from the vehicle when directly in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred feet, and fifty feet from the front and rear respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred feet and fifty feet from the side of the vehicle on which mounted.

(1983 CC, c 24, art 6, sec 24-55.)

Subdivision 5. When Lamps Required.

Section 24-56. Vehicles in combination; obstructed lights not required.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination. This section shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(1983 CC, c 24, art 6, sec 24-56.)

Section 24-57. Lamps or flags on projecting load.

(a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of the vehicle there shall be displayed at the extreme rear end of the load, at the times specified in section 24-34, two red lamps, visible from a distance of at least five hundred feet to the rear, two red reflectors meeting the requirements of section 24-55(a) visible from the rear and located so as to indicate maximum width, and on each side one red lamp, visible from a distance of at least five hundred feet to the side, located so as to indicate maximum overhang.

(b) There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags, not less than twelve inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section, under section 24-34.

(1983 CC, c 24, art 6, sec 24-57.)

Section 24-58. Lamps or flags; pole trailers.

(a) No pole trailer shall be operated on the public highway with any part of the permanent structure or load extending in excess of six feet back from the center of the rearmost axle of the vehicle unless there is displayed at the extreme rear end of the load or permanent structure at the times specified in section 24-34, two red lamps, visible from a distance of at least five hundred feet to the rear, two red reflectors meeting the requirements of section 24-55(a), visible from the rear and located so as to indicate maximum width and on each side one red lamp, visible from a distance of at least five hundred feet to the side, located so as to indicate maximum overhang to the rear.

(b) There shall be displayed at all other times, red flags, not less than twelve inches square, marking the extremities of the load or permanent structure, at each point where a lamp would otherwise be required by this section, and section 24-34.

(1983 CC, c 24, art 6, sec 24-58.)

Section 24-59. Lamps on parked vehicles.

(a) Every vehicle shall be equipped with one or more lamps which, when lighted, shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and a red light visible from a distance of five hundred feet to the rear of the vehicle. The location of the lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

(b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon the street or highway, no lights need be displayed upon the parked vehicle.

(c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of five hundred feet upon the highway, the vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a) of this section.

(d) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(1983 CC, c 24, art 6, sec 24-59.)

Section 24-60. Lamps on farm tractors, equipment and implements of husbandry.

(a) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry shall at all times mentioned in section 24-34, be equipped with two single-beam or multiple-beam headlamps meeting the requirements of sections 24-76, 24-77 and 24-78 or 24-80, or as an alternative, section 24-82, and at least two red lamps visible when lighted from a distance of not less than one thousand feet to the rear, and at least two red reflectors visible from all distances within six hundred feet to one hundred feet to the rear when directly in front of lawful upper beams of headlamps.

(b) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in section 24-34, be equipped with lamps as follows:

(1) The farm tractor element of every such combination shall be equipped as required in paragraph (a) of this section.

(2) The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped on the rear with two red lamps visible when lighted from a distance of not less than one thousand feet to the rear, and two red reflectors visible to the rear from all distances within six hundred feet to one hundred feet to the rear when directly in front of lawful upper beams of headlamps.

(3) These combinations shall also be equipped with a lamp displaying a white or amber light, or any shade of color between white and amber, visible when lighted from a distance of not less than one thousand feet to the front. This lamp shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the combination carrying it.

(c) The two red lamps and the two red reflectors required in subsections (a) and (b) of this section on a self-propelled unit of farm equipment or implement of husbandry or combination of farm tractor and towed farm equipment shall be so positioned as to show from the rear as nearly as practicable the extreme width of the vehicle or combination carrying them.

(1983 CC, c 24, art 6, sec 24-60.)

Section 24-61. Lamps on other vehicles and equipment.

Every vehicle, including animal-drawn vehicles and vehicles referred to in section 24-32, not specifically required by the provisions of this article to be equipped with lamps or other lighting devices, shall at all times specified in section 24-34 be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of the vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred to one hundred feet to the rear when illuminated by the upper beams of headlamps.

(1983 CC, c 24, art 6, sec 24-61.)

Subdivision 6. Special Purpose Lamps and Signal Devices.

Section 24-62. Spot lamps.

Any motor vehicle may be equipped with not more than two spot lamps. Every lighted spot lamp shall be so aimed and used that no part of the high-intensity portion of the beam will strike the windshield or any windows, mirror, or occupant of another vehicle in use.
(1983 CC, c 24, art 6, sec 24-62.)

Section 24-63. Fog lamps.

Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower headlamp beams as specified in sections 24-76, 24-77, and 24-78.
(1983 CC, c 24, art 6, sec 24-63.)

Section 24-64. Fog or parking lamps; moving use prohibited.

(a) No vehicle shall be driven at any time with fog lamps lighted except when the headlamps are also lighted.
(b) No vehicle shall be driven at any time with parking lamps lighted except when the parking lamps are being used as turn signals or when the headlamps are also lighted.

(1983 CC, c 24, art 6, sec 24-64.)

Section 24-65. Auxiliary passing lamps.

Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of sections 24-76, 24-77, and 24-78 shall apply to any combination of headlamps and auxiliary passing lamps.
(1983 CC, c 24, art 6, sec 24-65.)

Section 24-66. Auxiliary driving lamps.

Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of sections 24-76, 24-77, and 24-78 shall apply to any combination of headlamps and auxiliary driving lamps.
(1983 CC, c 24, art 6, sec 24-66.)

Section 24-67. Running-board courtesy lamp.

Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.
(1983 CC, c 24, art 6, sec 24-67.)

Section 24-68. Cowl or fender lamps.

Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.
(1983 CC, c 24, art 6, sec 24-68.)

Section 24-69. School bus and emergency vehicle signal lamps.

Every school bus shall, and every authorized emergency vehicle may, in addition to any other equipment and distinctive markings required by this chapter be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.
(1983 CC, c 24, art 6, sec 24-69.)

Section 24-70. Emergency vehicle flashing red light.

(a) Every authorized emergency vehicle except police vehicles and authorized civil defense emergency vehicles shall be equipped with at least one flashing red light visible to the front of the vehicle for a distance of five hundred feet in normal sunlight.
(b) Police vehicles shall be equipped with at least one flashing blue light visible to the front of the vehicle for a distance of five hundred feet in normal sunlight.
(c) Authorized civil defense emergency vehicles shall be equipped with at least one flashing red light visible to the front of the vehicle for a distance of three hundred feet in normal sunlight.

(1983 CC, c 24, art 6, sec 24-70.)

Section 24-71. School bus or emergency vehicles only.

The lighting equipment described in sections 24-69 and 24-70 shall not be used on any vehicle other than a school bus or an authorized emergency vehicle.
(1983 CC, c 24, art 6, sec 24-71.)

Section 24-72. Siren.

Only authorized emergency vehicles may be equipped with a siren.
(1983 CC, c 24, art 6, sec 24-72.)

Section 24-73. Requirement of yielding right-of-way.

The use of the signal equipment described in this subdivision shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in sections 24-174 and 24-175.
(1983 CC, c 24, art 6, sec 24-73.)

Section 24-74. Special hazard vehicles; flashing amber warning lamps.

Every special hazard vehicle shall display flashing amber warning lamps which shall be visible to the front, sides and rear. Flashing warning lamps, when used, shall meet the current specifications established by the Society of Automotive Engineers.
(1983 CC, c 24, art 6, sec 24-74.)

Section 24-75. Warning lamp specifications.

(a) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter.
(b) The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber.
(c) The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red.
(d) The warning lights shall be visible from a distance of not less than fifteen hundred feet under normal atmospheric conditions at night.

(1983 CC, c 24, art 6, sec 24-75.)

Subdivision 7. Road Lighting Equipment.

Section 24-76. Multiple-beam lamps required.

Except as provided in this subdivision the headlamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the limitations in this subdivision.
(1983 CC, c 24, art 6, sec 24-76.)

Section 24-77. Intensity requirement.

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead. On a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(1983 CC, c 24, art 6, sec 24-77.)

Section 24-78. Multiple-beam lighting; beam indicator required.

Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in the County which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(1983 CC, c 24, art 6, sec 24-78.)

Section 24-79. Use of multiple-beam road-lighting equipment.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 24-34, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations in subsections (b) and (c) of this section.

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in section 24-77(b) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle approaches another vehicle from the rear, within three hundred feet, the driver shall use a distribution of light permissible under this division other than the uppermost distribution of light specified in section 24-77(a).

(1983 CC, c 24, art 6, sec 24-79.)

Section 24-80. Single-beam road-lighting requirement.

(a) Headlamp systems which provide only a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to July 1, 1962, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(1) The headlamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet.

(1983 CC, c 24, art 6, sec 24-80.)

Section 24-81. Lighting equipment on motor-driven cycles.

(a) The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations set forth in this section.

(b) Every headlamp or headlamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and at a distance of not less than three hundred feet when the motor-driven cycle is operated at a speed of thirty-five or more miles per hour.

(c) In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps, the upper beam shall meet the minimum requirements set forth in subsection (b) and shall not exceed the limitations set forth in section 24-77(a) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section 24-77(b).

(d) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded, none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(1983 CC, c 24, art 6, sec 24-81.)

Section 24-82. Alternate road-lighting equipment; restriction.

Any motor vehicle may be operated under the conditions specified in section 24-34 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in sections 24-76, 24-77, and 24-78, or 24-80, provided, that at no time shall it be operated at a speed in excess of twenty miles per hour.

(1983 CC, c 24, art 6, sec 24-82.)

Section 24-83. Number of driving lamps required or permitted.

(a) At all times specified in section 24-34, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with headlamps as required in this chapter is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

(1983 CC, c 24, art 6, sec 24-83.)

Section 24-84. Lamp restrictions.

(a) During the times specified in section 24-34, any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(b) Except as required in sections 24-69 through 24-74, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(c) Flashing lights are prohibited except as required in sections 24-69 through 24-74, and authorized in sections 24-42, 24-43, 24-44, 24-52, 24-67, 24-68, and 24-75.

(1983 CC, c 24, art 6, sec 24-84.)

Division 3. Brake Equipment.

Section 24-85. Brake equipment required.

Every motor vehicle, trailer, semi-trailer and pole trailer, and any combination of such vehicles operating upon a highway within this County shall be equipped with brakes in compliance with the requirements of this division.

(1983 CC, c 24, art 6, sec 24-85.)

Section 24-86. Service brakes; adequacy.

Every vehicle and combination of vehicles, except special mobile equipment as defined in section 24-3 (43) shall be equipped with service brakes complying with the performance requirements of section 24-97, and adequate to control the movement of and to stop and hold the vehicle under all conditions of loading, and on any grade incident to its operation.

(1983 CC, c 24, art 6, sec 24-86.)

Section 24-87. Parking brakes required.

(a) Every vehicle and combination of vehicles, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort, by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements.

(b) The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(1983 CC, c 24, art 6, sec 24-87.)

Section 24-88. Brakes on all wheels required; exceptions.

(a) Every vehicle shall be equipped with brakes acting on all wheels except:
   (1) Trailers, semi-trailers, or pole trailers of a gross weight not exceeding three thousand pounds, provided that:
      (A) The total weight on and including the wheels of the trailer or trailers shall not exceed forty percent of the gross weight of the towing vehicle when connected to the trailer or trailers, and
      (B) The combination of vehicles, consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of section 24-97.
   (2) Any vehicle being towed in driveaway or tow-away operations, provided the combination of vehicles is capable of complying with the performance requirements of section 24-97.
   (3) Trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck-tractors must be capable of complying with the performance requirements of section 24-97.
   (4) Special mobile equipment as defined in section 24-3(43).
   (5) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of section 24-97.

(1983 CC, c 24, art 6, sec 24-88.)

Section 24-89. Automatic trailer brakes.

Every trailer, semi-trailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semi-trailer, and pole trailer with a gross weight in excess of three thousand pounds, manufactured or assembled after July 1, 1961, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(1983 CC, c 24, art 6, sec 24-89.)

Section 24-90. Tractor brakes; breakaway protection.

Every motor vehicle manufactured or assembled after July 1, 1961, and used to tow a trailer, semi-trailer, or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.
(1983 CC, c 24, art 6, sec 24-90.)

Section 24-91. Trailer brakes; backflow protection.

Air brake systems installed on trailers manufactured or assembled after July 1, 1961, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.
(1983 CC, c 24, art 6, sec 24-91.)

Section 24-92. Emergency brakes; air brake application.

(a) Every towing vehicle, when used to tow another vehicle equipped with air controlled brakes, in other than driveaway or tow-away operations, shall be equipped with two means for emergency application of the trailer brakes.
   (1) One of these means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall not be lower than twenty pounds per square inch nor higher than forty-five pounds per square inch.
   (2) The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat. Its emergency position or method of operation shall be clearly indicated.
(b) In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means.
(c) The automatic and the manual means required by this section may be, but are not required to be, separate.

(1983 CC, c 24, art 6, sec 24-92.)

Section 24-93. Emergency brakes; vacuum brake controls.

Every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or tow-away operations shall have, in addition to the single control device required by section 24-94, a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.
(1983 CC, c 24, art 6, sec 24-93.)

Section 24-94. One control to operate all brakes.

(a) Every motor vehicle, trailer, semi-trailer, and pole trailer, and every combination of such vehicles, except motorcycles and motor-driven cycles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes.

(b) This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles.

(c) This regulation does not apply to driveaway or tow-away operations unless the brakes on the individual vehicles are designed to be operated by a single control on the towing vehicle.

(1983 CC, c 24, art 6, sec 24-94.)

Section 24-95. Reservoir capacity and check valve.

(a) Air Brakes. Every bus, truck or truck tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) Vacuum Brakes. Every truck with three or more axles equipped with vacuum assistor type brakes and every truck tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty percent.

(c) Reservoir Safeguarded. All motor vehicles, trailers, semi-trailers and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(1983 CC, c 24, art 6, sec 24-95.)

Section 24-96. Warning devices required.

(a) Air Brakes. Every bus, truck or truck-tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below fifty percent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) Vacuum Brakes. Every truck-tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or tow-away operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than eight inches of mercury.

(c) Combination of Warning Devices. When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be adequate means of satisfying this requirement.

(1983 CC, c 24, art 6, sec 24-96.)

Section 24-97. Performance ability of brakes.

(a) Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:
   (1) Developing a braking force that is not less than the percentage of its gross weight tabulated herein for its classification;
   (2) Decelerating to a stop from not more than twenty miles per hour at not less than the feet per second per second tabulated herein for its classification; and
   (3) Stopping from a speed of twenty miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

(b) Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one percent grade), dry, smooth, hard surface that is free from loose material.

(c) Table of Required Brake Performance.

Classification of Vehicles	Braking force as a percentage of gross vehicle or combination weight	Deceleration in feet per second per second	Brake system application and braking distance in feet from an initial speed of 20 m.p.h.
A Passenger vehicles with a seating capacity of 10 people or less including driver, not having a manufacturer's gross vehicle weight rating	52.8%	17	25
B-1 All motorcycles and motor-driven cycles	43.5%	14	30
B-2 Single unit vehicles with a manufacturer's gross vehicle weight rating of 10,000 pounds or less	43.5%	14	30
C-1 Single unit vehicles with a manufacturer's gross weight rating of more than 10,000 pounds	43.5%	14	40
C-2 Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less	43.5%	14	40
C-3 Buses, regardless of the number of axles, not having a manufacturer's gross weight rating	43.5%	14	40
C-4 All combinations of vehicles in driveaway-tow-away operations	43.5%	14	40
D All other vehicles and combinations of vehicles	43.5%	14	50

(1983 CC, c 24, art 6, sec 24-97.)

Section 24-98. Maintenance of brakes.

All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practical with respect to the wheels on opposite sides of the vehicle.

(1983 CC, c 24, art 6, sec 24-98.)

Section 24-99. Brakes on motor-driven cycles.

(a) The director of finance is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which the director of finance finds will not comply with the performance ability standard set forth in section 24-97 or which in the director of finance's opinion is equipped with a braking system that is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) No person shall operate on any highway any vehicle referred to in this section in the event the director of finance has disapproved the braking system upon such vehicle.

(1983 CC, c 24, art 6, sec 24-99; am 2008, ord 08-100, sec 8.)

Section 24-100. Hydraulic brake fluid requirements.

(a) The term hydraulic fluid as used in this section means the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(b) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(c) Hydraulic brake fluid shall conform to the current standards and specifications of the Society of Automotive Engineers applicable to such fluid.

(d) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section.

(e) No person shall service any vehicle with brake fluid unless it complies with the requirements of this section.

(1983 CC, c 24, art 6, sec 24-100.)

Division 4. Mirrors, Windshields and Mud Guards.

Section 24-101. Mirror required.

Every motor vehicle shall be equipped with a mirror or mirrors so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the vehicle.

(1983 CC, c 24, art 6, sec 24-101.)

Section 24-102. Windshields; visibility unobstructed; stickers.

(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of the vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(b) Posters or stickers approved by the director of finance shall be placed at the lower right-hand corner of the front windshield of a left-hand driven motor vehicle or at the lower left-hand corner of the front windshield of a right-hand driven motor vehicle. However, such posters or stickers so placed shall not cover an area greater than four inches by six inches, except for nonresidence permits or for military requirements, in which cases an additional area of four and one-half inches by six inches may be used. Furthermore, a poster or sticker of any size may be placed upon the front windshield if it is shown to the satisfaction of the director of finance that such placement will not obstruct the driver's clear view.

(c) No person shall drive any motor vehicle with any nontransparent material or object suspended within the windshield area as viewed from the driver's seat, except rear view mirrors nor shall any person drive any motor vehicle upon the hood or radiator of which is attached any fixture or ornament of any material which vibrates, swings, or flutters within view of the driver of the vehicle.

(1983 CC, c 24, art 6, sec 24-102; am 1988, ord 88-11, sec 1; am 2008, ord 08-100, sec 9.)

Section 24-103. Windshield wiper required.

(a) The windshield on every motor vehicle shall be equipped with a device for cleaning rain or other moisture from the windshield. Such device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(b) Every windshield wiper upon a vehicle shall be maintained in good working order.

(1983 CC, c 24, art 6, sec 24-103.)

Section 24-104. Windshields, fenders, and bumpers required; exception.

(a) Every motor vehicle upon a highway, excepting a motorcycle or motor scooter, shall be equipped with a windshield and front and rear bumpers.

(b) Every motor vehicle upon a highway shall be equipped with fenders for all wheels.

(c) Where the type of vehicle and the usage of the vehicle make the foregoing equipment impractical, such equipment may be eliminated upon approval of the director of finance.

(1983 CC, c 24, art 6, sec 24-104; am 2008, ord 08-100, sec 10.)

Section 24-105. Mud and spray guard required.

No person shall operate on any highway any motor vehicle, trailer, or semi-trailer unless equipped with fenders, covers, or devices, including flaps or splash aprons, or unless the body of the vehicle or attachments thereto afford adequate protection to effectively minimize the spray or splash of water or mud to the rear of the vehicle.

(1983 CC, c 24, art 6, sec 24-105.)

Section 24-106. Safety glazing material required.

(a) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered unless such vehicle is equipped with safety glazing material of a type meeting the current specifications of the Society of Automotive Engineers wherever glazing material is used in doors, windows and windshields.

(b) Subsection (a) of this section shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows, and windshields in the driver's compartments of such vehicles.

(1983 CC, c 24, art 6, sec 24-106.)

Section 24-107. Safety glazing material defined; broken material prohibited.

(a) The term safety glazing materials means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources, or by these safety glazing materials when they may be cracked or broken.

(b) No person shall operate a motor vehicle which is equipped with safety glazing material which is shattered or broken.

(1983 CC, c 24, art 6, sec 24-107.)

Division 5. Muffler and Exhaust System.

Section 24-108. Muffler defined.

Muffler as used in this division means a device consisting of a series of baffle plates, chambers, or perforated tube or tubes with spun glass, spun steel, or other type of sandwich packing, or of other mechanical design or construction, for the purpose of receiving exhaust gas and controlling exhaust noise from the motor of a motor vehicle.

(1983 CC, c 24, art 6, sec 24-108.)

Section 24-109. Muffler required; excessive or unusual noise defined.

(a) No person shall operate a motor vehicle on a public highway or street unless the motor vehicle is equipped, at all times, with a muffler or mufflers in constant operation and of such length and size or of sufficient capacity for the motor and exhaust system to prevent the escape of excessive or annoying fumes or smoke, and excessive or unusual noise.

(b) Excessive or unusual noise as used in this division means noise in excess of the usual noise which would necessarily result from the operation of a motor when reduced to the minimum by a muffler.

(1983 CC, c 24, art 6, sec 24-109.)

Section 24-110. Exhaust system requirements.

No person shall operate a motor vehicle on a public highway or street unless the motor and exhaust system of the motor vehicle is properly equipped and adjusted so as to prevent (a) the escape of excessive or annoying fumes or smoke, and (b) the emission of excessive or unusual noise.
(1983 CC, c 24, art 6, sec 24-110.)

Section 24-111. Modified or altered exhaust systems.

No person shall operate on a public highway or street a motor vehicle (a) with a motor or exhaust system which has been altered or modified to such an extent that the noise emitted by the motor or exhaust system shall be deemed excessive or unusual or (b) equipped with a dummy muffler, cut-out by-pass or other similar device.
(1983 CC, c 24, art 6, sec 24-111.)

Division 6. Signal Devices.

Section 24-112. Horn required; use.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle.
(b) The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with the driver's horn, but shall not otherwise use such horn when upon a highway.

(1983 CC, c 24, art 6, sec 24-112.)

Section 24-113. Prohibited devices.

No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this chapter.
(1983 CC, c 24, art 6, sec 24-113.)

Section 24-114. Theft alarm permitted.

Any commercial vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
(1983 CC, c 24, art 6, sec 24-114.)

Section 24-115. Use of siren by emergency vehicles.

Any authorized emergency vehicle may be equipped with a siren capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type complying with section 24-3(40), but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of such vehicle shall sound the siren when necessary to warn pedestrians and other drivers of the approach thereof.
(1983 CC, c 24, art 6, sec 24-115.)

Section 24-116. Back-up warning device.

Any truck used to haul dirt, rock, concrete, or other construction material may be equipped with a horn, bell, or whistle in the rear, capable of emitting a sound audible under normal conditions from a distance of not less than two hundred feet. Such warning device, however, shall be sounded only while the truck is backing up.
(1983 CC, c 24, art 6, sec 24-116.)

Division 7. Tires.

Section 24-117. Tire capacity; worn tires prohibited.

(a) Every motor vehicle shall be equipped with tires of adequate capacity to support its weight, including load.
(b) No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any defects likely to cause failure.

(1983 CC, c 24, art 6, sec 24-117.)

Section 24-118. Solid tires; metal tires; metal studs prohibited; exceptions.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
(b) No person shall operate or move on any highway any motor vehicle, trailer, or semi-trailer having any metal tire in contact with the roadway.
(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, exception that: (1) it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and (2) it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety.

(1983 CC, c 24, art 6, sec 24-118.)

Section 24-119. Special permits for tractors.

The State highway engineer or the State highway engineer's representative in the case of State highways, or the director of public works, in the case of County highways, may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this division.
(1983 CC, c 24, art 6, sec 24-119; am 2001, ord 01-108, sec 1.)

Division 8. Emergency Equipment.

Section 24-120. Certain vehicles to carry flares or other warning devices; specifications.

(a) No person shall operate any motor truck, passenger bus or truck tractor, or any motor vehicle towing a house trailer at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in section 24-126.

(1) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at nighttime. All flares, fusees, electric lanterns, or cloth warning flags used for the purpose of compliance with the requirements of this section shall meet the current specifications of the Society of Automotive Engineers. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to include two reflecting elements one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of headlamps, and unless it is of a type which meets the current specifications of the Society of Automotive Engineers.

(2) At least three red-burning fuses unless red electric lanterns or red portable emergency reflectors are carried.

(3) At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

(1983 CC, c 24, art 6, sec 24-120.)

Section 24-121. Disabled vehicle to display warning devices.

Whenever any motor truck, passenger bus, truck tractor, trailer, semi-trailer or pole trailer, or any motor vehicle towing a house trailer is disabled upon the traveled portion of any highway or the shoulder thereof at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the warning devices prescribed in this division upon the highway during the time the vehicle is so disabled on the highway, except as provided in section 24-123.

(1983 CC, c 24, art 6, sec 24-121.)

Section 24-122. Placement of emergency signals.

(a) As required by section 24-121 a lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns or three portable red emergency reflectors on the traveled portion of the highway in the following order:
   (1) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by the vehicle and toward traffic approaching in that lane.
   (2) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.
   (3) One, at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subsection, it may be used for this purpose.

(1983 CC, c 24, art 6, sec 24-122.)

Section 24-123. Placement of warning device on hill, curve or other obstruction to view.

Whenever any vehicle referred to in this division is disabled within five hundred feet of a curve, hillcrest or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.

(1983 CC, c 24, art 6, sec 24-123.)

Section 24-124. Placement of warning devices on divided highway at night required.

Whenever any vehicle of a type referred to in this division is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in sections 24-121, 24-122, and 24-123, shall be placed as follows: (1) one at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; (2) one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; (3) one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(1983 CC, c 24, art 6, sec 24-124.)

Section 24-125. Placement of warning devices during daylight hours.

Whenever any vehicle of a type referred to in this division is disabled upon the traveled portion of a highway or the shoulder thereof at any time when the display of fusees, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.
(1983 CC, c 24, art 6, sec 24-125.)

Section 24-126. Explosive or flammable cargo; flares prohibited.

No person shall operate any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using compressed gas as a fuel unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of section 24-120. There shall not be carried in any such vehicle any flares, fusees, or signal produced by flame.
(1983 CC, c 24, art 6, sec 24-126.)

Section 24-127. Placement of warning devices near vehicle with explosives or flammable cargo.

Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway at any time or place mentioned in sections 24-121 and 24-122, the driver of such vehicle shall immediately display the following warning devices: one red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of the disabled vehicle in the center of the traffic lane occupied by the vehicle. Flares, fusees or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this section.
(1983 CC, c 24, art 6, sec 24-127.)

Section 24-128. Warning device specifications.

The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this division shall conform with the requirements of sections 24-120 and 24-126.
(1983 CC, c 24, art 6, sec 24-128.)

Section 24-129. Vehicles transporting explosives; markings; fire extinguishers required.

(a) Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the following requirements:
   (1) The vehicle shall be marked or placarded on each side and the rear with the word "Explosives" in letters not less than eight inches high, or there shall be displayed on the rear of the vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high.
   (2) Every vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle.

(1983 CC, c 24, art 6, sec 24-129.)

Division 9. Air Conditioning.

Section 24-130. Air-conditioning equipment defined.

Air-conditioning equipment as used in this division means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(1983 CC, c 24, art 6, sec 24-130.)

Section 24-131. Standards applicable.

(a) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and public and shall not contain any refrigerant which is toxic to persons or which is flammable.
(b) Such equipment shall conform to the current recommended practice or standard applicable to such equipment approved by the Society of Automotive Engineers.

(1983 CC, c 24, art 6, sec 24-131.)

Section 24-132. Compliance required; sale and use.

(a) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any air-conditioning equipment unless it complies with the requirements of this division.
(b) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless the equipment complies with the requirements of this division.

(1983 CC, c 24, art 6, sec 24-132.)

Article 7. Operation of Vehicles.

Division 1. Traffic-Control Devices.

Section 24-133. Stop signs described; compliance; designated.

(a) Stop signs shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended.

(b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(c) The intersections described in article 10, schedule 12, section 24-264, and article 11, schedule 11, section 24-307, are stop intersections when marked by appropriate signs giving notice thereof.

(1983 CC, c 24, art 7, sec 24-133; am 1999, ord 99-65, sec 2.)

Section 24-134. Procedure for entering stop intersections.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by section 24-133, and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

(1983 CC, c 24, art 7, sec 24-134; am 1996, ord 96-41, sec 2.)

Section 24-135. Speed, turn lane, passing, and other regulatory signs described.

All regulatory signs shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended.

(1983 CC, c 24, art 7, sec 24-135; am 1996, ord 96-41, sec 2.)

Section 24-136. Parking, bus stops, loading signs described.

Signs governing parking, bus stops, loading zones, etc., shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended.

(1983 CC, c 24, art 7, sec 24-136; am 1996, ord 96-41, sec 3.)

Section 24-137. Yield sign described; compliance.

(a) The yield sign shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended.

(b) The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.
(c) The locations described in schedule 13, section 24-265, are yield locations when marked by appropriate signs giving notice thereof.

(1983 CC, c 24, art 7, sec 24-137; am 1996, ord 96-41, sec 4; am 2000, ord 00-87, sec 1.)

Section 24-138. Procedure for entering yield intersections.

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection; provided, however, that if a driver is involved in a collision with a vehicle in the intersection after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

(1983 CC, c 24, art 7, sec 24-138.)

Section 24-139. Warning signs described.

All warning signs and advisory speed plates shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended.

(1983 CC, c 24, art 7, sec 24-139; am 1996, ord 96-41, sec 5.)

Section 24-140. Warning signs required for the protection of working men.

No person shall work upon that portion of any highway devoted to vehicular traffic, and no governmental department or person shall permit any person to so work, unless there shall be placed in the center of the highway or on the side of the roadway, if work is done immediately adjacent to the roadway, suitable signs with black letters not less than four inches in height on a yellow field carrying the warning "Men Working." Such signs are to be placed no less than two hundred feet nor more than six hundred feet on both approaches to the place where any such person is so working; provided, however, that between one-half hour after sunset and one-half hour before sunrise, there shall be required on any such sign a properly lighted lantern or lamp.

(1983 CC, c 24, art 7, sec 24-140.)

Section 24-141. Warning signs required for livestock movement.

(a) Any person who drives or herds any livestock across a public highway shall place warning signs adjacent to the public highway. The signs shall be posted immediately before and removed immediately after the livestock cross the highway.
(b) In areas where the speed limit is more than thirty-five miles per hour, said signs shall be posted five hundred feet from the crossing point on each approach except when the crossing point is clearly visible within said distance.

(c) In areas where the speed limit is thirty-five miles per hour or less, signs shall be posted two hundred fifty feet from the crossing point on each approach except when the crossing point is clearly visible within this distance.

(1983 CC, c 24, art 7, sec 24-141; am 1996, ord 96-41, sec 6.)

Section 24-142. Signs required at through streets.

(a) Whenever any ordinance or law of this County designates and describes a through street or stop intersection, it shall be the duty of the County and/or director of public works or owner(s) of private streets to place and maintain stop and/or yield signs on each and every street intersecting such through street and at every stop intersection unless traffic at any such intersection is controlled at all times by traffic-controlled signals. The highway safety council may recommend when yield signs may be substituted for stop signs.

(b) The streets as described in article 10, schedule 14, section 24-266, and article 11, schedule 12, section 24-308, are established and designated as through streets.

(1983 CC, c 24, art 7, sec 24-142; am 1998, ord 98-97, sec 4; am 1999, ord 99-65, sec 3; am 2001, ord 01-108, sec 1.)

Section 24-143. One-way streets designated.

The streets as described in schedule 15, section 24-267 or portions thereof are designated and shall be sign-posted as one-way streets to be traveled upon only in the direction indicated.

(1983 CC, c 24, art 7, sec 24-143.)

Section 24-144. Markings specified.

(a) Center, no passing, double, safety zone, pavement-width transition, parking space, and all lines running parallel to the pavement edge shall be at least four inches in width. Safety zones shall be designated by a line running parallel to the pavement edge and said line shall be at least eight inches in width.

(b) Channelizing, turn symbol, stop, crosswalk, word and symbol, and all other lines running at right angles to the pavement edge shall be at least eight inches in width.

(c) Curb markings shall cover the face and top of curbs.

(d) All lines or markings shall be painted as follows:

  (1) Lines delineating the separation of traffic flows in opposing direction shall be yellow.

  (2) Lines delineating the separation of traffic flows in the same direction shall be white.

(e) Curb markings designating that curbside stopping, standing, or parking are prohibited within a certain area shall be red or yellow in color. The traffic engineer of the County and the district engineer of the State department of transportation are authorized to convert all yellow curbs in parking prohibition zones to red curbs.

(f) Curb markings designating loading zones shall be yellow in color.
(g) Other lines and markings shall be white in color, except that medial islands, pavement-width transitions, and approaches to obstructions, where the markings are used to separate traffic flows in opposing direction, shall be yellow in color.
(1983 CC, c 24, art 7, sec 24-144; am 1987, ord 87-76, sec 1.)

Section 24-145. No-passing zones.
(a) The County engineer and district engineer are authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate such zones. When signs or markings are in place and visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
(b) A no-passing zone shall be designated by a sign placed at the edge of the roadway at the beginning and at the end of such zone or by a solid yellow line placed as the right-hand element of a combination line along the center line.
(c) Where such signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of any pavement striping designed to mark such no-passing zone throughout its length except when making a left turn.
(d) Determination for no-passing at curves and signs and markings designating no-parking zones shall be in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD) published by the U.S. Department of Transportation, Federal Highway Administration, 1978 edition, as revised from time to time. The MUTCD is on file and is available for public inspection at the County clerk's office.
(e) Where the width of winding or hilly roads is less than eighteen feet, the County engineer and district engineer are authorized to use advisory and warning signs indicating the winding or hilly condition of the route and the narrowness of the road instead of standard signs and markings for no passing zones required under subsection (d) of this section. These warning and advisory signs shall be placed at the beginning of the winding or hilly road and at intervals of not more than two miles. Standard broken center line may be used on these narrow roads as a guide line for motorists, also when special conditions exist along these narrow winding roads a single solid yellow line may be installed at specific areas to designate a no passing zone (both directions of travel). The County engineer and district engineer shall designate those areas which warrant the use of a single solid yellow line.
(1983 CC, c 24, art 7, sec 24-145; am 1986, ord 86-102, sec 1; 86-106, sec 1.)

Section 24-145.1. Traffic signal systems.
(a) The installation and use of traffic signal systems is hereby authorized at the streets and intersections described in schedule 22.1, chapter 24, article 10.
(b) Whenever traffic signals at any intersection are completely out, drivers shall proceed as though the intersection is controlled by an "All-Way Stop."
(1995, ord 95-94, sec 1; am 1996, ord 96-26, sec 1.)

Division 2. Speed Regulations.

Section 24-146. Fifty-five mph maximum speed permitted.

No person shall drive a vehicle upon any highway at a speed greater than fifty-five miles per hour unless otherwise specified by this chapter.
(1983 CC, c 24, art 7, sec 24-146.)

Section 24-147. Reasonable speed required.

Subject to the limitations set forth in this chapter, no person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent under the conditions then existing.
(1983 CC, c 24, art 7, sec 24-147.)

Section 24-148. Speed law violations.

(a) The speed of any vehicle upon a highway not in excess of the limits specified in sections 24-149 and 24-150 or established as authorized in this chapter is lawful unless clearly proved to be in violation of section 24-147.
(b) The speed of any vehicle upon a highway in excess of the maximum speed limits in sections 24-149 and 24-150 or established as authorized in this chapter is unlawful.

(1983 CC, c 24, art 7, sec 24-148.)

Section 24-149. Maximum speed limit.

(a) The following maximum speed limit shall be in effect except where a special speed limit has been enacted:
    (1) Ten miles per hour below the posted speed limit within construction zones.
    (2) Twenty miles per hour.
    In any school zone, the beginning of which is demarcated by a school speed limit sign supplemented with a flashing speed limit sign beacon, and the end of which is demarcated by an end school zone or standard speed limit sign.
    (3) Twenty-five miles per hour.
        (A) When passing a school site or the grounds thereof, which are contiguous to or located in close proximity to, the highway and posted with the standard "school" warning sign while children are going to be leaving the school during opening or closing hours. This speed limit shall also apply during school recesses when passing any school grounds which are not separated from the highway by a fence or other physical barrier capable of restraining a child, while the grounds within seventy-five feet of the highway are in use by a child, and the highway is posted with the standard "school" warning sign.
        (B) During school days for a distance of up to one thousand feet on both sides of a crosswalk designated by the director of public works as a school crossing and posted with the standard "School Crossing."

(C) In a residential district, unless otherwise indicated.
(D) On all highways and streets unless otherwise specified by this chapter.
(4) Thirty miles per hour.
In a business district.

(b) Any person who violates any provision of section 24-149(a)(2), section 24-149(a)(3)(A), or section 24-149(a)(3)(B) shall upon conviction be subject to fines equal to two times the fines as provided for in section 24-16.

(1983 CC, c 24, art 7, sec 24-149; am 1980, ord 551, sec 2; am 1988, ord 88-143, sec 1; am 1995, ord 95-25, sec 4; am 1999, ord 99-65, sec 4; am 2001, ord 01-108, sec 1; am 2009, ord 09-135, sec 2; am 2010, ord 10-47, sec 1; am 2012, ord 12-44, sec 1; ord 12-85, sec 1.)

Section 24-150. Speed limits.

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

(1983 CC, c 24, art 7, sec 24-150; am 1999, ord 99-65, sec 5.)

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

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

(b) Speed limits set by the director of public works pursuant to this section may be further changed by the council by ordinance.

(2007, ord 07-59, sec 2.)

Section 24-151. Minimum speed regulations.

(a) No person shall drive a motor vehicle on a highway at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) When a speed limit is set at forty or more miles per hour, the driver of a vehicle proceeding on such highway shall not operate the driver's vehicle at a speed less than fifteen miles per hour below the posted speed limit whenever practicable except when necessary for safe operation.

(c) No person shall drive a motor vehicle on a highway at a speed lower than the required minimum speed, if to do so would impede other vehicular traffic. Such person shall pull to the side of the highway wherever safe to do so and stop if necessary to allow other vehicles to pass the slow-moving vehicle.

(1983 CC, c 24, art 7, sec 24-151.)

Division 3. Prohibited or Restricted Activities and Vehicles.

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

(a) No person shall, without the consent of the owner or person in charge of a vehicle, climb upon or into any vehicle with the intent to commit any injury thereto or with the intent to commit any crime, whether such vehicle be in motion or at rest.

(b) No person, without the consent of the owner or person in charge of a standing unattended vehicle, shall manipulate any of the levers, starting crank, brakes or other devices thereon.

(c) An operator of a motor vehicle may, however, release the brakes and move a standing unattended vehicle for the purpose of extricating the operator's vehicle from a parking location.

(d) Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $250.

(1983 CC, c 24, art 7, sec 24-152.)

Section 24-153. Interrupting procession.

No person shall drive a vehicle between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required by law. This section shall not apply at intersections where traffic is controlled by traffic control signals or police officers.
(1983 CC, c 24, art 7, sec 24-153.)

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

No funeral procession, or parade that impedes the normal flow of traffic excepting the forces of the United States Army or Navy, the military forces of the State, and the forces of the police and fire departments, shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.
(1983 CC, c 24, art 7, sec 24-153.1.)

Section 24-153.2. Funeral processions.

A funeral composed of a procession of vehicles shall be identified as such by the display of lighted headlamps on each vehicle. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.
(1983 CC, c 24, art 7, sec 24-153.2.)

Section 24-153.3. Street closure.

(a) No person shall block, close, restrict or impede the traffic on any street, highway, time-limit parking stall or public right-of-way, for any length of time for parades, processions or for any festive, religious, civic or other special activity except in accordance with a permit issued by the chief of police or the chief's authorized representative and such other regulations as are set forth herein. Such permits issued shall be immediately revoked at any time by the chief of police or the chief's authorized representative when there is reason to believe that the activity is endangering any person, vehicle or property on or off such street, highway, time-limit parking stall or public right-of-way.

(b) The council by resolution, in consultation with the chief of police and the director of public works, may authorize the temporary closure of a roadway stub-out, dead-end and/or other road terminus when the following conditions exists:

1) The stub-out, dead-end or similar road terminus to be barricaded is owned by the county.
2) The closure shall not affect the flow of traffic or public access.
3) Adjacent landowners are provided with written notification by the requesting agency.
4) The closure is necessary to prevent loitering, littering and other illegal activities.

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

(1983 CC, c 24, art 7, sec 24-153.3; am 2002, ord 02-119, sec 2.)

Section 24-153.4. Permits; issuance; procedure.

(a) The procedure for issuance of a permit under section 24-153.3 shall be as follows:

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

(2) Copies of the application shall be forwarded by the chief of police or the chief's authorized representative to all other affected agencies. Said agencies will have a period of seven days in which to submit comments and/or recommendations to the chief of police.

(3) Upon receipt of all comments and recommendations from the affected agencies, and if there are no objections or prohibitions, the chief of police or the chief's authorized representative shall review the application and determine the conditions under which a permit shall be issued. Failure to comply with any of the requirements or conditions set forth in the recommendations of the affected agencies including the police department shall be cause to deny the issuance of a permit. Failure to comply with any conditions or requirements after the permit is issued shall cause such permit to be immediately revoked by the chief of police or the chief's representative.

(4) Any hospital in or near the location of the event or activity shall be notified that a permit has been issued and shall be informed of the time, date and location of the event or activity for which the permit was issued.

(1983 CC, c 24, art 7, sec 24-153.4; am 1997, ord 97-27, sec 1.)

Section 24-154. Fleeing from police officer prohibited.

No operator of a vehicle, after having received a visual or audible signal from a traffic officer or police vehicle, shall knowingly flee or attempt to elude any traffic officer by wilful or wanton disregard of such signal so as to interfere with or endanger the operation of the police vehicle or the traffic officer or other vehicles or pedestrians, nor shall the operator increase the speed of the operator's vehicle or extinguish the lights of the operator's vehicle in an attempt to elude or flee.

(1983 CC, c 24, art 7, sec 24-154.)

Section 24-155. Unlawful riding.

(a) No person shall ride nor shall any driver of any vehicle permit riding on any portion of a vehicle not designated or intended for the use of passengers. This provision shall not apply to employees engaged in the necessary discharge of duty or to persons riding entirely within truck bodies in space intended for merchandise.

(b) No passenger shall ride nor shall any driver permit riding upon any vehicle in such a manner so as to allow any part of the passenger's body to extend over the front, rear, or side of the vehicle.

(1983 CC, c 24, art 7, sec 24-155.)

Section 24-156. Placing injurious substances on highway.

(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

(b) Any person who drops, or permits to be dropped or thrown upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(1983 CC, c 24, art 7, sec 24-156.)

Section 24-157. Damaging road; definition.

(a) No person shall operate any vehicle upon any street or highway in such a manner that the parts of the vehicle, or the load carried thereon, shall damage the road.

(b) For the purpose of this section, damage to the road means such effect on the road or structures as will impair the riding qualities of the road, or require repairs in order that the anticipated life of the road or structure may not be decreased.

(1983 CC, c 24, art 7, sec 24-157.)

Section 24-158. Slow moving vehicles; emblems required.

(a) All machinery including all road construction machinery except when guarded by flagmen or flares, designed to operate at twenty-five mph or less, hereinafter referred to as slow moving vehicles, travelling on a public highway where permitted by law during day or night, shall display a triangular slow moving vehicle emblem on the rear of the vehicle. Registered or legal owners of such vehicles shall use emblems, as developed by the American Society of Agricultural Engineers and printed in ASAE Standard; ASAE S276.1, for the purpose of identifying slow moving vehicles. The emblem shall be mounted on the rear of the vehicle, base down, and at a height of not less than two feet nor more than six feet from ground to base.

(b) The display or use of such emblem as required by this section shall be in addition to any lighting devices required by law.

(1983 CC, c 24, art 7, sec 24-158.)

Section 24-159. Misuse of emblem prohibited.

The display or use of slow moving vehicle emblem shall be restricted to the display or use specified by section 24-158, and its display or use by any other type of vehicles or as a clearance marker on wide machinery or any stationary objects on the highway is prohibited.

(1983 CC, c 24, art 7, sec 24-159.)

Section 24-160. Manner of operation of slow moving vehicles.

Slow moving vehicles operated on any roadway open to public travel shall be driven in the right-hand lane, or as close as practicable to the right-hand curb or edge of the roadway, except for a distance not to exceed one thousand feet when preparing for a left turn at an intersection or into a private road or driveway.

(1983 CC, c 24, art 7, sec 24-160.)

Section 24-161. Litter defined.

For the purposes of sections 24-162 and 24-163, the word litter means all waste material including without limiting the generality thereof, all animal and vegetable wastes, and all other solid wastes such as dirt, ashes, street cleanings, dead animals or parts thereof, market and industrial wastes, bagasse, cane trash, paper, wrappings, cigarettes, cardboards, tin cans, yard clippings, leaves, wood, tree trimmings, glass, bedding, crockery, furniture, appliances, scrap metal and all other waste materials commonly or ordinarily regarded as being garbage, rubbish, refuse, trash, swill and all materials used in the construction industry, including but not limited to sand, gravel, stones, rocks, and any other material which, if allowed to be deposited or to accumulate upon the public highways, would tend to create a danger to the health, safety, welfare and general well being of the public.
(1983 CC, c 24, art 7, sec 24-161.)

Section 24-162. Load to be properly secured.

(a) No vehicle transporting a load of litter shall be driven or moved on any highway unless the load is adequately and securely contained so as to prevent the contents of the load from dropping, sifting, leaking or otherwise escaping from the vehicle.
(b) For the purposes of this section, a load is adequately and securely contained only if it is put into a sealed bag, box or other container, or if it is otherwise completely enclosed by a tarpaulin or like covering. The container or covering shall be sufficient to prevent the contents of the load from dropping, sifting, leaking, or otherwise escaping from the vehicle transporting it. The container or covering shall be securely fastened so as to prevent it from becoming loose, detached or otherwise escaping from the vehicle.

(1983 CC, c 24, art 7, sec 24-162.)

Section 24-163. Pick-up vehicles; equipment.

(a) The provisions of section 24-162 shall not apply to any person who has provided for the pick-up of litter which may drop, sift, leak or otherwise escape from an uncontained vehicle. The pick-up must be accomplished during the time the uncontained vehicle is in transit or immediately thereafter by gleaners following the uncontained vehicle within a reasonable distance.
(b) All pick-up vehicles shall be equipped with four-way flashers which shall be in use while the vehicles are in operation, and all gleaners shall be required to wear orange reflectorized safety vests.

(1983 CC, c 24, art 7, sec 24-163.)

Section 24-164. Tracking mud or other material on highway prohibited.

No vehicle using the public highway shall track mud or dirt or other material onto the traveled portion of the highway in quantities as will constitute a hazard, or obscure the painted pavement markings thereon. In the event that mud or dirt is unavoidably tracked onto the highway, it shall be the duty of the operator of the offending vehicle to have the mud or dirt removed immediately.

(1983 CC, c 24, art 7, sec 24-164.)

Section 24-165. Dual-wheeled vehicles; operation.

Vehicles having two or more wheels on each end of an axle shall not be moved on any public highway when rocks or any foreign materials which might be hazardous to traffic are embedded between the wheels on the moving vehicles.

(1983 CC, c 24, art 7, sec 24-165.)

Section 24-166. Restricted use of highways by certain vehicles.

(a) The use of certain streets by certain classes of vehicles may be restricted by ordinance, and appropriate sign shall be posted giving notice thereof.

(b) The vehicles designated in schedule 41, section 24-293, are precluded from the use of the streets designated in that schedule when appropriate signs giving notice thereof are erected.

(1983 CC, c 24, art 7, sec 24-166.)

Section 24-167. Towed vehicles and trailers.

(a) When one vehicle is towing another, the drawbar or other connection shall be equipped with an additional safety chain or chains (stay chain or cable) adequate to hold such vehicle to the towing vehicle in the event of tow bar or other connection and/or coupling failure. Each chain or cable and its accompanying coupling and mounting devices shall have an ultimate strength equal to at least the gross weight of the vehicle.

(b) No person shall operate a train of vehicles when any trailer, semi-trailer, or other vehicle being towed whips or swerves from side to side dangerously or unreasonably or fails to follow substantially in the path of the towing vehicle.

(c) Every trailer or towed vehicle to be operated upon a public highway shall, in addition to a tow bar, be equipped with a safety chain or chains (stay chain or cable) adequate to hold such vehicle to the towing vehicle in the event of tow bar and/or coupling failure. Each chain or cable and its accompanying coupling and mounting devices shall have an ultimate strength equal to at least the gross weight of the trailer.

(d) This section shall not apply to trailers or towed vehicles with a gross vehicle weight rating over 10,000 lbs equipped with full airbrakes that meet the Federal Motor Vehicle Safety Standards.

(1983 CC, c 24, art 7, sec 24-167; am 2010, ord 10-13, sec 2.)

Section 24-167.1. Use of mobile electronic devices while operating a vehicle.

(a) As used in this section, unless the context clearly requires otherwise:

"Emergency responders" include fire fighters, emergency medical service technicians, mobile intensive care technicians, civil defense workers, police officers, and federal and state law enforcement officers.

"Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing wireless and/or data communication between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate a motor vehicle" means to drive or assume actual physical control of a vehicle upon a public way, street, road, or highway.

"Use or using" means holding a mobile electronic device while operating a motor vehicle.

(b) It shall be a violation under this section to operate a motor vehicle while using a mobile electronic device, unless used with a hands-free device. Any person convicted of violating this subsection shall be subject to a maximum fine of $150.

(c) Whoever operates any vehicle while using a mobile electronic device, unless used with a hands-free device, in a manner as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle, or other property shall be fined not more than $500.

(d) The use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to this ordinance.

(e) The following persons shall be exempt from the provisions of subsections (b) and (c):

(1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;

(2) Drivers using two-way radios while in the performance and scope of their work-related duties; and

(3) Drivers holding a valid amateur radio operator license issued by the federal communications commission and using half-duplex two-way radio.

(2009, ord 09-82, sec 1.)

Division 4. Turns.

Section 24-168. U-turns restricted; manner of.

(a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction (make a U-turn) upon any street in the business district, or at any intersection where traffic is controlled by traffic signal lights during the hours between 6:00 a.m. to midnight of each day. However, when official signs or markings are installed giving notice thereof, U-turns shall be allowed in areas designated by an ordinance of the council.

(b) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
(c) The driver of any vehicle shall not turn so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.
(d) The areas designated in schedule 21, section 24-273, are U-turn areas when appropriate signs giving notice thereof are erected.
(e) The areas designated in schedule 22, section 24-274 are prohibited U-turn areas when appropriate signs giving notice thereof are erected.
(1983 CC, c 24, art 7, sec 24-168.)

Section 24-169. Prohibited turns.
(a) When official signs are posted, giving notice thereof, no driver of a vehicle shall make a left or right turn. The chief of police may place signs of a temporary nature during peak traffic hours at any intersection or driveway the chief may deem to be congested.
(b) The locations designated in schedule 19, section 24-271 are prohibited left turn areas.
(c) The locations designated in schedule 20, section 24-272 are prohibited right turn areas.
(1983 CC, c 24, art 7, sec 24-169.)

Section 24-170. Right or left turns only.
(a) When official traffic signs are posted, giving notice thereof, the driver of any vehicle shall be restricted to making only right or left turns, as indicated, and may only turn in a direction permitted by the sign, or proceed straight ahead.
(b) The chief of police may place signs of a temporary nature during peak traffic hours at any intersection or driveway the chief may deem to be congested.
(c) The locations designated in schedule 17, section 24-269, are areas restricted to right turns only.
(d) The locations designated in schedule 18, section 24-270, are areas restricted to left turns only.
(1983 CC, c 24, art 7, sec 24-170.)

Section 24-171. Turn right anytime with caution in intersections.
(a) When official turn right anytime with caution signs are erected at any intersection, the driver of a vehicle may make a right turn without coming to a stop, so long as the turn is made with proper care to avoid an accident.
(b) The intersections described in schedule 16, section 24-268, are designated as "Turn Right at Anytime with Caution" intersections when appropriate signs giving notice thereof are erected.
(1983 CC, c 24, art 7, sec 24-171.)

Section 24-172. Cutting corners.

No person shall operate or drive any vehicle on or across any sidewalk area or through any driveway, parking lot or any business entrance for the purpose of making right or left turns from one street into another by avoiding intersections or as a means of travelling from one street to another; provided, however, that this section shall not prohibit the use of such driveway, parking lot or business entrance for such purposes when such use is incidental to business to be transacted on the premises.
(1983 CC, c 24, art 7, sec 24-172.)

Division 5. Emergency Vehicles and School Buses, Right-of-Way.

Section 24-173. Authorized emergency and special hazard vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions stated in this section.
(b) The driver of an authorized emergency vehicle may:
  (1) Park or stand, irrespective of the provisions of this chapter;
  (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  (3) Exceed the maximum speed limits so long as the driver does not endanger life or property;
  (4) Disregard regulations governing direction of movement or turning in specified directions.
(c) The exemptions granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible or visual signals meeting the requirements of this chapter, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a blue light visible from in front of the vehicle.
(d) Nothing in this section shall relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.
(e) The operator of a special hazard vehicle may drive or park the vehicle contrary to the provisions of this chapter when such operation or parking is essential to public safety and does not endanger other users of the highways.

(1983 CC, c 24, art 7, sec 24-173.)

Section 24-174. Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals meeting the requirements of sections 24-69 through 24-74:

(1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb of the roadway lawfully available and clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(1983 CC, c 24, art 7, sec 24-174.)

Section 24-175. Overtaking and passing school bus.

(a) The driver of any vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children and displays an alternating red signal meeting the requirements of sections 24-69 through 24-74, shall bring such vehicle to a stop before passing the school bus and shall not proceed past the school bus until the red alternating signal ceases operation.

(b) It shall be the responsibility of the driver of every school bus, used for the transportation of school children, to activate the alternating red signal continuously while stopped on a highway outside of a business or residence district, for the purpose of receiving or discharging school children.

(c) While stopped within a business or residence district for the purpose of receiving or discharging school children, bus drivers shall activate the alternating red signal when either of the following conditions exist:

(1) There is a need for children to cross the road.

(2) There is a narrow shoulder along the driver's right hand side of the roadway.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is upon the other roadway.

(e) Every school bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words “School Bus” in letters not less than eight inches in height and in strokes not less than one-half inch in width, and the words “Stop On Alternating Red Light” in letters not less than six inches in height and in strokes of not less than one-half inch in width.

(1983 CC, c 24, art 7, sec 24-175; am 1985, ord 85-80, sec 2.)

Division 6. Golf Carts.

Section 24-176. Definitions.

As used in this division:

(1) "Golf cart" means a vehicle designed or used primarily for the transporting of persons and golfing equipment upon a golf course.

(2) "Golf cart crossing" means that part of the route of the golf cart pathway which intersects the public thoroughfare.

(3) "Golf course maintenance vehicle" means a vehicle designed and adapted exclusively for agricultural and lawn maintenance purposes, not subject to registration if used upon the public thoroughfare, which is used or operated for the maintenance of a golf course.

(4) "Public thoroughfare" means any public street, highway, sidewalk, bridge, alley, road, square, or land owned or maintained by County.

(1983 CC, c 24, art 7, sec 24-176.)

Section 24-177. Carts prohibited from public thoroughfares; exception.

No person shall use or operate a golf cart or golf course maintenance vehicle on, upon or across a public thoroughfare except as provided in this division.

(1983 CC, c 24, art 7, sec 24-177.)

Section 24-178. Restrictions on use.

(a) No golf cart or golf course maintenance vehicle shall be driven upon any public thoroughfare:

(1) Except to cross the public thoroughfare at established golf cart crossings;

(2) By any person whose age is less than thirteen years, provided that in addition to this restriction, the owner or operator of the golf course shall be responsible for the capability of the driver permitted to operate a golf cart or golf course maintenance vehicle;

(3) After sunset and before sunrise; or

(4) Carrying more persons than the seating capacity of the golf cart or golf course maintenance vehicle.

(1983 CC, c 24, art 7, sec 24-178.)

Section 24-179. Golf cart crossing; markings; use.

(a) Each golf cart crossing shall:

(1) Be posted with a sign located not more than twenty feet from the public thoroughfare with lettering not less than three inches high and shall read: "Stop -- You Will Cross A Public Highway -- Proceed With Caution";

(2) Approach the public thoroughfare at right angle; and

(3) Have sufficient sight distance in both directions of the public thoroughfare to permit the golf cart or golf course maintenance vehicle to cross with safety.

(1983 CC, c 24, art 7, sec 24-179.)

Section 24-180. Nonresponsibility of County.

Neither the County nor any department, board, commission, officer, or employee thereof shall be held liable or responsible for any damage, injury, or death resulting from the approval of any golf course plan or inspection of any work made under any ordinance of the County.

(1983 CC, c 24, art 7, sec 24-180.)

Section 24-181. Indemnification by owner; notice.

(a) The owner or operator of a golf course which permits golf carts or golf course maintenance vehicles to be driven upon the public thoroughfare shall save harmless and indemnify the County for all loss sustained by the County on account of any suit, judgment, execution, claim or demand whatsoever, by reason of any injury to person or property, including damage to road foundation, surface, or structures, resulting from the operation of such vehicles upon the public thoroughfare.

(b) The County shall notify such owner or operator or such person's representative within sixty days after the presentation of any claim or demand, either by suit or otherwise, made against the County on account of the operation of golf carts or golf course maintenance vehicles upon the public thoroughfare.

(1983 CC, c 24, art 7, sec 24-181.)

Section 24-182. Bond requirements; insurance policy.

(a) The owner and operator of a golf course which permits golf carts or golf course maintenance vehicles to be driven upon the public thoroughfare shall file with the department of public works of the County a continuing bond in the penal sum of $300,000 issued by the owner or operator and a surety company to be approved by the County corporation counsel and conditioned for the faithful observance of this division and any and all amendments thereto, which shall indemnify and save harmless the County from any and all damages, judgments, costs or expenses which the County may incur or suffer by reason of the operation or use of such vehicles upon the public thoroughfare.

(b) A liability insurance policy issued by an insurance company authorized to do business in the State of Hawai'i conforming to this section may be permitted in lieu of a bond.

(1983 CC, c 24, art 7, sec 24-182.)

Section 24-183. Penalty.

Any person violating any of the provisions of this division shall be fined in an amount not exceeding $250. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as provided in this division.

(1983 CC, c 24, art 7, sec 24-183; am 1994, ord 94-103, sec 3.)

Section 24-184. Application of division.

This division is not to be construed to mean that the County may not require golf course developers to build overpasses or underpasses across public rights-of-way.
(1983 CC, c 24, art 7, sec 24-184.)

Division 7. Bicycles.

Section 24-185. Bicycle operation; bike lanes; bike routes.

(a) No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.
(b) Bike Lanes, Established. The areas designated in schedule 42, section 24-294, once appropriately identified with traffic-control devices, signs, signals, or markings by the director of public works or the director's representative, are established as bicycle lanes.
(c) Bike Routes, Established. The areas designated in schedule 43, section 24-295, once appropriately identified with traffic-control devices, signs, signals, or markings by the director of public works or the director's representative, are established as bicycle routes.

(1983 CC, c 24, art 7, sec 24-185; am 2001, ord 01-108, sec 1.)

Section 24-186. Parking bicycles without obstructing street or sidewalk.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian and vehicular traffic.
(1983 CC, c 24, art 7, sec 24-186.)

Division 8. Mopeds.

Section 24-186.1. Moped rules.

(a) No person shall:
    (1) Operate a moped on any highway or street in the County unless that person is properly wearing protective eyewear.
    (2) Offer for lease or rent a moped without providing to the operator protective eyewear.
(b) Every moped shall be certified pursuant to Hawai'i Revised Statutes section 286-26, certificates of inspection, prior to the issuance of a registration by the director of finance and prior to the transfer of any registration; provided that this requirement shall not apply to any subsequent transfer of registration in a moped that carries a current certificate of inspection.

(1988, ord 88-84, sec 3; am 2009, ord 09-119, sec 2.)

Division 9. Pedicabs.

Section 24-186.2. Definition.

(a) As used in this article, unless the context clearly requires otherwise:

(1) "Pedicab" means any multi-wheeled, hooded or unhooded push-cart or rickshaw-type vehicle pulled or propelled by any person, which is used in the movement of passengers.

(1989, ord 89-22, sec 2.)

Section 24-186.3. Use of pedicabs prohibited.

No person shall use or operate a pedicab or other like vehicle on, upon, or across any public street, highway, or thoroughfare.

(1989, ord 89-22, sec 2.)

Section 24-186.4. Penalty.

A person who violates the provisions of this division shall upon conviction be punished by a fine not to exceed $500.

(1989, ord 89-22, sec 2.)

Article 8. Parking, Standing and Stopping.

Division 1. Parking Regulations.

Section 24-187. Parking restricted.

No person shall stop, park, or leave standing any motor vehicle, whether attended or unattended, upon the paved or main traveled part of the highway in the County except in those areas lawfully designated for parking.

(1983 CC, c 24, art 8, sec 24-187.)

Section 24-188. Removal of illegally stopped vehicle.

(a) Whenever any police officer finds a motor vehicle in violation of section 24-187, the officer is authorized to move the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position where the vehicle will not obstruct traffic or off the primary lanes of vehicular travel.

(b) Upon the inability of the officer to move the vehicle and after the driver or owner refuses or is unable to comply with the request to move the vehicle, or where the driver cannot be located in the immediate area, the officer may cause the vehicle to be towed away at the registered owner or driver's expense.

(c) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where the stopped vehicle constitutes an obstruction to traffic, the officer is authorized to provide for the removal of the vehicle to the nearest garage or other place of safety.

(1983 CC, c 24, art 8, sec 24-188.)

Section 24-189. Stopping, standing, or parking in certain areas prohibited.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or a special traffic-control device, no person shall stop, stand, or park a vehicle:
   (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
   (2) On the sidewalk;
   (3) Within an intersection except where designated by parking stalls;
   (4) On a crosswalk;
   (5) Within or along any safety zone where special signs are erected prohibiting parking;
   (6) Alongside or opposite any street, excavation, or obstruction when stopping, standing, or parking would obstruct traffic;
   (7) Upon any bridge or other elevated structure upon a highway, within a highway tunnel;
   (8) At any place where special signs or markings prohibit stopping; or
   (9) The areas described in schedule 34, section 24-286 are designated as no stopping, standing or parking zones, and appropriate signs or marking giving notice thereof shall be erected.

(1983 CC, c 24, art 8, sec 24-189; am 1996, ord 96-41, sec 7.)

Section 24-190. Picking up or discharging passengers.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
   (1) In front of or within four feet of a public or private driveway or within a distance up to seventy-five feet of a public or private driveway when appropriate signs or markings are installed;
   (2) Within fifteen feet of a fire hydrant;
   (3) Within thirty feet on both the approach and departure side of a crosswalk on a two-way street; within thirty feet on the approach side only of a crosswalk on a one-way street; or within a distance up to seventy-five feet of a crosswalk when appropriate signs or markings are installed;
   (4) Within thirty feet of an intersection or within a distance up to seventy-five feet of an intersection when appropriate signs or markings are installed;
   (5) Within twenty feet of a driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within seventy-five feet of such entrance when properly marked;
   (6) Within seventy-five feet upon the approach to any traffic-control signal except where designated by a parking stall;
   (7) At any place where special signs or markings prohibit standing;

(8) Except where otherwise specifically provided for by ordinance applicable to driveways located upon the following streets, in front of or within thirty feet of any driveway located on Aupuni and Pauahi Streets in the City of Hilo; or
(9) Within the turnaround area of a dead-end street, when special signs are erected.

(b) The department of public works shall indicate by signs or by markings painted upon the curbings the areas within which parking has been prohibited by this division.

(1983 CC, c 24, art 8, sec 24-190; am 1997, ord 97-50, sec 1; am 2011, ord 11-5, sec 1.)

Section 24-191. Loading or unloading of passengers or merchandise in certain areas.

(a) Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or a special traffic-control device, no person shall park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers at any place where official signs or markings prohibit parking.
(b) No person shall move a vehicle not lawfully under such person's control into any prohibited area as described in this section or away from a curb at a distance as is unlawful.

(1983 CC, c 24, art 8, sec 24-191; am 1996, ord 96-41, sec 8.)

Section 24-192. Parking not to obstruct traffic.

No person shall park any vehicle:

(a) On any street designated as "no parking on pavement zone" in a manner or under such condition that any portion of the vehicle extends over any portion of the roadway. The areas described in schedule 27 are designated as "no parking on pavement zones" and appropriate signs or markings giving notice thereof shall be erected, or
(b) Upon a street, other than an alley, in a manner or under such condition as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.

(1983 CC, c 24, art 8, sec 24-192; am 1996, ord 96-41, sec 9.)

Section 24-193. Parking in alleys.

No person shall park a vehicle within an alley leaving less than ten feet of the width of the roadway available for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within an alley in a position as to block the driveway entrance to any abutting property.

(1983 CC, c 24, art 8, sec 24-193.)

Section 24-194. Parking for displaying, washing, and repairing vehicle; prohibited.

(a) No person shall park a vehicle upon any highway:
   (1) For the purpose of washing, polishing, greasing, or repairing such vehicle except for repairs necessitated by an emergency.

(1983 CC, c 24, art 8, sec 24-194; am 1984, ord 84-73, sec 2; am 1996, ord 96-122, sec 1.)

Section 24-195. Time-limit parking zones.

(a) When official signs are erected giving notice thereof, no person shall stop, stand, or park a vehicle for a period of time longer than that indicated on the signs, between the hours indicated on the signs, on any day except Sundays and public holidays, upon any street or portions thereof within the County.
(b) The council may, by resolution, dispense with the enforcement of subsection (a) for a specified time in any specified time-limit parking zone for purposes of studying parking policy.
(c) The areas of streets, described in schedules 30 through 33, sections 24-282 through 24-285 are designated as time-limit parking zones when appropriate signs or markings giving notice thereof are erected.

(1983 CC, c 24, art 8, sec 24-195; am 2002, ord 02-119, sec 3.)

Section 24-196. No-parking zones.

(a) When official signs or markings give notice thereof, no person shall stop, stand, or park a vehicle any longer than is reasonably necessary to take on or discharge passengers or freight upon any street or portions thereof within the County.
(b) The areas of streets, described in schedule 28, section 24-280 are designated as no-parking zones when appropriate signs or markings giving notice thereof are erected.

(1983 CC, c 24, art 8, sec 24-196.)

Section 24-197. Parking prohibited during certain hours.

(a) When official signs are erected giving notice thereof, no person shall stop, stand or park a vehicle any longer than is reasonably necessary to take on or discharge passengers or freight, upon any of the streets or portions thereof within the County, between the hours indicated on such signs, of any day, except Sundays and public holidays or as otherwise listed in schedule 29, section 24-281.
(b) The areas of streets, described in schedule 29, section 24-281, are designated as "parking prohibited during certain hours zones" when appropriate signs or markings giving notice thereof are erected.

(1983 CC, c 24, art 8, sec 24-197; am 1996, ord 96-41, sec 10; am 2012, ord 12-52, sec 2.)

Section 24-198. Parking spaces; manner of parking; exception.

(a) The director of public works may establish, mark, and designate a consecutive series of parking spaces for the parallel or angle parking of motor vehicles where there is an apparent need for parking spaces.

(b) Wherever parking spaces are so established, marked off and designated, no driver of any vehicle, except single vehicles of a length or width greater than the marked space, shall park such vehicle outside of a designated space.

(c) In city or street blocks, wherever parking spaces are so established, marked off, and designated, no driver of any vehicle, except single vehicles of a length or width greater than the marked space, shall park such vehicle outside of an established, marked off, and designated space.

(d) The provisions of this section shall not be applicable to vehicles parked in areas designated as freight-loading zones when such parking is permitted.

(1983 CC, c 24, art 8, sec 24-198; am 2001, ord 01-108, sec 1.)

Section 24-199. Abandoned special mobile equipment, vehicles, trailers, and equipment on wheels prohibited; disposition.

(a) No person shall abandon any special mobile equipment, vehicle, trailer, or equipment on wheels, whether operational or nonoperational, on the public highway.

(b) For the purposes of this section, any special mobile equipment, vehicle, trailer, or equipment on wheels, whether operational or nonoperational, left unattended on any public or private street or thoroughfare which is subject to this chapter for more than twenty-four hours shall be deemed abandoned and may immediately be taken into custody by the police department. All such vehicles are declared to be public nuisances.

(c) Such special mobile equipment, vehicles, trailers, or equipment on wheels shall be disposed of as required by chapter 290, Hawai'i Revised Statutes, as amended.

(d) Where the registered owner of the abandoned special mobile equipment, vehicle, trailer, or equipment on wheels can be located, the registered owner of such special mobile equipment, vehicle, trailer, or equipment on wheels shall be subject to a fine of $250 and all reasonable expenses incurred by such removal.

(e) The provisions of this section shall not be interpreted to contravene the provisions of 20-38.

(1983 CC, c 24, art 8, sec 24-199; am 1989, ord 89-60, sec 2; am 1994, ord 94-101, sec 2; am 2008, ord 08-92, sec 2.)

Section 24-200. Registered owner's responsibility; registration plate as prima facie evidence as its parking.

In any proceedings for violation of this article, the serial number displayed on the registration plate attached to the vehicle involved in such violation shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked the vehicle at the point where, and during the time when, the violation occurred.

(1983 CC, c 24, art 8, sec 24-200.)

Section 24-201. Parking for authorized vehicles.

(a) Vehicles of government agencies, public utility companies, garages, contractors or any other person may stand and park contrary to the parking provisions set forth in this chapter when the owner or operator of such vehicle holds a special permit issued by the chief of police granting such authorization for a limited time. The permit shall be either in the possession of the driver or on the vehicle at the time. No owner or driver shall violate any of the specific terms or conditions of the permit.

(b) The director of public works is hereby authorized to designate and identify special parking zones or stalls, by appropriate signs and/or markings, for the sole use of County of Hawai‘i lifeguards assigned to the public facility and for emergency vehicles during the working hours of the lifeguard at the following locations:

(1) Kahoa Street leading to Honoli’i Beach Park- two vehicles.

(2) Ali‘i Drive at La‘aloa Beach Park (Magic Sands)- two vehicles.

(1983 CC, c 24, art 8, sec 24-201; am 1993, ord 93-99, sec 1; am 1999, ord 99-15, sec 1; ord 99-57, sec 1; am 2001, ord 01-100, sec 1; ord 01-108, sec 1.)

Section 24-202. Stopping, standing, or parking on Federal-aid highways.

(a) Where official signs are erected, giving notice thereof, no person shall stop, stand, or park a vehicle upon any Federal-aid highway, subject to the exemptions granted emergency vehicles.

(b) For the provisions of subsection (a), the State highway engineer for the County of Hawai‘i is authorized to erect “No-Parking” signs upon any portion of the Federal-aid highway where the State highway engineer deems it necessary.

(c) No person shall park a vehicle upon any Federal-aid highway for a period of time longer than sixty minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day; subject, however, to the exemptions granted emergency vehicles.

(d) Where parking is permitted on a Federal-aid highway, all parking shall be parallel to the pavement with all wheels entirely off the traveled way.

(e) There shall be no parking on or crossing over the medians.

(1983 CC, c 24, art 8, sec 24-202.)

Section 24-202.1. Parking prohibited in tow or tow-away zones.

(a) When official signs are erected designating a street or portion thereof as a tow or tow-away zone, no person shall stop, stand or park a vehicle, even momentarily, between the hours indicated on such sign; provided, however, that stops may be made for the expeditious loading or unloading of freight and passengers in official loading and unloading zones; and provided, further, that buses may stop for the expeditious loading and unloading of passengers in official bus stops. In no case shall the stop for the loading or unloading of freight and passengers exceed the time as established by the pertinent zones. Provided, however, that when requested for noncommercial or nonbusiness purposes only, the County council may by resolution suspend for a period of not more than one week any parking prohibition herein provided.

(b) The chief of police is hereby authorized to remove or cause to be removed a vehicle from a street or highway to a storage area or other place of safety under the provisions of this section. The chief of police shall promulgate and adopt such rules and regulations as are necessary to carry out such removal and storage of vehicles pursuant to the enforcement of this section.

(c) The County is hereby authorized to contract with another entity for the towing and storage of vehicles pursuant to this section and the rules and regulations promulgated and adopted pursuant to this section.

(d) Whenever an officer of the police department removes or causes to be removed a vehicle from a street as authorized herein and knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice to the police department dispatch office the fact of such removal and the reasons therefor, and of the place to which such vehicle has been moved. The police department shall notify the owner of said vehicle in writing of the removal and the whereabouts of said vehicle.

(e) Whenever an officer of the police department removes or causes to be removed a vehicle from a street and does not know and is not able to ascertain the name of the owner as hereinbefore provided and in the event the vehicle is not returned to the owner within a period of three days, then and in that event, the officer shall immediately send or cause to be sent a written report of such removal by mail to the County director of finance whose duty it is to register motor vehicles. Such report shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal and the name of the garage or place where the vehicle is stored.

(f) The director of finance is hereby authorized and empowered to dispose of vehicles which have been taken into custody by the chief of police or the chief's subordinates as prescribed herein. Such disposition shall be at public auction under such procedure as the director of finance shall establish with the approval of the mayor and the County council. Written notice of such auction shall be sent to the last known registered owner by certified mail, addressed to the owner's last known address, at least ten days prior to the date of auction, and said auction shall be held not earlier than sixty days after the date upon which such vehicle shall have been taken into custody. Any person entitled to any such vehicle may claim the same at any time prior to such auction upon payment of all costs and expenses relating to the towing and storage of such vehicle, as determined by the director of finance, provided that such costs shall not exceed that established by State statutes.

(g) In the event that no bid is received, the director of finance shall offer such vehicle to the department of public works, automotive division for its use or for salvage; and in the event said division shall reject such offer the director of finance shall dispose of such vehicle at a County landfill at the expense of the County.

(h) The streets or portions thereof described in schedule 29, section 24-281, are designated as tow or tow-away zones, and appropriate signs or markings giving notice thereof shall be erected.
(i) Any vehicle which is parked unattended in the areas designated in schedule 29 shall be towed from the area. The registered owner of said vehicle shall be subject to all reasonable expenses incurred by such removal.

(1988, ord 88-168, sec 4; am 1997, ord 97-47, sec 1; am 2012, ord 12-53, sec 2.)

Section 24-202.2. Enforcement of article by designated employees of the County.

In addition to police officers authorized under section 24-12 and section 24-15 to enforce the provisions of this chapter, the regulations provided by this article shall be enforced by employees or designated independent contractors of the County who have been authorized under section 24-202.3.

(1986, ord 86-16, sec 2; am 1993, ord 93-84, sec 1; am 1996, ord 96-38, sec 1.)

Section 24-202.3. Citation power of public works employee.

The director of public works shall appoint one or more employees or may hire independent contractors designated to enforce the provisions of this article. The employee, employees or designated independent contractors so appointed shall have the limited police power to issue a complaint and summons against persons whom such employee, employees or designated independent contractors find to be in violation of the parking regulations established under this article. The form of citation and summons shall be approved by the director of public works and shall be in a form commensurate with the form of other summons as used in modern police methods described in section 803-6, Hawai‘i Revised Statutes, as amended. The summons shall be enforceable in the manner described in section 803-6, Hawai‘i Revised Statutes.

(1993, ord 93-84, sec 5; am 1996, ord 96-38, sec 5; am 2001, ord 01-108, sec 1.)

Section 24-202.4. Volunteer disabled parking enforcement program.

(a) For purposes of this section, “chief of police” means the chief of the County of Hawai‘i police department or the authorized designee thereof.
(b) There is established within the County of Hawai‘i police department and under the supervision of the chief of police, a program to utilize volunteers to assist in the enforcement of County and State disabled parking laws.
(c) The chief of police is authorized to commission volunteers as special disabled parking enforcement officers to issue citations on public and private property to persons violating County and State disabled parking laws.
(d) The chief of police shall:
    (1) Establish minimum qualifications for persons wishing to volunteer their services to become special disabled parking enforcement officers and application procedures for volunteers;

(2) Provide a required training program for volunteers which shall include, but not be limited to:
  (i) Knowledge of County and State disabled parking laws;
  (ii) Identifying violators and issuing citations;
  (iii) Use of communication and other necessary equipment;
  (iv) Procedures to follow in the event of confrontations with suspected violators; and
  (v) Providing testimony in court to enforce citations;
(3) Grant commissions to volunteers who have successfully completed the training program, and who are qualified as determined by the chief of police, to become special disabled parking officers; and
(4) Provide for supervision and monitoring of the special disabled parking enforcement officers while such officers are on duty.

(e) Each special disabled parking enforcement officer shall agree to:
(1) Volunteer a minimum number of hours per week, as determined by the chief of police; and
(2) Serve at locations designated by the chief of police.

(f) Each special disabled parking enforcement officer who is assigned duties under this program shall receive:
(1) Mileage reimbursement at the current County rate to travel to and from the officer's place of assignment; and
(2) All other benefits for which volunteers qualify under the laws of the County of Hawaiʻi.

(g) The chief of police may refuse to commission or may revoke the commission of any volunteer whose qualifications or performance is found to be unacceptable to the chief.

(h) The chief of police shall adopt rules to implement this program.

(2000, ord 00-81, sec 2.)

Division 2. Parking Method.

Section 24-203. Distance from curb; use of shoulder.

(a) Except as otherwise provided in this chapter:
(1) Every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the wheels of the vehicle parallel to and within twelve inches of the curb or wholly within a marked parking stall and headed in the direction of authorized movement.
(2) Every vehicle stopped or parked upon a highway where there are no curbs, shall be so stopped or parked parallel with the roadway and with all wheels entirely off the traveled way so far as the shoulder width will permit and headed in the direction of authorized movement.

(1983 CC, c 24, art 8, sec 24-203.)

Section 24-204. Angle parking; designation; marking of spaces.

(a) The council shall determine upon what streets angle parking shall be permitted.

(b) It shall be the duty of the County or State highway engineer to mark or sign such areas.

(c) The areas of streets described in section 24-286.1, schedule 34.1, are designated as angle parking permitted areas.

(1983 CC, c 24, art 8, sec 24-204; am 1998, ord 98-2, sec 1.)

Section 24-205. Obedience to angle parking signs or markings.

On those streets which have been signed or marked by the County or State highway engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. No vehicle nor part of any vehicle shall be on or extend over the main traveled portion of the highway.

(1983 CC, c 24, art 8, sec 24-205.)

Section 24-206. Permits for loading or unloading at angle to curb.

(a) The chief of police is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of the permit. The permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

(b) No permittee or other person shall violate any of the special terms or conditions of any such permit.

(1983 CC, c 24, art 8, sec 24-206.)

Section 24-207. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway for any period of time from a half hour after sunset to a half hour before sunrise, and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway, no lights need be displayed upon the parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or adjacent shoulder, whether attended or unattended, for any period of time from a half hour after sunset to a half hour before sunrise, and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements:

(1) At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle. The location of the lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(2) The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(1983 CC, c 24, art 8, sec 24-207.)

Division 3. Stopping for Loading and Unloading.

Section 24-208. Standing in passenger loading and unloading zones.

(a) No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading and unloading zone during hours when the regulations applicable to such curb loading and unloading zone are effective, and then only for a period not to exceed three minutes.

(b) The streets described in schedule 35, section 24-287, are designated as passenger loading and unloading zones when appropriate signs or markings giving notice thereof are erected.

(c) When the provisions of this section are not in effect, vehicles may park in passenger loading and unloading zones unless otherwise prohibited by this chapter.

(1983 CC, c 24, art 8, sec 24-208; 2000, ord 00-11, sec 1.)

Section 24-209. Standing in freight loading zones.

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

(b) The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.

(1983 CC, c 24, art 8, sec 24-209.)

Section 24-210. Hours of freight loading zones; schedule.

(a) The provisions regarding freight loading zones shall be applicable only between the hours of 8:00 a.m. and 4:00 p.m. of any day, except Sundays and public holidays, unless otherwise described in schedule 36, section 24-288. When the provisions are not in effect, vehicles may park in freight loading zones unless otherwise prohibited by this chapter.

(b) The areas of streets described in schedule 36, section 24-288 are designated as freight-loading and unloading zones, when appropriate signs or markings giving notice thereof are erected.

(1983 CC, c 24, art 8, sec 24-210; am 2011, ord 11-31, sec 1.)

Section 24-211. Bus parking; official bus stops.

(a) The driver of a bus shall not stand or park a bus upon any street at any place within any business district other than at an officially designated bus stop as described in schedule 23, section 24-275.

(b) The driver of a bus shall not stop, stand or park a bus other than on the right-hand side of the roadway upon a one-way street.

(1983 CC, c 24, art 8, sec 24-211.)

Section 24-212. Parking in bus stops and road taxi stands prohibited.

(a) No person shall stop, stand or park a vehicle, other than a bus, in a bus stop when the bus stop has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus which has entered or is waiting to enter or about to enter the bus stop.

(b) The areas described in schedule 23, section 24-275 are designated as bus stops, when appropriate signs or markings giving notice thereof are erected.

(c) When the provisions of this section are not in effect, vehicles may park in bus stops unless otherwise prohibited by this chapter.

(d) No person shall stop, stand or park any vehicle, other than a taxicab with a valid road taxi stand permit, in a road taxi stand when the road taxi stand has been officially designated and appropriately signed.

(e) The areas described in schedule 23.1, section 24-275.1 are designated as road taxi stands, when appropriate signs and markings giving notice thereof are erected.

(f) When the provisions of this section are not in effect, vehicles may park in road taxi stands unless otherwise prohibited by this chapter.

(1983 CC, c 24, art 8, sec 24-212; am 1991, ord 91-95, sec 1; am 2012, ord 12-54, sec 2.)

Section 24-212.1. Standing in active loading and unloading zones.

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of passengers or for the expeditious unloading and delivery or pickup and loading of materials in any place marked as an active loading and unloading zone during hours when the regulations applicable to such active loading and unloading are effective, and then only for a period not to exceed fifteen minutes.

(b) The streets described in schedule 36.01, section 24-288.01, are designated as active loading and unloading zones when appropriate signs or markings giving notice thereof are erected.

(c) When the provisions of this section are not in effect, vehicles may park in active loading and unloading zones unless otherwise prohibited by this chapter.

(1995, ord 95-142, sec 2; am 2000, ord 00-11, sec 2; am 2009, ord 09-123, sec 2.)

Division 4. Parking Meters.

Subdivision 1. Meter Zones.

Section 24-213. Parking meter zones.

(a) All parking meter zones shall be designated by an ordinance adopted upon two readings by the council.

(b) The areas described in schedules 37 through 40, sections 24-289 through 24-292 are designated as parking meter zones and shall be utilized for parking within the time limits and at the monetary rates noted in those schedules.

(1983 CC, c 24, art 8, sec 24-213; am 1982, ord 776, sec 4.)

Section 24-214. Installation of parking meters.

(a) The County traffic engineer shall install parking meters in the parking meter zones as provided in this chapter upon the curb immediately adjacent to each designated parking space. The meters shall be capable of being operated automatically or manually upon the deposit of a coin or coins of United States currency as specified on the meters.

(b) Each parking meter shall be so designed and constructed so that, upon the expiration of the time period registered by the deposit of one or more coins, it will indicate by an appropriate signal that the lawful parking meter period has expired, and during this period of time and prior to the expiration thereof, will indicate the interval of time which remains of the period.

(c) Each parking meter shall bear thereon a legend indicating the days and hours when the requirement to deposit coins shall apply, the value of the coins to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which the meter is located.

(1983 CC, c 24, art 8, sec 24-214; am 1983, ord 83-32, sec 1.)

Section 24-215. Parking meter spaces.

(a) The County traffic engineer shall designate the parking space adjacent to each parking meter for which the meter is to be used by appropriate markings upon the curb or the pavement of the street. Parking meter spaces so designated shall be of appropriate length and width so as to be accessible from the traffic lanes of the street.

(b) No person shall park a vehicle in any designated parking meter space during the restricted or regulated time applicable to the parking meter zone in which the meter is located, so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating the space, except that a vehicle which is of a size too large to be parked within a single designated parking meter zone shall be permitted to occupy two adjoining parking meter spaces when coins shall have been deposited in the parking meter for each space so occupied as required in this chapter for the parking of other vehicles in such space.

(1983 CC, c 24, art 8, sec 24-215.)

Section 24-216. Deposit of coins; time limits.

(a) No person shall park a vehicle in any parking space alongside of which a parking meter has been installed during the regulated time applicable to the parking meter zone in which the meter is located unless a coin or coins of United States currency of the appropriate denomination shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time.

