THE REVISED ORDINANCES OF HONOLULU 2021

Comprising the Ordinances of the
CITY AND COUNTY OF HONOLULU
Ordinance No. 17-53 through Ordinance No. 20-35
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Volume I

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HONOLULU, HAWAII
SUMMARY TABLE OF CONTENTS

Chapters

VOLUME I

TITLE I: ADMINISTRATION

TITLE II: TAXATION AND FINANCES

TITLE III: MISCELLANEOUS REGULATIONS

VOLUME II

TITLE IV: TRAFFIC AND VEHICLES

TITLE V: BUILDING AND CONSTRUCTION CODES

TITLE V: BUILDING AND CONSTRUCTION CODES (Cont.)

TITLE VI: LAND USE

VOLUME III

VOLUME IV

TITLE VII: BUSINESS

TITLE VIII: PROPERTY

Table of Contents

TITLE IX: PUBLIC HEALTH, SAFETY, AND SANITATION

PARALLEL REFERENCES

TABLES

Honolulu - Table of Contents

HONOLULU, HAWAII
DETAILED TABLE OF CONTENTS

VOLUME I

TITLE I: ADMINISTRATION

Chapter 2. THE MAYOR AND EXECUTIVE AGENCIES–ADDITIONAL POWERS, DUTIES, AND FUNCTIONS (CONT.)

Table of Contents

TITLE II: TAXATION AND FINANCES

Chapter 6. FUNDS, FEES, AND LOAN PROGRAMS

Articles

Table of Contents

Table of Contents

Table of Contents

Table of Contents

Table of Contents

Table of Contents

TITLE I: ADMINISTRATION

Chapters

Honolulu - Administration

CHAPTER 1: GENERAL PROVISIONS

Articles

ARTICLE 1: TITLE OF VOLUME

Section

§ 1-1.1 Title.

This volume shall be known as "the Revised Ordinances of Honolulu 2021," and its official abbreviated designation shall be "ROH."
(Sec. 1-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 1, § 1-1.1)

ARTICLE 2: CONSTRUCTION OF ORDINANCES

Sections

§ 1-2.1 Construction.

In the construction of ordinances, resolutions having the effect of law, or rules having the effect of law, the following rules shall be observed, unless it shall be apparent from the context that a different construction is intended.

(a) *General rule.* 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.

(b) *Construction of ambiguous words.* Where the words are ambiguous:

(1) The meaning of the ambiguous words may be sought by examining the context, with which the ambiguous words, phrases, and sentences may be compared, to ascertain their true meaning;

(2) The reason and spirit of the ordinance, resolution, and rules and the cause which induced enactment or adoption may be considered to discover its true meaning; and

(3) Every construction that leads to an absurdity shall be rejected.

(c) *Ordinances in pari materia.* Ordinances in pari materia, or upon the same subject matter, shall be construed with reference to each other. What is clear in one ordinance may be called in aid to explain what is doubtful in another.

(d) *Number and gender.* Words in the masculine gender signify both the masculine and feminine gender, those in the singular or plural number signify both the singular and plural number, and words importing adults include youths or children.

(e) *Tenses.* Every word used in the present tense shall include the future.

(f) *Acts by subordinate officer.* When any provision herein 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.

(g) *Ordinance, resolution, or rules not retrospective.* No ordinance, resolution, or rule has any retrospective operation, unless otherwise expressed or obviously intended.

(h) *Persons and property subject to ordinance, resolution, or rules.* The ordinances, resolutions, and rules are obligatory upon all persons and property within the jurisdiction of the city.

(i) *Prohibitory ordinance—effect.* Whatever is done in contravention of a prohibitory ordinance is void, although the nullity be not formally directed.

(j) *References apply to amendments.* Whenever reference is made to any portion of the Revised Ordinances of Honolulu or of any other law of the city or State, the reference applies to all amendments thereto.

(k) *References inclusive.* Whenever reference is made to a series of sections in the Revised Ordinances of Honolulu by citing only the numbers of the first and last sections connected by the word "to," the reference includes both the first and last sections.