(b) No person shall permit a vehicle within such person's control to be parked in any parking meter space during the regulated time applicable to the parking meter zone in which the meter is located while the parking meter for such space indicates by signal that the lawful parking time in the space has expired. This subsection shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin or coins in the meter.

(c) No person shall park a vehicle in any parking meter space for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter zone in which the meter is located, irrespective of the number or value of the coins deposited in the meter.

(d) The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this chapter prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

(1983 CC, c 24, art 8, sec 24-216; am 1995, ord 95-150, sec 2; am 2002, ord 02-57, sec 1.)

Section 24-216.1. Repealed.

(1995, ord 95-150, sec 3; am 1996, ord 96-99, sec 1; rep 2002, ord 02-57, sec 2.)

Section 24-217. Hours of operation; exceptions.

(a) The provisions of section 24-216 shall be in effect between the hours of 8:00 a.m. and 4:00 p.m. on each day, except Sundays and public holidays.

(b) Whenever seventy-five consecutive days have passed without a traffic fatality in this County, the chief of police may dispense with the enforcement of section 24-216 for one full day, other than Saturday, such date to be designated by the chief and be given reasonable circulation throughout the County.

(c) The council may, by resolution, dispense with the enforcement of section 24-216 for a specified time, in any specified parking meter zone, to accommodate any special event, convention, parade, or other similar activity.

(1983 CC, c 24, art 8, sec 24-217; am 1995, ord 95-150, sec 4; am 2002, ord 02-57, sec 3.)

Section 24-218. Use of slugs prohibited.

No person shall deposit or attempt to deposit in any parking meter any slug, button, or any other device or substance as substitutes for coins of United States currency.

(1983 CC, c 24, art 8, sec 24-218.)

Section 24-219. Tampering with meters prohibited.

No person shall deface, injure, tamper with, open, or wilfully break, destroy or impair the usefulness of any parking meter.

(1983 CC, c 24, art 8, sec 24-219.)

Section 24-220. Collection, deposit, and application of proceeds.

(a) It shall be the duty of the director of public works, or their designee by private contract or internal assignment, to make regular collections of the money deposited in the meters and it shall be the duty of the person so designated to remove from the parking meters coins deposited in the meters. Such person shall service the parking meters, count the coins from the parking meter, determine the value of the coins collected, and deposit the coins in a fund entitled "parking meter fund" to be created and held by the department of finance.

(b) The director of finance shall direct some member of the finance department to make periodic checks of the parking meters and collection procedure.

(c) The coins required to be deposited in parking meters are levied and assessed as fees to provide for the purchase, rental, acquisition, supervision, collection, use, protection, inspection, installation, operation, maintenance, control, and regulation of parking meters, of off-street parking spaces, of the parking of vehicles, and of other facilities and properties incidental to the regulation and control of traffic and in promoting the safety and well being of the public in handling of traffic upon the streets.

(1983 CC, c 24, art 8, sec 24-220; am 1995, ord 95-150, sec 5; am 2001, ord 01-108, sec 1; am 2002, ord 02-57, sec 4.)

Subdivision 2. Use of Parking Stalls for Construction or Special Events.

Section 24-221. Definitions.

(a) As used in this subdivision:
  (1) "Department" means the department of public works.
  (2) "Occupation" means the enclosure or obstruction of parking meters stalls.

(1983 CC, c 24, art 8, sec 24-221.)

Section 24-222. Permit required.

No person shall occupy any parking meter stall or portion thereof, incidental to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure or fixture attached thereto without first obtaining a permit from the department of public works authorizing the occupation.

(1983 CC, c 24, art 8, sec 24-222.)

Section 24-223. Fees.

(a) The department of public works shall require the payment of a fee calculated at the rate of $2 per day or fraction thereof, exclusive of Sundays and public holidays, for each parking meter stall so occupied, before issuing the permit under section 24-222.
(b) The director of public works is authorized to charge a fee per parking meter for special events or promotions, which at minimum shall be calculated at the average daily receipt for parking meters for the month.

(1983 CC, c 24, art 8, sec 24-223; am 1983, ord 83-32, sec 2; am 1994, ord 94-122, sec 1; am 2001, ord 01-108, sec 1.)

Section 24-224. Permit application; contents; department to exercise discretion.

(a) In all applications for the occupation of parking meter stalls, the department of public works shall require information regarding:
  (1) The nature of the proposed activity;
  (2) The number and location of the affected stalls;
  (3) The duration of occupation; and
  (4) All other information deemed relevant and reasonable in aiding the department to evaluate the necessity of imposing conditions upon the occupation of the stalls, or to prohibit its occupation entirely, if such occupation would endanger the health, safety, and welfare of the general public.

(1983 CC, c 24, art 8, sec 24-224.)

Section 24-225. Responsibility for keeping permit at job site; inspection by authorized personnel.

Any person who has been issued a permit shall be responsible for keeping the permit at the job site at all times, and shall present the permit, upon demand, to any officer of the law or employee of the department for inspection.
(1983 CC, c 24, art 8, sec 24-225.)

Section 24-226. Permit violations; enforcement.

(a) It shall be unlawful for any person who has been granted a permit under this subdivision to violate any of the terms or conditions of the permit.
(b) In addition to police officers authorized under section 24-12 to enforce the provisions of this chapter, this subdivision shall also be enforced by employees or designated independent contractors of the County who have been authorized under section 24-202.3.

(1983 CC, c 24, art 8, sec 24-226; am 1993, ord 93-84, sec 2; am 1996, ord 96-38, sec 2.)

Section 24-227. Penalty.

(a) Any person found guilty of violating any provision of sections 24-218 and 24-219 shall be guilty of a petty misdemeanor and shall be subject to a term of imprisonment not to exceed thirty days or a fine not exceeding $500 or both for each separate offense.
(b) Any person found guilty of violating any other provision of this division shall be guilty of a violation and shall be subject to a fine not exceeding $25 for each separate offense.

(1983 CC, c 24, art 8, sec 24-227.)

Division 5. County Building Parking.

Section 24-228. Director of public works to regulate parking at County building.

The director of public works shall assign and re-assign parking stalls and be responsible for regulating parking at the County building.
(1983 CC, c 24, art 8, sec 24-228; am 2001, ord 01-108, sec 1.)

Section 24-229. Area of County lands regulated; hours.

(a) The area of County land on which parking is regulated will initially be confined to the Hawaiʻi County building complex in Hilo. Other areas may be subjected to parking controls and this division shall also be applicable to those areas on a date to be designated by written notice, which date shall be not less than thirty days after the giving of such notice.
(b) The provisions of this division shall have application only during the regular working hours of the County.

(1983 CC, c 24, art 8, sec 24-229.)

Section 24-230. Director of finance to set rates; theater parking; rental computation.

(a) Rental in reserved parking shall be established by the director of finance. The director of finance may change the rates effective as of a date to be designated in a written notice thereof, which date shall be not less than thirty days after the giving of such notice.

(b) The rental for reserved parking shall be on a month-to-month term, the applicable rent to be in advance without notice or demand. County employees shall utilize payroll deduction for the payment of the parking stalls.

(c) Rentals shall be computed on a semi-monthly and monthly basis applicable to permanent and temporary parking privileges.

(d) County employees' and officials' rental for parking stalls shall be deposited in the general fund.

(1983 CC, c 24, art 8, sec 24-230; am 1995, ord 95-150, sec 7.)

Section 24-231. Parking application; assignment of spaces; special parking.

(a) It shall be the responsibility of each government official or employee to make such person's application for theater, reserved, or multi-level parking structure to express the applicant's preference as to location with alternative choices, on the form that will be provided by the department of public works. The assignment of parking spaces shall be made by the department of public works to only the applicants' registered vehicles(s) and according to the best utilization of available parking spaces on County lands within the department's jurisdiction.

(b) The department of public works at its discretion may review, modify or change employee assignments in specific areas when circumstances warrant such changes and after proper notice to government official and employee so as to best promote governmental efficiency and public convenience.

(c) Special parking permits may be issued by the department of public works at its discretion allowing parking in metered areas without the necessity of payment so as to accommodate the necessary intermittent needs of governmental and related operations.

(1983 CC, c 24, art 8, sec 24-231.)

Section 24-232. Map of parking areas; authority to change areas.

(a) The department of public works reserves the right to change the number of parking spaces for reserved parking, theater parking, and multi-level parking structure and metered parking based on the availability and demand for the respective types of parking, without the necessity of public notice. Such changes shall be recorded on the map of the parking control area kept in the office.

(b) The map of the parking control areas shall be kept at the department of public works.

(1983 CC, c 24, art 8, sec 24-232.)

Section 24-233. Shifting privileges and restrictions on certain occasions.

During council or committee sessions or any other time when public demand for parking is high (e.g., annual re-licensing period), parking privileges and restrictions may be subject to change, with the department of public works to accomplish the necessary shifting of parking privileges and restrictions so as to cause the least possible inconvenience to those renting parking spaces.

(1983 CC, c 24, art 8, sec 24-233.)

Section 24-234. Enforcement of division.

This division shall be enforced by County employees or designated independent contractors who have been authorized under section 24-202.3 as well as by police officers of the County.

(1983 CC, c 24, art 8, sec 24-234; am 1993, ord 93-84, sec 3; am 1996, ord 96-38, sec 3.)

Section 24-235. Signs and pavement markings.

All official signs and pavement markings shall be observed, and all signs and pavement markings posted under the direction of the department of public works shall be deemed to be official signs.

(1983 CC, c 24, art 8, sec 24-235.)

Section 24-236. Parking in prohibited areas; towing vehicles; permit required.

(a) Parking shall be permitted only in areas marked and specified for parking. Automobiles parked in prohibited areas shall be towed away at the expense of the owner. The County employees or designated independent contractors who have been authorized under section 24-202.3 and police officers shall be authorized to enforce this section.

(b) No person without a proper parking permit shall park in either a reserved, theater parking space, or multi-level parking structure and no permittee, without written consent of the department of public works, shall let or assign to any person the permittee's reserved parking permit or privilege in a theater, or multi-level parking structure parking space.

(1983 CC, c 24, art 8, sec 24-236; am 1993, ord 93-84, sec 4; am 1996, ord 96-38, sec 4.)

Section 24-237. Vehicle identification; evidence of violation.

(a) Appropriate area identifications for parking permittees shall be provided to be affixed on the vehicles. Parking privileges shall be valid only in designated areas.

(b) In any proceeding for violation of the parking provisions of this division, the serial number displayed on the registration plate attached to the vehicle involved in such violation shall constitute prima facie evidence that the registered owner of the vehicle was the person who parked the vehicle at the point where, and during the time when, such violation occurred.

(1983 CC, c 24, art 8, sec 24-237.)

Section 24-238. Overtime parking in metered areas; citations.

(a) Vehicles parked overtime in metered areas shall receive citations equivalent to those given to meter violations on County streets.

(b) Vehicles without authorized parking privilege identifications shall receive citation when parked in any designated County parking area.

(1983 CC, c 24, art 8, sec 24-238.)

Section 24-239. Conditions for return of parking permit.

Whenever a government official or employee terminates service with the County or disposes of a registered vehicle and relinquishes the official's or employee's parking permit, it shall be the official's or employee's responsibility to remove or surrender the parking decal as proof of such termination or disposition and notify the department of public works in writing on the form provided in order that proper accounting can be made.

(1983 CC, c 24, art 8, sec 24-239.)

Section 24-240. Penalty; revocation of parking privileges.

(a) Violators of this division shall be guilty of a violation and may be fined not more than $5 for each violation.

(b) Parking privileges may be permanently revoked for violation of these rules and regulations.

(1983 CC, c 24, art 8, sec 24-240.)

Division 6. Parking for persons with disabilities.

Section 24-241. [Former] Repealed.

(1983 CC, c 24, art 8, sec 24-241; am 1985, ord 85-55, sec 1; rep 2002, ord 20-139, sec 1.)

Section 24-241. Intent and purpose.

The purpose of this division is to provide parking privileges for persons with disabilities in accordance with the American Disabilities Act of 1990, P. L. 101-366 (42 U.S.C. Sections 12101 et.seq.), Chapter 291, Hawai'i Revised Statutes, and Hawai'i Administrative Rules, Title 11, Chapter 219 as adopted by the State Disability and Communication Access Board (DCAB).

(2002, ord 02-139, secs 1 and 2.)

Section 24-242. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-242; am 1985, ord 85-55, sec 2; am 1993, ord 93-63, sec 1; am 1994, ord 94-79, sec 1; am 2000, ord 00-32, sec 1; rep 2002, ord 20-139, sec 1.)

Section 24-242. Definitions.
As used in this division, definitions for the following terms shall have the same meanings specified in Chapter 291, Part III, Hawaiʻi Revised Statutes, or Title 11, Chapter 219, Hawaiʻi Administrative Rules: "placard," "removable windshield placard," "certificate of disability," "enforcement officer," "issuing agency," "parking permit," "person with a disability," "private entity," "special license plates," and "temporary removable windshield placard."
(2002, ord 02-139, secs 1 and 2.)

Section 24-243. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-243; am 1987, ord 87-94, sec 2; am 2001, ord 01-108, sec 1; rep 2002, ord 02-139, sec 1 and 2.)

Section 24-243. Issuing agency.
(a) The office of management is hereby authorized to act as the issuing agency for removable windshield placards, special license plates and identification cards pursuant to Chapter 291, Part III, Hawaiʻi Revised Statutes.
(b) The office of management shall follow procedures established in Title 11, Chapter 219, Hawaiʻi Administrative Rules, for processing and issuing permit applications and identification cards to persons with disabilities; replacing lost, stolen or mutilated parking permits; renewing parking permits; and returning parking permits and identification cards.
(c) Title 11, Chapter 219, Hawaiʻi Administrative Rules, shall be made available to the public at the office of management.
(2002, ord 02-139, sec 2.)

Section 24-244. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-244; am 1985, ord 85-55, sec 3; am 1990, ord 90-87, sec 1; am 1993, ord 93-63, sec 1; am 2001, ord 01-108, sec 1; rep 2002, ord 02-139, sec 1.)

Section 24-244. Parking privileges.
(a) Only a vehicle displaying a special license plate, a removable windshield placard, or a temporary removable windshield placard may be parked in a public or private parking space reserved for persons with disabilities.

(b) A vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield placard may park:
   (1) Without payment of any parking meter fees in a public metered parking space reserved for persons with disabilities.
   (2) Without payment of parking meter fees for the first two-and-a-half hours or the maximum time the meter allows, whichever is longer, in a public metered parking space.

(2002, ord 02-139, secs 1 and 2.)

Section 24-245. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-245; rep 2002, ord 02-139, sec 1.)

Section 24-245. Fees.
(a) The office of management shall charge and collect the fee of $10 for removable windshield placards, temporary removable windshield placards and identification cards as established in Title 11, Chapter 219, Hawai‘i Administrative Rules.
(b) The special license plate fees shall be the same as the regular license plate fees and shall be collected by the office of management.

(2002, ord 02-139, sec 2.)

Section 24-245.1. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-245.1; am 1985, ord 85-55, sec 4; am 1987, ord 87-94, sec 3; am 1993, ord 93-63, sec 1; rep 2002, ord 02-139, sec 1.)

Section 24-245.1. Requirements; permit display, presentation of identification card and nontransferability.
(a) The requirements governing the display of the permit and presentation of the identification card, the nontransferability of placards and plates, and reciprocity shall be the same as those set forth in Title 11, Chapter 219, Hawai‘i Administrative Rules.

(2002, ord 02-139, sec 2.)

Section 24-245.2. [Former] Repealed.
(1983 CC, c 24, art 8, sec 24-245.2; am 1985, ord 85-55, sec 4; am 1987, ord 87-94, sec 3; am 1993, ord 93-63, sec 1; rep 2002, ord 02-139, sec 1.)

Section 24-245.2. Designation of parking spaces.
(a) The director of the department of public works is authorized to designate and identify parking spaces for persons with disabilities in areas under the jurisdiction of the County of Hawai‘i.

(b) Public and private entities required to comply with the American with Disabilities Act of 1990, as amended, or otherwise desiring to designate parking stalls for persons with disabilities, shall conform to specifications for signs and markings of parking spaces as established in Title 11, Chapter 219, Hawaiʻi Administrative Rules.

(2002, ord 02-139, sec 2.)

Section 24-245.3. [Former] Repealed.

(1983 CC, c 24, art 8, sec 24-245.3; am 1985, ord 85-55, sec 4; am 1987, ord 87-94, sec 3; am 1993, ord 93-63, sec 1; am 2002, ord 02-139, sec 1.)

Section 24-245.3. Violations and penalties.

(a) In accordance with Chapter 291, Part III, Hawaiʻi Revised Statutes, and Title 11, Chapter 219, Hawaiʻi Administrative Rules:

(1) Any person who knowingly falsifies an application for a removable windshield placard, temporary removable windshield placard, special license plates, and identification card, or any renewal or replacement thereof, shall be subject to suspension or revocation of the placard, special license plates, or identification card.

(2) An unauthorized person using the removable windshield placard, temporary removable windshield placard, or special license plates to obtain the special parking privileges authorized under this section or otherwise afforded by the state or counties, shall be guilty of a traffic infraction and fined according to Chapter 291D, Hawaiʻi Revised Statutes, and Title 11, Chapter 219, Hawaiʻi Administrative Rules. The unauthorized use of disabled parking permits shall also be subject to suspension or revocation of these permits.

(3) A person who uses a parking space reserved for persons with disabilities without displaying a removable windshield placard, a temporary removable windshield placard, or special license plates, shall be guilty of a traffic infraction and fined according to Chapter 291D, Hawaiʻi Revised Statutes, and Title 11, Chapter 219, Hawaiʻi Administrative Rules.

(4) A person with a disability who refuses or fails to present an identification card to an enforcement officer upon request, shall be guilty of a traffic infraction and fined according to Chapter 291D, Hawaiʻi Revised Statutes, and Title 11, Chapter 219. Hawaiʻi Administrative Rules.

(2002, ord 02-139, sec 2.)

Article 9. Pedestrians.

Section 24-246. Crosswalks established.

The streets described in schedule 24, section 24-276 are established and designated as crosswalks when appropriate lines or other markings on the surface of the roadway giving notice are painted.
(1983 CC, c 24, art 9, sec 24-246.)

Section 24-247. Entering obstructed intersection or crosswalk.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, despite any traffic-control signal indication to proceed.
(1983 CC, c 24, art 9, sec 24-247.)

Section 24-248. Roadways closed to pedestrian traffic.

(a) No pedestrian shall enter upon or cross any roadway or portion of any roadway designated by ordinance as closed to pedestrian traffic, except within an authorized marked crosswalk, or upon a pedestrian overpass, or through a pedestrian tunnel.
(b) The areas designated in schedule 26, section 24-278 are closed to pedestrian traffic.
(1983 CC, c 24, art 9, sec 24-248.)

Section 24-249. Pedestrians soliciting rides or business prohibited.

(a) No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.
(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.
(1983 CC, c 24, art 9, sec 24-249.)

Section 24-250. Driving through safety zone prohibited.

The portions of streets, described in schedule 25, section 24-277 are designated as safety zones when appropriate lines or other markings on the surface of the roadway giving notice thereof are plain.
(1983 CC, c 24, art 9, sec 24-250.)

Section 24-251. Obstruction of highways.

No person shall sit, kneel, squat, or lie upon any roadway, sidewalk, or sidewalk curbing except when overcome by illness or in an emergency.
(1983 CC, c 24, art 9, sec 24-251.)

Section 24-252. Highway railings; prohibited acts.

No person shall sit, stand, or walk or aid or assist any other person to sit, stand, or walk upon the railing of any highway bridge, overpass or guardrail.
(1983 CC, c 24, art 9, sec 24-252.)

Articles 10 and 11. Vehicle and Traffic Schedules. *

* **Editor's Note:** Articles 10 and 11, that contain Vehicle and to Traffic Schedules, are located behind the tabbed divider sheet directly following this page.

CHAPTER 25

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*** Editor's Notes:**

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

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

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CHAPTER 25

ZONING

Article 1. General Provisions.

Section 25-1-1. Title.

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

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

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

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

Section 25-1-3. Severability.

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

Section 25-1-4. Adoption of rules.

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

Section 25-1-5. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

"Apartment house" means a multiple-family dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Council" means the County council.

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

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

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

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

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

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

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

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

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

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

"Director" means the director of the planning department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 2. Administration and Enforcement.

Division 1. General Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The name of the applicant;

(2) The precise location of the property involved;

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

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

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

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

Section 25-2-5. Public hearing notices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Division 2. Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 25-2-23. Standard of review.

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

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

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

Section 25-2-24. Adoption of rules.

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

Section 25-2-25. Further appeal rights.

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

Division 3. Violations, Penalties, Enforcement.

Section 25-2-30. Violations.

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

Section 25-2-31. Criminal prosecution.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 25-2-34. Injunctive action.

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

Section 25-2-35. Administrative enforcement.

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

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

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

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

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

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

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

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

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

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

Section 25-2-36. Remedies cumulative.

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

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

Division 4. Amendments.

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

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

Section 25-2-41. Who initiates amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 25-2-45. Nonsignificant zoning changes.

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

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

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

Section 25-2-46. Concurrency requirements.

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

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

(c) Definitions. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(d) Traffic impact analysis report required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Division 5. Variances.

Section 25-2-50. Variances permitted.

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

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

Section 25-2-51. Grounds for variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 25-2-55. Repealed.

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

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

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

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

Division 6. Use Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The application shall be accompanied by:

(1) A filing fee of $500;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Division 7. Plan Approval.

Section 25-2-70. Purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Exterior door and window specifications;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 3. Establishment of Zoning Districts.

Section 25-3-1. Designation of districts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 4. General Development Regulations.

Division 1. Use Regulations.

Section 25-4-1. Existing buildings.

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

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

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

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

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

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

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

Section 25-4-4. Uses prohibited.

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

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

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

Section 25-4-6. Use of streets.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the temporary real estate office is established in a structure not otherwise permitted in the particular zoning district, the structure shall be removed co-terminus with the expiration of the temporary real estate office use.
(4) The temporary real estate office and/or model home shall be used exclusively for marketing of lots and/or units located within the development in which it is to be located. In multi-phased developments, a temporary real estate office or model home may be allowed for each development phase for a period not to exceed twenty-four months. Time extensions may be granted by the director.
(5) Parking for the temporary real estate office use shall be based on a minimum of one parking stall for each employee and a minimum of one parking stall for each four hundred square feet of gross floor area. The parking requirement may be satisfied off-site, provided that approval is secured from the director.
(6) The temporary real estate office and/or model home shall comply with the minimum setback and height requirements of the particular zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-9. Guest houses.

One guest house may only be established on a building site that is at least seven thousand five hundred square feet in area. A guest house shall not exceed five hundred square feet in gross floor area, shall not be more than twenty feet in height, and shall not have a kitchen.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-10. Mobile dwellings.

All mobile dwellings shall conform to the County building code (chapter 5 of this Code), and the Public Health Housing Code (chapter 2 of the State public health regulations), except:

(1) When parked in a licensed mobile home park; or
(2) When occupied for dwelling or sleeping purposes outside of a licensed mobile home park for less than thirty days in any one location.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-11. Power lines, utility substations, public buildings.

(a) Communication, transmission, and power lines of public and private utilities and governmental agencies are permitted uses within any district.
(b) Any substation used by a public or private utility for the purpose of furnishing telephone, gas, electricity, water, sewer, radio, or television shall be a permitted use in any district provided that the use is not hazardous or dangerous to the surrounding area and the director has issued plan approval for such use.
(c) Public uses, structures and buildings and community buildings are permitted uses in any district, provided that the director has issued plan approval for such use.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2006, ord 06-86, sec 2.)

Section 25-4-12. Telecommunication antennas or towers.

(a) A telecommunication antenna or tower shall be permitted in the V, CN, CG, CV, MCX, ML, MG and CDH districts; provided that the antenna, tower, and its use are not hazardous or dangerous to the surrounding area and the director has issued plan approval for such use. A telecommunication antenna or tower may be permitted in the RS, RD, RM, RCX, RA, FA, A, IA, and O districts if a use permit is obtained for such use. Where there is an existing telecommunication tower, co-location of additional antenna or equipment will be permitted provided the director has issued plan approval for such use.

(b) The minimum setbacks for a telecommunication antenna and tower are as follows:

(1) Freestanding antennas and towers shall be set back from every property line a minimum of one foot for every five feet of antenna or tower height.

(2) Telecommunication antennas and towers supported by guy wires shall be set back from every property line a minimum of one foot for every one foot of antenna or tower height.

(c) The tower, together with the initial antennas or other equipment proposed to be installed thereon, shall have a hard survivability for sustained winds of at least one hundred miles per hour.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2010, ord 10-17, sec 3; am 2011, ord 11-25, sec 2.)

Section 25-4-13. Home occupations.

(a) A home occupation shall be permitted as incidental and subordinate to the use of a dwelling in any district in which a dwelling is located, provided that the home occupation does not change the character and external appearance of the dwelling.

(b) All home occupations shall comply with the following standards:

(1) The home occupation shall be conducted either entirely within the dwelling or, if outside the dwelling, the activity shall be screened from public view.

(2) No exterior signs, symbols, displays or advertisements relating to the home occupation shall be displayed, nor shall any interior signs be visible from the public view.

(3) Any materials, supplies or products relating to the home occupation which are stored outside of the dwelling or other fully enclosed building shall be screened from the public view.

(4) Articles sold on the premises shall be limited to those produced by the home occupation, or to instructional materials pertinent to the home occupation, or to services provided by the home occupation.

(5) Only one employee shall be permitted in addition to household members under the home occupation.

(6) A minimum of one parking space shall be provided on the building site in addition to parking required for the dwelling use or other permitted uses if the home occupation involves customer or client visits or meetings. The director may require additional parking spaces where the director finds that such additional parking spaces may be reasonably necessary to avoid off-site or inappropriate parking locations. Any resident of a multiple-family dwelling may fulfill the parking requirement by the use of guest parking with the written approval of the building owner, manager or condominium association.

(c) A person desiring to engage in a home occupation that involves any of the following activities, shall file with the director, a declaration in the form designated by the director, verifying that the home occupation will comply with all of the conditions contained in subsection (b) and will not involve any of the activities listed under subsection (e):

(1) Frequent customer or client visits;

(2) Frequent deliveries or pickups;

(3) Storage of materials, supplies or products related to the home occupation outside of the dwelling or other fully enclosed building;

(4) Activities conducted outside of the dwelling; or

(5) Group instruction.

(d) A special permit shall be obtained for any home occupation on a building site that is situated within either the State land use rural or agricultural district.

(e) The following activities shall not be permitted as home occupations:

(1) Contractor storage yards, including without limitation, the storage, use, repair or fabrication of equipment designed or intended for use in land excavation or in the construction of buildings or other structures or other similar heavy equipment.

(2) Repair, fabrication or painting of automobiles or other motorized vehicles, except those owned by household members and which are not sold or made available for sale within one year of such activity regarding any particular vehicle.

(3) Care, treatment or boarding of animals in exchange for money, goods, services or other consideration.

(4) Any activities and uses which are only permitted in industrial districts.

(f) Any home occupation existing as of December 7, 1996, which involves any of the activities listed under subsection (c) may continue as a nonconforming use until September 30, 1997, at which time any such continued use without the filing of a declaration, as provided under subsection (c) shall be considered illegal under this chapter. Prior to September 30, 1997, any person may file a declaration for any home occupation existing as of December 7, 1996, which involves any of the activities listed under subsection (c), and upon the filing of such declaration, the use shall be considered a permitted use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-14. Flag lots.

A flag lot shall be permitted when sufficient street frontage is not available for more than one building site, provided the following conditions are met:

(1) The access drive connecting the building site with the street shall have a minimum width of fifteen feet.
(2) The access drive shall be the sole access for only one building site, unless dual access is approved by the director after consultation with the director of public works.
(3) The building site area, including the access drive, shall be the minimum building site area required for the zoning district.
(4) The minimum yards for a flag lot, excluding the access drive, shall be the minimum side yards required for a building site in the applicable zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-4-15. Agricultural tourism.

(a) Agricultural tourism is permitted as an accessory use to agricultural processing facilities in the CG, CDH, CV, CN, ML, MG, and MCX districts.
(b) Agricultural tourism is permitted as an accessory use to agricultural activities and agricultural processing facilities in the A, FA, IA, RA, and APD districts, subject to plan approval and in conformance with section 25-4-15(d).
(c) Agricultural tourism activities in A, FA, IA, RA, and APD districts that do not conform to section 25-4-15(d) shall obtain a special permit in the state land use agricultural or rural districts, or a use permit in the state land use urban district.
(d) Agricultural tourism operations shall comply with the following regulations:
    (1) The agricultural activity or agricultural products processing facility must have a minimum of $10,000 in verifiable gross sales, exclusive of any income from agricultural tourism activities or any other non-agricultural activities, for the year preceding the commencement of the agricultural tourism activity or, in the case of a new agricultural activity or agricultural products processing facility, provide evidence to the director's satisfaction that sufficient investment has been made in the planting of crops, acquisition of livestock, or construction of agricultural products processing facilities, that the agricultural activity or agricultural processing facility will achieve the minimum required gross sales;
    (2) Agricultural tourism activities shall not commence prior to 8:00 a.m. or continue past 6:00 p.m. daily;
    (3) The agricultural tourism operation shall have a maximum of thirty thousand visitors annually;
    (4) All visitor and employee parking, loading/unloading, and vehicular turn-around areas shall be located off-street;

(5) The total area of spaces, including covered decks, lanais, tents or canopies, and gazebos, whether newly constructed or within existing structures, to be utilized principally for the agricultural tourism activity, but not including parking and vehicular access areas, shall not exceed one thousand square feet;

(6) Gross revenues from agricultural tourism shall not exceed the gross revenues of the associated agricultural activity and/or agricultural products processing facility, including revenues from adjacent parcels under the same ownership, except where it can be demonstrated to the director's satisfaction that the gross agricultural products/processing income is less than fifty percent of the total income due to unforeseen environmental or economic conditions for not more than two consecutive years, or, in the case of a new agricultural activity or agricultural products processing facility, that sufficient investment has been made so that it is reasonable to project that the operation's gross revenues from agricultural tourism will not exceed fifty percent of gross revenues, and provided further, that the sale of all items which include agricultural products grown or processed by the associated agricultural activity or agricultural processing facility shall be included in the gross revenues of the associated agricultural activity or agricultural processing facility;

(7) Sales of agricultural products grown on the island of Hawaiʻi, and processed agricultural products where the main ingredient was grown on the island of Hawaiʻi shall be allowed as part of the agricultural tourism operation. Incidental sales of non-agricultural promotional items, including but not limited to, coffee mugs, tee shirts, etc., shall be permitted provided:

(A) The items are specifically promotional to the site's agricultural activities and/or product; and

(B) The gross revenues from the sale of non-agricultural promotional items shall be included with the gross revenues from the agricultural tourism activities;

(8) Agricultural tourism in the A, FA, IA, and RA districts shall not include weddings, parties, restaurants, schools, catered events, or overnight accommodations, unless allowed by special permit or use permit; and

(9) Annual events that promote an agricultural industry or agricultural area, and organized on a not-for-profit basis, are permitted in the A, FA, IA, RA, and APD districts without plan approval.

(e) Any agricultural tourism activity that is not in compliance with the regulations under section 25-4-15(d) or appropriately permitted as provided by section 25-4-15(c) shall be considered illegal under this chapter, unless otherwise noted herein.

(f) Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, existing prior to the effective date of this section and conforming to the standards contained in section 25-4-15(d) and that has not received plan approval, may continue such use until May 20, 2010. After this date, continued use without having received plan approval shall be considered illegal under this chapter.

(g) Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, that does not conform to the standards in section 25-4-15(d), and which has not previously received a special permit or use permit for such activity, may continue such use until May 20, 2010, and, if an application for a special permit or a use permit has been received and accepted by May 20, 2010, may continue such use until final action has been taken on the application. After May 20, 2010, or denial of the application, whichever occurs later, continued use shall be considered illegal under this chapter.
(h) Any agricultural tourism activity that is currently operated under a special permit may continue to operate under the terms and conditions of the special permit, or apply to void the special permit and, if the permit is voided, operate under the standards of section 25-4-15(d).
(i) An agricultural tourism activity that obtains plan approval, but becomes non-compliant with the standards of section 25-4-15(d) because of an increase in the number of visitors, shall apply for a special permit, but may continue to operate until a final decision is made on the special permit application.
(j) An agricultural tourism activity which has received plan approval shall submit financial records to the director on request to verify compliance and shall maintain a count of visitors which shall be furnished to the director on request.
(k) The director may use observations of visitor arrivals, including bus traffic, in estimating whether an agricultural tourism activity complies with section 25-4-15(d)(3), and may require that an activity allowed with plan approval apply for a special permit based on such observations. In that case, the activity may continue until a final decision is made on the special permit.

(2008, ord 08-155, sec 9; am 2009, ord 09-143, sec 2.)

Division 2. Heights.

Section 25-4-20. Height; general rules.

(a) No building or structure hereafter erected shall exceed the established zoning district height limit, except as hereinafter permitted or otherwise regulated.
(b) If any existing structure exceeds the established zoning district height limits, it shall not be further increased in height.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-21. Basements and underground structures.

In all districts, any number of floors below ground may be permitted.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-22. Exemptions from height limitations.

The following structures are exempt from zoning district height limits under the specified restrictions:

(a) Chimneys, spires, belfries, water tanks, monuments, steeples, antennae, flag poles, vent pipes, fans, structures housing or screening elevator machinery and other similar features, not to exceed ten feet above the governing height limit.
(b) Safety railings not to exceed forty-two inches above the governing height limit.
(c) Utility poles and lines and telecommunication antennas not to exceed five hundred feet from existing grade.
(d) One antenna for an amateur radio station operation per building site, not to exceed ninety feet above existing grade.
(e) Wind machines, where permitted, provided that each machine shall be set back from all property lines one foot for each foot of height, measured from the highest vertical extension of the system.
(f) Any energy savings device, including heat pumps and solar collectors, not to exceed eight feet above the governing height limit.
(g) Nonresidential agricultural structures in the A and IA districts, not to exceed one hundred feet, as approved by the director upon finding that the additional height above forty-five feet is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-23. Accessory structure height limitations.

An accessory structure shall not exceed twenty feet in height, unless otherwise specified in this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 3. Street Frontage, Lot Areas and Widths.

Section 25-4-30. Minimum street frontage.

The following minimum street frontage standards apply to every building site:

(a) Fifty percent of the required building site average width for any building site in a zoning district providing for a minimum building site of one acre or less, except for flag lots, any building site located at the end of a cul-de-sac, and any building site where the access to the building site is by means of a roadway easement.
(b) One hundred feet for any building site in a zoning district providing for a minimum building site of over one acre, except for flag lots, any building site located at the end of a cul-de-sac, and any building site where the access to the building site is by means of a roadway easement.
(c) The width of the pole or fifteen feet for any flag lot.
(d) Fifteen feet for any building site located at the end of a cul-de-sac.
(e) No street frontage shall be required for any building site where access to the building site is by means of a roadway easement.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-31. Minimum building site area; minimum average width.

(a) Unless otherwise specified in this chapter, each main building must be located on a building site having not less than the established zoning district minimum building site area.

(b) Any building site which has less area or width than that required by the established zoning district, may be used as a legal building site; provided that the owner of the building site owns no adjoining property at the same time.

(c) A building site shall be deemed to conform to the requirements for building site average width if any portion of the building site considered separately has the minimum building site area with the minimum average width.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-32. Reduction of building site below minimum area.

(a) A building site may not be reduced below the established zoning district minimum building site area, and an existing building site, which is below the minimum building site area, may not be further reduced in area, except as provided under section 25-3-5.

(b) Any legal building site reduced in area or average width by not more than twenty percent, by reason of the establishment of future width lines or plan lines for future streets or by the acquisition by a public agency for public purposes, shall be deemed to be a legal building site as to the remainder of the building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-33. Effect of delinquent tax sale; recordation of land.

Any parcel of land that is not otherwise a legal building site does not become a legal building site by virtue of being sold at a delinquent tax sale, or by reason of recordation of the parcel of land at the State bureau of conveyances.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-34. Waiver of minimum building site area for utilities.

The required minimum building site area may be waived by the director for public utility or public rights-of-way subdivisions, or both, and any resulting remnant parcels.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 4. Yards and Open Space.

Section 25-4-40. General requirements for yards and open space.

(a) On every building site, yards of the minimum width or depth as specified for the established zoning district shall be maintained open and unobstructed from the ground up, except as specified in sections 25-4-40 through 25-4-47.

(b) No required yard or open space may fulfill the requirement for more than one building, building site, or use.

(c) A building site shall have a front yard wherever it has a street frontage, except where the option of either a front or rear yard is allowed in CV and CG districts.

(d) In CV and CG districts, where the building site is bounded by two or more streets, a minimum of one front yard shall be required. Its location shall be determined by taking into account the relationship and impact of the development to the adjoining streets.
(e) Unless otherwise specified, yards, open spaces, and distances shall be measured horizontally.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-41. Triangular or irregular building sites.
(a) On any triangular-shaped building site, the rear yard shall be measured from the point most nearly opposite the street line and in the same manner as for a corner building site.
(b) In the event a building site is so irregular in shape that it is impossible to establish side and rear yards, the director shall view the relationship between the building site and surrounding property and shall specify the required yards.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-42. Corner building sites.
(a) On any corner building site, the interior lines shall be side lot lines and all rear yard regulations shall be inapplicable.
(b) On any corner building site in all zoning districts except in the CN district, within the area of a triangle formed by the street lines of such building site (ignoring any corner radius), and a line drawn between points on such street lines twenty-five feet from the intersection thereof, no fence, wall, hedge, or building shall be higher than three feet nor shall there be any obstruction to vision other than a post, column, or tree trunk clear of branches or foliage, between the height of three feet and eight feet above the level of the street or the level of the point of intersection if the streets are sloping.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-43. Fences and accessory structures.
(a) A perimeter boundary fence, wall or similar feature, six feet or less in height shall not be considered a structure and shall be permitted without any front, side or rear yard requirements. In addition, a fence which is constructed of strand material, such as barbed wire, hog wire, or chain link, which allows "see-through" visibility is permitted to a height of eight feet without any front, side, or rear yard requirements.
(b) No fence, wall, architectural feature, or other obstruction shall be placed or be without gates or openings so as to prohibit complete access around any main building at all times.
(c) Any accessory structure, including any fence, or wall over six feet in height, architectural feature or water tank, which is not connected to a building, may not extend into any required front, side or rear yard, but may be located next to any building without any open space requirement.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-44. Permitted projections into yards and open spaces.

(a) Except as may otherwise be restricted, roof overhangs, eaves, sunshades, sills, frames, beam ends, cornices, canopies, porches, balconies, terraces, fire escapes, stairs, ramps, above-grade pools and other similar features may extend four feet into any required yard or open space that is less than ten feet, five feet when required yard or space is from ten up to fifteen feet, and six feet when required yard is over fifteen feet; provided that:

(1) No cornice, canopy, eave, porch, balcony, terrace, fire escape, stair, ramp or other similar feature shall be enclosed above or below the extension except that there may be individual posts or beams for support and open or grill-type railings no higher than four feet.

(2) No chimney may extend more than two feet into any yard.

(3) No above-grade pool may extend into any required front, side or rear yard if the pool is over six feet in height.

(b) The extensions permitted in this section apply separately to each building.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-45. Projection of porte-cocheres.

An attractively designed porte-cochere may extend any distance into a front yard as a protection for arriving motorists and pedestrians.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-46. Projection of pools.

A pool constructed at-grade may extend any distance into a required yard or open space.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-47. Minimum distance between main buildings on same building site.

Unless otherwise specified, the minimum distance between main buildings on the same building site shall be fifteen feet, measured between the walls of the two buildings.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 5. Off-Street Parking and Loading.

Section 25-4-50. Off-street parking and loading: purpose.

(a) Parking and loading standards are intended to minimize street congestion and traffic hazards, and to provide safe and convenient access to residences, businesses, public services and places of public assembly.

(b) Off-street parking and loading spaces shall be provided in such number, at such location and with such improvements as required as set forth in this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-51. Required number of parking spaces.

(a) The number of parking spaces for each use shall be as follows:

(1) Agricultural tourism: one for each three hundred square feet of gross floor area used principally for the agricultural tourism activity, but not fewer than three spaces, plus bus parking if buses are allowed.

(2) Bed and breakfast establishments: one for each guest bedroom, in addition to one for the dwelling unit.

(3) Bowling alleys: four for each alley.

(4) Commercial uses, including retail and office uses in RCX, CN, CG, CV, MCX, V, RA, FA, A and IA districts: one for each three hundred square feet of gross floor area.

(5) Day care centers: one for each ten care recipients of design capacity or one for every two hundred square feet of gross floor area, whichever is greater.

(6) Dwellings, multiple-family: one and one quarter for each unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.

(7) Dwellings, single-family and double-family or duplex: two for each dwelling unit. In the CDH district, one for each unit on a property maintaining a unit density higher than one thousand square feet of land area per rentable unit or dwelling unit.

(8) Funeral homes, funeral services, mortuaries, and crematoriums: one for each seventy-five square feet of gross floor area.

(9) Golf courses: four for every hole.

(10) Hospitals: one for each bed.

(11) Hotels and lodges:

(A) For hotel guest units without a kitchen, one for every three units;

(B) For hotel guest units with a kitchen, one and one quarter for each unit.

(12) Industrial uses in ML, MG, MCX, RA, FA, A and IA districts: one for each four hundred square feet of gross floor area.

(13) Laundromats, cleaners (coin operated): one for every four machines.

(14) Major outdoor amusement and recreation facilities: one for each two hundred square feet of gross floor area within enclosed buildings, plus one for every three persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.

(15) Meeting facilities, including churches: one for each seventy-five square feet of gross floor area.

(16) Nursing homes, convalescent homes, rest homes and homes for the elderly: one for every two beds.

(17) Parks: as determined by the director.

(18) Recreation facilities, outdoor or indoor, other than herein specified: one for each two hundred square feet of gross floor area, plus three per court (racquetball, tennis or similar activities).

(19) Rooming and lodging houses, religious, fraternal or social orders having sleeping accommodations: one for each two beds.

(20) Schools (elementary and intermediate): one for each twenty students of design capacity, plus one for each four hundred square feet of office floor space.
(21) Schools (high, language, vocational, business, technical and trade, college): one for each ten students of design capacity, plus one for each four hundred square feet of office floor space.
(22) Sports arenas, auditoriums, theaters, assembly halls: one for every four seats.
(23) Swimming pools (community): one for each forty square feet of pool area.
(24) Warehouse and bulk storage establishments where there is no trade or retail traffic: one for each one thousand square feet of gross floor area.

(b) No additional parking is required for any change of use in a building as long as the previous use of the building had the required number of parking stalls for that use; provided, that additional parking may be required for a change of use in any building where the building is converted from residential to commercial use or from warehouse and manufacturing use to retail or commercial use.

(c) Where uses and activities do not occur simultaneously, parking space requirements may be shared, provided that:
(1) The utilization of the combined parking is shown to the satisfaction of the director to be noncompeting as to time of use;
(2) The number of parking spaces is based on the largest parking requirement of those respective facilities;
(3) The parking areas are not more than one thousand feet from any of the buildings housing the activities; and
(4) The parking areas are encumbered for that use for the life of the facilities being served.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 10; am 2012, ord 12-91, sec 3; am 2013, ord 13-95, sec 1; am 2014, ord 14-85, sec 2.)

Section 25-4-52. Method of determining number of parking spaces.

(a) When computation of required parking spaces results in a fractional number, the number of spaces required shall be the next highest whole number.

(b) In stadiums, sports arenas, meeting facilities, and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four inches of width shall be counted as a seat for the purpose of determining requirements for off-street parking.

(c) If bicycle parking stalls are constructed on any building site, the total number of required parking spaces shall be reduced by one parking space for every five bicycle parking stalls constructed.

(d) At least sixty-seven percent of the required parking shall be standard-sized parking spaces, and thirty-three percent may be compact spaces.

(e) The director may increase the required number of parking spaces for any use during plan approval if the director reviews the proposed use and its impact to the immediate area and finds that the increase will further the public safety, convenience and welfare.

(f) If there is any doubt as to the requirements for off-street parking for any use not specifically mentioned or for any other reason, the director shall determine the required number of parking spaces for such use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-53. Minimum dimensions of parking spaces.

(a) Standard-sized automobile parking spaces shall be at least eighteen feet in length and eight feet six inches in width, with curbside parallel spaces at least twenty-two feet in length.

(b) Compact spaces shall be at least sixteen feet in length and seven feet six inches in width, with curbside parallel spaces at least eighteen feet in length.

(c) Minimum aisle widths for parking bays shall be provided in accordance with the following:

Angle of Parking to Curb	Minimum Width
to 0° (parallel)	12'
to 45°	14'
to 60°	18'
to 90° (perpendicular)	24'

(d) Parking spaces may have a three-foot unpaved car overhang area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-54. Standards and improvements to off-street parking spaces.

(a) All parking spaces shall be arranged so as to be individually accessible.

(b) Except for one duplex dwelling or two single-family dwellings on any single building site, access to any individual parking space shall not be directly from or to a street but must be reached from an on-site access driveway of proper design and width to allow for passage of vehicles and necessary turning movements.

(c) In V, CN, CG, CV, MCX, ML, MG, RD, RM and RCX districts, parking spaces shall be paved.

(d) For any permitted use in the RS, RA, FA, A or IA districts, the pavement of parking spaces is not required, and any material may be used for the parking spaces that will eliminate erosion, mud and standing water.

(e) For any parking space containing a building column, that column may intrude six inches into the required width, provided that the building column shall not be located at the entry of the parking space. A wall shall not be considered a building column.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-55. Parking for persons with disabilities.

(a) An accessible building site shall have at least one accessible route within the boundaries of the building site from public transportation stops, accessible parking spaces, passenger loading zones if provided, and public streets or sidewalks, to an accessible building entrance. The accessible route shall connect a clear path of travel, a minimum clear width of thirty-six inches, to accessible buildings, accessible facilities, accessible elements, and accessible parking spaces on the building site in compliance with chapter 5, Hawai‘i County Code.

(b) If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each such parking area in conformance with the table below. Spaces required by the table need not be provided in the particular parking area and may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance is ensured.

Total Parking on Building Site and Required Minimum	Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20, plus one for each hundred over one thousand

Additional parking requirements for medical, health care facilities and treatment facilities for persons with disabilities.

(1) Accessible parking spaces for sedans shall be ninety-six inches wide by two hundred sixteen inches deep with a sixty-inch-wide access aisle. Accessible parking spaces for vans shall be one hundred eight inches wide by two hundred sixteen inches deep, with a ninety-six-inch-wide access aisle.

(2) Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be at the same level with surface slopes not exceeding 1:50 (two percent) in all directions.

(3) If all required accessible parking spaces conform with the "Universal Parking Space Design," they shall be one hundred thirty-two inches wide by two hundred sixteen inches deep with a sixty-inch-wide access aisle.

(c) Van Access. One in every eight accessible spaces as per above (1), but not less than one, shall be designated "van accessible." The vertical clearance of ninety-eight inches at such spaces shall be provided at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s). All such spaces may be grouped on one level of a parking structure.

(d) Passenger Loading Zones. If passenger loading zones are provided, then at least one accessible passenger loading zone shall be provided. Accessible passenger loading zones shall provide an access aisle at least sixty inches wide and two hundred forty inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. Vehicle standing spaces and access aisles shall be at the same level with surface slopes not exceeding 1:50 (two percent) in all directions. Vertical clearance of one hundred fourteen inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s) shall be provided.

(e) At facilities providing medical care, parking spaces shall be provided:

(1) Outpatient units and facilities: ten percent of the total number of parking spaces provided serving each such outpatient unit or facility;

(2) Units and facilities that specialize in treatment or services for persons with mobility impairments: twenty percent of the total number of parking spaces provided serving each such unit or facility.

(f) Valet parking facilities shall provide an accessible passenger loading zone located on an accessible route to the entrance of the facility.

(g) Signage. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Accessible van parking spaces shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility. Such signs shall be located so the bottom edge of the sign is eighty inches minimum above the finish surface of the accessible parking stalls. Signs which designate parking spaces shall be a minimum twelve inches by twelve inches with eight inches high ISA (International Symbol of Accessibility) symbol. The construction of the sign shall be .080 inch minimum thickness, aluminum sheet mounted on three inch square telespar tubing or approved equal.

(h) In the event that the standards for accessible design (Americans with Disabilities Act Accessibility Guidelines or the Federal Fair Housing Amendments Act Accessibility Guidelines) require more stringent parking standards for persons with disabilities than those contained in this section, those requirements shall be followed.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-56. Off-street loading requirements.

Off-street loading requirements shall apply to all buildings having a gross floor area of at least five thousand square feet, except for single-family residential units, in all zoning districts. The minimum number of off-street loading spaces shall be as follows:

Use or Use Category	Floor Area in Square Feet	Loading Space Requirements
1. Commercial and industrial uses, including retail and wholesale operations, eating and drinking establishments, business services, personal services, repair, manufacturing and self storage facilities, but excluding offices	5,000 — 10,000	1
	10,001 — 20,000	2
	20,001 — 30,000	3
	30,001 — 40,000	4
	40,001 — 60,000	5
	Each additional 50,000 or major fraction thereof	1
2. Hotels, hospital or similar institutions, and places of public assembly	5,000 — 10,000	1
	10,001 — 50,000	2
	50,001 — 100,000	3
	Each additional 100,000 or major fraction thereof	1
3. Offices or office buildings	20,000 — 50,000	1
	50,001 — 100,000	2
	Each additional 100,000 or major fraction thereof	1
4. Multiple-family dwellings	Number of Units	
	20 — 150	1
	151 — 300	2
	Each additional 200 or major fraction thereof	1

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-57. Method of determining number of loading spaces.

(a) The gross floor area of a building shall be used to determine the required number of loading spaces for that building.

(b) When a building is used for more than one use, and the gross floor area for each use is below the minimum requiring a loading space, and the aggregate gross floor area of the several uses exceeds the minimum floor area of the use category requiring the greatest number of spaces, at least one loading space shall be required.

(c) The number of loading spaces required may be adjusted to fifty percent of the required number when such spaces are assigned to serve two or more uses jointly, provided that each use has access to the loading zone without crossing public streets or sidewalks.
(d) When computation of required loading space results in a fractional number, the number of spaces required shall be the next highest whole number.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-58. Dimension of loading spaces.
(a) When only one loading space is required and the total gross floor area is not more than five thousand square feet, the horizontal dimensions of the loading space shall be ten feet wide and twenty-two feet long, and the vertical clearance shall be at least fourteen feet.
(b) When only one loading space is required and the total gross floor area is more than five thousand square feet, the horizontal dimensions of the loading space shall be twelve feet wide and fifty feet long, and the vertical clearance shall be at least fourteen feet.
(c) When more than one loading space is required or the total gross floor area is more than five thousand square feet, the minimum horizontal dimension of at least half of the required loading spaces shall be twelve feet wide and fifty feet long, and the vertical clearance shall be at least fourteen feet. The balance of the required loading spaces may have horizontal dimensions of ten feet wide and twenty-two feet long.
(d) The required apron space, or area provided for maneuvering trucks into or out of loading position, shall be forty-six feet if the loading space width is ten feet, forty-three feet if the loading space width is twelve feet, and thirty-nine feet if the loading space width is fourteen feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59. Location and improvement of loading spaces.
(a) All required loading spaces shall be located on the building site to which they are appurtenant. No loading spaces shall be permitted within any street or alley.
(b) Each required loading space shall be identified as such and shall be reserved for loading purposes.
(c) No loading space shall occupy required off-street parking space or restrict access.
(d) Access to any loading space shall not be directly from or to a street but must be reached from an on-site access driveway of proper design and width to allow for passage of trucks and necessary turning movements.
(e) All loading spaces and apron spaces or maneuvering areas shall be paved.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59.1. Director determination of parking and loading requirements.

(a) The director may increase any of the requirements in this chapter for parking spaces and loading spaces, after reviewing the proposed use and the use's impact to the immediate area, if the director makes a finding that the increase will further the public safety, convenience, and welfare.

(b) In case there is any doubt as to the requirements for parking or loading spaces for any use not specifically mentioned, or for any other reason, the director shall make such determination.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-4-59.2. Exceptions to the off-street parking and loading requirements.

The off-street parking and loading requirements of this chapter shall not apply to the following:

(a) Non-residential uses located within that area in the City of Hilo, bounded by Kinoʻole Street, Ponahawai Street, and an imaginary straight line extension of Ponahawai Street into Hilo Bay and Wailuku River.

(b) Dwelling units with a maximum density of one thousand square feet of land area per unit or less, within that area in the City of Hilo, bounded by Kinoʻole Street, Ponahawai Street, and an imaginary straight line extension of Ponahawai Street into Hilo Bay and Wailuku River.

(c) That area immediately fronting either side of that portion of the Hawaiʻi Belt Highway which runs from the real property designated as tax map key no: 7-9-7-66 to the real property designated as tax map key no: 7-9-9:22, in Kainaliu, North Kona.

(d) Those lots in the PVD district having a total area of less than seven thousand five hundred square feet and that have frontage on Pāhoa Village Road between Post Office Road and the eastern intersection of Akeakamai Loop and Pāhoa Village Road; provided that any lot created through parcel consolidation does not result in a lot having a total area of seven thousand five hundred square feet or more, or a parcel consolidation and resubdivision that results in the creation of additional building sites after May 28, 2015 shall provide off-street parking in accordance with the requirements of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2013, ord 13-95, sec 2; am 2015, ord 15-44, sec 3.)

Section 25-4-59.3. Landscaping and screening for parking lots and loading spaces.

(a) To provide shade in open parking lots and minimize visibility of paved surfaces, parking lots with more than twelve parking stalls shall provide one canopy form tree with a minimum of two-inch caliper for every twelve parking stalls or major fraction thereof and having a planting area or tree well no less than thirty square feet in area. If wheel stops are provided, continuous planting areas with low groundcover centered at the corner of parking stalls may be located within the three-foot overhang space of parking stalls. Hedges and other landscape elements, including planter boxes over six inches in height, are not permitted within the overhang space of the parking stalls. Trees shall be sited so as to evenly distribute shade throughout the parking lot.

(b) Parking lots of five or more spaces shall be screened from adjoining lots in RS, RD, RM, RCX or RA districts by walls, continuous screening hedges, or earth berms a minimum of forty-two inches high on the abutting property line.

(c) All loading spaces shall be screened from adjoining lots in RS, RD, RM, RCX or RA districts by a wall six feet in height.

(d) Xeriscape and native Hawaiian plant species shall be encouraged.

(e) All landscaping shall be maintained by the property owner.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 6. Nonconforming Uses and Buildings.

Section 25-4-60. Nonconforming buildings; maintenance and repair.

(a) Any nonconforming building, except as otherwise regulated, may be repaired, maintained, or enlarged provided that any enlargement or addition shall conform in every respect to the regulations for the district in which it is located, except as provided in this division.

(b) If the portion of the building that is nonconforming should be destroyed it may only be rebuilt in compliance with all of the requirements under the County building code for reconstruction and repair of nonconforming buildings.

(1996, ord 96-160, sec 2; ratified April 6, 1999.; am 2002, ord 02-89, sec 1.)

Section 25-4-61. Continuance of nonconforming uses of land and buildings.

(a) Any nonconforming use of land or use of a building may continue to the extent it existed on December 7, 1996 or at the time of the adoption of any amendments to this chapter, provided that a nonconforming use may be enlarged within the building it occupies, but shall not be enlarged or increased to occupy a greater area of land, nor shall it or the portion of the building housing it be moved in whole or in part to any other portion of the building site occupied by such nonconforming use, except as provided in this division.

(b) Public buildings, public or private power and telephone facilities including offices and plants existing prior to May 24, 1967 may be enlarged or increased to occupy a greater area of land or building, notwithstanding the limitations contained in this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-62. Abandonment of nonconforming use.

If any nonconforming use ceases for any reason for a continuous period of twelve calendar months, or for one season if the use be seasonal, then such use shall not be resumed and any use of the land or building or both thereafter shall be in full conformity with the provisions of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-63. Destruction of building with nonconforming use.

Except as provided in this division, if the portion of any building within which a nonconforming use is conducted should be destroyed or damaged by any means to an extent equivalent to at least fifty percent of its replacement value, exclusive of foundations, then such damaged or destroyed portion may not be restored unless the use of the building is changed to a conforming use. If the damage or destruction is less than fifty percent of its replacement value, exclusive of foundation, then the building may be restored and such use may be resumed as it existed, provided that such restoration shall be completed within one year from the date of such damage or destruction. The department of public works shall determine the extent of damage to determine whether the building may be restored and resume its existing nonconforming use.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-64. Maintenance of building with nonconforming use.

Except as provided in this division, any building within which a nonconforming use is conducted may be maintained and repaired to the extent necessary to keep it in sound condition provided the work shall not exceed twenty-five percent of the current replacement value of such building, in any one calendar year as determined by the department of public works.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-65. Expansion of nonconforming use; changes to building with nonconforming use.

If a use of a building is nonconforming because of a particular requirement of the district within which it is located (e.g. parking, yards, height, distance between buildings), then the use may be enlarged and the building may be changed or added to, provided such enlargement, change or addition is itself in full compliance with the district regulations.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-89, sec 1.)

Section 25-4-65.1. Exceptions to nonconforming use and building provisions.

The following shall be exceptions to this division:

(1) A multiple-family building or use, when the non-conforming situation is the consequence of an amendment to the general plan and associated zoning, may be replaced, repaired or reconstructed to its as-built density, height and setbacks, if the applicable zoning would permit construction of a single-family residence, provided the repair or reconstruction otherwise complies with the current building code. Construction shall commence within five years from the date the building is damaged or destroyed; or

(2) A building made nonconforming with respect to the number of required parking spaces may be replaced or reconstructed if destroyed or damaged, to its prior condition, with the number of parking spaces required when it was built, provided that the director shall require additional parking be provided if it is feasible to do so, and construction shall commence within five years from the date the building is damaged or destroyed.

(2002, ord 02-89, sec 1; am 2007, ord 07-179, sec 2.)

Division 7. De Minimis Structure Position Discrepancy.

Section 25-4-66. Procedure for recognizing a de minimis structure position discrepancy.

An application for recognition of a de minimis structure position discrepancy shall be filed with the director and shall include:

(a) A description of the property in sufficient detail to determine the precise location of the property involved.

(b) A plot plan of the property, prepared by a licensed surveyor, showing existing improvements, and the improvement(s) and relevant distances for the de minimis structure position discrepancies.

(c) A description of the nature of the improvements involved in the de minimis structure position discrepancies.

(d) A statement by the landowner that to the best of the landowner's knowledge and information, the improvements were placed without actual knowledge that they did not meet the minimum yard or open space requirements.

(e) A filing fee of $25.

(2002, ord 02-70, sec 3.)

Section 25-4-67. Review by director.

Within fifteen days of receipt of the application, the director shall either accept the application as complete, or reject it as incomplete, in writing. Any rejection shall list the deficiencies in the application. The director shall approve or deny an application for recognition of a de minimis structure position discrepancy within twenty-five days after acceptance of the completed application. If the director does not approve or deny the application within twenty-five days of acceptance, the application shall be deemed approved.

(2002, ord 02-70, sec 3.)

Section 25-4-68. Grounds for approval or denial.

The director shall approve an application for recognition of a de minimis structure position discrepancy unless:

(a) The discrepancy is greater than the difference as allowed by the de minimis structure position discrepancy definition, or

(b) The director finds that the improvement was placed with knowledge that it would violate the minimum yard or open space requirements; or

(c) The improvement could be moved, or the discrepancy otherwise corrected, without significant expense, difficulty, or hardship to the applicant.

(2002, ord 02-70, sec 3.)

Section 25-4-69. Recognition of de minimis structure position discrepancy.

If the director accepts the application for recognition of de minimis structure position discrepancy, the director shall notify the applicant in writing that the discrepancy is not a violation of the zoning code and that it may remain in place without a variance.

(2002, ord 02-70, sec 3.)

Section 25-4-70. Disclosure.

A de minimis structure position discrepancy shall be disclosed by the owner to subsequent purchasers of the property in question.

(2002, ord 02-70, sec 3.)

Section 25-4-71. Appeals.

The director's decision with respect to a de minimis structure position discrepancy is appealable to the board of appeals.

(2002, ord 02-70, sec 3.)

Article 5. Zoning District Regulations.

Division 1. RS, Single-Family Residential Districts.

Section 25-5-1. Purpose and applicability.

The RS (single-family residential) district provides for lower or low and medium density residential use, for urban and suburban family life. It applies to areas having facilities, and to carry out the above stated purpose.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-2. Designation of RS districts.

Each RS (single-family residential) district shall be designated on the zoning map by the symbol "RS" followed by a number which specifies the required minimum building site area in thousands of square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-3. Permitted uses.

(a) The following uses shall be permitted in the RS district:
  (1) Adult day care homes.
  (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Crop production.
  (5) Dwellings, single-family.
  (6) Family child care homes.
  (7) Group living facilities.
  (8) Home occupations, as permitted under section 25-4-13.
  (9) Meeting facilities.
  (10) Model homes, as permitted under section 25-4-8.
  (11) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
  (12) Public uses and structures, as permitted under section 25-4-11.
  (13) Temporary real estate offices, as permitted under section 25-4-8.
  (14) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RS district, provided that a use permit is issued for each use:
  (1) Bed and breakfast establishments as permitted under section 25-4-7.
  (2) Care homes.
  (3) Churches, temples and synagogues.
  (4) Crematoriums, funeral homes, funeral services, and mortuaries.
  (5) Day care centers.
  (6) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
  (7) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
  (8) Major outdoor amusement and recreation facilities.
  (9) Schools.
  (10) Telecommunication antennas and towers.
  (11) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RS district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 3; am 2014, ord 14-86, sec 3.)

Section 25-5-4. Height limit.

The height limit in the RS district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-5. Minimum building site area.

The minimum building site area in the RS district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-6. Minimum building site average width.

Each building site in the RS district shall have a minimum average width of sixty feet, plus two feet for each five hundred square feet of required building site area in excess of seven thousand five hundred square feet, except that no building site shall be required to have an average width of more than one hundred fifty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-7. Minimum yards.

The minimum yards in the RS district shall be as follows:

(1) On a building site with a required area of seven thousand five hundred square feet to and including nine thousand nine hundred ninety-nine square feet:
   (A) Front and rear yards, fifteen feet; and
   (B) Side yards, eight feet.
(2) On a building site with a required area of ten thousand square feet to and including nineteen thousand nine hundred ninety-nine square feet:
   (A) Front and rear yards, twenty feet; and
   (B) Side yards, ten feet.
(3) On a building site with a required area of twenty thousand square feet or more:
   (A) Front and rear yards, twenty-five feet; and
   (B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 1.)

Section 25-5-8. Other regulations.

(a) There may be more than one single-family dwelling on each building site in an RS district provided there is not less than the required minimum building site area for each dwelling.
(b) One guest house, in addition to a single-family dwelling, may be located on any building site in the RS district.
(c) An ohana dwelling may be located on any building site in the RS district, as permitted under article 6, division 3 of this chapter.
(d) If a legal building site in the RS district has less area or average width than is required, then the yard requirements for the building site shall be the same as in the RS district having the largest requirements for which the building site can comply.
(e) Exceptions to the regulations for the RS district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development, or by the director within a cluster plan development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 3.)

Division 2. RD, Double-Family Residential Districts.

Section 25-5-20. Purpose and applicability.

The RD (double-family residential) district provides for moderate density use characterized by the establishment of single or double-family dwellings on each building site. It applies to areas with developed community facilities. It may occupy a transitional area between RS districts and those districts having a more intense use of land.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-21. Designation and density of RD districts.

Each RD (double-family residential district) shall be designated on the zoning map by the symbol "RD" followed by the number "3.75" which requires that the minimum land area for each dwelling unit shall be three thousand seven hundred fifty square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-22. Permitted uses.

(a) The following uses shall be permitted in the RD district:
  (1) Adult day care homes.
  (2) Bed and breakfast establishments as permitted under section 25-4-7.
  (3) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (4) Community buildings, as permitted under section 25-4-11.
  (5) Crop production.
  (6) Dwellings, double-family or duplex.
  (7) Dwellings, single-family.
  (8) Family child care homes.
  (9) Group living facilities.
  (10) Home occupations, as permitted under section 25-4-13.
  (11) Meeting facilities.
  (12) Model homes, as permitted under section 25-4-8.
  (13) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
  (14) Public uses and structures, as permitted under section 25-4-11.
  (15) Temporary real estate offices, as permitted under section 25-4-8.
  (16) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RD district, provided that a use permit is issued for each use:
  (1) Care homes.
  (2) Churches, temples and synagogues.
  (3) Crematoriums, funeral homes, funeral services, and mortuaries.
  (4) Day care centers.

(5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(7) Major outdoor amusement and recreation facilities.
(8) Schools.
(9) Telecommunication antennas and towers.
(10) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted under this section shall also be permitted in the RD district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 4; am 2014, ord 14-86, sec 4.)

Section 25-5-23. Height limit.

The height limit in the RD district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-24. Minimum building site area.

The minimum building site area in the RD district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-25. Minimum building site average width.

Each building site in the RD district shall have a minimum average width of sixty feet, plus two feet for each five hundred square feet of required building site area in excess of seven thousand five hundred square feet, except that no building site shall be required to have an average width of more than one hundred fifty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-26. Minimum yards.

The minimum yards in the RD district shall be as follows:

(1) On a building site with a required area of seven thousand five hundred square feet to and including nine thousand nine hundred ninety-nine square feet:
    (A) Front and rear yards, fifteen feet; and
    (B) Side yards, eight feet.
(2) On a building site with a required area of ten thousand square feet to and including nineteen thousand nine hundred ninety-nine square feet:
    (A) Front and rear yards, twenty feet; and
    (B) Side yards, ten feet.

(3) On a building site with a required area of twenty thousand square feet or more:
(A) Front and rear yards, twenty-five feet; and
(B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 2.)

Section 25-5-27. Other regulations.

(a) There may be more than one double-family dwelling or more than two single-family dwellings or any combination thereof on each building site in the RD district; provided that the minimum land area requirement for each dwelling unit is met.
(b) There shall be at least fifteen feet between the exterior walls of each main structure on the same building site in the RD district.
(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RD district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RD district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 3; am 2015, ord 15-33, sec 4.)

Division 3. RM, Multiple-Family Residential Districts.

Section 25-5-30. Purpose and applicability.

The RM (multiple-family residential) district provides for medium and high density residential use. It covers areas with full community facilities and services. It may occupy transition areas between commercial or industrial areas and other districts of less intense land use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-31. Designation and density of RM districts.

(a) Each RM (multiple-family residential) district shall be designated on the zoning map by the symbol "RM" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses.
(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RM district.
(c) The maximum density designation in the RM district shall be .75 or seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
(d) In the RM district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-32. Permitted uses.

(a) The following uses shall be permitted in the RM district:
- (1) Adult day care homes.
- (2) Bed and breakfast establishments, as permitted under section 25-4-7.
- (3) Boarding facilities, rooming, or lodging houses.
- (4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (5) Commercial or personal service uses, on a small scale, as approved by the director, provided that the total gross floor area does not exceed one thousand two hundred square feet and a maximum of five employees.
- (6) Community buildings, as permitted under section 25-4-11.
- (7) Crop production.
- (8) Dwellings, double-family or duplex.
- (9) Dwellings, multiple-family.
- (10) Dwellings, single-family.
- (11) Family child care homes.
- (12) Group living facilities.
- (13) Home occupations, as permitted under section 25-4-13.
- (14) Meeting facilities.
- (15) Model homes, as permitted under section 25-4-8.
- (16) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (17) Public uses and structures, as permitted under section 25-4-11.
- (18) Temporary real estate offices, as permitted under section 25-4-8.
- (19) Time share units situated in any of the following:
  - (A) Areas designated as resort under the general plan land use pattern allocation guide (LUPAG) map.
  - (B) Areas determined by the director to be within resort areas identified by the general plan land use element, except for retreat resort areas.
  - (C) Areas determined for such use by the council, by resolution.
- (20) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
- (1) Care homes.
- (2) Churches, temples and synagogues.
- (3) Crematoriums, funeral homes, funeral services, and mortuaries.
- (4) Day care centers.
- (5) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(6) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(7) Major outdoor amusement and recreation facilities.
(8) Schools.
(9) Telecommunication antennas and towers.
(10) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RM district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 5; am 2014, ord 14-86, sec 5.)

Section 25-5-33. Height limit.

(a) In areas in the County outside of the City of Hilo, the height limit in the RM district shall be forty-five feet.
(b) In the City of Hilo, the height limit in the RM district shall be one hundred twenty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-34. Minimum building site area.

The minimum building site in the RM district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-35. Minimum building site average width.

Each building site in the RM district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-36. Minimum yards.

Minimum yards in the RM district shall be as follows:

(1) Front and rear yards, twenty feet; and
(2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified 1999, ord 96-160, sec 1.)

Section 25-5-37. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RM district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999, am 2005, ord 05-155, sec 4.)

Section 25-5-38. Other regulations.

(a) There may be more than one main building on any building site in the RM district.
(b) Distance between main buildings on the same building site in the RM district shall be at least fifteen feet.
(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RM district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RM district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 5; am 2015, ord 15-33, sec 4.)

Division 4. RCX, Residential-Commercial Mixed Use Districts.

Section 25-5-40. Purpose and applicability.

The RCX (residential-commercial mixed use) district provides for the mixing of some small-scale service type commercial uses in a district that is primarily residential in character. The intent of this district is to allow a residential area to have certain convenience type of commercial uses so as to provide more of a neighborhood character to the residential area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-41. Designation and density of RCX districts.

(a) Each RCX (residential-commercial mixed use) district shall be designated on the zoning map by the symbol "RCX" followed by a number which indicates the required land area, in thousands of square feet for each dwelling unit, or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses, or for each commercial unit.
(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RCX district.
(c) The maximum density designation in the RCX district shall be .75 which means seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
(d) In the RCX district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-42. Permitted uses.

(a) The following uses shall be permitted in the RCX district:
    (1) Adult day care homes.
    (2) Bed and breakfast establishments, as permitted under section 25-4-7.
    (3) Boarding facilities, rooming, or lodging houses.

(4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(5) Churches, temples and synagogues.
(6) Commercial or personal service uses, on a small scale, as approved by the director.
(7) Community buildings, as permitted under section 25-4-11.
(8) Convenience stores.
(9) Crop production.
(10) Day care centers.
(11) Dwellings, double-family or duplex.
(12) Dwellings, multiple-family.
(13) Dwellings, single-family.
(14) Family child care homes.
(15) Group living facilities.
(16) Home occupations, as permitted under section 25-4-13.
(17) Medical clinics.
(18) Meeting facilities.
(19) Model homes, as permitted under section 25-4-8.
(20) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(21) Public uses and structures, as permitted under section 25-4-11.
(22) Restaurants.
(23) Schools.
(24) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RCX district, provided that a use permit is issued for each use:
(1) Care homes.
(2) Crematoriums, funeral homes, funeral services, and mortuaries.
(3) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(4) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(5) Major outdoor amusement and recreation facilities.
(6) Telecommunication antennas and towers.
(7) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the above uses shall also be permitted in the RCX district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 6; am 2014, ord 14-86, sec 6.)

Section 25-5-43. Height limit.

The height limit in the RCX district shall be forty-five feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-44. Minimum building site area.

The minimum building site area in the RCX district shall be seven thousand five hundred square feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-45. Minimum building site average width.

Each building site in the RCX district shall have a minimum average width of sixty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-46. Minimum yards.

Minimum yards in the RCX district shall be as follows:

(1) Front and rear yards: twenty feet; and
(2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-47. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RCX district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.
(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 6.)

Section 25-5-48. Commercial use restrictions.

(a) Where commercial uses are integrated with residential uses in the RCX district, pedestrian access to the dwelling shall be independent from other uses and shall be designed to enhance privacy for residents.
(b) No floor of any building in the RCX district shall be used for both dwelling and commercial purposes.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-49. Other regulations.

(a) There may be more than one main building on any building site in the RCX district.
(b) Distance between main buildings on the same building site in the RCX district shall be at least fifteen feet.

(c) Plan approval shall be required for all new buildings and additions to existing buildings in the RCX district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the RCX district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 7; am 2015, ord 15-33, sec 4.)

Division 5. RA, Residential and Agricultural Districts.

Section 25-5-50. Purpose and applicability.

The RA (residential and agricultural) district provides for activities or uses characterized by low density residential lots in rural areas where "city-like" concentrations of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots. The RA district is intended to be only within areas designated as being in the State land use rural or urban districts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-51. Designation of RA districts.

Each RA (residential and agricultural) district shall be designated on the zoning map by the symbol "RA" followed by a number and the lower case letter "a" which indicates the required or minimum number of acres for each building site. For example RA-1a means a residential agricultural district with a minimum building site area of one acre.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-52. Permitted uses.

(a) The following uses shall be permitted in the RA district:
  (1) Adult day care homes.
  (2) Agricultural products processing, minor, provided that the site or buildings used for such processing, shall be located at least seventy-five feet from any street bounding the building site.
  (3) Agricultural tourism as permitted under section 25-4-15.
  (4) Animal hospitals.
  (5) Aquaculture.
  (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
  (7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (8) Crop production.
  (9) Dwelling, single-family, one per building site.

(10) Family child care homes.
(11) Group living facilities.
(12) Kennels, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
(13) Livestock production (excluding pigs), provided that:
  (A) The requirements of the department of health are met;
  (B) Approval of the director is obtained; and
  (C) Any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animal shall be located at least seventy-five feet from any lot line.
(14) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
(15) Public uses and structures, as permitted under section 25-4-11.
(16) Roadside stands for the sale of agricultural products grown on the premises.
(17) Stables, commercial or boarding, provided that the building site is a minimum of five acres in area and the structures are located at least one hundred feet away from any lot line.
(18) Utility substations, as permitted under section 25-4-11.
(19) Veterinary establishments.

(b) The following uses may be permitted in the RA district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the RA district, provided that if a building site is located within the State land use rural district, the following uses may be permitted if a special permit is obtained for such use:
(1) Bed and breakfast establishments, as permitted under section 25-4-7.
(2) Community buildings, as permitted under section 25-4-11.
(3) Country clubs, tennis clubs and other similar recreational facilities which include buildings or indoor recreational features.
(4) Drive-in theaters.
(5) Guest ranches.
(6) Home occupations, as permitted under section 25-4-13.
(7) Lodges.
(8) Meeting facilities.
(9) Model homes, as permitted under section 25-4-8.
(10) Temporary real estate offices, as permitted under section 25-4-8.
(11) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the RA district, provided that either a use permit is issued for each use if the building site is within the State land use urban district or a special permit is issued for each use if the building site is within the State land use rural district:
   (1) Bed and breakfast establishments, as permitted under section 25-4-7.
   (2) Crematoriums, funeral homes, funeral services, and mortuaries.
   (3) Churches, temples and synagogues.
   (4) Day care centers.
   (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
   (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
   (7) Schools.
   (8) Yacht harbors and boating facilities.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the RA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 11; am 2010, ord 10-17, sec 4; am 2012, ord 12-28, sec 7; ord 12-124, sec 6; am 2014, ord 14-86, sec 7.)

Section 25-5-53. Height limit.

The height limit in the RA district shall be thirty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-54. Minimum building site area.

The minimum building site area in the RA district shall be one-half acre. RA districts having larger areas may be designated in increments of one-half acre up to a recommended maximum of three acres. The recommended maximum does not specify an absolute upper limit for any building site in the RA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-55. Minimum building site average width.

Each building site in the RA district shall have a minimum average width of one hundred feet for the first one-half acre of required area, plus twenty feet for each additional one-half acre of required area; provided that no building site shall be required to have an average width greater than three hundred feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-56. Minimum yards.

Minimum yards in the RA district shall be as follows:
   (1) Front and rear yards, twenty-five feet; and
   (2) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-57. Other regulations.

(a) If any legal building site in the RA district has an area less than one-half acre, then the yard and height requirements for the building site shall be the same as the yard requirements for the RS district.

(b) Plan approval shall be required prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is used for minor agricultural products processing.

(c) An ohana dwelling may be located on any building site in the RA district, as permitted under article 6, division 3 of this chapter.

(d) Exceptions to the regulations for the RA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development pursuant to article 6, division 1 of this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 6. FA, Family Agricultural Districts.

Section 25-5-60. Purpose and applicability.

The FA (family agricultural) district provides for a blend of small-scale agricultural operations associated with residential activities and which may be characterized by farm estates, small acreage farms, or subsistence lots. The FA district is intended to be in areas designated as being within the State land use agricultural district, where public services and infrastructure are appropriate to support the very low density residential needs of a rural community and where substantial number of parcels are less than five acres in size, and where a mix of uses will not conflict with or be detrimental to existing agricultural uses in the surrounding area.

In addition, this district is intended to be primarily comprised of agricultural lands less than five acres in area, which are not classified as A or B lands under the land study bureau's master productivity rating, or classified as prime, unique, or other important agricultural lands. Provided, that this district may include lands so classified if the lands are situated within an urban expansion or other urban designation under the general plan land use pattern allocation guide (LUPAG) map.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-61. Designation of FA districts.

Each FA (family agricultural) district shall be designated on the zoning map by the symbol "FA" followed by a number and the lower case letter "a" which indicates the required number of acres for each building site. For example, FA-1a means a family agricultural district with a minimum building site area of one acre.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-62. Permitted uses.

(a) The following uses shall be permitted in FA districts:

(1) Agricultural products processing, minor, provided that the area or buildings used for such processing, shall be located at least seventy-five feet from any street.

(2) Agricultural tourism as permitted under section 25-4-15.

(3) Animal hospitals.

(4) Aquaculture.

(5) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.

(6) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.

(7) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.

(8) Crop production.

(9) Dwelling, single-family, as permitted under chapter 205, Hawaiʻi Revised Statutes and as permitted under section 25-5-67(b).

(10) Farm dwellings, as permitted under section 25-5-67(b) and (c).

(11) Game and fish propagation.

(12) Group living facilities.

(13) Kennels.

(14) Livestock, grazing; provided that any feed or water area, salt lick, corral, run, barn, shed, stable, house, hutch, or other enclosure for the keeping of any permitted animals shall be located at least seventy-five feet from any lot line.

(15) Public uses and structures, necessary for agricultural practices.

(16) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest.

(17) Riding academies, and rental or boarding stables.

(18) Roadside stands for the sale of agricultural products grown on the premises.

(19) Utility substations, as permitted under section 25-4-11.

(20) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, and livestock grazing.

(21) Veterinary establishments.

(b) The following uses may be permitted in the FA district, provided that a use permit is issued for each use:

(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the FA district, provided that a special permit is obtained for such use if the building site is located within the State land use agricultural district:
  (1) Adult day care homes.
  (2) Bed and breakfast establishments, as permitted under section 25-4-7.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Family child care homes.
  (5) Home occupations, as permitted under section 25-4-13.
  (6) Meeting facilities.
  (7) Model homes, as permitted under section 25-4-8.
  (8) Public uses and structures, other than those necessary for agricultural practices, as provided under section 25-4-11.
  (9) Temporary real estate offices, as permitted under section 25-4-8.
  (10) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the FA district, provided that a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
  (1) Bed and breakfast establishments, as permitted under section 25-4-7.
  (2) Churches, temples and synagogues.
  (3) Crematoriums, funeral homes, funeral services, and mortuaries.
  (4) Day care centers.
  (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
  (6) Major outdoor amusement and recreation facilities, includes stadiums, sports arenas, and other similar open air recreational uses.
  (7) Schools.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the FA district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 12; am 2010, ord 10-17, sec 5; am 2012, ord 12-28, sec 8; ord 12-124, sec 7; am 2014, ord 14-86, sec 8.)

Section 25-5-63. Height limits.

The height limit in FA districts shall be thirty-five feet for any residential structure, including any single-family dwelling or farm dwelling, and forty-five feet for all other structures.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-64. Minimum building site area.

The minimum building site area in the FA district shall be one acre. Other FA districts having larger areas may be designated in increments of one acre up to a recommended maximum of five acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-65. Minimum building site average width.

Each building site in the FA district must have a minimum average width of one hundred twenty feet for the initial one acre of required area plus twenty feet for each additional acre of required area; provided that no building site shall be required to have an average width greater than three hundred feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-66. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards in the FA district shall be thirty feet for front and rear yards and twenty feet for side yards.
(b) In the FA district, accessory buildings and enclosures (other than fences under eight feet high) for the shelter and confinement of any livestock shall be at least thirty feet from the side and rear property lines.
(c) Appropriate additional setbacks from adjacent residential zoned lands may be required by the director for those facilities and uses which may include more frequently used machinery and equipment in order to minimize potential lighting, odor, vector and air and water quality impacts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-67. Other regulations.

(a) If any legal building site in an FA district has an area of less than one acre, then the yard and height requirements for the building site shall be the same as the yard and height requirements in the RA district.
(b) One single-family dwelling or one farm dwelling shall be permitted on any building site in the FA district. A farm dwelling is a single-family dwelling located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
(c) Additional farm dwellings may be permitted in the FA district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.
    (2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.
(d) An ohana dwelling may be located on any building site in the FA district, as permitted under article 6, division 3 of this chapter.

(e) Exceptions to the regulations for the FA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
(f) Plan approval shall be required prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is used for minor agricultural products processing.
(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 7. A, Agricultural Districts.

Section 25-5-70. Purpose and applicability.

The A (agricultural) district provides for agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-71. Designation of A districts.

Each A (agricultural) district shall be designated on the zoning map by the symbol "A" followed by a number together with the lower case letter "a" which indicates the required or minimum number of acres for each building site. For example, A-10a means an agricultural district with a minimum building site area of ten acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-72. Permitted uses.

(a) The following uses shall be permitted in the A district:
  (1) Agricultural parks.
  (2) Agricultural products processing, major and minor.
  (3) Agricultural tourism as permitted under section 25-4-15.
  (4) Animal hospitals.
  (5) Aquaculture.
  (6) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
  (7) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.
  (8) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (9) Crop production.
  (10) Dwelling, single-family, as permitted under chapter 205, Hawai'i Revised Statutes and as permitted under section 25-5-77(b).
  (11) Farm dwellings, as permitted under section 25-5-77(b) and (c).

(12) Fertilizer yards utilizing only manure and soil, for commercial use.
(13) Forestry.
(14) Game and fish propagation.
(15) Group living facilities.
(16) Kennels.
(17) Livestock production, provided that piggeries, apiaries, and pen feeding of livestock shall only be located on sites approved by the State department of health and the director, and must be located no closer than one thousand feet away from any major public street or from any other zoning district.
(18) Public uses and structures which are necessary for agricultural practices.
(19) Retention, restoration, rehabilitation, or improvement of building or sites of historic or scenic interest.
(20) Riding academies, and rental or boarding stables.
(21) Roadside stands for the sale of agricultural products grown on the premises.
(22) Utility substations, as permitted under section 25-4-11.
(23) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, livestock grazing and livestock production.
(24) Veterinary establishments.
(25) Wind energy facilities.

(b) The following uses may be permitted in the A district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf course driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Telecommunication antennas and towers.

(c) The following uses may be permitted in the A district, provided that a special permit is obtained for such use if the building site is located within the State land use agricultural district:
(1) Adult day care homes.
(2) Airfields, heliports, and private landing strips.
(3) Bed and breakfast establishments, as permitted under section 25-4-7.
(4) Community buildings, as permitted under section 25-4-11.
(5) Excavation or removal of natural building material or minerals, for commercial use.
(6) Family child care homes.
(7) Guest ranches.
(8) Home occupations, as permitted under section 25-4-13.
(9) Lodges.
(10) Meeting facilities.
(11) Model homes, as permitted under section 25-4-8.
(12) Public dumps.

(13) Public uses and structures, other than those necessary for agricultural practices, as provided under section 25-4-11.
(14) Temporary real estate offices, as permitted under section 25-4-8.
(15) Trailer parks with density of three thousand five hundred square feet of land area per trailer, provided that plan approval is secured prior to commencing such use.
(16) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai‘i Revised Statutes.