(l) *Citations of ordinance or resolution included in supplements.* Any act of the council may be cited in any subsequent enactment of ordinances or in any other proceeding by reference to the chapter or section numbers as set forth in the supplement published pursuant to Charter § 3-205.

(m) *Service of notice by mail.* Wherever an ordinance provides for the giving of notice or service of legal process by registered mail, the sending of such notice or service of such legal process may be made by means of certified mail, return receipt requested and deliver to addressee only.

(n) *Computation of time.* The time, in which any act is to be done, is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded. When so provided by the rules of court, the last day also shall be excluded if it is a Saturday.

(o) *Acts to be done on holidays.* Whenever any act of a secular nature other than a work of necessity or mercy is appointed by law or contract to be performed upon a particular day, that day falls upon a Saturday, Sunday, or holiday, the act may be performed upon the next business day with the same effect as if it had been performed upon the appointed day.

(Sec. 1-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 2, § 1-2.1)

§ 1-2.2 When construction shall apply.

(a) All provisions of this article relating to construction of ordinances, resolutions, and rules shall apply not merely to those now in force, but to all enacted, unless otherwise expressed or obviously intended.

(b) The rules of construction set forth in § 1-2.1 shall not be applied to any provision of the Revised Ordinances of Honolulu that shall contain any express provision excluding such construction, or when the subject matter or context of a provision of the Revised Ordinances of Honolulu may be repugnant thereto.

(Sec. 1-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 2, § 1-2.2)

§ 1-2.3 Reference to articles, chapters, or sections—Conflicting provisions.

In addition to the rules of construction specified in § 1-2.1, the following rules shall be observed in the construction of the provisions of the Revised Ordinances of Honolulu.

(a) All references to chapters, articles, or sections are to the chapters, articles, and sections of the Revised Ordinances of Honolulu unless otherwise specified.

(b) If the provisions of different chapters of the Revised Ordinances of Honolulu 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 such chapter.

(c) If conflicting provisions are found in different sections of the same chapter the provisions of the section that are enacted later in time shall prevail unless such construction is inconsistent with the meaning of such chapter.

(Sec. 1-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 2, § 1-2.3)

§ 1-2.4 Passage of ordinances.

No ordinance shall be passed, except by a bill that must pass three readings on separate days and within two years of its introduction. If a bill fails to pass third reading within the two-year period, it shall be deemed filed.

(Sec. 1-2.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 1, Art. 2, § 1-2.4) (Am. Ord. 96-58)

§ 1-2.5 Adoption of resolutions.

Except as otherwise provided in this section, a resolution requiring one reading for adoption shall be deemed filed if it fails to be adopted by the council within one year of its date of introduction. Any resolution requiring three readings on separate days for adoption shall be deemed filed if it fails to be adopted by the council within two years of its date of introduction.

(1990 Code, Ch. 1, Art. 2, § 1-2.5) (Added by Ord. 89-29)

ARTICLE 3: PENALTIES AND INTEREST

Sections

§ 1-3.1 Where no penalty provided.

In any case where there shall be a violation of the Charter or ordinances or rules for which no criminal penalty or sanction is provided, the person violating the same, upon conviction, shall be subject to a fine of not more than $1,000 for each offense or by imprisonment of not more than one year, or to both such fine and imprisonment; provided that if such offense by the same person shall continue after due notice, each day's continuance of the same shall constitute a separate offense.
(Sec. 1-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 3, § 1-3.1)

§ 1-3.2 Refusal to provide identification.

In any case where the Revised Ordinances of Honolulu provide for the issuance of a summons or citation, a person so summoned or cited shall not wilfully refuse to provide such person's name, address, and any proof thereof upon the lawful order or direction of any police officer, or other officer lawfully empowered to issue a summons or citation, in the course and scope of the officer's duties pursuant to the ordinances.
(Sec. 1-3.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 3, § 1-3.2)

§ 1-3.3 Interest on debts owed the city.