(d) The following uses may be permitted in the A district, provided that a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
(1) Bed and breakfast establishments, as permitted under section 25-4-7.
(2) Crematoriums, funeral homes, funeral services, and mortuaries.
(3) Churches, temples and synagogues.
(4) Day care centers.
(5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(6) Major outdoor amusement and recreation facilities.
(7) Schools.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the A district.

(f) No building site shall be established after December 1, 1996 which shall in any way restrict or limit aquaculture, horticulture, production of crops, keeping of livestock, game and fish propagation, or the processing, sale or other commercial use of the products of such uses.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 13; am 2010, ord 10-17, sec 6; am 2012, ord 12-28, sec 9; ord 12-124, sec 8; am 2014, ord 14-86, sec 9.)

Section 25-5-73. Height limit.

The height limit in the A district shall be thirty-five feet for any residential structure, including any single-family dwelling, or farm dwelling, and forty-five feet for all other structures. The director may, however, permit by plan approval, any nonresidential agricultural structures to be constructed to a height of one hundred feet, if the director determines that the additional height above the forty-five foot height limit is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-74. Minimum building site area.

The minimum building site area in the A district shall be five acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-75. Minimum building site average width.

Each building site in the A district shall have a minimum average width of two hundred feet for the first five acres of required area plus twenty feet for each additional acre of required area. Provided that no building site shall be required to have an average width greater than one thousand feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-76. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards in the A district shall be thirty feet for front and rear yards, and twenty feet for side yards.
(b) For accessory uses such as shade cloth structures used in controlling the amount of sunlight in the raising of plants and flowers, rear, side and front yards in the A district shall be at least ten feet, except where the A district shares common boundaries with urban zones and main government roads.
(c) For accessory uses such as plastic roofed and shade cloth wooden or metal framed structures used in controlling the amount of sunlight, rainfall, wind and other elements of nature in the raising of fruits, vegetables and similar agricultural products, rear, side and front yards shall be at least ten feet except where:
    (1) Exterior walls of any type other than shade cloth are added to the wooden or metal framed structure;
    (2) The specific use allowed is abandoned; and
    (3) The A district shares common boundaries with urban zones and main government roads.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-110, sec 1.)

Section 25-5-77. Other regulations.

(a) If any legal building site in the A district has an area of less than five acres, then the yard, minimum building site average width and height requirements for the building site shall be the same as the yard and height requirements in the FA district.
(b) One single-family dwelling or one farm dwelling shall be permitted on any building site in the A district. A farm dwelling is a single-family dwelling that is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
(c) Additional farm dwellings may be permitted in the A district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

(2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.

(d) An ohana dwelling may be located on any building site in the A district, as permitted under article 6, division 3 of this chapter.

(e) Exceptions to the regulations for the A district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 8. IA, Intensive Agricultural Districts.

Section 25-5-80. Purpose and applicability.

The IA (intensive agricultural) district provides for the preservation of important agricultural lands as provided for in the general plan and characterized by a mix of small and large scale commercial farms and other agricultural operations which may include residential use in the form of farm dwellings closely tied to intensive agricultural use. The lands in the IA district are those lands which have the soil, quality, growing season, and moisture supply needed to sustain high yields of crops generally or of specific crops of statewide or local importance when managed according to modern farming methods. All IA districts shall be located within the State land use agricultural or conservation district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-81. Designation of IA districts.

The IA (intensive agricultural) district shall be designated by the symbol "IA" followed by a number together with the lower case letter "a" which indicates the required or minimum number of acres for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-82. Permitted uses.

(a) The following uses shall be permitted in the IA district:

(1) Agricultural parks.
(2) Agricultural products processing, major and minor.
(3) Agricultural tourism as permitted under section 25-4-15.
(4) Aquaculture.
(5) Cemeteries, as permitted under chapter 6, article 1 of this Code.
(6) Crop production.
(7) Farm dwellings, as permitted under sections 25-5-87(b) and (c).
(8) Forestry.

(9) Livestock production, provided that piggeries, apiaries and pen feeding of livestock shall not be closer than one thousand feet to any major road or to any district other than the A district on building sites approved by the State department of health and the director.
(10) Public uses and structures which are necessary for agricultural practices.
(11) Utility substations, as permitted under section 25-4-11.

(b) The following uses may be permitted in the IA district, provided that a use permit is obtained for such use:
(1) Telecommunication antennas and towers.

(c) The following uses may be permitted in the IA districts, provided that a special permit is obtained for such use:
(1) Crematoriums, funeral homes, funeral services, and mortuaries.
(2) Churches, temples, or synagogues.
(3) Community buildings as permitted under section 25-4-11.
(4) Day care centers.
(5) Hospitals.
(6) Public uses and structures, other than those necessary for agricultural purposes, as permitted under section 25-4-11.
(7) Uses other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawaiʻi Revised Statutes.

(d) In IA districts in areas with over thirty percent slope, in gullies, and where rough terrain discourages intensive agricultural uses, the director may approve any other uses which are permitted in the RA, FA, or A districts.

(e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the IA district.

(f) No building site shall be established in the IA district which shall in any way restrict or limit the uses permitted under this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 14; am 2010, ord 10-17, sec 7; am 2012, ord 12-28, sec 10.)

Section 25-5-83. Height limit.

The height limit in the IA district shall be thirty-five feet for any residential structure, including any farm dwelling, and forty-five feet for all other structures. The director may, however, permit by plan approval, any nonresidential agricultural structures to be constructed to a height of one hundred feet, if the director determines that the additional height above the forty-five foot height limit is necessary.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-84. Minimum building site area.

The minimum building site area in the IA district shall be five acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-85. Minimum building site average width.

Each building site in the IA district shall have a minimum average width of two hundred feet for the first five acres of required area, plus twenty feet for each additional acre of required area. Provided that no building site shall be required to have an average width greater than one thousand feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-86. Minimum yards.

(a) Except as otherwise provided in this section, the minimum yards required in the IA district shall be thirty feet for front and rear yards, and twenty feet for side yards.
(b) For accessory uses such as shade cloth structures used in controlling the amount of sunlight in the raising of plants and flowers, rear, side and front yards in the IA district shall be at least ten feet, except where the IA district shares common boundaries with urban zones and main government roads.
(c) For accessory uses such as plastic roofed and shade cloth wooden or metal framed structures used in controlling the amount of sunlight, rainfall, wind and other elements of nature in the raising of fruits, vegetables and similar agricultural products, rear, side and front yards shall be at least ten feet except where:
    (1) Exterior walls of any type other than shade cloth are added to the wooden or metal framed structure;
    (2) The specific use allowed is abandoned; and
    (3) The IA district shares common boundaries with urban zones and main government roads.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-110, sec 2.)

Section 25-5-87. Other regulations.

(a) If any building site in the IA district has an area of less than five acres, then the minimum yards shall be the same as the yards in an FA district having an area requirement nearest to that of the subject building site in the IA district.
(b) One farm dwelling shall be permitted on any building site in the IA district, if it is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling. In the case where agricultural activity has not been established, a farm dwelling agreement shall be entered into with the County to insure that agricultural activity will be established by the applicant within three years from the date that the building permit for the farm dwelling is issued.
(c) Additional farm dwellings may be permitted in the IA district only upon the following conditions:
    (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

(2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.

(d) Exceptions to the regulations for the IA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 9. V, Resort-Hotel Districts.

Section 25-5-90. Purpose and applicability.

The V (resort-hotel) district applies to areas to accommodate the needs and desires of visitors, tourists and transient guests. It applies to specific areas where public roads and public utilities are available or where suitable alternate private facilities are assured. It may apply to a single isolated hotel or resort with or without a commercial mall or shopping section.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-91. Designation and density of V districts.

(a) Each V (resort-hotel) district shall be designated on the zoning map by the symbol "V" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of hotels, resorts, inns, lodges, motels, motor hotels, motor lodges, or other similar rentable units.

(b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the V district.

(c) Maximum density designation in the V district shall be .75 or seven hundred fifty square feet of land area for each dwelling unit or separate rentable unit.

(d) In the V district, no limitation shall be placed on the increments used between the various density designations; however, the recommended incremental density designations are: .75, 1, 1.25, 1.5 and upward in 0.25 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-92. Permitted uses.

(a) The following uses shall be permitted in the V district:

(1) Adult day care homes.

(2) Amusement and recreational facilities, indoor.

(3) Art galleries, museums.

(4) Automobile service stations.

(5) Bars, night clubs and cabarets.

(6) Bed and breakfast establishments, as permitted under section 25-4-7.
(7) Business services.
(8) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(9) Churches, temples, and synagogues.
(10) Commercial parking lots and garages.
(11) Community buildings, as permitted under section 25-4-11.
(12) Day care centers.
(13) Dwellings, double-family or duplex.
(14) Dwellings, multiple-family.
(15) Dwellings, single-family.
(16) Family child care homes.
(17) Financial institutions.
(18) Group living facilities.
(19) Home occupations, as permitted under section 25-4-13.
(20) Hotels.
(21) Lodges.
(22) Medical clinics.
(23) Meeting facilities.
(24) Major outdoor amusement and recreation facilities.
(25) Model homes, as permitted under section 25-4-8.
(26) Parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities.
(27) Personal services.
(28) Photography studios.
(29) Public uses and structures, as permitted under section 25-4-11.
(30) Restaurants.
(31) Retail establishments.
(32) Telecommunication antennas, as permitted under section 25-4-12.
(33) Temporary real estate offices, as permitted under section 25-4-8.
(34) Theaters.
(35) Time share units.
(36) Utility substations, as permitted under Section 25-4-11.
(37) Visitor information centers.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the V district, provided that a use permit is issued for each use:
(1) Crematoriums, funeral homes, funeral services, and mortuaries.
(2) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(3) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
(4) Schools.
(5) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the V district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2011, ord 11-26, sec 2; am 2012, ord 12-28, sec 11; am 2014, ord 14-86, sec 10.)

Section 25-5-93. Height limit.

(a) The height limit in the V district shall be forty-five feet, except in those areas designated in subsections (b) and (c) below.
(b) The height limit in the V district in the City of Hilo shall be one hundred twenty feet.
(c) The height limit in the V district at Keauhou Bay and Kahaluu Bay shall be ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-94. Minimum building site area.

The minimum building site in the V district shall be fifteen thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-95. Minimum building site average width.

Each building site in the V district shall have a minimum average width of ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-96. Minimum yards.

The minimum yards in the V district shall be as follows:

(1) Front and rear yards, twenty feet; and
(2) Side yards, eight feet for one story, and an additional two feet for each additional story.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-97. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the V district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 8.)

Section 25-5-98. Other regulations.

(a) More than one main building may be situated on any building site in the V district.
(b) The distance between main buildings on one building site in the V district shall be at least fifteen feet.

(c) Plan approval shall be required for all new structures and additions to existing structures in the V district, except for construction of one single-family dwelling and any accessory buildings per lot.
(d) Exceptions to the regulations for the V district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 9; am 2015, ord 15-33, sec 4.)

Division 10. CN, Neighborhood Commercial Districts.

Section 25-5-100. Purpose and applicability.

The CN (neighborhood commercial) district applies to strategically located centers suitable for commercial activities which shall be of such size and shape as will accommodate a compact shopping center which supplies goods and services to a residential or working population on a frequent need or convenience basis. This district is distinguished from a central commercial district which provides general business and broad services to a city or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-101. Designation of CN districts.

Each CN (neighborhood commercial) district shall be designated by the symbol "CN" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-102. Permitted uses.

(a) The following uses shall be permitted in the CN district:
  (1) Adult day care homes.
  (2) Automobile service stations.
  (3) Bed and breakfast establishments, as permitted under section 25-4-7.
  (4) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
  (5) Business services.
  (6) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (7) Churches, temples and synagogues.
  (8) Community buildings, as permitted under section 25-4-11.
  (9) Convenience stores.
  (10) Crematoriums, funeral homes, funeral services, and mortuaries.
  (11) Crop production.
  (12) Day care centers.

(13) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(14) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(15) Dwellings, single-family.
(16) Family child care homes.
(17) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(18) Financial institutions.
(19) Group living facilities.
(20) Home occupations, as permitted under section 25-4-13.
(21) Medical clinics.
(22) Meeting facilities.
(23) Model homes, as permitted under section 25-4-8.
(24) Museums.
(25) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(26) Offices.
(27) Personal services.
(28) Photography studios.
(29) Public uses and structures, as permitted under section 25-4-11.
(30) Repair establishments, minor.
(31) Restaurants.
(32) Retail establishments.
(33) Schools.
(34) Telecommunication antennas, as permitted under section 25-4-12.
(35) Theaters.
(36) Utility substations as permitted under Section 25-4-11.

(b) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the CN district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 12.)

Section 25-5-103. Height limit.

The height limit in the CN district shall be forty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-104. Minimum building site area.

The minimum building site area in the CN district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-105. Minimum building site average width.

Each building site in the CN district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-106. Minimum yards.

The minimum yards in the CN district shall be as follows:

(1) Front and rear yards, fifteen feet; and

(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM, RCX or V district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM, RCX or V district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-107. Landscaping of yards.

(a) All front yards in the CN district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(b) Where any required side or rear yard in the CN district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 10.)

Section 25-5-108. Other regulations.

(a) In conjunction with plan approval, the director may require the construction of a continuous eave overhanging the front property line in the CN district. The director may also require that the eave be of similar height and design in any one block of the CN district.

(b) Plan approval shall be required for all new structures and additions to existing structures in the CN district, except for construction of one single-family dwelling and any accessory buildings per lot.

(c) Exceptions to the regulations for the CN district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 11; am 2015, ord 15-33, sec 4.)

Division 11. CG, General Commercial Districts.

Section 25-5-110. Purpose and applicability.

(a) The CG (general commercial) district applies to an area suitable for commercial uses and services on a broad basis to serve as the central shopping or principal downtown area for a city or a region.

(b) No CG district shall be established until there is a demonstrated need for such action and no two CG districts shall be established in such relationship to each other that they cannot act as one center and yet are too close together to serve two distinct regions.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-111. Designation of CG districts.

Each CG (general commercial) district shall be designated by the symbol "CG" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-112. Permitted uses.

(a) The following uses shall be permitted uses in the CG district:

(1) Adult day care homes.
(2) Amusement and recreation facilities, indoor.
(3) Art galleries, museums.
(4) Art studios.
(5) Automobile service stations.
(6) Automobile sales and rentals.
(7) Bars, nightclubs and cabarets.
(8) Bed and breakfast establishments, as permitted under section 25-4-7.
(9) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(10) Broadcasting stations.
(11) Business services.
(12) Car washing, provided that if it is mechanized, sound attenuated structures or sound attenuated walls shall be erected and maintained on the property lines.
(13) Catering establishments.
(14) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.

(15) Churches, temples and synagogues.
(16) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleansing agent.
(17) Commercial parking lots and garages.
(18) Community buildings, as permitted under section 25-4-11.
(19) Convenience stores.
(20) Crematoriums, funeral homes, funeral services, and mortuaries.
(21) Crop production.
(22) Day care centers.
(23) Display rooms for products sold elsewhere.
(24) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(25) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
(26) Dwellings, single-family.
(27) Equipment sales and rental yards, and other yards where retail products are displayed in the open.
(28) Family child care homes.
(29) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(30) Financial institutions.
(31) Group living facilities.
(32) Home occupations, as permitted under section 25-4-13.
(33) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(34) Hotels.
(35) Ice storage and dispensing facilities.
(36) Laboratories, medical and research.
(37) Laundries.
(38) Light manufacturing, processing and packaging, where the only retail sales outlet for products produced is on the premises where produced.
(39) Medical clinics.
(40) Meeting facilities.
(41) Model homes, as permitted under section 25-4-8.
(42) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(43) Offices.

(44) Personal services.
(45) Photography studios.
(46) Public uses and structures, as permitted under section 25-4-11.
(47) Printing shops, cartographing and duplicating processes such as blueprinting or photostating shops.
(48) Repair establishments, minor.
(49) Restaurants.
(50) Retail establishments.
(51) Schools.
(52) Telecommunication antennas, as permitted under section 25-4-12.
(53) Theaters.
(54) Time share units.
(55) Utility substations, as permitted under section 25-4-11.
(56) Veterinary establishments.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CG district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Major outdoor amusement and recreation facilities.
(3) Yacht harbors and boating facilities.

(c) Residential uses in connection with the operation of any permitted use shall be permitted in the CG district.

(d) Buildings and uses normally considered accessory to the uses permitted in this section shall also be permitted in the CG district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 13; am 2014, ord 14-86, sec 11.)

Section 25-5-113. Height limit.

(a) The height limit in the CG district shall be forty-five feet, except in those areas designated in subsection (b) below.

(b) The height limit in the City of Hilo shall be one hundred twenty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2002, ord 02-88, sec 2.)

Section 25-5-114. Minimum building site area.

The minimum building site area in the CG district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-115. Minimum building site average width.

Each building site in the CG district shall have a minimum building site average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-116. Minimum yards.

The minimum yards in the CG district shall be as follows:

(1) Front or rear yards, fifteen feet; and

(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-117. Landscaping of yards.

(a) All front yards in the CG district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(b) Where any required side or rear yard in the CG district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 12.)

Section 25-5-118. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the CG district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) Exceptions to the regulations for the CG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 13; am 2015, ord 15-33, sec 4.)

Division 12. CV, Village Commercial Districts.

Section 25-5-120. Purpose and applicability.

The CV (village commercial) district provides for a broad range or variety of commercial and light industrial uses that are necessary to serve the population in rural areas where the supplementary support of the general business uses and activities of a central commercial district is not readily available.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-121. Designation of CV districts.

Each CV (village commercial) district shall be designated by the symbol "CV" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-122. Permitted uses.

(a) The following uses shall be permitted in the CV district:
- (1) Adult day care homes.
- (2) Amusement and recreation facilities, indoor.
- (3) Art galleries, museums.
- (4) Automobile sales and rentals.
- (5) Automobile service stations.
- (6) Bars.
- (7) Bed and breakfast establishments, as permitted under section 25-4-7.
- (8) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (9) Business services.
- (10) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (11) Churches, temples and synagogues.
- (12) Commercial parking lots and garages.
- (13) Community buildings, as permitted under section 25-4-11.
- (14) Convenience stores.
- (15) Crematoriums, funeral homes, funeral services, and mortuaries.
- (16) Crop production.
- (17) Day care centers.
- (18) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (19) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
- (20) Dwellings, single-family.
- (21) Family child care homes.
- (22) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
- (23) Financial institutions.

(24) Group living facilities.
(25) Home occupations, as permitted under section 25-4-13.
(26) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(27) Hotels, when the design and use conform to the character of the area, as approved by the director.
(28) Laboratories, medical and research.
(29) Lodges.
(30) Manufacturing, processing and packaging light and general, except for concrete or asphalt products, where the products are distributed to retail establishments located in the immediate community, as approved by the director.
(31) Medical clinics.
(32) Meeting facilities.
(33) Model homes, as permitted under section 25-4-8.
(34) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(35) Offices.
(36) Personal services.
(37) Photography studios.
(38) Public uses and structures, as permitted under section 25-4-11.
(39) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops, which are designed to primarily serve the local area.
(40) Repair establishments, major, when there are not more than five employees, as approved by the director.
(41) Repair establishments, minor.
(42) Restaurants.
(43) Retail establishments.
(44) Schools.
(45) Telecommunication antennas, as permitted under section 25-4-12.
(46) Temporary real estate offices, as permitted under section 25-4-8.
(47) Theaters.
(48) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CV district, provided that a use permit is issued for each use:
(1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
(2) Major outdoor amusement and recreation facilities.
(3) Yacht harbors and boating facilities.

(c) Residential uses in connection with the operation of any permitted uses shall be permitted in the CV district.
(d) Buildings and uses similar to the permitted uses listed in subsection (a) above shall be permitted in the CV district, as approved by the director.
(e) Buildings and uses normally considered accessory to the uses permitted in this section shall also be permitted in the CV district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 14; am 2014, ord 14-86, sec 12.)

Section 25-5-123. Height limit.

The height limit in the CV district shall be thirty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-124. Minimum building site area.

The minimum building site area in the CV district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-125. Minimum building site average width.

Each building site in the CV district shall have a minimum building site average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-126. Minimum yards.

The minimum yards in the CV district shall be as follows:

(1) Front or rear yards, fifteen feet; and
(2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-127. Landscaping of yards.

(a) All front yards in the CV district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.
(b) Where any required side or rear yard in the CV district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 14.)

Section 25-5-128. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the CV district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) Exceptions to the regulations for the CV district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 15; am 2015, ord 15-33, sec 4.)

Division 13. MCX, Industrial-Commercial Mixed Districts.

Section 25-5-130. Purpose and applicability.

The purpose of the MCX (industrial-commercial mixed use) district is to allow mixing of some industrial uses with commercial uses. The intent of this district is to provide for areas of diversified businesses and employment opportunities by permitting a broad range of uses, without exposing nonindustrial uses to unsafe and unhealthy environments. This district is intended to promote and maintain a viable mix of light industrial and commercial uses.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-131. Designation of MCX districts.

Each MCX (industrial-commercial mixed use) district shall be designated by the symbol "MCX" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-132. Permitted uses.

(a) The following uses shall be permitted in the MCX district:

(1) Agricultural products processing, minor.
(2) Amusement and recreation facilities, indoor.
(3) Art galleries, museums.
(4) Art studios.
(5) Automobile sales and rentals.
(6) Automobile service stations.
(7) Bars, nightclubs and cabarets.
(8) Broadcasting stations.
(9) Business services.
(10) Car washing.
(11) Catering establishments.
(12) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(13) Churches, temples and synagogues.

(14) Cleaning plants using only nonflammable hydrocarbons in a sealed unit as the cleaning agent.
(15) Commercial parking lots and garages.
(16) Community buildings, as permitted under section 25-4-11.
(17) Convenience stores.
(18) Crematoriums, funeral homes, funeral services, and mortuaries.
(19) Data processing facilities.
(20) Display rooms for products sold elsewhere.
(21) Equipment sales and rental yards.
(22) Farmers markets.
(23) Financial institutions.
(24) Food manufacturing and processing.
(25) Home improvement centers.
(26) Ice storage and dispensing facilities.
(27) Kennels in sound-attenuated buildings.
(28) Laboratories, medical and research.
(29) Laundries.
(30) Manufacturing, processing and packaging establishments, light.
(31) Medical clinics.
(32) Meeting facilities.
(33) Model homes.
(34) Motion picture and television production studios.
(35) Offices.
(36) Personal services.
(37) Photographic processing.
(38) Photography studios.
(39) Plant nurseries.
(40) Public uses and structures, as permitted under section 25-4-11.
(41) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(42) Repair establishments, minor.
(43) Restaurants.
(44) Retail establishments.
(45) Sales and service of machinery used in agricultural production.
(46) Schools, business.
(47) Schools, photography, art, music and dance.
(48) Schools, vocational.
(49) Self-storage facilities.
(50) Telecommunications antennas, as permitted under section 25-4-12.
(51) Temporary real estate offices, as permitted under section 25-4-8.
(52) Theaters.
(53) Utility substations, as permitted under section 25-4-11.
(54) Veterinary establishments in sound-attenuated buildings.

(55) Warehousing.
(56) Wholesaling and distribution operations.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the MCX district, provided that a use permit is issued for each use:
(1) Major outdoor amusement and recreation facilities.
(2) Schools.
(3) Yacht harbors and boating facilities.

(c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MCX district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2003, ord 03-113, sec 1; am 2011, ord 11-26, sec 3; am 2012, ord 12-28, sec 15.)

Section 25-5-133. Height limit.

The height limit in the MCX district shall be forty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-134. Minimum building site area.

The minimum building site area in the MCX district shall be twenty thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-135. Minimum building site average width.

Each building site in the MCX district shall have a minimum building site average width of ninety feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-136. Minimum yards.

The minimum yards in the MCX district shall be as follows:
(1) Front yards, twenty feet; and
(2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX zoned district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-137. Landscaping of yards.

(a) All front yards in the MCX district shall be landscaped, except for necessary access drives and walkways.

(b) Any required side or rear yard in the MCX district adjoining a building site in an RS, RD, RM or RCX district, shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-138. Other regulations.

(a) Plan approval shall be required for all new structures and additions to existing structures in the MCX district.

(b) Exceptions to the regulations for the MCX district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 14. ML, Limited Industrial Districts.

Section 25-5-140. Purpose and applicability.

The ML (limited industrial) district applies to areas for business and industrial uses which are generally in support of but not necessarily compatible with those permissible activities and uses in other commercial districts.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-141. Designation of ML districts.

Each ML (limited industrial) district shall be designated by the symbol "ML" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-142. Permitted uses.

(a) The following uses shall be permitted in the ML district:

(1) Agricultural products processing, minor.
(2) Airfields, heliports and private landing strips.
(3) Animal hospitals.
(4) Animal quarantine stations.
(5) Aquaculture activities.
(6) Automobile and truck storage facilities.
(7) Automobile and truck sales and rentals.
(8) Automobile service stations.
(9) Bakeries.
(10) Bars.
(11) Broadcasting stations.
(12) Car washing.
(13) Carpentry, hardwood products and furniture manufacturing and storage establishments.
(14) Catering establishments.
(15) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(16) Churches, temples and synagogues.
(17) Cleaning and dyeing plants.

(18) Commercial parking lots and garages.
(19) Community buildings, as permitted under section 25-4-11.
(20) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
(21) Crematoriums, funeral homes, funeral services, and mortuaries.
(22) Day care centers.
(23) Financial institutions.
(24) Food manufacturing and processing facilities.
(25) Greenhouses, plant nurseries.
(26) Heavy equipment sales, service and rental.
(27) Home improvement centers.
(28) Junkyards, provided that the building site is not less than one acre in area.
(29) Laboratories, medical and research.
(30) Laundries.
(31) Lumberyards and building material yards, but not including concrete or asphalt mixing and the fabrication by riveting or welding of steel building frames.
(32) Manufacturing, processing and packaging establishments, light.
(33) Motion picture and television production studios.
(34) Photographic processing.
(35) Plumbing, electrical, air conditioning and heating establishments.
(36) Public uses and structures, as permitted under section 25-4-11.
(37) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(38) Recycling centers, which do not involve the processing of recyclable materials.
(39) Repair establishments, minor.
(40) Restaurants.
(41) Self storage facilities.
(42) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
(43) Telecommunication antennas, as permitted under section 25-4-12.
(44) Temporary real estate offices, as permitted under section 25-4-8.
(45) Transportation and tour terminals.
(46) Truck, freight and draying terminals.
(47) Utility facilities, public and private, including offices or yards for equipment, material, vehicle storage, repair or maintenance.
(48) Utility substations, as permitted under section 25-4-11.
(49) Veterinary establishments.
(50) Vocational schools.
(51) Warehousing, which does not include retail sales or discount houses or establishments open to the general public or defined members.
(52) Wholesaling and distribution, including the storage of incidental materials and equipment, except for highly flammable or explosive products.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the ML district, provided that a use permit is issued for each use:
  (1) Major outdoor amusement and recreation facilities.
  (2) Schools.
  (3) Yacht harbors and boating facilities.
(c) The following uses may be permitted in the ML district as incidental and subordinate to any permitted use:
  (1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
  (2) Retail sales.
  (3) Services for persons working in an ML district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.
(d) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the ML district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2011, ord 11-26, sec 4; am 2012, ord 12-28, sec 16.)

Section 25-5-143. Height limit.

The height limit in the ML district shall be forty-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-144. Minimum building site area.

The minimum building site area in the ML district shall be ten thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-145. Minimum building site average width.

Each building site in the ML district shall have a minimum building site average width of seventy-five feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-146. Minimum yards.

Minimum yards in the ML district shall be as follows:
  (1) Front yard, fifteen feet; and
  (2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-147. Other regulations.

(a) All front yards in the ML district shall be landscaped, except for drives and walkways.

(b) Where any required side or rear yard in the ML district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, along the side or rear property lines so adjoining, except for necessary drives and walkways.

(c) Plan approval shall be required for all new structures and additions to existing structures in the ML district.

(d) Exceptions to the regulations for the ML district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 15. MG, General Industrial Districts.

Section 25-5-150. Purpose and applicability.

The MG (general industrial) district applies to areas for uses that are generally considered to be offensive or have some element of danger.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-151. Designation of MG districts.

Each MG (general industrial) district shall be designated by the symbol "MG" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site, or if the number is followed by the symbol "a," by the minimum number of acres required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-152. Permitted uses.

(a) The following uses shall be permitted in the MG district:

(1) Agricultural products processing, major and minor.
(2) Airfields, heliports and private landing strips.
(3) Animal hospitals.
(4) Animal quarantine stations.
(5) Animal sales, stock, and feed yards.
(6) Aquaculture activities and facilities.
(7) Automobile and truck storage facilities.
(8) Automobile body and fender establishments.
(9) Automobile service stations.
(10) Bakeries.
(11) Bars.
(12) Breweries, distilleries, and alcohol manufacturing facilities.
(13) Broadcasting stations.

(14) Bulk storage of flammable products and bulk storage of explosive products.
(15) Car washing.
(16) Catering establishments.
(17) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
(18) Churches, temples and synagogues.
(19) Cleaning and dyeing plants.
(20) Commercial parking lots and garages.
(21) Community buildings, as permitted under section 25-4-11.
(22) Concrete or asphalt batching and mixing plants and yards.
(23) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
(24) Crematoriums, funeral homes, funeral services, and mortuaries.
(25) Day care centers.
(26) Dumping, disposal, incineration, or reduction of refuse or waste matter.
(27) Expansion of an existing commercial excavation operation, provided that plan approval is secured from the director.
(28) Fabricating establishments.
(29) Fertilizer manufacturing plants.
(30) Financial institutions.
(31) Food manufacturing and processing facilities.
(32) Freight movers.
(33) Greenhouses, plant nurseries.
(34) Heavy equipment sales, service and rental.
(35) Home improvement centers.
(36) Junkyards.
(37) Kennels.
(38) Laboratories, medical and research.
(39) Laundries.
(40) Lava rock or stone cutting or shaping facilities.
(41) Lumberyards and building material yards.
(42) Machine, welding, sheet metal, and metal plating and treating establishments.
(43) Manufacturing, processing and packaging establishments, light and general.
(44) Marine railways, drydocks, and ship or boat yards.
(45) Motion picture and television production studios.
(46) Photographic processing.
(47) Public dumps.
(48) Public uses and structures, as permitted under section 25-4-11.
(49) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
(50) Recycling centers.
(51) Reduction, refining, smelting, or alloying of metals, petroleum products or ores.

(52) Repair establishments, major and minor.
(53) Restaurants.
(54) Saw mills.
(55) Self storage facilities.
(56) Slaughterhouses.
(57) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
(58) Storage, curing, or tanning of raw, green, or salted hides or skins.
(59) Telecommunication antennas, as permitted under section 25-4-12.
(60) Temporary real estate offices, as permitted under section 25-4-8.
(61) Transportation and tour terminals.
(62) Truck, freight and draying terminals.
(63) Utility facilities, public and private, including power plants, offices or yards for equipment, material, vehicle storage, repair or maintenance.
(64) Utility substations, as permitted under section 25-4-11.
(65) Veterinary establishments.
(66) Warehousing.
(67) Wholesaling and distribution, including the storage of incidental materials and equipment.
(68) Yacht harbors and boating facilities.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the MG district, provided that a use permit is issued for each use:
(1) Commercial excavation.
(2) Major outdoor amusement and recreation facilities.
(3) Schools.

(c) Any other use not otherwise permitted in subsection (a) that relates to the manufacturing, transportation, processing, assembling, distributing, repairing, and storage of goods, products, or materials, shall be permitted in the MG district.

(d) The following uses shall be permitted in the MG district as incidental and subordinate to any permitted use:
(1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
(2) Retail sales.
(3) Services for persons working in an MG district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.

(e) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MG district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-68, sec 2; am 2011, ord 11-26, sec 5; am 2012, ord 12-28, sec 17.)

Section 25-5-153. Height limit.

The height limit in the MG district shall be fifty feet. An industrial structure may be built to a height of one hundred feet, provided the extra height is determined by the director to be functionally necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-154. Minimum building site area.

The minimum lot area in the MG district shall be twenty thousand square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-155. Minimum building site average width.

Each building site in the MG district shall have a minimum building site average width of one hundred feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-156. Minimum yards.

The minimum yards in the MG district shall be as follows:

(1) Front yard, twenty feet; and

(2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-157. Other regulations.

(a) All front yards in the MG district shall be landscaped, except for drives and walkways.

(b) Where any required side or rear yard in the MG district adjoins a building site in an RS, RD, RM or RCX district, a solid wall six feet in height shall be erected and maintained along the side and rear property lines so adjoining.

(c) Plan approval shall be required for all new structures and additions to existing structures in the MG district.

(d) Exceptions to the regulations for the MG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4.)

Division 16. O, Open Districts.

Section 25-5-160. Purpose and applicability.

The O (open) district applies to areas that contribute to the general welfare, the full enjoyment, or the economic well-being of open land type use which has been established, or is proposed. The object of this district is to encourage development around it such as a golf course and park, and to protect investments which have been or shall be made in reliance upon the retention of such open type use, to buffer an otherwise incompatible land use or district, to preserve a valuable scenic vista or an area of special historical significance, or to protect and preserve submerged land, fishing ponds, and lakes (natural or artificial tide lands).
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-161. Designation of O districts.

Each O (open) district shall be designated by the symbol "O."
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-162. Permitted uses.

(a) The following uses shall be permitted in the O district:
  (1) Aquaculture activities and facilities.
  (2) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
  (3) Community buildings, as permitted under section 25-4-11.
  (4) Existing churches and temples of historical significance.
  (5) Forestry.
  (6) Game preserves.
  (7) Growing of plants provided such growth does not impair a view intended to be preserved in the O district.
  (8) Heiaus, historical areas, structures, and monuments.
  (9) Natural features, phenomena, and vistas as tourist attractions.
  (10) Private recreational uses involving no aboveground structure except dressing rooms and comfort stations.
  (11) Public parks.
  (12) Public uses and structures, as permitted under section 25-4-11.
  (13) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the O district, provided that a use permit is issued for each use:
  (1) Crematoriums, funeral homes, funeral services, and mortuaries.
  (2) Golf courses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.

(3) Yacht harbors and boating facilities; provided that the use, in its entirety, is compatible with the stated purpose of the O district.
(4) Wind energy facilities; provided that the property is within the state land use agricultural district.
(5) Telecommunication antennas.

(c) Uses considered directly accessory to the uses permitted in this section shall also be permitted in the O district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-2, sec 3; ord 08-46, sec 1; am 2011, ord 11-25, secs 3 and 4; am 2012, ord 12-28, sec 18; am 2014, ord 14-86, sec 13.)

Section 25-5-163. Height limit.

There shall be no height limit in the O district, except as specified as a condition of approval attached to any use permit or plan approval. For this purpose, the height limit in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-164. Minimum building site area.

There shall be no minimum building site area in the O district, except as a condition of approval attached to any plan approval. For this purpose, the minimum building site area regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-165. Minimum building site average width.

There shall be no minimum building site average width in the O district, except as specified as a condition of approval attached to any plan approval. For this purpose the minimum building site average width regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-166. Minimum yards.

There shall be no minimum yards in the O district, except as specified as a condition of approval attached to any plan approval. For this purpose, the minimum yard regulations in the adjoining districts shall be used as guides.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-167. Other regulations.

Plan approval shall be required for all new structures and additions to existing structures in the O district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Article 6. Optional Development Regulations.

Division 1. Planned Unit Development (P.U.D.).

Section 25-6-1. Purpose.

The purpose of planned unit development (P.U.D.) is to encourage comprehensive site planning that is compatible with the surrounding community and that adapts the design of development to the land, by allowing diversification in the relationships of various uses, buildings, structures, open spaces and yards, building heights, and lot sizes in planned building groups, while still insuring that the intent of this chapter is observed.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-2. Minimum land area required.

The minimum land area required for a P.U.D. shall be two acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-3. Application for P.U.D. permit; requirements.

An application for a P.U.D. permit shall be on a form prescribed for this purpose by the director on behalf of the commission and shall be accompanied by:

(1) A filing fee of $500.

(2) A written description of the proposed project, including the following information:

  (A) A description of the property in sufficient detail to determine the precise location of the property involved;

  (B) A statement of objectives and reasons for the requested P.U.D. permit, including an analysis of how the request satisfies the standards contained in section 25-6-10;

  (C) A list of all requested deviations from the requirements of chapter 23 (subdivisions) and chapter 25 (zoning), Hawai‘i County Code;

  (D) A schedule for the timetable of the proposed development; and

  (E) An analysis of the relationship of the proposed development to the general plan, any adopted community development plan, other adopted master plan, and if applicable, any other adopted design guidelines and/or standards affecting the project area.

(3) Drawings and plans comprising a general development plan covering the entire area of the P.U.D., and providing the following information:

  (A) Uses, dimensions, and locations of proposed structures;

  (B) Widths, alignments, and improvements of proposed streets and pedestrian and drainage ways;

  (C) Any proposed subdivision of property for individual parcel sale;

  (D) Parking areas;

(E) Public areas and uses; and
(F) Landscaping and open spaces.

(4) Architectural drawings for all buildings demonstrating the design and character of the proposed buildings and uses. If the project area is within a district established under article 7 of this chapter for which design guidelines and/or standards have been adopted that are applicable to single-family dwellings, architectural drawings shall be required for all buildings including single-family dwellings.

(5) A list of the names, addresses and tax map key numbers of all surrounding owners and lessees of property interests in property within the boundaries established by section 25-2-4.

(6) Any other information or plans required by rules adopted by the commission in accordance with chapter 91, Hawaiʻi Revised Statutes.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2; ord 15-45, sec 6.)

Section 25-6-4. Notice of action on P.U.D. application.

(a) Upon acceptance of a P.U.D. application, the commission, through the department, shall fix a date for action on the application. Within ten days after receiving notice of such date, the applicant shall serve notice of the application on surrounding owners and lessees of record, as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the P.U.D. permit sought. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(b) The public hearing shall be commenced no later than ninety days after the acceptance of a P.U.D. application by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 6; am 2015, ord 15-33, sec 2.)

Section 25-6-5. Procedure for processing application when use not permitted in district.

An application for a P.U.D. permit that proposes a use not permitted either directly or as a conditional use within a district may be considered by the commission only if a separate application for a change of zone is filed concurrently with or prior to the P.U.D. permit application. The P.U.D. permit application and the change of zone application shall be considered concurrently, and any P.U.D. approved by the commission shall be effective only when the change of zone ordinance becomes effective.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-6. Actions by commission on P.U.D. permit applications.

(a) Within ninety days after acceptance of a P.U.D. permit application or within a longer time period as may be agreed to or requested by the applicant, the commission shall conduct a public hearing(s), and within sixty days following the close of such public hearing(s), either deny or approve the application, subject to conditions as imposed by the commission.

(b) The conditions imposed by the commission shall bear a reasonable relationship to the P.U.D. permit issued, and to the approved uses, and plans of district standards; provided, however, that no improvements or alterations off-site of the project shall be required as a condition of a P.U.D. permit. The conditions may include, but not be limited to the following:

(1) Commencement and completion time frame for the project;
(2) Boundary and density reallocations approved for the project;
(3) Uses that are prohibited or limited;
(4) Specifications for the minimum development standards;
(5) Specifications for street improvement and dedication;
(6) Utilities to be furnished;
(7) The extent and limitations upon the uses permitted; and
(8) Compliance with representations made by the applicant.

(c) If the commission fails to render a decision within the prescribed sixty-day period, the application shall be considered as being approved, provided that no written objection to the P.U.D. permit application is received by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-7. P.U.D. permit application and processing requirements located within special districts with design guidelines and/or standards.

(a) In addition to the application requirements for a P.U.D. contained in section 25-6-3, an application for a P.U.D. in any special district established under article 7 of this chapter for which design guidelines or standards have been adopted by the council, excluding any special district having adopted design guidelines and/or standards established under this chapter prior to adoption of this subsection, shall include:

(1) Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures;
(2) A description of exterior siding, roofing, and finish materials;
(3) Exterior door and window specifications;
(4) Description, location, and renderings for any exterior signage;
(5) A streetscape rendering of the project site and adjacent properties suitable for evaluating the immediate spatial relationships. Photographic images may be substituted provided those images are adequate to serve the same purpose;

(6) Other descriptive information as the director, on behalf of the commission, finds necessary to determine consistency of the proposed project with the design guidelines and/or standards adopted for the special district in which the project building site is located.

(b) The P.U.D. application and plans shall be subject to review and comment by the design review committee established under the respective special district section under article 7 for consistency with the adopted design guidelines and/or standards.

(c) The director, on behalf of the commission shall, within five days of acceptance of a P.U.D. application, provide the respective design review committee with a copy of the application and plans along with a request for their review and comments on the consistency of the project with the adopted design guidelines and/or standards.

(d) The written recommendations and plans stamped "Reviewed by" with the date and signature of the chair of the respective design review committee affixed shall be submitted to the director, on behalf of the commission within twenty-five calendar days of receipt by the design review committee of the final plans for any partial or full approval of a P.U.D. application as provided in subsections 25-6-6(c) or (d) above.

(e) Except as otherwise provided in this section, the director shall withhold providing a recommendation to the commission on any partial or full approval of a P.U.D. application until having received the written recommendations and stamped and signed plans from the chair of the respective design review committee for the application.

(f) By written request to the director on behalf of the commission, the chair of the respective design review committee may request an extension of time to complete the design review and to submit the recommendations of the design review committee, which the director on behalf of the commission may grant only with the written approval of the applicant for P.U.D.

(g) In the event that no design review committee is established, or if the design review committee, for whatever reason, fails to respond within the time limit prescribed in subsection (d), the director shall provide design review against the relevant design guidelines and/or standards as adopted by the council.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-112, sec 12; am 2015, ord 15-45, sec 7.)

Section 25-6-8. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 14.)

Section 25-6-9. Repealed.
(1996, ord 96-160, sec 2; ratified April 6, 1999; rep 1999, ord 99-112, sec 15.)

Section 25-6-10. Criteria for granting a P.U.D. permit.

A P.U.D. permit may be granted by the commission upon finding that:

(a) The construction of the project can begin and be completed within a reasonable period of time from the date of full approval.

(b) The proposed development substantially conforms to the general plan, any adopted community development plan, other adopted master plan, and if applicable, any adopted design guidelines and/or standards affecting the project area.

(c) Any residential or agricultural development shall constitute an environment of sustained desirability and stability for the district that is in harmony with the character of the surrounding area, that results in an intensity of land use no higher than that otherwise specified for the district, and that maintains the standards of open space at least as high as that otherwise specified for the district in which the development occurs.

(d) Any commercial development shall not create traffic congestion which exceeds that which would have been produced under conventional development patterns, practices and standards in the district or interfere with any projected public improvements, shall provide for proper entrances and exits along with proper provisions for internal traffic and parking, and be an attractive center which does not adversely impact upon adjacent and surrounding existing or prospective developments.

(e) Any industrial development shall be in conformity with desirable performance standards and shall constitute an efficient and well organized development with adequate provisions for freight service and necessary storage, and shall not adversely impact upon adjacent and surrounding existing or prospective development.

(f) The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of this chapter, and the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2; ord 15-45, sec 8.)

Section 25-6-11. Height exceptions authorized.

(a) A building approved under a P.U.D. permit may exceed the height limit specified under the zoning district of the property and the height limits under section 25-4-22; provided, that the maximum height of the building shall not exceed seventy-five feet.

(b) A building approved under a P.U.D. permit and situated within a zoning district which exceeds the height limits specified under subsection (a) may be permitted at the higher height limits prescribed for that zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-12. Approvals issued under P.U.D. permit.

(a) No separate or additional permit or use permit shall be required for any use approved under a P.U.D. permit, and any use approved under a P.U.D. permit shall be considered to be in compliance with the required procedures for obtaining a use permit.

(b) Plan approval shall be considered issued when completed drawings are approved under a P.U.D. permit, and no further action is required for the issuance of plan approval under this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-13. Effect of P.U.D. permit on other zoning provisions.

Any P.U.D. permit issued shall be subject to all of the conditions imposed in the permit and shall be exempted from other provisions of this chapter only to the extent specified in the permit.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-14. Time extensions and amendments.

(a) A P.U.D. permit holder may apply to the commission through the department for an amendment to the permit or any condition or conditions imposed therein.

(b) In the case of time extensions, the P.U.D. permit holder shall file the request not less than ninety days prior to the expiration date of the applicable time condition or conditions, setting forth:

(1) The affected condition or conditions;

(2) The length of time requested; and

(3) The reasons for the request.

If the commission fails to act on a properly filed time extension request prior to the expiration date, the activity granted under P.U.D. permit may be continued, unless the commission specifically disallows the activity during the interim period.

(c) In the case of additions, modifications, and/or deletions of conditions of the P.U.D. permit, the P.U.D. permit holder shall set forth in writing:

(1) The affected condition or conditions;

(2) The specific amendment or amendments requested; and

(3) The reasons for the request.

(d) Any such request shall be accompanied by a $250 filing and processing fee, along with the original and twenty copies of the request.

(e) The hearing and notice procedures and action shall be the same as under sections 6-6 and 6-8 of the Planning Commission Rules of Practice and Procedure, provided further that the commission shall conduct a hearing within a period of ninety days from the date of receipt of a properly filed request, or within a longer period as may be agreed to by the commission.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 2.)

Section 25-6-15. Appeals.

Any decision of the commission so made within the context of this article shall be appealable to the Third Circuit Court.

(1999, ord 99-112, sec 13; am 2015, ord 15-33, sec 2.)

Division 2. Cluster Plan Development (C.P.D.).

Section 25-6-20. Purpose.

The purpose of cluster plan development (C.P.D.) is to provide exceptions to the density requirements of the single-family residential (RS) district so that permitted density of dwelling units contemplated by the minimum building site requirements is maintained on an overall basis and desirable open space, tree cover, recreational areas, or scenic vistas are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-21. Minimum land area required.

The minimum land area required for a C.P.D. shall be two acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-22. Application for C.P.D.

(a) An application for a C.P.D. permit shall be on a form prescribed by the director and shall be accompanied by a filing and processing fee as set forth under chapter 23, the subdivision control code.

(b) The procedure for processing an application for a C.P.D. permit shall be the same as that prescribed for a subdivision application under chapter 23, the subdivision control code.

(c) The applicant shall post a sign for public notification on the property as provided by section 25-2-12.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 7.)

Section 25-6-23. Computation of maximum number of lots.

(a) The maximum number of building sites that may be created in a C.P.D. shall be computed by subtracting ten percent of the total area proposed for the C.P.D. for street rights-of-way, and dividing the remaining area by the minimum building site area requirement of the single-family residential district(s) in which the C.P.D. is to be located.

(b) The method of computation prescribed in subsection (a) shall apply whether or not ten percent of the total land area is actually required for street rights-of-way.

(c) Land utilized by utilities for easements for major facilities, such as electric transmission lines and water mains, where such land is not available to the owner for development because of the easements, shall not be considered as part of the gross acreage in computing the maximum number of building sites that may be created in a C.P.D.

(d) Land normally subjected to being submerged in water or with slopes in excess of thirty percent shall not be considered as part of the gross acreage in computing the maximum number of building sites that may be created in a C.P.D.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-24. Minimum lot size in C.P.D.

(a) Building sites in a C.P.D. may be reduced in area below the minimum area required in the district in which the C.P.D. is located, provided that the average building site of the area created in the C.P.D. is not below the minimum building site area required in the district for C.P.D.

(b) No building site in an RS district shall be reduced in area below the following minimum standards:

Area Requirement	C.P.D. Minimum Standard
1 acre	20,000 square feet
30,000 square feet	15,000 square feet
20,000 square feet	12,000 square feet
15,000 square feet	10,000 square feet
10,000 square feet	7,500 square feet
7,500 square feet	6,000 square feet

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-25. Common land in a C.P.D.

(a) The location, extent and purpose of common land proposed to be set aside for open space or for recreational use within any C.P.D. must be approved by the director. A private recreational use such as a golf course or a swimming pool, which use is limited to the owners or occupants of building sites located within the C.P.D. may be approved as common land. Other uses or sites which may qualify as common land include historic buildings or sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, land along usable shoreline areas, and low land along streams or areas of rough terrain where such areas are extensive and have natural features worthy of preservation and are usable for normal recreational pursuits.

(b) The method of maintenance of common land for open space or recreational use shall be approved by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-26. Appeal of a C.P.D. decision.

Within thirty days after the date of the director's written decision regarding a C.P.D., any person aggrieved by the decision may appeal the director's action to the board of appeals in accordance with this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 3. Ohana Dwellings.

Section 25-6-30. General provisions, applicability.

Ohana dwellings shall be permitted on a building site within the RS, RA, FA and A districts; provided that:

(a) The building site is a legal lot of record as determined by the director;

(b) Any building site which is within the State land use agricultural district shall be subject to agricultural requirements for farm dwellings as established by ordinance or by rule of the director, adopted pursuant to chapter 91, Hawai‘i Revised Statutes;

(c) All applicable provisions of this chapter are met, including but not limited to, height limits, minimum yards and parking; and

(d) The following public facilities are adequate to serve the ohana dwelling unit:

(1) Sewage Disposal System. The building site shall be served by a public or private sewage disposal system. An adequate public sewage disposal system shall meet with the requirements of the department of public works and an adequate private sewage disposal system, cesspool or septic tank shall meet with the requirements of the State department of health.

(2) Potable Water Supply. The building site shall be served by an approved public or private water system meeting with the requirements of the department of water supply which system can accommodate the ohana dwelling and the main dwelling unit. An ohana dwelling that is not served by an approved public or private water system may use a water catchment system provided that the director determines that there is sufficient annual rainfall in the area to accommodate a water catchment system and water catchment system meets the requirements of the department of health and the department of water supply.

(3) Fire Protection. The building site shall be served by adequate fire protection measures meeting with the requirements of the fire department.

(4) Streets. The building site shall gain access to a public or private street meeting with the requirements of the department of public works.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-31. Eligibility for ohana dwelling permit.

(a) An application for an ohana dwelling permit on any building site shall only be accepted by the director after the completion of all subdivision improvements required by chapter 23 (subdivisions), for the subdivision in which the building site is located. For purposes of this subsection, “completion” means the construction of all of the subdivision improvements including the subdivision roads, drainage, water, and if applicable, wastewater systems, in accordance with approved construction plans, which improvements have been completed to the satisfaction of the director of public works.

(b) Only one permit application for an ohana dwelling unit may be active for any one applicant at any time. Any applicant who has obtained an ohana dwelling permit shall not be eligible or apply for a subsequent ohana dwelling permit on any building site for a period of two years from the date on which the first ohana dwelling unit was completed to the satisfaction of the director of public works. For purposes of this subsection, each titleholder and person named in an application for an ohana dwelling permit, pursuant to section 25-6-39(a)(2), shall be considered the applicant. The director shall maintain and keep readily available for public reference a current list of applicants for ohana dwelling units, including the dates of application and approval or denial.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-6-32. Prohibited areas.

Ohana dwelling units shall be prohibited in the following areas:

(a) Any building site within the State land use conservation district;

(b) Any building site developed under an affordable housing project approved by the State housing finance and development corporation (HFDC) and/or the County housing agency which has been granted preemptions from the requirements of this Code;

(c) Any building site developed as a planned unit development (P.U.D.) or a cluster plan development (C.P.D.);

(d) Any building site where more than one dwelling unit is permitted in the zoning district, including building sites that permit more than one dwelling unit in the RS district, building sites with duplex and multiple-family dwellings, care homes, family child care homes, group living facilities, and single-family dwellings which are transient vacation units;

(e) Any building site which is the subject of an approved variance from the provisions of this chapter or chapter 23 (subdivisions);

(f) Any building site on which the construction of an ohana dwelling or a second dwelling unit is specifically prohibited by a change of zone ordinance.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-33. Designation of the ohana dwelling unit.

(a) Regardless of the size of a building site, not more than one ohana dwelling unit shall be permitted on the same building site with the first single-family dwelling unit.

(b) The director may designate an existing, first single-family dwelling unit as an ohana dwelling unit in order to allow permitting of a new first single-family dwelling unit when such existing dwelling is the only dwelling unit on the building site and the dwelling unit complies or will be modified to comply with all the requirements of this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-34. Height limit.

Except when the living areas of the ohana dwelling unit and the first dwelling unit are joined by a common wall, floor, or ceiling, the height limit for an ohana dwelling unit shall be twenty-five feet, regardless of whether a greater height limit is provided for the zoning district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-35. Minimum building site area and yards.

(a) The minimum building site area for a building site containing both the first dwelling and the ohana dwelling unit shall be ten thousand square feet.

(b) The minimum front, rear, and side yard requirements for a detached ohana dwelling unit shall be the minimum yard requirements for the zoning district in which the building site is situated plus an additional five feet.

(c) An ohana dwelling unit and a single-family dwelling unit may be constructed as a duplex (i.e., there is a common wall or floor/ceiling).

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-36. Guest houses.

A guest house, as described in section 25-4-9, shall not be permitted on any building site where an ohana dwelling unit has been permitted or constructed. If an existing guest house is situated on a building site, an ohana dwelling unit shall not also be permitted on the building site. Provided, that an existing guest house may be converted into an ohana dwelling unit in accordance with the requirements of this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-37. Off-street parking spaces.

The number of parking spaces for an ohana dwelling unit shall be as provided under section 25-4-51.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-38. Variances prohibited.

No variance from either this chapter or chapter 23 (subdivisions), shall be granted to permit the construction or placement of an ohana dwelling unit on a building site. In addition, an ohana dwelling unit shall not be permitted on a building site for which a variance from either this chapter or chapter 23 (subdivisions), has already been granted.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39. Application for ohana dwelling permit; requirements.

(a) An application form for an ohana dwelling permit shall be filed with the director on a form prescribed for this purpose by the director, and shall be accompanied by:

(1) A filing fee of $25;

(2) The names and addresses of all the owners of the building site, provided that when the property is owned by a corporation, association, partnership or trust, the names and addresses of all partners, director, officers, shareholders or beneficiaries holding an ownership or beneficial interest of at least ten or more percent shall be included; and

(3) An affidavit, in the form prescribed by the director, verifying that there is no restriction or covenant applicable to the building site, contained in any deed, lease, or other recorded document, which prohibits the construction or placement of an ohana dwelling or a second dwelling unit on the building site.

(b) The applicant shall serve notice of the ohana dwelling permit application on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on all owners of the property identified in the application who did not execute the application, and any known association of property owners which has jurisdiction or authority over the subdivision in which the building site is situated. Proof of service of the notice, in the manner provided under section 25-2-4, shall be submitted together with the ohana dwelling permit application.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.1. Action on ohana dwelling permit.

(a) Upon acceptance of an ohana dwelling permit application, the director shall forward the application to appropriate agencies for review and comment on the adequacy of those infrastructure facilities required for the ohana dwelling unit, under section 25-6-30.

(b) Within a period of at least thirty days but not more than sixty days after acceptance of an ohana dwelling permit application, the director shall either approve or deny the application.

(c) If the director fails to render a decision within the prescribed sixty-day period, the application shall be considered as being approved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.2. Building permit for an ohana dwelling.

(a) A building permit for the construction of an ohana dwelling unit shall be secured within one year from the date that the ohana dwelling unit permit was issued. A thirty-day time extension may be granted by the director if it can be demonstrated by the applicant that nonperformance was not the result of the applicant's fault or negligence. In the event that the applicant fails to secure a building permit for the construction of the ohana dwelling unit within the one-year time period, or any extension granted by the director, the ohana dwelling unit permit shall be void.

(b) The time extension provided for an ohana dwelling permit under subsection (a) above shall be the only time extension available to an applicant, and no further time extension shall be allowed. Further, the failure to obtain any further time extension of an ohana dwelling permit shall not be cause to petition the director, the commission or the board of appeals for relief from the time limitation for an ohana dwelling permit as provided under this section.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.3. Nontransferability of permit.

(a) A permit for an ohana dwelling unit shall be personal to the applicant and shall not be transferable or assignable to any other person until construction of the ohana dwelling unit has been completed and final approval has been issued by the director of public works.

(b) No person shall advertise or represent to the public that a permit to construct an ohana dwelling unit is transferable with the sale of the property on which the permit has been granted.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1.)

Section 25-6-39.4. Pending applications.

All pending applications for ohana dwellings filed with the director prior to May 4, 1996 shall be processed in accordance with this division, with the exception of the filing fee. The director may require the applicant to submit additional information to comply with this division.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.5. Illegally constructed ohana dwellings.

In the event that an ohana dwelling unit is constructed contrary to the provisions of this division, with or without a permit therefor having been issued, the ohana dwelling unit, shall be considered unlawful and a public nuisance, and action or proceedings for abatement, removal and enjoinment of the unlawful ohana dwelling shall immediately be commenced in accordance with this chapter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-39.6. Revocation of an ohana dwelling permit.

(a) The director may initiate proceedings to revoke a permit for an ohana dwelling unit if:
   (1) The applicant intentionally misrepresented a material fact in the permit application, including all attachments; or
   (2) The applicant transferred or attempted to transfer an ohana dwelling unit permit issued by the director prior to completion of the construction of the ohana dwelling unit and final approval by the director of public works.

(b) The director shall serve written notice of the proposed revocation on the applicant by registered or certified mail with return receipt.

(c) The applicant may, within thirty days after receipt of the proposed revocation notice, appeal the revocation notice to the board of appeals as provided by section 6-9.2, County Charter and sections 25-2-20 through 25-2-24. An appeal to the board of appeals shall stay the provisions of the director's order pending the final decision of the board of appeals.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2001, ord 01-108, sec 1; am 2011, ord 11-103, sec 13.)

Section 25-6-39.7. Appeals.

Any person aggrieved by the decision of the director in the issuance of an ohana dwelling permit decision, except for a decision regarding the duration of a permit under section 25-6-39.2, may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the date of the director's written decision.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 4. Project Districts (PD).

Section 25-6-40. Purpose and applicability.

The project district (PD) development is intended to provide for a flexible and creative planning approach rather than specific land use designations, for quality developments. It will also allow for flexibility in location of specific uses and mixes of structural alternatives. The planning approach would establish a continuity in land uses and designs while providing for a comprehensive network of infrastructural facilities and systems. A variety of uses as well as open space, parks, and other project uses are intended to be in accord with each individual project district objective. A project district is an amendment to this chapter which changes the district boundaries in accordance with the individual project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-41. Criteria for establishing a project district.

A project district may be established as an amendment to this chapter whenever the public necessity and convenience and the general welfare require that a comprehensive planning approach for an area should be adopted in order to establish a continuity in land uses and designs while providing a comprehensive network of infrastructural facilities and systems. In addition, a project district may only be established if the proposed district:

(1) Is consistent with the intent and purpose of this chapter and the County general plan; and

(2) Will not result in a substantial adverse impact upon the surrounding area, community or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-42. Minimum land area required.

The minimum land area required for a project district shall be fifty acres. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-43. Permitted uses.

Any uses permitted either directly or conditionally in the RS, RD, RM, RCX, CN, CG, CV or V districts shall be permitted in a project district; provided, that each of the proposed uses and the overall densities for residential and hotel uses shall be contained in a master plan for the project district and in the project district enabling ordinance. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-44. Application for project district; requirements.

(a) An application for a project district may be filed by a property owner or any other person with the property owner's consent. The application shall be on a form prescribed for this purpose by the director and shall be accompanied by:
   (1) A filing fee of $5,000.
   (2) A description of the property in sufficient detail to determine its precise location.
   (3) A master conceptual plan of the property, showing the project district boundaries and the land uses and acreage of land involved.
   (4) A description of the proposed project district, including land uses, densities, infrastructural requirements, and development standards.
   (5) A description of each of the open space areas proposed for the project district for cultural and/or environmental purposes, including those open space areas preserved because of natural hazards.
   (6) A metes and bounds description of the property prepared by a surveyor.
   (7) A list of the names, addresses and tax map key numbers for those property owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4.
   (8) A County environmental report; provided that a County environmental report shall not be required where an environmental impact statement or an environmental assessment and negative declaration have been prepared and issued in compliance with chapter 343, Hawai‘i Revised Statutes, as amended.
   (9) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawai‘i Revised Statutes.

(b) The applicant shall serve notice of the application for project district on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) Within one hundred twenty days after a project district application has been accepted by the director, the director shall forward the application to the commission, together with the director's recommendation on the proposed project district, and together with a proposed project district ordinance which establishes the project district and provides project district standards and conditions, including permitted land uses, accessory uses, densities, heights, setbacks, and variances from the requirements of this chapter, and from chapter 23 (subdivision control), if applicable, as contained in the master conceptual plan for the project district.

(d) The commission shall review any project district application and shall forward its recommendation on the application to the council through the mayor for the council's consideration and action.

(1) In reviewing the application, the commission shall hold at least one public hearing in the district in which the proposed project district is located. The commission shall provide reasonable notice of the date of the hearing to the applicant. The commission shall also publish notice of the hearing in accordance with the requirements of this chapter.

(2) Within ten days after receiving notice of the date of the public hearing, the applicant shall serve notice of the hearing on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the proposed project district.

(3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed project district ordinance together with its recommendation thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such proposal.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 8; am 2012, ord 12-90, sec 2.)

Section 25-6-45. Conditions imposed on project district.

(a) The council may impose conditions on the use of the property subject to the project district, provided the council finds that the conditions are:

(1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

(2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the potentially deleterious effects of the proposed uses, or fulfillment of the need for public service demands created by the proposed uses.

(b) In addition to the conditions described in subsection (a), the council shall include the following conditions in any project district ordinance:

(1) A description of each of the uses proposed in the project district;

(2) The overall densities for the residential and hotel uses established in the project district;

(3) Any infrastructure requirements for the project district; and
(4) Any open space requirements for the project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-46. Review and approval of site plans.

(a) After adoption of a project district enabling ordinance, the applicant shall submit to the director detailed site plans for the project district development. The site plans shall conform to the project district enabling ordinance and shall include the following:
   (1) Plans for required infrastructure improvements;
   (2) All items required for a plan approval application, as provided by section 25-2-72; and
   (3) Any other information required by rules adopted by the director in accordance with chapter 91, Hawai‘i Revised Statutes.
(b) Within sixty days after acceptance of the site plans, the director shall either deny or approve the plans.
(c) The director may approve site plans for a project district only if the applicant has complied with all of the conditions contained in the project district enabling ordinance and the site plans conform to the standards contained in the project district enabling ordinance. The director may approve the site plans subject to conditions, or the director may approve the site plans subject to certain changes when, in the director's opinion, such conditions or changes are necessary to carry out the purposes of the project district, this chapter and the considerations contained in section 25-6-47.
(d) If the director fails to render a decision on the site plans within the prescribed period, the site plans shall be considered approved without further certification by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-47. Review criteria and conditions of approval.

In reviewing site plans for a project district, the director shall consider the proposed development and uses in relation to the surrounding properties, improvements, streets, traffic, community characteristics, and natural features, and may require conditions or changes to assure:

(1) Adequate light and air, proper siting and arrangements of all structures and improvements are provided;
(2) Existing and prospective traffic movements will not be hindered;
(3) Proper landscaping is provided that is commensurate with the development or use and its surroundings;
(4) Unsightly areas are properly screened or eliminated;
(5) Adequate off-street parking is provided to serve the development or use;

(6) Access to the parking areas will not create potential accident hazards; and
(7) Within reasonable limits, any natural and man-made features of community value are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-48. Construction in conformity with approved site plans.

Every structure, development and use contained in site plans for a project district approved by the director shall be constructed and developed in accordance with the terms, specifications and conditions of approval for those site plans.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49. Plan approval issued by approval of site plans.

Plan approval shall be considered issued when site plans for a project district are approved by the director, as provided by sections 25-6-46 and 25-6-47, and no further action is required for the issuance of plan approval under this chapter.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49.1. Amendments.

Any amendment to the conditions and standards contained in a project district enabling ordinance shall be processed in the same manner as the project district enabling ordinance, unless the council in the project district enabling ordinance authorizes the amendments to be made by the director. A request for any amendment shall be submitted in writing to the director, in lieu of the application required for a project district. The request shall be accompanied by a filing fee of $250.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-49.2. Appeal of director's actions on project district site plans.

Any person aggrieved by the decision of the director in the issuance of a decision regarding project district site plans may appeal the director's action to the board of appeals, in accordance with its rules, within thirty days after the written decision is issued by the director.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 5. Agricultural Project Districts (APD).

Section 25-6-50. Purpose and applicability.

The agricultural project district (APD) development is intended to provide a flexible and creative planning approach for developments within the agricultural zoning districts, in lieu of specific land use designations. It will allow for flexibility in the location of specific types of agricultural uses and variations in lot sizes. Under this planning approach, opportunities will be provided for a mix of small scale agricultural activities and associated residential uses, as well as larger agricultural projects. This district will also provide a vehicle to satisfy the demand for a rural lifestyle on marginal agricultural land, while decreasing the pressure to develop important agricultural land for this purpose. The planning approach would establish a continuity in land uses and designs, while providing for the needed infrastructural facilities and systems to support the various types of agricultural developments. An agricultural project district is an amendment to this chapter which changes the district boundaries in accordance with the individual agricultural project district.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-51. Criteria for establishing a project district.

An agricultural project district may be established as an amendment to this chapter whenever the public necessity and convenience and the general welfare require that a comprehensive planning approach for an agricultural area should be adopted in order to establish a continuity in land uses while providing the required infrastructural facilities and systems. In addition, an agricultural project district may only be established if the proposed district:

(1) Is consistent with the intent and purpose of this chapter and the County general plan; and
(2) Will not result in a substantial adverse impact upon the surrounding area, community or region.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-52. Minimum land area required.

The minimum land area required for an agricultural project district shall be five acres.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-53. Permitted uses; overall density.

Any uses permitted either directly or conditionally in the A or IA districts shall be permitted in an agricultural project district, and the overall density permitted in an agricultural project district shall not be greater than one acre per building site. Each of the proposed uses and the overall densities for dwelling uses shall be contained in a master conceptual plan for the agricultural project district and in the agricultural project district enabling ordinance.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-54. Application for agricultural project district; requirements.

(a) An application for an agricultural project district may be filed by a property owner or any other person with the property owner's consent. The application shall be on a form prescribed for this purpose by the director and shall be accompanied by:
   (1) A filing fee of $100 per acre up to a maximum filing fee of $5,000.
   (2) A description of the property in sufficient detail to determine its precise location.
   (3) A master conceptual plan of the property, showing the agricultural project district boundaries and the land uses and acreage of land involved.
   (4) A description of the proposed agricultural project district, including land uses, densities, infrastructural requirements, and development standards.
   (5) A description of each of the open space areas proposed for the agricultural project district for cultural and/or environmental purposes, including those open space areas preserved because of natural hazards.
   (6) A metes and bounds description of the property prepared by a surveyor.
   (7) A list of the names, addresses and tax map key numbers for those property owners and lessees of record of surrounding properties who are required to receive notice under section 25-2-4.
   (8) A County environmental report; provided that a County environmental report shall not be required where an environmental impact statement or an environmental assessment and negative declaration have been prepared and issued in compliance with chapter 343, Hawaiʻi Revised Statutes, as amended.
   (9) Any other plans or information required by rules adopted by the director in accordance with chapter 91, Hawaiʻi Revised Statutes.

(b) The applicant shall serve notice of the application for agricultural project district on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also post a sign for public notification on the property as provided by section 25-2-12.

(c) Within one hundred twenty days after an agricultural project district application has been accepted by the director, the director shall forward the application to the commission, together with the director's recommendation on the proposed agricultural project district, and together with a proposed agricultural project district ordinance which establishes the agricultural project district and provides standards and conditions for the district, including permitted land uses, accessory uses, densities, heights, setbacks, and variances from the requirements of this chapter, and from chapter 23 (subdivision control), if applicable, as contained in the master conceptual plan for the agricultural project district.

(d) The commission shall review any agricultural project district application and shall forward its recommendation on the application to the council through the mayor for the council's consideration and action.
   (1) In reviewing the application, the commission shall hold at least one public hearing in the council district in which the proposed agricultural project district is located. The commission shall provide reasonable notice of the date of the hearing to the applicant. The commission shall also publish notice of the hearing in accordance with the requirements of this chapter.
   (2) Within ten days after receiving notice of the date of the public hearing, the applicant shall serve notice of the hearing on surrounding owners and lessees of record as provided by section 25-2-4. The applicant shall also serve notice on owners and lessees of record of interests in other properties which the commission may find to be directly affected by the proposed agricultural project district.
   (3) Within ninety days after receipt of the application from the director, unless a longer period is agreed to by the applicant, the commission shall transmit the proposed agricultural project district ordinance together with its recommendation thereon through the mayor to the council. The commission shall recommend approval in whole or in part, with or without modifications, or rejection of such proposal.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-136, sec 9; am 2012, ord 12-90, sec 3.)

Section 25-6-55. Conditions imposed on agricultural project district.

(a) The council may impose conditions on the use of the property subject to the agricultural project district, provided the council finds that the conditions are:
   (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
   (2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the potentially deleterious effects of the proposed uses, or fulfillment of the need for public service demands created by the proposed uses.

(b) In addition to the conditions described in subsection (a), the council shall include the following conditions in any agricultural project district ordinance:
   (1) A description of each of the uses proposed in the agricultural project district;
   (2) The overall and average densities for dwelling uses established in the agricultural project district;
   (3) Any infrastructure requirements for the agricultural project district; and
   (4) Any open space requirements for the agricultural project district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-56. Review and approval of site plans.

(a) After adoption of an agricultural project district enabling ordinance, the applicant shall submit to the director detailed site plans for the agricultural project district development. The site plans shall conform to the agricultural project district enabling ordinance and shall include the following:
   (1) Plans for required infrastructure improvements;
   (2) All items required for a plan approval application, as provided by section 25-2-72; and
   (3) Any other information required by rules adopted by the director in accordance with chapter 91, Hawaiʻi Revised Statutes.

(b) Within sixty days after acceptance of the site plans, the director shall either deny or approve the plans.

(c) The director may approve site plans for an agricultural project district only if the applicant has complied with all of the conditions contained in the agricultural project district enabling ordinance and the site plans conform to the standards contained in the agricultural project district enabling ordinance. The director may approve the site plans subject to conditions, or the director may approve the site plans subject to certain changes in the proposed site plans when, in the director's opinion, such conditions or changes are necessary to carry out the purposes of the agricultural project district, this chapter and the considerations contained in section 25-6-57.

(d) If the director fails to render a decision on the site plans within the prescribed period, the site plans shall be considered approved without further certification by the director.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-57. Review criteria and conditions of approval.

In reviewing site plans for an agricultural project district, the director shall consider the proposed development and uses in relation to the surrounding properties, improvements, streets, traffic, community characteristics, and natural features, and to the agricultural and accessory residential uses contemplated, and may require conditions or changes to assure:

(1) Adequate light and air, proper siting and arrangements of all structures and improvements are provided;
(2) Existing and prospective traffic movements will not be hindered;
(3) Adequate off-street parking is provided to serve the development or use;
(4) Access to the parking areas will not create potential accident hazards; and
(5) Within reasonable limits, any natural and man-made features of community value are preserved.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-58. Construction in conformity with approved site plans.

Every structure, development and use contained in site plans for an agricultural project district approved by the director shall be constructed and developed in accordance with the terms, specifications and conditions of approval for those site plans. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59. Plan approval issued by approval of site plans.

Plan approval shall be considered issued when site plans for an agricultural project district are approved by the director, as provided by sections 25-6-56 and 25-6-57, and no further action is required for the issuance of plan approval under this chapter. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59.1. Amendments.

Any amendment to the conditions and standards contained in an agricultural project district enabling ordinance shall be processed in the same manner as the agricultural project district enabling ordinance, unless the council in the agricultural project district enabling ordinance authorizes the amendments to be made by the director. A request requiring an amendment of the enabling ordinance shall be submitted in writing to the director, in lieu of the application required for an agricultural project district. The request shall be accompanied by a filing fee of $250. (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-6-59.2. Appeal of director's actions on agricultural project district site plans.

Any person aggrieved by the decision of the director in the issuance of a decision regarding agricultural project district site plans may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the written decision is issued by the director.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 6. Scenic Corridor Program.

Section 25-6-60. Purpose and applicability.

In the County of Hawai'i, there are certain segments of public roads, or portions thereof, that expose traveling residents and visitors to notable and/or unique resources. As established by the national and/or state scenic byways program, the identification of these portions of public roads as scenic corridors is intended to provide for the enhancement of important scenic, historic, recreational, cultural and/or natural resources accessed from such a transportation corridor. This planning approach establishes the opportunity for continuity and/or enhancement of land uses and designs for natural, cultural, historic, recreational and/or scenic resources located along a transportation corridor and provides a diversity of regulatory and non-regulatory tools and techniques to apply to a variety of circumstances for a corridor identified by ordinance as a scenic corridor in the County of Hawai'i.

The Hawaiʻi County council may, by ordinance, establish all or portions of public roadways and an appropriate portion of the adjacent property as a scenic corridor. Within such an area, all permitted uses defined by the underlying zoning classification will remain in place unless otherwise specified by the scenic corridor enabling ordinance. Any standards and conditions not included in the underlying zoning related, but not limited, to signage, lighting, design standards, access management, landscaping, parking, height, historic and cultural preservation, view planes, and/or setbacks must be included as part of the scenic corridor management plan and adopted by scenic corridor enabling ordinance by the County council. The scenic corridor management plan must demonstrate the need for the adoption of special standards and conditions in order to preserve, maintain, protect, or enhance the intrinsic character of the corridor consistent with the purposes of this chapter.
(2007, ord 07-36, sec 1.)

Section 25-6-61. Criteria for establishing a scenic corridor.

A scenic corridor may be adopted as an amendment to this chapter whenever the public necessity, convenience, general welfare, and/or the public trust require that a comprehensive planning approach for a transportation corridor be adopted in order to establish continuity in land uses while providing the required infrastructural facilities and systems. A scenic corridor may only be established if the proposed district meets the following criteria:

(1) Is consistent with the intent and purpose of this chapter and the County general plan.
(2) Will not result in a substantial adverse impact upon the surrounding area, community and/or region.
(3) Will enhance Hawaiʻi County's significant natural, visual, recreation, historic and/or cultural qualities.
(4) Will protect and enhance the attractiveness of Hawaiʻi County to make it a better place to live, work, visit, and/or play.
(5) Will improve Hawaiʻi County's economic vitality by enhancing and protecting our unique natural, scenic, historic, cultural, and/or recreational resources.
(6) Is located on a major or minor arterial highway, or collector road.
(7) Significantly possesses at least one of the following intrinsic qualities:
    (A) Scenic;
    (B) Natural;
    (C) Historic;
    (D) Cultural;
    (E) Archaeological;
    (F) Recreational; or
    (G) Demonstrates local, private, and public support and participation.

(2007, ord 07-36, sec 1.)

Section 25-6-62. Permitted uses.

Within a scenic corridor all zoning code regulations applicable to the zoning district or districts in question remain in effect unless differing regulations are contained within the corridor management plan as adopted by ordinance, in which case the corridor management plan shall apply.
(2007, ord 07-36, sec 1.)

Section 25-6-63. Initiation of a scenic corridor; requirements.

(a) The director or council by resolution must initiate the establishment of a scenic corridor. The resolution must demonstrate that the proposed scenic corridor meets the requirements of 25-6-61. The resolution must include:
   (1) A description and general location of the proposed corridor.
   (2) The length of the section of road to be included in the scenic corridor.
   (3) A description of the corridor's intrinsic quality or qualities.
   (4) A list of names, addresses and tax map key numbers for those property owners and lessees of record of lots within three hundred feet of the public road being proposed to be designated as a scenic corridor.
   (5) Any other plans or information required by rules adopted by the director in accordance with chapter 91 of the Hawai'i Revised Statutes.

(b) Within thirty days of the adoption by the council of the resolution, the director shall serve notice of the proposed scenic corridor upon all owners and lessees of lots, and utility companies with easements and/or other property rights, whose properties are either (1) within the proposed scenic corridor, or (2) within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall give a general description of the scenic corridor and describe the opportunity for public comment.

(c) Corridor management plan.
   Within twenty-four months after the adoption of the resolution, the director shall complete a corridor management plan and enabling ordinance, which will be forwarded to the commission for its recommendation to the Hawai'i County council. A scenic corridor management plan is a written document that assesses the intrinsic qualities of the corridor and specifies actions, procedures, controls, and administrative as well as community strategies that will be pursued to maintain those qualities. Special conditions and standards developed for an individual scenic corridor shall be included as part of the enabling ordinance. Elements of the corridor management plan will include:
   (1) Vision and goals statement.
   (2) A map identifying scenic corridor boundaries and the location of intrinsic qualities and different land uses within the scenic corridor.
   (3) An assessment of such intrinsic qualities and their context.
   (4) An assessment of needs and expectations.
   (5) An assessment of anticipated transportation, economic, environmental, and social impacts.
   (6) Strategies for economic development and marketing of the scenic corridor.
   (7) Strategies for maintaining and enhancing the corridor's intrinsic qualities.

(8) Strategies for community participation.
(9) Identification of organizations, agencies and individuals to be consulted in the planning process.
(10) Identification of regulatory and non-regulatory tools recommended that could aid in the implementation of the scenic corridor management plan. The evaluation and selection of tools needed to protect and/or enhance the corridor should be based on the following criteria:
(A) The ability to insure that new development is consistent with the conditions and standards established for the scenic corridor, while maintaining the property owner's rights to reasonable use of the property;
(B) The ability to provide the appropriate degree of development and aesthetic control needed to preserve and enhance quality of the corridor; and
(C) The ability to provide flexible, diverse, and suitable regulatory and non-regulatory tools and techniques to a variety of circumstances.
(11) Specific time schedules for plan implementation.
(12) Standards for building design, signage, and roadway elements. In the case where the transportation corridor has not been built, the corridor management plan may include special design standards for the corridor development.
(13) Methods for interpreting and protecting significant resources.
(14) Identification of potential funding sources.
(15) Provisions for termination of the corridor management plan if it is not implemented.

(d) The director shall forward the corridor management plan and a proposed scenic corridor enabling ordinance to the commission together with the director's recommendation on the proposed scenic corridor. The purpose of the scenic corridor enabling ordinance is to establish the scenic corridor as well as any conditions and/or standards recommended by the corridor management plan that may differ from those within the underlying zoning. Any conditions and/or standards that differ from the underlying zoning must be defined through the use of a table that illustrates how standards and/or conditions in the enabling ordinance differ from those within the underlying zoning.

(e) The commission shall review the scenic corridor enabling ordinance and the corridor management plan and forward its recommendation to the council through the mayor for the council's consideration and action.
(1) In reviewing the corridor management plan, the commission shall hold at least one public hearing in the council district in which the proposed scenic corridor is located.

(2) Within ten days after receiving notice of the date of the public hearing, the director shall serve notice of the public hearing on owners, and lessees of record, and utility companies with easements or other property interests, whose properties are within the proposed scenic corridor, or within three hundred feet of the boundaries of the proposed scenic corridor. The notice shall otherwise conform to section 25-2-4(c) and (d).

(3) Within one hundred twenty days after receipt of the corridor management plan from the director, the commission shall transmit the proposed scenic corridor ordinance and corridor management plan together with its recommendation thereon through the mayor to the council. If no recommendation is made within one hundred twenty days, the scenic corridor management plan and enabling ordinance shall be forwarded to the council with no recommendation.

(2007, ord 07-36, sec 1; am 2009, ord 09-118, secs 18 and 19.)

Section 25-6-64. Corridor advocacy groups.

(a) A corridor advocacy group is a non-profit community-based organization formed to promote, plan, or otherwise support a scenic corridor or corridors.

(b) The council may designate, by resolution, an official corridor advocacy group for a scenic corridor, or proposed scenic corridor.

(c) The council may delegate the preparation of the corridor management plan to the officially-designated corridor advocacy group. In that case, the corridor advocacy group shall provide the notices required under section 25-6-63(b) and prepare a corridor management plan conforming to section 25-6-63(c). The director shall prepare an enabling ordinance and the procedure shall thereafter follow section 25-6-63(d) and (e).

(2007, ord 07-36, sec 1.)

Section 25-6-65. Conditions and standards imposed on a scenic corridor.

(a) The council may impose conditions on the use of the property directly adjacent to the transportation corridor provided that the council finds that the conditions are:

(1) Necessary to prevent circumstances which may be adverse to public health, safety and welfare,

(2) Reasonably conceived to fulfill needs directly emanating from the land uses proposed with respect to protection of the public from the deleterious effects of the proposed uses, or fulfillment of the need for the public service demands created by the proposed uses and

(3) Necessary to protect, preserve, and enhance the environmental, historic, cultural, scenic, archaeological, and/or recreational resources and intrinsic qualities identified within the scenic corridor.

(b) In addition to the conditions in subsection (a), the council shall include conditions and standards as part of the proposed scenic corridor enabling ordinance needed to implement the intent of the corridor management plan.

(2007, ord 07-36, sec 1.)

Section 25-6-66. Review and approval of applications.

After adoption of a scenic corridor enabling ordinance and corridor management plan, all approvals including, but not limited to sign permits, grading and grubbing permits, building permits, and subdivision approvals shall conform to the standards and conditions contained in the scenic corridor enabling ordinance.
(2007, ord 07-36, sec 1.)

Article 7. Special District Regulations.

Division 1. Kailua Village Design Commission.

Section 25-7-1. Purpose and applicability; boundaries.

(a) The purpose of the Kailua Village design commission is to advise the director in matters concerning the design of buildings and structures and all public and private improvements within Kailua Village.

(b) "Kailua Village" as used in sections 25-7-1 through 25-7-5 means that area bounded by the following:

(1) Beginning at a point on the shoreline approximately four thousand feet west of the old Kailua wharf, mauka along the west boundary of TMK: 7-5-05:10 and 68 to the northwest corner of TMK: 7-5-05:68;

(2) Southeast and east along the mauka boundary of the existing RS-15 zone to the west boundary of Kaiwi Street extension, mauka crossing Kuakini Highway along the west side of the Kailua Industrial Subdivision crossing Queen Kaahumanu Highway, approximately three hundred feet mauka running parallel and going east recrossing the Queen Kaahumanu Highway to the eastern end of Kalani Street;

(3) Southwest along the makai side of the Queen Kaahumanu Highway and its extension to the south side of the Kona Hillcrest Subdivision;

(4) Makai along the south side of the Kona Hillcrest Subdivision and along the south side of the parcels described as TMK: 7-5-30:23 and 24 to Kuakini Highway;

(5) Makai, crossing Kuakini Highway along the south side of the parcels described as TMK: 7-5-18:1,4, and 61, and TMK: 7-5-19:18 to the shoreline;

(6) North along the shoreline to the point of beginning and containing an area of approximately eight hundred twenty-five acres and as delineated on the map attached to Ordinance No. 628 (1974), as amended by Ordinance No. 630 (1974).

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-2. Design commission membership; appointment; term.

(a) The design commission shall consist of nine members who shall be appointed by the mayor with the approval of the council. The members shall be representative of the Kona district, provided that a majority of the appointive members shall have lived or worked in the Kailua Village for a minimum of two years prior to this appointment. The design commission members shall include two design professionals (registered architects and/or landscape architects), two members with backgrounds in building construction and/or engineering, two members with knowledge about historic Kona, its cultural values and resources, and the remaining three members representing local business or property owners.

(b) The members shall serve staggered terms of three years. Upon the initial appointment of the design commission, three shall serve for a term of one year, three for a term of two years, and three for a term of three years. When the term of a member expires, the member shall continue to serve until a successor is appointed. Members whose terms expire may not be reappointed to the design commission for at least two years, however, members appointed for one year or less may be reappointed for an additional term without the passage of two years' time. Except as provided for in this section, the design commission shall be governed by the County Charter.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-3. Rules of procedure.

The design commission shall adopt rules of procedure, pursuant to chapter 91, Hawai'i Revised Statutes, relating to matters within the design commission's jurisdiction.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-4. Powers and duties of the Kailua Village design commission.

(a) The design commission shall recommend to the director an architectural and design concept of theme for Kailua Village that recognizes the desires and concerns of all public and private interests.

(b) The design commission shall provide an architectural and design review of applications requiring plan approval by the director. The design commission's review and recommendations to the director shall be completed within thirty days from the date of the design commission's receipt of the plans requiring plan approval. If a recommendation is not received within the allotted period, the director shall continue to process the request for plan approval.

(c) The design commission shall provide an architectural and design review of all planned public improvements such as street widening, street lights, and so forth, as well as all private improvements such as landscaping, structural painting, or any activity which will alter the physical appearance of Kailua Village. The recommendations shall be forwarded to the director within thirty days from the design commission's receipt of the proposal. If a recommendation is not received within the allotted period, the director shall continue to process the proposed activity.

(d) All of the design commission's advice and recommendations to the director shall be consistent with the provisions of the County Charter, general plan, zoning and all other related ordinances and any publicly funded master plan developed for Kailua Village.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2009, ord 09-118, sec 20.)

Section 25-7-5. Amendment of district boundaries.

The Kailua Village boundaries as described in section 25-7-1 shall be subject to review in 1979 and every five years thereafter by the council, and may be amended as appropriate.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Division 2. CDH, Downtown Hilo Commercial District.

Section 25-7-20. Purpose and applicability.

The CDH (downtown Hilo commercial) district is established to reinforce and promote downtown Hilo's role as a compact high density area for retail shopping, professional and administrative activities, cultural and arts activities, other supportive business and commercial services, and multiple-family housing. The zoning requirements of this district are applicable to all building sites, except those designated as "O" (open) districts, within the area bounded by the western development area limits of Kapiolani Street/Kaiulani Street, the Wailuku River, Hilo Bay and Ponahawai Street.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-21. Designation of CDH district.

The CDH (downtown Hilo commercial) district shall be designated by the symbol "CDH."

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-22. Permitted uses.

(a) The following uses shall be permitted in the CDH district:
   (1) Adult day care homes.
   (2) Amusement and recreation facilities, indoor.
   (3) Art galleries.

(4) Automobile service stations or garages, excluding body and fenderworks, electric tire rebuilding or battery rebuilding and provided that all work is conducted wholly within a completely enclosed building.
(5) Bakeries.
(6) Bars, cocktail lounges and night clubs.
(7) Bed and breakfast establishments, as permitted under section 25-4-7.
(8) Boarding facilities, rooming, or lodging houses.
(9) Broadcasting stations or studios (radio and television).
(10) Business services.
(11) Car washing, provided that the facilities are not detrimental to the character of the district.
(12) Commercial parking lots and garages.
(13) Community buildings, as permitted under section 25-4-11.
(14) Crop production.
(15) Display rooms for products sold elsewhere.
(16) Dwellings, double-family or duplex, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
(17) Dwellings, multiple-family, with a maximum density of five hundred square feet of land area per rentable unit or dwelling unit.
(18) Dwellings, single-family.
(19) Family child care homes.
(20) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
(21) Financial institutions.
(22) Group living facilities.
(23) Home occupations, as permitted under section 25-4-13.
(24) Hospitals, sanitariums, old age, convalescent, nursing and rest homes and other similar uses.
(25) Hotels and apartment hotels with a maximum density of five hundred square feet of land area per rentable unit.
(26) Laundries other than those utilizing steam cleaning equipment, provided that the facilities are not detrimental to the character of the district.
(27) Manufacturing, processing and packaging, light, provided that the activities are not detrimental to the character of the district.
(28) Medical clinics.
(29) Meeting facilities.
(30) Model homes, as permitted under section 25-4-8.
(31) Modeling agencies.
(32) Museums and libraries.

(33) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
(34) Offices.
(35) Personal services.
(36) Photography and artist studios.
(37) Public uses and structures, as permitted under section 25-4-11.
(38) Publishing plants for newspapers, books and magazines, printing shops, cartographing and duplicating processes such as blueprinting or photostating.
(39) Repair establishments, minor.
(40) Restaurants.
(41) Retail establishments, provided that they are not detrimental to the character of the district.
(42) Schools, business.
(43) Schools, photography, art, music, dance or other similar studios or academies.
(44) Schools, vocational.
(45) Telecommunication antennas, as permitted under section 25-4-12.
(46) Temporary real estate offices, as permitted under section 25-4-8.
(47) Theaters, auditoriums and indoor sports arenas.
(48) Utility substations, as permitted under section 25-4-11.

(b) Residential use in connection with the operation of any permitted use shall be permitted in the CDH district.
(c) Buildings and uses normally considered accessory to the above uses shall also be permitted in the CDH district.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2013, ord 13-95, sec 3.)

Section 25-7-23. Height limit.

The height limit in the CDH district shall be one hundred twenty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-24. Minimum building site area.

The minimum building site area in the CDH district shall be seven thousand five hundred square feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-25. Minimum building site average width.

Each building site in the CDH district shall have a minimum building site average width of sixty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-26. Minimum yards.

Front, rear and sides: none, except as required by plan approval.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-7-27. Other regulations.

(a) Plan approval is required for all new structures and additions to existing structures in the CDH district, except for construction of one single-family dwelling and any accessory buildings per lot.

(b) The number of parking spaces required for double-family, duplex and multiple-family residential dwellings having a density greater than one thousand square feet of land area per rentable unit or dwelling unit within the CDH zoning district shall be one off-street parking space per unit.

(c) Off-site parking may be provided to satisfy parking requirements of this section, as approved by the director. Off-site parking means parking provided for residents of double-family, duplex, or a multiple-family residential development that is neither on a public street nor located on the same property as the residence, but is located within a reasonable distance of the residence, as determined and approved by the director. Off-site parking shall be made available for the exclusive use of the rentable units or dwelling units it is meant to accommodate.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 16; am 2013, ord 13-95, sec 4.)

Division 3. UNV, University District.

Section 25-7-30. Purpose and applicability.

The UNV (University) District shall apply to areas of land that are utilized for campus-related activities and is intended to apply to areas for the location and expansion of universities and the uses and facilities that are associated with and are supportive of them. Special consideration of such uses and facilities is appropriate given the unique characteristics of university areas, the variety of uses needed to serve the university community, and the varying intensity of land uses in such a community. (2007, ord 07-104, sec 3.)

Section 25-7-31. Designation of UNV districts.

Each UNV (University) district shall be designated by the symbol "UNV." (2007, ord 07-104, sec 3.)

Section 25-7-32. Permitted uses.

(a) University facilities including classrooms, laboratory and research facilities, administration facilities, athletic centers and facilities, auditoriums, student centers, libraries, museums, exhibition halls, cafeterias, student health clinics, maintenance facilities and parking lots.

(b) Limited retail and service establishments primarily intended to serve the specific needs of the student population of a university and are normally associated with higher education institutions, including, but not limited to, retail stores whose primary customers are students or faculty of a university, convenience stores, theaters, restaurants, recreational and amusement facilities, taverns, drug stores, book stores, health clubs, news stands, photocopying, office supplies, word processing or typing services, computer sales and service, laundries, university credit union, financial institutions, post office and video rentals. Such retail and services establishments shall not be used before the commencement of university operations. No single commercial establishment shall occupy more than twenty thousand square feet of gross floor space, excluding the university book store or cafeteria operations.

(c) Dormitories, fraternity and sorority houses, and apartments and housing for currently enrolled university students and their dependents and for current university employees and their dependents.

(d) Guest accommodations to accommodate visiting scholars and their dependents, parents visiting their children, alumni reunions, as well as participants in conferences and seminars held at or sponsored by the university.

(2007, ord 07-104, sec 3.)

Section 25-7-33. Height limit.

The height limit in the UNV district shall be sixty feet.

(2007, ord 07-104, sec 3.)

Section 25-7-34. Minimum building site area.

The minimum land area required for a UNV district shall be ten acres. The minimum building site area for leased lots shall be seven thousand five hundred square feet.

(2007, ord 07-104, sec 3.)

Section 25-7-35. Minimum building site average width.

Each building site in the UNV district shall have a minimum building site average width of sixty feet.

(2007, ord 07-104, sec 3.)

Section 25-7-36. Minimum yards.

The minimum yards in the UNV district shall be as follows:

(a) Front and rear yards, twenty feet; and

(b) Side yards, ten feet.

(2007, ord 07-104, sec 3.)

Section 25-7-37. Other regulations.

(a) Plan approval is required for all new structures and additions to existing structures in the UNV district.

(b) A maximum of twenty percent of a UNV district's land area may be in commercial use, including parking.
(c) The planning director has the authority to vary the parking requirements for on-campus housing, offices and for pedestrian-oriented commercial uses.
(2007, ord 07-104, sec 3.)

Division 4. PVD, Pāhoa Village Design District.

Section 25-7-40. Purpose and applicability; boundaries.

(a) The PVD (Pāhoa Village Design) district is established to reinforce and promote Pāhoa's role as a regional town center while retaining its rural village feel and identity. The purpose of the regional town center is to serve as a compact medium density area for retail shopping, administrative and professional activities, cultural and artistic activities, other supportive business activities, and a mix of residential uses capable of serving both village residents and the ever more populous surrounding subdivisions. Further, the PVD district seeks to preserve the historical architectural theme that has come to symbolize Pāhoa's unique sense of place and identity, through the implementation of design guidelines within the PVD district.
(b) The PVD district, as used in this chapter, means the area delineated on the map as provided in the Pāhoa Village Design Guidelines (hereinafter "design guidelines") and further described as:
    (1) All parcels having frontage on Pāhoa Village Road from the Pāhoa Village Road and Kea'au-Pāhoa Road intersection and the Pāhoa Village Road and Pāhoa-Kalapana Road intersection;
    (2) All parcels having frontage on Post Office Road between Pāhoa Bypass Road and Pāhoa Village Road;
    (3) All parcels having frontage on the west side of Kea'au-Pāhoa Road between and inclusive of tax map key numbers: 1-5-007:012 and 1-5-007:080;
    (4) All parcels having frontage on Kahakai Boulevard, including any extensions of Kahakai Boulevard up to the parcel identified by tax map key number 1-5-008:001, west of Pāhoa Bypass Road;
    (5) Parcels identified by tax map key numbers: 1-5-005:024, 1-5-006:037, 1-5-006:015, 1-5-003:037 and 1-5-003:046; and
    (6) All parcels any part of which are designated medium density urban in Exhibit A of Ordinance No. 12-89 amending the general plan land use pattern allocation guide (LUPAG) map, with the following exclusions:
        (A) That portion of tax map key no: 1-5-002:020 that is not designated medium density urban in Exhibit A of Ordinance 12-89; and
        (B) Parcels identified by tax map key numbers: 1-5-001:003 and 1-5-008:001.
(2015, ord 15-44, sec 4.)

Section 25-7-41. Design guidelines; intent; adoption; applicability.

(a) The intent of the Pāhoa Village Design Guidelines (hereinafter "design guidelines") is to articulate primary architectural features and building design characteristics that have historically been identified as the Hawaiʻi plantation architectural style or theme.

(b) Design guidelines may be adopted by resolution or as standards by ordinance and shall be administered by the director after giving due consideration to the recommendations of the Pāhoa design review committee having been established in accordance with section 25-2-72 of this chapter.

(c) While no specific minimum number of the architectural features in the design guidelines shall be required for any proposed project, all buildings and structures within the PVD district, except as otherwise specified in section 25-7-42(d) below, shall be designed to be consistent with the design guidelines and to be complementary with the existing structures.

(2015, ord 15-44, sec 4.)

Section 25-7-42. Pāhoa design review committee; purpose; procedures.

(a) The purpose of the Pāhoa design review committee (hereinafter "committee") is to provide an opportunity for local review and comment, for consistency with the design guidelines, on plans for all new buildings and structures as well as alterations to the exterior of existing buildings and structures within the PVD district.

(b) Upon request from the director, the Puna Community Development Plan Action Committee (PCDP AC) shall identify and recommend one or more appropriate Pāhoa based community organizations that will be responsible for establishing the committee and providing any necessary administrative support that may be required. Committee membership should reflect a broad cross section of the Pāhoa regional town center service area and, to the extent reasonably possible, shall include representation from the construction industry, local businesses, and architecture and design professionals.

(c) The director shall provide the committee with an opportunity to conduct an architectural and design review, for consistency with the design guidelines, of all applications for plan approval, P.U.D. or sign permit, except as provided for in subsection (d) below.

(1) The committee shall complete its review of any application for plan approval and submit its written recommendations along with the reviewed plans stamped "Reviewed by" with the date and signature of the committee chair to the director within twenty-five calendar days of receipt of such application from the director.

(2) The committee shall complete its review of any application for a P.U.D. and submit its written recommendations along with the reviewed plans stamped "Reviewed by" with the date and signature of the committee chair to the director within twenty-five calendar days of receipt of any plans for partial or final full approval from the director.

(3) The committee shall review and submit its written recommendations on applications for sign permits as provided in chapter 3, article 3 of this Code.
(4) Committee recommendations to the director shall be consistent with the provisions of the County Charter, general plan, Puna community development plan, Pāhoa Village Design Guidelines, zoning and other related ordinances and any master plan adopted for the PVD district.

(d) The director may waive the requirement for architectural and design review by the committee when the proposed improvements will clearly have little or no visual impact on the preservation or promotion of the Hawai'i plantation architectural theme, including, but not limited to:
(1) The construction or installation of accessory buildings or structures or minor alterations to the exterior of any existing building or structure that is not visible from any street frontage of the building site;
(2) The addition or replacement of accessory features such as flag poles, roof gutters and downspouts, railings and fencing of similar size, style and material or that more closely conforms to the design guidelines;
(3) Painting or repainting of the exterior of any building, structure or accessory feature that is consistent with the design guidelines; or
(4) The replacement of existing doors and windows where the size of the replacement door or window is within ten percent of the size of the original door or window.

(e) In order to assist applicants with designing projects that satisfactorily conform to the design guidelines, the committee shall also develop a process for and be available to provide preliminary review of conceptual plans prior to formal submittal of detailed plans and an application for a building permit, plan approval, P.U.D. or sign permit.

(f) The committee shall conduct a comprehensive review of the design guidelines and PVD district boundaries and submit its recommendations for amendments to the design guidelines and PVD district boundaries to the PCDP AC within ten years following adoption of the design guidelines, and every ten years thereafter. The committee may prepare and submit to the PCDP AC recommendations for interim amendments to the design guidelines and PVD district boundaries as it deems necessary.

(2015, ord 15-44, sec 4.)

Article 8. Zoning Map, District and Urban Zone Maps.*

Section 25-8-1. Maps incorporated by reference.

The maps described in this article delineate the zoning districts designated in article 5 of this chapter and are hereby incorporated by reference to this chapter. A copy of each map referred to shall be filed in the planning department.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

* **Editor's Note:** A schedule of amendments to the zoning maps can be found in an annex to the zoning code, pursuant to section 25-3-3.

Section 25-8-2. North and South Kona districts zone map.
North and South Kona districts zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.01.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-3. North Kona zone map.
North Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.02.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-4. South Kona zone map.
South Kona zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.03.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-5. Kailua urban zone map.
Kailua urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.04.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-6. Kailua-Honalo urban zone map.
Kailua-Honalo urban zone map, as adopted on February 17, 1967, by the commission and marked thereupon as section 7.05.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-7. North and South Kohala districts zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-8. Upolu Point-Kaauhuhu homesteads zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-9. Hawi-Kapaau zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-10. Halaula-Niulii zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-11. Lalamilo-Puukapu zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-12. Kawaihae-Puako zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-13. Puako-Anaehoomalu zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-14. Waikoloa Village zone map.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-15. Hāmākua district zone map.
Hāmākua district zone map, marked thereupon as section 7.11.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-16. Hāmākua district homesteads area zone map.
Hāmākua district homesteads area zone map, marked thereupon as section 7.12.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-17. Haina-Honoka‘a-Kukuihaele zone map.
Haina-Honoka‘a-Kukuihaele zone map, marked thereupon as section 7.13.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-18. Pa‘auilo-Kukaiau zone map.
Pa‘auilo -Kukaiau zone map, marked thereupon as section 7.14.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-19. North Hilo district zone map.
North Hilo district zone map, marked thereupon as section 7.15.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-20. ‘Ō‘ōkala zone map.
‘Ō‘ōkala zone map, marked thereupon as section 7.16.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-21. Laupāhoehoe-Nīnole zone map.
Laupāhoehoe-Nīnole zone map, marked thereupon as section 7.17.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-22. Puna district zone map.
Puna district zone map, marked thereupon as section 7.18.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-23. Volcano-Mt. View zone map.
Volcano-Mt. View zone map, marked thereupon as section 7.19.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-24. Kurtistown zone map.
Kurtistown zone map, marked thereupon as section 7.20.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-25. Kea‘au zone map.
Kea‘au zone map, marked thereupon as section 7.21.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-26. Pāhoa zone map.
Pāhoa zone map, marked thereupon as section 7.22.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-27. Kalapana-Kaimū zone map.
Kalapana-Kaimū zone map, marked thereupon as section 7.23.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-28. Kaʻū district zone map.
Kaʻū district zone map, marked thereupon as section 7.24.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-29. Pāhala Village zone map.
Pāhala Village zone map, marked thereupon as section 7.25.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-30. Nāʻālehu zone map.
Nāʻālehu zone map, marked thereupon as section 7.26.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-31. Waiʻōhinu zone map.
Waiʻōhinu zone map, marked thereupon as section 7.27.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-32. South Hilo district zone map (exclusive of the city of Hilo, Pāpaʻikou-Onomea, Pepeʻekeō and Hakalau-Honomū).
South Hilo district zone map (exclusive of the city of Hilo, Pāpaʻikou-Onomea, Pepeʻekeō and Hakalau-Honomū) marked thereupon as section 7.28.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-33. City of Hilo zone map.
City of Hilo zone map, marked thereupon as section 7.29.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-34. Pāpaʻikou-Onomea zone map.
Pāpaʻikou-Onomea zone map marked thereupon as section 7.30.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-35. Pepeʻekeō zone map.
Pepeʻekeō zone map, marked thereupon as section 7.31.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-8-36. Hakalau-Honomū zone map.
Hakalau-Honomū zone map, marked thereupon as section 7.32.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Chapter 25 – Zoning Code Annex

Schedule of Amendments to Zoning Maps
By Zoning Map

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CHAPTER 25

ZONING CODE ANNEX

Schedule of Amendments to Zoning Maps
By Zoning Map

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--	Halaʻula-Niuliʻi (§ 25-8-10)	25A-57
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--	Kawaihae-Puakō (§ 25-8-12)	25A-63
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7.11	Hāmākua District (§ 25-8-15)	25A-69
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7.20	Kurtistown (§ 25-8-24)	25A-83
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7.30	Pāpaʻikou-Onomea (§ 25-8-34)	25A-132
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ZONING MAP No. 7.01 – (North and South Kona)

§ 25-8-2

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	593	6-27-1973	Kealia 2nd, South Kona	8-6-02:22,23 and 36	A-20a	A-1a	7.01(a)
(2)	194	3-3-1976	Kaloko, North Kona	7-3-24:13	A-20a	A-3a	7.01(b)
(3)	242	12-29-1976	Kaupulehu, North Kona	7-2-03:Por. 2	O	V-3	7.01 (c-1--1c 5)
(4)	267	4-28-1977	Kohanaiki Homesteads, North Kona	7-3-06:1	A-20a	A-5a	7.01(c)
(5)	555	4-21-1980	Kaloko, North Kona	7-3-25:06	A-20a	A-3a	7.01(e)
(6)	560	4-30-1980	Kaloko, North Kona	7-3-24:20	A-20a	A-3a	7.01(f) Am. by Ord. 5966-26-1980
(7)	570	5-12-1980	Kaloko, North Kona	7-3-24:15	A-20a	A-3a	7.01(g)
(8)	83-52	11-29-1983	Kukio, Maniniowale, Kaulana, Awalua, Ohiki, Puukala and Ka‘ū, North Kona	7-2-07:1,2,3,4,5	A-20a	A-900a, A-1a	
(9)	84-61	9-11-1984	Kaloko, North Kona	7-3-24:16	A-20a	A-3a	
(10)	85-46	5-28-1985	Kaloko, North Kona	7-3-24:9	A-20a	A-3a	
(11)	86-83	8-19-1986	Kaloko, North Kona	7-2-24:4	A-20a	A-3a	
(12)	86-131	11-25-1986	Kaloko, North Kona	7-3-24:21	A-20a	A-3a	
(13)	87-113	10-28-1987	Kaupulehu, North Kona	7-2-03:Pors. 1 and 2	O and V-3	V-7	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(14)	88-71	5-31-1988	Kaloko, North Kona	7-3-24:4	(Amends Ord. 86-83) (Effective Date 8-19-1986)		
(15)	88-72	5-31-1988	Kaloko, North Kona	7-3-24:21	(Amends Ord. 86-131) (Effective Date 11-25-1986)		
(16)	88-91	6-30-1988	Kaloko, North Kona	7-3-24:9	(Amends Ord. 85-46) (Effective Date 5-28-1985)		
(17)	88-157	10-27-1988	Kaupulehu, North Kona	7-2-3:Por. 1	O	RM-3, RM-10 CV-10, V-2.25, V-10	
(18)	89-05	1-30-1989	Kaloko, North Kona	7-3-24:35	A-20a	A-3a	
(19)	89-103	7-12-1989	Puuanahulu, North Kona	7-105:57	U	A-1a	
(20)	89-104	7-12-1989	Kaloko, North Kona	7-3-24:7	A-20a	A-3a	
(21)	89-155	12-11-1989	Kaawaloa, South Kona	8-1-21:30 and 33	A-20a	A-5a	
(22)	92-95	9-2-1992	Kaupulehu, North Kona	7-2-3:Por. 1	O, RM-3, CV-10, 10, V-2.25, V- 10	RM-3, RM-10 CV-10, V-2.25, V-10, O	
(23)	92-116	10-29-1992	Kaloko, North Kona	7-3-24:5	A-20a	A-3a	
(24)	94-75	6-28-1994	Kaupulehu, North Kona	7-2-03:Por. 4,5, and 6	V-2.25, V-10, RM-3 RM-10, CV-10, O	V-2.25, RM-3 RM-10, CV-10, O	
(25)	94-78	7-13-1994	Puuanahulu, North Kona	7-1-05:9, 10, 22, 26, 28-34, 39, 40, 41, 58, and 59	U	A-1a	
(26)	95-44	3-21-1995	Kaloko, North Kona	7-3-26:2	A-20a	A-10a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(27)	95-45	3-21-1995	Kaloko, North Kona	7-3-24:6	A-20a	A-3a	
(28)	95-46	3-21-1995	Kaloko, North Kona	7-3-25:11	A-20a	A-5a	
(29)	95-47	3-21-1995	Kaloko, North Kona	7-3-24:10	A-20a	A-3a	
(30)	95-48	3-21-1995	Kaloko, North Kona	7-3-25:16	A-20a	A-3a	
(31)	95-49	3-21-1995	Kaloko, North Kona	7-3-25:5	A-20a	A-3a	
(32)	95-70	5-23-1995	Kealakekua, Kiloa, Waipunaula, Kalama Kumu and Kalamakowali, South Kona	8-2-12:12, Por. 1	A-20a	A-1a, A-3a, A-200a A-255a, A-8000a	
(33)	95-128	11-9-1995	Kalaoa, 1st, North Kona	7-3-02:23 and 27	A-20a	A-8a	
(34)	96-24	3-18-1996	Kaloko, North Kona	7-3-25:17	A-20a	A-3a, A-5a	
(35)	96-25	3-18-1996	Kaloko, North Kona	7-3-25:10	A-20a	A-5a	
(36)	96-100	9-19-1996	Kaloko, North Kona	7-3-27:11	A-20a	A-10a	
(37)	96-101	9-19-1996	Kaloko, North Kona	7-3-25:14	A-20a	A-3a	
(38)	96-102	9-19-1996	Kaloko, North Kona	7-3-02:02	A-20a	A-3a	
(39)	97-37	3-13-1997	Kalaoa 3rd, North Kona	7-3-02:02	A-20a	A-5a	
(40)	97-43	3-13-1997	Kaloko, North Kona	7-3-25:4	A-20a	A-5a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(41)	97-54	4-7-1997	Kaloko, North Kona	7-3-24:12	A-20a	FA-3a	
(42)	97-74	6-9-1997	Honokohau 1st and 2nd, North Kona	7-4-5:2	A-20a	A-10a	
(43)	97-117	9-12-1997	Kaloko, North Kona	7-3-26:4	A-20a	A-7a	
(44)	98-63	7-2-1998	Kealakekua, Kiloa, Waipunaula, Kalama, Kumu, and Kalamakowali, South Kona	8-2-12:12, Por. 1	(Amends Ord. 95-70) (Effective Date 5-23-1995)		
(45)	98-66	7-2-1998	Kalaoa 5th, North Kona	7-3-10:27	(Amends Ord. 91-22) (Effective Date 3-15-1991)		
(46)	98-90	8-27-1998	Kaloko, North Kona	7-3-26:5	A-20a	A-10a	
(47)	98-91	8-27-1998	Kaloko, North Kona	7-3-25:12	A-20a	A-5a	
(48)	98-92	8-27-1998	Kaloko, North Kona	7-3-25:13	A-20a	A-5a	
(49)	99-35	3-15-1999	Kaloko, North Kona	7-3-25:15	A-20a	FA-3a	
(50)	99-79	6-23-1999	Pu‘uanahulu Homesteads, North Kona	7-1-05:9, 10, 22, 26, 28-34, 39, 40, 41, 58 and 59	U	A-1a	
(51)	00-51	5-17-2000	Kaloko, North Kona	7-3-26:19	A-20a	A-10a	
(52)	00-105	9-18-2000	Pu‘uanahulu Homesteads, North Kona	7-1-05:9, 10, 22, 26, 28-34, 39, 40, 41, 58 and 59	(Amends Ord. 99-79) (Effective Date 6-23-1999)		
(53)	01-64	7-16-2001	Pu‘uanahulu Homesteads, North Kona	7-1-05:9, 10, 22, 26, 28-34, 39, 40, 41, 58 and 59	(Amends Ord. 00-105) (Effective Date 9-18-00)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(54)	02-45	4-2-2002	Kaloko, North Kona	7-3-24:1 and 2	A-20a	FA-5a	
(55)	02-105	9-12-2002	Kaloko, North Kona	7-3-24:11	A-20a	FA-3a	
(56)	02-106	9-12-2002	Puʻuanahulu Homesteads, North Kona	7-1-05:9, 10, 22, 26, 28- 34, 39, 40, 41, 58 and 59	(Amends Ord. 01-64) (Effective Date 7-16-01)		
(57)	04-13	2-11-2004	Kaloko, North Kona	7-3-26:16	A-20a	A-10a	
(58)	04-14	2-11-2004	Kaloko, North Kona	7-3-27:10	A-20a	A-10a	
(59)	04-63	6-14-2004	Kaloko, North Kona	7-3-25:8	A-20a	A-5a	
(60)	04-89	8-12-2004	Kaloko, North Kona	7-3-26:15	A-20a	A-10a	
(61)	04-146	12-8-2004	Kaloko, North Kona	7-3-27:21	A-20a	A-10a	
(62)	04-147	12-8-2004	Kaloko, North Kona	7-3-25:7	A-20a	FA-3a	
(63)	05-65	5-16-2005	Kaloko, North Kona	7-3-26:11	A-20a	A-10a	
(64)	05-66	5-16-2005	Kaloko, North Kona	7-3-27:7	A-20a	A-10a	
(65)	05-67	5-16-2005	Kaloko, North Kona	7-3-27:6	A-20a	A-10a	
(66)	06-04	1-13-2006	Kaloko, North Kona	7-3-26:14	A-20a	A-10a	
(67)	06-58	5-12-2006	Kaloko, North Kona	7-3-26:13	A-20a	A-10a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(68)	06-59	5-12-2006	Kaloko, North Kona	7-3-25:9	A-20a	A-5a	
(69)	06-82	6-16-2006	Kaloko, North Kona	7-3-24:8	A-20a	FA-3a	
(70)	06-110	7-27-2006	Kaloko, North Kona	7-3-048:005	A-20a	A-10a	
(71)	07-46	4-4-2007	Pu‘uanahulu, North Kona	7-1-5:9 and 7-1-7:44-47	A-1a	O	
(72)	09-05	2-9-2009	Kaloko, North Kona	7-3-27:14	A-20a	A-10a	
(73)	09-06	2-9-2009	Kaloko, North Kona	7-3-026:017	A-20a	A-10a	
(74)	15-105	11-20-2015	Kaloko, North Kona	7-3-026:003	A-20a	A-7a	

ZONING MAP No. 7.02 – (North Kona)

§ 25-8-3

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	124	5-1-1968	Kealakehe, North Kona	7-4-08	A-1a	RD-3.75	6.02(a), 7.02(a)
(2)	132	6-19-1968	Pahoehoe 4th, North Kona	7-7-08:101	U	V-1.25	6.02(b), 7.02(b)
(3)	140	7-17-1968	Laaloa 1st, Laaloa 2nd and Kapalaalaea 1st, North Kona	7-7-07	U	RS-10	7.02(c)
(4)	141	8-7-1968	Hokukano 1st, North Kona and Keauhou 2nd, North Kona	7-9-12	A-5a	A-1a	7.02(d)
(5)	169	11-20-1968	Kealakehe Homesteads, North Kona	7-4-08	A-1a	RM.5	7.02(e)
(6)	198	3-5-1969	Kealakehe Homesteads, North Kona	7-4-04:10 and 7-4-09: 19	A-1a	RS7.5	7.02(f)
(7)	247	8-20-1969	Kealakehe Homesteads, North Kona	7-4-08:Por. 17	RD-3.75	RM-5	7.02(h)
(8)	264	9-22-1969	Honuaino 2nd, North Kona	7-9-07:22	A-5a	CV-7.5 and A-1a	7.02(g-1) and 7.02(g-2)
(9)	287	12-15-1969	Kanaueue 2nd, North Kona	7-9-13:12	RS-15	CN-10	7.02(j)
(10)	297	1-28-1970	Keahuolu, North Kona	7-4-08:Por. 1	A-1a	CV-10	7.02(i)
(11)	303	2-26-1970	Keahuolu, North Kona	7-4-08:Por. 1	U	RS-15	7.02(k)
(12)	351	11-12-1970	Holualoa 2nd, North Kona	7-6-13:19	A-1a	CV-10	7.02(l)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	438	12-22-1971	Kaloko, North Kona	7-3-08:Por. 32	A-3a	A-1a	7.02(m)
(14)	455	3-23-1972	Pua‘a 1st, North Kona	7-5-09:57	A-1a	RM-2	7.02(o)
(15)	461	4-11-1972	Kaloko, North Kona	7-3-08:68	A-3a	A-1a	7.02(n)
(16)	467	5-8-1972	Kealakehe Homesteads, North Kona	7-4-04:20	A-1a	RS-10	7.02(p)
(17)	468	5-8-1972	Kealakehe Homesteads, North Kona	7-4-09:71	A-1a	RS-10	7.02(q)
(18)	479	6-27-1972	Keopu 3rd, North Kona	7-5-24:10-21 and 28-42	A-5a, U	A-3a, A-1a	7.02(r-1 to r-2) Am. by Ord. 61511-28-73
(19)	483	7-18-1972	Hamanamana, North Kona	7-3-03:5	U	A-1a	7.02(s)
(20)	490	8-1-1972	Holualoa 1st and 2nd, North Kona	7-6-03:Por. 26	A-1a	RS-10	7.02(t)
(21)	491	8-1-1972	Ooma 1st, North Kona	7-3-06:16	A-20a	A-3a	7.02(u)
(22)	503	8-15-1972	Kaloko, North Kona	7-3-09:10 and 12	A-3a	A-1a	7.02(v)
(23)	506	8-15-1972	Kalaoa 1st, North Kona	7-3-02:12	A-20a	A-1a	7.02(w)
(24)	507	8-15-1972	Kanaueue 2nd, North Kona	7-9-13:4	RS-15	CN-10	7.02(x)
(25)	509	8-28-1972	Keauhou 1st, North Kona	7-8-07:33	A-1a	RA-.5a	7.02(cc)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(26)	510	8-28-1972	Keauhou 2nd, North Kona	7-8-19:Por. 29	U	RS-15	7.02(bb)
(27)	512	8-28-1972	Kaloa 5th, North Kona	7-3-05:34 and 7-3-10:Por. 27	U	A-1a	7.02(z) Am. by Ord. 557, 2-27-1973
(28)	513	8-28-1972	Ooma 2nd, North Kona	7-3-07:37	A-3a	A-1a	7.02(y)
(29)	514	8-28-1972	Ooma 1st, North Kona	7-3-10:1	U	A-1a	7.02(aa) Am. by Ord. 558, 2-27-1973
(30)	526	10-18-1972	Keauhou 1st, North Kona	7-8-04:Por. 73	A-5a	A-1a	7.02(ee)
(31)	532	11-2-1972	Kanaueue 1st, North Kona	7-9-10:4	A-5a	A-1a	7.02(dd)
(32)	557	2-27-1973	Kalaoa 5th, North Kona	7-3-05:34 and 7-3-10: Por. 27	(Amends Ord. 512) (Effective Date 8-28-1972)		7.02(z)
(33)	558	2-27-1973	Ooma 1st, North Kona	7-3-10:1	(Amends Ord. 514) (Effective Date 8-28-1972)		7.02(aa)
(34)	583	6-8-1973	Kaloko, North Kona	7-3-08:63	A-3a	A-1a	7.02(ff)
(35)	605	8-30-1973	Maihi 1st and 2nd, North Kona	7-9-03:10	A-1a	RM-1.25	7.02(gg) Am by Ord. 423,
(36)	611	11-28-1973	Honokohau 1st, North Kona	7-4-02:Por. 8	A-20a	A-1a	7.02(ii)
(37)	612	11-27-1973	Kahalui 1st, North Kona	7-5-16:33	A-5a	A-1a	7.02(hh) Am. by Ord. 622,
(38)	615	11-28-1973	Keopu 3rd, North Kona	7-5-24:10-21 and 28-42	(Amends Ord. 479) (Effective Date 6-27-1972)		7.02(r-1 to r-2)
(39)	622	4-2-1974	Kealakehe, North Kona	7-4-08:Por. 17	(Effective Date 11-27-1973)		7.02(hh)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(40)	26	4-29-1974	Kalaoa 1st and 2nd, North Kona	7-3-11:49	U	A-1a	7.02(kk)
(41)	29	4-29-1974	Kealakehe Homesteads 1st Series, North Kona	7-4-04:11 and 42	A-1a	RS-10	7.02(ll)
(42)	73	11-26-1974	Keahuolu, North Kona	7-4-08:Por. 12	U	RS-15	7.02(mm)
(43)	74	11-26-1974	Kanaue 1st, North Kona	7-9-10:Por. 4	A-1a	RM-4	7.02(nn)
(44)	83	12-27-1974	Kealakehe, North Kona	7-4-08:Por. 17	A-1a, RM-5	RM-5, RS-10	7.02(00-1 to 00-2)
(45)	89	2-12-1975	Kealakehe Homesteads, North Kona	7-4-04:24	U	RS-10	7.02(pp)
(46)	110	5-2-1975	Kanaueue 1st, North Kona	7-9-10:Por. 4	A-1a	RM-4	7.02()
(47)	276	5-24-1977	Kealakehe Homesteads, North Kona	7-4-04:44	U	A-1a	7.02(qq)
(48)	277	5-24-1977	Ooma 1st, North Kona	7-3-05:17	U	A-1a	7.02(rr)
(49)	370	6-30-1978	Auhaukeae 1st and 2nd, North Kona	7-5-10:Por. 8 and 9	U	RS-15	7.02(ss)
(50)	424	3-28-1979	Ooma 1st, Kalaoa 1st-4th, Hamanamana and Haleohiu, North Kona	7-3-43:Por. 3, 6-22, 28-31,	O	MG-1a	7.02(tt-1--
(51)	530	2-12-1980	Kalaoa 1st-4th, North Kona	7-3-43:4	O	MG-1a	7.02(uu)
(52)	531	2-12-1980	Holualoa 1st and 2nd, North Kona	7-6-13:24	U	RS-10	7.02(vv)
(53)	565	5-12-1980	Kealakehe, North Kona	7-4-17:1-7	RM-5	RS-10	7.02(ww)
(54)	581	6-3-1980	Kalaoa 1st-4th and Ooma 1st, North Kona	7-3-10:Por. 33	O	A-5a	7.02(xx-1—xx-2)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(55)	610	8-18-1980	Kanului 1st to Kahaluu, North Kona	Relative to the Delineation of the Proposed Alii Drive Realignment at Kahului 1st to Kahuluu, North Kona	--	--	7.02(yy)
(56)	666	2-10-1981	Holualoa 1st and 2nd, North Kona	7-6-13:Por. 11	U	RS-7.5	7.02(zz)
(57)	674	2-20-1981	Kealakehe, North Kona	7-4-04:13	A-1a	RS-7.5	7.02(aaa)
(58)	684	4-10-1981	Lanihau 2nd and Moeauoa 2nd, North Kona	7-5-04:7	A-1a	CG-20	7.02(bbb)
(59)	713	8-31-1981	Pua‘a 1st, North Kona	7-5-10:6	A-1a	RM-3	7.02(ccc)
(60)	717	9-21-1981	Keauhou 2nd, North Kona	7-8-05:42	U	RS-20	7.02(ddd)
(61)	756	2-9-1982	Kealakehe, North Kona	7-4-14:103	RS-10	RS-7.5	7.02(eee)
(62)	760	2-22-1982	Holualoa 1st and 2nd, North Kona	7-6-13:35	A-1a	CV-10	7.02(ffff)
(63)	820	9-8-1982	Kahaluu, Keauhou 1 and Keauhou 2, North Kona	Por. 7-8-10, Por. 7-8-11, Por. 7-8-12	--	RM-3.5, RS-15, O	7.02(ggg 1 -- ggg-5)
(64)	846	2-10-1983	Hamanamana, Kalooa and Ooma 1st, North Kona	7-3-43:Por. 3	O	MG-1a	7.02(hhh 1 -- hhh-3)
(65)	850	2-15-1983	Kau, North Kona	7-2-05:Por. 1	U	A-3a	7.02(iii)
(66)	869	4-18-1983	Kahului 2nd, North Kona	7-5-19:Por. 1	U	RM-4, RM-7, CN-10	7.02(jjj-1 – jjj-3)
(67)	870	4-18-1983	Kahului 1st, North Kona	7-5-19:Por. 5	U	RM-4, RM-7	7.02(kkk-1 -- kkk-2)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(68)	879	5-16-1983	Puaa 3rd, North Kona	7-5-10:18 and 20	U	RS-15	7.02(lll)
(69)	83-28	10-13-1983	Pahoehoe 4th, Laaloa 1st and 2nd and Kapalaalaea 1st, North Kona	7-7-08:Por. 11	U	RS-7.5, RS-15	
(70)	83-38	10-26-1983	Kaloko, North Kona	7-3-09:Por. 1	O	ML-1a	
(71)	83-52	11-29-1983	Mahaiula, Kaulana, Awalua and Ohiki, North Kona	6-2-04:7, 7-2-06:9, 13, 16	U	A-500a, A-1a	
(72)	83-54	12-12-1983	Kalaoa 5th, North Kona	7-3-05:27	A-1a	CN-20	
(73)	83-63	12-19-1983	Kaloko and Kohanaiki, North Kona	7-3-09:19	U	RS-7.5, RS-10 RS-15, RM-3.0, CN-20, O	
(74)	84-09	2-10-1984	Keahuolu, North Kona	7-4-08:Por. 2	U	O and ML-1a	
(75)	84-23	5-15-1984	Holualoa 1 and 2, North Kona	7-6-21:4, 9-13 and 15-17	U	RM-5 and RS-15	
(76)	84-42	7-31-1984	Holualoa 1 and 2, North Kona	7-6-21:Por. 16	U	RM-5	
(77)	84-71	10-9-1984	Kohanaiki, North Kona	7-3-07:34	A-3a	RS-20	
(78)			Reserved				
(79)	85-86	11-26-1985	Kalaoa 5th, North Kona	7-3-05:9	U	A-3a	
(80)	86-28	3-24-1986	Honokohau, North Kona	7-4-06:23	U	A-1a	
(81)	86-61	6-9-1986	Keauhou 1st, North Kona	7-8-06:Por. 55	A-5a	A-1a	
(82)	86-71	6-25-1986	Kalaoa 5th, North Kona	7-3-05:9	(Amends Ord. 85-86) (Effective Date 11-26-1985)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(83)	86-79	7-9-1986	Waiaha 2nd and Kahului 1st, North Kona	7-5-18:61, 7-5-19:Por. 5	(Amends Ord. 870) (Effective Date 4-18-1983)		
(84)	86-91	8-19-1986	Kaloko and Kohanaiki, North Kona	7-3-09:19	(Amends Ord. 83-63) (Effective Date 12-19-1983)		
(85)	86-92	8-19-1986	Kaloko, North Kona	7-3-51:Por. 1, 2 to 59	(Amends Ord. 83-38) (Effective Date 10-26-1983)		
(86)	86-93	8-19-1986	Ooma 1st and 2nd, North Kona	7-3-09:Por. 5, 7-3-43:Por. 3	O	ML-3a, MG-3a	
(87)	86-94	8-19-1986	Keahuolu, North Kona	7-4-08:Por. 2	(Amends Ord. 84-9) (Effective Date 2-10-1984)		
(88)	86-98	8-25-1986	Kaloko, North Kona	7-3-08:67	A-3a	A-1a	
(89)	86-135	12-15-1986	Kalaoa 5th, North Kona	7-3-04:4	A-20a	A-1a	
(90)	87-47	5-11-1987	Kahului 2nd, North Kona	7-5-19:Por. 1	(Amends Ord. 869) (Effective Date 4-18-1983)		
(91)	87-48	5-11-1987	O‘oma 1st, North Kona	7-3-07:44	U	A-1a	
(92)	87-78	7-30-1987	Kealakehe, North Kona	7-4-04:45	A-1a	RS-10	
(93)	87-129	12-23-1987	Auhaukeae 1st and 2nd, North Kona	7-5-10:8 and 57	U	RM-4 and CN-20	
(94)	88-04	1-18-1988	Holualoa 1 and 2, North Kona	7-6-21:4, 9 to 13, and 15 to 17	(Amends Ord 84-23 and Ord. 84-42) (Effective Dates 5-18-1984 and 7-31-1984)		
(95)	88-05	1-18-1988	Keahuolu, North Kona	7-4-8:Por. 2	(Amends Ord. 84-9 and Ord. 86-94) (Effective Dates 2-10-1984 and 8-19-1986)		
(96)	88-23	2-29-1988	Kau, North Kona	7-2-5:Por. 1	(Amends Ord. 850) (Effective Date 2-15-1983)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(97)	88-88	6-30-1988	Kanaueue 1st and 2nd, North Kona	7-9-12:18	A-5a	RA-1a	
(98)	88-92	6-30-1988	Auhaukeae 1st and 2nd, North Kona	7-5-10:8 and 57	(Amends Ord. 87-129) (Effective Date 12-23-1987)		
(99)	88-111	7-29-1988	Kaloko, North Kona	7-3-51:Por. 1 and 2 to 59	(Amends Ord. 83-38 and Ord. 86-92) (Effective Dates		
(100)	88-112	7-29-1988	Holukano 1st, North Kona	7-9-10:57	RS-15	CN-10	
(101)	88-115	8-17-1988	Kalaoa 4th, North Kona	7-3-5:86	U	RS-10	
(102)	88-117	8-17-1988	Kalaoa 4th, North Kona	7-3-5:87	U	RS-10	
(103)	88-154	10-27-1988	Kaloko, North Kona	7-3-20:5	A-1a	RS-15	
(104)	88-158	10-27-1988	Kukio 1st, North Kona	7-2-4:Pors. 5 and 16	O	V-1, V-2, CV-10, CN-10, RS-10, RS-15, RS-20, RM-3, RM-3.5, RM-4, RM-5 RS-10, RM-3, V-1.25, CV-10, ML-20	
(105)	88-159	11-7-1988	Kohanaiki, North Kona	7-3-9:Por. 3	O		
(106)	88-166	11-7-1988	Keahuolu, North Kona	7-4-8:Por. 2	ML-1a	MG-1a	
(107)	89-30	2-23-1989	Kalaoa 4th, North Kona	7-3-05:Por. 85	U	A-1a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(108)	89-67	5-22-1989	Kalaoa 5th, North Kona	7-3-10:Por. 27	U	RS-20	
(109)	89-77	6-13-1989	Puapuaa 1 and 2, North Kona	7-5-20:73, 74 and 75	U	RM-2	
(110)	89-83	6-13-1989	Keahuolu, North Kona	7-4-08:Por. 2	ML-1a	MG-1a	
(111)	90-40	4-12-1990	Honokohau 2nd, North Kona	7-4-08:33	O	ML-3a	
(112)	90-62	5-27-1990	Holualoa 1st and 2nd, North Kona	7-6-21:4, 9-13,and 15-17	(Amends Ord. 88-4) (Effective Date 1-18-1988)		
(113)	90-63	5-27-1990	Puapuaaiki and Puapuaanui, North Kona	7-5-17:28 and 29	U	RS-7.5, RS-20	
(114)	90-83	7-16-1990	Lanihau 2nd and Moeauoa 2nd, North Kona	7-5-04:7	(Amends Ord. 684) (Effective Date 4-10-1981)		
(115)	90-96	8-14-1990	Laaloa 1st and 2nd and Kapalaalaea 1st, North Kona	7-7-07:30	U	RS-15, A-1a	
(116)	90-99	8-14-1990	Pahoehoe 4th, North Kona	7-7-07:5	U, A-1a	RS-10	
(117)	90-146	11-30-1990	Ooma 2nd, North Kona	7-3-07:37	(Amends Ord. 513) (Effective Date 8-28-1972)		
(118)	90-162	12-27-1990	Pahoehoe 4th, Laaloa 1st and 2nd and Kapalaalaea 1st, North Kona	7-7-08:Por. 11	(Amends Ord. 83-28) (Effective Date 10-13-1983)		
(119)	92-02	1-22-1992	Kalaoa 1st – 4th, Hamanamana, Haleohiu, Makaula, Kau and Puukala, North Kona	7-3-43:Pors. 1, 2, and 3	O	MG-1a	
(120)	92-04	1-22-1992	Keauhou 1, North Kona	7-8-10:Por. 50 and 7-8-11:6	U	RS-15	
(121)	92-36	4-24-1992	Hienaloli 4th and 5th, North Kona	7-5-10:13 and 7-5-23:63	U, RD-3.75	RM-2.5, CV-7.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(122)	92-76	6-25-1992	Puapuaa 1 and 2, North Kona	7-5-20:73, 74, and 75	(Amends Ord. 89-77) (Effective Date 6-13-1988)		
(123)	92-82	7-22-1992	Kalaoa 4th, North Kona	7-3-5:88	U	RS-10	
(124)	92-85	7-22-1992	Keahuolu, North Kona	7-4-8:Por. 2	(Amends Ord. 88-5) (Effective Date 1-18-1988)		
(125)	92-118	11-2-1992	Lanihau 2nd, Moeauoa 1st, Moeauoa 2nd and	7-5-4:43	A-1a	CG-20	
(126)	93-26	4-7-1993	Holualoa 1 and 2, North Kona	7-6-21:4, 9-13, and 15-17	(Amends Ord. 84-23 as amended by Ord Nos. 84-42, 88-4, 90-62 and 91-96) (Effective Date 5-15-1984)		
(127)	93-38	4-27-1993	Honokohau 2nd, North Kona	7-4-08:Pors. 26 and 49	O	ML-40a, MG-5a	
(128)	93-45	5-12-1993	Kau, North Kona	7-2-05:Por. 1	(Amends Ord. 88-23 as amended by Ord. 850) (Effective Date 2-29-1988)		
(129)	93-66	6-22-1993	Keahuolu, North Kona	7-4-08:Por. 12	U	CO-10,CG-10,0	
(130)	93-76	8-9-1993	Puapuaaiki and Puapuaanui, North Kona	7-5-17:28 and 29	(Amends Ord. 90-63) (Effective Date 5-27-1990)		
(131)	93-118	11-29-1993	Hienaloli 4th, North Kona	7-5-10:Por. 62	U	RS-15	
(132)	93-120	12-8-1993	Lanihau 1st, North Kona	7-5-0-4:Olioli Road Remnant	A-1a	CG-20	
(133)	93-122	12-8-1993	Lanihau 1st, North Kona	7-5-04:19	A-1a	CG-20	
(134)	93-124	12-8-1993	Lanihau 1st, North Kona	7-5-04:54	A-1a	CG-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(135)	93-131	12-29-1993	Makaula, North Kona	7-3-03:7 and 17	U	RS-7.5	
(136)	94-34	4-5-1994	Holualoa 1st and 2nd, North Kona	7-6-21:4, 9-13, and 15-17	(Amends Ord. No. 84-23, Effective Date 5-15-1984, as amended by Ord Nos. 84-42, 88-4, 90-62, 91-96, and 93-26)		
(137)	94-54	5-18-1994	Kalaoa 4th, North Kona	7-3-05:13	U	A-3a	
(138)	94-73	6-28-1994	Honuaino 3rd and 4th, Hokukano 1st and 2nd, Kanaueue 1st and 2nd, Halekii, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd & 3rd, Onouli 1st, North and South Kona	7-9-12:Por. 3, 4, and 5, 8-1-04:Por. 3	A-5a, U	A-1a	
(139)	94-102	9-13-1994	Kohanaiki, North Kona	7-3-09:15	O, U	CV-20, ML-1a and ML-1a	
(140)	94-121	10-26-1994	Kalaoa 4th, North Kona	7-3-05:86	(Amends Ord. No. 88-115, Effective Date 8-17-1988)		
(141)	94-124	12-7-1994	Pahoehoe 2nd, North Kona	7-7-08:21 and 23	U V-1.25	RM-3.5, RS-7.5 RM-3.5	
(142)	95-12	12-30-1994	Lanihau 2nd and Moeauoa 2nd, North Kona	7-5-04:7	(Amends Ord. No. 684, as amended by Ord. No. 90-83)		
(143)	95-15	1-19-1995	Kaloko, North Kona	7-3-08:98	A-3a	A1-a	
(144)	95-100	8-23-1995	Puapuaanui, North Kona	7-5-17:32	U	RS-20	
(145)	95-118	10-12-1995	Hienaloli 4th and 5th, North Kona	7-5-10:13, 7-5-23:63	(Amends Ord. 92-36) (Effective Date 4-24-1992)		
(146)	95-127	11-9-1995	Kaloko, North Kona	7-3-08:106 and 107	A-3a	A-1a	
(147)	96-03	1-12-1996	Honokohau 2nd, North Kona	7-4-08:Pors. 26 and 49	(Amends Ord. 93-38) (Effective Date 4-27-93)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(148)	96-07	1-15-1996	Honuaino 3rd and 4th, Hokukano 1st and 2nd, and Halekii, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd and 3rd and Onouli 1st, North and South Kona	7-9-12:4, 11, Pors. 3, 8-1 4:Pors. 3	U	A-1a	
(149)	96-08	1-15-1996	Honuaino 3rd and 4th, Hokukano 1st and 2nd, and Kanuenue 1st and 2nd, Halekii, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd and 3rd and Onouli 1st, North and South Kona	7-9-06:Por. 1, 7-9-12:Pors. 3, 4, and 5, 8-1-04: Por. 3	A-5a, U	A-1a	
(150)	96-23	3-18-1996	Hokukano 1st, North Kona	7-9-10:58	RS-15	CN-10	
(151)	96-60	5-22-1996	Pahoehoe 4th, Laaloa 1st and 2nd and Kapalaalaea 1st, North Kona	7-7-08:Por. 11	U	RS-7.5, RS-15	
(152)	96-61	5-22-1996	Waiaha 2nd, Kahului 1st, North Kona	7-5-18:61, 7-5-19: Por. 5, 40	RD-3.75	RM-4	
(153)	96-115	9-26-1996	Kalaoa 4th, North Kona	7-3-5:12	U	RS-10	
(154)	96-131	10-23-1996	Kapalaalaea 1st, North Kona	7-7-07:30	(Repeals Ord. 90-96)		
(155)	96-133	10-23-1996	Kalaoa 1st and 2nd, North Kona	7-3-11:43	U	RS-10	
(156)	96-136	10-23-1996	Kalaoa 4th, North Kona	7-2-5:85	U	RS-10	
(157)	97-39	3-13-1997	Kaloko, North Kona	7-3-8:32	A-3a	RA-1a	
(158)	97-42	3-13-1997	Pahoehoe 3rd, North Kona	7-7-08:30	U	RS-15	
(159)	97-56	5-14-1997	Kalaoa 4th, North Kona	7-3-10:37	A-5a	RS-10	
(160)	97-73	6-9-1997	Kahaluu, North Kona	7-8-10:Por. 50	U	RS-15	

Para-Graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(161)	97-79	6-9-1997	Kahaluu, North Kona	7-8-10:Por. 2	U	CV-7.5	
(162)	97-87	7-3-1997	Kalaloa 4th, North Kona	7-3-5:99, 100, 101	A-5a	RS-10	
(163)	97-99	7-14-1997	Holualoa 1 and 2, North Kona	7-6-21:4, 9-13, 15-17	(Amends Ord. 84-23) (Effective Date 5-15-84)		
(164)	97-101	7-14-1997	Kalaoa 4th, North Kona	7-3-5:104	A-1a	RS-15	
(165)	97-118	9-12-1997	Honokohau 2nd, North Kona	7-4-08:Por. 26, 49	(Amends Ord. 93-38) (Effective Date 4-27-93)		
(166)	98-03	1-19-1998	Hamanamana, North Kona	7-3-53:49	A-5a	FA-1a	
(167)	98-8	2-17-1998	Honokohau 2nd, North Kona	7-4-06:38	A-5a	RA-.5	
(168)	98-18	2-24-1998	Kealakehe, North Kona	7-4-4:16	A-1a	RS-10	
(169)	98-30	4-14-1998	Kahaluu, North Kona	7-8-10:Por. 2	U, A-5a	RS-10, RM-2, RM-3.5, RM-5.5, O	
(170)	98-37	4-23-1998	Waiaha 1st, North Kona	7-5-17:20	A-5a	CV-10	
(171)	98-65	7-2-1998	Puaa 2nd, North Kona	7-5-10:Por. 4	A-5a	RA-.5a	
(172)	98-129	12-7-1998	Lanihau 2nd and Moeauoa 2nd, North Kona	7-5-3:Pors. 6,7	A-5a	CG-20	
(173)	99-36	3-15-1999	Kealakehe Homesteads, North Kona	7-4-4:33	A-5a	FA-1a	
(174)	99-42	4-10-1999	Kaupulehu, North Kona	7-2-03: Pors. of 1	O	PD	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(175)	99-60	5-13-1999	Kaloko, North Kona	7-3-26:9	A-20a	A-10a	
(176)	99-61	5-13-1999	Honokohau 2nd, North Kona	7-4-8:Por. 26	A-5a	RS-7.5	
(177)	99-77	6-24-1999	Hienaloli 6th, North Kona	7-5-13:08	A-5a	FA-2a	
(178)	99-86	8-12-1999	Kapalaalaea 2nd, North Kona	7-7-7:29	A-5a	FA-2a	
(179)	99-88	8-12-1999	Kalaoa 4th, North Kona	7-3-5:89	A-5a	RS-20	
(180)	99-89	8-12-1999	Honokohau 2nd, North Kona	7-4-8:Por. 26, 49	(Amends Ord. 93-38) (Effective date 4-27-93)		
(181)	99-95	8-19-1999	Lanihau 2nd and Moeauoa 2nd, North Kona	7-5-04:07, 55 and 56	(Amends Ord. 684) (Effective date 4-10-81)		
(182)	99-96	8-19-1999	Keahuolu, North Kona	7-4-08:63	A-1a, A-5a	CG-10	
(183)	99-150	12-10-1999	Honuaula, North Kona	7-5-03:Por. of 24	A-5a	CN-20	
(184)	00-01	1-20-2000	Puapuaa 1st and 2nd, North Kona	7-5-20:1	(Amends Ord. 91-21) (Effective Date 3-15-91)		
(185)	00-06	1-27-2000	Kaupulehu, North Kona	7-2-10:1:Pors. 2, 8 and 9, 7-2-12:12	V,RM-3 and R-10, CV-10 and O	PD	
(186)	00-07	1-27-2000	Kukio 2nd and Maniniowali, North Kona	7-2-4:18	O	PD	
(187)	00-40	4-26-2000	Keahuolu, North Kona	7-4-08:Por. 12	(Amends Ord. 93-66) (Effective Date 6-22-93)		
(188)	00-53	5-17-2000	Kalaoa 4th, North Kona	7-3-005:98	A-5a	RS-15	
(189)	00-85	8-4-2000	Keauhou 1st, North Kona	7-8-11:10 and 13	A-5a	RS-15	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(190)	00-118	10-12-2000	Kahaluu, North Kona	7-8-10:94	(Amends Ord. 97-79) (Effective Date 6-19-97)		
(191)	01-06	1-25-2001	Keahuolu, North Kona	7-4-8:Por. of 1	A-5a	RCX-2	
(192)	01-15	2-6-2001	Keauhou 1st, North Kona	7-8-11:9	A-5a	RS-15	
(193)	01-47	5-9-2001	Keauhou 1st, North Kona	7-8-11:Por. of 8	A-5a	RS-15	
(194)	01-65	8-8-2001	Keahuolu, North Kona	7-4-8:Pors. Of 2, 68, 69 and 70	ML-1a	MCX-20	
(195)	01-69	8-24-2001	Lanihau 1st, North Kona	7-5-3:19	A-5a	CG-20	
(196)	02-31	3-19-2002	Kalaoa 4th, North Kona	7-3-5:Por. of 32 and 33	A-5a	CN-10	
(197)	02-62	5-10-2002	Kalaoa 4th, North Kona	7-3-5:95, Por. of 85 and Por. of 31	A-5a and RS-10	RS-20	
(198)	02-64	5-10-2002	Kalaoa 4th, North Kona	7-3-5:30	A-5a	RS-20	
(199)	02-95	8-28-2002	Kalaoa 4th, North Kona	7-3-5:97	A-5a	RS-15	
(200)	02-97	8-28-2002	Kapalaalaea 2nd, North Kona	7-7-7:46	A-5a	FA-2a	
(201)	02-101	8-28-2002	Waiaha 1st, North Kona	7-5-17:Por. of 7	A-1a	RM-4	
(202)	02-113	9-25-2002	Hienaloli 2nd, North Kona	7-5-10:Por. of 65	A-5a	RS-20	
(203)	02-114	9-25-2002	Kaloko, North Kona	7-3-51:60	O	MCX-1a	
(204)	02-131	11-27-2002	Holualoa 1 and 2, North Kona	7-6-21:4, 9-13 and 15-17	(Amends Ord. 97-99) (Effective Date 7-14-97)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(205)	03-20	2-20-2003	Kaloko, North Kona	7-3-51:66, 67, 68 and 69	ML-1a	MCX-1a	
(206)	03-37	3-6-2003	Hienaloli 2nd, 3rd and 4th, North Kona	7-5-10:Por. of 52 and Por. of 65	A-5a	RS-20	
(207)	03-40	3-6-2003	Kalaoa 4th, North Kona	7-3-10:29	A-5a	RS-15	
(208)	03-69	5-13-2003	Pua‘a 1st, North Kona	7-5-10:61	A-5a	RM-2.5	
(209)	03-98	6-18-2003	Kealakehe Homestead, First Series, North Kona	7-4-3:7	A-20a	FA-3a and A-10a	
(210)	03-128	9-16-2003	Kohanaiki, North Kona	7-3-19:21 and 30	A-3a	RA-1a	
(211)	03-144	10-29-2003	Kohanaiki, North Kona	7-3-7:27 and 50	A-3a	FA-1a	
(212)	03-162	12-19-2003	Holualoa 1st and 2nd, North Kona	7-6-8:Por. 5 (formerly TMK: 7-6-8:Por. 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. 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	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(220)	04-126	11-19-2004	Honuaula, 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. 54	A-1a and V-1.25	RM-2.5	
(223)	05-113	8-5-2005	Puapuaʻaiki 1st and Puapuaʻanui 1st, North Kona	7-5-17:19	A-5a	RM-2.5	
(224)	05-115	8-5-2005	Puapuaʻaiki 1st and Puapuaʻanui 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	
(228)	06-105	7-17-2006	Kau, North Kona	7-2-5:1	A-3a and O	PD	
(229)	06-106	7-17-2006	Kau, North Kona	7-2-15:1-43, 46-86	(Amends Ord. 93-45 that amended Ord. 88-23 and Ord. 850 – Effective Date 5-12-1993)		
(230)	06-128	9-28-2006	Oʻoma 1st, North Kona	7-3-010:051	(Amends Ord. 04-106 Effective Date 9-22-2004)		
(231)	06-137	11-8-2006	Hienaloli 4th and 5th, North Kona	7-5-10:Por. of 13 (Formerly 7-5-23:63)	(Amends Ord. 95-118 that amended Ord. 92-36 – Effective Date 10-12-1995)		
(232)	06-152	12-13-2006	Moeauoa 2nd, North Kona	7-5-3:7, 8, 9	A-5a	RA-1a and RM3.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(233)	07-11	2-21-2007	Kaloko, North Kona	7-3-51:96	ML-1a	MCX-1a	
(234)	07-160	10-19-2007	Kalaoa 4th, North Kona	7-3-028:082-102	(Amends 97-56 Effective Date 4-7-1997)		
(235)	07-174	12-4-2007	O‘oma 1st, North Kona	7-3-010:003	A-5a	RM-1	
(236)	08-58	5-08-2008	Various, North and South Kona	7-9-12:4, 11, 8-1-4:3, 7, 65 and 68; 8-1-27:16, 20, 21, 27-43; 8-1-28:9, 10, 19-28, 30, 44-47; 8-1-30:1-3, 5-9, 12-53; 8-1-32:1-54; 8-1-33:1-20; 8-1-34:1-25(formerly 7-9-12: Por. 3, 4 & 11 and 8-1-4: Por. 3)	(Amends Ord. 96-7 Effective Date 1-15-1996)		
(237)	08-59	5-08-2008	Various, North and South Kona	7-9-12:4, 6, 9, 29; 8-1-4: 3, 56, 59-62, 64, 70; 8-1-26:1-3, 5-9, 11-57; 8-1-27:1-15, 17-26, 33-38, 43; 8-1-28:1-3, 7-18, 28-38, 40-43; 8-1-29:1, 2, 4, 6-46, 53-59, 62, 63; 8-1-30:1-9, 49, 51 (formerly 7-9-06:Por. 1, 7-9-12:Pors. 3 & 4 and 8-1-4: Por. 3)	(Amends Ord. 96-8 Effective Date 1-15-1996)		
(238)	09-08	2-9-2009	Kapalaalaea 2nd, North Kona	7-7-008:121	A-5a	RS-7.5	
(239)	09-49	5-11-2009	Hienaloli 4th and 5th, North Kona	7-5-10:Por. 13 (Formerly 7-5-23:63)	(Amends 06-137 that amends Ord. 95-118 that amended Ord. 92-36 – Effective Date 11-8-2006)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(240)	09-103	9-23-2009	Honokōhau 2nd, North Kona	7-4-06:038	(Amends Ord. 98-8) Effective Date 2-17-1998)		
(241)	09-131	11-4-2009	Kau, North Kona	7-2-005:001	PD	MCX-20	
(242)	09-132	11-4-2009	Kau, North Kona	7-2-005:001	(Amends Ord. 06-105) Effective Date 7-17-2006)		
(243)	09-159	12-30-2009	Keauhou, North Kona	7-8-010:101	A-5a	RM-30	
(244)	10-02	2-1-10	Kahului 2nd, North Kona	7-5-017:042	A-5a	RS-10	
(245)	10-77	9-2-10	North Kona, Hawai'i	7-4-006:022	A-5a	FA-2a	
(246)	10-114	12-13-10	Kapalaalaea 2nd, North Kona	7-7-007:047	A-5a	FA-2a	
(247)	11-01	1-3-11	Kaloko, North Kona	7-3-051:065	ML-1a	MCX-1a	
(248)	11-55	6-8-11	Hōlualoa 1st and 2nd, North Kona	7-6-008:005 (Portion)	(Amends Ord. 03-162, which amended Ord. 91-91) (Effective Date 12-19-2003)		
(249)	12-76	5-16-12	Hōlualoa 1st and 2nd (Mauka), North Kona	7-6-004:018	A-1a	RS-20	
(250)	12-156	12-14-12	Kalaoa 4th, North Kona	7-3-005:030	(Amends Ord. 02-64) (Effective Date 5-10-2002)		
(251)	13-40	5-1-13	Kalaoa 4th, North Kona	7-3-028:082 - 102	(Amends Ord. 07-160, which amended Ord. 97-56) (Effective Date 10-19-2007)		
(252)	13-101	10-16-2013	Maihi 2nd, North Kona	7-9-003:Por 033	A-5a	FA-2a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(253)	15-35	3-23-2015	Hōlualoa, North Kona	7-6-013:017	A-1a	CV-10	
(254)	15-104	11-20-2015	Auhaukeae 1st, North Kona	7-5-009:067: Por 054	(Amends Ord. 05-74) (Effective Date 5-18-2005)		
(255)	15-116	12-22-2015	Kalaoa 5th, North Kona	7-3-004:012	A-20a	FA-1a	
(256)	16-46	5-23-2016	Kealakehe Homesteads, North Kona	7-4-004:033	(Amends Ord. 99-36 (Effective Date 3-15-1999)		

ZONING MAP No. 7.03 – (South Kona)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	282	12-15-1969	Keei 2nd, South Kona	8-3-13:13	A-5a	A-1a	7.03(a)
(2)	290	12-15-1969	Keei 2nd, South Kona	8-3-10:50	A-5a	A-1a	7.03(b)
(3)	374	2-25-1971	Onouli 2nd, South Kona	8-1-18:9 and 10	A-5a	A-1a	7.03(c)
(4)	382	3-15-1971	Kiloa 1 and 2 and Waipunaula, South Kona	8-2-01:1	A-1a	CV-10	7.03(d)
(5)	421	8-31-1971	Keopuka, South Kona	8-1-15:Por. 27	RS-10	CV-10	7.03(e)
(6)	422	8-31-1971	Kalamakumu, South Kona	8-2-09:11	A-1a	RS-7.5	7.03(f)
(7)	440	1-11-1972	Kiloa 1 and 2, South Kona	8-2-01:71	A-1a	CV-10	7.03(g)
(8)	484	7-18-1972	Keopuka, South Kona	8-1-07:17	A-5a	RS-10	7.03(h)
(9)	485	7-18-1972	Kiloa 1 and 2 and Waipunaula, South Kona	8-2-03:Por. 12	A-1a	CN-7.5	7.03(i)
(10)	508	8-15-1972	Kealia 2nd, South Kona	8-6-02:33	A-20a	A-1a	7.03(k) Repealed by Ord. 117, 5-13-1975
(11)	511	8-28-1972	Kealakekua, South Kona	8-2-02:1, 3-8, Por. 11, 12-17, 23-30, 43	A-1a, A-5a	RS-10, CN-7.5	7.03(j-1 to j-4)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(12)	566	3-12-1973	Halekii, South Kona	8-1-03:35, 43, 44, 46 and Por. 47	A-5a	CV-7.5, RM-2 RS-10	7.03(l-1 to 1-3)
(13)	600	8-2-1973	Honaunau, South Kona	8-4-07:Por. 9 and 10	A-5a	A-1a	7.03(m)
(14)	30	4-29-1974	Onouli 2nd, South Kona	8-1-07:Por. 1	A-5a	A-1a	7.03(n)
(15)	52	8-30-1974	Iliiloa, Kalamaumi, and Kalamakowali Homesteads, South Kona	8-2-09:8	A-5a	A-1a and A-3a	7.03(o-1 to o-2)
(16)	98	3-11-1975	Kealakekua, South Kona	8-2-02:23, 27, 43, and Por. 3-8, 11, 17, 24, 26, 29, and 30	RS-10	RM-7	7.03(p) Repealed by Ord. 438, 5-31-1979
(17)	118	5-29-1975	Halekii, South Kona	8-1-03:Por. 35	RM-2 and RS-10	CV-7.5	7.03(q-1 and q-2)
(18)	154	10-15-1975	Kealakekua, South Kona	8-2-13:7 and 8	A-1a	RS-10	7.03(r)
(19)	170	11-13-1975	Kealakekua, South Kona	8-2-02:18 and 20	CN-7.5	CV-10	7.03(s)
(20)	323	11-23-1977	Halekii, South Kona	8-1-01:25, 27 and Por. 13 and 15	RS-15	CN-10	7.03
(21)	361	6-30-1978	Keopuka, South Kona	8-1-06:51, 126 to 136	RS-10, A-1a	RS-20	7.03(v-1 to v-2)
(22)	362	6-26-1978	Keei 2nd, South Kona	8-3-10:3	A-5a	A-3a	7.03(u)
(23)	403	12-12-1978	Keopuka, South Kona	8-1-16:8	RS-10	CV-10	7.03(w)
(24)	425	3-28-1979	Kiloa 1 and 2 and Waipunaula, South Kona	8-2-03:Por. 23	A-5a	RA-1a	7.03(x)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(25)	438	5-31-1979	Kealaakua, South Kona	8-2-02:23, 27, 43, and Por. 3-8, 11, 17, 26, 29 and 30	RM-7	RS-10	7.03(y) Repeals Ord. 98, 3-11-1975
(26)	465	8-29-1979	Kealakekua, South Kona	8-2-13:Por. 2	A-1a	CN-7.5	7.03(z)
(27)	567	5-12-1980	Kealakekua, South Kona	8-2-02:Por. 7	RS-10	CN-7.5	7.03(aa)
(28)	603	7-18-1980	Keekee 1st, South Kona	8-1-12:9 and 55	CV-10	RM-1.5	7.03(bb) Am. by Ord. 643, 10-17-1980
(29)	638	10-6-1980	Onouli 2nd, South Kona	8-1-07:38	RS-15	RS-10	7.03(cc)
(30)	670	2-10-1981	Keekee 2nd, South Kona	8-1-01:Por. 10	RS-15	CV-10	7.03(dd)
(31)	771	3-19-1982	Keekee 2nd, South Kona	8-1-03:Por. 33	RS-10	CV-10	7.03(ee)
(32)	809	7-23-1982	Kealia 1st, South Kona	8-5-02:5	A-5a	RA-5a	7.03(ff)
(33)	855	3-23-1983	Keei 2nd, South Kona	8-3-10:5	A-5a	A-2a	7.03(gg)
(34)	894	6-21-1983	Keopuku and Kaawaloa, South Kona	8-1-23:3 and Pors. 2, 4, 5, and 27	A-1a	A-5a	7.03(hh)
(35)	83-41	10-26-1983	Kealakekua, South Kona	8-2-02:Por. 7	RS-10	CN-7.5	
(36)	84-41	7-31-1984	Keekee 1st, South Kona	8-1-12:Por. 9	RM-1.5	CV-10	
(37)	86-50	6-2-1986	Kealakekua, South Kona	8-2-15:Por. 20	CN-7.5, RS-10	RS-10, CV-10	
(38)	86-80	7-22-1986	Kealakekua, South Kona	8-2-15:Por. 27 and 28	RS-10	RS-7.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(39)	86-110	9-26-1986	Keopuka, South Kona	8-1-06:44	RS-10	CV-7.5	
(40)	86-115	10-9-1986	Kealakekua, Kiloa, Waipunaula, Kalamakumu, Kahauloa 2nd and Keei 1st, South Kona	8-2-04:11 to 15 and 20, 8-2-05:10 to 13, 30 and 31, 8-3-04: Por. 1, 8-3-05: Por. 1 and 14 to 19, 8-3-06:20 to 23,25 and 27 to 29	RM-1, RS-7.5	RS-10, O	
(41)	87-10	2-12-1987	Kaawaloa, South Kona	8-1-09:Pors. 2 and 14	A-5a	A-2a	
(42)	87-35	4-1-1987	Keekee 1st, South Kona	8-1-12:55	RM-1.5	CV-10	
(43)	88-30	3-7-1988	Kealakekua and Ka‘awaloa, South Kona	8-2-2:33 and Por. 2	U, A-5a	RA-2a	
(44)	88-56	5-12-1988	Onouli 2nd, South Kona	8-1-5:2	A-20a	A-10a, A-5a	
(45)	88-73	5-31-1988	Keōpuka, South Kona	8-1-6:44	(Amends Ord. 86-110) (Effective Date 9-26-1986)		
(46)	88-93	6-30-1988	Kealakekua and Ka‘awaloa, South Kona	8-2-2:33 and Por. 2	(Amends Ord. 88-30) (Effective Date 3-7-1988)		
(47)	89-133	10-17-1989	Haleki‘i, South Kona	8-1-01:25	(Amends Ord. 323) (Effective Date 11-23-1977)		
(48)	89-143	11-20-1989	Keekee 1st and 2nd, South Kona	8-1-03:7, 60 and Por. 20	A-5a	RS-10, RS-15	
(49)	90-107	9-14-1990	Ke‘ei 2nd, South Kona	8-3-10:05	A-2a	A-5a	
(50)	92-39	4-24-1992	Keekee 1st and 2nd, South Kona	8-1-03:7, Pors. 20 and 60	(Amends Ord. 89-143) (Effective Date 11-20-1989)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(51)	92-119	10-29-1992	Kealakekua, South Kona	8-2-15:Por. 227-9-2:Por. 3, 4, and 5; 8-1-04:Por. 3	CN-7.5 A-5a, U	RS-10 A-1a	
(52)	94-73	6-28-1994	Honuaʻino 3rd and 4th, Hōkūkano 1st and 2nd, Kanāueue 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd and 3rd, Onouli 1st, North and South Kona				
(53)	95-01	12-30-1994	Keekee 2nd, South Kona	8-1-03:34 and Por. 50	A-5a	A-1a	
(54)	96-07	1-15-1996	Honuaʻino 3rd and 4th, Hōkūkano 1st and 2nd, Halekiʻi, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd and 3rd and Onouli 1st, North and South Kona	7-9-12:14, 11, Por.3; 8-1-4: Por. 3	U	A-1a	
(55)	96-08	1-15-1996	Honuaino 3rd and 4th, Hokukano 1st and 2nd, and Kanāueue 1st and 2nd, Halekiʻi, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd, Kalukalu 1st, 2nd and 3rd and Onouli 1st, North and South Kona	7-9.06:Por. 1; 7-9-12:Pors. 3, 4, and 5; 8-1-04:Por. 3	A-5a, U	A-1a	
(56)	97-36	3-13-1997	Kalukalu 1st, 2nd and 3rd, South Kona	8-1-04:Por. 3	A-1a	V-6.0	
(57)	97-98	7-14-1997	Kahauloa 2nd, South Kona	8-2-08:57	A-5a	FA-1a	
(58)	97-133	10-23-1997	Kaʻawaloa, South Kona	8-1-9:18, 19, 21, Pors. 20, 22, 23, 24	A-5a	APD	
(59)	98-19	2-24-1998	Kanakau 1st and 2nd and Kalukalu 1st-3rd, South Kona	8-1-4:Por. 52	RS-15	CV-7.5	
(60)	00-120	10-12-00	Keekee 2nd, South Kona	8-1-3: Pors. 34 and 50	A-1a, A-5a	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(61)	03-38	3-6-03	Waipunaula, South Kona	8-2-3:31	A-5a	RA-1a	
(62)	03-93	6-18-03	Kalukalu 1st, South Kona	8-1-2:Por. of 40	RS-15 and A-1a	CV-10	
(63)	03-94	6-18-03	Keōpuka, South Kona	8-1-7:10	A-5a	FA-3a	
(64)	04-145	12-8-04	Puaa 2nd, North Kona	7-5-9:40	RM-1	V-1	
(65)	08-150	11-5-08	Kealakekua, South Kona	8-2-13:Por. of 2	(Amends Ord. 465) (Effective Date 8-29-1979)		
(66)	10-107	11-4-10	Haleki‘i and Kanāueue, South Kona	8-1-025:011	RS-15	CN-20	
(67)	12-140	10-25-12	Kealakekua, South Kona	8-2-13:Por. of 2	(Amends Ord. 08-150) (Effective Date 11-5-2008)		

ZONING MAP No. 7.04 – (Kailua Urban)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	248	8-20-1969	Honuaula, North Kona	7-5-22:77	RD-3.75	RM-1	7.04(a)
(2)	249	8-20-1969	Keopu 3rd and Honuaula, North Kona	7-5-22:25 and 26	RM-1	CV-7.5	7.04(b)
(3)	250	8-20-1969	Pua‘a 3rd, North Kona	7-5-09:34	RM-1	V-.75	7.04(c)
(4)	316	5-12-1970	Keahuolu, North Kona	7-5-08:2	MG-1a	CV-10	None Found
(5)	400	6-3-1971	Keahuolu, North Kona	7-4-08:Por. 2	MG-1a	O and CV-10	7.04(e-1 to e-2)
(6)	473	6-16-1972	Pua‘a 2nd, North Kona	7-5-09:56	RS-15	RM-1.25	7.04(f)
(7)	525	10-18-1972	Lanihau 1st, North Kona	7-5-04:Por. 10	RS-10	CV-10	7.04(g)
(8)	574	4-19-1973	Lanihau 1st, North Kona	7-5-05:62 and 66, 7-5-06:20 and 21	CV-10, ML-20	V-.75	7.04(h-1 to h-2)
(9)	594	6-27-1973	Hienaloli 5th, North Kona	7-5-23:64, 65 and 66	RD-3.75	RM-1.25	7.04(j)
(10)	601	8-23-1973	Honuaula and Hienaloli 1st, North Kona	7-5-04:Por. 2	RD-3.75	RM-2	7.04(i)
(11)	99	3-11-1975	Waiaha 2nd, North Kona	7-5-18:29	RD-3.75	CV-10	7.04(k)
(12)	206	5-14-1976	Waiaha 1st, North Kona	7-5-18:86	V-.75	RS-7.5	7.05(l)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	285	6-22-1977	Honuaula, North Kona	7-5-22:28	RM-1	CV-7.5	7.04(m)
(14)	355	5-30-1978	Hienaloli 4th, North Kona	7-5-08:21	V-1.25	CV-7.5	7.04(n)
(15)	356	5-30-1978	Keopu 3rd, North Kona	7-5-22:24	RM-1	CV-7.5	7.04(o)
(16)	434	4-24-1979	Hienaloli 2nd, North Kona	7-5-08:23	V-1.25	CV-7.5	7.04(p)
(17)	533	2-12-1980	Hienaloli 5th and 6th, North Kona	7-5-23:64, 65, 66, and 67	RM-1.25, RD-3.75	RM-2	7.04(q-1 to q-2)
(18)	554	4-10-1980	Keahuolu and Lanihau Nui, North Kona	7-5-05:Por. 2 and 5	ML-20	CV-10, RM-1.5	7.04(r-1 to r-2)
(19)	566	5-12-1980	Lanihau 1st and 2nd, North Kona	7-5-04:10 and 28	CV-10, V-1.25	CG-20	7.04(s-1 to s-2)
(20)	569	5-12-1980	Puaa 2nd and Puaa 3rd, North Kona	7-5-10:3 and 51	V-1.25	RM-4	7.04(t)
(21)	599	6-26-1980	Honuaula, North Kona	7-5-22:27	RM-1	CV-7.5	7.04(u)
(22)	695	6-5-1981	Puaa 2nd, North Kona	7-5-09:52	V-1.25	RM-4	7.04(v)
(23)	714	8-31-1981	Puaa 3rd, North Kona	7-5-18:28	RS-15	RM-2	7.04(w)
(24)	724	11-4-1981	Lanihau 2nd, North Kona	7-5-04:12	V-1.25	CG-7.5	7.04(x)
(25)	790	5-24-1982	Puaa 2nd, North Kona	7-5-09:39	RM-1	V-2	7.04(y)
(26)	859	3-23-1983	Honuaula, North Kona	7-5-22:Por. 1	RM-1	CV-7.5	7.04(z)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(27)	870	4-18-1983	Waiaha 2nd, North Kona	7-5-18:61	RD-3.75	RM-4	7.04(aa)
(28)	84-36	7-9-1984	Lanihau 1st and 2nd, North Kona	7-5-04:10 and 28	CV-10 and V-1.25	CG-20	
(29)	85-17	3-20-1985	Puaa 2nd, North Kona	7-5-09:39	(Amends Ord. No. 790) (Effective Date 5-24-1982)		
(30)	85-101	12-16-1985	Lanihau 1st, North Kona	7-5-04:19	A-1a	CG-20	
(31)	86-03	1-29-1986	Hienaloli 1st, North Kona	7-5-04:36	RM-1	CV-7.5	
(32)	86-14	2-24-1986	Keahuolu and Lanihau 1st, North Kona	7-4-08:Por. 24, 7-5-04:Por. 41	CV-10, CG-20	CG-20, CV-10	
(33)	86-49	6-2-1986	Hienaloli 5th and 6th, North Kona	7-5-23:64 and 67	RM-2	CV-7.5	
(34)	86-79	7-9-1986	Waiaha 2nd and Kahului 1st, North Kona	7-5-18:61, 7-5-19: Por. 5	(Amends Ord. 870) (Effective Date 4-18-1983)		
(35)	86-122	10-21-1986	Honuaula and Hienaloli 1st, North Kona	7-5-04:35	(Amends Ord. 601) (Effective Date 8-23-1973)		
(36)	87-95	9-25-1987	Lanihau 1st, North Kona	7-5-04:Por. 29	A-1a	CG-20	
(37)	88-125	9-6-1988	Puaa 2nd, North Kona	7-5-9:39	(Amends Ord. 790) (Effective Date 5-24-1982)		
(38)	88-142	9-16-1988	Waiaha, North Kona	7-5-18:41	RD-3.75	CV-10	
(39)	88-149	10-13-1988	Auhaukeae 2nd, North Kona	7-5-9:Por. 25	RM-1	V-.75	
(40)	88-155	10-27-1988	Honuaula and Hienaloli 1st, North Kona	7-5-4:Por. 35	RM-2	RM-1	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(41)	88-156	10-27-1988	Keopu 3rd, North Kona	7-5-22:43 and 44	RM-1	CV-7.5	
(42)	89-31	2-23-1989	Lanihau 2nd, North Kona	7-5-04:11	V-1.25	CG-20	
(43)	89-54	4-26-1989	Puna 2nd, North Kona	7-5-09:40	RM-1	V-1	
(44)	89-63	5-9-1989	Waiaha, North Kona	7-5-18:30, 31 and 32	RD-3.75	CV-10	
(45)	89-110	8-7-1989	Puna 1st, North Kona	7-5-10:6	RM-3	RM-2	
(46)	89-152	12-11-1989	Keopu 3rd, North Kona	7-5-22:21 and 22	RM-1	CV-7.5	
(47)	90-10	2-13-1990	Hienaloli 5th and 6th, North Kona	7-5-23:64 and 67	(Amend Ord. 86-49) (Effective Date 6-2-1986)		
(48)	90-85	7-16-1990	Keopu 1st, North Kona	7-5-04:6 and 13	CV-7.5, RM-1, A-1a	CG-20	
(49)	90-109	9-14-1990	Lanihau 1st, North Kona	7-5-04:Por. 29	(Amends Ord. 87-95) (Effective Date 9-25-1987)		
(50)	90-128	10-20-1990	Keopu 3rd and Honuaula, North Kona	7-5-22:41 and 42	RM-1	CV-7.5	
(51)	92-17	2-26-1992	Pua‘a 3rd, North Kona	7-5-18:28	(Amends Ord. 714) (Effective Date 8-31-1981)		
(52)	92-36	4-24-1992	Hienaloli 4th and 5th, North Kona	7-5-10:13, 7-5-23:63	U, RD-3.75	RM-2.5, CV-7.5	
(53)	92-62	6-16-1992	Honuaula, North Kona	7-5-22:29	RM-1	CV-7.5	
(54)	92-63	6-16-1992	Honuaula, North Kona	7-5-22:36	RM-1	CV-7.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(55)	92-102	9-11-1992	Waiaha 2nd, North Kona	7-5-18:56	RD-3.75	CV-10	
(56)	93-64	6-22-1993	Waiaha 2nd, North Kona	7-5-18:40	RD-3.75	CV-10	
(57)	94-110	9-23-1994	Puaa 3rd, North Kona	7-5-18:28	(Amends Ord. 714) (Effective Date 8-31-1981)		
(58)	95-118	10-12-1995	Hienaloli 4th and 5th, North Kona	7-5-10:13 and 7-5-23:63	(Amends Ord. 92-36) (Effective Date 4-24-1992)		
(59)	96-61	5-22-1996	Waiaha 2nd and Kahului 1st, North Kona	7-1-18:61 and 7-5-19: Por. 5	(Amends Ord. 86-79) (Effective Date 7-9-1986)		
(60)	96-34	3-18-1996	Puaa 3rd, North Kona	7-5-18:14	RM-1	CV-10	
(61)	97-40	3-13-1997	Puaa 3rd, North Kona	7-5-18:19	RM-1	CV-10	
(62)	98-70	7-2-1998	Hienaloli 2nd, North Kona	7-5-10:15	RD-3.75, A-5a	RM-1	
(63)	98-113	11-19-1998	Keopu 1st, North Kona	7-5-04:6 and 13	(Amends Ord. 90-85) (Effective Date 7-16-1990)		
(64)	00-90	8-21-2000	Keahuolu, North Kona	7-4-15:15	(Amends Ord. 91-27) (Effective Date 3-21-1991)		
(65)	00-122	10-30-2000	Puaa 3rd, North Kona	7-5-18:15	RM-1	CV-10	
(66)	03-18	2-20-2003	Waiaha 1st, North Kona	7-5-18:8	RS-10	RM-4	
(67)	03-115	8-14-2003	Honuaula, North Kona	7-5-22:40	RM-1	CV-7.5	
(68)	06-44	4-12-2006	Puaa 1st, North Kona	7-5-9:23	RM-1	V-.75	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(69)	06-138	11-8-2006	Hienaloli 5th and 6th, North Kona	7-5-10:Por. of 13 (Formerly 7-5-23:64 and 67)	(Amends Ord. 90-010 that amended Ord. 86-49 Effective 2-13-1990)		
(70)	09-50	5-11-2009	Hienaloli 5th and 6th, North Kona	7-5-10:Por. of 13 (Formerly 7-5-23:64 and 67)	(Amends Ord. 06-138 that amends Ord. 90-010 that amended Ord. 86-49 Effective 11-8-2006)		

ZONING MAP No. 7.05 -- (Kailua-Honalo Urban)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	126	5-15-1968	Keauhou 1st and 2nd, North Kona	7-8-10	RD-3.75	RM-2	7.05(a)
(2)	141	8-7-1968	Keauhou 2nd, North Kona	7-9-12	RS-10	VH-.75	7.05(b)
(3)	168	11-20-1968	Waiaha 2nd, North Kona	7-5-17:18	RS-15	RS-7.5	7.05(c)
(4)	176	11-20-1968	Holualoa, North Kona	7-6-14:22	RM-1.5	V-1.25	7.05(d)
(5)	230	6-19-1969	Kahaluu, North Kona	7-8-13	V-.75	VH-.75	7.05(e)
(6)	267	10-15-1969	Kawanui 1st, North Kona	7-9-14:14, 15, and 16	RS-7.5	CV-7.5	7.05(f)
(7)	281	12-15-1969	Honuaino, North Kona	7-9-09:30	RS-10	CV-7.5	7.05(h)
(8)	419	8-31-1971	Kawanui 1st, North Kona	7-9-14:13	RS-7.5	CV-7.5	7.05(i)
(9)	420	8-31-1971	Honuaino 3rd, North Kona	7-9-07:29	RS-10	CV-10	7.05(k)
(10)	431	11-5-1971	Kahaluu, North Kona	7-8-14:6, 74, 81-84	V-1.25 RM-.75, RS-10	RS-7.5	7.05(j)
(11)	477	6-27-1972	Keauhou 1st, North Kona	7-8-10		O, RS-10, RM-.75	7.05(l-1 to l-4)
(12)	595	6-27-1973	Kahaluu and Keauhou 1st, North Kona	7-8-10:Por. 3, 7-8-13:3,	RS-10	RM-3.0	7.05(m)
(13)	614	11-28-1973	Keauhou 2nd, North Kona	7-8-10:Por. 39	RS-10	CV-10	7.05(n) Am. by Ord. 111, 5-2-1975

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(14)	25	4-29-1974	Keauhou 1 and Keauhou 2, North Kona	7-8-10:44, 48 and Por. 36, 7-8-13:18, 48, and 99	RS-10, VH-.75, O, RM-2.0	O, VH-1.5	7.05(o-1 to o-7)
(15)	55	8-30-1974	Keauhou 1st, North Kona	7-8-10:25 and Por. 36	O	RM-2.0	7.05(p)
(16)	97	3-11-1975	Keauhou 1st, North Kona	7-8-12:32	RS-10	RM-1.5	7.05(q)
(17)	175	12-8-1975	Honuaino 3rd, North Kona	7-9-07:30	CV-7.5	RS-10	7.05(r)
(18)	359	6-30-1978	Keauhou 2nd, North Kona	7-8-12:58, 59 and 60	RS-10	VH-.75	7.05(s)
(19)	373	7-7-1978	Kawanui 2nd, North Kona	7-9-08:2	RS-15	CV-7.5	7.05(t)
(20)	374	7-7-1978	Kawanui 1st, North Kona	7-9-03:Por. 56	V-1.25	RS-10	7.05(u)
(21)	379	8-10-1978	Puapuaa 1st and 2nd, North Kona	7-5-20:7	RM-1.5	V-1.5	7.05(v)
(22)	400	11-21-1978	Kawanui 1st, North Kona	7-9-14:42	RS-15	RS-7.5	7.05(w)
(23)	610	8-18-1980	Kahului 1st to Kahaluu, North Kona	Relative to the delineation of the	--	--	7.05(x)
(24)	632	9-30-1980	Kahalu‘u, North Kona	7-8-10:Por. 4	RS-7.5	RM-3	7.05(y)
(25)	667	2-10-1981	Kawanui 1st, North Kona	6-9-03:32	RS-7.5	CV-7.5	7.05(z)
(26)	820	9-8-1982	Kahaluu, Keauhou 1 and Keauhou 2, North Kona	Por. 7-8-10, Por. 7-8-11, Por. 7-8-12	--	RM-3.5, RM-3, V-4, CV-7.5, O, RM-5.5, VH-4, VH-1.25, VH-1.75	7.05(aa-1 to aa-18)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(27)	874	4-26-1983	Holualoa 1st and 2nd, North Kona	7-6-17:19 and 79	RD-3.75	RM-2.5	7.05(bb)
(28)	875	4-26-1983	Kawanui 1st, North Kona	7-9-14:Por. 3	RS-15	CV-7.5	7.05(cc)
(29)	85-05	2-19-1985	Kahaluu, Keauhou 1 and Keauhou 2, North Kona	7-8-10:Por. 30, 50, 51, 77, 79, 82, 84, 7-8-	RS-15, RM3, RM-	RM-3.5, O, U	
(30)	85-81	10-22-1985	Lehuula 2nd, North Kona	7-9-07:64 and 70	RS-7.5	CV-7.5	
(31)	89-76	6-13-1989	Honuaino 3rd, North Kona	7-9-07:53	RS-10	CV-7.5	
(32)	89-78	6-13-1989	Kahaluu, North Kona	7-8-14:90, 91 and 92	RS-7.5	RM-1	
(33)	89-112	8-24-1989	Honuaino 3rd, North Kona	7-9-07:Por. 30	RS-10	CV-7.5	
(34)	89-154	12-11-1989	Holuloa 4th, North Kona	7-7-03:Por. 40	RA-.5a	RS-15	
(35)	90-130	10-20-1990	Holualoa 1st and 2nd, North Kona	7-6-17:19 and 79	RM-2.5	RD-3.75	
(36)	92-25	3-11-1992	Honuaino 3rd, North Kona	7-9-07:Por. 30	(Amends Ord. 89-112) (Effective Date 8-24-1989)		
(37)	93-67	7-26-1993	Kahaluu, North Kona	7-8-14:90, 91 and 92	(Amends Ord. 89-78) (Effective Date 6-13-1989)		
(38)	94-124	12-7-1994	Pahoehoe 2nd, North Kona	7-7-08:21 and 23	U, V-1.25	RM-3.5, RS	
(39)	96-50	5-2-1996	Keauhou 2nd, North Kona	7-8-10:Por. 58	RM-2	CV-10	
(40)	96-104	9-19-1996	Kahaluu, North Kona	7-8-14:90	(Amends Ord. 89-78, 6-13-89 and Ord. 93-67, 7-26-93)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(41)	00-103	9-18-2000	Kahaluu, North Kona	7-8-14:90	(Amends Ord. 96-104) (Effective Date 9-19-1996)		
(42)	05-103	6-17-2005	Nānāwale Homesteads, Puna	1-5-11:10	RS-10	CV-10	

ZONING MAP (North and South Kohala District)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	291	12-18-1969	Waikoloa, South Kohala	6-8-01:4	U	RS-10, RM-1.5, RM-3.0 A-20a, CV-20, O	7.06(d-8 and d-13)
(2)	70	11-1-1974	Ouli, South Kohala	6-2-01:17	A-40a	A-30a	7.06(l) Am. by Ord. 656, 12-3-1980
(3)	765	3-15-1982	Ouli, South Kohala	6-2-05:19 formerly Por. 6-2-01:17	Amends Section 7.06 (North and South Kohala Zone Map) Article 2, Chapter 8		7.06(l)
(4)	866	3-24-1983	Kahua 1st, Kahua and Waika, North Kohala	5-9-01:12, Por. 10	A-20a	A-10a, A-5a, A-3a	7.06(y-1 to y-4)
(5)	83-14 (Am. Ord. 866)	9-14-1983	Kahua 1st, Kahua and Waika, North Kohala	5-9-01:12, Por. 10	A-20a	A-10a, A-5a, A-3a	
(6)	84-34	7-3-1994	Waikii and Waikoloa, South Kohala	6-7-01:21, 22, 28, 31, 32	A-40a	A-10a, A-20a, A-80a, O	
(7)	84-54	9-5-1984	Waika, North Kohala	5-9-01:6	U	RM-4.0	
(8)	86-08	2-13-1986	Kahua and Waika, North Kohala	5-9-08:3	A-20a	A-3a	
(9)	86-82	8-19-1986	Kapaanui and Kou, North Kohala	5-7-02:Por. 11	U	A-1a	
(10)	86-156	12-23-1986	Kahua 1st, Kahua and Waika, North Kohala	5-9-05:6	U	A-1a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(11)	87-06	2-12-1987	Kahua 1st and Waika, North Kohala	5-9-08:6	A-20a	A-3a	
(12)	87-07	2-12-1987	Kahua 1st and Waika, North Kohala	5-9-07:4	A-20a	A-3a	
(13)	87-08	2-12-1987	Kahua 1st and Waika, North Kohala	5-9-08:7	A-20a	A-3a	
(14)	87-09	2-12-1987	Kahua 1st and Waika, North Kohala	5-9-07:3	A-20a	A-3a	
(15)	87-12	2-24-1987	Kahua and Waika, North Kohala	5-9-07:5	A-20a	A-3a	
(16)	87-72	7-13-1987	Waikoloa, South Kohala	6-8-01:Por. 52	U	A-1a	
(17)	87-73	7-13-1987	Waikoloa, South Kohala	6-8-01:Pors. 22, 52 and 53, 6-8-22:5, 7, 9 and Pors. 1, 2, 8, 10, 11, 12, 13, 22, 23, 25, 26, 32, and 35	U, O, CV-10, V-1.25, RM-1.5, RM-3	RM-3, RM-4, CV-10, O, V-1.25, U	
(18)	87-115	11-17-1987	Kahua 1st and Waika, North Kohala	5-9-06:1	A-20a	A-3a	
(19)	88-49	5-2-1988	Kahua 1st, North Kohala	5-9-7:6	A-20a	A-3a	
(20)	88-55	5-13-1988	Kahua, North Kohala	5-9-6:7	U	A-3a	
(21)	88-66	5-31-1988	Kahua and Waika, North Kohala	5-9-5:8	U	A-3a	
(22)	88-67	5-31-1988	Kahua and Waika, North Kohala	5-9-5:12 and 15	U	A-3a	
(23)	88-68	5-31-1988	Kahua and Waika, North Kohala	5-9-5:16	U	A-3a	
(24)	88-69	5-31-1988	Kahua and Waika, North Kohala	5-9-6:8 and 9	U	A-3a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(25)	88-126	9-6-1988	Kahua 1st, Kahua and Waika, North Kohala	5-9-7:1	A-20a	A-3a	
(26)	88-151	10-27-1988	Kahua and Waika, North Kohala	5-9-6:4	A-20a	A-3a	
(27)	89-82	6-13-1989	Kahua 1st, Kahua and Waika, North Kohala	5-9-06:19	U	A-3a	
(28)	89-111	8-24-1989	Kahua, North Kohala	5-9-06:2	A-20a	A-3a	
(29)	90-02	1-10-1990	Kapaau, North Kohala	5-4-04:5	A-20a	RA-1a	
(30)	90-07	2-13-1990	Kapaanui and Kou, North Kohala	5-7-02:Por. 11	(Amends Ord. 86-82) (Effective Date 8-19-1998)		
(31)	90-08	2-13-1990	Kahua 1st, North Kohala	5-9-07:7	A-20a	A-3a	
(32)	90-17	3-1-1990	Kahua 1st, North Kohala	5-9-06:10	U	A-3a	
(33)	90-27	4-9-1990	Kahua 1st, Kahua and Waika, Kahuanui and Kahualiilii, North Kohala	5-9-01:Por. 10, 5-9-09:1-53, 5-9-10:1-30 and 59, 5-9-11:2-85, 5-9-12:1-38, 5-9-13:1-100, 5-9-14:1-54	(Amends Ord. 83-14) (Effective Date 9-14-1983)		
(34)	90-139	11-20-1990	Kahua, North Kohala	5-9-08:5	A-20a	A-3a	
(35)	90-160	12-27-1990	Waikoloa, South Kohala	6-8-02:Por. 16, 6-8-03: Por. 32	U, RM-1.5	O, RA-1a	
(36)	91-82	8-29-1991	Kahua 1st, Kahua and Waika, North Kohala	5-9-06:3	A-20a	A-3a	
(37)	91-83	8-29-1991	Kahua 1st and Waika, North Kohala	5-9-07:3	(Amends Ord. 87-9) (Effective Date 2-12-1987)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(38)	91-108	10-24-1991	Kapaau, North Kohala	5-4-3:01	A-20a	A-2a	
(39)	92-05	1-22-1992	Kahua 1st and Waika, North Kohala	5-9-07:4	(Amends Ord. 87-7) (Effective Date 2-12-1987)		
(40)	92-40	4-29-1992	Kahua 1st, Kahua and Waika, North Kohala	5-9-01:Por. 10, 5-9-09: Por. 54, 5-9-10:31-55, 57, 58, 60 and Por. 56, 5-9-11:1	A-20a	RS-20, CV-10, RM-4, O	
(41)	92-65	6-15-1992	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, South Kohala	6-2-01:9, 6-7-01:Por. 25, 6-7-02:9 and Pors. 15 and 17, 6-8-01:Pors. 1,8	A-40a, RS-7.5	RS-7.5, RS-10, RS-15, RS-20, RD-5, RM-2, RM-3, CV-7.5, ML-20, A-3a	
(42)	92-92	8-18-1992	Kahua 1st, Kahua and Waika, North Kohala	5-9-08:4	A-20a	A-3a	
(43)	93-01	1-8-1993	Waikoloa, South Kohala	6-8-01:Pors. 25, 36, 37, 38, 39, and 40	U	RA-1a, RM-4.0 RM-7.0 RM-14.5 CV-10	
(44)	93-71	8-5-1993	Kahua 1st and Waika, North Kohala	5-9-06:1	(Amends Ord. 87-115) (Effective Date 11-17-1987)		
(45)	93-72	8-5-1993	Kahua 1st and Waika, North Kohala	5-9-06:2	(Amends Ord. 89-111) (Effective Date 8-24-1989)		
(46)	93-109	11-8-1993	Kou, Kamano, Mahukona 1st and 2nd, Hihiu and Kaoma, North Kohala	5-7-03:Pors. 2 and 10	U	A-1a, V-2.0, O	
(47)	94-20	2-22-1994	Ouli, South Kohala	6-2-01:18, 74, and 75	U	A-1a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(48)	94-85	8-18-1994	Kahua and Waika, North Kohala	5-9-15:18 and Por. 7	U	A-3a	
(49)	95-51	3-21-1995	Waikoloa, South Kohala	6-8-02:Por. 16, 6-8-03: Por. 32	(Amends Ord. 90-160) (Effective Date 12-27-1990)		
(50)	95-119	10-12-1995	Kahuā 1st and Waikā, North Kohala	5-9-07:03	(Amends Ord. 91-83) (Effective Date 2-12-1987)		
(51)	96-05	1-12-1996	Hanaula, North Kohala	5-4:3	A-20a	A-3a	
(52)	96-117	9-26-1996	ʻŌuli, Lanikepu, Lālāmilo, Waikoloa and Puʻukapu, Waimea, South Kohala	6-2-01:9, 6-7-01:Por. 25; 6-7-02:9, 48, Por. 17; 6-8-01:Por. 1, 8	A-40a, A-3a, RS-7.5, RS-10, RS-15, RS-20 RD-5, RM-2, RM-3, CV-7.5, ML-20	A-40a, RA-1a, RS-7.5, RS-10, RM-5.0, CV-7.5, ML-20	
(53)	96-153	12-5-1996	Waikoloa, Waimea, South Kohala	6-8-01:Pors. 25, 36, 37, 38 39, 40	(Amends Ord. 93-1) (Effective date 1-8-93)		
(54)	97-102	7-14-1997	Kahuā 1st, North Kohala	5-9-01:8	A-5a	RS-15	
(55)	98-36	4-23-1998	Hanaula, North Kohala	5-4-06:21 and 36	A-20a, RS-15	RS-10	
(56)	98-72	7-2-1998	ʻŌuli, South Kohala	6-2-9:25	A-5a	RA-2a	
(57)	98-87	8-27-1998	Kahuā 1st, North Kohala	5-9-07:7	A-20a	A-3a	
(58)	98-112	11-19-1998	ʻŌuli, South Kohala	6-2-11:22	A-5a	RA-2a	
(59)	98-114	11-19-1998	Kahuā, North Kohala	5-9-08:5	A-20a	A-3a	
(60)	99-50	5-4-1999	ʻŌuli, South Kohala	6-2-11:6	A-5a	RA-2a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(61)	99-64	5-13-1999	ʻŌuli, South Kohala	6-2-11:5	A-5a	RA-2a	
(62)	99-78	6-24-1999	ʻŌuli, South Kohala	6-2-11:27	A-5a	RA-2a	
(63)	99-94	8-19-1999	ʻŌuli, South Kohala	6-2-9:10	A-5a	RA-2a	
(64)	99-121	10-22-1999	ʻŌuli, South Kohala	6-2-11:18	A-5a	RA-2a	
(65)	00-14	2-8-2000	ʻŌuli, South Kohala	6-2-11:11	A-5a	RA-2a	
(66)	00-95	9-1-2000	ʻŌuli, South Kohala	6-2-11:36	A-5a	RA-2a	
(67)	01-01	1-2-2001	ʻŌuli, South Kohala	6-2-11:28	A-5a	RA-2a	
(68)	01-02	1-2-2001	ʻŌuli, South Kohala	6-2-9:22	A-5a	RA-2a	
(69)	01-81	9-24-2001	ʻŌuli, South Kohala	6-2-11:23	A-5a	RA-2a	
(70)	01-117	11-30-2001	ʻŌuli, Waimea, South Kohala	6-2-05:18	A-3a	RA-2a	
(71)	02-03	1-8-2002	ʻŌuli, Waimea, South Kohala	6-2-11:15	A-5a	RA-2a	
(72)	02-21	2-12-2002	Kahuā 1st, North Kohala	5-9-07:7	A-20a	A-3a	
(73)	02-25	2-28-2002	ʻŌuli, Lanikepu, Lālāmilo, Waikoloa and Puʻukapu, Waimea, South Kohala	6-2-01:9; 6-7-01: Por. 25; 6-7-02:9, 48, Por. 17;and 6-8-01:Por. 1, and 8	(Amends Ord. 96-117) (Effective Date 9-26-96)		
(74)	02-28	2-28-2002	ʻŌuli, South Kohala	6-2-11:8	A-5a	RA-2a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(75)	02-69	5-30-2002	ʻŌuli, South Kohala	6-2-11:26	A-5a	RA-2a	
(76)	02-93	8-19-2002	ʻŌuli, South Kohala	6-2-7:2	A-5a	RA-2a	
(77)	03-35	3-6-2003	ʻŌuli, South Kohala	6-2-11:25	A-5a	RA-2a	
(78)	03-71	5-13-2003	ʻŌuli, South Kohala	6-2-9:9	A-5a	RA-2a	
(79)	03-73	5-13-2003	ʻŌuli, South Kohala	6-2-11:3	A-5a	RA-2a	
(80)	03-75	5-13-2003	ʻŌuli, South Kohala	6-2-11:12	A-5a	RA-2a	
(81)	03-77	5-13-2003	ʻŌuli, South Kohala	6-2-11:31	A-5a	RA-2a	
(82)	03-122	8-27-2003	ʻŌuli, South Kohala	6-2-11:19	A-5a	RA-2a	
(83)	03-124	8-27-2003	ʻŌuli, South Kohala	6-2-11:13	A-5a	RA-2a	
(84)	04-12	2-11-2004	ʻŌuli, 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	ʻŌuli, South Kohala	6-2-11:10	A-5a	RA-2a	
(87)	04-88	8-12-2004	ʻŌuli, South Kohala	6-2-11:16	A-5a	RA-2a	
(88)	05-33	3-17-2005	ʻŌuli, South Kohala	6-2-11:9	A-5a	RA-2a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(89)	05-35	3-31-2005	ʻŌuli, South Kohala	6-2-11:33	A-5a	RA-2a	
(90)	05-64	5-16-2005	Kahuā 1st, North Kohala	5-9-6:5	A-5a	FA-3a	
(91)	05-120	8-25-2005	ʻŌuli, 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)	06-03	1-13-2006	ʻŌuli, 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	
(95)	06-109	7-27-2006	ʻŌuli, South Kohala	6-2-9:17	A-5a	RA-2a	
(96)	06-138	11-8-2006	Hienaloli 5th and 6th , North Kona	7-5-10:Por. of 13 (Formely 7-5-23: 64 and 67)	(Amends Ord. 90-010) (Effective Date 2-13-90)		
(97)	06-155	12-7-2006	ʻŌuli, South Kohala	6-2-11:20	A-5a	RA-2a	
(98)	07-106	8-14-2007	Kahuā 1st, North Kohala	5-9-007:007	A-20a	A-3a	
(99)	07-112	9-11-2007	Waimea, South Kohala	6-5-001:020	A-40a, A-1a	A-400a	
(100)	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)		
(101)	08-139	10-7-2008	Puehuehu and Kapuʻa, North Kohala	5-4-008:Por. 002	A-20a	RS-15	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(102)	08-179	12-31-2008	Waikā, North Kohala	5-9-007:003	(Amends Ord. 95-119) (Effective Date 10-12-95)		
(103)	09-129	10-20-09	Kahuā and Waikā, North Kohala	5-9-005:004 and 005	A-20a	FA-3a	
(104)	10-99	10-22-10	Kapuʻa and Pūehuehu	5-4-008:001	A-20a	FA-2a	
(105)	10-101	10-22-10	Pahoa, North Kohala	5-5-019:025 and 027 (portions)	A-20a, RS-7.5	RS-15, RS-10, RS-7.5, Open	
(106)	13-28	3-13-2013	Waikoloa, South Kohala	6-8-002:Por. 021	A-5a	CV-20	
(107)	13-29	3-13-2013	Waikoloa, South Kohala	6-8-002:Por. 016	(Amends Ord. 07-127, that amended Ord. 05-157, Ord. 95-51, and 90-160 – Effective Date 9-20-2007)		
(108)	13-30	3-13-2013	Kahuā 1st, North Kohala	5-9-007:007	(Amends Ord. 07-106, which amended Ord. 02-21, Ord. 98-87, and Ord. 90-08 -- Effective Date 8-14-2007)		
(109)	15-72	7-20-2015	Ouli, Waimea, South Kohala	6-2-005:008	A-3A	RA-1.5a	
(110)	15-18	3-16-2016	Kānehoa Subdivision, South Kohala	6-2-009:013	A-5a	RA-2a	

ZONING MAP (‘Upolu Point-Ka‘auhuhu Homesteads)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	167	11-20-1968	Kaauhuhu Homesteads, North Kohala	5-5-01:25	A-20a	A-3a	7.06(b)
(2)	298	1-28-1970	Kahei Homesteads, North Kohala	5-5-01:56	A-20a	A-1a	7.06(d)
(3)	571	4-13-1973	Kaauhuhu Homesteads, Kaauhuhu, North Kohala	5-5-01:Por. 22, 41 and 69	A-20a	A-3a	7.06(j)
(4)	131	7-14-1975	Kokoiki, North Kohala	5-5-04:20	A-20a	A-1a	7.06(m)
(5)	247	2-9-1977	Kahei Homesteads, North Kohala	5-5-01:53 and 55	A-20a	A-5a	7.06(q)
(6)	437	5-31-1979	Kaauhuhu, Mahukona 1st and Nunulunui,	5-5-01:Por. 5	A-20a	A-10a	7.06(t)
(7)	619	9-11-1980	Kaauhuhu, North Kohala	5-5-01:29	A-20a	A-5a	7.06(v)
(8)	815	8-24-1982	Kaauhuhu Homesteads, North Kohala	5-5-01:22	A-20a	A-5a	7.06(w)
(9)	865	3-24-1983	Mahukona 2nd and Puuokumau, North Kohala	5-4-01:10 and 11, 5-7-02:13	A-20a	A-3a, A-10a	7.06(x-1 to x-3)
(10)	867	3-24-1983	Kaauhuhu Homesteads 2nd, North Kohala	5-5-02:10	A-20a	A-3a	7.06(z)
(11)	83-15 (Am. Ord. 865)	9-14-1983	Puuokumau, North Kohala	5-4-01:11	A-20a	A-10a	
(12)	83-40	10-26-1983	Kahei, North Kohala	5-5-07:Por. 10	A-20a	A-5a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	83-56	12-12-1983	Honoipu and Puakea, North Kohala	5-6-01:Pors. 24 and 43	A-20a	A-10a	
(14)	85-48	6-20-1985	Kaauhuhu, Kahei, Kealahewa 1st, 2nd and 3rd, Honoipu, Puakea, Kukuipahu, Ilio Lahuiki, Awalua, Haena and Kapunapuna North Kohala	5-5-01:60, 64 5-5-03:17 and Pors. 9 and 16, 5-6-01:20 and 21	A-20a	A-1a, A-2a, A-600a, O	
(15)	86-78	7-9-1986	Mahukona 2nd and Puuokumau, North Kohala	5-4-10:10 and 11, 5-7-02:13	(Amends Ord. 83-15) (Effective Date 9-14-1983)		
(16)	87-17	2-24-1987	Kaauhuhu, North Kohala	5-5-01:20	A-20a	A-3a	
(17)	87-120	11-30-1987	Kaauhuhu, North Kohala	5-5-01:26	A-20a	A-3a	
(18)	90-86	7-16-1990	Kaauhuhu, North Kohala	5-5-01:20	A-3a, A-5a	A-20a	
(19)	94-99	9-13-1994	Kaauhuhu, North Kohala	5-5-02:85	A-20a	A-3a	
(20)	94-100	9-13-1994	Kahei, North Kohala	5-5-01:53	A-5a	A-1a	
(21)	96-04	1-12-1996	Kaauhuhu, North Kohala	5-5-1:19	A-20a	A-3a	
(22)	96-74	6-27-1996	Kaauhuhu Homesteads, Kaauhuhu, North Kohala	5-5-2:12	A-20a	A-3a	
(23)	96-75	6-27-1996	Kahei, North Kohala	5-5-01:119	A-5a	A-3a	
(24)	99-109	9-21-1999	Kaauhuhu, Kahei, Kealahewa 1st, 2nd and 3rd, Honoipu, Puakea, Kukuipahu, Ilio Lahuiki, Awalua, Haena and Kapunapuna, North Kohala	5-5-1:60, 64; 5-5-3:17 and Pors. of 9 and 16, 5-6-1:20 and 21	(Amends Ord. 85-48) (Effective date 6-20-85)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(25)	99-161	12-23-1999	Honomakau, Puehuehu and Hanaula, North Kohala	5-4-2:14	A-20a	A-5a	
(26)	01-13	2-6-2001	Puehuehu, North Kohala	5-4-2:Por. of 6	A-20a	RS-15	
(27)	01-19	2-13-2001	Kahei, North Kohala	5-5-1:122	A-5a	FA-3a	
(28)	04-68	6-14-2004	Kaauhuhu, North Kohala	5-5-02:85	A-20a	A-3a	
(29)	04-127	11-19-2004	Kokoiki, North Kohala	5-5-4:33	A-20a	FA-1a	
(30)	06-113	8-8-2006	Kealahehewa 1st, North Kohala	5-5-003:010	A-20a	A-10a	

ZONING MAP (Hāwī-Kapa‘au)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	492	8-1-1972	Kahei and Kaauhulu, North Kohala	5-5-11:7	RS-15	ML-20	7.07(a)
(2)	552	1-22-1973	Kapaau, North Kohala	5-3-05:30 and Por. 6	A-20a	RS-15	7.06(h)
(3)	572	4-13-1973	Kaauhuhu Homesteads, 2nd series, Kaauhuhu, North Kohala	5-5-13:17 and 18	A-20a	RS-15	7.06(k)
(4)	599	8-2-1973	Kahei, North Kohala	5-5-03:25, 26 and Por. 19	A-20a	A-1a	7.06(i)
(5)	102	3-21-1975	Puehuehu, North Kohala	5-4-07:48; 5-4-10:17	RS-15	CV-10	7.07(b)
(6)	185	2-17-1976	Kaauhuhu Homesteads, North Kohala	5-5-08:3	A-20a	A-5a	7.06(o) Repealed by Ord. 238, 12-14-1976
(7)	238	12-14-1976	Kaauhuhu Homesteads, North Kohala	5-5-08:3	A-20a	A-5a	Repealed by Ord. 185, 12-17-1976
(8)	84-38	7-9-1984	Kaauhuhu, North Kohala	5-5-09:57	RS-15	CV-10	
(9)	85-68	9-9-1985	Kaauhuhu Homesteads, North Kohala	5-5-08:3	A-5a	RA-1a	
(10)	86-60	6-9-1986	Kaauhuhu Homesteads, North Kohala	5-5-08:Por. 3	RA-1a	RS-10	
(11)	86-69	6-25-1986	Ainakea, North Kohala	5-3-06:18 and Por. 21	A-20a	RS-10, RM-4 CV-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(12)	87-16	2-24-1987	Kapua and Puehuehu, North Kohala	5-4-07:Por. 10	RS-15	CN-20	
(13)	88-65	5-31-1998	Kaauhuhu, North Kohala	5-5-2:Por. 39	A-20a	RS-15	
(14)	89-81	6-13-1989	Hualua, North Kohala	5-5-11:35	RS-15	RS-10	
(15)	89-162	12-22-1989	Ainakea, North Kohala	5-3-11:105	CV-10	O	
(16)	92-103	9-11-1992	Kapa‘au, North Kohala	5-4-05:Por. 58	RS-15	CV-10	
(17)	95-35	3-7-1995	Pūehuehu, North Kohala	5-4-07:3	RS-15	CV-10	
(18)	97-03	1-20-1997	Kapa‘au, North Kohala	5-4-05:88	(Amends Ord. 92-103) (Effective Date 9-11-91)		
(19)	98-36	4-23-1998	Hana‘ula, North Kohala	5-4-06:21 and 36	A-20a, RS-15	RS-10	
(20)	98-93	9-16-1998	Pūehuehu, North Kohala	5-4-7:Por. 2	RS-15	CV-10	
(21)	08-139	10-7-2008	Pūehuehu and Kapu‘a, North Kohala	5-4-008:Por. 002	A-20a	RS-15	
(22)	10-23	4-7-2010	Ka‘auhuhu, North Kohala	5-5-010:025	RS-15	CV-10	
(23)	10-99	10-22-10	Kapu‘a and Pūehuehu	5-4-008:001	A-20a	FA-2a	

ZONING MAP (Hala‘ula-Niuli‘i)

§ 25-8-10

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	285	12-15-1969	Pueke, North Kohala	5-3-07:Por. 01	A-20a	RS-15	7.06(c)
(2)	109	5-2-1975	Pueke, North Kohala	5-3-10:50	RS-15	CN-10	7.08(c)
(3)	87-75	7-13-1987	Makapala, North Kohala	5-2-09:30	RS-15	CV-10	
(4)	89-156	12-11-1989	Makapala, North Kohala	5-2-09:30	(Amends Ord. 87-75) (Effective Date 7-13-1987)		

ZONING MAP (Lālāmilo-Puʻukapu)

§ 25-8-11

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	488	8-1-1972	Waimea, South Kohala	6-5-03:Por. 11 and 12	CV-7.5	RS-10	7.09(a)
(2)	489	8-1-1972	Waimea, South Kohala	6-5-07:28	A-1a	RS-15	7.09(b)
(3)	493	8-1-1972	Puukapu Homesteads, South Kohala	6-4-01:48	A-5a	A-1a	7.09(c)
(4)	505	8-15-1972	Puukapu Homesteads, South Kohala	6-4-01:Por. 91	A-5a	CN-7.5	7.09(d)
(5)	534	11-2-1972	Waikoloa, South Kohala	6-7-02:Por. 17	ML-20	CV-7.5	7.09(e)
(6)	542	12-1-1972	Puukapu Homesteads, 2nd series, South Kohala	6-4-02:132	A-40a	A-3a	7.09(f)
(7)	17	2-19-1974	Puukapu Homesteads, 1st series, Puukapu, South Kohala	6-4-01:Por. 90	A-5a	RS-15	7.09(g)
(8)	48	8-5-1974	Puukapu Homesteads, 1st series, Puukapu, South Kohala	6-4-01:1, 2, and 72	A-5a	A-1a	7.09
(9)	148	10-1-1975	Ouli, South Kohala	6-2-01:10 and 68	A-40a	RS-15	7.06(n) Am. by Ord. 416, 3-15-1979
(10)	306	10-11-1977	Waimea Homesteads, South Kohala	6-5-07:Por. 29	A-1a	RS-15	7.09(i)
(11)	394	11-13-1978	Puukapu Homesteads, 2nd series, South Kohala	6-4-18:57	A-1a	A-5a	7.09(j)
(12)	422	3-28-1979	Puukapu, South Kohala	6-4-01:Por. 88	A-5a	CN-7.5	7.09(k) Am. by Ord. 572, 5-12-1980

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	454	7-16-1979	Waikoloa, South Kohala	6-7-02:Por. 17	A-40a	CV-7.5	7.09(l)
(14)	519	2-12-1980	Waimea Homesteads, South Kohala	6-5-07:36	A-1a	RS-20	7.09(m)
(15)	568	5-12-1980	Puukapu, South Kohala	6-4-01:101	A-5a	CV-20	7.09(o)
(16)	683	4-10-1981	Waimea, South Kohala	6-5-02:167	A-1a	RS-20	7.09(p)
(17)	559	4-21-1980	Puukapu, South Kohala	6-4-01:43	A-5a	CV-20	7.09(n)
(18)	831	11-22-1982	Waimea Homesteads, South Kohala	6-5-07:26	A-1a	RS-10, O	7.09(q-1 to q-2)
(19)	889	6-21-1983	Puukapu Homesteads 2nd, South Kohala	6-14-17:23	A-40a	A-5a	7.09(r)
(20)	893	6-21-1983	Puukapu Homesteads 2nd, South Kohala	6-4-03:24 and 98	A-40a	A-5a	7.09(s-1 to s-2)
(21)	84-13	2-27-1984	Puukapu Homesteads, South Kohala	6-4-06:Por. 22	RS-10	CN-7.5	
(22)	84-44	7-31-1984	Puukapu, Homesteads, South Kohala	6-4-01:Por. 40	A-5a	RS-15	
(23)	85-01	1-24-1985	Waimea, South Kohala	6-5-02:168	A-1a	RS-20	
(24)	85-03	2-19-1985	Waimea Homesteads, South Kohala	6-5-07:36	(Amends Ord. 519) (Effective Date 2-12-1980)		
(25)	85-32	4-22-1985	Waimea Homesteads, South Kohala	6-5-04:21	A-1a	RS-10	
(26)	88-106	7-12-1988	Puukapu, South Kohala	6-4-6:8	A-5a	CN-10	
(27)	90-09	2-13-1990	Waimea, South Kohala	6-5-07:81	O	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(28)	90-16	3-1-1990	Puukapu Homesteads, 2nd series, South Kohala	6-4-30:(segment of Government	A-40a	A-5a	
(29)	90-61	5-27-1990	Waimea Homesteads, South Kohala	6-5-04:21	(Amends Ord. 85-32) (Effective Date 4-22-1985)		
(30)	92-65	6-15-1992	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, South Kohala	6-2-01:9, 6-7.01:Por. 25, 6-7-02:9 and Pors. 15 and 17, 6-8-01:Pors. 1 and 8	A-40a, RS-7.5	RS-7.5, RS-10, RS-15, RS-20, RD-5, RM-2, RM-3, CV-7.5, ML-20, A-3a	
(31)	93-65	6-22-1993	Puukapu, South Kohala	6-4-24:Por. 27	A-5a	CN-7.5	
(32)	93-90	9-22-1993	Waimea, South Kohala	6-5-07:81	(Amends Ord. 90-9) (Effective Date 2-13-1990)		
(33)	94-56	5-18-1994	Puukapu, South Kohala	6-4-24:22	A-5a	CN-10	
(34)	95-36	3-7-1995	Waiaka 1 and Waiaka 2, Waimea, South Kohala	6-5-01:Por. 33	A-1a	RS-10	
(35)	95-63	5-10-1995	Waikoloa, South Kohala	6-7-2:14, 34 and Por. 17	ML-20, RM-2	CV-7.5	
(36)	95-144	12-12-1995	Puukapu, South Kohala	6-4-6:55	CN-7.5	CV-7.5	
(37)	96-103	9-19-1996	Puukapu, Waimea, South Kohala	6-4-30:10	A-40a	A-10a	
(38)	96-117	9-26-1996	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, Waimea, South Kohala	6-2-01; 6-07-01: Por. 25; 6-7-02: 9, 48, Por. 17; 6-8-01: Por. 1, 8	A-40a, A-3a, RS-7.5, RS-10, RS-15, RS-20, RD-5, RM-2, RM-3, CV-7.5, ML-20	A-40a, RA-1a, RS-7.5, RS-10 RM-5.0, CV-7.5 ML-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(39)	97-09	1-20-1997	Waimea, South Kohala	6-5-08:32	A-1a	RS-15	
(40)	97-24	2-27-1997	Waimea, South Kohala	6-5-07:25	A-1a	RS-10	
(41)	97-95	7-3-1997	Puukapu Homesteads, First Series, Puukapu, South Kohala	6-4-01:35	A-40a	FA-3a	
(42)	98-23	3-16-1998	Puukapu, Waimea, South Kohala	6-4-01:92	A-5a	CN-7.5	
(43)	98-67	7-2-1998	Puukapu, Waimea, South Kohala	6-4-2:148	A-3a	FA-1a	
(44)	99-22	2-28-1999	Puukapu, Waimea, South Kohala	6-4-2:3	A-40a	A-5a	
(45)	99-24	2-28-1999	Puukapu, Waimea, South Kohala	6-4-01:Por. of 42	A-5a	RS-10, CV-7.5	
(46)	99-114	10-8-1999	Puukapu, Waimea, South Kohala	6-4-01:124 and Por. Of 140	A-5a, RS-15	RA-.5a	
(47)	99-148	12-10-1999	Puukapu, Waimea, South Kohala	6-4-1:Por. of 41	A-5a	CN-10, RS-10, RS-20	
(48)	99-152	12-10-1999	Puukapu, Waimea, South Kohala	6-4-6:85	A-5a	CV-7.5, FA-3a	
(49)	00-104	9-18-2000	Lanikepu, Waimea, South Kohala	6-2-1:91	A-40a	A-5a	
(50)	01-115	11-30-2001	Puukapu, South Kohala	6-4-30:15	A-40a	A-5a	
(51)	02-25	2-28-2002	Ouli, Lanikepu, Lalamilo, Waikoloa and Puukapu, Waimea, South Kohala	6-2-01:9; 6-07-01: Por. of 25; 6-7-02: 9, 48, and Por. of 17; and 6-8-01:Pors. of 1 and 8	(Amends Ord. 96-117) (Effective date 9-26-96)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(52)	02-98	8-28-2002	Puukapu, Waimea, South Kohala	6-4-24:22	(Amends Ord. 94-56) (Effective date 5-18-94)		
(53)	02-99	8-28-2002	Puukapu, Waimea, South Kohala	6-4-24:23	A-5a	CN-10	
(54)	02-107	9-12-2002	Puukapu, Waimea, South Kohala	6-4-24:Por. of 27	(Amends Ord. 93-65) (Effective date 6-22-93)		
(55)	05-169	12-27-2005	Waimea, South Kohala	6-4-17:40	A-40a	A-5a	
(56)	07-112	9-11-2007	Waimea, South Kohala	6-5-001:020	A-40a, A-1a	A-400a	
(57)	07-181	12-26-07	Waikoloa, Waimea	6-7-002:020 and Por. of 051	A-40a, ML-20	CV-7.5	
(58)	11-73	9-1-2011	Puʻukapu, Waimea, South Kohala	6-4-017:042	A-40a	A-5a	
(59)	13-11	2-13-2013	Puʻukapu Homesteads, 1st series, Puʻukapu, South Kohala	6-4-001:099	A-40a	RA-.5a	
(60)	13-102	10-16-2013	Puukapu Homesteads, 2nd series, South Kohala	6-4-018:087	A-5a	FA-2a	
(61)	15-37	4-24-2015	Waimea Homesteads, South Kohala	6-5-011:030	A-1a	RS-20	

ZONING MAP (Kawaihae-Puakō)

§ 25-8-12

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	139	7-17-1968	Kawaihae 2nd, South Kohala	6-2-01	A-40a	RM-5, O	7.06(a), 7.06(b)
(2)	152	9-18-1968	Ouli, South Kohala	6-2-02	CV-10	V-1.25	7.10(a)
(3)	152	9-18-1968	Ouli, South Kohala	6-2-02	V-1.25	Open	7.10(b)
(4)	275	11-26-1969	Ouli, South Kohala	6-2-02	A-1a	RS-20	7.10(b-1 to b-2)
(5)	500	8-1-1972	Ouli, Waimea, South Kohala	6-2-02:Por. 4	O	V-1.25	7.10(c)
(6)	602	7-18-1980	Ouli, South Kohala	6-2-02:Por. 4	O	V-1.25	7.10(d) Am. by Ord. 642, 10-17-1980
(7)	808	7-23-1982	Ouli, South Kohala	6-2-02:Por. 4	A-1a	RM-20	7.10(e)
(8)	84-45	8-13-1984	Ouli, South Kohala	6-2-02:Por. 4, 18 and 19	A-1a and O	O, RM-20, V-1.25	
(9)	84-84	11-30-1984	Lalamilo, South Kohala	6-6-02:25	O	RS-15	
(10)	86-46	6-2-1986	Ouli, South Kohala	6-2-01:62, 63, 78, 79 and Por. 51, 6-2-02:Por. 12	A-1a, U	CV-10, O, RS-20, ML-10, RS-15, RM-6	
(11)	88-50	5-2-1988	Ouli, South Kohala	6-2-2:5	RS-15, O	RS-5a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(12)	88-152	10-27-1988	Lalamilo, South Kohala	6-6-2:3 to 6	O	RS-20	
(13)	89-106	7-25-1989	Lalamilo, South Kohala	6-6-02:19	O	RS-20	
(14)	90-64	5-27-1990	Ouli, Waimea, South Kohala	6-2-01:Por. 51	RM-6, RS-15, ML-10, CV-10, O	RM-6, RS-15, ML-10, CV-10, O	
(15)	91-49	5-22-1991	Ouli, South Kohala	6-2-02:Por. 12	RS-20, O	O, RS-20	
(16)	92-16	2-26-1992	Lalamilo, South Kohala	6-9-01:Por. 7	O	RS-10	
(17)	94-53	5-18-1994	Ouli, South Kohala	6-2-02:Por. 13	O	RM-1.5	
(18)	94-127	12-7-1994	Lalamilo, South Kohala	6-9-03:22	V-1.25	CV-15	
(19)	95-107	9-13-1995	Ouli, Waimea, South Kohala	6-2-13:1, 2 and 7	RS-15, RM-6, RM-15, CV-10, O	RS-15, RM-6, RM-15, CV-10, O	
(20)	03-120	8-27-2003	Waimea, Lalamilo, South Kohala	6-9-3:15	V-1.25	RS-10	
(21)	05-153	12-2-2005	Kawaihae 1st, South Kohala	6-1-3:15	O	MCX-1a	
(22)	06-05	1-13-2006	Ouli, South Kohala	6-2-16:1-19	RM-15	RS-15	

ZONING MAP (Puakō-ʻAnaehoʻomalu)

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Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	291	12-18-1969	Waikoloa, South Kohala	6-8-01:4	U	RS-10, RM-1.5, RM-3.0, A-20a, CV-10 and O	7.06(d-1 to d-7, d-9 to d-12)
(2)	392	4-27-1971	Anaehoomalu, South Kohala	6-9-01:13	O	V-1.25, RM-30, RM-1.5, CV-10	7.06(f-1 to f-21)
(3)	515	8-28-1972	Waikoloa, South Kohala	6-8-03:6 and 7	RM-3.0, CV-10	CV-10, RM-3.0	7.06(g-1 to g-2)
(4)	203	4-19-1976	Waikoloa, Kalahuipuaa and Anaehoomalu, South Kohala	6-8-01:Por. 22, 6-9-01: Por. 3 and 5	O, U	CV-10, V-1.0 V-1.25, V-2.0 RM-3.0, CV-10, V-1.0, V-2.0, RM-1.5, RM-3.0, ML-20, O	7.06(p-1 to p-32) Repealed by Ord. 380, 8-10-1978
(5)	265	4-28-1977	Aneahoomalu, South Kohala	6-9-07(Por.)	Revising and Redesignating the V-1.25, RM-1.5, RM-3.0, CV-10 and O		7.06(r-1 to r-28) Amends Ord. 392, 4-27-1971
(6)	380	8-10-1978	Waikoloa, Kalahuipuaa and Anaehoomalu, South Kohala	6-8-01:Por. 22, 6-9-01: Por. 3 and 5	Revising and Redesignating the V-1.0, V-1.25, V-20, CV-10, RM-1.5, RM-3.0, ML10 Repeals Ord. and O-		7.06(s-1 to s-25) 203, 4-19-1976
(7)	608	8-4-1980	Kalahuipuaa and Anaehoomalu, South Kohala	6-8-01:Por. 22, 6-9-01:Por. 3	O, V-2.0, RM-3.0, V-2.0	V-1.25, RM-3.0, O, V-1.25	7.06(u-1 to u-12)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(8)	908	7-11-1983	Kalahuipuaa, Waikoloa and Anaehoomalu, South Kohala	6-8-01:Por. 22, 6-8-22: Pors. 1, 2, 3, 4, 8, 9, 10	V-1.0, V-1.25, CV-10, RM-1.5, RM-3.0, ML-10, O	CV-10, RM-3.0, V-1.25, RM-1.5, V-1.0, O	7.06(aa-1 to aa-90)
(9)	85-07	2-19-1985	Waikoloa, South Kohala	6-8-22-Pors. 2 and 9	RM-1.5, RM-3	CV-10	
(10)	85-75	9-9-1985	Anaehoomalu, South Kohala	6-9-07(Por.)	(Amends Ord. 265) (Effective Date 4-28-1977)		
(11)	85-76	9-9-1985	Anaehoomalu, South Kohala	6-9-07:9, 12, 13, 14, 16, 17, 18, 25, 26 and 30	RM-1.5, O, V-1.25	CV-10, RM-1.5, RM-3.0, V-1.25, O	
(12)	87-73	7-13-1987	Anaehoomalu, South Kohala	6-8-01:Pors. 22, 52 and 53, 6-8-22:5, 7, 9 and Pors. 1, 2, 8, 10, 11, 12, 13, 22, 23, 25, 26, 32 and 35	U, O, CV-10, V-1.25, RM-1.5, RM-3	RM-3, RM-4, CV-10, O, V-1.25, U	
(13)	88-24	2-29-1988	Waikoloa, South Kohala	6-8-3:6 and 7	(Amends Ord. No. 515) (Effective Date 8-28-1972)		
(14)	88-70	5-31-1988	Kalahuipuaa and Anaehoomalu, South Kohala	6-8-22:Pors. 13, 15, 17, 27, 28, 36 and 37	RM-3, O	O, RM-3, V-1.25	
(15)	89-35	2-23-1989	Anaehoomalu, South Kohala	6-9-07:Por. 25	Unzoned, RM-1.5, RM-3, CV-10, O	Proposed Roadways, RM-3, CV-10, O	
(16)	89-135	10-17-1989	Waikoloa, South Kohala	6-8-22:18, 19, 21 and 33	O, ML-20, CV-10, RM-3	CV-10, RM-3, O	
(17)	90-39	4-12-1990	Anaehoomalu, South Kohala	6-9-07:22, 23, 24, and Pors. 25 and 30	CV-10, RM-1.5, O	CV-10, RM-1.5, O	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(18)	90-114	9-26-1990	Waikoloa, South Kohala	6-8-03:Por. 8	RM-3	CV-10	
(19)	90-159	12-27-1990	Waikoloa, South Kohala	6-8-01:Por. 52, 6-8-22: Pors. 2 and 35	CV-10, U, O	U, CV-10, U	
(20)	91-112	11-18-1991	Waikoloa, South Kohala	6-9-08:2, 6,7, 9, 10, 11, 12 and 13	U	RM-4, RM-6, RM-8, CV-10, ML-20, O	
(21)	92-139	12-4-1992	Waikoloa, South Kohala	6-8-01:Por. 54, 6-8-22: Por. 7	RM-4, O	O, RM-4	
(22)	92-140	12-4-1992	Waikoloa, South Kohala	6-8-22:Pors. 19, 21 and 33	CV-10, O, RM-3	RM-3, O	
(23)	94-31	3-21-1994	Waikoloa, South Kohala	6-9-08:Por. 2	RM-6, RM-8, O, CV-10	O, CV-10, RM-6, RM-8, CV-10, O	
(24)	95-37	3-7-1995	Waikoloa, South Kohala	6-8-01:Por. 54, 6-8-22: Por. 10 and 35	RM-4, O	O, RM-4	
(25)	95-64	5-10-1995	Waikoloa, Kalahuipuaa and Anaehoomalu, South Kohala	6-8-01:Por. 54, 6-8-22:Por. Por. 1, 3, 4, 5, 7, 9, 27 and 32	O, RM-3, RM-4, V-1.25	O, RM-3, RM-4, V-1.25	
(26)	97-49	3-24-1997	Anaehoomalu, South Kohala	6-9-07:15	O	V-2a	
(27)	03-149	11-14-2003	Waikoloa, South Kohala	6-8-27:1, 3-7, 9-12, 16-27, and 29-35	RM-3	RS-20	
(28)	03-169	12-19-2003	Anaehoomalu, South Kohala	6-9-7:15	O	V-2a	
(29)	05-102	6-17-2005	Anaehoomalu, South Kohala	6-8-33:1-6, 8-14, 16-18, 20-49	RM-3, RM-4	RM-20	

ZONING MAP (Waikoloa Village)

§ 25-8-14

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.

ZONING MAP No. 7.11--(Hāmākua District)

§ 25-8-15

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	86-12	2-24-1986	Waikoekoe, Hamakua	4-7-07:48	A-40a	A-20a	
(2)	86-13	2-24-1986	Waikoekoe, Hamakua	4-7-07:39	A-40a	A-35a	
(3)	90-26	4-9-1990	Waikoekoe, Hamakua	4-8-06:Por. 35	A-40a	RS-15	
(4)	91-132	12-27-1991	Hamakua	Numerous	A-5a, A-20a, A-40a	A-20, 000a	
(5)	91-133	12-26-1991	Keaa, Puopaha, Kalakalaula, Kukuihaele, Waikoekoe, Lalakea, Kanahonua, Hamakua	4-8-01:4 and 5, 4-8-02:4 and Por. 5, 4-8-03:Por. 6, 4-8-04:1, 2 and Por. 3, 4-8-05:1, 3, 4, 5, 6 and Por. 2, 4-8-06:2, 4-8-08: 1, 2, 19 and 23	A-40a	V-13, CV-10, A-1a, A-3a, O	
(6)	91-134	12-26-1991	Kanahonua, Waikoekoe, Keaa, Puopaha, Kalakalaula, Hamakua	4-8-01:Por. 4, 4-8-06:43, 44 and Pors. 1 and 11	A-40a	CV-10, RM-5 RM-10, A-1a	
(7)	92-84	7-22-1992	Waikoekoe, Hamakua	4-8-06:Por. 35	(Amends Ord. 90-26) (Effective Date 4-9-1990)		
(8)	94-63	6-8-1994	Waikoekoe and Kanahonua, Hamakua	4-8-06:13, 43, Por. 9, 11 and 44	RS-15, A-40a	V-43, RS-7.5, RS-15, V-18, V-43, A-1a	
(9)	01-22	3-6-2001	Waikoekoe and Kanahonua, Hamakua	4-8-6:3, 13 and Por of 44.	RS-15, V-43	V-25	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(10)	01-79	9-24-2001	Waikoekoe and Kanahonua, Hamakua	4-8-06:43 and Pors. of 9 and 11	RS-15, V-18, V-43, A-1a	A-40a	
(11)	06-81	6-16-2006	Waikoekoe, Hamakua	4-7-007:048	A-20a	FA-3a	

ZONING MAP No. 7.12--(Hāmākua District Homesteads)

§ 25-8-16

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	581	6-8-1973	Kaao Homesteads, Hamakua	4-5-03:Por. 16	A-5a	A-1a	7.12(a)
(2)	588	6-27-1973	Kaao Homesteads, Hamakua	4-5-03:Por. 14	A-5a	A-1a	7.12(b)
(3)	341	4-24-1978	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:Por. 1, 2 and 31	A-5a, A-40a	RS-10	7.12(c-1 to c-3)
(4)	404	12-27-1978	Ahualoa Homesteads, Ahualoa, Hamakua	4-6-07:68	A-5a	A-3a	7.12(d)
(5)	534	2-12-1980	Namoku and Papaanui, Hamakua	4-5-10:82 and Por. 31	RS-10, A-40a	A-5a, RS-10	7.12(e-1 to e-2)
(6)	882	5-16-1983	Ahualoa, Hamakua	4-6-06:11	A-40a	A-5a	7.12(f)
(7)	84-72	10-23-1984	Papaanui, Paalaea and Kaao, Hamakua	4-5-10:85	RS-10	CV-7.5	
(8)	85-18	4-3-1985	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:Pors. 1, 2 and 31	(Amends Ord. 341) (Effective Date 4-24-1978)		
(9)	91-54	6-14-1991	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:1, 31, 121, 198-116 (formerly 4-5-10: Por. 1, 2 and 31)	(Amends Ord. 85-18) (Effective Date 4-3-1985)		
(10)	91-132	12-27-1991	Hamakua	Numerous	A-5a, A-20a, A-40a	A-20,000a	
(11)	96-09	2-23-1996	Hauola, Opihilala, Hamakua	4-3-3:31	A-40a	A-1a	
(12)	98-14	2-24-1998	Hauola, Opihilala, Hamakua	4-3-3:31	(Amends Ord. 96-9) (Effective Date 2-23-1996)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	10-102	10-22-2010	Kawela, Hāmākua	4-6-011:039	A-40a	A-10a	

ZONING MAP No. 7.13 - (Haina, Honoka'a-Kukuihaele)

§ 25-8-17

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	138	7-17-1968	Kaao Homesteads, Hamakua	4-5-17:15 and 16	Single-Family Residential	Village Commercial	7.13(a)
(2)	495	8-1-1972	Haina, Hamakua	4-5-16:23 and 58	RS-7.5	CV-10	7.13(b and b-2)
(3)	215	7-16-1976	Haina, Hamakua	4-5-16:Por. 47	RS-7.5	CV-10	7.13(c)
(4)	341	4-24-1978	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:Por. 1, 2 and 31	A-5a, A-40a	RS-10	7.13(c)
(5)	85-18	4-3-1985	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:Por. 1, 2 and 31	(Amends Ord. 341 (Effective Date 4-24-1978)		
(6)	91-54	6-14-1991	Paalaea, Papaanui, Haina and Namoku, Hamakua	4-5-10:1, 31, 121, 108-116 (formerly 4-5-10:Por. 1, 2 and 31)	(Amends Ord. 86-18) (Effective Date 4-3-1985)		
(7)	92-33	4-7-1992	Kaao, Hamakua	4-5-21:61	RS-10	CV-7.5	
(8)	94-63	6-8-1994	Waikoekoe, Kanahonua, Hamakua	4	RS-15 A-40a	V-43, RS-7.5, RS-15, V-18, V-43, A-1a	
(9)	99-108	9-21-1999	Kaao, Hamakua	4-5-21:60	RS-10	CN-10	
(10)	01-20	2-13-2001	Kaao Homesteads, Hamakua	4-5-03:24 and 124	A-5a	RA-2a	

ZONING MAP No. 7.14--(Pa‘auilo-Kūka‘iau)

§ 25-8-18

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	85-65	8-23-1985	Paauilo, Hamakua	4-3-01:Por. 3	RS-10, RS-15	CV-10	
(2)	88-32	3-7-1988	Kainehe, Hamakua	4-2-3:Por. 3	A-40a	RS-7.5	

ZONING MAP No. 7.15--(North Hilo District)

§ 25-8-19

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	377	3-15-1971	Kihalani, North Hilo	3-5-05:03	A-20a	RS-10	7.15(a)
(2)	28	4-29-1974	Kihalani Homesteads, North Hilo	3-5-04:25	A-20a	RS-10	7.15(b)
(3)	166	10-31-1975	Papaaloa, North Hilo	3-5-03:Pors. 27 and 72, 3--04:Pors. 7 and 5	A-20a	RS-10	7.15(c)
(4)	393	11-13-1978	Waikaumalu-Maulua, North Hilo	3-2-02:Por. 41	A-20a	A-1a	7.15(d)
(5)	85-13	2-25-1985	Kihalani Homesteads, North Hilo	32-5-04:25	RS-10	RA-1a	
(6)	85-33	4-22-1985	Kapena, North Hilo	3-2:Por. 41	A-20a	A-1a, A-5a	
(7)	91-132	12-27-1991	North Hilo	32-9-01:3, 3-9-02:9	A-5a, A-20a A-40a	A-20,000a	
(8)	99-48	5-4-1999	Papaaloa, North Hilo	3-5-3:Pors. of 27 and 75 and 3-5-4: Por. of 8	RS-10	A-10a A-20a	
(9)	03-26	2-20-2003	Manowai‘ōpae, Homesteads, North Hilo	3-5-4:77	A-20a	RA-1a	
(10)	14-04	1-27-2014	Waipunalei, North Hilo	3-6-005:003	A-20a	A-5a	

ZONING MAP No. 7.16--(‘Ō‘ōkala)

§ 25-8-20

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	538	11-14-1972	Ookala, North Hilo	3-9-01:Por. 6	RS-10	MG-1a	7.16(a)
(2)	807	7-23-1982	Ookala, North Hilo	3-9-01:Pors. 6 and 26	RS-10	MG-1a	7.16(b)

ZONING MAP No. 7.17--(Laupāhoehoe-Nīnole)

§ 25-8-21

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	318	11-23-1997	Manowai‘ōpae Homesteads, North Hilo	3-6-08:6	RS-15	RS-10	7.17
(2)	95-106	8-23-1995	Puualaea, North Hilo	3-6-11:26	O	RS-10	
(3)	96-87	7-26-1996	Kihalani, North Hilo	3-5-5:2	A-20a	A-5a	
(4)	08-160	11-20-2008	Manowai‘ōpae, North Hilo	3-6-008:002	RS-15	RS-10	

ZONING MAP No. 7.18--(Puna District)

§ 25-8-22

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	251	9-3-1969	Kapoho, Halekamahina, Puua, Puna	1-4-01:17	A-3a	A-1a	7.18(a)
(2)	266	10-8-1969	Kurtistown, ʻŌlaʻa, Puna	1-7-05:18	A-20a	A-10a	7.18(b)
(3)	418	8-31-1971	Halekamahina, Puna	1-4-01:42	A-3a	A-1a	7.18(c)
(4)	541	12-1-1972	Kaniahiku Village, Kaniahiku, Puna	1-4-34:13 and 14	O	RS-15	7.18(d)
(5)	610	11-14-1973	Kaniahiku Village, Kaniahiku, Puna	1-4-34	O	RS-15	7.18(e)
(6)	13	2-19-1974	Keaʻau, Puna	1-6-02:27 and 97, 1-6-03:Por. 27	A-20a	RS-10	7.18(f)
(7)	49	8-12-1974	ʻŌlaʻa Reservation Lots, ʻŌlaʻa, Puna	1-8-04:Por. 2	A-20a	A-1a	7.18(g)
(8)	278	5-24-1977	Keaʻau, Puna	1-5-16:89-98, 103-112, 1-5-23:176-183, 204-212, 229-237, 244-251	O	A-1a	7.18(h-1 to
(9)	408	2-9-1979	ʻŌlaʻa, Puna	1-8-86:6	A-20a	A-5a	6.18(j)
(10)	84-70	9-25-1984	Keaʻau, Puna	1-7-16:35, 1-7-17:Pors. 1 and 43, 1-7-27:1	A-20a	A-1a	
(11)	85-69	9-9-1985	ʻŌlaʻa, Puna	1-8-05:47	A-20a	A-1a, A-5a	
(12)	86-29	3-24-1986	ʻŌlaʻa, Puna	1-8-05:96	A-20a	A-10a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	86-41	5-15-1986	Kea‘au, Puna	1-6-03:Por. 73	A-20a	A-5a	
(14)	86-84	8-19-1986	Puua, Puna	1-4-83:20	O	A-1a	
(15)	86-85	8-19-1986	Kea‘au, Puna	1-6-03:78 and Por. 7	A-20a	MG-20	
(16)	90-145	11-30-1990	Olaa, Puna	8-8-04:99	A-20a	A-5a	
(17)	91-110	10-24-1991	Halekamahina, Puna	1-4-73:2	O	A-5a	
(18)	91-135	12-27-1991	Olaa, Puna	1-7-05:12	A-20a	A-1a	
(19)	92-87	7-22-1992	Keaau, Puna	1-6-146:1-54, 1-6-3:78, 92 and Por. 90 (formerly 1-6-3:78 and Por. 7)	(Amends Ord. 86-85) (Effective Date 8-19-1986)		
(20)	92-123	11-20-1992	Olaa, Puna	1-7-17:3	A-20a	A-1a	
(21)	93-61	6-18-1993	Waiakahiula, Puna	1-5-67:Por. 35	O	A-1a	
(22)	95-57	4-26-1995	Pohoiki and Keahialaka, Puna	1-3-08:24, 29, and 31	A-1a	A-5a, A-3a	
(23)	95-98	8-23-1995	Keaau, Puna	1-6-03:10	A-20a	A-1a	
(24)	97-65	5-14-1997	Olaa, Puna	1-7-17:3	(Amends Ord. 92-123) (Effective 11-20-92)		
(25)	97-67	5-14-1997	Keaau, Puna	1-6-03:5	A-20a	ML-20, FA-3a	
(26)	98-60	7-2-1998	Keaau, Puna	1-6-141:10	A-20a	FA-1a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(27)	98-61	7-2-1998	Keaau, Puna	1-6-03:Por. 5	ML-20	MCX-20	
(28)	99-53	5-4-1999	Keaau, Puna	1-6-3:93	A-20a	MG-10a	
(29)	99-83	7-16-1999	Halekamahina, Puna	1-4-73:18	O, A-1a	FA-2a	
(30)	01-41	5-1-2001	Kapoho, Halekamahina, Puna	1-4-73:27	O, A-1a	FA-2a	
(31)	02-23	2-28-2002	Kea‘au, Puna	1-6-03:Por. of 7	A-20a	MCX-20	
(32)	03-24	2-20-2003	Kapoho and Halekamahina, Puna	1-4-73:3	O and A-1a	A-5a	
(33)	03-134	10-16-2003	Olaa, Puna	1-7-17:3	(Amends Ord. 97-65) (Effective date 5-14-97)		
(34)	04-02	1-7-2004	Kea‘au, Puna	1-6-3:99	A-20a	ML-20 and A-5a	
(35)	04-21	2-25-2004	Kea‘au, Puna	1-6-141:001	A-20a	A-5a	
(36)	05-26	2-18-2005	Kapoho, Puna	1-4-73:1	O	FA-2a	
(37)	09-52	5-11-2009	Kea‘au, Puna	1-6-003:018 and 023	A-20a	ML-1a	
(38)	10-20	3-18-2010	Kea‘au, Puna	1-6-141:024	A-5a	FA-2a	
(39)	10-43	5-20-2010	Kea‘au, Puna	1-6-152:018	A-20a	ML-20	
(40)	12-32	3-6-2012	Kea‘au, Puna	1-6-003:010	(Amends Ord. 95-98) (Effective date 8-23-1995)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(41)	16-48	5-23-2016	Kea‘au, Puna	1-6-152:020	A-20a	ML-20	

ZONING MAP No. 7.19–(Volcano-Mt. View)

§ 25-8-23

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	347	10-26-1970	Olaa Summer Lots, Olaa, Puna	1-9-13:2, 3 and Por. 7	O	RS-20	7.19(a)
(2)	591	6-27-1973	Olaa Summer Lots, Olaa, Puna	1-9-04:Por. 10 and 12	CV-10	RS-20	7.19(b)
(3)	40	6-18-1974	Olaa Summer Lots, Olaa, Puna	1-9-04:Por. 10 and 12	RS-20	CV-10	7.19(c)
(4)	292	7-11-1977	Mt. View, Puna	1-8-02:48	CV-10	RS-10	7.19(d)
(5)	95-101	8-23-1995	Olaa, Puna	1-9-04:Por. 6	RS-20	CV-10	
(6)	95-124	10-25-1995	Olaa, Puna	1-9-04:Por. 14	RS-20	CV-20	
(7)	03-06	2-4-2003	ʻŌlaʻa, Puna	1-9-4:Por. of 14	RS-20	CV-20	
(8)	12-128	9-27-2012	ʻŌlaʻa, Puna	1-8-002:064	RS-10	CV-10	

ZONING MAP No. 7.20--(Kurtistown)

§ 25-8-24

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	486	8-1-1972	Olaa, Puna	1-7-19:Por. 12	RS-20	CN-10	7.20(a) Repealed by Ord. 14, 2-19-1974
(2)	14	2-19-1974	Olaa, Puna	1-7-19:Por. 12	CN-10	RS-20	7.20(b) Repeals Ord. 486, 8-1-1972
(3)	176	12-8-1975	Olaa, Puna	1-7-01:56	A-5a	A-1a	7.20(c)
(4)	193	3-3-1976	Olaa, Puna	1-7-01:Por. 21	RS-20	CN-10	7.20(d)
(5)	382	9-28-1978	Olaa, Puna	1-7-19:Por. 25	RS-20	CN-10	7.20(e)
(6)	635	10-6-1980	Olaa, Puna	1-7-01:Por. 25	A-10a	A-5a	7.20(f)
(7)	833	12-15-1982	Olaa, Puna	1-7-08:Por. 3	A-20a, A-1a	A-1a, A-20a	7.20(g-1 to g-3)
(8)	892	6-21-1983	Olaa, Puna	1-7-06:13	A-5a	RS-20	7.20(h)
(9)	84-70	9-25-1984	Keaau, Puna	1-7-16:35, 1-7-17:Pors. 1 and 43, 1-7-27:1	A-20a	A-1a	
(10)	87-44	4-23-1987	Olaa, Puna	1-7-02:7	A-5a	A-3a	
(11)	98-125	12-7-1998	Olaa, Puna	1-7-13:8	A-20a	A-5a	
(12)	03-132	9-24-2003	Olaa, Puna	1-7-1:Por. of 11	A-5a	CV-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(13)	09-94	9-2-09	Kea‘au, Puna	1-7-016:028	RS-20	RS-15	

ZONING MAP No. 7.21--(Kea‘au)

§ 25-8-25

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	268	10-15-1969	Keaau, Puna	1-6-03:61	RS-15	RS-10	7.21(a)
(2)	39	6-18-1974	Keaau, Puna	1-6-144:42	RS-15	RS-10	7.21(b)
(3)	286	6-22-1977	Keaau, Puna	1-6-144:Por. 1	RS-15, A-20a	RS-10	7.21(c)
(4)	85-41	5-22-1985	Keaau, Puna	1-6-143:19, 20 and Por. 22	ML-20	RS-10	
(5)	89-32	2-23-1989	Keaau, Puna	1-6-02:2, 3, 4, 6, 7, 24 and 84, 1-6-03:Por. 11	RS-10, ML-20	CV-10, RS-10	
(6)	98-28	3-25-1998	Keaau, Puna	1-6-143:38	RS-15	CV-10	

ZONING MAP No. 7.22--(Pāhoa)

§ 25-8-26

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	159	10-16-1968	Nanawale Homesteads, Puna	1-5-11:22 and 23	RS-10	CV-10	7.22(a)
(2)	494	8-1-1972	Nanawale Homesteads, Pahoa, Puna	1-5-11:14	RS-10	CV-10	7.22(b) Repealed by Ord. 226, 10-14-1976
(3)	590	6-27-1973	Kaniahiku Homesteads, Kaniahiku, Puna	1-5-115:14	A-1a	RA-5a	7.22(c)Am. By Ord. 578, 6-3-1980
(4)	94	3-11-1975	Waiakahiula, Puna	1-5-02:Por. 2	RS-10	CV-10, RM-2	7.22(d-1 to d-2)
(5)	132	7-29-1975	Keonepoko, Homesteads, Keonepoko, Iki, Puna	1-5-07:3	A-1a	RS-10	7.22(e)
(6)	222	9-9-1976	Nanawale Homesteads, Puna	1-5-11:15	RS-10	CV-10	7.22(f)
(7)	226	10-14-1976	Nanawale Homesteads, Pahoa, Puna	1-5-11:14	RS-10	CV-10	7.22(b) Repeals Ord. 494, 8-1-1972
(8)	556	4-21-1980	Nanawale Homesteads, Puna	1-5-11:12	RS-10	CV-10	7.22(g)
(9)	668	2-10-1981	Waiakahiula, Puna	1-5-13:25	RS-15	CV-10	7.22(h)
(10)	706	8-31-1981	Waiakahiula, Puna	1-5-13:35	RS-15	CV-10	7.22(i)
(11)	86-81	7-22-1986	Waiakahiula, Puna	1-5-13:35	(Amends Ord. 706) (Effective Date 8-31-1981)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(12)	86-107	9-26-1986	Waiakahiula, Puna	1-5-13:26, 27 and Por. 44	RS-15	CV-10	
(13)	87-109	10-28-1987	Waiakahiula, Puna	1-5-13:26, 27 and Por. 44	(Amends Ord. 86-107) (Effective Date 9-26-1986)		
(14)	87-117	11-30-1987	Waiakahiula, Puna	1-5-03:Por. 37	RS-10	CN-20	
(15)	91-116	12-2-1991	Keonepoko, Puna	1-5-07:20	A-1a	CN-20	
(16)	92-70	6-15-1992	Nanawale Homesteads, Puna	1-5-14:7, 8 and Por. 23	RS-15	CV-10	
(17)	98-128	12-7-1998	Keonepoko, Puna	1-5-7:Por. 21	A-1a	CN-20	
(18)	99-125	11-1-1999	Waiakahiula, Puna	1-5-6:23	A-1a	CV-10	
(19)	00-77	7-18-2000	Keonepoko-Iki, Puna	1-5-7:80	A-1a	MCX-20	
(20)	00-128	11-24-2000	Keonepoko, Puna	1-5-07:20	(Amends Ord. 91-116) (Effective Date 12-2-1991)		
(21)	03-111	7-9-2003	Keonepoko, Puna	1-5-07:20	(Amends Ord. 00-128) (Effective date 11-24-00)		
(22)	09-168	12-30-2009	Nanawale Homesteads, Puna	1-5-014:007	(Amends Ord. 92-70) (Effective date 6-15-92)		
(23)	10-88	10-7-2010	Keonepoko, Puna	1-5-007:020	(Amends Ord. 03-111) (Effective date 7-9-03)		
(24)	13-123	12-13-2013	Keonepoko-Iki, Puna	1-5-007:006, 069, & 070	A-1a	CV-10	
(25)	14-54	5-12-2014	Keonepoko Homestead Lots, Puna	1-5-007-:061	A-1a	CV-20	
(26)	15-01	1-9-2015	Nānāwale Homesteads, Puna	1-5-014:005	RS-15	CV-10	

ZONING MAP No. 7.23--(Kalapana-Kaimū)

§ 25-8-27

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	171	11-25-1975	Kaimu-Makena Homesteads, Kaimu, Puna	1-2-04:92	RA-.5a	V-1.5	7.23(a)
(2)	685	4-10-1981	Kaimu, Puna	1-2-04:39	RA-.5a	RS-20	7.23(b)

ZONING MAP No. 7.24--(Ka‘ū 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	11-6-1968	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	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(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	
(16)	04-120	11-8-2004	Palima and Paauau, Ka‘u	9-6-5:18 and 9-6-6:4	A-20a	Agricultural Project District	
(17)	07-183	12-26-07	Keauhou, Ka‘ū	9-9-006: Por. 008	(Amends Ord. 94-98) (Effective Date 9-13-1994)		
(18)	11-11	2-23-11	Kahuku, Ka‘ū	9-2-082:002	A-1a	MCX-3a	
(19)	14-108	9-12-14	Kahuku, Ka‘ū	9-2-093:039, 040, 041, & 042	A-1a	CV-40	

ZONING MAP No. 7.25–(Pāhala Village)

§ 25-8-29

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.

ZONING MAP No. 7.26--(Nāʻālehu)

§ 25-8-30

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	555	2-14-1973	Kahilipali Nui, Kaʻu	9-5-22:1	RS-15, A-20a	RS-7.5	7.26(a-1 to a-2)
(2)	179	12-22-1975	Kahilipali Nui, Kaʻu	9-5-21:Por. 15	RS-10	RM-3	7.26(b)
(3)	90-11	2-13-1990	Kowala, Kaʻu	9-5-08:Por. 1	RS-15	CV-10	
(4)	90-129	10-20-1990	Poupouwela and Kowala, Kaʻu	9-5-24:77	RS-7.5	CV-7.5	
(5)	90-131	10-20-1990	Poupouwela and Kowala, Kaʻu	9-5-24:76	RS-7.5	CV-7.5	
(6)	92-14	2-18-1992	Poupouwela and Kowala, Kaʻu	9-5-24:76	(Amends Ord. 90-131) (Effective Date 10-20-1990)		
(7)	92-15	2-18-1992	Poupouwela and Kowala, Kaʻu	9-5-24:77	(Amends Ord. 90-129) (Effective Date 10-20-1990)		
(8)	96-55	5-10-1996	Kawala, Kaʻu	9-5-21:24	RS-15	CV-7.5	
(9)	07-98	6-25-2007	Poupouwela and Kowala, Kaʻū	9-5-024:008	RS-7.5	CV-7.5	
(10)	12-7	1-23-2012	Kawala, Kaʻū	9-5-025:033	RS-15	CV-10	

ZONING MAP No. 7.27--(Waiʻōhinu)

§ 25-8-31

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	384	3-30-1971	Waiohinu, Kaʻu	9-5-01:25, 33 and 44	RS-15	V-1.5	7.27(a)
(2)	747	12-11-1981	Waiohinu, Kaʻu	9-5-01:Por. 25, 30 and 44 shall be Village Commercial	V-1.5	CV-20	7.27(b)
(3)	89-100	7-10-1989	Waiohinu, Kaʻu	9-5-01:29	RS-15	CN-10	

ZONING MAP No. 7.28--(South Hilo District)

§ 25-8-32

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	531	11-2-1972	Kaieie Homesteads, Kaieie, South Hilo	2-7-5:14	A-10a	A-5a	7.28(a)
(2)	23	4-5-1974	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3	A-20a	RS-10	7.28(b)
(3)	47	7-9-1974	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3 and 6	A-20a	RS-10, CV-10, RM-3.5, 0	7.28(c-1) Repealed by Ord. 71, 11-14-1974
(4)	71	11-14-1974	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3 and 6	A-20a	RS-10, CV-10, RM-3.5, O	7.28(c-1 to c-4) Repeals Ord. 47, 7-9-1974
(5)	256	3-30-1977	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3 and 6	A-20a, O	RS-10	7.28(d-1 to d-2)
(6)	339	4-6-1978	Kaiwiki Homesteads First series, South Hilo	2-6-10:46	A-10a	A-5a	7.28(e)
(7)	792	6-22-1982	Pepeekeo and Makahanaloa, South Hilo	2-8-07:66 and 99, 2-8-23:1	RS-10, CV-10	CV-10, RS-7.5	7.28(f-1 to f-2)
(8)	89-46	3-21-1989	Kulaimano Homesteads, South Hilo	2-8-06:13	A-5a	A-3a, A-2a	
(9)	91-117	12-2-1991	Pepeekeo and Makahanaloa, South Hilo	2-7-7:66 and 69, 2-8-23:1	(Amends Ord. 792) (Effective Date 6-22-1982)		
(10)	96-48	5-2-1996	Puueo, South Hilo	2-6-08:17, 26, 27, 29, 36, 39, Pors. 28, 31, 32, 33, 34, 37, 38; 2-6-29:14, 15	O, A-20a	RS-7.5, CN-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(11)	97-14	2-20-1997	Hakalau Nui, South Hilo	2-9-52 — 60; 2-9-4:87 — 91	A-20a	A-10a	
(12)	00-78	7-18-2000	Puueo, South Hilo	2-6-08:17, 26, 27, 29, 36, 39, Pors. 28, 31, 32, 33, 34, 37, 38; 2-6-29: 14, 15	(Repeals Ord. 96-48) (Effective Date 5-2-1996)		
(13)	05-105	6-17-2005	Kalalau, South Hilo	2-6-8:Por. of 22 and 2-6-9:Por. of 8	A-20a and RM-1	RM-10 and A-20a	
(14)	06-27	2-24-2006	Kūkūau 1st, South Hilo	2-4-8:33	Unzoned	A-80a	

ZONING MAP No. 7.29--(City of Hilo)

§ 25-8-33

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	269	10-22-1969	Waiākea, South Hilo	2-2-32:Por. 24	ML-20	CN-10	7.29(a)
(2)	276	11-26-1969	Waiākea, South Hilo	2-2-32:11 and 20	O	ML-20	7.29(c)
(3)	288	12-15-1969	Waiākea Homesteads, South Hilo	2-4-46	A-3a	A-1a	7.29(b)
(4)	302	2-27-1970	Waiākea, South Hilo	2-2-21:40	CO-20	CG-7.5	7.29(d)
(5)	314	5-12-1970	Waiākea, South Hilo	2-2-23:21 and 27	CO-20, RD-3.75	CG-7.5	None Found
(6)	466	4-24-1972	Kukuau 1st, South Hilo	2-4-01:31, 2-4-08:20	RS-7.5	RM-4	7.29(f)
(7)	480	6-27-1972	Waiākea Homesteads, Waiākea, South Hilo	2-4-03:23	A-3a	RS-15	7.29(g)
(8)	482	7-18-1972	Waiākea Homesteads, Waiākea, South Hilo	2-4-03:37	A-1a	RS-15	7.29(h)
(9)	487	8-1-1972	Ponahawai, South Hilo	2-3-36:Por. 18, 2-3-37:6	A-1a	RS-7.5	7.29(i)
(10)	533	11-2-1972	Waiākea Houselots, Waiākea, South Hilo	2-2-35:69	O	ML-20	7.29(j)
(11)	536	11-14-1972	Waiākea, South Hilo	2-2-28:17	RD-3.75	RM-1	7.29(l)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(12)	539	11-14-1972	Waiākea, South Hilo	2-1-12:Por. 1 and 3	U	ML-20	7.29(k)
(13)	546	12-8-1972	Piihonua, South Hilo	2-3-15:3 and 49	RS-7.5	RM-2	7.29(m)
(14)	551	1-22-1973	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-44:2	A-1a	RS-15	7.29(n)
(15)	592	6-27-1973	Ponahawai, South Hilo	2-5-02:13	A-20a	A-1a	7.29(o)
(16)	604	8-30-1973	Punahoa 2nd, South Hilo	2-3-34:65	RS-7.5	CN-10	7.29(p) Am. by Ord. 617, 12-19-1973
(17)	617	12-19-1973	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-03:17	(Amends Ord. 604) (Effective Date 8-30-1973)		7.29(p)
(18)	15	2-19-1974	Waiākea Homesteads, Waiākea, South	2-4-04:30	A-3a	A-1a	7.29(r)
(19)	16	2-19-1974	Kaumana, South Hilo	2-5-22:1 and 2	A-1a	RS-15	7.29(s)
(20)	21	3-18-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-03:38, 40 and 53	A-1a	RS-10	7.29(t)
(21)	41	6-18-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-03:13	A-10a	A-1a	Ord. 90, 2-12-1975; Am. by Ord. 402, 12-12-1978

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(22)	42	6-18-1974	Kukuau 2nd, South Hilo	2-5-46:Por. 1	A-20a	RS-10, RM-4	7.29(v-1 to v-3)
(23)	54	8-30-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-37:6	A-3a	RS-15	7.29(w)
(24)	60	9-20-1974	Waiākea, South Hilo	2-1-12:52, 2-1-22 and 24,	MG-1a, ML-20	RS-10	7.29(x-1 to x-3)
(25)	63	10-16-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-31:Por. 1	A-3a	A-1a	7.29(y)
(26)	75	11-26-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	24-38:3 and 4	A-3a	RS-15	7.29(z)
(27)	81	12-12-1974	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-37:10	A-3a	RS-15	7.29
(28)	85	12-27-1974	Waiākea, South Hilo	2-1-13:103 and 104	MG-1a	A-10a	7.29(bb)
(29)	91	2-12-1975	Ponahawai, South Hilo	2-5-47:10	A-20a	A-3a	7.29(cc)
(30)	95	3-11-1975	Waiākea, South Hilo	2-4-03:18	A-3a	RS-10	7.29(dd)
(31)	96	3-11-1975	Waiākea, South Hilo	2-4-41:Por. 1	O	RS-15	7.29(ee)
(32)	107	5-2-1975	Waiākea, South Hilo	2-4-37:9	A-3a	RS-15	7.29(ff)
(33)	121	6-16-1975	Kukuau 2nd, South Hilo	2-5-51:3	A-20a	RS-10	7.29(gg)
(34)	135	7-29-1975	Waiākea Homesteads, Waiākea, South Hilo	2-4-03:5	A-3a	RS-10	7.29(hh)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(35)	149	10-1-1975	Waiākea Homesteads, Waiākea, South Hilo	2-4-31:Por. 1	A-3a	A-1a	7.29(ii)
(36)	150	10-1-1975	Waiākea, South Hilo	2-2-39:36, 44, 52, 53, 60, 88, 106, 107, 108, 110 and 111, 2-2-60:07 and 09	Deleting the Proposed 60-Foot Right-of-Way Collector Street		7.29(jj)
(37)	155	10-15-1975	Waiākea, South Hilo	2-2-54:42	RD-3.75	CG-7.5	7.29(kk)
(38)	165	10-31-1975	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-37:7	A-3a	RS-15	7.29(ll)
(39)	172	11-25-1975	Piihonua, South Hilo	2-3-13:20	CO-20	CG-7.5	7.29(mm)
(40)	177	12-8-1975	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-03:Por. 48	A-3a	RS-15	7.29(nn)
(41)	187	2-17-1976	Piihonua, South Hilo	2-3-13:25	CO-20	CG-7.5	7.29(oo)
(42)	188	2-17-1976	Ponahawai, South Hilo	2-5-27:1	RS-15	RS-10	7.29(pp)
(43)	199	4-19-1976	Waiākea, South Hilo	2-2-54:41	RD-3.75	CG-7.5	7.29(qq)
(44)	201	4-19-1976	Kukuau 1st and Kukuau 2nd, South Hilo	2-3-43:Por. 10, 2-4-08:15	A-1a, O	RS-10	7.29(rr-1 to rr-2)
(45)	204	5-14-1976	Kukuau 2nd, South Hilo	2-5-46:Por. 1 and 3	RS-10, RM-4, A-20a	RS-7.5, RM-4	7.29(ss-1 to ss-7) Repealed by Ord. 218, 8-13-1976
(46)	207	5-26-1976	Waiākea Homesteads, 2nd series, Waiākea, South Hilo	2-4-03:Por. 16	A-3a	A-1a	7.29(tt)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(47)	208	5-26-1976	Ponohawai, Punahoa 1st and Punahoa 2nd, South Hilo	2-3-35:16	RS-7.5, A-1a	RM-4	7.29(uu-1 to uu-2)
(48)	218	8-13-1976	Kukuau 2nd, South Hilo	2-5-46:Por. 1 and 3	RS-10, RM-4, A-20a	RS-7.5, RM-4	7.29(ss-1 to ss-7) Repeals Ord. 204, 5-14-1976
(49)	224	9-20-1976	Kukuau 1st, South Hilo	2-4-01:31 and Por. 164	RM-4	RS-7.5	7.29(vv)
(50)	228	10-27-1976	Piihonua, South Hilo	2-3-14:14 and 22	RM-1	CO-20	7.29(ww)
(51)	229	10-27-1976	Waiākea, South Hilo	2-1-20:10, 11, 12, 13, 38, 39, 47, 48, 49 and 68, 2-1-22:60, 61, 62 and 80	Deleting from the City of Hilo Circulation Pattern, the Proposed 60-Foot Right-of-Way and adding		7.29(xx)
(52)	231	11-9-1976	Waiākea Homesteads 2nd series, Waiākea, South Hilo	2-4-44:1 and 77	A-1a	RS-10	7.29(yy)
(53)	254	3-30-1977	Waiākea Homesteads, South Hilo	2-4	Relative to proposed Kupulau Road Right-of-Way		7.29(zz)
(54)	255	3-30-1977	Waiākea, South Hilo	2-2-46:Por. 17	A-1a	RS-10	7.29(aaa)
(55)	272	5-18-1977	Waiākea, South Hilo	2-1-07:3 and 7	V-S-.75	MG-20	7.29
(56)	287	6-22-1977	Waiākea Homesteads, South Hilo	2-4-37:11 and 12	A-3a	RS-20	7.29(ccc)
(57)	296	8-9-1977	Ponahawai and Kaumana, South Hilo	2-5-02:Por. 9	A-20a	A-10a	7.29(ddd)
(58)	366	6-30-1978	Waiākea, South Hilo	2-4-03:36	A-3a	RS-10	7.29(fff)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(59)	369	6-30-1978	Waiākea, South Hilo	2-4-42:58, 59 and Por. 78	A-1a	RS-10	7.29(eee)
(60)	372	7-7-1978	Ponahawai, South Hilo	2-3-20:Por. 2 and 7	RS-7.5	O	7.29(ggg)
(61)	375	7-17-1978	Waiākea, South Hilo	2-4-19:Por. 27	O	RS-15	7.29(hhh)
(62)	397	11-21-1978	Waiākea Houselots, Waiākea, South Hilo	2-2-37:48	RS-10	ML-20	7.29(iii)
(63)	398	11-21-1978	Waiākea Homestead Houselots, Waiākea, South Hilo	2-2-38:12	RS-10	RM-4	7.29(jjj)
(64)	409	2-9-1979	Honohononui, South Hilo	--	--	--	7.29(kkk-1 to kkk-3)
(65)	418	3-15-1979	Waiākea, South Hilo	2-4-58:33 and 34	RS-15	RS-10	7.29(lll)
(66)	432	4-24-1979	Waiākea, South Hilo	2-1-07:10	V-S-.75	MG-1a	7.29(mmm)
(67)	433	4-24-1979	Waiākea, South Hilo	2-4-38:17 and 20	A-3a	RS-15	7.29(nnn)
(68)	439	5-31-1979	Waiākea, South Hilo	2-2-37:26	RS-10	ML-20	7.29(ooo)
(69)	442	6-18-1979	Waiākea, South Hilo	2-4-35:6	A-10a	A-3a	7.29(ppp)
(70)	453	7-16-1979	Waiākea Homesteads, South Hilo	2-2-40:36, 2-4-09:28	RS-15, RS-10	CN-10	7.29(qqq-1 to qqq-2)
(71)	470	9-24-1979	Waiākea, South Hilo	2-2-24:11	RD-3.75	CO-20	7.29(rrr)
(72)	471	9-24-1979	Waiākea, South Hilo	2-4-38:14	A-3a	RS-10	7.29(sss)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(73)	472	9-24-1979	Waiākea, South Hilo	2-4-38:1 and 2	A-3a	RS-10	7.29(ttt)
(74)	474	9-24-1979	Waiākea, South Hilo	2-2-18:37	RS-10	CG-20	7.29(uuu) Am. by Ord. 577, 6-3-1980
(75)	476	10-3-1979	Waiākea, South Hilo	2-2-47:6, 2-2-47: Por. 01	ML-20	CG	7.29(vvv)
(76)	497	12-13-1979	Waiākea, South Hilo	2-2-22:15	RD-3.75	CG-20	7.29(www)
(77)	524	2-12-1980	Waiākea, South Hilo	2-4-38:6	A-3a	RS-10	7.29(xxx)
(78)	525	2-12-1980	Kaumana and Kukuau 2nd, South Hilo	2-5-43:7	O	A-3a	7.29(xxx)
(79)	529	2-12-1980	Waiākea, South Hilo	2-4-03:Por. 46	A-3a	RS-20	7.29(zzz) Am. by Ord. 593, 6-24-1980
(80)	532	2-12-1980	Waiākea, South Hilo	2-2-17:7	RD-3.75	CG-7.5	7.29(aaaa)
(81)	564	5-12-1980	Waiākea, South Hilo	2-2-23:22	CO-20	CG-7.5	7.29(bbbb)
(82)	592	6-24-1980	Waiākea, South Hilo	2-2-24:23	RD-3.75	CO-20	7.29(cccc)
(83)	595	6-26-1980	Waiākea, South Hilo	2-4-43:69	A-1a	RS-10	7.29(dddd)
(84)	597	6-26-1980	Waiākea, South Hilo	2-4-37:13, 14, 15 and 22	A-3a	RS-10	7.29(eeee)
(85)	598	6-26-1980	Piihonua, South Hilo	2-3-14:1 and 33	CO-20	CG-20	7.29(ffff)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(86)	636	10-6-1980	Waiākea, South Hilo	2-4-03:Por. 4	A-3a	RS-10	7.29(gggg)
(87)	637	10-6-1980	Waiākea, South Hilo	2-4-68:24	A-3a	RS-10	7.29(hhhh)
(88)	653	12-1-1980	Ponahawai, South Hilo	2-3-17:13	RM-1	CO-20	7.29(iiii)
(89)	654	12-3-1980	Piihonua, South Hilo	2-3-24:11	RS-7.5	CN-10	7.29(jjjj)
(90)	663	1-13-1981	Waiākea, South Hilo	2-2-25:31	RS-10	RM-4	7.29(kkkk)
(91)	689	5-8-1981	Waiākea, South Hilo	2-2-38:29	RS-10	RM-7	7.29(llll)
(92)	701	8-10-1981	Waiākea, South Hilo	2-2-30:Por. 3	V-S-.75	CG-7.5	7.29(mmmm)
(93)	716	9-21-1981	Ponahawai, South Hilo	2-5-06:Por. 61	RS-15	RS-10	7.29(nnnn)
(94)	722	11-4-1981	Ponahawai, South Hilo	2-3-12:52	RM-1	CO-20	7.29(oooo)
(95)	723	11-4-1981	Waiākea, South Hilo	2-2-41:Por. 75	RS-10	CN-10	7.29(pppp)
(96)	731	11-17-1981	Waiākea, South Hilo	2-2-46:Por. 17 and 49	Amends Metes and Bounds Description	7.29(aaa)	
(97)	732	11-17-1981	Waiākea, South Hilo	2-2-37:130 and 134	RS-10	ML-20	7.29(qqqq)
(98)	733	11-17-1981	Waiākea, South Hilo	2-4-11:166	RS-15	RS-10	7.29(rrrr)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(99)	734	11-25-1981	Waiākea, South Hilo	2-1-06:21, 2-1-07:8 and 9	V-S-.75	ML-20	7.29(ssss)
(100)	735	11-25-1981	Honohononui, South Hilo	2-1-13:Por. 146, 2-1-15:Por. 3,4, Por. 6 and Por. 7 shall be agricultural	V-S-.75	A-5a	7.29(tttt)
(101)	759	2-22-1982	Waiākea, South Hilo	2-2-18:33, 34 and 39	RS-10	CG-20	7.29(uuuu)
(102)	772	3-19-1982	Kaumana, South Hilo	2-5-02:28	A-10a	A-3a	7.29(vvvv)
(103)	781	5-5-1982	Honohononui, South Hilo	2-1-15:2, 29, 31-41, Por. 42, 43, 44, 46, 47, 49, 50, 52, 53 and 54	V-S-.75	RS-S-10	7.29(wwww)
(104)	782	5-5-1982	Waiākea, South Hilo	2-1-17:23, 25-35, 52, 56, 61, 62 and 63	V-S-.75	RS-S-10	7.29(xxxx)
(105)	783	5-5-1982	Waiākea, South Hilo	2-1-18:27, 28 and 35	V-S-.75	RS-S-10	7.29(yyyy)
(106)	784	5-5-1982	Waiākea, South Hilo	2-1-17:19, 21, 22, 51, 58 and 59	V-S-.75	O	7.29(zzzz)
(107)	785	5-5-1982	Waiākea, South Hilo	2-1-19:10 and 15	V-S-.75	O	7.29(aaaaa)
(108)	786	5-5-1982	Waiākea, South Hilo	2-1-19:14, 2-1-17:24, 2-1-17:20	V-S-.75	RS-S-10	7.29(bbbbb-1 to bbbbb-3)
(109)	787	5-5-1982	Waiākea, South Hilo	2-2-23:7	RS-10	CO-20	7.29(ccccc)
(110)	793	6-22-1982	Waiākea, South Hilo	Proposed Right-of-Way width – Haihai Street to Ainaola Drive	Amended to Add New Subsection		7.29(ddddd)

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(111)	813	8-24-1982	Ponahawai, South Hilo	2-3-44:17 and 18	A-1a	RS-10	7.29(eeeee)
(112)	814	8-24-1982	Ponahawai, South Hilo	2-3-27:7	A-1a	CN-20	7.29(fffff)
(113)	816	8-24-1982	Ponahawai, South Hilo	2-3-12:1	RM-1	CO-20	7.29(ggggg)
(114)	838	12-21-1982	Waiākea, South Hilo	2-2-47:6	ML-20	CG-20, O	7.29(hhhhh-1 to hhhhh-2)
(115)	842	2-10-1983	Waiākea, South Hilo	2-2-24:13	RS-10	CO-20	7.29(iiiii)
(116)	857	3-23-1983	Waiākea, South Hilo	2-2-35:64 and 107	RS-10	ML-20	7.29(jjjjj)
(117)	864	3-23-1983	Waiākea, South Hilo	2-4-10:49	RS-15	RS-10	7.29(kkkkk)
(118)	872	4-18-1983	Kukuau 1st, South Hilo	Proposed widening and realignment of	RS-15	RS-10	7.29(lllll)
(119)	873	4-26-1983	Ponahawai, South Hilo	2-3-39:38	A-1a	RS-7.5	7.29(mmmmm)
(120)	890	6-21-1983	Waiākea, South Hilo	2-1-08:18	MG-1a	ML-20	7.29(nnnnn)
(121)	891	6-21-1983	Ponahawai, South Hilo	2-3-39:39	A-1a	RS-7.5	7.29(ooooo)
(122)	83-09	8-23-1983	Waiākea, South Hilo	2-4-37:13, 14, 15 and 22	A-3a	RS-10	
(123)	83-36	10-26-1983	Waiākea, South Hilo	2-4-48:14	A-10a	A-3a	
(124)	83-47	11-29-1983	Waiākea, South Hilo	2-4-29:11	RS-15	RS-10	
(125)	83-53	12-12-1983	Ponahawai, South Hilo	2-5-06:131	A-5a	A-2a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(126)	83-55	12-12-1983	Waiākea, South Hilo	2-2-24:12	RS-10	CO-20	
(127)	83-60	12-19-1983	Waiākea, South Hilo	2-4-61:1	RS-15	RS-10	
(128)	84-3	2-10-1984	Waiākea, South Hilo	2-4-10:33	RS-15	RS-10	
(129)	84-6	2-10-1984	Waiākea, South Hilo	2-2-23:01	CO-20	CG-7.5	
(130)	84-7	2-10-1984	Waiākea, South Hilo	2-2-24:11	CO-20	CG-7.5	
(131)	84-8	2-10-1984	Waiākea, South Hilo	2-2-17:25, 26 and 47	RD-3.75	CG-7.5	
(132)	84-11	2-10-1984	Ponahawai, South Hilo	2-3-37:Por. 1	A-1a	CN-40	
(133)	84-30	6-25-1984	Waiākea, South Hilo	2-2-16:40 and 41	RD-3.75	CG-7.5	
(134)	84-78	11-20-1984	Ponahawai, South Hilo	2-3-18:13	RM-1	CO-20	
(135)	85-02	2-8-1985	Waiākea, South Hilo	2-2-50:3 and Por. 2	RS-10	ML-20	
(136)	85-10	2-25-1985	Waiākea, South Hilo	2-2-35:62 and 108	RS-10	ML-20	
(137)	85-12	2-25-1985	Waiākea, South Hilo	2-2-35:30	RS-10	ML-20	
(138)	85-19	4-3-1985	Waiākea, South Hilo	2-2-50:Por. 2	RS-10	ML-20	
(139)	85-20	4-3-1985	Ponahawai, South Hilo	2-5-06:Por. 30	A-5a	A-3a	
(140)	85-49	6-20-1985	Piihonua, South Hilo	2-3-24:11	CN-10	RS-7.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(141)	85-70	9-9-1985	Kukuau 2nd, South Hilo	2-5-51:5	A-20a	RS-10	
(142)	85-77	9-25-1985	Ponahawai, South Hilo	2-5-40:1	RS-15	RS-10	
(143)	85-83	10-22-1985	Waiākea, South Hilo	2-2-21:7 and 46	RS-10	CO-20	
(144)	86-09	2-13-1986	Waiākea, South Hilo	2-4-03:33	A-3a	RS-10	
(145)	86-11	2-24-1986	Waiākea, South Hilo	2-2-49:27	RS-10	ML-10	
(146)	86-42	5-15-1986	Waiākea, South Hilo	2-2-24:13	CO-20	CG-20	
(147)	86-43	5-15-1986	Ponahawai, South Hilo	2-3-12:18	RM-1	CG-7.5	
(148)	86-88	8-19-1986	Waiākea, South Hilo	2-2-24:12	(Repeals Ord. 83-55) (Effective Date 12-12-1983)		
(149)	86-114	10-9-1986	Waiākea, South Hilo	2-4-19:6	RS-15	RS-10	
(150)	86-127	11-25-1986	Waiākea, South Hilo	2-2-26:3	RS-10	CN-10	
(151)	86-128	11-25-1986	Waiākea, South Hilo	2-2-46:17	(Amends Ord. 731) (Effective Date 11-17-1981)		
(152)	86-141	12-23-1986	Waiākea, South Hilo	2-2-34:98	RS-10	CN-7.5	
(153)	86-142	12-23-1986	Waiākea, South Hilo	2-2-34:34	RS-10	RS-7.5	
(154)	87-04	2-12-1987	Waiākea, South Hilo	2-2-21:14	RS-10	CO-20	
(155)	87-32	4-1-1987	Waiākea, South Hilo	2-2-35:72	O	ML-10	
(156)	87-33	4-1-1987	Waiākea, South Hilo	2-2-38:29	RM-7	RM-4	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(157)	87-34	4-1-1987	Waiākea, South Hilo	2-4-39:7	A-3a	RS-10	
(158)	87-110	10-28-1987	Waiākea, South Hilo	2-2-37:27	RS-10	ML-20	
(159)	87-111	10-28-1987	Waiākea, South Hilo	2-4-34:17	A-3a	A-1a	
(160)	87-112	10-28-1987	Kaumana, South Hilo	2-5-02:22	A-20a	A-1a	
(161)	87-119	11-30-1987	Waiākea, South Hilo	2-2-22:13	RS-10	CG-20	
(162)	88-03	1-18-1988	Punahoa 1st and 2nd and Ponahawai, South Hilo	2-3-35:Por. 16	A-1a, RM-4	CN-10	
(163)	88-12	2-16-1988	Waiākea, South Hilo	2-1-12:26	MG-1a	ML-1a	
(164)	88-13	2-16-1988	Waiākea, South Hilo	2-4-14:8	RS-15	RS-10	
(165)	88-15	2-16-1988	Waiākea, South Hilo	2-2-21:7 and 46	(Amends Ord. 85-83) (Effective Date 10-22-1985)		
(166)	88-86	6-30-1988	Ponahawai, Punahoa 1st and 2nd and Piihonua, South Hilo	2-3-1 through 14	CG-7.5, CG-20, CG-S-7.5, CO-20, RM-1	CDH	
(167)	88-95	6-30-1988	Waiākea, South Hilo	2-2-35:99	RS-10	ML-10	
(168)	88-97	6-30-1988	Waiākea, South Hilo	2-2-35:72	(Amends Ord. 87-32) (Effective Date 4-1-1987)		
(169)	88-98	6-30-1988	Waiākea, South Hilo	2-4-64:40	(Amends Ord. 21) (Effective Date 3-18-1974)		
(170)	88-131	9-6-1988	Ponahawai, South Hilo	--	Right-of-Way		
(171)	88-162	11-7-1988	Waiākea, South Hilo	2-4-37:5 and 6	A-3a	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(172)	88-163	11-7-1988	Waiākea, South Hilo	2-4-65:Por. 2	A-10a	RS-15	
(173)	88-165	11-7-1988	Puueo, South Hilo	2-6-8:10 and Por. 25	RM-1, O	A-3a	
(174)	88-169	11-25-1988	Waiākea, South Hilo	2-2-22:39	RS-10	CO-20	
(175)	88-176	11-25-1988	Waiākea, South Hilo	2-2-21:26	RS-10	CO-20	
(176)	89-33	2-23-1989	Waiākea, South Hilo	2-2-26:20	RS-10	CN-10	
(177)	89-34	2-23-1989	Waiākea, South Hilo	2-2-35:61	RS-10	ML-20	
(178)	89-43	3-21-1989	Ponahawai, South Hilo	2-3-39:40	A-1a	RS-7.5	
(179)	89-44	3-21-1989	Waiākea, South Hilo	2-4-11:166	(Amends Ord. 733) (Effective Date 11-17-1981)		
(180)	89-50	4-26-1989	Waiākea, South Hilo	2-2-28:29	RS-10	CG-10	
(181)	89-124	9-11-1989	Waiākea, South Hilo	2-4-16:46	RS-15	RS-10	
(182)	89-144	11-24-1989	Waiākea, South Hilo	2-2-49:28	RS-10	ML-10	
(183)	89-145	11-24-1989	Waiākea, South Hilo	2-4-09:23	RS-15	RS-10	
(184)	89-161	12-22-1989	Waiākea, South Hilo	2-2-24:15	RS-10	CG-10	
(185)	90-38	4-12-1990	Waiākea, South Hilo	2-2-22:23	RS-10	CO-20	
(186)	90-94	7-27-1990	Waiākea, South Hilo	2-4-11:176	RS-15	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(187)	90-101	8-14-1990	Waiākea, South Hilo	2-2-37:32 and 152	RS-10	ML-20	
(188)	90-108	9-14-1990	Kaumana and Kukuau 2nd, South Hilo	2-5-43:7	(Amends Ord. 525) (Effective Date 3-19-1982)		
(189)	90-163	12-27-1990	Kaumana, South Hilo	2-5-02:28	(Amends Ord. 722) (Effective Date 3-19-1982)		
(190)	91-16	2-22-1991	Waiākea, South Hilo	2-2-21:31	RS-10	CG-20	
(191)	91-17	2-22-1991	Waiākea, South Hilo	2-4-21:58	RS-15	RS-10	
(192)	91-38	5-7-1991	Waiākea, South Hilo	2-2-35:31	RS-10	ML-10	
(193)	91-70	7-24-1991	Waiākea, South Hilo	2-2-23:18	CO-20	CG-7.5	
(194)	91-121	12-2-1991	Ponahawai, South Hilo	2-3-39:40	(Amends Ord. 89-43) (Effective Date 3-21-1989)		
(195)	92-7	1-22-1992	Waiākea, South Hilo	2-4-03:Por. 21	A-3a	RS-10	
(196)	92-26	3-11-1992	Waiākea, South Hilo	2-2-24:14, 16	RS-10	CG-20	
(197)	92-51	5-27-1992	Waiākea, South Hilo	2-4-37:Por. 16	A-3a	RS-10	
(198)	92-52	5-27-1992	Kukuau 1st, South Hilo	2-4-08:Por. 26	O	A-1a	
(199)	92-83	7-22-1992	Waiākea, South Hilo	2-2-50:72	RS-10	ML-10	
(200)	92-86	7-22-1992	Waiākea, South Hilo	2-4-16:46	(Amends Ord. 89-124) (Effective Date 9-11-1989)		
(201)	92-97	9-2-1992	Ponahawai, South Hilo	2-3-49:53	A-1a	RS-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(202)	92-122	11-20-1992	Waiākea, South Hilo	2-2-33:11, 12, 19, and 20	V-5-.75	ML-20	
(203)	92-124	11-20-1992	Waiākea, South Hilo	2-2-21:10	RS-10	CG-20	
(204)	92-125	11-20-1992	Waiākea, South Hilo	2-2-50:6	RS-10	ML-10	
(205)	92-131	11-27-1992	Waiākea, South Hilo	2-4-03:Por. 28	A-3a	RS-15	
(206)	92-132	11-27-1992	Waiākea, South Hilo	2-2-50:Por. 2	(Amends Ord. 85-19) (Effective Date 4-3-1985)		
(207)	92-133	11-27-1992	Waiākea, South Hilo	2-2-50:3 and Por. 2	(Amends Ord. 85-2) (Effective Date 2-8-1985)		
(208)	93-16	2-24-1993	Waiākea, South Hilo	2-2-48:9	A-10a	A-3a	
(209)	93-28	4-21-1993	Waiākea, South Hilo	2-4-34:17	(Amends Ord. 87-111) (Effective Date 10-28-1987)		
(210)	93-29	4-21-1993	Waiākea, South Hilo	2-2-26:1	RS-10	RM-1.5	
(211)	93-30	4-21-1993	Waiākea, South Hilo	2-4-39:8	A-3a	RS-10	
(212)	93-36	4-23-1993	Kukuau 1st, South Hilo	2-4-08:Pors. 14 and 26	A-20a, A-10a, A-3a	RA-1a	
(213)	93-48	6-10-1993	Kukuau 1st, South Hil	2-4-25:14, 81, and 90	Deleting portion of proposed Kukuau right-of-way collector street		
(214)	93-62	6-22-1993	Waiākea, South Hilo	2-1-07:9	ML-20	MG-1a	
(215)	93-70	8-5-1993	Waiākea, South Hilo	2-4-11:176	(Amends Ord. 90-94) (Effective Date 7-27-1990)		
(216)	93-100	10-8-1993	Waiākea, South Hilo	2-2-50:8	RS-10	ML-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(217)	93-101	10-8-1993	Waiākea, South Hilo	2-2-21:7 and 46	CO-20	CG-20	
(218)	94-02	1-26-1994	Waiākea, South Hilo	2-4-11:169	RS-15	RS-10	
(219)	94-03	1-26-1994	Waiākea, South Hilo	2-4-19:75	RS-15	RS-10	
(220)	94-04	1-26-1994	Waiākea, South Hilo	2-2-48:8	A-10a	A-3a	
(221)	94-05	1-26-1994	Waiākea, South Hilo	2-2-50:41 and 42	RS-10	ML-20	
(222)	94-06	1-26-1994	Waiākea, South Hilo	2-2-24:8	RS-10	CG-10	
(223)	94-61	6-8-1994	Waiākea, South Hilo	2-2-22:11	RS-10	CG-20	
(224)	94-62	6-8-1994	Kukuau 1st, South Hilo	2-4-5:132	Deleting a portion of the Proposed Kukuau right-of-way collector street between Kapiolani and Kukuau Street		
(225)	95-33	3-7-1995	Punahoa 1st and 2nd, South Hilo	2-3-35:16	RS-7.5, A-1a	CN-10	
(226)	95-55	4-26-1995	Waiākea, South Hilo	2-2-48:Por. 13	A-10a, A-3a	A-1a	
(227)	95-56	4-26-1995	Waiākea, South Hilo	2-2-48:12	A-10a	A-3a	
(228)	95-61	4-26-1995	Waiākea, South Hilo	2-4-38:7	A-3a	RA-2a	
(229)	95-85	7-11-1995	Waiākea, South Hilo	2-2-19:2, 3, 4, 6, 7, 8, 44, 61, 62, 63, 76, 79, 81 and 82, 2-2-20:16	Deleting a portion of the proposed Wailoa right-of-way collector street between Kinoole Street and Kīlauea Avenue		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(230)	95-97	8-23-1995	Waiākea, South Hilo	2-4-76:34	A-10a	A-1a	
(231)	95-116	9-28-1995	Waiākea, South Hilo	2-4-14:50	RS-15	RS-10	
(232)	96-48	5-2-1996	Puueo, South Hilo	2-6-08:17, 26, 27, 29, 36, 39, Pors. 28, 31, 32, 33, 34, 37, 38; 2-6-29:14, 15	O, A-20a	RS-7.5, CN-10	
(233)	96-73	6-27-1996	Waiākea, South Hilo	2-2-48:10	A-10a	A-3a	
(234)	96-76	6-27-1996	Waiākea, South Hilo	2-4-3:74	A-3a	RS-10	
(235)	96-81	7-15-1996	Waiākea, South Hilo	2-4-03:por. 4	A-3a	RS-10	
(236)	96-84	7-26-1996	Waiākea, South Hilo	2-2-24:1	RS-10	CG-10	
(237)	96-113	9-25-1996	Kukuau 2nd, South Hilo	2-5-46:Por. 1	(Amends Ord. 218)		
(238)	96-148	12-5-1996	Kukuau 2nd, South Hilo	2-5-46:Por. 1	A-20a, A-1a	RS-7.5	
(239)	96-150	12-5-1996	Kukuau 2nd, South Hilo	2-5-46:Por. 7	A-1a	CN-40	
(240)	96-156	12-5-1996	Waiākea, South Hilo	2-2-39:66, 67	RS-10	CN-10	
(241)	96-159	11-14-1996	Waiākea, South Hilo	2-2-44:3, 31, 32, 35, 37	RS-10	CN-7.5	
(242)	97-4	1-20-1997	Waiākea, South Hilo	2-2-38:26	RS-10	CN-10	
(243)	97-13	2-20-1997	Waiākea, South Hilo	2-2-23:12	RS-10	CG-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(244)	97-91	7-3-1997	Waiākea, South Hilo	2-4-65:04	A-10a	RS-15	
(245)	97-92	7-3-1997	Waiākea, South Hilo	2-2-34:67, 68, 69, 76, 77, 104, 106	RS-10	CG-20	
(246)	97-93	7-3-1997	Waiākea, South Hilo	2-2-35:47	RS-10	ML-20	
(247)	97-105	8-13-1997	Waiākea, South Hilo	2-2-40:7	RS-10	CN-10	
(248)	97-106	8-13-1997	Waiākea, South Hilo	2-2-32:23, 101, 102, 104, 104	ML-20	MCX-20	
(249)	97-122	9-12-1997	Waiākea, South Hilo	2-2-37:16	RS-10	CN-10	
(250)	97-147	12-11-1997	Waiākea, South Hilo	2-2-35:91	RS-10	ML-10	
(251)	98-13	2-24-1998	Waiākea, South Hilo	2-2-48:7	A-10a	FA-3a	
(252)	98-15	2-24-1998	Waiākea, South Hilo	2-2-34:35	RS-10	CN-7.5	
(253)	98-79	7-24-1998	Waiākea, South Hilo	2-4-61:04	RS-15	RS-7.5	
(254)	98-80	7-24-1998	Waiākea, South Hilo	2-2-35:59 and 101	RS-10	ML-10	
(255)	98-81	7-24-1998	Waiākea, South Hilo	2-2-21:18	RD-3.75	CG-10	
(256)	98-98	9-25-1998	Waiākea, South Hilo	2-2-37:29	RS-10	MCX-20	
(257)	98-99	9-25-1998	Piihonua and Puueo, South Hilo	2-3-26:Pors. 2, 13, 18, 19,25, 34, 41, 43, 44, 45, 48, 49 and 50; 2-6-8:Pors. 35 and 37	(Deletes certain street extension from circulation pattern)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(258)	98-105	10-19-1998	Waiākea, South Hilo	2-4-29:13—31, 33—47, 49—58 and 2-4-60:1—33	RS-15	RS-10 and O	
(259)	98-126	12-7-1998	Waiākea, South Hilo	2-2-23:09	RS-10	CN-10	
(260)	99-47	5-4-1999	Waiākea, South Hilo	2-4-11:87	RS-15	RS-10	
(261)	99-91	8-19-1999	Waiākea, South Hilo	2-4-37:Por. 36	(Amends Ord. 92-51) (Effective date 5-27-92)		
(262)	99-116	10-22-1999	Waiākea, South Hilo	2-2-44:3, 31, 32, 35, 37	(Amends Ord. 96-159) (Effective date 11-14-96)		
(263)	99-137	12-10-1999	Waiākea, South Hilo	2-2-48:14 and 91	A-3a	FA-1a	
(264)	99-158	12-10-1999	Waiākea, South Hilo	2-2-25:24	RS-10	CN-20	
(265)	00-31	4-13-2000	Waiākea, South Hilo	2-2-34:85 and 93	RS-10	CN-20	
(266)	00-61	5-23-2000	Waiākea, South Hilo	2-2-20:11	RS-10	CG-7.5	
(267)	00-127	11-24-2000	Waiākea, South Hilo	2-4-35:25	A-1a	RA-.5a	
(268)	01-31	3-21-2001	Waiākea, South Hilo	2-2-34:95	RS-10	CN-10	
(269)	01-34	4-4-2001	Waiākea, South Hilo	2-2-20:7	RS-10	CG-10	
(270)	01-57	6-15-2001	Waiākea, South Hilo	2-2-40:3	RS-10	CN-10	
(271)	01-75	9-5-2001	Waiākea, South Hilo	2-4-30:004	A-3a	RA-5a	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(272)	01-86	10-3-2001	Waiākea, South Hilo	2-2-37:27	RS-10	MC-20	
(273)	02-11	1-17-2002	Waiākea, South Hilo	2-2-36:123	RS-10	CN-10	
(274)	02-15	2-4-2002	Kukuau 2nd, South Hilo	2-3-50:71	A-1a	RS-10	
(275)	02-42	3-27-2002	Waiākea, South Hilo	2-4-023:028	RS-10	RCX-10	
(276)	02-48	4-10-2002	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-22:006	RS-10	CG-20	
(277)	02-49	4-10-2002	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-22:005	RS-10	CG-20	
(278)	02-103	9-12-2002	Waiākea, South Hilo	2-2-32:95	ML-20	MCX-20	
(279)	03-05	2-4-2003	Kaumana and Ponahawai, South Hilo	2-5-1, 2-5-2, 2-5-3, 2-5-55 and 2-6-62	Deleting a portion of the Proposed 120-Foot Saddle Road Right-of-way between Kaūmana Estates Subdivision And Kaūmana City Subdivision		
(280)	03-44	3-17-2003	Waiākea, South Hilo	2-2-40:14 and 69	RS-10	CG-20	
(281)	03-54	4-9-2003	Waiākea House Lots, 2nd Series, Waiākea, South Hilo	2-2-21:25	RS-10	CG-10	
(282)	03-82	6-5-2003	Waiākea, South Hilo	2-2-35:61	ML-20	MCX-20	
(283)	03-83	6-5-2003	Waiākea, South Hilo	2-2-24:12	RS-10	CG-20	
(284)	03-84	6-5-2003	Waiākea, South Hilo	2-2-35:46	RS-10	MCX-20	
(285)	03-108	7-9-2003	Waiākea, South Hilo	2-2-50:14	RS-10	MCX-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(286)	03-109	7-9-2003	Waiākea, South Hilo	2-2-50:37 and 38	RS-10	MCX-20	
(287)	03-110	7-9-2003	Waiākea, South Hilo	2-2-35:31	(Amends Ord. 91-38) (Effective date 5-7-91)		
(288)	04-5	1-15-2004	Waiākea, South Hilo	2-2-37:41	RS-10	MCX-20	
(289)	04-27	3-18-2004	Waiākea, South Hilo	2-2-50:8	(Amends Ord. 93-100) (Effective date 10-8-93)		
(290)	04-80	7-6-2004	Waiākea, South Hilo	2-2-35:73	O	MCX-10	
(291)	04-96	8-26-2004	Waiākea, South Hilo	2-4-38:8	A-3a	RS-10	
(292)	04-97	8-26-2004	Waiākea, South Hilo	2-1-7:9	(Amends Ord. 93-62) (Effective date 6-22-93)		
(293)	04-104	9-14-2004	Waiākea, South Hilo	2-2-28:29	(Amends Ord. 92-91) (Effective date 8-18-92)		
(294)	04-144	12-8-2004	South Hilo	2-3-44:19, 2-3-49:53 and 2-3-37:1	A-1a, CN-40, RS-7.5 and		
(295)	04-150	12-8-2004	Waiākea, South Hilo	2-2-32:93	CN-10	MCX-20	
(296)	05-1	1-11-2005	Waiākea, South Hilo	2-2-49:26	RS-10	MCX-20	
(297)	05-2	1-11-2005	Waiākea, South Hilo	2-2-37:31	RS-10	MCX-20	
(298)	05-3	1-11-2005	Waiākea Homesteads, South Hilo	2-4-38:16	FA-3a	RS-15	
(299)	05-4	1-11-2005	Waiākea, South Hilo	2-2-21:30	RS-10	RCX-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(300)	05-101	6-17-2005	Kalalau, South Hilo	2-6-8:Por. 22 and 2-6-9:Por. 8	A-20a and RM-1	RM-10 and A-20a	
(301)	05-110	7-13-2005	Waiākea, South Hilo	2-4-3:Por. 21	(Amends Ord. 92-7) (Effective date 1-22-92)		
(302)	05-140	10-11-2005	Waiākea, South Hilo	2-2-27:42	RS-10	CN-10	
(303)	05-141	10-11-2005	Waiākea, South Hilo	2-4-9:26	RS-15	RS-10	
(304)	05-142	10-11-2005	Waiākea, South Hilo	2-2-35:9 & 10	RS-10	ML-20	
(305)	05-154	12-2-2005	Kalalau, South Hilo	2-6-8:Por. 22	RM-1	RM-10	
(306)	05-159	12-15-2005	Waiākea, South Hilo	2-2-49:24	CN-10	MCX-20	
(307)	06-28	2-24-2006	Ponahawai, South Hilo	2-3-36:18	A-1a	CN-20	
(308)	06-47	4-12-2006	Waiākea, South Hilo	2-2-28:30, 32, 33	RS-10	CG-10	
(309)	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)		
(310)	06-107	7-17-2006	Waiākea, South Hilo	2-2-034:012	RS-10	CN-20	
(311)	06-114	8-8-2006	Waiākea Houselots, South Hilo	2-2-34:66, 78 & 79	RS-10	CG-20	
(312)	06-123	9-19-2006	Waiākea, South Hilo	2-2-25:18	RS-10	RCX-20	
(313)	06-124	9-19-2006	Waiākea, South Hilo	2-2-34:13	RS-10	CN-20	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(314)	06-143	11-28-2006	Waiākea, South Hilo	2-2-28:31	RS-10	CG-20	
(315)	06-144	11-28-2006	Waiākea, South Hilo	2-2-037:029		(Amends Ord. 98-98)	
(316)	06-145	11-28-2006	Waiākea, South Hilo	2-2-35:63	RS-10	MCX-20	
(317)	06-146	11-28-2006	Waiākea, South Hilo	2-2-36:64	RS-10	MCX-20	
(318)	06-156	12-7-2006	Waiākea, South Hilo	2-2-26:24	RS-10	RM-1	
(319)	06-157	12-7-2006	Waiākea, South Hilo	2-4-80:15 (Formerly 2-4-3:Por. 4)		(Repeals Ord. 96-81)	
(320)	07-26	3-20-2007	Waiākea, South Hilo	2-4-057:029: Por. 030 & Por. 031	O	RM-1	
(321)	07-27	3-20-2007	Waiākea, South Hilo	2-2-35:58	RS-10	ML-20	
(322)	07-39	4-4-2007	Waiākea, South Hilo	2-2-56:23	A-3a	RA-.5a	
(323)	07-40	4-4-2007	Waiākea, South Hilo	2-2-35:47	ML-20	MCX-20	
(324)	07-71	5-17-07	Waiākea, South Hilo	2-4-065:034	A-10a	FA-3a	
(325)	07-105	8-14-07	Waiākea, South Hilo	2-2-39:31, 57, 68, and 69	RS-10	CN-40	
(326)	07-108	8-18-07	Ponahawai, South Hilo	2-3-037:011	A-1a	CN-20	
(327)	07-111	9-11-07	Ponahawai, South Hilo	2-3-037:017	A-1a	RM-4	
(328)	07-134	10-10-07	Waiākea, South Hilo	2-2-021:007	(Amends Ord. 93-101) (Effective date 10-3-93)		
(329)	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.
(330)	07-136	10-10-2007	Waiākea, South Hilo	2-2-036:090	RS-10	MCX-20	
(331)	07-137	10-10-2007	Ponahawai, South Hilo	2-3-037:009	A-1a	CN-20	
(332)	07-166	11-2-2007	Waiākea, South Hilo	2-3-37:15	A-1a	RM-5.5	
(333)	08-6	1-23-2008	Waiākea, South Hilo	2-2-034:084	RS-10	CN-20	
(334)	08-20	3-10-2008	Waiākea, South Hilo	2-2-036:025 and 026	RS-10	CN-10	
(335)	08-36	4-11-2008	Waiākea, South Hilo	2-4-14:42	RS-15	RS-10	
(336)	08-39	4-11-2008	Waiākea, South Hilo	2-2-040:121	RS-10	CN-20	
(337)	08-65	5-08-2008	Waiākea, South Hilo	2-4-010:031	RS-15	RS-10	
(338)	08-72	5-20-2008	Waiākea, South Hilo	2-2-48:93 and Por. 13	(Amends Ord. 95-55) (Effective date 4-26-1995)		
(339)	08-96	6-30-2008	Waiākea, South Hilo	2-2-35:47	(Amends Ord. 07-40) (Effective date 4-4-2007)		
(340)	08-115	9-10-2008	Kūkūau 1st, South Hilo	2-4-8:Pors. 14 and 26	(Amends Ord. 93-36) (Effective date 4-23-1993)		
(341)	09-18	2-18-2009	Waiākea, South Hilo	2-4-001:116	RS-10	RM-1.5	
(342)	09-44	4-23-2009	Waiākea, South Hilo	2-2-034:036	RS-10	CN-10	
(343)	09-45	4-23-2009	Waiākea, South Hilo	2-2-034:088	RS-10	CN-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(344)	09-60	5-22-2009	Waiākea, South Hilo	2-2-034:084 (Formerly 2-2-34:85 and 93)	(Amends Ord. 00-31) (Effective Date 4-13-2000)		
(345)	09-89	7-22-2009	Waiākea, South Hilo	2-2-035:001 and 103	RS-10	MCX-20	
(346)	09-90	7-22-2009	Waiākea, South Hilo	2-2-050:043	RS-10	MCX-20	
(347)	09-91	7-22-2009	Waiākea, South Hilo	2-2-035:006	RS-10	MCX-20	
(348)	09-104	9-23-2009	Waiākea, South Hilo	2-2-035:017	RS-10	MCX-20	
(349)	09-114	9-23-2009	Waiākea, South Hilo	2-2-020:007	(Amends Ord. 01-34) (Effective Date 4-4-2001)		
(350)	09-117	9-23-2009	Waiākea, South Hilo	2-2-025:011	RS-10	CG-10	
(351)	09-138	11-4-2009	Waiākea, South Hilo	2-2-035:034	RS-10	MCX-20	
(352)	09-149	12-3-2009	Waiākea, South Hilo	2-4-031:008	A-3a	FA-1a	
(353)	09-166	12-30-2009	Waiākea, South Hilo	2-2-022:008	RS-10	CG-20	
(354)	09-167	12-30-2009	Waiākea, South Hilo	2-2-032:024	ML-20	MCX-20	
(355)	10-19	3-18-2010	Ponahawai, South Hilo	2-3-037:019	A-1a	CN-20	
(356)	10-27	4-7-2010	Waiākea, South Hilo	2-2-025:022	RS-10	CN-20	
(357)	10-32	5-10-2010	Kūkūau 1st, South Hilo	2-4-025:048, 053 and 080	RS-7.5 & RM-1	RM-1.5	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(358)	10-44	5-20-2010	Ponahawai, South Hilo	2-3-037:014	A-1a	CN-20	
(359)	10-45	5-20-2010	Ponahawai, South Hilo	2-3-037:006	A-1a	CN-20	
(360)	10-64	6-18-2010	Ponahawai, South Hilo	2-3-037:001, 2-3-044:019, and 2-3-	Project District	Project District	
(361)	10-65	6-18-2010	South Hilo	2-3-044:019, 2-3-049:053 and 2-3-037:001	(Repeals Ord. 04-104) (Effective date 9-14-04)		
(362)	10-72	7-8-2010	Waiākea, South Hilo	2-4-021:031	RS-15	RS-10	
(363)	10-76	9-2-2010	Waiākea, South Hilo	2-2-034:082	RS-10	CN-10	
(364)	10-109	11-24-10	Waiākea, South Hilo	2-4-028:009	RS-7.5	RM-2.5	
(365)	10-110	11-24-10	Waiākea, South Hilo	2-2-040:121	(Amends Ord. 08-39) (Effective date 4-11-08)		
(366)	10-116	12-13-10	Waiākea, South Hilo	2-4-032:012	A-3a	FA-1a	
(367)	11-09	2-23-11	Waiākea, South Hilo	2-2-051:015	A-3a	RA-1a	
(368)	11-12	2-23-11	Waiākea, South Hilo,	2-2-025:022	RS-10	CN-20	
(369)	11-27	3-28-11	Waiākea, South Hilo	2-2-050:040	RS-10	MCX-20	
(370)	11-50	6-8-11	Waiākea, South Hilo	2-4-070: Portion 001	A-3a	RS-40	
(371)	11-67	8-17-11	Waiākea, South Hilo	2-2-035:061	(Amends Ord. No. 03-82) (Effective date 6-5-03)		

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(372)	11-104	11-25-11	Ponahawai, South Hilo	Relocation of proposed right-of-way connecting ʻĀkōlea Road and ʻIʻiwipōlena Road to align with Haleloke Street			
(373)	12-18	2-6-12	Waiākea, South Hilo	2-2-035:070	O	MCX-20	
(374)	12-33	3-6-12	Waiākea, South Hilo	2-2-038:028	RS-10	RCX-20	
(375)	12-46	4-26-12	Ponohawai, South Hilo	2-5-040:019	A-3a	FA-1a	
(376)	12-111	8-10-12	Waiākea, South Hilo	2-2-044:003, 031, 032, 035, 037	(Amends Ord. 99-116) (Effective Date 10-22-99)		
(377)	12-112	8-10-12	Waiākea, South Hilo	2-4-004:072	A-3a	FA-1a	
(378)	12-113	8-10-12	Waiākea, South Hilo	2-2-035:003	RS-10	MCX-20	
(379)	12-123	9-6-12	Waiākea, South Hilo	2-2-024:005	RS-10	CG-20	
(380)	12-132	10-25-12	Waiākea, South Hilo	2-2-038:017	RS-10	RM-3	
(381)	13-12	2-13-13	Waiākea, South Hilo	2-2-035:045	RS-10	ML-20	
(382)	13-38	5-1-13	Ponahawai, South Hilo	2-5-040:018	FA-2a	FA-1a	
(383)	13-80	7-25-13	Punahoa 1st, South Hilo	2-5-023:015	A-1a	RS-15	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(384)	13-88	8-28-13	Waiākea, South Hilo	2-5-025:024 (portion)	RS-10	CN-20	
(385)	13-98	10-9-13	Waiākea, South Hilo	2-4-003:021 (portion)	(Amends Ord. 05-110) (Effective Date 7-13-05)		
(386)	13-116	11-26-13	Waiākea, South Hilo	2-2-050:037 and 038	(Amends Ord. No. 03-109) (Effective date 7-9-03)		
(387)	13-117	11-26-13	Waiākea, South Hilo	2-4-001:005, portion of 007, 041, 162,	A-1a, RS-10	UNV	
(388)	14-32	3-12-14	Waiākea, South Hilo	2-2-036:053	RS-10	CN-10	
(389)	14-33	3-12-14	Waiākea, South Hilo	2-2-022:005	(Amends Ord. No. 02-49) (Effective date 4-10-02)		
(390)	14-55	5-12-14	Waiākea, South Hilo	2-2-037:029	(Amends Ord. No. 06-144) (Effective date 11-28-06)		
(391)	14-56	5-12-14	Waiākea, South Hilo	2-4-028:009	RM-2.5	RM-1.5	
(392)	14-101	8-6-14	Waiākea, South Hilo	2-4-038:012	A-3a	RA-1a	
(393)	14-103	8-27-14	Waiākea, South Hilo	2-4-034:046	A-1a, A-3a	FA-1a	
(394)	15-2	1-9-15	Ponahawai, South Hilo	2-3-037:012	A-1a	CN-20	
(395)	15-34	3-23-15	Waiākea, South Hilo	2-4-034:045	A-3a	FA-1a	
(396)	15-41	5-4-15	Waiākea House Lots, South Hilo	2-2-036:042	RS-10	CN-10	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(397)	15-50	6-12-15	Kūkūau 1st, South Hilo	2-4-082:001-56, 58-61	(Amends Ord. No. 08-115) (Effective date 9-10-08)		
(398)	15-96	11-10-15	Waiākea, South Hilo	2-2-048:093, portion of 13	(Amends Ord. 08-72) (Effective date 5-20-08)		
(399)	15-106	11-20-15	Kaūmana Homesteads, South Hilo	2-5-003:024	A-20a	FA-3a	
(400)	15-117	12-22-15	Waiākea, South Hilo	2-2-024:008	(Amends Ord. No. 94-6) (Effective date 1-26-94)		
(401)	15-118	12-22-15	Waiākea House Lots, South Hilo	2-2-034:083	RS-10	CN-20	
(402)	16-10	2-22-16	Pana‘ewa House Lots, 2nd Series, South Hilo	2-2-056:002	A-3a	RA-.5a	
(403)	16-16	3-16-16	Pana‘ewa House Lots, 2nd Series, South Hilo	2-2-052:027	A-3a	RA-1a	
(404)	16-34	5-4-16	Pana‘ewa House Lots, Waiākea South Hilo, Hawai‘i	2-2-051:003	A-3a	RA-1a	
(405)	16-45	5-23-16	Waiākea, South Hilo	2-2-040:121	(Amends Ord. 10-110) (Effective date 11-24-10)		
(406)	16-49	5-23-16	Waiākea House Lots, South Hilo	2-2-035:060	RS-10	MCX-20	
(407)	16-50	5-23-16	Ponahawai, South Hilo	2-5-040:042	FA-2a	FA-1a	

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ZONING MAP No. 7.30--(Pāpa'ikou-Onomea)

§ 25-8-34

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	286	12-15-1969	Papaikou, South Hilo	2-7-28:16 and 17	RS-7.5	CV-10	7.30(a)
(2)	499	8-1-1972	Kalaoa, South Hilo	2-7-31:1, 2, 20	RS-20	RS-15	7.30(b)
(3)	537	11-14-1972	Wailua, South Hilo	2-6-13:Por. 5 and 7	A-20a	A-1a	7.30(c-1 to c-2)
(4)	27	4-29-1974	Alemai, South Hilo	2-7-32:Por. 18	A-20a	A-1a	7.30(d)
(5)	669	2-10-1981	Papaikou, South Hilo	2-7-04:Por. 119	A-20a	RS-10	7.30(3)
(6)	84-50	9-4-1984	Paukaa, South Hilo	2-7-03:26	A-20a	RS-15	
(7)	85-34	4-22-1985	Wailua, South Hilo	2-6-17:02	A-20a	RS-15	
(8)	86-111	9-26-1986	Papaikou, South Hilo	2-7-33:15	RS-6.5	CV-10	
(9)	90-115	9-26-1990	Papaikou, South Hilo	2-7-33:15	(Amends Ord. 86-111) (Effective Date 9-26-1986)		
(10)	90-144	11-30-1990	Paukaa, South Hilo	2-7-38:3	A-20a	A-3a	
(11)	91-28	3-21-1991	Paukaa, South Hilo	2-7-38:Por. 1	A-20a	A-5a	
(12)	96-121	10-18-1996	Paukaa, South Hilo	2-7-3:27	A-20a	RS-15	
(13)	96-152	12-5-1996	Papaa-Halepuna, South Hilo	2-6-12:Por. 4; 2-6-13: Por. 7	A-20a	RS-15	

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(14)	98-100	10-19-1998	Paukaa, South Hilo	2-7-38:3	A-20a	A-3a	
(15)	06-29	2-24-2006	Wainaku, South Hilo	2-6-32:04 & 05	A-20a and RS-15	FA-5a	
(16)	06-116	8-8-2006	Wainaku, South Hilo	2-6-032:006	A-20a and RS-15	RA-1a	
(17)	06-117	8-8-2006	Papaa-Halepuna, South Hilo	2-6-12:Por. 4 & 2-6-13:Por. 7	(Repeals Ord. 96-152) (Effective Date 12-5-1996)		

ZONING MAP No. 7.31--(Pepeʻekeō)

§ 25-8-35

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	456	3-23-1972	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 1 and 53	RS-7.5	MG-5a	7.31(a)
(2)	71	11-14-1974	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3 and 6	A-20a	RS-10, CV-10, RM-3.5, O	7.31(b-1 to b-2) Repeals Ord. 47, 7-9-1974
(3)	256	3-30-1977	Pepeekeo and Makahanaloa, South Hilo	2-8-07:Por. 3 and 6	A-20a, O	RS-10	7.31(e)
(4)	84-16	8-13-1984	Makahanaloa, South Hilo	2-8-07:Por. 53	RS-7.5	MG-5a	
(5)	05-50	4-18-2005	Makahanaloa, South Hilo	2-8-8:103, Por. 104, Por. 95, and Por. 3	CV-10, ML-20 and MG-5a	RS-20, A-20a and ML-20	

ZONING MAP No. 7.32--(Hakalau-Honomū)

§ 25-8-36

Para-graph	Ord. No.	Effective Date	General Location	TMK of Parcel Affected	Original Zoning	Final Zoning	1975 C.C.
(1)	671	2-10-1981	Wailea, South Hilo	2-9-03:Por. 11	A-20a	RS-15	7.32(a)

CHAPTER 26

FIRE

Section 26-1. Adoption of the Hawai‘i State Fire Code.
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Section 26-3. Building changes.
Section 26-4. Investigation.
Section 26-5. Plans and specifications.
Section 26-6. Standby fire personnel.
Section 26-7. Standby and fire watch; cost.
Section 26-8. Fire watch for systems out of service.
Section 26-9. Fire watch; assignment.
Section 26-10. Fire watch; documentation.
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Section 26-13. Permit and fees.
Section 26-14. Plan review.
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Section 26-37. Fire department access roads (FDAR)-height clearance.
Section 26-38. Fire department access roads (FDAR)-height variance.
Section 26-39. Fire department access roads (FDAR)-load limit and surface.
Section 26-40. Fire department access roads (FDAR)-turning radius.

Section 26-41. Fire department access roads (FDAR)-grade.
Section 26-42. Alternative water supply.
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Section 26-44. Seating arrangements.
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Section 26-46. Deep fat frying.
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Section 26-48. Existing commercial cooking equipment.
Section 26-49. Kitchen hood suppression acceptance test.
Section 26-50. Vehicular protection.
Section 26-51. LPG-enclosures.
Section 26-52. LPG-enclosures.
Section 26-53. LPG-enclosures.
Section 26-54. LPG-storage and use on balconies.
Section 26-55. LPG-cooking inside of vehicles.
Section 26-56. Fuel supplier responsibility.

CHAPTER 26*

FIRE

Section 26-1. Adoption of the Hawai‘i State Fire Code.

The Hawai‘i State Fire Code, as adopted by the Hawai‘i State fire council on January 1, 2010, pursuant to section 132-3, Hawai‘i Revised Statutes, which incorporated the 2006 National Fire Code, NFPA 1 Uniform Fire Code, is by reference incorporated herein and made a part hereof and is hereby adopted by reference, subject to the amendments in this chapter.
(2012, ord 12-3, sec 2.)

Section 26-2. Title.

1.1.2 is amended to read:

> 1.1.2 This code, which includes the amendments to the Hawai‘i State Fire Code made by the County of Hawai‘i shall be known as the Hawai‘i County Fire Code, and may be cited as such, and will be referred to herein as this code.

(2012, ord 12-3, sec 2.)

Section 26-3. Building changes.

1.3.6.3 is amended to read:

> 1.3.6.3 New construction, repairs, renovations, alterations, or any change in occupancy shall conform with this code, the Hawai‘i State Fire Code, and the Building code.

(2012, ord 12-3, sec 2.)

Section 26-4. Investigation.

1.7.10 is amended to read:

> 1.7.10 Investigation. Investigations are authorized by and shall be made in accordance with section 132-4, 132-4.5, 132-5, Hawai‘i Revised Statutes.

(2012, ord 12-3, sec 2.)

Section 26-5. Plans and specifications.

1.7.11 is amended to read:

> 1.7.11 Plans and specification.
> The Fire Chief shall have the authority to require plans and specifications to be submitted prior to the construction, demolition, or alteration of any building or structure; prior to any change in a building’s occupancy type or class; or prior to the installation of any life safety or fire protection systems to ensure compliance with applicable codes and standards.

(2012, ord 12-3, sec 2.)

Section 26-6. Standby fire personnel.
1.7.15 is amended to read:

1.7.15 Standby and Fire Watch Personnel.
(2012, ord 12-3, sec 2.)

Section 26-7. Standby and fire watch; cost.
1.7.15.2.1 is amended to read:

1.7.15.2.1 The cost of standby and fire watch personnel shall be at no cost to the authority having jurisdiction (AHJ).
(2012, ord 12-3, sec 2.)

Section 26-8. Fire watch for systems out of service.
1.7.15.4 is added to read:

1.7.15.4 Where a fire alarm or fire suppression system is out of service for more than 4 hours in a 24-hour period, the AHJ shall be notified and an approved fire watch shall be provided until such system is returned to service.
(2012, ord 12-3, sec 2.)

Section 26-9. Fire watch; assignment.
1.7.15.5 is added to read:

1.7.15.5 Person(s) conducting fire watch duty shall be assigned to an area for the express purpose of notifying the Fire department, the building occupants or both of an emergency; preventing a fire from occurring; extinguishing small fires; or protecting the public from fire or life safety dangers. The fire watch personnel shall patrol the entire area or premise that the non-functioning system protects.
(2012, ord 12-3, sec 2.)

Section 26-10. Fire watch; documentation.
1.7.15.6 is added to read:

1.7.15.6 Standby and fire watch personnel shall keep documentation on an hourly basis or as often as deemed necessary by the AHJ. Documentation shall be available for review upon the AHJ request.
(2012, ord 12-3, sec 2.)

Section 26-11. Public fire education.

1.7.16.3 is added to read:

1.7.16.3 The Fire chief of each county may:

(1) Appoint advisers, promote and secure the appointment and service of committees of commercial, industrial, labor, civic, and other organizations, who shall, without compensation, assist the county fire chief in establishing standards of safety;
(2) Establish and maintain museums and exhibits of safety and fire prevention in which shall be exhibited equipment, safeguards, and other means and methods for protection against fire loss, and publish and distribute bulletins on any phase of this general subject;
(3) Cause lectures to be delivered, illustrated by stereopticon or other views, diagrams, or pictures, for the information of owners or other persons and the general public, in regard to the causes and prevention of fires and related subjects.

(Section 132-14, Hawai'i Revised Statutes.)

(2012, ord 12-3, sec 2.)

Section 26-12. Permits required.

1.12.20 is amended by deleting original proposed language and adding the following amended language:

1.12.20 Permits Required.

Permits shall be required under the following sections:

(1)	Section 10.15.1	Carnivals, Fairs, Farmers Markets, Open Markets, and Flea Markets.
(2)	Section 20.1.1	Places of Assembly with an occupant load of 300 or greater.
(3)	Section 25.1.2	Tents, Canopies and Temporary Structures. A permit shall be required for each event utilizing a tent, canopy or temporary structure in excess of 700 square feet.
(4)	Section 43.1.1.4	Application of Flammable Finishes.
(5)	Section 65.11.3.2	Fireworks.
(6)	Section 66.1.5	Flammable and/or Combustible Liquid Storage tanks in excess of 60 gallons.
(7)	Section 69.1.2	Liquefied Petroleum Gas.

(2012, ord 12-3, sec 2.)

Section 26-13. Permit and fees.

1.12.20.1 is added to read:

1.12.20.1 Permit and Fees.

(1) Permit and fee for section 10.15.1 are as follows:

(a) There shall be a permit and fee of $100 for each 10.15.1, Carnival or Fair permit. Permit shall be valid for the duration of the event.

(b) There shall be a bi-annual permit and fee of $25 for each 10.15.1, Farmers Market, Open Market, and Flea Market. This permit shall apply to the property owner, lessee, or his or her representative of which the event is occurring. Permit periods shall be from April 1 through September 30 and October 1 through March 31 of the following year. Permits applied for within such time frames shall be allowed at the cost of $25 for each permit. Permit shall be kept on site on available for review upon request by the AHJ during normal business hours.

(2) Permit and fees for section 20.1.1 are as follows:
There shall be an annual permit and fee of $50 for each 20.1.1 Permit, for places of assembly with an occupancy load of 300 or greater. Permit shall be kept on site and available for review by the AHJ during normal business hours.

(3) Permit and fee for section 25.1.2 are as follows:

(a) There shall be a permit and fee of $25 for each tent, canopy, or temporary structure covering an area of 700 square feet or greater. Tents or canopies located less than 10 feet between tie-downs shall be considered as one tent when determining square footage.

Exception: These permits and fees shall not apply to structures used for camping or private functions on private property or to any section 10.15.1 permit.

(b) A permit and fee of $25 for each tent or temporary structure erected for the sale of Christmas trees. Tents greater than 10 feet apart shall be considered a separate tent.

(c) A permit and fee of $25 for each tent or temporary structure erected for the sale of fireworks. Tents greater than 10 feet apart shall be considered a separate tent.

(4) Permit and fee for section 43.1.1.4 are as follows:
An annual permit and fee of $50 for each 43.1.1.4 permit, Application of flammable finishes.

(5) Permit and fee for section 65.11.3.2 are as follows:
Permits, licenses, and fees associated with the Import, Manufacture, Wholesale, Storage, Retail, and use of fireworks shall be as specified in section 132-D, Hawai‘i Revised Statutes.

(6) Permit and fee for section 66.1.5 are as follows:
A one-time permit and fee of $50 for each 66.1.5 permit, installation and/or removal of an above-ground storage tank (AST) or under-ground storage tank (UST) containing flammable or combustible liquids in excess of 60 gallons.

(7) Permit and fee for section 69.1.2 are as follows:
A one-time permit and fee of $50 dollars for each 69.1.2 permit, Liquefied Petroleum Gas tank installation of 125 gallons or greater.

(2012, ord 12-3, sec 2.)

Section 26-14. Plan review.

1.14 and 1.14.1 is added to read:

1.14 Plan Review
1.14.1 When required by section 132-9, Hawai‘i Revised Statutes, a set of plans and specifications shall be submitted to the Fire Chief for review to assure compliance with applicable codes and standards.

(2012, ord 12-3, sec 2.)

Section 26-15. Violations and penalties.

1.16.1.1 is added to read:

1.16.1.1 Violations and Penalties.
Any person, firm or corporation violating any of the provisions in this code may be deemed guilty, but not limited to, a petty misdemeanor. Any such person, firm, or corporation deemed guilty, may be charged for a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, permitted, or continue to be permitted. Upon conviction of any such violation, the person, firm, or corporation shall be punishable of a fine as not to exceed $500 and/or by imprisonment for not more than thirty days.

(2012, ord 12-3, sec 2.)

Section 26-16. Assembly occupancy.

3.3.165.3 is amended to read:

3.3.165.3 Assembly Occupancy.
An occupancy (1) used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation, or similar uses; or (2) used as a special amusement building, regardless of occupant load.
A building used for the above mentioned purposes, with an occupant load of less then 50 persons shall be governed by the requirements of a Business group occupancy as defined in the Building Code.

(2012, ord 12-3, sec 2.)

Section 26-17. Inspection tag.

4.5.8.6 is added to read:

4.5.8.6 Upon completion of the testing, maintenance, or inspection of any Fire detection or Fire suppression system or equipment, an inspection tag sticker or other form of documentation shall be affixed to such device or system. Information on the tag shall include:

(1) Test or inspection results;
(2) Date the inspection was completed
(3) Company name and contact information;
(4) Name of technician performing the test or inspection;
(5) Contractor's license number and expiration date.

Inspection tag shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2.)

Section 26-18. Maintenance, inspection, and testing.

10.4.6 is added to read:

10.4.6 Upon completion of the testing, maintenance or inspection of any Fire detection or Fire suppression system, an inspection tag, as referenced in 4.5.8.6 above, shall be applied.

(2012, ord 12-3, sec 2.)

Section 26-19. Open fires, incinerators, and commercial fireplaces.
10.11.1 is amended to read:

10.11.1 Open fires in Hawai‘i County.

(1) Fires for the cooking of food.

(a) Persons responsible for large open fires not contained within an appliance, such as an “Imu”, shall telephone the Fire dispatch center on the non-emergency number at least 15 minutes before the lighting of such fires.

(b) Persons responsible for fires that use smoke as a method of cooking or curing, such as a “smoke house”, shall telephone the Fire dispatch center on the non-emergency number at least 15 minutes before lighting of such fires.

(c) For open fire cooking operations with service to and subject to the general public, the following shall apply:

i. Open flame cooking operations shall be conducted under a non-combustible covering. All structures shall be properly anchored/ secured.

ii. Cooking operations shall not be located less than 10 feet from any building.

iii. Open flame cooking appliances shall not be located less than 10 feet from the general public. Means of protection, such as a protective barrier shall be approved by the AHJ.

iv. Cooking operations shall not be located less than 20 feet from any exiting system.

v. Open flame cooking operations shall not be located less than 25 feet from trash, brush, or other combustible waste.

vi. Cooking equipment using flammable liquids or gasses shall not be used less than 25 feet from any outside ignition sources, (vehicles, generators, electrical panels, etc.) and not less than 25 feet from any other tent or temporary structures.

vii. Flammable gas cylinders used in cooking operations shall be listed for that use. Spare flammable gas cylinders shall not exceed 5 gallons water capacity in any 1 tenant space.

viii. Spare flammable liquid containers shall not exceed 1 gallon capacity. Containers shall be stored in a well ventilated area and shall be kept at least 10 feet away from any open flame, ignition source, and the general public. Maximum storage quantity is 1 gallon per appliance. Flammable liquid storage containers shall be listed for that use.

ix. All flammable liquid or gas fueled cooking appliances shall be listed for that use.

(d) The AHJ shall be authorized to immediately cause to cease any open fire or cooking activity, if such fire is determined to cause a danger to life safety and/or health.

(2) Fires for recreational, decorative, or ceremonial purposes.

(a) Open fire performances before a proximate audience shall comply with the following:

i. Performances that use an open flame, such as "fire dancing", shall be held outdoors (see exception below).

ii. Performance shall be in an area at least 25 feet clear of trash, brush, and other combustible waste.

iii. A minimum clearance of 25 feet shall be kept between the performers and the audience at all times during a performance. This distance may be reduced to 15 feet, provided an AHJ approved, non-combustible safety net is in place to protect the audience in the case of an accidental release.

iv. Gasoline, diesel or any Class I flammable liquid shall not be used as the fuel source.

v. Excess fuel storage shall be kept in an approved container and at least 25 feet away from both the performers and the audience. Quantity of fuel stored shall only suffice for a single performance.

vi. Performers shall not throw any props or display devices over the audience as to cause a fire or safety hazard.

vii. A CO2 fire extinguisher with a minimum 20B rating and an ABC fire extinguisher with a minimum 4A rating shall be readily available and within 50 feet of the performance. The fire extinguishers shall be constantly attended by a competent person trained in the use of portable fire extinguishers.

viii. Event site shall be subject to inspection.

ix. Additional clearances and/or means of extinguishment shall be provided if deemed necessary by the AHJ.

Exception: Upon the approval of the AHJ, performances using fire may be held indoors provided the facility has an automatic fire sprinkler system that is code compliant and all of the above mentioned safety requirements are met.

(b) Open fires for recreational, decorative, or ceremonial purposes such as the "lighting of the letters" shall comply with the following:

i. Burn location shall be outdoors.

ii. Burn area shall have a minimum clearance of 25 feet to trash, brush, and other combustible waste.

iii. Burn area shall have a minimum clearance of 100 feet to any building or combustible structure.

iv. Burn area shall have a minimum clearance of 100 feet to the spectators.

v. Gasoline, diesel or any Class I flammable liquid shall not be used as the fuel source.

vi. After fuel is applied, the excess fuel shall be removed from the fire area.

vii. The person(s) applying the fuel shall not be the same person causing the ignition.

viii. A CO2 fire extinguisher with a minimum 20B rating and an ABC fire extinguisher with a minimum 4A rating shall be readily available and within 50 feet of the fire. The fire extinguishers shall be constantly attended by a competent person trained in the use of portable fire extinguishers.

ix. Burn site shall be subject to inspection.

x. The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.

xi. Additional clearances and/or means of extinguishment shall be provided if deemed necessary by the AHJ.

Prior to any Recreational, Decorative or Ceremonial Fire, a site plan shall be submitted to the AHJ at least 7 days prior to the event. The site plan shall include: (1) Contact information of the person(s) responsible, (2) Location or address of the burn site(s), (3) Date and time of ignition, and (4) Distances from the burn area to spectators, structures, and vehicles.

(c) Recreational or Ceremonial "Sweat Lodges" or other Structure(s) used for similar purposes.

i. No fire shall be allowed or maintained in any structure used as a "sweat lodge" or the like in that the byproducts of combustion may cause a danger to life safety or health.

ii. Structures used in this context shall notify the Fire department, State Department of Health, and the Building department prior to operation.

iii. Fire department access shall be provided.

(d) Aerial Luminary Devices.

i. Aerial luminary devices shall be defined as any homemade or manufactured device that has an open flame and which can be sent airborne or adrift, leaving the height and distance it travels to be determined by existing atmospheric conditions. Such devices whether it is tethered or not, shall be deemed an Aerial luminary device.

ii. All Aerial luminary devices shall be deemed a fire hazard.

iii. It shall be unlawful to Buy, Sell, Use, Possess, Ignite, or cause to ignite any such Aerial luminary devices.

iv. Exception: Signal flares for emergency use.

(e) Bonfires.

Bonfires are prohibited unless approved by the State Department of Health or the State Department of Land and Natural Resources. The Fire dispatch center shall be notified of all approved bonfires prior to ignition.

(f) Fires used for cinematic purposes.

Fires used with cinematography shall be allowed by the Fire chief provided adequate safeguards as determined by the Fire chief is provided.

(3) Fires to abate a fire hazard.

(a) A site plan shall be submitted to the AHJ at least 14 days prior to the burn activity. The site plan shall include:

i. Contact information of the person(s) responsible.

ii. Location or address of the burn site(s).

iii. Type of fuel being burned.

iv. Date and time of ignition.

v. Means of extinguishment (shall be suitable to the AHJ).

vi. Fire department access as approved by the AHJ.

(b) Burn site shall be subject to inspection.

(c) The Fire dispatch center shall be notified on their non- emergency number at least 30 minutes prior to ignition.

(4) Fires for the prevention or control of disease or pests.

(a) A site plan shall be submitted to the AHJ at least 14 days prior to the burn activity. The site plan shall include:

i. Contact information of the person(s) responsible.

ii. Location or address of the burn site(s).

iii. Date and time of ignition.

iv. Means of extinguishment shall be suitable to the AHJ.

v. Fire department access as approved by the AHJ.

(b) Burn site shall be subject to inspection.

(c) The Fire dispatch center shall be notified on their non- emergency number at least 30 minutes prior to ignition.

(5) Fires for the training of Firefighting personnel.

All fires of this nature shall be approved by the Fire chief.

(6) Fires for disposal of dangerous materials.

(a) All fires of this nature shall be approved by the State Department of Health.

(b) The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.

(7) Fires for residential bathing purposes.

(a) Open fires using solid fuels for residential bathing purposes shall not be allowed in any residential dwelling.

(b) Fires shall not be located less than 25 feet from trash, brush, or other combustible waste.

(8) Agricultural Fires.

(a) Agricultural fires shall be permitted by the State Department of Health.

(b) Upon approval by the State Department of Health, a site plan shall be submitted to the Fire chief, at least 7 days prior to the event. The site plan shall include:

i. Contact information of the person(s) responsible.

ii. Location and address of the burn site(s). Burn site shall be a minimum of 150 feet from any residential dwelling.

iii. Date, time and duration of the burn.

iv. Means of extinguishment shall be suitable to the AHJ and shall be capable of total extinguishment.

v. Fire department access to the burn site(s) shall be suitable to the AHJ. Access parameters:

(A) Minimum of 14 feet wide.

(B) All weather driving surface.

(C) Maximum grade of 15 percent.

(c) Burn site shall be subject to inspection.

(d) The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.

Except for closed incinerators approved by the State Health Department, private incineration is prohibited by State health laws.

(2012, ord 12-3, sec 2.)

Section 26-20. Premises identification.

10.12.1.4 is added to read:

10.12.1.4 Premises identification shall comply with the Building code and Chapter 14 of the Hawai‘i County Code.

(2012, ord 12-3, sec 2.)

Section 26-21. Special outdoor events, carnivals, and fairs.

10.15 is amended to read:

10.15 Special Outdoor Events, Carnivals, Fairs, Farmers Markets, Open Markets, and Flea Markets.

(2012, ord 12-3, sec 2.)

Section 26-22. Site plan.

Section 10.15.1.1 is added to read:

10.15.1.1 A site plan shall be submitted with the permit application. The site plan shall include:

(1) Size of each of each tent and the location of each tent in reference to each other.
(2) Location of emergency access roads.
(3) Location of emergency exits.
(4) Location of vehicle parking.
(5) Location of all fire suppression appliances.
(6) If applicable, location of all cooking operations.

(2012, ord 12-3, sec 2.)

Section 26-23. Authority to inspect.

10.15.2 is amended to read:

> 10.15.2 The AHJ shall be authorized to inspect any Section 10.15 site location as it pertains to access for emergency vehicles; location of fire protection equipment; placement and securement of tents, temporary structures, stands, concession booths, and exhibits; and the control of hazardous conditions dangerous to life and property.

(2012, ord 12-3, sec 2.)

Section 26-24. Heating, ventilation, air-conditioning.

11.2.3 is amended to read:

> 11.2.3 Commercial cooking equipment. Commercial cooking equipment shall be in accordance with Chapter 50, and NFPA 96 unless such installations are approved existing installations, which shall be permitted to be continued in service. See also 50.2.1.3.2 of this code.

(2012, ord 12-3, sec 2.)

Section 26-25. Access to Fire Department connections.

13.1.3 is amended to read:

> 13.1.3 Obstructions shall not be placed or kept near fire hydrants, fire department connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible and accessible. A minimum three foot clear space shall be maintained around fire hydrants. These distances may be reduced or increased at the discretion of the AHJ.

(2012, ord 12-3, sec 2.)

Section 26-26. Blocked access; vehicle removal.

13.1.3.1 and 13.1.3.2 is added to read:

> 13.1.3.1 The Police department may cause to be removed, any vehicle left unattended upon any street within 10 feet of any fire hydrant. The registered owner shall be liable for all expenses incurred in the removal and storage of such vehicle.
>
> 13.1.3.2 The Police department may cause to be removed, any vehicle left unattended upon any required fire department access road. The registered owner shall be liable for all expenses incurred in the removal and storage of such vehicle.

(2012, ord 12-3, sec 2.)

Section 26-27. Standpipe inspection tag.

13.2.3.5 is added to read:

> 13.2.3.5 The person, company, or firm conducting the inspection, testing, or maintenance of a Standpipe system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2.)

Section 26-28. Sprinklers in new one and two family dwellings.

13.3.2.18.1 is deleted in its entirety.

(2012, ord 12-3, sec 2.)

Section 26-29. Sprinkler inspection tag.

13.3.3.2.1 is added to read:

> 13.3.3.2.1 The person, company, or firm conducting the inspection, testing, or maintenance of a Sprinkler system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2.)

Section 26-30. Nuisance or false alarms.

13.7.1.4.4.1 is added to read:

> 13.7.1.4.4.1 In the event of excessive false alarms:
> The Fire Chief may order the building owner, manager, or representative to provide Fire watch as specified in this code.

(2012, ord 12-3, sec 2.)

Section 26-31. Fire alarm inspection tag.

13.7.3.2.8 is added to read:

> 13.7.3.2.8 The person, company, or firm conducting the inspection, testing, or maintenance of a Fire Alarm system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain their legibility for the life of their use.

(2012, ord 12-3, sec 2.)

Section 26-32. Occupant load increase.

14.8.1.3.1 is amended to read:

> 14.8.1.3.1 With approval of a Hawaiʻi County Building Official, the Fire Chief may allow the occupant load of a building or portion thereof, to be increased from the occupant load established in section 14.8.1.2 of the State Fire Code, and where all other requirements of this code are also met, based on such increased occupant load.

(2012, ord 12-3, sec 2.)

Section 26-33. Water supply for fire protection during construction.

16.4.3.1.1 is amended to read:

> 16.4.3.1.1 A water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible building materials are present.

(2012, ord 12-3, sec 2.)

Section 26-34. Fire hydrant use and restrictions.

18.1.1.2.1 is added to read:

> 18.1.1.2.1 No unauthorized person shall use or operate any Fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system.
> Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

(2012, ord 12-3, sec 2.)

Section 26-35. Fire department access roads (FDAR)-distance increase.

18.2.3.2.2.1 is amended to read:

> 18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 300 feet.

(2012, ord 12-3, sec 2.)

Section 26-36. Fire department access roads (FDAR)-width and turn around.
18.2.3.4.1.1 is amended to read:

> 18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20 feet with an approved turn around area if the FDAR exceeds 150 feet.
> Exception: FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

(2012, ord 12-3, sec 2.)

Section 26-37. Fire department access roads (FDAR)-height clearance.
18.2.3.4.1.2 is amended to read:

> 18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less then 13 ft 6 in.

(2012, ord 12-3, sec 2.)

Section 26-38. Fire department access roads (FDAR)-height variance.
18.2.3.4.1.2.1 is amended to read:

> 18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

(2012, ord 12-3, sec 2.)

Section 26-39. Fire department access roads (FDAR)-load limit and surface.
18.2.3.4.2 is amended to read:

> 18.2.3.4.2 Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

(2012, ord 12-3, sec 2.)

Section 26-40. Fire department access roads (FDAR)-turning radius.
18.2.3.4.3.1 is amended to read:

> 18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

(2012, ord 12-3, sec 2.)

Section 26-41. Fire department access roads (FDAR)-grade.
18.2.3.4.6.1 is amended to read:

18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

(2012, ord 12-3, sec 2.)

Section 26-42. Alternative water supply.
18.3.8 is added to read:

18.3.8 Alternative water supply.

(1) Minimum water supply for buildings that do not meet County water standards:

(a) Buildings up to 2,000 square feet shall have a minimum of 3,000 gallons of water available for Firefighting.

(b) Buildings 2,001- 3,000 square feet shall have a minimum of 6,000 gallons of water available for Firefighting.

(c) Buildings, 3,001- 6,000 square feet shall have a minimum of 12,000 gallons of water available for Firefighting.

(d) Buildings, greater than 6,000 square feet shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.
Commercial buildings requiring a minimum fire flow of 2,000 gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

(2) Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(4) of this code.

(3) In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:

(a) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting.

(b) Minimum pipe diameter sizes from the water supply to the Fire Department Connection (FDC) shall be as follows:

i. 4" for C900 PVC pipe.

ii. 4" for C906 PE pipe.

iii. 3" for ductile Iron.

iv. 3' for galvanized steel.

(c) The Fire Department Connection shall:

i. Be made of galvanized steel.

ii. Have a gated valve with 2-1/2 inch, National Standard Thread male fitting and cap.

iii. Be located between 8 ft and 16 ft from the Fire department access. The location shall be approved by the AHJ;

iv. Not be located less than 18 inches, and no higher than 36 inches from finish grade, as measured from the center of the FDC orifice.

v. Be secure and capable of withstanding drafting operations. Engineer stamped plans may be required.

vi. Not be located more than 150 feet of the most remote part, but not less than 20 feet, of the structure being protected.

vii. Also comply with section 13.1.3 and 18.2.3.4.6.1 of this code.

(d) Commercial buildings requiring a fire flow of 2,000 gpm shall be provided with a second FDC. Each FDC shall be independent of each other, with each FDC being capable of flowing 500 gpm by engineered design standards. The second FDC shall be located in an area approved by the AHJ with the idea of multiple Fire apparatus' conducting drafting operations at once, in mind.

(e) Inspection and maintenance shall be in accordance to NFPA 25.

(f) The owner or lessee of the property shall be responsible for maintaining the water level quality, and appurtenances of the system.

(4) Exceptions to Section 26-42.

(a) Agricultural buildings, storage sheds, and shade houses with no combustible or equipment storage.

(b) Buildings less than 800 square feet in size that meets the minimum Fire Department Access Road requirements.

(c) For one and two family dwellings, agricultural buildings, storage sheds, and detached garages 800 to 2,000 square feet in size that meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 1,000 feet.

(d) For one and two family dwellings, agricultural buildings and storage sheds greater than 2,000 square feet, but less than 3,000 square feet of living area, that meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 500 feet.

(e) For buildings with an approved automatic sprinkler system, the minimum water supply required may be modified.

(2012, ord 12-3, sec 2.)

Section 26-43. Occupant load sign for assemblies.

20.1.4.10.3.1 is amended to read:

20.1.4.10.3.1 Any room or area constituting an assembly, regardless of seating arrangements, shall have a permanent occupant load sign posted in a conspicuous place near the main exit from the room.

(2012, ord 12-3, sec 2.)

Section 26-44. Seating arrangements.

20.1.4.10.4 is added to read:

20.1.4.10.4 The maximum number of seats permitted between the farthest seat and any aisle shall not exceed that shown in table 20.1.4.10.4.

Table 20.1.4.10.4

Application	Outdoors	Indoors
Chair style seating (loose)	11	6
Bench/Bleacher type seating	20	9

(2012, ord 12-3, sec 2.)

Section 26-45. Cooking operations affiliated with tents and temporary structures.

25.1.11.1 is added to read:

25.1.11.1 Cooking operations shall comply with Section 10.11.3.1 of this code.

(2012, ord 12-3, sec 2.)

Section 26-46. Deep fat frying.

25.1.11.2 is added to read:

25.1.11.2 A minimum of one Type K Fire extinguisher shall be accessible within 30 feet of any deep fat frying operation in accordance with NFPA 10.

(2012, ord 12-3, sec 2.)

Section 26-47. Seating arrangements for grandstands and general assembly areas.

25.3.1.5 is amended to read:

25.3.1.5 The maximum number of seats permitted between the farthest seat and any aisle shall not exceed that shown in table 25.3.1.5.

Table 25.3.1.5

Application	Outdoors	Indoors
Chair style seating (loose)	11	6
Bench/Bleacher type seating	20	9

(2012, ord 12-3, sec 2.)

Section 26-48. Existing commercial cooking equipment.
50.2.1.3.2 is added to read:

> 50.2.1.3.2 Existing commercial cooking equipment shall be in accordance with Chapter 50, and NFPA 96 unless such installations are approved existing installations, which shall be permitted to be continued in service or as approved by the AHJ.

(2012, ord 12-3, sec 2.)

Section 26-49. Kitchen hood suppression acceptance test.
50.4.3.3 is added to read:

> 50.4.3.3 Prior to the commencement of any cooking operation, all new or re-furbished hood suppression systems shall first complete a satisfactory acceptance test. Test shall be of an approved method and witnessed by the AHJ. The maintenance, service, and inspection of that system shall be as required by NFPA 96.

(2012, ord 12-3, sec 2.)

Section 26-50. Vehicular protection.
69.3.6.1.2.1 is added to read:

> 69.3.6.1.2.1 When Bollards or Guard posts are installed, they shall meet the requirements of Section 60.1.2.13.2 of this code.

(2012, ord 12-3, sec 2.)

Section 26-51. LPG-enclosures.
69.3.6.1.7 is added to read:

> 69.3.6.1.7 Containers shall not be within enclosures that would cause the build-up of flammable gasses in the event of a leak.

(2012, ord 12-3, sec 2.)

Section 26-52. LPG-enclosures.
69.3.6.1.8 is added to read:

> 69.3.6.1.8 Enclosures shall not be within 3 feet of the tank.

(2012, ord 12-3, sec 2.)

Section 26-53. LPG-enclosures.
69.3.6.1.9 is added to read:

> 69.3.6.1.9 Enclosures shall not impede access to fire suppression activities.

(2012, ord 12-3, sec 2.)

Section 26-54. LPG-storage and use on balconies.

69.3.10.2.1 (10) is added to read:

> 69.3.10.2.1 (10) LPG cylinders greater than 2.7 lb capacity shall not be used or stored on balconies above the first floor.

(2012, ord 12-3, sec 2.)

Section 26-55. LPG-cooking inside of vehicles.

69.3.12.8.1 and 69.3.12.8.2 are added to read:

> 69.3.12.8.1 Portable LPG cylinders greater than 2.7 lb. capacity shall not be used or stored in an area that will obstruct or impede the egress in the case of an emergency. Not more than 12 LPG cylinders of 2.7lb capacity or less shall be kept, used, or stored in any vehicle. LPG cylinders of 5 gallon capacity or greater shall not be used within any vehicle. All LPG appliance and equipment shall be listed for that use.
>
> 69.3.12.8.2 Portable fire extinguishers shall be provided as required in NFPA 10.

(2012, ord 12-3, sec 2.)

Section 26-56. Fuel supplier responsibility.

69.4.2.2.14 is added to read:

> 69.4.2.2.14 No fuel supplier shall fill or cause to be filled, any unpermitted fuel storage tank that should otherwise be permitted.

(2012, ord 12-3, sec 2.)

*** Editor's Note:** Chapter 26 was repealed in its entirety and replaced by Ordinance 12-3.

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CHAPTER 27

FLOODPLAIN MANAGEMENT

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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 93-78, sec 3; am 2007, ord 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 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 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 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, lūʻaus, 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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, Hawaiʻi 96720.
(1993, ord 93-78, sec 3; am 1994, ord 94-74, sec 3; am 1995, ord 95-86, sec 3; am 2007, ord 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 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 Hawaiʻi County Code, and the storm drainage standards, October 1970 edition, or later revisions, of the County of Hawaiʻi. 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 93-78, sec 3; am 2007, ord 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 Hawaiʻi; and

(c) Deemed neither to limit nor repeal any other powers granted to the County of Hawaiʻi under State of Hawaiʻi statutes.

(1993, ord 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 Hawaiʻi, 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 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 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.

"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 Hawaiʻi or the director's duly authorized representative who shall be a currently licensed professional engineer in the State of Hawaiʻi.

"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 Hawaiʻi 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 three years including the cost of the current work being considered. The value of the structure including previous three 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 93-78, sec 3; am 1997, ord 97-116, sec 1; am 2001, ord 01-108, secs 1 and 9; am 2007, ord 07-169, sec 7; am 2010, ord 10-115, secs 2 and 3.)

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 93-78, sec 3; am 1997, ord 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 93-78, sec 3; am 2001, ord 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 Hawaiʻi;
  (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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 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 Hawaiʻi, 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 Hawaiʻi.
   (3) Special flood hazards area certification. The County of Hawaiʻi "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 Hawaiʻi. 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 07-169, sec 10; am 2010, ord 10-115, sec 4.)

Section 27-18. Standards for construction.

Standards for construction within areas of special flood hazards 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 Hawaiʻi, 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 Hawaiʻi, 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, use of fill for structural support of buildings 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 Hawaiʻi 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.

(e) Certification requirements. All new construction, improvements to repetitive loss structures, and substantial improvement within areas of special flood hazard shall be certified as required by the standards of section 27-17.

(1993, ord 93-78, sec 3; am 1997, ord 97-116, sec 3; am 2007, ord 07-169, sec 11; am 2010, ord 10-115, sec 5.)

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 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 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 93-78, sec 3; am 2007, ord 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 for structural support of buildings.

(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 93-78, sec 3; am 2007, ord 07-169, sec 14; am 2010, ord 10-115, sec 6.)

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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 07-169, sec 16.)

Section 27-26. Storm drainage standards.

The department of public works, County of Hawaiʻi'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 Hawaiʻi.
(1993, ord 93-78, sec 3; am 2007, ord 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 Hawaiʻi 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 Hawaiʻi.

(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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 93-78, sec 3; am 2001, ord 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 Hawaiʻi 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 07-169, sec 20.)

Section 27-31. Appeals.
The circuit court of the third circuit, County of Hawaiʻi, State of Hawaiʻi 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 93-78, sec 3.)

Article 6. Enforcement.

Section 27-32. Right to enter.
Authorized representatives of the County of Hawaiʻi 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 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 93-78, sec 3; am 2001, ord 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 93-78, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 Hawaiʻi may petition the circuit court of the third district, State of Hawaiʻi, or the United States District Court, State of Hawaiʻi, through the County of Hawaiʻi'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 Hawaiʻi. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
(1993, ord 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 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 Hawaiʻi, 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 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 28

STATE LAND USE DISTRICT BOUNDARY AMENDMENT PROCEDURES

Section 28-1. Title.
Section 28-2. Scope and applicability.
Section 28-3. Contents of petition.
Section 28-4. Review of petition by planning director.
Section 28-5. Review of petition by planning commission.
Section 28-6. Standards for review of petitions.
Section 28-7. Notification of decision.
Section 28-8. Consolidated proceeding with other land use changes.

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CHAPTER 28

STATE LAND USE DISTRICT BOUNDARY AMENDMENT PROCEDURES

Section 28-1. Title.

This chapter may be cited as the State land use district boundary amendment procedures.

(1986, ord 86-126, sec 2.)

Section 28-2. Scope and applicability.

(a) The County council by ordinance may amend the districting of such lands fifteen acres or less located in the State land use urban, rural, and agricultural districts. This chapter, however, does not apply to those lands situated within the State land use conservation district classification.

(b) Filing of Petition.

(1) Petitions shall be on a form prescribed by the planning director and shall be filed with the planning department for processing, evaluation, and review pursuant to sections 28-4 and 28-5.

(2) A petition for a change in the boundary or a district involving lands fifteen acres or less presently in the urban, rural and agricultural districts may be filed by any department or agency of the State or County, or any person with a property interest in the land sought to be reclassified.

(3) Petitions may also be initiated by the County council by resolution of the council.

(1986, ord 86-126, sec 2.)

Section 28-3. Contents of petition.

(a) A petition for a district boundary amendment shall include the following:

(1) A description of the property, including the tax map key and acreage, with maps that identify the subject area.

(2) The exact legal name of each applicant and the location of the principal place of business, and if an applicant is a corporation, trust, or association, or other organized group, the state in which the applicant was organized or incorporated.

(3) The name, title and address of the person to whom correspondence or communication in regard to the application are to be addressed. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant.

(4) A statement regarding the applicant's proprietary interest in subject property.

(5) The reclassification sought and the present use of the property.

(6) A statement regarding the reasons for the requested change. If development is proposed, a written description of the proposed development.

(b) Upon receipt of a properly filed and completed petition, the planning director, on behalf of the County council shall serve a copy of the petition to the State land use commission and the State department of planning and economic development.*

(1986, ord 86-126, sec 2.)

* **Editor's Note:** The department of planning and economic development was renamed the department of business, economic development, and tourism by Act 293, Session Laws of Hawaiʻi, 1990.

Section 28-4. Review of petition by planning director.

Within ninety days of acceptance of a petition or such longer period as may be agreed to by the applicant, the planning director shall submit the director's recommendation to either the windward or leeward planning commission, or both acting jointly, as provided for in the Charter. The director shall recommend either the approval or denial of the proposed amendment to the designated planning commission, or joint commission, subject to conditions which would further the intent of this chapter and the general plan and other related ordinances.

(1986, ord 86-126, sec 2; am 2009, ord 09-118, sec 21.)

Section 28-5. Review of petition by planning commission.

(a) For the purposes of this section, "planning commission" means either the windward or leeward planning commission, or both acting as a joint commission, as provided for in the Charter.

(b) Within sixty days of the planning director's recommendation, the planning commission shall conduct at least one hearing on the petition. The planning commission, on behalf of the County council, shall notify the State land use commission and the State department of business, economic development, and tourism of the time and place of the hearing and the proposed amendments scheduled to be heard at the hearing. After conclusion of the hearing, the planning commission shall recommend either the approval or denial of the proposed amendment to the County council subject to conditions which would further the intent of this chapter and the general plan and other related ordinances. The planning commission shall forward a report concerning its findings and recommendation to the County council through the mayor. Prior to the planning commission's forwarding its report to the council, the applicant shall file with the planning department a map and description by metes and bounds of property as certified by a surveyor.

(1986, ord 86-126, sec 2; am 2009, ord 09-118, sec 22.)

Section 28-6. Standards for review of petitions.

In reviewing a district boundary amendment petition, consideration shall be given to the purposes of the existing and proposed districts as set forth in section 205-2, Hawaiʻi Revised Statutes, and the purpose of this chapter. No amendment shall be approved unless it conforms to the general plan. However, a proposed amendment may be combined with a request to change the general plan.

(1986, ord 86-126, sec 2.)

Section 28-7. Notification of decision.

A change in the State land use district boundaries pursuant to this chapter shall become effective on the day designated by the County council in its decision. Within thirty days of the effective date of the County council's decision, the planning director, on behalf of the County council, shall transmit the decision and the description and map of the affected property to the State land use commission and the State department of planning and economic development.*
(1986, ord 86-126, sec 2.)

* **Editor's Note:** The department of planning and economic development was renamed the department of business, economic development, and tourism by Act 293, Session Laws of Hawai‘i, 1990.

Section 28-8. Consolidated proceeding with other land use changes.

A petition for a State land use district boundary amendment may be submitted for consolidated review and processing, including any public hearing, with other land use changes and applicable permits such as proceedings to amend the general plan or zoning of the affected land.
(1986, ord 86-126, sec 2.)

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CHAPTER 29

WATER USE AND DEVELOPMENT

Article 1. Water Use and Development Plan.

Section 29-1. Purpose.
Section 29-2. Adoption of the Hawai‘i County water use and development plan.
Section 29-3. Amendments.
Section 29-4. Plan review.

Article 2. Public Water Spigots.

Section 29-5. Authority; Applicability; Use of Public Water Spigots.
Section 29-6. Penalty.

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CHAPTER 29

WATER USE AND DEVELOPMENT

Article 1. Water Use and Development Plan.

Section 29-1. Purpose.

The State water code, chapter 174C, Hawai‘i Revised Statutes, mandates the preparation and adoption of a water use and development plan by each County for incorporation into the Hawai‘i water plan. The contents of the County water use and development plan are dictated by chapter 174C. The purpose of this chapter is to comply with the dictates of chapter 174C and adopt the water use and development plan.
(1990, ord 90-60, sec 1; am 2011, ord 11-7, sec 3.)

Section 29-2. Adoption of the Hawai‘i County water use and development plan.

The Hawai‘i County water use and development plan of August 2010, incorporated herein by reference, is hereby adopted, and any revision, amendment, or modification of the same, pursuant to section 29-3, shall be deemed a part of the plan without further adoption or amendment to this chapter and shall be incorporated into this chapter by reference.
(1990, ord 90-60, sec 1; am 2011, ord 11-7, sec 3.)

Section 29-3. Amendments.

The department of water supply, acting through its water board, shall have the authority to propose amendments to the water use and development plan. The water board shall hold one public hearing in East Hawai‘i and one public hearing in West Hawai‘i on all proposed amendments. The water board shall transmit the proposed amendments to the council for approval. Within ninety days of receipt of a proposed amendment, the council shall act upon the amendment. If the council fails to act within the ninety days, the amendment shall be deemed approved.
(1990, ord 90-60, sec 1; am 2011, ord 11-7, sec 3.)

Section 29-4. Plan review.

The Hawai‘i County water use and development plan shall be reviewed as required by the State water code, chapter 174C, Hawai‘i Revised Statutes.
(1990, ord 90-60, sec 1; am 2011, ord 11-7, sec 3.)

Article 2. Public Water Spigots.

Section 29-5. Authority; Applicability; Use of Public Water Spigots.

(a) Public water spigot areas and water spigots shall be maintained by the department of public works.

(b) Public water spigots may be used by the public to obtain potable water, subject to the provisions of this section. This section shall not apply to any commercial water filling stations operated by the department of water supply.

(c) Public water spigot areas shall be for the loading of water only. All other use and activity shall be strictly prohibited.

(d) Use of public water spigots shall be limited to the maximum legal weight capacity of the transporting vehicle. At least one public water spigot at each public water spigot area shall be reserved for users drawing fifty-five gallons of water or less.

(e) The civil defense agency shall have jurisdiction over public water spigots in the event of impending or declared disaster, and may restrict access as conditions allow. The civil defense agency may authorize any agency or individual to control public water spigots. The civil defense agency shall determine when the need for emergency access to water has subsided to the degree that any restrictions placed on access to public water spigots are thus rescinded and shall provide notification to the public of such rescission.

(2010, ord 10-62, sec 4.)

Section 29-6. Penalty.

Any person convicted of any offense under this article shall be sentenced to pay a fine not to exceed $500.

(2010, ord 10-62, sec 4.)

CHAPTER 30

DEVELOPMENT AGREEMENTS

Section 30-1. Title.
Section 30-2. Purpose.
Section 30-3. Definitions.
Section 30-4. General authorization.
Section 30-5. Negotiating development agreements.
Section 30-6. Material breach; termination of agreement.
Section 30-7. Development agreement provisions.
Section 30-8. County general plan and community development plans.
Section 30-9. Amendment, cancellation or satisfaction.
Section 30-10. Enforceability; applicability.
Section 30-11. Administrative act.
Section 30-12. Filing or recordation.

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CHAPTER 30

DEVELOPMENT AGREEMENTS

Section 30-1. Title.

This chapter may be cited as the development agreement code.
(1993, ord 93-37, sec 2.)

Section 30-2. Purpose.

The purpose of this chapter is to authorize the executive branch of the County of Hawai'i to enter into a development agreement with any person having a legal or equitable interest in real property, for the development of such property in accordance with chapter 46, part VII, Hawai'i Revised Statutes, relating to development agreements, and as amended from time to time, and to provide assurances to the parties to the development agreement of the following:

(a) That the developer for that particular project may proceed in accordance with all applicable statutes, ordinances, rules, resolutions or policies in effect at the effective date of the development agreement;
(b) That the project will not be restricted or prohibited by the subsequent enactment or adoption of more restrictive statutes, ordinances, rules, resolutions or policies;
(c) That the County of Hawai'i may contract with the developer to ensure commitments for on-site and off-site development requirements necessary to preserve the public health, safety and welfare; and
(d) That the project will be prosecuted and completed in a timely manner and that the public interest will be protected.

(1993, ord 93-37, sec 2.)

Section 30-3. Definitions.

Whenever used in this chapter, the following words and phrases shall be defined as follows:

(1) "County" means the County of Hawai'i, a municipal corporation, acting through its mayor.
(2) "Designated agency" means the County executive agency designated by the mayor to specify, assemble, review, and coordinate information required by governmental agencies, and to administer development agreements after such agreements become effective.
(3) "Development agreement" means a written agreement for specified periods of time between the County, any governmental entity or agency made a party thereto, and any person having a legal or equitable interest in real property for the purpose of vesting the right to develop such property in accordance with laws, ordinances, resolutions, rules, and policies of any governmental entity or agency made party to the agreement in effect at the time such agreement is executed, and for the purpose of delineating development

requirements that may include, but are not limited to, affordable housing, design standards, water allocations, dedications of real or personal property, on-site and off-site infrastructure and other development related improvements and government services which shall be approved by resolution of the County council and executed by the mayor on behalf of the County.

(4) "Governmental entity or agency" means and includes, without limitation, the County of Hawaiʻi and its County council, the State of Hawaiʻi, the United States of America and their officers, agencies, boards and commissions.

(5) "Person" means an individual, group, partnership, firm, association, corporation, trust, governmental official, administrative body, tribunal or any form of business or legal entity.

(6) "Principal" means any person and its successors in interest or assigns who has entered into a development agreement pursuant to this chapter, and who has a legal or equitable interest in the real property which is the subject of the development agreement.

(1993, ord 93-37, sec 2.)

Section 30-4. General authorization.

(a) The office of the mayor is authorized to negotiate, prepare, and administer a development agreement, in accordance with this chapter, with any principal.

(b) The mayor may enter into development agreements on behalf of the County, upon approval by the County council by resolution, in accordance with the terms, conditions, and requirements of this chapter, pursuant to section 46-123, Hawaiʻi Revised Statutes.

(c) The office of the mayor shall make such rules and regulations as necessary to implement this chapter pursuant to chapter 91, Hawaiʻi Revised Statutes.

(d) Negotiation of and the decision to participate in a development agreement shall be entirely voluntary on the County and the principal. Once entered into, the parties to a development agreement shall be bound by the terms of the development agreement, the development agreement code and chapter 46, part VII, Hawaiʻi Revised Statutes, relating to development agreements, and as amended from time to time.

(1993, ord 93-37, sec 2.)

Section 30-5. Negotiating development agreements.

(a) A proposed development agreement may be negotiated at the request of a principal or the County by submitting an application to the office of the mayor.

(b) The application for the development agreement shall as a minimum contain:

(1) The name and business address of the principal;

(2) A description of the subject land;

(3) Specification by written narrative including maps, site plans, and any other documents or materials as may be appropriate, of the proposed uses of the property;

(4) Information concerning the location of any trails, easements or other ways on the subject property, public or private, the rights, if any, of adjoining or other landowners in and to the subject property, burial sites and historic property subject to the provisions of chapter 6E, Hawai‘i Revised Statutes, and an assessment of the impact of the proposed project on the subject real property, surrounding community and public resources;
(5) Other information which the County or its designated agency may determine to be necessary for the proper review and evaluation of the subject application and the preparation of any development agreement; and
(6) Proposed terms of the development agreement.

(c) Copies of the development agreement application shall be sent to appropriate governmental agencies for review and comment.
(d) The office of the mayor shall submit the final draft of every proposed development agreement and amended development agreement, pursuant to section 30-9 of this chapter, to the County council for its action by resolution to either approve as submitted, modify and approve as modified, or reject.
(e) County council approval by resolution shall be a precondition for execution of a development agreement by the mayor.
(f) No development agreement shall be entered into unless the County council shall have held a public hearing on the proposed development agreement in the council district where the subject property and development requirements are located. In the event that the location of either the subject property or the proposed development requirements set forth in the development agreement are located in more than one council district, the public hearing shall be held in the council district most affected by the proposed development as determined by the County.
(g) Every development agreement shall describe the real and personal property and services to be given by the principal, the County and/or other parties thereto as consideration for such agreement together with the terms of payment, conveyance or provision thereof.

(1993, ord 93-37, sec 2.)

Section 30-6. Material breach; termination of agreement.

(a) If, at any time, the office of the mayor finds and determines that the principal has committed a material breach of the terms or conditions of the agreement, the office of the mayor shall serve notice in writing, within thirty days after the finding of a material breach, upon the principal setting forth with reasonable particularity the nature of the breach and evidence supporting the finding and determination, and providing the principal a reasonable time period in which to cure such material breach.
(b) If the principal fails to cure the material breach within the time period given, then the County unilaterally may terminate or modify the agreement, provided that the office of the mayor has first given the principal the opportunity: (1) to rebut the

finding and determination of the material breach; or (2) to agree to amend the agreement as the office of the mayor may elect to propose in order to cure the material breach pursuant to section 30-9 of this chapter.

(c) In the event that (1) the principal does not agree to such amendments proposed by the office of the mayor or as subsequently modified by the County council, pursuant to section 30-9 of this chapter, or (2) the County council rejects the amendments proposed by the office of the mayor, the County may terminate the development agreement by County council resolution.

(1993, ord 93-37, sec 2.)

Section 30-7. Development agreement provisions.

(a) A development agreement shall, as a minimum:

(1) Describe the land subject to the development agreement;

(2) Specify the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings;

(3) Provide, where appropriate, for reservation or dedication of land or easements for public purposes to include but not limited to roads, water, drainage, waste disposal, public utilities, public safety facilities, and open space as may be required or permitted pursuant to laws, ordinances, resolutions, rules, or policies in effect at the effective date of the development agreement; and

(4) The development agreement shall provide commencement dates and completion dates for the requirements set forth therein; provided that:

(A) Such dates as may be set forth in the agreement may be extended upon the request of the principal for good cause shown, subject to, however, the approval of the County wherein such approval shall be at the sole discretion of the County and the cumulative total of extensions shall not exceed one year in any five year period;

(B) In the event a party to the development agreement requests an extension of a specified duration as a result of any delay in the performance of any of the obligations of the parties to the agreement hereunder and which occurs as a result of unforeseeable causes beyond the control and without the fault or negligence of any party to the development agreement, including, but not limited to, acts of God, acts of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes or walkouts, freight embargoes, or unusually severe weather, a reasonable extension of time for the commencement, completion, or termination dates shall be granted by the other parties thereto for the performance of the terms of the development agreement notwithstanding any time limitations otherwise applicable in this section; and

(C) The parties shall not be precluded from further extending such dates by mutual agreement or from entering into subsequent agreements subject to the approval of the County council as provided herein.

(5) Provide a termination date; provided that the parties shall not be precluded from amending the development agreement pursuant to section 30-9 of this chapter to extend the termination date by mutual agreement or from entering into subsequent development agreements.

(b) The development agreement also may cover any other matter not inconsistent with this chapter, nor prohibited by law.

(c) In addition to the County and principal, any Federal, State, or local government agency or body may be included as a party to the development agreement. If more than one government body is made party to any agreement, the agreement shall specify which agency shall be responsible for the overall administration of the agreement.

(d) The development agreement shall provide that the principal shall submit an annual report of compliance with the terms and conditions of the development agreement to the office of the mayor or its designated agency. That office or agency shall review such report for adequacy and accuracy and shall forward a copy of the annual report together with its findings and any other comments to the County council within a reasonable time thereafter.

(1993, ord 93-37, sec 2.)

Section 30-8. County general plan and community development plans.

No development agreement shall be entered into unless the County council finds that the provisions of the proposed development agreement are consistent with the County's general plan and any applicable community development plans adopted by the County council as of the effective date of the development agreement. In the event of any inconsistency between the general plan and the applicable community development plan, the County general plan shall prevail. Nothing in this chapter shall be construed to prohibit concurrent processing of a development agreement and any other land use application for that subject property, including but not limited to an amendment to governmental land use designation, district, zoning, or any special or use permits.

(1993, ord 93-37, sec 2.)

Section 30-9. Amendment, cancellation or satisfaction.

(a) A development agreement may be amended or canceled, in whole or in part by County council resolution, by mutual consent of the parties to the agreement, or their successors in interest; provided that if the County determines that the proposed amendment would substantially alter the original development agreement, a public hearing on the amendment shall be held by the County council before it approves any proposed amendments. Nonsubstantive or technical amendments, as may be defined in a development agreement, shall only require the approval of the office of the mayor without action by the County council.

(b) Upon the satisfaction of the requirements and terms of the development agreement and upon the request of the office of the mayor, the County shall declare by County council resolution that the development agreement is satisfied.

(1993, ord 93-37, sec 2.)

Section 30-10. Enforceability; applicability.

(a) Unless terminated pursuant to section 30-6, or canceled pursuant to section 30-9, a development agreement, amended development agreement, or modified development agreement, once entered into, shall be enforceable by any party thereto, or their successors in interest or assigns, notwithstanding any subsequent change in any applicable law adopted by the County of Hawaiʻi or any party thereto, which alters or amends the laws, ordinances, resolutions, rules, or policies specified in this chapter.

(b) All laws, ordinances, resolutions, rules, and policies governing permitted uses of the land that is the subject of the development agreement, including but not limited to uses, density, design, height, size, and building specification of proposed buildings, construction standards and specifications, affordable housing, community benefit assessments, water utilization and impact fee/assessment requirements applicable to the development of the property subject to a development agreement, shall be those laws, ordinances, resolutions, rules, regulations, and policies made applicable and in force at the time of execution of the agreement. The development agreement shall specify whether any subsequent change in any applicable law adopted by the County or any other governmental entity or agency entering into such agreement, which alter or amend the laws, ordinances, resolutions, rules, or policies specified in this part and such subsequent change shall be void as applied to property subject to any such agreement to the extent that it changes any law, ordinance, resolution, rule, or policy which any party to the agreement has agreed to maintain in force as written at the time of execution. The development agreement shall not prevent a government body from requiring the principal to comply with laws, ordinances, resolutions, rules, and policies of general applicability enacted subsequent to the date of the development agreement if under prior law they could have been lawfully applied to the subject property or any uses thereof at the time of execution of the agreement and if the County, County council or any other governmental entity or agency entering into such agreement finds it necessary to impose the requirements because a failure to do so would place the residents of the affected community in a condition perilous to the residents' health or safety, or both.

(1993, ord 93-37, sec 2.)

Section 30-11. Administrative act.

Pursuant to section 46-131, Hawaiʻi Revised Statutes, each development agreement shall be deemed an administrative act of the governmental entity or agency made party to the agreement.

(1993, ord 93-37, sec 2.)

Section 30-12. Filing or recordation.

The designated agency shall be responsible to file or record copies of the development agreement or any amendment thereto in the office of the assistant registrar of the land court of the State of Hawai‘i or in the bureau of conveyances, or both, whichever is appropriate, within twenty days after the effective date of the development agreement or any amendment thereto. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
(1993, ord 93-37, sec 2.)

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CHAPTER 31

ENTERPRISE ZONE PROGRAM

Section 31-1. Purpose.
Section 31-2. Definitions.
Section 31-3. Nomination and designation of enterprise zones.
Section 31-4. Duration of enterprise zones and other requirements.
Section 31-5. Amendment of enterprise zones.
Section 31-6. Provision of County incentives.

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CHAPTER 31

ENTERPRISE ZONE PROGRAM

Section 31-1. Purpose.

The council finds that the State of Hawai‘i, through chapter 209E, Hawai‘i Revised Statutes, and chapter 6 of title 15, Hawai‘i Administrative Rules, has established procedures for the designation of enterprise zones for the purpose of stimulating business and industrial growth. Pursuant to said chapter and rules, qualified businesses in enterprise zones shall be entitled to the following State incentives: a seven-year exemption from general excise taxes on gross proceeds from all business conducted within an enterprise zone; an eighty percent income tax abatement the first year, decreasing ten percent each year thereafter over the next six years; and an income tax credit in an amount equal to eighty percent of the unemployment taxes paid during the first year, decreasing ten percent each year thereafter over the next six years.

The council further finds that the County may nominate up to six enterprise zones for designation by the governor. Following designation of the nominated enterprise zone or zones, the State will accept applications from qualified businesses interested in participating in the enterprise zone program.

The purpose of this chapter is to set forth County procedures for the nomination, designation, amendment, provision of County incentives, and other requirements for enterprise zones.

(1994, ord 94-8, sec 1.)

Section 31-2. Definitions.

Unless it is plainly evident from the context that a different meaning is intended, words and phrases used in this chapter are defined as follows:

“Council” means the council of the County of Hawai‘i.

“DBEDT” means the department of business, economic development and tourism, State of Hawai‘i.

“Qualified business” means any corporation, partnership, or sole proprietorship authorized to do business in the State which is:

(1) Subject to the State corporate or individual income tax under chapter 235, Hawai‘i Revised Statutes; the public service company tax under chapter 239, Hawai‘i Revised Statutes; or the bank and financial corporation tax under chapter 241, Hawai‘i Revised Statutes;
(2) Engaged in manufacturing, the wholesale sale of tangible personal property, or a service business or calling;
(3) Qualified under section 209E, Hawai‘i Revised Statutes.

“Service business or calling” means any corporation, partnership, or sole proprietorship that acts upon or processes tangible personal property, such as cleaning, repair and maintenance, and does not mean activities which are not performed upon tangible personal property.

(1994, ord 94-8, sec 1.)

Section 31-3. Nomination and designation of enterprise zones.

(a) The mayor or council may nominate an area to be designated as an enterprise zone; provided, that all nominations shall be approved by the council by resolution.

(b) The nominated area shall be located within one or more contiguous United States census tracts that, based upon the latest census tract data, meet at least one of the following criteria:

(1) Twenty-five percent or more of the population of the area shall have incomes below eighty percent of the median family income of the County; or

(2) The unemployment rate in the area shall be one and a half times the average unemployment rate for the State.

(c) In nominating an area for designation as an enterprise zone, the mayor and the council shall consider the economic conditions of the area, the potential benefits which may accrue to the County from business and industrial development in the area, and the need and potential for job creation in the area.

(d) Following approval by the council by resolution, the mayor or the mayor's designated representative shall submit an application to the State DBEDT for processing and recommendation to the governor for designation of the nominated area as an enterprise zone. The application shall include:

(1) A written description of the boundaries of the proposed zone;

(2) A map identifying the proposed enterprise zone boundaries relative to the boundaries of the census tracts that will be fully or partially included in the zone; and, relative to the State land use district classifications, publicly held lands, and County general plan and/or development plan designations; and

(3) A statement indicating the local incentives proposed by the County.

(1994, ord 94-8, sec 1.)

Section 31-4. Duration of enterprise zones and other requirements.

(a) Upon designation by the governor of an area as an enterprise zone, the said enterprise zone shall retain enterprise zone status for a twenty-year period beginning on the date of the governor's designation. The amendment of a zone status under section 31-5 of this chapter shall not extend the twenty-year period.

(b) Within sixty days of the designation by the governor of an area as an enterprise zone, the mayor or the mayor's designated representative shall submit to the DBEDT a survey of the existing business conditions within the said enterprise zone.

(c) Annually, and within sixty days after the anniversary date of zone designation by the governor, the mayor or the mayor's designated representative shall submit to the DBEDT a report evaluating the enterprise zone program's effectiveness upon the said enterprise zone.

(d) If any portion of an area designated as an enterprise zone is subsequently included in an area designated as an enterprise zone by an agency of the Federal government, the said enterprise zone shall be enlarged to include the area designated by the Federal government.

(e) Upon designation of an area as an enterprise zone, the County may make available for sale or lease, under appropriate law, all County-owned land within the zone not designated or targeted for public use, with the condition that it be developed as defined in chapter 209E, Hawai‘i Revised Statutes, and chapter 6 of title 15, Hawai‘i Administrative Rules.

(1994, ord 94-8, sec 1.)

Section 31-5. Amendment of enterprise zones.

(a) The mayor or council may initiate a request to amend a designated enterprise zone; provided, that all such requests shall be approved by the council by resolution.

(b) Requests for amendments may be considered if the amendments relate to:
   (1) Changes in local program incentives;
   (2) Changes in zone boundaries; or
   (3) Termination of the zone.

(c) Following approval by the council by resolution, the mayor or the mayor's representative shall submit a written notification of the requested amendment to the State DBEDT for review and forwarding to the governor for approval. If approved by the governor, the requested amendment shall take effect on the date of the governor's approval.

(1994, ord 94-8, sec 1.)

Section 31-6. Provision of County incentives.

(a) County incentives shall be proposed at the time of initial application for the designation of a nominated enterprise zone or proposed as amendments to a previously designated enterprise zone.

(b) Proposed incentives may be made generally available throughout the zone, or available only to certain types of businesses, or available only for limited periods of time.

(c) Should the County be unable or unwilling to continue any approved County incentives, the mayor or the mayor's designated representative shall notify the DBEDT. On the date the notification is received by the DBEDT, such incentives shall terminate.

(1994, ord 94-8, sec 1.)

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CHAPTER 32

SPECIAL IMPROVEMENT FINANCING BY COMMUNITY FACILITIES DISTRICTS

Article 1. General Provisions.

Section 32-1. Citation.
Section 32-2. Provision of alternate method of financing special improvements.
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CHAPTER 32

SPECIAL IMPROVEMENT FINANCING BY COMMUNITY FACILITIES DISTRICTS

Article 1. General Provisions.

Section 32-1. Citation.

This chapter shall be known as the community facilities districts code.
(1994, ord 94-77, sec 3.)

Section 32-2. Provision of alternate method of financing special improvements.

This chapter is adopted pursuant to section 46-80.1, Hawai‘i Revised Statutes, as amended, and provides a complete, additional and alternative method of performing the acts authorized by this chapter, and the council may use the provisions of this chapter in addition to, in combination with or instead of any other law for or related to the creation of districts, the levying, assessment and collection of special taxes, the financing of facilities, the issuance of bonds and other matters covered by this chapter.
(1994, ord 94-77, sec 3.)

Section 32-3. Conflicting provisions of other laws.

Any provision in this chapter which conflicts with any other provision of law adopted by ordinance of the council shall prevail over the other provision of law.
(1994, ord 94-77, sec 3.)

Section 32-4. Actions and determinations of council.

The council may take actions or make any determinations which it determines are necessary or convenient to carry out the purpose of this chapter and which are not otherwise prohibited by law.
(1994, ord 94-77, sec 3.)

Section 32-5. Powers reserved to council.

Any provision of law to the contrary notwithstanding, the council reserves the following powers over any proposed community facilities district.

(a) If, for any reason whatsoever, the community facilities district bonds authorized under article 6 are not sold or cannot be sold to any acceptable purchaser within a reasonable time, then the council shall have the power and authority to terminate the entire community facilities district, or any part thereof by ordinance.

(b) In addition to the foregoing, at any time during the proceedings of any community facilities district proposal up to and including the adoption of the special tax ordinance under section 32-53, the council shall have the power and authority to terminate the entire community facilities district, or any part thereof by ordinance, if it determines that the community facilities district is not in the public interest.

(1994, ord 94-77, sec 3.)

Section 32-6. Limitation on challenges; exhaustion of remedies.

Pursuant to section 46-80.1, Hawaiʻi Revised Statutes, as amended, no action or proceeding to question the validity of or enjoining any ordinance, action, or proceeding undertaken pursuant to this chapter (including the determination of the amount of any special tax levied with respect to any property or the levy or assessment thereof), or any bonds issued or to be issued pursuant thereto or under this chapter, shall be maintained unless begun within thirty days of the adoption of the ordinance, determination, levy, assessment or other act, as the case may be, and, in the case of bonds, within thirty days after adoption of the ordinance authorizing the issuance of those bonds. Furthermore, no person may bring an action challenging the validity of or enjoining any district established, special tax levied or bonds issued under this chapter unless that person has appeared at the hearing on the establishment of the district or made an individual protest in writing at the time of or before the hearing to establish such district, special tax or bonds (or to changes or annexation, as applicable) as provided herein.

(1994, ord 94-77, sec 3.)

Section 32-7. Types of special improvements.

A district may be established to finance the purchase, construction, installation, expansion, improvement or rehabilitation of any real or other tangible property with a useful life estimated by the council to be five years or longer. Special improvements may be privately owned if the council determines that they serve a public purpose. Special improvements need not be physically located within the district.

Examples of special improvements which may be financed by a district include, but are not limited to, the following:

(a) Streets, roads, highways, pedestrian malls, sidewalks or alleyways, including but not limited to, grading, paving or otherwise improving the foregoing.
(b) Public parking facilities.
(c) Lighting systems, including, but not limited to traffic signals, for any public right-of-way.
(d) Local park, recreation, child care, parkway, and open-space facilities.
(e) Elementary, secondary, vocational and higher education school sites and facilities.
(f) Libraries, museums or other cultural facilities.

(g) The undergrounding of natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, cable television lines and other utility facilities. The County may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement may provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the ordinance of formation.
(h) Water systems.
(i) Police, criminal justice (including but not limited to jails and courthouses), fire suppression (including but not limited to fire stations) and paramedic facilities.
(j) Wastewater, storm drainage, sewage removal or treatment, or solid waste disposal, recycling or resource recovery systems or facilities.
(k) Transit or transportation systems.
(l) Telecommunications systems.
(m) Any other facilities which the County is authorized by law to contribute revenue to, or construct, own, maintain or operate.
(1994, ord 94-77, sec 3.)

Section 32-8. Payment of existing assessments or debt service.

The district may also pay in full all amounts necessary to eliminate or reduce any fixed assessment liens or to repay or defease, in whole or in part, any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a district or may pay debt service on that indebtedness.
(1994, ord 94-77, sec 3.)

Section 32-9. Transfer of moneys.

The council may from time to time transfer moneys to a district or to an improvement area within a district, for the benefit of the district or an improvement area therein, from any funds available to the County.
(1994, ord 94-77, sec 3.)

Section 32-10. Special levy.

In any fiscal year in which a special tax or charge is levied for any facility in a district or an improvement area within a district, the council may include in the levy a sum sufficient to repay, over such period of time as the council may specify, the amounts transferred to that district or improvement area pursuant to section 32-9.
(1994, ord 94-77, sec 3.)

Section 32-11. Revolving fund.

The council may appropriate any available moneys to a revolving fund to be used for the acquisition of real or personal property, engineering, planning and related design services, or the construction of structures or improvements needed in whole or in part to provide one or more of the facilities of a district. The revolving fund shall be reimbursed from special tax revenues or other money available from the district, and no sums shall be disbursed from the fund until the council has, by resolution, established the method by, and term within which, the district is to reimburse the fund. The district shall reimburse the fund for any amount disbursed to the district within the period specified by the council, together with interest at the current rate per annum received on similar types of investments by the council as determined by the director of finance.
(1994, ord 94-77, sec 3.)

Section 32-12. Contribution by County.

Any time either before or after the formation of the district, the council may provide, by ordinance, that for a period specified in the ordinance, the County may contribute, from any source of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of such revenues for the purposes set forth in such ordinance.
(1994, ord 94-77, sec 3.)

Section 32-13. Advances of funds or work in-kind.

At any time either before or after the formation of the district, the council may accept advances of funds or work or property in-kind from any source, including, but not limited to, paying any cost incurred by the County in creating a district. The County may enter into an agreement, as authorized by resolution, with the person or entity advancing the funds or work or property in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work or property in-kind, as provided in the agreement, with or without interest, provided that the proposal to repay the funds or the value or cost of the work or property in-kind, whichever is less, is included in the resolution of intention to establish a district adopted pursuant to section 32-20 and in the ordinance of formation to establish the district adopted pursuant to section 32-29 and, if applicable, in the ordinance of consideration to alter the types of facilities provided within an established district adopted pursuant to section 32-39, or the ordinance of annexation to annex additional territory to an established district adopted pursuant to section 32-48. Any such agreement shall not constitute a debt or liability of the County or be payable from sources other than the proceeds of the special taxes levied or proceeds of bonds issued pursuant to this chapter.
(1994, ord 94-77, sec 3.)

Section 32-14. Construction of chapter.

This chapter shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this chapter, which does not directly affect the jurisdiction of the County to order the provision of the facility, shall void or invalidate such proceeding or any levy for the costs of such facility.
(1994, ord 94-77, sec 3.)

Section 32-15. Validity of proceedings.

The failure of any person to receive a notice, resolution, ordinance, order, or other matter shall not affect in any way whatsoever the validity of any proceedings taken under this chapter, or prevent the council from proceeding with any hearing so noticed or other action.
(1994, ord 94-77, sec 3.)

Section 32-16. Definitions.

Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

"Bonds" means community facilities district bonds (including refunding bonds) issued pursuant to this chapter.

"Clerk" means the clerk of the council of the County.

"Community facilities district" means a district of land established by the County pursuant to this chapter for the sole purpose of financing facilities, including costs and incidental expenses. Land may be included in more than one community facilities district.

"Cost" means the expense of acquiring, constructing, installing, improving or rehabilitating facilities, including, but not limited to, the costs of construction, improvement or acquisition of buildings, acquisition of land, rights-of-way, water, sewer, or other capacity or connection fees, lease payments for facilities that are relocated, satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time bonds are issued pursuant to this chapter; architectural, engineering, inspection, legal, financial and other consultant fees; bond and other reserve funds; discount fees; interest on any bonds due and payable prior to the date of estimated completion of the facilities and for a period after that date determined by the council; costs of proceedings undertaken pursuant to this chapter, including, but not limited to, a reasonable fee to the County for undertaking such proceedings; and all costs of issuance of bonds, including, but not limited to, fees for bond counsel, other legal fees, trustee fees, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit, other credit enhancement costs, printing costs, and incidental expenses related thereto.

"Council" means the council of the County.

"County" means the County of Hawai'i.

"Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

"Director" means the director of finance of the County.

"District" means a community facilities district established pursuant to this chapter, and "financed by the district" means financed by the County using special taxes and any other moneys (including proceeds of bonds) derived from the district.

"Facilities," "improvements" or "special improvements" means the special improvements referred to in section 32-7, including costs and incidental expenses related thereto.

"Improvement area" means an area within a district so designated in accordance with section 32-59.

"Incidental expense" includes all of the following:

(1) The cost of planning and designing facilities to be financed pursuant to this chapter, including the cost of environmental evaluations of those facilities.

(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 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 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 94-77, sec 3; am 2007, ord 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 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: "Hawaiʻi 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 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 94-77, sec 3; am 2001, ord 01-108, sec 1; am 2007, ord 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 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 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 such approval is in the public interest. The council's findings shall be final and conclusive.

(1994, ord 94-77, sec 3; am 2009, ord 09-33, sec 2.)

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 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 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.

(c) If the more than fifty-five percent protests are only against the furnishing of a specified type or types of facilities, or against levying a specified special tax, then proceedings to create the district may continue, but those types of facilities or the specified special tax shall be eliminated from the ordinance of formation (if adopted).

(1994, ord 94-77, sec 3.)

Section 32-28. Duration of hearing; determination.

The hearing may be continued from time to time, but shall be completed within thirty days, except that if the council finds that the complexity of the proposed district or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. The council may modify the resolution of intention by eliminating proposed facilities, or by changing the rate or method of apportionment of the proposed special tax so as to reduce the maximum special tax for all or a portion of the property within the proposed district, or by removing territory from the proposed district. At the conclusion of the hearing, the council may abandon the proposed establishment of the community facilities district or may, after considering all protests and such other relevant factors (such as the County general plan) as it shall deem appropriate, subject to section 32-27, determine to proceed with establishing the district.

(1994, ord 94-77, sec 3.)

Section 32-29. Adoption of ordinance of formation.

(a) If the council determines to establish the district, it shall adopt an ordinance of formation establishing the district. The ordinance of formation shall contain all of the information required to be included in the resolution of intention to establish the district specified in section 32-20 (and, if not otherwise contained in the resolution of intention, any designation made by the council pursuant to section 32-59). If a special tax is to be levied in the district to pay for any facilities and the special tax has not been eliminated by protest pursuant to section 32-27, the ordinance shall state that fact and shall identify any facilities proposed to be funded with the special tax, including estimated costs and incidental expenses.

(b) If the ordinance of formation is adopted pursuant to subsection (a), the council shall determine whether all proceedings were valid and in conformity with the requirements of this chapter. If the council determines that all proceedings were valid and in conformity with the requirements of this chapter, it shall make a finding to that effect and that finding shall be final and conclusive.

(1994, ord 94-77, sec 3.)

Section 32-30. Special tax; apportionment.

There is no requirement that the special tax imposed pursuant to this chapter be fixed in amount or apportioned on the basis of special benefit to any property or that the facility to be financed convey a special benefit on any property in the district. It shall be sufficient that the council determines that the property to be subject to the special tax is improved or benefitted in a general manner or in any other manner. Notwithstanding anything to the contrary contained in this chapter, the facilities to be financed may be located outside of the district and may also benefit property outside the district. However, a special tax levied pursuant to this chapter may be based on benefit received by parcels of real property, or the cost of making facilities available to each parcel, or the stage or type of development or use of each parcel, or wholly or partially contingent as to all or certain parcels on the happening of one or more specified events related to the development or improvement of such parcels, or any other reasonable basis or formula as determined by the council, and any determination of the reasonableness of any special tax or the basis or method of the apportionment thereof by the council shall be final and conclusive.
(1994, ord 94-77, sec 3.)

Section 32-31. Establishment of district boundaries.

(a) A community facilities district may include areas of territory that are not contiguous.
(b) In establishing the boundaries of the district, the council may alter the exterior boundaries of the district to include less territory than that described in the notice of the hearing or the petition but it may not include any territory not described in the notice of the hearing or the petition except as provided in section 32-25.

(1994, ord 94-77, sec 3.)

Section 32-32. Levy of special tax.

(a) At any time after the adoption of the ordinance of formation, the council may levy and assess any special tax within the territory of the district as specified in the ordinance of formation adopted pursuant to subsection (a) of section 32-29 or in a separate special tax ordinance if such levy is not provided for in the ordinance of formation.
(b) Upon levy of the special tax, the director shall forthwith notify the several landowners and lessees of which the director is aware by certified mail of the amount of the special tax to be assessed on the respective parcel, of any formula by which the special tax may be changed, and of the date when the special tax becomes payable. Failure to give or receive such notice to or by any landowner or lessee shall in no way affect the validity of the levy of special tax under this chapter nor entitle the landowner or lessee to an extension of time within which to pay the special tax.

(c) All special taxes levied pursuant to this chapter shall be a lien against each lot or parcel of land subject to the special tax from the date of adoption of the ordinance levying the special tax until fully paid, or until the expiration of the special tax, in each case as provided in the ordinance, and shall have priority over all other liens except the lien of general real property taxes and the lien of assessments levied under section 46-80, Hawaiʻi Revised Statutes, as amended. The lien of the special tax levied and assessed pursuant to this chapter shall be on a parity with the lien of general property taxes and the lien of assessments levied under section 46-80, Hawaiʻi Revised Statutes, as amended, except to the extent the law or assessment ordinance provides that the lien of assessments levied under section 46-80 shall be subordinate to the lien of general real property taxes. All liens of special taxes made pursuant to this chapter shall be on a parity without regard to when made or for what purpose. No delay, mistake, error, defect or irregularity in any act or proceeding authorized by this chapter shall prejudice or invalidate any special tax or related lien; but the same may be remedied by subsequent or amended acts or proceedings and, when so remedied, the same shall take effect as of the original act or proceeding. If in any court of competent jurisdiction any special tax levied under this chapter is set aside for irregularity in the proceedings, the council may, upon notice and hearing or by petition as required in establishing an original district pursuant to this chapter, make a new levy and assessment of a special tax in accordance with the provisions of this chapter.

(d) Within fifteen days after the levy and assessment by ordinance of any special tax pursuant to this chapter, the director shall file a notice of special tax authorization with the bureau of conveyances or land court. The notice of special tax authorization shall be in substantially the following form:

NOTICE OF SPECIAL TAX AUTHORIZATION

Pursuant to the requirements of section 32-32, Hawai‘i County Code, the undersigned Clerk of the Council of the County of Hawai‘i, State of Hawai‘i, hereby gives notice that the Council of the County of Hawai‘i, State of Hawai‘i is authorized to annually levy and assess a special tax for the purpose of: (as applicable)

(1) Paying principal and interest on bonds, the proceeds of which are being used to finance (briefly describe facilities financed), and incidental expenses;

(2) Providing (briefly describe facilities financed without bonds).

The special tax is authorized to be imposed within Hawai‘i County Community Facilities District No.___ which has been officially formed.

The rate and method of apportionment of the authorized special tax is as follows: (here insert verbatim description of the rate and method of apportionment from the ordinance of formation of the district). The special tax is a lien on the property upon which it is levied.

Reference is made to the (amended) boundary map of the community facilities district on file with the Clerk of the Council of the County of Hawai‘i, which map is the final boundary map of the community facilities district.

For further information contact (here provide name, address, and telephone number of the appropriate office, officer, department, or bureau of the County).

(e) From the date of filing pursuant to subsection (d), all persons are deemed to have notice of the contents of the notice of special tax authorization.

(1994, ord 94-77, sec 3.)

Article 3. Changes in Term of District, Authorized Facilities and Special Taxes.

Section 32-33. Facilities specified in ordinance.

Except as otherwise provided in this chapter, upon the establishment of a district, only the types of facilities specified in the ordinance of formation may be financed by the district under the authority of this chapter.
(1994, ord 94-77, sec 3.)

Section 32-34. Levy of special tax as specified in ordinance.

Upon approval of a special tax under this chapter, the special tax may be levied only at the rate and may be apportioned only pursuant to the method specified in the ordinance of formation, except as provided in this chapter, and except that the council may levy the special tax at a rate lower than that specified in the ordinance. In addition, the special tax may be levied only so long as it is needed to pay the principal and interest on debt incurred in order to provide facilities under authority of this chapter, or so long as it is needed to pay the costs and incidental expenses of such facilities or debt.
(1994, ord 94-77, sec 3.)

Section 32-35. Elimination of facilities in ordinance.

Except as otherwise provided in this chapter, the council may, at any time, after conducting a public hearing, eliminate one or more of the types of facilities specified in the ordinance of formation to establish the district but may not finance any types of facilities that were not specified in the ordinance of formation.
(1994, ord 94-77, sec 3.)

Section 32-36. Authorization to change term, facilities or special taxes.

(a) If the council determines that the public convenience and necessity require any change in the term of an established district or in the types of authorized public facilities which should be financed, that the rate or method of apportionment of a special tax should be changed, or that a new special tax should be proposed, the council may adopt an ordinance of consideration to alter the term of the district or the types of facilities to be financed, to levy and assess a new special tax or special taxes, or, except as provided in subsection (b), to alter the rate or method of apportionment of the special tax. Those proceedings may be commenced at any time.

(b) The council shall not adopt an ordinance of consideration to reduce the term of any district or the rate of any special tax or terminate the levy of any special tax if the district or proceeds of that tax are being utilized to retire any debt incurred pursuant to this chapter unless the council determines that the reduction in the term of that district or the reduction or termination of that tax (as the case may be) would not interfere with the timely retirement or otherwise impair the security of that debt.

(c) The ordinance of consideration adopted pursuant to subsection (a) shall contain all of the information required by paragraphs (a) to (e), inclusive, of section 32-39.
(1994, ord 94-77, sec 3.)

Section 32-37. Petition for changes in term, facilities or taxes.

(a) If a petition signed by the landowners (or lessees described in section 32-27) of twenty-five percent or more of the territory within the district is filed with the council requesting that proceedings be commenced to change the term of the district or the types of facilities financed by the district or that the rate or method of apportionment of an existing special tax be changed, or that a new special tax be levied, the council shall thereafter adopt an ordinance of consideration in the form specified in section 32-39 to make those changes within the district except that the term of a district shall not be reduced and an existing special tax being used to retire any debt incurred in order to finance facilities under this chapter shall not be reduced or terminated if doing so would interfere with the timely retirement or otherwise impair the security of that debt.
(b) Any petition pursuant to this section shall be accompanied by the payment of a fee (if any) which the council determines is necessary to compensate the County for costs incurred in conducting proceedings to change the district pursuant to this article.
(1994, ord 94-77, sec 3.)

Section 32-38. Form of petition.

The petition shall request the council to commence proceedings to make specified changes to a named district. The petition may consist of any number of separate instruments each of which shall comply with all the requirements of a petition except as to the number of signatures.
(1994, ord 94-77, sec 3.)

Section 32-39. Form of ordinance for changes in term, facilities or taxes.

The ordinance of consideration to alter the term of an established district, the types of facilities financed, or to levy and assess a new special tax or special taxes, or to alter the rate or method of apportionment of an existing special tax, shall do all of the following:
(a) State the name of the district.
(b) Generally describe the territory included in the district.
(c) Specify the changes in term or facilities or special taxes proposed.
(d) Specify any new special taxes which would be levied to pay for new or existing facilities and any proposed alteration to the rate or method of apportionment of an existing special tax.
(e) Fix a time and place for a hearing upon the ordinance which shall not be less than sixty or more than ninety days after the adoption of the ordinance of consideration.
(1994, ord 94-77, sec 3.)

Section 32-40. Notice of hearing on ordinance.

The clerk shall give notice of the hearing in the same manner and within the same time as provided for the giving of notice of a hearing on a resolution of intention to establish a district.

The notice shall do all of the following:

(a) Contain the text of the ordinance.

(b) State the time and place for hearing.

(c) State that at the hearing the testimony of all interested persons or taxpayers for or against the proposed changes 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 made (and of failure to make written protests) against the proposed changes.

The notice and hearing may be waived in the same manner as provided in section 32-24.

(1994, ord 94-77, sec 3.)

Section 32-41. Protests.

At the hearing, protests against the proposals described in the ordinance may be made orally or in writing by any interested persons. Any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and 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 94-77, sec 3.)

Section 32-42. 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 included in the district, file with the council, prior to or at the beginning of the hearing, written protests against changing the term of the district or the facilities to be financed, or changing the apportionment or increasing the amount of any special tax levied in the district, and if protests are not withdrawn so as to reduce the amount of the protests to fifty-five percent or less, those changes specified in the written protests shall be eliminated from the ordinance and shall not be included in another ordinance for a period of one year from the date of the decision of the council on the hearing.

(b) If property 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 files with the council either:

(1) A written statement that the lease does not require the lessee to pay the special tax and a written undertaking by the lessor or owner to pay the 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 special tax and a written undertaking by the lessor or owner to pay the special tax and to refrain from imposing the obligation to pay the special tax upon any successor lessee.

(1994, ord 94-77, sec 3.)

Section 32-43. Duration of hearing; abandonment of proceedings.

The hearing may be continued from time to time, but shall be completed within thirty days, except that if the council finds that the complexity of the proposed district or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. Subject to section 32-42, at the conclusion of the hearing the council may abandon the proceedings or may, after passing upon all protests and after considering such other relevant factors (such as the County general plan) as it shall deem appropriate, determine to proceed to change the term of the district or facilities to be financed by the district, or levy and assess an additional special tax or special taxes within the district, or change an existing special tax within the district, as proposed in the ordinance of consideration.

(1994, ord 94-77, sec 3.)

Section 32-44. Filing of notice.

Upon adoption of the ordinance of consideration, the clerk shall provide notice as provided in section 32-32.

(1994, ord 94-77, sec 3.)

Section 32-45. Application to improvement area.

An improvement area may be established by the ordinance of consideration in connection with changes in term, facilities or special taxes pursuant to this article. In case the changes contemplated by this article are to apply only to an improvement area, the proceedings provided in this article shall also apply only to such improvement area.

(1994, ord 94-77, sec 3.)

Article 4. Annexation of Territory.

Section 32-46. Authorization to annex; contiguity not required.

The council may annex territory to an existing district as provided in this article. The annexed territory need not be contiguous to territory included in the existing district.

(1994, ord 94-77, sec 3.)

Section 32-47. Ordinance of annexation.

If the council determines that public convenience and necessity require that territory be added to an existing district, or if one hundred percent of the landowners (or lessees described in section 32-27) in the territory to be annexed petition the council to include territory within the district, the council may adopt an ordinance of annexation to annex the territory.
(1994, ord 94-77, sec 3.)

Section 32-48. Contents of ordinance of annexation.

The ordinance of annexation to annex the territory shall do all of the following:

(a) State the name and term of the existing community facilities district.
(b) Generally describe the territory included in the existing district and the territory proposed to be annexed.
(c) Specify the types of facilities provided pursuant to this chapter by the existing district and the types of facilities to be provided by the territory proposed to be annexed; and include a plan for providing facilities that will be financed in common by the existing district and the territory proposed to be annexed.
(d) Specify any special taxes which would be levied within the territory proposed to be annexed to pay for facilities provided pursuant to this chapter. A special tax proposed to pay for facilities financed with bonds secured by the existing district shall be the same as the tax levied in the existing district for that purpose, except that a higher special tax may be levied for that purpose within the territory proposed to be annexed to compensate for the interest and principal and incidental expenses previously paid by the existing district, less any depreciation allowable to the facility as determined by the council.
(e) Specify any alteration in the special tax rate levied within the existing district as a result of the proposed annexation. The maximum tax rate in the existing district may not be increased as a result of annexation proceedings pursuant to this article.
(f) Fix a time and place for a hearing upon the ordinance which shall not be less than sixty nor more than ninety days after the adoption by the council of the ordinance of annexation to annex territory pursuant to section 32-47.

(1994, ord 94-77, sec 3.)

Section 32-49. Notice of hearing.

The clerk of the council shall give notice of the hearing in the same manner and within the same time as provided for the giving of notice of a hearing on a resolution of intention to establish a district, as required by section 32-22 or section 32-23, within the territory proposed to be annexed.

The notice shall do all of the following:

(a) Contain a summary of the ordinance and the name, address and telephone number of a department or official of the County from which a copy of the ordinance can be obtained (alternatively, the notice may contain the full text of the ordinance).
(b) State the time and place for the hearing.

(c) State that at the hearing the testimony of all interested persons for or against the annexation of territory to the district or the levying of special taxes within the territory proposed to be annexed 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 made (and of failure to make written protests) against the proposed changes.

The notice and hearing may be waived in the same manner as provided in section 32-24.

(1994, ord 94-77, sec 3.)

Section 32-50. Protests.

At the hearing, protests against the proposals described in the ordinance of annexation may be made orally or in writing by any interested person. Any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities or defects to which objection is made. All written protests shall be filed with the clerk prior to 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 94-77, sec 3.)

Section 32-51. Protest by more than fifty-five percent.

(a) If the owners of more than fifty-five percent of the area of land, or if more than fifty-five percent of the owners of the land, in the territory included in the existing district or the annexed territory, file with the council, prior to or at the beginning of the hearing, written protests against the proposed addition of territory to the existing district, and if protests are not withdrawn so as to reduce the amount of the protests to fifty-five percent or less, no further proceedings shall be undertaken for a period of one year from the date of decision of the council on the issues discussed at the hearing.

(b) If property included or 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 files with the council either:

(1) A written statement that the lease does not require the lessee to pay the special tax and a written undertaking by the lessor or owner to pay the 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 special tax and a written undertaking by the lessor or owner to pay the special tax and to refrain from imposing the obligation to pay the special tax upon any successor lessee.

(1994, ord 94-77, sec 3.)

Section 32-52. Duration of hearing; abandonment; election.

The hearing may be continued from time to time, but shall be completed within thirty days, except that if the council finds that the complexity of the proposed annexation or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. Subject to section 32-51, at the conclusion of the hearing, the council may abandon the proceedings or may, after passing upon all protests, determine that the area proposed to be annexed is added to and part of the existing district with full legal effect, pursuant to the ordinance of annexation. Thereafter, the council may, by ordinance, levy and assess any special tax within the annexed territory.
(1994, ord 94-77, sec 3.)

Article 5. Procedures for Levying Special Tax.

Section 32-53. Levy of special tax.

After a district has been created and authorized to levy specified special taxes pursuant to this chapter, the council may, by ordinance, levy and assess the special taxes at the rate and apportion them pursuant to the method specified in the ordinance of formation or the ordinance of consideration or the ordinance of annexation, as appropriate, except that the council may levy and assess the special tax at a lower rate, subject to the provisions of section 32-62. Properties or entities of the State, Federal, or County governments shall, except as otherwise provided in section 32-54, be exempt from the special tax. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the ordinance of formation to establish a district adopted pursuant to section 32-29 or in an ordinance of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in section 32-39 or in an ordinance of annexation adopted pursuant to section 32-48. The proceeds of any special tax may only be used to pay, in whole or part, the cost of facilities (including the debt service of any bonds issued to pay such costs), and incidental expenses pursuant to this chapter. The special tax may be collected in the same manner as general real property taxes are collected, be subject to the same penalties and the same procedure, sale, and lien priority (subject to the provisions of section 32-32(c)) in case of delinquency as is provided by general law for default on the payment of real property taxes, unless another procedure is adopted by the council in the ordinance of formation or special tax ordinance. The director may collect the special tax at intervals as specified in the ordinance of formation or special tax ordinance, including intervals different from the intervals at which the general real property taxes are collected. The director may deduct reasonable administrative costs incurred in collecting the special tax to the extent included in the special tax.
(1994, ord 94-77, sec 3.)

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 94-77, sec 3; am 2007, ord 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 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 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 94-77, sec 3; am 2007, ord 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 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 "Hawaiʻi 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 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 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 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 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 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 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 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 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 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 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 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 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 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 Hawaiʻi.
(1994, ord 94-77, sec 3.)

CHAPTER 33

TAX INCREMENT DISTRICTS

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CHAPTER 33

TAX INCREMENT DISTRICTS

Article 1. General Provisions.

Section 33-1. Purpose.

The purpose of this chapter is to enable the County to utilize tax increment financing to finance public improvements within a specific contiguous or noncontiguous geographic area, which is also an improvement district or a community facilities district, designated a tax increment district, by dedicating a portion of property tax revenue increases within the district to the funding of specific projects. This chapter also allows the creation of provisional tax increment districts, which can provide resources to enable the County to comprehensively address conditions in a targeted area through improvement districts, community facilities districts, or a combination of the two methods in conjunction with tax increment financing.
(1994, ord 94-76, sec 3.)

Section 33-2. Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless the context indicates a different meaning or intent:

"Adjusted assessment base" means the value of the assessment base for a tax increment or provisional tax increment district after adjusting the original assessment base annually by the adjustment rate, the effect of which shall be cumulative.

"Adjustment rate" means a percentage rate or rates of adjustment of the assessment base recommended by the director of finance and approved by the council at the time the tax increment or provisional tax increment district is established, based on the historical and projected increases to the assessed values of taxable real property within the boundary of the district and the projected cost increases to the County for servicing the new developments within the district.

"Assessment base" means the total assessed values of all taxable real property in a tax increment or provisional tax increment district as most recently certified by the director of finance on the date of creation of the district.

"Assessment increment" means the amount by which the current assessed values of taxable real property located within the boundaries of a tax increment or provisional tax increment district exceeds its assessment base.

"Blight" means a condition resulting in a reduction in or lack of proper utilization of the area to such an extent that it constitutes a serious physical, social or economic burden on the County. Specifically, this improper utilization must be caused by either:

(a) The existence of residential, commercial, industrial or other types of buildings which are unfit or unsafe to occupy and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime because of any one or a combination of the following factors:
    (1) Defective design and character of physical construction;

(2) Faulty interior arrangement and exterior spacing;
(3) High density of population and overcrowding;
(4) Inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities; or
(5) Age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses; or

(b) The existence of properties which suffer from economic dislocation, deterioration, or whose use is unreasonably impaired because of one or more of the following factors:
(1) Faulty planning;
(2) The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development;
(3) The laying out of lots in disregard of the contours and other topography or physical characteristics of the ground and surrounding conditions;
(4) The existence of inadequate public improvements, public facilities, open spaces, and utilities which cannot be remedied by private or governmental action without tax increment financing;
(5) A prevalence of depreciated values, impaired investments, and social and economic maladjustment; or
(6) The existence of lots or other areas which are subject to being submerged by water.

"Council" means the council of the County of Hawaiʻi.

"County" means the County of Hawaiʻi.

"Director" means the director of finance of the County of Hawaiʻi.

"Project costs" means expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the district that are listed in a tax increment financing plan as costs of public works or public improvements in a tax increment district, plus other costs incidental to the expenditures or obligations. Project costs include:

(a) Capital costs, including the actual costs of the construction of public works or public improvements, new buildings, structures, and fixtures; the actual costs of the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition, clearing, and grading of property;

(b) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of tax increment bonds and all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs, any capitalized interest, and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity;

(c) Professional service costs, including architectural, planning, engineering, marketing, appraisal, financial consultant, and special services and legal advice;

(d) Imputed administrative costs, including reasonable charges for the time spent by employees of the County in connection with the implementation of a tax increment financing plan;
(e) Relocation costs to the extent required by Federal or State law;
(f) Organizational costs, including the costs of conducting environmental impact studies or other studies, the costs of publicizing the creation of a tax increment district, and the cost of implementing the tax increment financing plan for the tax increment district;
(g) Payments determined by the council to be necessary or convenient to the creation of a tax increment district or improvement district, or to the implementation of the tax increment financing plan for the tax increment district.

"Property" means:
(a) Land, including land under water and waterfront property;
(b) Buildings, structures, fixtures, and improvements on the land;
(c) Any property appurtenant to or used in connection with the land;
(d) Every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

"Provisional tax increment district" means a contiguous or noncontiguous geographic area designated pursuant to this chapter by the council for the purpose of financing preliminary costs for establishing a tax increment district in conjunction with an improvement district or community facilities district.

"Public works" or "public improvements" means any one or any combination of the following which shall be constructed to standards acceptable to the County at the time of the commencement of the project:
(a) The establishment, opening, extension, widening, or altering of any street, alley, or other highway or sidewalk;
(b) The grading, paving, curbing, or otherwise improving of the whole or any part of any existing public street, alley, or other highway or sidewalk;
(c) The construction, installation, extension, maintenance, reconstruction, additions or improvements of a storm drainage facility or sanitary sewerage system;
(d) The construction, installation, extension, maintenance, reconstruction, additions or improvements of a street lighting system;
(e) The construction, installation, extension, maintenance, reconstruction, additions or improvements of a water system;
(f) The construction, installation, extension, maintenance, reconstruction, additions or improvements of underground or overhead utility facilities including gas, electrical, telephone, or television facilities, and the removal, relocation, replacement or reconstruction thereof;

(g) The establishment, extension, or construction of public off-street parking facilities, pedestrian mall, parks, playgrounds, beach areas, or other public recreational areas and facilities;
(h) To make improvements related to the foregoing and to otherwise improve any of the foregoing to an extent exceeding maintenance or repair thereof;
(i) Any other public improvement deemed necessary for the tax increment district by the council.

"Targeted area" means a specific geographic area proposed to be included in a tax increment or provisional tax increment district in which the council finds that blight significantly impacts and injuriously affects the entire area.

"Tax increment" means the amount of real property taxes levied for each fiscal year on the assessment increment.

"Tax increment bonds" means bonds, notes, interim certificates, debentures, or other obligations issued pursuant to this chapter.

"Tax increment district" or "district" means a contiguous or noncontiguous geographic area designated pursuant to this chapter by the council for the purpose of tax increment financing.

"Tax increment financing plan" or "financing plan" means the plan for tax increment financing for a district submitted to and approved by the County council. The tax increment financing plan shall contain estimates of:
(a) Project costs;
(b) Amount of tax increment bonds to be issued;
(c) Sources of revenue to finance or otherwise pay project costs;
(d) The most recent assessed value of taxable real property in the district;
(e) The duration of the district's existence;
(f) The financial and budgetary impacts on the County resulting from the proposed tax increment financing plan;
(g) The proposed adjustment rate as recommended by the director of finance.

"Tax increment fund" or "fund" means a fund held by the director or other fiduciary designated by the council and into which all tax increments, other moneys pledged by the County for payment of tax increment bonds and any moneys available for project costs are paid, and all proceeds from the sale of tax increment bonds are deposited, and from which moneys are disbursed to pay project costs for the tax increment district or to satisfy claims of holders of tax increment bonds issued for the district, or as otherwise authorized herein.

"Total assessed value" means the gross assessed value less any applicable exemptions, and is also referred to as the "net assessed value."
(1994, ord 94-76, sec 3.)

Section 33-3. Authority; general provisions.

(a) Whenever in the opinion of the council it is desirable to create a tax increment or provisional tax increment district, the district shall be created and the project financed under the provisions of this chapter.

(b) All project costs of a tax increment or provisional tax increment district shall be paid from the tax increment fund of that district.

(c) The County may issue and sell tax increment bonds to provide funds to pay project costs upon finding that the tax increment of the district and any other available revenues will be sufficient to cover the full debt service on any such bonds. Both principal and interest on tax increment bonds shall be payable solely from the tax increment fund, all according to the provisions of this chapter.

(1994, ord 94-76, sec 3.)

Section 33-4. Powers reserved to council.

Any provision of law to the contrary notwithstanding, the council reserves the following powers over any tax increment district proposal:

(a) If, for any reason whatsoever, the tax increment bonds authorized under article 4 are not sold or cannot be sold to any acceptable purchaser within a reasonable time, then the council shall have the power and authority to terminate the project to be financed by the tax increment district, or any part thereof. In the event that the project is terminated, all project costs incurred to the date of termination shall be paid from the tax increment fund.

(b) In addition to the foregoing, at any time during the proceedings of any tax increment or provisional tax increment district proposal up to and including the adoption of the ordinance creating a tax increment district under section 33-11, the council shall have the power and authority to terminate the entire tax increment district project, or any part thereof, if it determines that the tax increment district project is not in the public interest.

(c) In addition to the foregoing, at any time during the proceedings of any tax increment district proposal up to and including the adoption of the ordinance creating a tax increment district under section 33-11 hereof, the council shall have the power and authority to require the inclusion of costs of off-site improvements such as roads, water, sewers, drainage, which may be outside the tax increment district boundaries but which service the tax increment district. In the event that such costs are to be so included, the appropriate resolutions and ordinances shall be amended accordingly.

(1994, ord 94-76, sec 3.)

Section 33-5. Private contributions.

The owner or owners of real property located in a tax increment district or provisional tax increment district may advance funds for project costs. Any funds advanced under this section shall be deposited in the tax increment fund for the district. To the extent that such funds are used to pay project costs of the district, the council shall authorize partial or full reimbursement from the tax increment fund to the property owners who advanced such funds upon the termination of the district if money is available in the fund to make such reimbursement. If the funds advanced are not used to pay project costs within three years of the date they are advanced, the money shall be returned at that time to the property owners who advanced the funds along with the interest earned, if any, on the investment of the funds advanced while they were on deposit with the district.
(1994, ord 94-76, sec 3.)

Section 33-6. Administration; annual report.

(a) The director of finance shall be responsible for the administration of this chapter, including any tax increment districts enacted hereunder, and shall adopt rules pursuant to chapter 91, Hawaiʻi Revised Statutes, as necessary for the purposes of implementing this chapter.
(b) The director of finance shall prepare an annual report to be submitted to the council by August 15 of every year on the status of every tax increment and provisional tax increment district. The report shall:
    (1) Update the estimates and projections provided in the original plan(s);
    (2) Certify the amount of the assessment increment to the council, together with the proportion that the assessment increment bears to the total assessed value of the real property within the district for that year; and
    (3) Provide such additional information as the director deems necessary or the council requests.

(1994, ord 94-76, sec 3.)

Section 33-7. Requirements.

No tax increment district can be created unless the council finds that the proposed district meets all of the following requirements:
(a) The project area proposed to be included in the district is a targeted area.
(b) The improvements necessary to remedy the conditions in the targeted area cannot reasonably be expected to be accomplished in a reasonable time without tax increment financing.

(c) The assessment base of the property proposed to be included in the district shall not cause the total assessed valuation of all property included in tax increment districts, determined at the time the districts were created as supplemented by the assessed valuation of property subsequently included in a district at such time of inclusion, to exceed ten percent of the total assessed value of all taxable real property in the County.
(d) The project area is also designated as an improvement district or community facilities district pursuant to the Hawai‘i County Code.
(1994, ord 94-76, sec 3.)

Section 33-8. Limitation on time to sue.

No action or proceeding to review any acts or proceedings or to question the validity or enjoin the performance of any act, the issue or payment of any bonds, or the allocation of any tax increment authorized by this chapter, whether based upon irregularities or jurisdictional defects, or otherwise, shall be maintained unless begun within thirty days after performance of the act or the passage of the resolution or ordinance complained of.
(1994, ord 94-76, sec 3.)

Article 2. Procedure.

Section 33-9. Initiation by council; study of proposed project.

(a) The council shall, by resolution requiring not more than one reading for its adoption:
  (1) Determine the boundaries of a proposed district.
  (2) Direct the director of finance to investigate and report to the council within sixty calendar days:
    (A) The total assessed value of:
      (i) All taxable real property in the County, and
      (ii) The assessment base of the proposed district;
    (B) The total assessed values of all taxable real property in the proposed district compared to the total assessed values of all taxable real property in the County over the two years immediately preceding the current year;
  (3) Direct the director of public works to investigate and report to the council within sixty calendar days:
    (A) Preliminary data concerning the current status of improvements within the proposed district, including:
      (i) Any revisions recommended to the proposed boundaries of the district;
      (ii) The present extent of public and private infrastructure located within the boundaries of the proposed district;
      (iii) The infrastructure needs within the proposed district, listed in order of their priority.

(B) The general character and extent of any improvements to be proposed, and their estimated cost;
(C) Whether any new land will be necessary to be acquired, and the estimated cost thereof and the proportion of the cost, if any, which should be borne by the County;
(D) Upon consultation with the planning director, determine:
(i) The present zoning within the proposed district;
(ii) The extent to which the present land use within the proposed district conforms to the County general plan;
(iii) The extent to which the present land use within the proposed district relates to any community development plan for the area;
(iv) The likelihood of the needs identified in subsection (a)(3)(A)(iii) of this section being addressed by the County or private means without the use of tax increment financing;
(v) Any additional information which may assist the council in determining if the proposed district is a targeted area.
(E) If the proposed district includes the construction or improvement of a water system or any part thereof, the director of public works shall consult with the department of water supply in determining the estimate of the cost to be included in the preliminary report to the council.

(b) After the above reports have been furnished and filed with the council, they shall not be acted upon until one week has elapsed from the date of the filing of the last report. If any one or more of the reports required in subsection (a) above are not filed with the council within the required sixty days, the council may proceed with the district without such reports.

(c) Thereafter the council may, by resolution requiring one reading for its adoption:
(1) Find that the area proposed to be included in a tax increment district meets all of the requirements of section 33-7.
(2) Direct the finance director to prepare and submit to the council within sixty calendar days a tax increment financing plan which shall contain estimates of:
(A) Project costs;
(B) Amount of tax increment bonds to be issued;
(C) Sources of revenue to finance or otherwise pay project costs;
(D) The most recent assessed value of taxable real property in the district;
(E) The duration of the district's existence;
(F) The recommended adjustment rate for the district;
(G) Statement regarding the financial and budgetary impacts on the County resulting from the proposed tax increment financing plan.

(1994, ord 94-76, sec 3.)

Section 33-10. Tax increment financing plan.

In preparing the report required by section 33-9(c)(2), the director of finance may consult with the director of public works, the planning director, or with such financial consultant as has been specially employed by the mayor on behalf of the County to assist in the proceedings or who may otherwise be available to the County. The report may include such sums as deemed proper by the director of finance for reserve funds, bond discount allowances, and construction contingencies in determining the estimate of project costs.
(1994, ord 94-76, sec 3.)

Section 33-11. Establishment of tax increment district.

The council may provide for tax increment financing by approving a tax increment financing plan and adopting an ordinance establishing the tax increment district. The ordinance shall:

(a) Describe the boundaries of the tax increment district;
(b) Provide for the date of commencement of the tax increment district and the date of termination of the district;
(c) Provide for the establishment of a tax increment fund for the district; and
(d) Provide for such other matters deemed to be pertinent and desirable for tax increment financing and not inconsistent with the County general plan or any relevant redevelopment or community development plan.

(1994, ord 94-76, sec 3.)

Section 33-12. Termination of a tax increment district.

A tax increment district shall terminate at the time designated in the ordinance creating the district or at an earlier time designated by a subsequent ordinance, but in no event shall the district terminate until such time as all project costs and tax increment bonds issued for the district and the interest thereon have been paid in full, or sufficient funds have been irrevocably deposited in a special fund or other escrow account held in trust for all outstanding tax increment bonds issued for such district to provide for the payment of such bonds at maturity or date of redemption and interest and premium, if any, thereon.
(1994, ord 94-76, sec 3.)

Section 33-13. Provisional tax increment district.

A provisional tax increment district may be created by the council when an area meets the definition of a targeted area and the council finds either that tax increment financing alone will be unable to adequately address the conditions in the targeted area or that the owners of land in the targeted area should participate in the expense of addressing the conditions to a greater extent than is provided for with tax increment financing.

(a) The council shall, by resolution requiring not more than one reading for its adoption:
    (1) Determine the boundaries of a proposed district.

(2) Direct the director of finance and director of public works to investigate and report to the council the same information as required by subsections 33-9(a)(2) and 33-9(a)(3).

(3) Fix a date of public hearing upon the proposed provisional tax increment district, which date shall be not less than fifteen days after the first publication of notice thereof in a newspaper of general circulation in the County.

(b) After the above reports have been furnished and filed with the council, they shall not be acted upon until one week has elapsed from the date of the filing of the last report. If any one or more of the reports required in subsection (a) above are not filed with the council within the required sixty days, the council may proceed with the district without such reports.

(c) After the adoption of the resolution, the County clerk shall cause a notice of the public hearing to be published twice a week for two successive weeks (four publications in all) in accordance with the requirements of the County Charter and the Hawaiʻi Revised Statutes for public notice, giving notice, generally, to all owners of land proposed to be included in the provisional district and to all others interested in the general details of the improvements as proposed by the council and stating the time and place of public hearing and where the resolution and reports and other data may be seen and examined prior to the hearing. Like notices shall be posted at least ten days prior to the hearing at a public place in the judicial district in which the proposed provisional district is located.

(d) Any failure to post, mail, or receive the notice described above, shall not invalidate the proceedings held thereafter.

(e) If, as a result of the public hearing, the council finds that the owners of property in the proposed district do not support the proposed improvements, or are not willing to pay for the improvements through the improvement district or similar process if necessary, the council may at its sole discretion terminate the provisional tax increment district proceedings.

(f) If the council decides to proceed with the creation of a provisional tax increment district after the public hearing, it may by ordinance provide for the creation of a provisional tax increment district. This ordinance shall accept the reports of the director of finance and director of public works required by subsection (a) of this section, and shall:

(1) Find that the area proposed to be included in a provisional tax increment district meets all of the requirements of section 33-7;

(2) Create a provisional tax increment district which will terminate not later than five years from the date of its creation if it has not been converted by ordinance passed in accordance with section 33-11 to a tax increment district before its termination;

(3) Describe the boundaries of the provisional tax increment district;

(4) Provide for the date of commencement and termination of the provisional tax increment district;

(5) At the option of the council, this ordinance may provide that until an improvement district is approved by the owners of land in a proposed provisional tax increment district, funds in the tax increment fund may be used only for:
   (A) Preliminary costs for initiating an improvement district in accordance with section 12-10, Hawai‘i County Code, including but not limited to the cost of title searches, postage, and other administrative costs;
   (B) Any preliminary plans and engineering specifically authorized by the council as necessary for the initiation of an improvement district in the targeted area.

(1994, ord 94-76, sec 3.)

Section 33-14. Restrictions on provisional district.

(a) A provisional tax increment district shall be subject to the following:
   (1) No tax increment bonds or bond anticipation notes shall be issued to provide funds for a provisional tax increment district.
   (2) The council may by ordinance extend the term of a provisional tax increment district for no more than two years beyond its original term.
   (3) During the term of a provisional tax increment district, and subject to the limitation of subsection 33-13(f)(5) above, if appropriate, the money in the tax increment fund may be used only for:
      (A) Preliminary costs for initiating an improvement district in accordance with section 12-10, Hawai‘i County Code, including but not limited to the cost of title searches, postage, and other administrative costs;
      (B) Professional service costs and administrative costs to prepare financial projections and to identify all methods available to remedy the condition in the targeted area, including but not limited to determining the feasibility of the proposed tax increment district to accomplish its goals through tax increment financing and/or the improvement district process as established in chapter 12, Hawai‘i County Code;
      (C) Preparation of a tax increment financing plan for the district if this mechanism is determined to be feasible; and
      (D) Professional service costs and administrative costs for the district to prepare detailed plans and specifications for the projects proposed.
   (4) During the term of a provisional tax increment district, the council may not exercise the power of eminent domain in connection with the acquisition of property in the tax increment district.

(b) At any time during the term of a provisional tax increment district the council may approve a tax increment financing plan in accordance with section 33-11 and by ordinance convert the provisional tax increment district into a tax increment district. The council at its option may require that an improvement district be approved by the owners of land in the targeted area before a provisional tax increment district is converted to a tax increment district.

(c) If a provisional tax increment district is converted to a tax increment district, the adjusted assessment base of the provisional tax increment district at the time of the conversion shall become the assessment base of the tax increment district.
(d) If at the end of its term a provisional tax increment district has not been converted to a tax increment district, all money remaining in the tax increment fund of the provisional tax increment district shall, to the extent it is not encumbered, be returned to the general fund.

(1994, ord 94-76, sec 3.)

Article 3. Tax Increments.

Section 33-15. Computation of tax increments.

Upon or after creation of a tax increment district or a provisional tax increment district, the director of finance shall certify the assessment base of the tax increment district and shall certify in each year thereafter the amount by which the assessment base has increased or decreased as a result of a change in tax exempt status of property within the district, or reduction or enlargement of the district. The amount to be added to the assessment base of the district as a result of previously tax exempt real property within the district becoming taxable shall be equal to the assessed value of the real property as most recently assessed or, if the assessment was made more than one year prior to the date of transfer rendering the property taxable, the value which shall be assessed by the director of finance at the time of such transfer. The amount to be added to the assessment base of the district as a result of enlargements thereof shall be equal to the assessed value of the additional real property as most recently certified by the director of finance as of the date of modification of the tax increment financing plan. The amount to be subtracted from the assessment base of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of assessment base initially attributed to the property becoming tax exempt or being removed from the district.

If the assessed value of property located within the tax increment district is reduced or increased by reason of a board of review decision, court-ordered abatement, stipulated agreement, or voluntary abatement made by the director of finance, the increase or reduction shall be applied to the assessment base of the district when the property upon which the change is made has not been improved since the date of creation of the district, and to the assessment increment of the district in each year thereafter when the change relates to improvements made after the date of creation.

(1994, ord 94-76, sec 3.)

Section 33-16. Tax on leased redevelopment property.

Whenever property in the tax increment district has been redeveloped and thereafter is leased by the County to any person or whenever the County leases real property in any tax increment district to any person for redevelopment, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes upon the assessed value of the entire property and not merely the assessed value of the lessee's leasehold interest. (1994, ord 94-76, sec 3.)

Section 33-17. Collection of tax increments.

(a) Commencing with the first payment of real property taxes levied by the County subsequent to the time a district takes effect, receipts from real property taxes collected for this district shall be allocated and paid as follows:
   (1) The amount of real property tax produced from the original assessment base shall be paid to the general fund; and
   (2) The tax increments produced from the assessment increment in the district shall be applied as follows:
      (A) First, an amount equal to (i) the installment of principal and interest falling due for any tax increment bonds, or (ii) any project cost approved by the council, shall be deposited into a tax increment fund established when the district was created.
      (B) Second, an amount equal to the amount of real property tax produced on the adjusted assessment base reduced by the amount already paid to the general fund in subsection (1) of this section shall be paid to the general fund.
      (C) Third, the remaining amount of tax increments, if any, shall be deposited into the tax increment fund.

(b) The allocation of real property taxes pursuant to this section shall not limit the power of the County under section 47-12, Hawai‘i Revised Statutes, to levy ad valorem taxes without limitation as to rate or amount on all real property subject to taxation by the County for the payment of principal and interest of its general obligation bonds.

(1994, ord 94-76, sec 3.)

Section 33-18. Tax increment fund.

(a) Money shall be disbursed from the tax increment fund for a tax increment district only to:
   (1) Satisfy the claims of holders of tax increment bonds issued for the tax increment district;
   (2) Pay project costs for the district;

(3) Make payments for project costs or debt service to a special assessment fund established upon the creation of an improvement district whose boundaries are identical to that of the tax increment district;
(4) Make payments to the County as provided in subsection (c) of this section or section 33-29(d).

(b) Subject to an agreement with the holders of tax increment bonds, money in a tax increment fund may be temporarily invested in the same manner as other funds in the County.

(c) In any year in which the tax increment exceeds the amount necessary to pay all project costs, and all installments of principal and interest of tax increment bonds issued for a district falling due, and the amount paid to the general fund pursuant to section 33-17(a)(2)(B), and subject to any agreement with bondholders, any excess money in the tax increment fund at the option of the council shall be used to redeem or purchase any outstanding tax increment bonds issued for the district, discharge the pledge of tax increment therefor, be paid into an escrow account dedicated to the payment of such bonds, be paid over to the general fund, or any combination thereof.

(1994, ord 94-76, sec 3.)

Article 4. Tax Increment Bonds.

Section 33-19. Tax increment bonds authorized.

The council may authorize the issuance of tax increment bonds, the proceeds of which may be used to pay project costs for a district or to satisfy claims of bondholders. Both principal, interest and premium, if any, on tax increment bonds shall be made payable solely from the tax increment fund established for the district.

The County may provide in its contract with the owners or holders of the tax increment bonds that the County will pay into the tax increment fund all or any part of the revenue or money produced or received as a result of the operation or sale of a facility acquired, improved, or constructed pursuant to either a redevelopment plan, as defined in section 53-1, Hawaiʻi Revised Statutes, or a community development plan, as defined in section 206E-5, Hawaiʻi Revised Statutes, to be used to pay principal and interest on the tax increment bonds and, if the County so agrees, the owners or holders of tax increment bonds may have a lien or mortgage on any facility acquired, improved or constructed with the proceeds of the tax increment bonds.

The County may issue such types of bonds as it may determine including bonds on which the moneys in the tax increment funds are derived:

(a) Exclusively from the income and revenues of the projects financed with the proceeds of the bonds, or with such proceeds together with financial assistance from the State or Federal government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into the tax increment fund pursuant to the provisions of this chapter.

(d) From its revenues generally.
(e) From any contributions or other financial assistance from the State or Federal government.
(f) By any combination of these methods.
(1994, ord 94-76, sec 3.)

Section 33-20. Exemption from taxes.
(a) Pursuant to section 46-106(b), Hawai‘i Revised Statutes, tax increment bonds, and the income therefrom, issued under this chapter shall be exempt from all State and County taxation, except estate and transfer taxes.
(b) Bonds issued under this chapter, to the extent practicable, shall be issued so as to comply with requirements imposed by valid Federal law providing that the interest on those bonds shall be excluded from gross income for Federal income tax purposes (except as certain minimum taxes or environmental taxes may apply). The director of finance is authorized to enter into arrangements, establish funds or accounts, and take any action required in order to comply with any valid Federal law. Nothing in this chapter shall be deemed to prohibit the issuance of bonds, the interest on which may be included in gross income for Federal income tax purposes.

For the purpose of ensuring that interest on bonds issued pursuant to this chapter which is excluded from gross income for Federal income tax purposes (except as provided above) on the date of issuance shall continue to be so excluded, no County officer or employee or user of an undertaking or loan program shall authorize or allow any change, amendment, or modification to an undertaking or loan program financed or refinanced with the proceeds of the bonds which change, amendment or modification would affect the exclusion of interest on the bonds from gross income for Federal income tax purposes unless the change, amendment or modification shall have received the prior approval of the director of finance. Failure to receive the approval of the director of finance shall render any change, amendment, or modification void.
(1994, ord 94-76, sec 3.)

Section 33-21. Contents of bonds.
(a) The director of finance, upon authorization by the council by ordinance, may issue tax increment bonds. Tax increment bonds shall bear the name of the district, shall be dated, be payable upon demand or mature at a time or times not exceeding thirty years from their date of issuance, bear interest at a rate or rates, be in a denomination or denominations, be in registered form, have a rank or priority, be executed in a manner, be payable at a place or places, and be subject to terms of redemption (with or without premium), be secured in a manner, and have other characteristics as may be determined by the council or the director of finance as herein provided. The County may sell tax increment bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Unless the council shall itself perform the actions, the director of finance shall:
   (1) Determine the date, denomination or denominations, interest payment dates, maturity date or dates, place or places of payment, registration privileges and place or places of registration, redemption price or prices and time or times and terms and conditions and method of redemption;
   (2) The rights of the holder to tender for purchase and the price or prices and time or times and terms and conditions upon which those rights may be exercised;
   (3) The rights to purchase and price or prices and the time or times and terms and conditions upon which those rights may be exercised and the purchase may be made; and
   (4) Determine all other details of bonds issued under this chapter.

(c) The principal of and interest and premium, if any, on all bonds issued under this chapter shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts. Tax increments bonds shall be subject to call but not prior to the second interest date thereof as hereinafter provided and at such premium, if any, as may have been provided for in the ordinance authorizing such bonds.

(d) Prior to the preparation of definitive tax increment bonds, the County may authorize issuance of interim receipts or temporary bonds exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(1994, ord 94-76, sec 3.)

Section 33-22. Execution of bonds; records; funds for payment.

(a) Tax increment bonds shall be executed by the director of finance, or by a deputy of the director of finance duly designated by the director to execute such bonds, and issued pursuant to and under the authority and requirements of the ordinance of the council. The bonds shall bear the lithographed or engraved facsimile signature of the mayor and shall be impressed with a lithographed or engraved facsimile of the seal of the County. If the council provides that no such tax increment bond shall be valid or obligatory unless and until there shall be manually executed a certificate of authentication thereof, all signatures of County officials on the bonds may be facsimiles of their respective signatures.

(b) The director of finance shall preserve a record of the bonds in a suitable book kept for that purpose. The council shall provide for books of registry to be kept for the registration of improvement bonds issued in fully registered form.

(c) The bonds shall be payable only out of moneys in the tax increment fund of the district for which they are issued or from the reserve fund established pursuant to section 33-23, if the moneys in the tax increment fund are insufficient to pay the bonds or the interest thereon as they become due. The County shall not otherwise guarantee payment of any such bonds issued under the provisions of this chapter.

(1994, ord 94-76, sec 3.)

Section 33-23. Reserve fund.

The council may provide in the ordinance adopted pursuant to section 33-19 for a reserve fund as additional security for the payment of principal and interest on tax increment bonds issued in proceedings taken pursuant to this chapter. The reserve fund may be initially funded from the proceeds from the sale of tax increment bonds with respect to which such reserve fund is established in such amount as is designated by the council in the ordinance authorizing such bonds. Moneys in a reserve fund shall be used in accordance with the provisions of section 33-22(c) and to pay the principal or interest, or both, in whole or in part, on the last outstanding maturity or maturities of the bonds. (1994, ord 94-76, sec 3.)

Section 33-24. Sale of bonds.

(a) The director of finance may make such arrangements as may be necessary or proper for the sale of each issue of bonds or part thereof as are issued under this article, including, without limitation, arranging for the preparation and printing of the bonds, the official statement and any other documents or instruments deemed required for the issuance and sale of bonds and retaining those financial, accounting, and legal consultants, all upon such terms and conditions as the director of finance deems advisable and in the best interest of the County. The council may authorize the director of finance to offer the bonds at competitive sale or to negotiate the sale of the bonds to:
   (1) Any person or group of persons;
   (2) The United States of America, or any board, agency, instrumentality, or corporation thereof;
   (3) The employees retirement system of the State;
   (4) Any political subdivision of the State;
   (5) Any board, agency, instrumentality, public corporation, or other governmental organization of the State; or of any political subdivision of the State.

(b) Subject to any limitation imposed by the council by the ordinance authorizing the bonds, the sale of the bonds by the director of finance by negotiation shall be at such price or prices and upon such terms and conditions, from time to time in such manner, as the director of finance shall approve.

(c) Subject to any limitation imposed by the council by the ordinance authorizing the bonds, the sale of the bonds by the director of finance at competitive sale shall be at such price or prices and upon such terms and conditions, and the bonds shall bear interest at such rate or rates or such varying rates determined from time to time in the manner, as specified by the successful bidder, and the bonds shall be sold in accordance with this subsection. The bonds offered at competitive sale shall be sold only after published notice of sale advising prospective purchasers of the proposed sale. The bonds offered at competitive sale may be sold to the bidder offering to purchase the bonds at the lowest interest cost, the interest cost, for the purpose of this subsection, being determined on one of the following bases as selected by the director of finance:

(1) The figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;

(2) Where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment); or

(3) Where the interest on the bonds is payable other than annually or semiannually or will vary from time to time, upon such basis as, in the opinion of the director of finance, shall result in the lowest cost to the County; provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Bonds offered at competitive sale, without further action of the council, shall bear interest at the rate or rates specified by the successful bidder or varying rate or rates determined from time to time in the manner specified by the successful bidder with the consent of the director of finance. The notice of sale required by this section shall be published at least once and at least five days prior to the date of the sale in a newspaper circulating in the County and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in such form and contain such terms and conditions as the director of finance shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to the prospective purchasers and which sets forth the specific details of the bonds and terms and conditions upon which such bonds are to be offered. The notice of sale published and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either published in the same newspapers in which the notice of sale has been published or transmitted via electronic communication systems deemed proper by the director of finance which is generally available to the financial community, in either case at least forty-eight hours prior to the time fixed for the sale.

(e) The proceeds of the sale of bonds shall be applied to pay the project costs of the district. If no purchaser is found, the County may be the purchaser of any such bonds, using any funds available and unspent. Bonds sold to a purchaser other than the County may be sold for such discount as is acceptable to the council.

(1994, ord 94-76, sec 3.)

Section 33-25. Lost, mutilated, stolen or destroyed bonds.

Should any bond issued under this chapter become mutilated or be lost, stolen, or destroyed, the County may cause a new bond of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond, or in lieu of and in substitution for, and upon the cancellation of such mutilated bond, or in lieu of and in substitution for such lost, stolen, or destroyed bond. Such new bond shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond:

(a) Has paid reasonable expenses and charges in connection therewith;
(b) In the case of a lost, stolen, or destroyed bond, has filed with the County or its fiduciary satisfactory evidence that such bond was lost, stolen, or destroyed, and that the holder was owner thereof; and
(c) Has furnished indemnity satisfactory to the County.

(1994, ord 94-76, sec 3.)

Section 33-26. General provisions; bonds.

(a) Notwithstanding any of the provisions of this chapter or any recital in any tax increment bond issued under this chapter, all tax increment bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, Hawai‘i Revised Statutes, subject only to the provisions pertaining to registration.
(b) In any suit, action, or other proceeding involving the validity or enforceability of a bond issued under this chapter or the security for a bond or note issued under this chapter, a bond reciting in substance that it had been issued by the County for the tax increment district shall be conclusively deemed to have been issued for that purpose, and the development or redevelopment of the district conclusively shall be deemed to have been planned, located, and carried out as provided by this chapter.
(c) The tax increment bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all persons whose signatures appear thereon shall have ceased to be officers of the County.
(d) Tax increment bonds shall not be issued in an amount exceeding the total costs of implementing the tax increment financing plan for which they were issued.

(1994, ord 94-76, sec 3.)

Section 33-27. Bonds not chargeable against general revenue.

(a) Tax increment bonds shall be payable only out of the tax increment fund. The council may pledge irrevocably all or a part of the fund for payment of the bonds. The part of the fund pledged in payment thereafter shall be used only for the payment of the bonds or interest or redemption premium, if any, on the bonds until the bonds have been fully paid. If the council has pledged a part of the fund for payment of bonds, a holder of the bonds shall have a lien against the fund for payment of the bonds and interest thereon and may either at law or in equity protect and enforce such lien.

(b) No officer of the County including any officer executing tax increment bonds shall be liable for the tax increment bonds by reason of the issuance thereof. Tax increment bonds issued under this chapter shall not be general obligations of the County, nor in any event shall they give rise to a charge against the general credit or taxing powers of the County or be payable other than as provided by this chapter. No holder of bonds issued under this chapter shall have the right to compel any exercise of the taxing power of the County to pay such bonds or the interest thereon, and no moneys other than the moneys in the tax increment fund pledged to the bonds shall be applied to the payment thereof. Tax increment bonds issued under this chapter shall state these restrictions on their face.

(1994, ord 94-76, sec 3.)

Section 33-28. Tax increment bond anticipation notes.

Whenever the County has authorized the issuance of tax increment bonds under this chapter, tax increment bond anticipation notes of the County may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All tax increment bond anticipation notes shall be authorized by the County, and the maximum principal amount of such notes shall not exceed the authorized principal amount of the bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the tax increment bonds in anticipation of which the notes are issued and the moneys in the tax increment fund from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and details of such notes shall be governed by this chapter with respect to tax increment bonds insofar as the same may be applicable; provided that each note, together with renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

(1994, ord 94-76, sec 3.)

Section 33-29. General obligation bonds.

(a) For any project initiated pursuant to this chapter, the council, in lieu of the issuance of tax increment bonds, may in its sole discretion issue general obligation bonds of the County or authorize payment of the required amount from the general fund of the County. The proceeds of such general obligation bonds or any amount paid by the County out of the general fund shall be deposited in the tax increment fund for the appropriate district and expended only in accordance with section 33-18.

(b) All such general obligation bonds shall be authorized, issued and sold under, pursuant to, and in accordance with chapter 47, Hawai‘i Revised Statutes, as amended, all of the provisions of which chapter shall be applicable thereto. 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 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 needs to be reserved in the issuance of such bonds, nor shall either the amounts or dates of the maturities of any such bonds be required to conform in any way to the amounts of tax increments to be collected.

(c) The validity of such general obligation bonds shall not be dependent on or affected in any way by any proceedings taken or any contracts made, acts performed or done in connection with, or in furtherance of, any improvement or any assessments for such improvement.

(d) If general obligation bonds are issued as provided in this section, all moneys collected on account of the tax increment may, to the extent so directed by the council, be applied to the reimbursement of the general fund of the County to the extent of the amounts paid for interest on and principal of such general obligation bonds. Any amounts collected on account of the tax increment as aforesaid to the extent not so directed by the council to be applied to such reimbursement or in excess of the amounts required for such reimbursement shall be applied in the manner set forth in section 33-17.

(e) The provisions of sections 33-23, 33-24, 33-25, 33-26 and 33-27 shall not apply to the general obligation bonds authorized by this section and such sections shall be restricted in their application to tax increment bonds.

(1994, ord 94-76, sec 3.)

Article 5. Refunding Bonds.

Section 33-30. Refunding authorized.

The County may issue tax increment refunding bonds for the purpose of paying or retiring or in exchange for tax increment bonds previously issued by the County. Both principal and interest on tax increment refunding bonds shall be made payable solely from the tax increment fund.

(1994, ord 94-76, sec 3.)

Section 33-31. Refunding bonds.

(a) Tax increment refunding bonds issued for the refunding of the outstanding indebtedness of any tax increment district shall bear the name of the tax increment district for which they are issued, and shall be issued and sold under all the conditions and terms as prescribed by article 4 of this chapter, except as otherwise provided in this chapter.

(b) A different rate of interest than that authorized in the original issue of tax increment bonds may be prescribed and the tax increment refunding bonds may be authorized to run for a term exceeding thirty years from the date of their issuance or fifteen years from the final maturity date of the tax increment bonds being refunded.

(c) If the final maturity date of the tax increment refunding bonds exceeds the final maturity date of the tax increment bonds being refunded, the council shall, if necessary, pass an ordinance amending the original ordinance passed in accordance with section 33-11 to change the termination date of the district to coincide with the final maturity of the tax increment refunding bonds. Such ordinance shall be passed by the council prior to the issuance of such refunding bonds.

(1994, ord 94-76, sec 3.)

Section 33-32. Obligations unimpaired.

Nothing in this article shall be construed as giving the council the authority to impair the obligations of the tax increment district under any outstanding tax increment bonds.

(1994, ord 94-76, sec 3.)

CHAPTER 34

PUBLIC ACCESS

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CHAPTER 34

PUBLIC ACCESS

Article 1. General Provisions.

Section 34-1. Title.

This chapter may be cited as the public access code.
(1996, ord 96-17, sec 2.)

Section 34-2. Statutory authority.

This chapter is enacted pursuant to the authority granted by section 46-6.5, Hawai‘i Revised Statutes, as amended.
(1996, ord 96-17, sec 2.)

Section 34-3. Definitions.

(a) For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words used herein are defined as follows:
   (1) “Approval” means the final approval granted to a proposed subdivision where the actual division of land into smaller parcels is sought, provided that, where construction of a building or buildings for a multiple-family development is proposed without further subdividing an existing parcel of land, the term “approval” shall refer to the issuance of the building permit.
   (2) “Dedication” means the conveyance of land, including any improvements, fixtures and facilities appurtenant, or any interest therein, in fee simple or easement.
   (3) “Director” means the planning director of the County of Hawai‘i.
   (4) “Easement” means the grant of the right to use a strip of land for specific public access purposes.
   (5) “Lot” means a building site or a parcel of land shown as a unit on an approved and recorded subdivision as defined in the Hawai‘i county subdivision control code.
   (6) “Mountain” means those lands situated above the one thousand-foot elevation above sea level.
   (7) “Multiple-family development” or “development” means buildings or structures containing six or more dwelling units on one lot.
   (8) “Planning commission” means either the windward or leeward planning commission, or both acting as a joint commission, as provided for in the Charter.
   (9) “Public access” means a public right-of-way in fee or easement for pedestrian traffic and may also be used as a bikeway, utility easement, or for restricted vehicular traffic.
   (10) “Public mountain area” means lands publicly owned or privately owned subject to written grants of easements allowing public access and use.

(11) "Public shoreline area" means lands fronting a shoreline which are publicly owned or privately owned subject to written grants of easements allowing public access and use.
(12) "Public street" and "public highway" mean a publicly owned street or highway or a privately owned street or highway over which rights of public use or access have been granted and duly accepted by the state or county.
(13) "Recreational activity" includes, but is not limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, water skiing, and viewing or enjoying historical, archaeological, scenic or scientific sites, but excludes any and all commercial activity.
(14) "Shoreline" means the upper reaches of the wash of the waves, other than storm or seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or where there is no vegetation in the immediate vicinity, or the upper limit of the debris left by the wash of the waves, pursuant to chapter 205A, Hawaiʻi Revised Statutes, as may be further amended.
(15) "Subdivision" for the purpose of this chapter, means any improved or unimproved land or lands divided or proposed to be divided for the purpose of disposition into six or more lots or parcels.

(1996, ord 96-17, sec 2; am 2009, ord 09-118, sec 23.)

Article 2. Administration.

Section 34-4. Application.

(a) The provisions of this chapter shall apply to applications for all subdivisions and multiple-family developments situated generally between (1) shoreline or mountain areas; and (2) public streets and highways, as the case may be. The director shall determine the applicability of this chapter to particular lots and building sites in conjunction with determining the location and frequency of public accesses as set forth in subsection (c) of this section. A subdivider or developer of a multiple-family development shall, as a condition precedent to final approval of a subdivision or issuance of a building permit for a multiple-family development, dedicate land by right-of-way in fee or easement for public access from a public highway or public street to the following:
(1) Public shoreline areas and the land below the shoreline; and
(2) Public mountain areas where there are existing facilities for hiking, hunting, fruit picking, ti-leaf sliding, other recreational purposes and where there are existing public mountain trails.

(b) The location of public shoreline and mountain areas and existing shoreline, coastal and public mountain trails shall be determined by the director in consultation with the State department of land and natural resources and the department of parks and recreation and shall be established by rule pursuant to chapter 91, Hawai‘i Revised Statutes. The director shall solicit such information from such agencies upon adoption of the ordinance codified in this chapter and from time to time thereafter. Such rules shall include maps depicting the public-owned areas and the approximate location of the existing public trails, and may provide for supplementation of listed areas and trails upon publication of notice in lieu of rule amendment. Provided, that the rules shall be amended not less than every five years to incorporate any supplemental changes made since prior rule adoption and to allow public comments on practices and procedures established under such rules.

(c) The location and frequency of public access shall be established by the director or the planning commission, as respectively authorized under chapters 23 and 25 subject to the provisions of article 3 of this chapter. The director shall establish the preferred public access alignment with consideration of such factors as topography, approximate location along the nearest public street and configuration of the subdivision lots or development site.

(d) Where the lands comprising a proposed subdivision or development do not span the entire distance between a public street and a shoreline or mountain area to which the County has determined by the director that public access is necessary, the director shall require dedication of those segments of the needed public accessway laying within the proposed subdivision or development.

(e) Except as provided in subsection (f) herein below, a multiple-family development approved prior to March 4, 1996 shall be subject to the provisions of this chapter when six or more dwelling units are added or proposed to be added thereto.

(f) The provisions of this chapter shall not apply to subdivisions or multiple-family developments sanctioned, approved or permitted by a development agreement pursuant to the development agreement code, a change of zone ordinance, or a valid special management area (SMA) permit issued prior to March 4, 1996 when:

(1) Such agreement, ordinance or SMA permit includes requirements for the dedication of public access to the shoreline, provision of related improvements or a cash payment in lieu thereof; or

(2) The director determines that the provisions of the agreement, ordinance or SMA permit, together with one or more related agreements, zoning ordinances or SMA permits covering adjacent lands, was intended by the council or the planning commission, respectively, to comprise an integrated shoreline access system for the lands subject to such related agreements, ordinances or SMA permits; and

(3) The permittee is in compliance with the terms of such agreement, ordinance, and SMA permit.

Provided, this exception shall not apply to any application to amend an SMA permit to allow an increased number of dwelling units or more than a nominal increase in commercial or resort activities, as the director shall determine. When applying the standards of this chapter to applications for amendment or replacement of a valid SMA permit which are not excepted herefrom, the director and the planning commission shall take into account any prior, appurtenant dedications or contributions of land, improvements or cash for public access or shoreline area improvements.

(g) Where a lot or building is subject to a valid conservation district use permit, the director may waive provisions of this chapter which conflict with such permit.

(1996, ord 96-17, sec 2.)

Article 3. Requirements.

Section 34-5. Subdivision and development of land.

The following standards for public access shall apply:

(a) Shoreline Access.

(1) For lands in the RS, RD, RM, V, CO, CN, and CV districts, the desired spacing of public accesses shall be from eight hundred to one thousand feet apart.

(2) For lands within a destination resort community or a major, intermediate or minor resort area as defined in the general plan and determined by the director, regardless of the zone district designation(s), the desired spacing shall be from one thousand to two thousand feet apart, provided that the planning commission may extend the spacing to a maximum of two thousand five hundred feet where deemed warranted by site conditions, the particular development plan, or when other special accommodations are provided the public with regard to public access, convenience and comfort.

(3) For lands within the A districts, the desired spacing of public access shall be one thousand to one thousand five hundred feet apart for lands zoned A-1a, and one thousand five hundred to two thousand five hundred feet apart for all other zoned districts.

(4) For lands in the O and U districts, the desired spacing shall be two thousand to two thousand five hundred feet apart.

(5) The desired spacing shall not be applicable along sections of shoreline where the director has determined that:

(A) The shoreline is inaccessible by land approach due to extremely hazardous or impassable conditions, such as steep cliffs or other dangerously unstable terrain where no practical remedy is feasible; and

(B) No public coastal trail exists inland of such intervening hazardous or impassable lands and which leads to an accessible shoreline or public shoreline area within five thousand feet of the subdivision or development.

(6) A spacing of public access(es) further apart than as set forth in subsections (a)(1) through (a)(4) of this section or the determination of inaccessibility pursuant to subsection (a)(5) of this section shall be approved by resolution of the County council.

(b) Mountain Access.

(1) For all zone districts, the desired spacing shall be determined by the director so as to provide reasonable means to access public trail sections and public facilities, respectively, as the case may be.

(2) Provided, no access shall be established:

(A) To State-owned land which is not designated by rule pursuant to article 2, section 34-4(b) of this chapter; or

(B) To State-owned land which is designated but has not been approved by the State department of land and natural resources.

For mountain lands designated pursuant to article 2, section 34-4(b) of this chapter, the director may make a provisional determination of the necessity of public access and the alignment therefor, but such provisional determination shall expire and be void unless the director has made final determination, with the final approval of the State department of land and natural resources within one hundred eighty days thereafter.

(c) The location of public access in the vicinity of the subdivision or development, whether existing committed under agreements between landowners and the County, or planned pursuant to an officially adopted plan of the County or State, shall be considered by the director or planning commission, as appropriate, when establishing the required location and alignment of public access(es). Provided, that notwithstanding any officially adopted plan to provide public access, no subdivision within an area lacking public access at the appropriate location or desired spacing shall be exempted from the requirements of this chapter.

(d) The director shall implement these standards in a manner consistent with article 3, chapter 23.

(1996, ord 96-17, sec 2.)

Section 34-6. Multiple-family development.

All applications for multiple-family development building permits shall be reviewed by the director, in consultation with the director of parks and recreation and the director of public works to determine the necessity of the public access requirement.

(a) When it is determined by the director that adequate public access already exists or has been secured from the applicant, the director shall notify the applicant, the director of parks and recreation, and the director of public works so that the building permit may be approved.

(1996, ord 96-17, sec 2; am 2001, ord 01-108, sec 1.)

Section 34-7. Width of public access.

The public access shall have a minimum width of ten feet.

(1996, ord 96-17, sec 2.)

Article 4. Dedication of Access.

Section 34-8. Subdivision of land.

(a) Upon review of a subdivision application, when it is determined that public access must be provided, the subdivider shall file the executed documents for dedication of the public access, free and clear of all encumbrances with the director.

(b) Prior to final subdivision approval, the dedication documents shall be reviewed and approved as to its form and content by the appropriate agencies. The director may thereafter grant approval to the subdivision in accordance with the subdivision rules and regulations of the County.

(c) The public access shall be clearly designated on the final map of the subdivision in accordance with the subdivision rules and regulations.

(1996, ord 96-17, sec 2.)

Section 34-9. Multiple-family development.

(a) When it is determined that public access must be provided upon review of a multiple-family development, the developer shall file a subdivision application to create the public access right-of-way in accordance with the Subdivision Code if the developer elects to provide the access in fee simple. Public access shall be designated on the plot plan and specified in the final plan approval.

(b) The developer shall file the executed deeds or grants of easement for dedication of the public access, free and clear of all encumbrances with the director.

(c) Prior to final plan approval, the documents shall be reviewed and approved as to its form and content by the appropriate agencies.

(d) The public access right-of-way shall be clearly designated on the multiple-family development plan.

(1996, ord 96-17, sec 2.)

Section 34-10. Responsibility for cost of improvements and maintenance.

Upon the acceptance of the dedication of land for a right-of-way for public access by the County, the County shall thereafter assume the cost of improvements for and the maintenance of the public access, unless the subdivider or developer agrees to assume such cost and maintenance. Provided that when a right-of-way is to be dedicated for public access pursuant to article 2, section 34-4(d) of this chapter, the County shall not be obligated to maintain the public access until the entire length of the desired access has been dedicated to the County.

(1996, ord 96-17, sec 2.)

Article 5. Use of Public Accesses.

Section 34-11. Regulation of use.

The director, in consultation with the director of parks and recreation and the State department of land and natural resources shall promulgate rules regulating the use of public accesses. Such rules may restrict the hours or days of use and may require the issuance of a permit from the appropriate government agency or a contracted permitting agent for public use in rural areas where the director has determined that site conditions or lack of supervision necessitates special education, direction or control of public users. Provided, that no permitting agent shall be contracted for a term exceeding three years.
(1996, ord 96-17, sec 2.)

Section 34-12. Abuse of a public access.

A person commits the offense of abuse of a public access if the person:

(a) Engages in commercial activity within or upon a public access, or

(b) Uses a public access other than for transit to and from a recreational activity.

For the purpose of this section, a "person" means an individual, corporation, trust, estate, partnership, association or any other legal entity, and "commercial activity" means the solicitation of a person for the sale or rental of goods or services or any transaction whereby a person receives any benefit or a promise to receive a benefit by providing goods or services to another person.
(1996, ord 96-17, sec 2.)

Section 34-13. Penalties.

Any person who violates this chapter shall, upon conviction, be subject to a fine not exceeding $500. The continuance of any such violation shall be deemed a new violation for each day of such violation.
(1996, ord 96-17, sec 2.)

Section 34-14. Maintenance and protection.

Prior to opening any nonurban public access for general usage, the director, in consultation with the director of parks and recreation shall adopt rules to provide for the management of environmental, health and safety impacts thereof, including reasonable educational and maintenance measures to minimize littering, erosion, spreading of plant pest, and trespass upon adjacent private lands.
(1996, ord 96-17, sec 2.)

Article 6. Appeal Procedures.

Section 34-15. Filing.

Any person aggrieved by any action taken by the director in the administration of this chapter may file an appeal within thirty days of the action complained of, with the board of appeals.
(1996, ord 96-17, sec 2.)

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CHAPTER 35

BUSINESS IMPROVEMENT DISTRICTS

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CHAPTER 35

BUSINESS IMPROVEMENT DISTRICTS

Article 1. General Provisions.

Section 35-1. Definitions.

The following definitions shall apply for the purposes of this chapter.

(1) "Assessed value of real property" means the gross value of a parcel of land, as defined below, as assessed by the County's real property tax office, including the assessed value of any improvements thereon.

(2) "Bonds" means special improvement district bonds (including refunding bonds) issued pursuant to this chapter.

(3) "Bond ordinance" means an ordinance of the council, which authorizes bonds.

(4) "Business improvement district" or "district" means a district of land established by the County pursuant to this chapter for providing and financing supplemental services and improvements.

(5) "County" means the County of Hawai'i.

(6) "County clerk" means the County clerk of the County of Hawai'i.

(7) "Costs of supplemental improvements" means the following:

(A) Cost of acquiring, constructing, installing, improving, or rehabilitating supplemental improvements;

(B) Cost of acquiring land or right-of-way for supplemental improvements;

(C) Payment of any water, sewer, or other utility connection fee necessary for supplemental improvements;

(D) Payment of fees and expenses for planning, architectural, engineering, inspection, legal, financial, or other consultants for supplemental improvements;

(E) Reimbursement of an advance of funds for acquiring, constructing, installing, improving, or rehabilitating supplemental improvements;

(F) Contribution to a reserve fund for the payment of debt service on bonds issued to finance the costs of supplemental improvements;

(G) Not more than two years of interest on bonds issued to finance the costs of supplemental improvements; or

(H) Costs of issuance related to the issuance of bonds issued to finance the costs of supplemental improvements, including, but not limited to, payment of legal fees and expenses (including bond counsel), trustee fees and expenses, bond insurance premium, letter of credit, or other credit enhancement fees and expenses.

(8) "Costs of supplemental services and improvements" means the following:

(A) Cost of obtaining the supplemental services and improvements other than costs of supplemental improvements financed from the proceeds of bonds;

(B) Payment of any water, sewer, or other utility connection fee necessary for supplemental services and improvements;

(C) Payment of fees and expenses for planning, architectural, engineering, inspection, legal, financial, or other consultants for supplemental services and improvements; and
(D) Reimbursement of an advance of funds for the costs of obtaining supplemental services and improvements.

(9) "District" means the same as business improvement district.

(10) "District association" means an association established pursuant to section 35-18.

(11) "District board" means the board of directors of a district association.

(12) "Financing supplemental services and improvements by a district" or "financing supplemental services and improvements" means paying for the costs of supplemental services and improvements through the special assessment levied within a district or paying the costs of supplemental improvements from the proceeds of bonds.

(13) "Incidental expenses of a district" means the following:
(A) Administrative expense of the County associated with the proceedings undertaken pursuant to this chapter or collection of special assessments;
(B) Management and administrative costs incurred by the district association; and
(C) Any other expense incidental to the creation or operation of a district.

(14) "Land" or "parcel of land" means the real property identified by a tax map key parcel number within the district. For purposes of sections 35-13, 35-34, and 35-42, apartments of a condominium property regime shall be deemed to be one parcel of land.

(15) "Landowner" or "owner of land" means the owner to whom the real property tax is assessed as shown on the real property tax assessment list, which may be the fee simple owner and/or the lessee of land, regardless of whether such owner is exempt from the payment of such tax. Each parcel of land shall be deemed to have one fee simple owner and one lessee of land, if any, even if owned by a corporation, partnership, joint tenancy, tenancy by the entirety, tenancy in common, or other group of persons. The real property tax assessed value of such parcel of land shall be counted once for purposes of determining the aggregate value of all land in a district or proposed district as provided in sections 35-13, 35-34, and 35-42, even if there is a fee simple owner and a lessee of land for a parcel of land.

(16) "Majority" means more than fifty percent.

(17) "Ordinance of annexation" means an ordinance that annexes additional land to a district.

(18) "Ordinance of consideration" means an ordinance that changes the authorized supplemental services and improvements, the supplemental improvements to be financed, the rate or apportionment of a special assessment, or the boundaries of the district other than an annexation provided in article 5, or that requires the levy of a new special assessment.

(19) "Ordinance terminating the district" means an ordinance that terminates a district at the expiration of the then occurring five-year term.
(20) "Supplemental improvements" means any of the undertakings itemized in section 35-3(b).
(21) "Supplemental services and improvement area" means an area within a district as set forth in section 35-11(a).
(22) "Supplemental services and improvements" means a supplemental service and/or improvement referred to in section 35-3.

(2004, ord 04-94, sec 1.)

Section 35-2. Provision of alternate method of financing supplemental services and improvements.

Pursuant to section 46-80.5, Hawai'i Revised Statutes, the council may use the provisions of this chapter in addition to, in combination with, or in lieu of any other law for or related to the creation of improvement districts, the levying, assessment, and collection of special assessments, the financing of supplemental services and improvements, the issuance of bonds, or other matters covered by this chapter.
(2004, ord 04-94, sec 1.)

Section 35-3. Types of supplemental services and improvements.

(a) A district may be established to provide and finance supplemental services and improvements as follows:
  (1) To provide for and finance additional maintenance, security or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of such district to restore or promote business activity whether or not in conjunction with improvements authorized by this section including:
    (A) Services to enhance the security of persons and property within the district;
    (B) Landscaping services;
    (C) Enhanced sanitation services;
    (D) Services promoting and advertising activities within the district;
    (E) Marketing education for businesses within the district; and
    (F) Decorations and lighting for seasonal and holiday purposes.
  (2) To provide and finance, to the extent permitted by law, supplemental improvements located on or within the County or the district which will restore or promote business activity in the district, including:
    (A) Construction and installation of landscaping, planting and park areas;
    (B) Construction of lighting facilities;
    (C) Construction of physically aesthetic and decorative safety fixtures, equipment and facilities;
    (D) Construction of improvements to enhance security of persons and property within the district;

(E) Construction of pedestrian overpasses and underpasses and connections between buildings;
(F) Closing, opening, widening or narrowing of existing streets;
(G) Construction of ramps, sidewalks, plazas, and pedestrian malls;
(H) Rehabilitation or removal of existing structures as required;
(I) Removal and relocation of utilities and utility vaults as required;
(J) Construction of parking lot and parking garage facilities; and
(K) Construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to district properties such as: bus stop shelters; benches and street furniture; booths, kiosks, display cases and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

(3) To provide for the operation, maintenance, removal and replacement of any supplemental service or improvement.

(b) Any supplemental service or improvement undertaken by a district shall conform with all applicable laws, rules and regulations. It is the intent of the council that the level of services being provided by the County in a district as of the effective date of the ordinance establishing such district be unaffected by that ordinance or the levying of the special assessments. The ordinance establishing such district shall describe such level of services.

(2004, ord 04-94, sec 1.)

Section 35-4. Payment of existing special assessments.

A district may pay in full all amounts necessary to eliminate or reduce any special assessment liens.

(2004, ord 04-94, sec 1.)

Section 35-5. Advances of funds, work, or property in kind.

After the formation of a district, the district board may accept advances of funds, work, or property in kind from any source. The district board may enter into an agreement with the person or entity advancing the funds, work, or property in kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the value or cost, whichever is less, of the work or property in-kind, as determined by the district board, with or without interest; provided that the proposal to repay the funds or reimburse the value or cost of the work or property in kind is included in the ordinance of formation for the district. Any such agreement shall not constitute a debt or liability of the County or be payable from sources other than the proceeds of the special assessments levied pursuant to this chapter.

(2004, ord 04-94, sec 1.)

Section 35-6. Superiority over conflicting provision of other ordinance.

When any provision of this chapter conflicts with any other provision or ordinance, the provision of this chapter shall prevail.

(2004, ord 04-94, sec 1.)

Section 35-7. Limitation on challenges.

Pursuant to section 46-80.5(d), Hawai'i Revised Statutes, no action or proceeding to object to or question the validity of or enjoin any ordinance, action, or proceeding undertaken pursuant to this chapter (including the liability for or the determination of the amount of any assessment levied with respect to any property or the levy or assessment thereof) shall be maintained unless begun within thirty days of the effective date of the ordinance, determination, levy, assessment, or other act, as the case may be.
(2004, ord 04-94, sec 1.)

Section 35-8. Construction of chapter.

This chapter shall be liberally construed in order to effectuate its purposes. No error, irregularity, or informality and no neglect or omission of any officer in any procedure taken under this chapter which does not directly affect the jurisdiction of the County to create a district for the provision of supplemental services and improvements shall void or invalidate such proceeding or any levy for the costs of such services or improvements.
(2004, ord 04-94, sec 1.)

Section 35-9. Validity of proceedings.

The failure of any person to receive a notice, ordinance, order, or other matter shall not affect in any way whatsoever the validity of any proceedings taken under this chapter or prevent the council from proceeding with any hearing so noticed or other action.
(2004, ord 04-94, sec 1.)

Article 2. Proceedings to Establish a District.

Section 35-10. Institution of proceedings.

(a) Proceedings for the establishment of a district may be instituted by the council on its own initiative or by the council at the request of the mayor.
(b) Proceedings for the establishment of a district shall be instituted by the council after receipt by the County clerk of a petition requesting the institution of the proceedings signed by landowners owning lands within the proposed district that have a real property tax assessed value of at least twenty-five percent of the total real property tax assessed value of all land in the proposed district.

(2004, ord 04-94, sec 1.)

Section 35-11. Ordinance establishing the district.

(a) If the council determines to establish a district, it shall do so by ordinance. The ordinance establishing the district shall at least do all of the following:

(1) State that a district is established under the terms of this chapter.

(2) State the name of the district in substantially the following form: "County of Hawaiʻi Business Improvement District No. ____." One or more additional descriptive words may be used in the name of the district to indicate its geographic area.

(3) State that the initial term of the proposed district is for five years, which is automatically renewed unless an ordinance of termination is adopted in which case operations of the district shall cease although the term shall not expire until all debt service on bonds and incidental expenses and supplemental services expenses related thereto are fully paid or irrevocable provision for such payment has been made.

(4) List the parcels of land to be assessed within the district identified by tax key number.

(5) State the general boundaries of the district and/or provide a map generally showing the same. Should any discrepancy exist between the map and the description of the boundaries of the district, the map shall control.

(6) State the supplemental services and improvements to be provided and financed by the district and the total annual amount proposed to be expended for the supplemental services and improvements in the first operating year. If the incurring of incidental expenses is proposed, the ordinance shall identify the estimated expenses.

(7) Specify the principal amount of bonds to be issued, if any, to finance supplemental improvements in the district.

(8) State the incidental expenses to be paid from the special assessment.

(9) If a service area within the district is proposed to be established, state and describe the boundaries of the proposed service area, the name proposed for the service area, the supplemental services and improvements proposed to be financed by the district for the service area, and to what extent it is proposed that the district special assessments will be used in the service area for purposes of financing such services and improvements.

(10) State the rate and method of apportionment pursuant to which the first year's special assessment is to be levied.

(11) Prescribe the procedures for approval by the appropriate agency of the County for the design, plans and specifications of any supplemental improvements to be undertaken in a district.

(12) Include any other information required by section 46-80.5, Hawaiʻi Revised Statutes, or this chapter.

(b) When the ordinance establishing the district is passed on second reading, the council shall determine whether all proceedings were valid and in conformity with the requirements of this chapter. If the council so determines, it shall make a finding to that effect. The finding shall be final and conclusive.

(2004, ord 04-94, sec 1.)

Section 35-12. Mailed notice of hearing.

(a) The council shall fix the time and place for a hearing on the proposed ordinance establishing the district. The date of the hearing shall not be less than thirty or more than ninety days from the date of introduction of the proposed ordinance.

(b) In addition to the public notice given pursuant to applicable law, the County clerk shall also send by first-class mail notice of the council public hearing to each owner of land proposed to be included and assessed in the proposed district. The notice shall be sent to the same address to which the real property tax assessment notice is sent. When more than one person is listed as fee owner or as lessee, one notice sent to one fee owner and to one lessee, as applicable, shall be sufficient for this subsection. The notice shall be mailed at least fifteen days before the council public hearing and shall contain the following information:

(1) A summary of the ordinance establishing the district and the fact that the ordinance and the district plan are on file in the County clerk's office for public inspection;

(2) The time and place of the first public hearing on the establishment of the district;

(3) A statement that, at the hearing, the testimony of all interested persons and landowners for or against the establishment of the district, the extent of the district, and the levy of a special assessment will be heard; and

(4) A summary of the protest procedure and the form of any protests.

(c) Failure to give notice to any owner or failure of any owner 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 assessment levied under this chapter if the council determines that a reasonable effort was made to give such notice. The council's determination shall be final and conclusive.

(d) The hearing may be continued from time to time, but shall be completed within thirty days; except that, if the council finds that the complexity of the proposed changes or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed ninety days from the date of the original hearing. At the conclusion of the hearing, the council, after considering all protests and such other relevant factors (such as the general plan or development plan) as it deems appropriate, may approve the ordinance establishing the district.

(2004, ord 04-94, sec 1.)

Section 35-13. Protest by a majority or more.

(a) Protests against the proposed ordinance establishing the district may be made in writing by landowners and if made shall be in such form as may be prescribed by the County clerk. All written protests shall be filed with the County clerk before or at the hearing. The council may waive any irregularities in the form or content of any written protest. Written protests may be withdrawn in writing by the owner who protested at any time before the conclusion of the hearing.

(b) If the landowners owning lands proposed to be assessed within the district that have a real property tax assessed value of fifty-one percent or more of the total real property tax assessed value of all land proposed to be assessed in the district or if a majority of the owners of land proposed to be assessed in the district file written protests with the council before or at the public hearing against the proposed ordinance establishing the district and if protests are not withdrawn so as to reduce the amount of the protests to less than a majority, the proceedings to create the specified district shall cease. No proceedings to create the district shall again be undertaken for a period of ninety days from the date on which proceedings cease. Council may continue the public hearing or recess the meeting to provide the County clerk time to count the protests and any withdrawals.

(c) For the purpose of determining whether the majority of the owners of land have filed protests, the owner of each apartment in a condominium property regime that is specially assessed or proposed to be specially assessed shall have a vote equal to the following fraction: 1/the number of apartments in the condominium property regime which are, or are proposed to be, specially assessed.

(d) For the purpose of a protest regarding a parcel of land for which a fee owner and lessee appear on the real property assessment list, a protest by the fee owner, the lessee, or both, shall be counted as a protest for that parcel of land.

(2004, ord 04-94, sec 1.)

Section 35-14. District boundaries.

(a) A special improvement district may include areas of land that are not contiguous.

(b) Land may be included in more than one special improvement district.

(2004, ord 04-94, sec 1.)

Section 35-15. District term.

The initial term of a district shall be for five years unless earlier terminated under article 6. The term shall automatically renew for additional five-year terms unless an ordinance terminating the district is adopted, in which case the operations of the district shall cease except for payment, or providing irrevocably for payment, of all debt service on bonds, supplemental services expenses and incidental expenses related thereto.

(2004, ord 04-94, sec 1.)

Section 35-16. Financing of supplemental services and improvements; payment of debt service on any bonds issued to finance improvements; payment of incidental expenses identified in ordinance establishing the district.

(a) Only the expenses of supplemental services and improvements identified in the ordinance establishing a district may be paid from the special assessments levied within a district.

(b) Only the debt service on any bonds issued to finance costs of supplemental improvements within the district and identified in the ordinance establishing the district may be paid from the special assessments levied within a district.

(c) Only the incidental expenses identified in the ordinance establishing the district may be paid from the special assessments levied within a district.

(2004, ord 04-94, sec 1.)

Section 35-17. Designation of supplemental service and improvement area.

For the purpose of financing specified supplemental services and improvements, the council may designate a portion of a business improvement district as a supplemental service and improvement area. The designation shall be made in the ordinance establishing the district or an amendment thereto. A specified supplemental service and improvement area shall be known as "Service Area No. _____ of County of Hawai'i Business Improvement District No. _____." After the designation of a service area, all proceedings to levy assessments for the financing of the specified supplemental services and improvements shall apply only to the service area, except to the extent otherwise provided in the ordinance establishing the district.

(2004, ord 04-94, sec 1.)

Section 35-18. District association.

(a) There shall be a district association for each business improvement district established pursuant to the provisions of this chapter. The district association shall be a nonprofit corporation and shall have one or more classes of membership, voting or nonvoting. The purpose of the association shall be the carrying out of such activities as may be prescribed in the district plan. The articles of incorporation or bylaws of such association shall provide for voting representation of fee simple owners and lessees of land within the district and may provide that the votes of members who are owners of land be weighted in proportion to the assessment levied or to be levied against the parcels of land within the district and that members whose properties are exempt from the assessment are nonvoting members. Any board or association established for the purposes of carrying out the management and activities of the business improvement district shall neither be deemed to be a government department, agency, or a County, nor to be performing services on behalf of a government department, agency or County.

(b) The district board shall be composed of representatives of fee simple owners, lessees of land, and tenants of commercial space within the district; provided, however, that not less than a majority of the district board members shall represent fee simple owners and lessees of land; and provided further that tenants of commercial space within the district shall also be represented on the district board. The district board shall also include the following, all of whom shall serve as the incorporators of the association pursuant to the Hawaiʻi Nonprofit Corporations Act:*
   (1) The director of public works or the director's designated representative, who shall be a nonvoting member;
   (2) The director of finance or the director's designated representative, who shall be a nonvoting member;
   (3) The mayor or the mayor's designee, who shall be a voting member; and
   (4) The council member of the district within which the majority of the land area within which the district is located or the council member's designated representative, who shall be a voting member.

(c) The district association may be incorporated prior to the effective date of any district established pursuant to this chapter.

(d) In addition to such other powers as are conferred to it by law or this chapter, the district board shall have the power to carry out the activities prescribed in the district plan, including but not limited to:
   (1) Determining the scope and specifications for the performance standards;
   (2) Letting contracts for the supplemental services or for the management of operations of the district;
   (3) Entering into contracts for the development of plans, design, construction and/or renovation of supplemental improvements; and
   (4) Adopting the annual budget for the district.

(2004, ord 04-94, sec 1.)

Editor's Note: The Hawaiʻi Nonprofit Corporations Act is set forth in chapter 414D, Hawaiʻi Revised Statutes.

Section 35-19. Financial records.

(a) The district board shall maintain financial records regarding the operation of the district and the contracts for supplemental services and improvements.

(b) The district board shall make such financial records available to the public during regular business hours upon reasonable notice to the district board.

(c) The council, by the ordinance establishing the district, may have the financial records audited by a certified public accountant and the audit report made available to the council and the public.

(2004, ord 04-94, sec 1.)

Article 3. Assessments.

Section 35-20. Assessment apportionment.

An assessment levied pursuant to this chapter may be based on benefit received by a parcel of land, the cost of making a supplemental service available to a parcel of land, the cost of supplemental services and improvements benefiting a parcel of land, the stage or type of development or use of a parcel of land, the happening of one or more specified events related to the development or improvement of all or certain parcels of land, or any other reasonable basis or formula as determined by the council. Any determination of the reasonableness of any assessment or the rate or method of the apportionment thereof by the council in the ordinance establishing the district shall be final and conclusive.
(2004, ord 04-94, sec 1.)

Section 35-21. Assessment levy.

(a) During the first assessment year, assessments shall be levied and apportioned pursuant to the rate and method specified in the ordinance establishing the district. Prior to the commencement of the second and each subsequent assessment year, the district board shall prepare and submit a report to the council that shall include the anticipated surplus or deficit from the preceding assessment year as well as any proposed new rate or method of assessment for the next assessment year. The report shall be due by the date set in the ordinance establishing the district or, if the ordinance does not include such a date, the thirtieth day preceding the commencement of the next assessment year.
   (1) If the proposed assessment for an assessment year does not exceed one hundred ten percent of the preceding assessment year's total annual assessment, the new rate based upon the method of assessment specified in the ordinance establishing the district shall take effect upon the new assessment year.
   (2) If the proposed assessment for an assessment year exceeds one hundred ten percent of the preceding assessment year's total annual assessment, the district board may recommend to the council a change to the rate or method of apportionment of an existing assessment for a district and the recommendation shall be accompanied by a justification and proposed ordinance of consideration.
   (3) The council shall review and may approve the ordinance of consideration in accordance with this article.

(b) The district board shall have the power to:
   (1) Determine the annual amount due from each landowner subject to the assessment; and
   (2) Make an adjustment to the annual amount due when required by the assessment base or formula in the applicable ordinance establishing the district.

(c) An owner of land who was not entitled to protest a proposed ordinance under sections 35-13, 35-34, or 35-42 shall not be subject to an assessment levied on that owner's land pursuant to such ordinance.
(d) Assessments shall be levied only as long as needed to pay costs of supplemental services and improvements, debt service and incidental expenses.
(2004, ord 04-94, sec 1.)

Section 35-22. Exemptions.

The properties owned by the United States except for property and leases of government property subject to real property taxation under sections 19-84, 19-85, and 19-86, shall be exempt from any assessment. The properties owned by the State of Hawaiʻi and the County, except for property and leases of government property subject to real property taxation under sections 19-84, 19-85, and 19-86, may be exempt from any assessment. No other properties or entities within a district shall be exempt from the assessment unless expressly exempted in the ordinance establishing the district.
(2004, ord 04-94, sec 1.)

Section 35-23. Assessment payment and collection.

(a) The director of finance shall collect the assessment for a district on a basis to be agreed upon by the County, through its director of finance, and the district board. The director of finance shall deposit all moneys so collected in an account for the district in the general trust fund unless another County fund is identified as the depository in the ordinance establishing the district.
(b) All assessments levied shall be due and payable according to terms established by the district board.
(c) Failure to pay the amount assessed when due shall thereafter bear penalty and interest at rates and terms determined by the district board. Any penalties and interest collected shall be deposited in that district's fund.
(d) The director of finance may deduct from the assessments collected the administrative expenses directly incurred in collection.
(e) Assessments collected shall be transmitted to the district within fifteen days after the date that they are due and payable to the County.
(f) By a date set in the ordinance establishing the district or written agreement between the district board and County, the director of finance shall prepare and submit a report to the district board summarizing the assessments collected or that remain unpaid by parcel of land and landowner, the amount of interest and penalties collected, the amount of moneys paid out for district purposes, and the amount of administrative expenses directly incurred in the collection of assessments which were deducted from the amounts collected.
(2004, ord 04-94, sec 1.)

Section 35-24. Assessment lien.

(a) The assessment levied on a parcel of land and the applicable penalty, interest and costs of collection shall be a lien against the land and improvements of the parcel of land. The lien shall attach from the effective date of the ordinance establishing a district and levying the assessment on the parcel of land and shall be extinguished when the assessment and any applicable penalty, interest and costs of collection are fully paid or terminated.

(b) The lien of the assessment shall have priority over all other liens, except the lien of general real property taxes and shall be on a parity with the lien of assessments levied under sections 46-80 and 46-80.1, Hawai'i Revised Statutes, and chapter 32 herein. All liens of assessments made pursuant to this chapter shall be on a parity as to each other without regard to when made or for what purpose.

(c) If any assessment is not paid when due, the department of finance may, after not less than two months of delinquency, foreclose the lien of assessment in order to collect the delinquent amount and any penalty, interest, and costs, in the same manner as the foreclosure of the lien of real property taxes.

(d) In any event, the department of finance shall foreclose the lien before the end of the sixth year of a delinquency.

(2004, ord 04-94, sec 1.)

Section 35-25. Assessment notice to owners of land.

For the first assessment year of a district, notices of the assessments shall be sent to all assessed landowners at the address shown on the real property tax assessment list. The notice shall be sent by the date set in the ordinance establishing the district or, if the ordinance does not include such a date, by the date agreed to by the district board and County. Each notice shall set forth the amount of the assessment levied, the rate and method of apportionment of the assessment, and the date when the assessment is due. Failure to give or receive such notice to or by any landowner shall not affect the validity of the assessment nor entitle the landowner to an extension of time within which to pay the assessment.

After the first assessment year, notice of assessments may be sent annually to the assessed landowners; provided, however, that the date of such annual notice may be adjusted by the County in accordance with the ordinance establishing the district.

The notices of assessment for the first year and any subsequent year shall be sent by the director of finance or by the district association on behalf of the director if so agreed to by the director and district board.

(2004, ord 04-94, sec 1.)

Section 35-26. Assessment notice to prospective buyer or lessee of parcel of land.

Before entering into an agreement to sell or lease a parcel of land subject to an assessment levy and lien, the landowner shall notify the prospective buyer or lessee of the existence of the levy and lien in writing. Failure to give or receive such notice to or by any landowner shall not affect the validity of the assessment nor entitle the landowner to an extension of time within which to pay the assessment.
(2004, ord 04-94, sec 1.)

Section 35-27. Assessment obligation for parcel of land acquired by County.

If a parcel of land subject to an assessment is acquired by the County by foreclosure, the parcel of land shall be sold as soon as practicable, and the purchaser of the parcel of land shall take title subject to the lien of the assessment and shall be required to pay the assessments then due as part of the purchase price and the assessments becoming due from and after the sale date.
(2004, ord 04-94, sec 1.)

Article 4. Proceedings to Change Authorized Supplemental Services, Improvements and Assessment.

Section 35-28. Authorization to change supplemental service and improvements or assessment.

(a) Upon request of the district board, the council may change the authorized supplemental services and improvements, the supplemental services and improvements to be financed, the rate or method of apportionment of an assessment, or the boundaries of the district other than an annexation provided in article 5, or the council may require the levy of a new assessment. Such change or new levy shall be accomplished in accordance with this article.

(b) Any other amendments to the ordinance establishing the district not specifically controlled by this chapter may be accomplished by ordinance but need not comply with the provisions of this article, or article 5 or article 6 of this chapter.

(2004, ord 04-94, sec 1.)

Section 35-29. Ordinance for change.

(a) If the council determines that the public convenience and necessity require a change permitted under section 35-28(a) or require the levy of a new assessment, the council may approve an ordinance for change.

The council shall commence proceedings only upon receipt of a request from the board directors.

(b) An ordinance for change for a district shall be an amendment of the ordinance establishing the district. The ordinance for change shall contain the pertinent information required by section 35-31.

(2004, ord 04-94, sec 1.)

Section 35-30. Request for changes.

The council may commence proceedings to approve an ordinance for change if receiving a request from the district board requesting a change permitted under section 35-28(a) or the levy of a new assessment.
(2004, ord 04-94, sec 1.)

Section 35-31. Contents of proposed ordinance for change.

A proposed ordinance for change shall do all of the following:

(1) State the name of the district;
(2) Describe the boundaries of the district;
(3) Specify the proposed change to the supplemental services or improvements, the supplemental services or improvements to be financed or the boundaries;
(4) Specify whether the issuance and sale of bonds to finance any supplemental improvements is required;
(5) Specify any proposed new special assessment which will be levied to finance new or existing supplemental services and improvements or payment of debt service for supplemental improvements; and
(6) Specify any proposed change to the rate or method of apportionment of an existing special assessment.

(2004, ord 04-94, sec 1.)

Section 35-32. Notice of hearing on proposed ordinance of consideration.

(a) The council shall fix the time and place for a hearing on the proposed ordinance of consideration. The date of the hearing shall not be less than thirty or more than ninety days from the date of introduction of the proposed ordinance.
(b) The County clerk shall publish notice of the hearing in the same manner as required under section 35-12 for notice of a hearing to owners of land within a proposed district. In addition, the County clerk shall mail the notice to each owner of land assessed or proposed to be assessed in the district at least fifteen days before the hearing in the manner described in section 35-12.
(c) The notice shall contain all of the following information:
    (1) A summary of the proposed ordinance and a statement that the proposed ordinance is on file in the County clerk's office for public inspection (alternatively, the notice may contain the full text of the proposed ordinance);
    (2) The time and place of the hearing;
    (3) A statement that, at the hearing, the testimony of all interested persons and landowners for or against the proposed changes will be heard; and
    (4) A summary of the protest procedure and the form of any protest, including the respective rights of an owner and the effect of protests made against the proposed changes.

(2004, ord 04-94, sec 1.)

Section 35-33. Protests against the proposed ordinance of consideration.

Protests against the proposed ordinance of consideration may be made in writing by landowners and if made shall be in such form as may be prescribed by the County clerk. All written protests shall be filed with the County clerk before or at the hearing. The council may waive any irregularities in the form or content of any written protest. Written protests may be withdrawn in writing by the owner who protested at any time before the conclusion of the hearing.
(am 2004, ord 04-94, sec 1.)

Section 35-34. Protest by a majority or more.

(a) If the landowners owning lands which are assessed or proposed to be assessed within the district that have a real property tax assessed value of more than fifty percent of the total real property tax assessed value of all land assessed or proposed to be assessed in the district or if a majority of the owners of land assessed or proposed to be assessed in the district file written protests with the council before or at the public hearing against the proposed ordinance of consideration and if protests are not withdrawn so as to reduce the amount of the protests to fifty percent or less, the ordinance of consideration shall not be approved. No proceedings to include the provision in another ordinance of consideration shall again be undertaken for a period of ninety days from the close of the hearing.

(b) Sections 35-13(c) and (d) shall apply to protests under this section.

(2004, ord 04-94, sec 1.)

Section 35-35. Duration of hearing; determination.

The hearing may be continued from time to time, but shall be completed within thirty days; except that, if the council finds that the complexity of the proposed changes or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed ninety days from the date of the original hearing. At the conclusion of the hearing, the council, after considering all protests and such other relevant factors (such as the general plan or development plan) as it deems appropriate, may approve the ordinance of consideration.
(2004, ord 04-94, sec 1.)

Section 35-36. Filing of notice.

After the effective date of an ordinance of consideration, the director of finance shall provide notice of any change in the district or the special assessment or levy in the manner specified under section 35-25.
(2004, ord 04-94, sec 1.)

Article 5. Proceedings to Annex Land.

Section 35-37. Authorization to annex; contiguity not required.

The council may annex an area of land to an existing district in accordance with this article. The annexed land need not be contiguous to the existing district.
(2004, ord 04-94, sec 1.)

Section 35-38. Ordinance of annexation.

Upon request of the district board, if the council determines that the public convenience and necessity require the addition of land to an existing district, the council may approve an ordinance of annexation adding the land. The ordinance of annexation adding land to an existing district shall be deemed an amendment of the ordinance of formation for that district.
(2004, ord 04-94, sec 1.)

Section 35-39. Contents of proposed ordinance of annexation.

(a) A proposed ordinance of annexation shall do all of the following:
   (1) State the name and term of the existing district;
   (2) Describe the boundaries of the existing district and the area proposed to be annexed;
   (3) Identify the supplemental services and improvements provided and financed by the existing district, the supplemental services and improvements to be provided and financed by the area proposed to be annexed, and the supplemental services and improvements to be provided and financed in common by both;
   (4) Specify the proposed new special assessment which will be levied within the area proposed to be annexed; and
   (5) Specify any proposed change to the special assessment within the existing district as a result of the proposed annexation.

(b) The assessment rate in the existing district shall not be increased as a result of annexation proceedings pursuant to this article.

(2004, ord 04-94, sec 1.)

Section 35-40. Notice of hearing on proposed ordinance of annexation.

(a) The council shall fix the time and place for a hearing on the proposed ordinance of annexation. The date of the hearing shall not be less than thirty or more than ninety days from the date of introduction of the proposed ordinance.

(b) The County clerk shall publish notice of the hearing in the same manner as required under section 35-12 for notice of a hearing to owners of land within a proposed district. In addition, the County clerk shall mail the notice to each owner of land assessed or proposed to be assessed in the existing district and area proposed to be annexed. The notice shall be mailed at least fifteen days before the hearing in the manner described in section 35-12.

(c) The notice shall contain all of the following information:
   (1) A summary of the proposed ordinance and a statement that the proposed ordinance is on file in the County clerk's office for public inspection (alternatively, the notice may contain the full text of the proposed ordinance);
   (2) The time and place of the hearing;
   (3) A statement that, at the hearing, the testimony of all interested persons and landowners for or against the proposed annexation will be heard; and
   (4) A summary of the protest procedure and the form of any protests, including the rights of an owner of land and the effect of protests made against the proposed annexation.

(2004, ord 04-94, sec 1.)

Section 35-41. Protests against proposed ordinance of annexation.

Protests against the proposed ordinance of annexation may be made in writing by landowners of land in the existing district or by landowners of land in the area proposed to be annexed and, if made, shall be in such form as may be prescribed by the County clerk. All written protests shall be filed with the County clerk before or at the hearing. The council may waive any irregularities in the form or content of any written protest. Written protests may be withdrawn in writing by the owner who protested at any time before the conclusion of the hearing.

(2004, ord 04-94, sec 1.)

Section 35-42. Protest by a majority or more.

(a) If either:
   (1) The landowners owning lands which are assessed in the existing district that have a real property tax assessed value of fifty percent plus one of the total real property tax assessed value of land specially assessed in the existing district, or
   (2) The landowners owning lands which are proposed to be annexed and assessed that have a real property tax assessed value of fifty percent plus one of the total real property tax assessed value of land proposed to be annexed and assessed, or
   (3) More than fifty percent of the owners of lands which are specially assessed in the existing district, or
   (4) More than fifty percent of the owners of land which are proposed to be annexed and assessed, file written protests with the council before or at the public hearing against the proposed annexation and if protests are not withdrawn so as to reduce the amount of the protests to fifty percent or less, the annexation proceedings shall cease.

   Sections 35-13(c) and (d) shall apply to protests under this section.

(b) If the annexation proceedings cease pursuant to section 35-42(a) above, no proceedings to annex the land shall be undertaken for a period of ninety days from the close of the hearing.

(2004, ord 04-94, sec 1.)

Section 35-43. Duration of hearing; determination.

The hearing may be continued from time to time, but shall be completed within thirty days; except that, if the council finds that the complexity of the proposed annexation or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed ninety days from the date of the original hearing. At the conclusion of the hearing, the council, after considering all protests and such other relevant factors (such as the general plan or development plan) as it deems appropriate, may approve or disapprove the ordinance of annexation (in the form in which it was introduced or with such changes as determined by the council and permitted by this part). Thereafter, the County may levy the assessment on the annexed land.
(2004, ord 04-94, sec 1.)

Section 35-44. Filing of notice.

After the effective date of an ordinance of annexation, the director of finance shall provide notice of any assessment change or levy in the manner specified under section 35-25.
(2004, ord 04-94, sec 1.)

Article 6. Proceedings to Terminate a District.

Section 35-45. Authorization to terminate the district.

(a) The council may terminate a district at any time for cause due to the willful misconduct or gross negligence on the part of the district board. The council shall initiate proceedings to terminate the district for cause by a resolution and shall terminate the district by an ordinance.
(b) The council, on its own initiative, may terminate a district at the expiration of the then occurring five-year term in accordance with this article. The council shall initiate proceedings to terminate a district at the expiration of the then occurring five-year term by a resolution and shall terminate the district by an ordinance.
(c) The council may terminate a district at any time upon request from the district board. A termination shall be accomplished in accordance with this article.
(d) Except as set forth herein, the council may not initiate proceedings to terminate a district.

(2004, ord 04-94, sec 1.)

Section 35-46. Ordinance terminating the district.

(a) Upon its own initiative or receipt of the request from the district board, both as set forth in sections 35-45, if the council determines that the public convenience and necessity will be promoted by terminating a district, the council may approve an ordinance terminating the district.

(b) The council shall not approve an ordinance terminating a district:
   (1) Unless provisions are included to assure the payment of all outstanding debt service on any bonds issued to finance improvements within the district from the assessments or accumulated reserves of the district or as council otherwise deems necessary; and
   (2) Unless provisions are included to assure the payment of all outstanding incidental expenses and supplemental services expenses accrued for the district from the assessments or accumulated reserves of the district or as council otherwise deems necessary.

(2004, ord 04-94, sec 1.)

Section 35-47. Contents of proposed ordinance terminating the district.

A proposed ordinance terminating the district shall do all of the following:
(1) State the name of the district;
(2) Describe the boundaries of the district;
(3) Identify the proposed termination date of the district;
(4) Give a narrative justification for the proposed termination;
(5) With respect to bonds issued to finance improvements for the district:
   (A) Guarantee the payment of the bonds before the termination of the district; or
   (B) Establish a method by which the bonds will be paid after the termination of the district;
(6) With respect to incidental expenses accrued for the district:
   (A) Guarantee the payment of the incidental expenses before the termination of the district; or
   (B) Establish a method by which incidental expenses, if any, will be paid after the termination of the district; and
(7) With respect to supplemental services expenses accrued for the district:
   (A) Guarantee the payment of the supplemental services expenses before the termination of the district; or
   (B) Establish a method by which supplemental service expenses, if any, will be paid after the termination of the district.

(2004, ord 04-94, sec 1.)

Section 35-48. Notice of hearing on proposed ordinance terminating the district.

(a) The council shall fix the time and place for a hearing on the proposed ordinance terminating the district. The date of the hearing shall not be less than thirty or more than ninety days from the date of introduction of the proposed ordinance.
(b) The County clerk shall publish notice of the hearing in the same manner as required under section 35-12 for notice of a hearing to institute proceedings. In addition, the County clerk shall mail the notice to each owner of land assessed in the district at least fifteen days before the hearing.

(c) The notice shall contain all of the following information:
   (1) A summary of the proposed ordinance and the fact that the proposed ordinance is on file in the County clerk's office for public inspection (alternatively, the notice may contain the full text of the proposed ordinance);
   (2) The time and place of the hearing; and
   (3) A statement that, at the hearing, the testimony of all interested persons and landowners for or against the proposed termination will be heard.

(2004, ord 04-94, sec 1.)

Article 7. Bonds.

Section 35-49. Bond ordinance.

(a) Whenever the council deems it necessary or appropriate that business improvement district bonds be issued to finance the cost of supplemental improvements or to reimburse the cost thereof previously paid, the council may authorize the issuance of bonds. The issuance shall be authorized by a bond ordinance approved with or after the approval of the ordinance establishing the district and levying the assessment to finance the costs of supplemental improvements. The bond ordinance shall provide for the following:
   (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 thirty years after the issuance date of the bonds;
   (4) The rate or maximum rate of interest on the bonds, which shall not exceed the maximum rate permitted by law and which may be fixed or variable and 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 assessments collected from the district thereof, the liens securing such assessments, or any other funds which are intended by the council to secure payment of the bonds. The pledge shall be superior to all other claims on the assessments (except to the extent otherwise provided in this chapter and the bond ordinance);
   (15) The establishment and handling of a separate special fund or funds to pay or secure the bonds or to pay for the costs of supplemental improvements or incidental expenses;

(16) The obligations in which may be invested the proceeds of the bonds and any other funds (including assessments) pledged to secure payment of the bonds; and

(17) Any other provisions for the issuance, payment, security, credit enhancement, handling of funds, default, remedy, or other matter related to the bonds, which the council deems appropriate.

(b) The bond ordinance may provide that any or all of the terms listed in this section or elsewhere in this article may be determined and fixed by the director of finance at or prior to the delivery of the bonds 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.

(2004, ord 04-94, sec 1.)

Section 35-50. Costs includable in bond principal.

The principal amount of bonds authorized to be issued may include all costs and estimated costs of supplemental improvements and related expenses.

(2004, ord 04-94, sec 1.)

Section 35-51. Minimum value-to-lien ratio.

The principal amount of bonds authorized to be issued for a district shall not exceed one-third of the value of the real property upon which an assessment 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, the improvements thereon and the improvements, within the meaning of section 35-3, to be constructed within the district, as shown by the real property tax assessed values of the subject property.

(2004, ord 04-94, sec 1.)

Section 35-52. Covenant to pursue foreclosure action to collect delinquent special assessments.

The director of finance may covenant, for the benefit of bond owners, to commence and diligently pursue to completion any foreclosure action regarding delinquent assessments. The covenant may specify a deadline for commencement of the foreclosure action and any other terms and conditions the director of finance determines reasonable regarding the foreclosure action.

(2004, ord 04-94, sec 1.)

Section 35-53. Signing of bonds.

Unless otherwise specified in the bond ordinance, the bonds shall be signed by the mayor and countersigned by the director of finance or the director's deputy. Signatures on the bonds may be manual or facsimile. If any officer whose signature appears on the bonds vacates the office before the delivery of the bonds, the signature shall be as effective as if the officer had remained in office.

(2004, ord 04-94, sec 1.)

Section 35-54. Manner of sale.

The director of finance may sell bonds 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).
(2004, ord 04-94, sec 1.)

Section 35-55. Bond fund.

All of the collections for payment of principal of and interest on bonds and related expenses shall be paid into a district bond or reserve fund and shall be used solely for the payment of the principal of and interest on the outstanding bonds of the district and related expenses, all as provided in the bond ordinance.
(2004, ord 04-94, sec 1.)

Section 35-56. Refunding bonds.

(a) The council may authorize the issuance of bonds to refund any or all of the district bonds outstanding that have been issued pursuant to this article. The refunding bonds shall be authorized by a bond ordinance.

(b) 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.

(c) The designated costs of issuing refunding bonds shall be paid from proceeds of the refunding bonds, interest earned on such proceeds, or assessments from the district. However, any interest or assessments paid for the designated costs 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 subsection (b).

"Designated costs of issuing the refunding bonds" means any of the following costs and expenses designated by the council in the bond ordinance authorizing the issuance of the refunding bonds:

(1) 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 the redemption or retirement of the bonds to be refunded;

(2) 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 or the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds;

(3) Any premium necessary in the calling or retiring of the bonds to be refunded;

(4) 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

(5) Any other incidental expenses related to the issuance or carrying of the refunding bonds or the redemption or refunding of the bonds to be refunded.

(d) The saving achieved through the issuance of refunding bonds shall be used by the council to reduce the assessment levied in the district.

At the time the council authorizes the issuance of refunding bonds, the council also shall reduce the assessments levied in the district. The reduction shall be made through an ordinance of consideration pursuant to article 4.

(2004, ord 04-94, sec 1.)

Section 35-57. Prohibition on issuance of general obligation bonds secured by general credit.

No general obligation bonds secured by the County's general credit shall be issued to finance the costs of improvements identified in an ordinance establishing a district or pay for the incidental expenses of a district.

(2004, ord 04-94, sec 1.)

Section 35-58. Debt limit calculation.

Bonds issued under this article, when the only security is the assessments levy or lien in a district, 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 State constitution.

(2004, ord 04-94, sec 1.)

Article 8. Publication Dispensing Devices.

Section 35-59. Applicability.

The provisions of this article shall apply to publication dispensing devices, publication dispensing rack enclosures and publication dispensing rack spaces located upon sidewalks and other public property within a business improvement district for which the district association has been issued a permit pursuant to chapter 22 of this Code.

(2012, ord 12-59, sec 5.)

Section 35-60. Definitions.

As used in this article, unless another meaning is clear from the context, the following terms shall have the following meaning:

"Authorized association" means a district association, as defined in section 35-1, that has been issued a district-wide permit pursuant to chapter 22, article 3, division 3 of this Code for the installation of publication dispensing racks.

"Authorized association-installed," "authorized association shall install," "installed by the authorized association," or words of similar import mean installation, undertaken by or caused to be undertaken, by an authorized association.

"Director" means the director of the department of public works.

"District" means the business improvement district governed by a certain authorized association.

"Insert," when used as a noun, means a publication dispensing rack insert.

"Install" includes construct, erect, fabricate and affix.

"Location" means a site designated by the director for placement of association-installed publication dispensing rack enclosures.

"Permit" means a publication dispensing rack space allocation or reallocation invoice issued pursuant to this article.

"Permit period" means the period for which spaces are allocated under section 35-63(c).

"Permittee" means a person, organization, corporation, firm, association or similar entity to whom or to which a publication dispensing rack permit has been issued pursuant to this article.

"Publication" means any written or printed matter, including but not limited to, daily publications, real estate publications or periodical newspapers, and any visitor information publications, but may exclude any "handbill" defined in rules adopted by the authorized association pursuant to section 35-68 if such rules provide that handbills, as so defined, shall be excluded.

"Publication dispensing device" means any stand, box, rack or other device, other than a publication dispensing rack enclosure or a publication dispensing rack insert, used to dispense any publication. For purposes of this definition, a person shall not be deemed a device.

"Publication dispensing rack enclosure" or "enclosure" means a structure installed by the authorized association in the district with spaces in which publication dispensing rack inserts may be inserted.

"Publication dispensing rack insert" means a box, insert or rack with a clear plastic face that is owned by a permittee, that is designed to be inserted into a publication dispensing rack space, and that is constructed to hold and display a publication.

"Publication dispensing rack space" or "space" means an area within a publication dispensing rack enclosure that is constructed to hold a publication dispensing rack insert to display and dispense a publication.

"Publisher" means an owner or authorized agent of the owner of a publication. The authorized association may adopt rules defining the term "owner" or "authorized agent" for purposes of this definition.

"Reallocation" means an allocation of unallocated, abandoned or surrendered spaces to a permittee that takes place during a permit period.

"Sidewalk" means that portion of a street between a curb line or the pavement of a roadway, and the adjacent private or public property line, whichever the case may be, intended for the use of pedestrians, including any setback areas acquired by the County for road widening purposes.

"Unallocated publication dispensing rack space" means a publication dispensing rack space that has not been allocated in the most recent allocation or reallocation. (2012, ord 12-59, sec 5.)

Section 35-61. Publication dispensing rack enclosures.

(a) A publication dispensing rack enclosure in the district shall contain a minimum of two publication dispensing rack spaces.

(b) Each publication dispensing rack enclosure shall be designed so that publication dispensing rack inserts inserted therein may meet the standards for such inserts established by the authorized association.

(c) The authorized association shall label each space within each publication dispensing rack enclosure for the purpose of identification.

(d) Nothing in this article shall be construed to preclude the authorized association from installing additional publication dispensing rack enclosures to the extent authorized under the authorized association's permit.

(2012, ord 12-59, sec 5.)

Section 35-62. Publication dispensing rack inserts.

(a) The authorized association shall enforce standards for the size, design, color and material of publication dispensing rack inserts that may be inserted into the authorized association's publication dispensing rack enclosures pursuant to permit, which shall have been approved by the director.

(b) No person may place anything other than:

(1) A publication dispensing rack insert for which a permit has been issued and meeting the standards established pursuant to subsection (a); and

(2) Copies of the publication permitted to be dispensed from the publication dispensing rack insert into a space in a publication dispensing rack enclosure.

(2012, ord 12-59, sec 5.)

Section 35-63. Publication dispensing rack space permits.

(a) Any publisher desiring the use of a publication dispensing rack space in a publication dispensing rack enclosure for purposes of dispensing a publication therefrom shall submit an application for a publication dispensing rack space permit to the authorized association. The authorized association shall determine with the approval of the director, the form of, and provide to interested persons copies of, the publication dispensing rack space permit application form.

(b) The authorized association may establish by rules approved by director a permit fee to be charged by the authorized association for each publication dispensing rack space.
(c) The requirement that a copy of the publication be submitted with the application is intended to ensure that the publication exists at the time of the application and the authorized association may not deny a permit for any publication based upon its content. No permit shall be issued for a publication that does not exist at the time of the application.
(d) The authorized association shall maintain a record of all publication dispensing rack spaces that have been allocated or reallocated, the permittees to which the spaces have been allocated or reallocated, and the publication permitted to be dispensed from the spaces.

(2012, ord 12-59, sec 5.)

Section 35-64. Installation, maintenance, and repair of publication dispensing enclosures, spaces, and inserts.

It shall be the responsibility of the authorized association to install, maintain, and repair the publication dispensing rack enclosures, either directly or by contract with a private contractor. Any cost for the installation, maintenance, and repair of the enclosure shall be borne by the authorized association.

(2012, ord 12-59, sec 5.)

Section 35-65. Temporary dislocations.

(a) The authorized association may direct a permittee to remove copies of the permitted publication and the permittee's publication dispensing rack insert from a publication dispensing rack enclosure temporarily during any public, private, or utility construction work conducted on the public sidewalk, the abutting roadway, an adjacent building, or structure or to any utility, when the director determines that the removal is necessary in the interest of public safety.
(b) The authorized association may also direct a permittee to remove copies of the permitted publication and the permittee's publication dispensing rack insert from a publication dispensing rack enclosure during any installation or repair work on the publication dispensing rack enclosure.

(2012, ord 12-59, sec 5.)

Section 35-66. Prohibitions.

The following prohibitions shall apply:

(1) Other than provided in this article there shall be no publication dispensing device allowed and no person may install or direct another person to install any publication dispensing device on any public property, sidewalk, or right of way within the district.

(2) Any publication dispensing device installed in violation of this article shall be subject to administrative enforcement including but not limited to removal, fines, cease and desist orders and forfeiture in accordance with section 22-8.2 of this Code.

(2012, ord 12-59, sec 5.)

Section 35-67. Liability.

The County shall not be held liable for the installation, maintenance, operation, or management of any publication dispensing device within the district.
(2012, ord 12-59, sec 5.)

Section 35-68. Rules.

The authorized association shall adopt rules for the interpretation, implementation and administration of this article, which shall be subject to the approval of the director.
(2012, ord 12-59, sec 5.)

Section 35-69. Fees.

All fees collected by the authorized association pursuant to this article or the rules adopted pursuant to section 35-68 shall be accounted for in the financial records maintained by the district board pursuant to section 35-19 and shall be deposited into the account established for the district under this chapter. The financial records of the authorized association including but not limited to all fees collected pursuant to this article shall be subject to review by the public.
(2012, ord 12-59, sec 5.)

Section 35-70. Severability.

If any provision of this article or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are severable.
(2012, ord 12-59, sec 5.)

Chapter 35 - Annex

Business Improvement District Ordinances

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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.

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CHAPTER 36

REDISTRICTING

Article 1. Definitions.

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CHAPTER 36

REDISTRICTING

Article 1. Definitions.

Section 36-1. Definitions.

As used in this chapter:

"Bizarre council district shape" means a council district that is drawn to have a very odd or grotesque shape, that has absurdities or is ridiculous in design, may cause grotesque projections into another district, may add an area that defies logic as to why it was included, or is so weird on its face that it is unexplainable on grounds other than gerrymandering.

"Commission" means the redistricting commission.

"Commissioner" means one of the nine members of the commission, duly appointed in the manner prescribed in section 13-4 of the Charter.

"Community of interest" or "community of common interest" means a group defined by actual shared interests.

"Council district deviation" means the number of percentage points plus or minus 4.99 percent that a population assigned to a council district differs from that of an ideal council district's population.

"Fracturing" or "cracking" means drawing council district lines so that a minority population is broken up and spread among as many council districts as possible, keeping them a minority in every council district, rather than permitting them to concentrate their strength enough to elect representatives in some council districts.

"Gerrymander" means the process of drawing council districts with odd or bizarre shapes to create an unfair advantage.

"Ideal council district's population" means the total number of the County's permanent residents divided by the number of council districts.

"Minority population" means a group with similar demographics or characteristics that may share but not be limited to: ethnicity, political preferences, a socio-economic group, or a community of interest or community of common interest.

"One person, one vote" means using a benchmark against which the residents of the County may measure democracy; the vote of each resident shall be as equally powerful as practicable and the population shall be divided as equally as practicable as to the County's permanent resident population so that each person and each interest has an equal amount of representation in government.

"Packing" means drawing council district boundary lines so that the members of the minority population are concentrated, or "packed," into as few council districts as possible, resulting in a super-majority of that minority population in the packed council district.

"Permanent resident" for census purposes means a person who is domiciled in the County for other than a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of a person's presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation, or while a student at any institution of learning.

"Plan" means a redistricting plan proposed by the commission or any alternative plan submitted by the public.

"Practicable" means reasonably capable of being accomplished, possible or feasible.

"Redistricting" means establishing the boundaries of the council districts, which shall have approximately equal resident populations as required by applicable constitutional provisions.

"Redistricting cycle" means that period of time when the United States Census Bureau conducts a census of the population of the United States of America in the census year followed by redistricting in the redistricting year, and culminates with the next general election following redistricting.

"Region" means one of six geographical areas which includes: Puna, comprised of Upper and Lower Puna; Kona, comprised of North and South Kona; Kohala, comprised of North and South Kohala; Hilo, comprised of North and South Hilo; Kaʻū; and Hāmākua.

"Socio-economic group" means a group that shares both economic and social characteristics.

"Standard of fairness principles" means that the commission shall use honesty, morality, and fairness in its decisions regarding redistricting.

"Total deviation" means the overall range used to measure the population equality of a plan; the difference between the council district with the most negative percentage deviation and the council district with the most positive percentage deviation.

"United States census year" means those years ending in the numeral zero such as 2010, 2020, etc.

"Vote dilution" means the limitation of the effectiveness of a particular group's vote by political gerrymandering.

(2011, ord 11-29, sec 2.)

Article 2. Training.

Section 36-2. Training.

Commissioners shall be trained in redistricting law and the code of ethics by the office of the corporation counsel or its designated agent, and may be provided any other training by appropriate personnel to enable the commission to be efficient and educated on this topic.

(2011, ord 11-29, sec 2.)

Article 3. Redistricting Criteria.

Section 36-3. Established criteria.

The commission shall adhere to the criteria in establishing boundaries of the council districts set forth in section 3-17, subsection (g) of the Charter.
(2011, ord 11-29, sec 2.)

Section 36-4. Additional criteria.

In addition to the established criteria, the commission shall also adhere to the following criteria in establishing boundaries of the council districts:

(1) Council districts shall have approximately equal, permanent, resident populations, as required by applicable constitutional provisions to prevent vote dilution to the maximum degree practicable.

(2) Nonresident military personnel, nonresident military dependents, nonresident students, and foreign nationals or aliens shall be excluded from the permanent, resident population base used to calculate each proposed council district's population and its deviations from an ideal council district's population, if practicable.

(3) An ideal council district's population number shall be used to determine by what percentage each council district's population deviates from the population of an ideal council district.

(4) The number of council districts to which a region is entitled shall be determined by adding together the permanent resident population according to the United States census for the applicable United States census year within each region and dividing that number by an ideal council district's population.

   (A) Fractional portions of such districts shall be rounded to the nearest integer to determine the number of council districts required for that region.

   (B) Numbers from 0.10 to 0.49 shall be rounded down to the nearest integer. Numbers from 0.50 to 0.99 shall be rounded up to the nearest integer.

(5) There shall be no partisanship or racism in drawing council district boundaries.

(6) No council district shall be drawn to unduly favor or penalize an incumbent.

(7) Council district boundaries shall be drawn without regard to any incumbent's residential location, any incumbent's ability to run for re-election in that incumbent's current council district, or whether any incumbent faces another incumbent for re-election.

(8) Community of interest or community of common interest shall be respected and be kept together in the plan, if practicable.

(9) Council districts shall be drawn to be as compact as practicable while maintaining the community or communities of interest.

(10) The County shall use to the extent possible a reasonably current computer mapping program and shall make the program accessible to the public, if practicable.
(11) All parts of each council district shall be contiguous to the council district and be reachable by roads internal to the council district.
(12) There shall be no gerrymandering for any reason.
(13) The drawing of bizarre council district shapes shall be avoided even if a previous plan was designed using an odd, unusual, or illogical shape.
(14) There shall be no fracturing, packing, or cracking of council districts, if practicable.
(15) The one person, one vote principle shall be used.
(16) If the commission establishes criteria in addition to those enumerated in the Charter and this chapter, the commission shall use impartial criteria that meet standard of fairness principles.
(17) If practicable, socio-economic criteria used in developing the plan, not specifically set forth in this chapter, shall be identified, documented, and approved by majority vote of the commission, before drawing proposed council district boundaries. If practicable, socio-economic groups shall be kept together.

(2011, ord 11-29, sec 2.)

Article 4. Plan Deviations.

Section 36-5. Total deviation.

(a) The total deviation for the entire plan shall be less than ten percent.
(b) If a population of permanent residents must be assigned to a different council district to ensure that the total deviation is less than ten percent and such equalization involves reassigning any portion of a subdivision, the entire subdivision shall be moved as a unit, if practicable.

(2011, ord 11-29, sec 2.)

Section 36-6. Maximum council district deviation.

(a) The maximum council district deviation for a proposed council district shall not exceed plus or minus 4.99 percent of an ideal council district's population.
(b) If practicable, documented, high-growth areas shall be drawn to receive the most negative council district deviation percentage in the final plan so that as a high growth area or district continues to increase in population between census years, the council district's deviations may be equalized.

(2011, ord 11-29, sec 2.)

Article 5. Alternate Plan.

Section 36-7. Plan proposed by the public.

(a) Any resident or group of residents of the County shall have the right to propose an alternate plan to the commission for review.

(b) The deadline for the submission of an alternate plan or plans shall be determined by the fourth meeting of the commission and that date shall be publicly announced.

(c) Any proposed alternate plan shall be submitted to the commission at least eight weeks prior to the deadline for the draft plan.

(2011, ord 11-29, sec 2.)

Section 36-8. Alternate plan consideration.

(a) To be considered for commission review, the alternate plan shall include a computerized map of the proposed council districts, the total population number used to devise the plan, the total deviation not to exceed ten percent, and the deviation for each council district not to exceed plus or minus 4.99 percent.

(b) An alternate plan shall be provided to the commission for discussion at public hearings unless the commission formally rejects the alternate plan for just cause.

(c) Any alternate plan submitted for consideration that the commission has not formally rejected for just cause during public hearings shall continue to be considered by the commission for the remaining public hearings and meetings until a final plan is selected.

(2011, ord 11-29, sec 2.)

Section 36-9. Alternate plan requirements.

An alternate plan:

(1) Shall conform to the criteria described in this chapter and in the Charter, and any other criteria adopted by the commission.

(2) Having a lower total deviation than the commission's plan while not exceeding plus or minus 4.99 percent in any council district nor having a total deviation in excess of ten percent shall be selected for the final plan unless the commission can alter its plan to achieve an equal or lower total deviation than the alternate plan offered.

(3) Shall include written justification for any divergence from the established criteria.

(2011, ord 11-29, sec 2.)

Article 6. Final Plan.

Section 36-10. Written report.

(a) The commission shall submit a written report to the county clerk transmitting the final plan chosen by the commission.

(b) The written report shall include:
  (1) The final vote of the commission as to its choice of plan;
  (2) The total permanent, resident population base used by the commission;
  (3) The total deviation of the final plan;
  (4) Each proposed council district's population and its associated deviation;
  (5) Maps of each council district and a written description of each council district's boundary;
  (6) A map of the island with all proposed council districts included;
  (7) Justification for any divergence from any of these requirements or criteria or any criteria added by the commission and, in addition:
    (A) Divergence from or adding additional redistricting criteria shall require formal adoption by the commission. The commission shall justify the divergence or addition to the redistricting criteria at a duly noticed and scheduled public meeting. Such justification and public meeting is to be held prior to the commission's selection or determination of any council district boundaries and before the deadline for filing an alternate plan or plans, as the case may be;
    (B) Written justification for divergence, criteria changes, and meeting minutes shall be included with the submission of the final plan and shall set forth the commission's rationale for divergences from or additions to the redistricting criteria.
  (8) Minutes of all meetings and hearings associated with the commission;
  (9) Documentation in the commission's final report stating the reason any alternate plan, whether accepted or not, was selected or rejected; and
  (10) Any other data used by the commission in its deliberations.

(2011, ord 11-29, sec 2.)

Section 36-11. Challenges to the plan.

In the event of a successful court challenge of a plan, the commission shall continue in operation and may assist the court in formulating a new plan unless a court of competent jurisdiction determines otherwise.

(2011, ord 11-29, sec 2.)