(a) In any case where existing ordinances do not provide for interest to be charged against a debt owed to the city, interest at the rate of 1 percent for each month or fraction thereof shall be assessed against the outstanding debt, beginning 30 days after the date of the bill.

(b) For the purposes of this section, "debt" includes any loan, fee, charge, or other liquidated sum that is past due to the city, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order.

(1990 Code, Ch. 1, Art. 3, § 1-3.3) (Added by Ord. 94-50)

ARTICLE 4: DEFINITIONS

Section

§ 1-4.1 Words.

For the purposes of the Revised Ordinances of Honolulu, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Any office, department, board, commission, or other governmental unit of the city.

Charter. The Revised Charter of the City and County of Honolulu.

City. The City and County of Honolulu.

Council. The council of the City and County of Honolulu.

County. Includes the City and County of Honolulu.

Employee. Any person, except an officer, employed by the city or any agency thereof, but shall not include an independent contractor.

Executive Agency. Any agency of the executive branch of the city government, excluding the board of water supply.

Month. A calendar month.

Oath. Includes a solemn affirmation.

Officer. Includes the following:

(1) Mayor, members of the council and the managing director;

(2) Any person appointed as administrative head of any agency of the city or as a member of any board or commission provided for in the Charter;

(3) Any person appointed by a board or commission as the administrative head of such agency;

(4) The first deputy or a division chief appointed by the administrative head of any agency of the city; or

(5) Deputies of the corporation counsel and the prosecuting attorney.

Or and ***And.*** May be construed to mean the other.

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.

Year. A calendar year.
(Sec. 1-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 4, § 1-4.1)

ARTICLE 5: REPEAL OF RESOLUTIONS OR ORDINANCES

Sections

§ 1-5.1 Repeal of ordinances.

Ordinances may be repealed either entirely or partially by other ordinances.
(Sec. 1-5.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.1)

§ 1-5.2 Repeal of resolutions.

Resolutions may be repealed either entirely or partially by other resolutions.
(Sec. 1-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.2)

§ 1-5.3 No revivor on repeal—Exception.

The repeal of any resolution or ordinance shall not be construed to revive any other resolution or ordinance that has been repealed, unless it is clearly expressed.
(Sec. 1-5.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.3)

§ 1-5.4 Express or implied repeal.

The repeal of a resolution or ordinance is either express or implied. It is express when it is literally declared by a subsequent resolution or ordinance. It is implied when the new resolution or ordinance contains provisions contrary to, or irreconcilable with, those of the former resolution or ordinance.
(Sec. 1-5.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.4)

§ 1-5.5 Effect of repeal on accrued rights.

The repeal of any resolution or ordinance shall in no case 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.
(Sec. 1-5.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.5)

§ 1-5.6 Effect of repeal on 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 so repealed, shall in any case be affected by such repeal.
(Sec. 1-5.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 5, § 1-5.6)

ARTICLE 6: SEVERABILITY

Section

§ 1-6.1 General provisions.

If any provision of the Revised Ordinances of Honolulu, or the application thereof to any person or circumstances, is held invalid, the remainder of the Revised Ordinances of Honolulu, or the application of the provision to other persons or circumstances, shall not be affected thereby.
(Sec. 1-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 6, § 1-6.1)

ARTICLE 7: CONTINUITY IN GOVERNMENT

Sections

§ 1-7.1 Purpose.

The purpose of this article is to provide for an order of succession and the designation of standby officers to the offices of the mayor and councilmembers in the event of any vacancy in such offices, or in the event of unavailability of any councilmember, resulting from a civil defense emergency.
(Sec. 1-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.1)

§ 1-7.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Civil Defense Emergency. Any disaster or emergency of great destructiveness resulting from enemy attack, sabotage or other hostile action, upon the basis of which the existence of a state of civil defense emergency is proclaimed.

Standby Officers. Persons who shall function with all the powers, responsibilities, and duties of the office for which they have been designated in the event of the unavailability of the officers for whom they stand by, during a period of a civil defense emergency as in this article provided.
(Sec. 1-8.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.2)

§ 1-7.3 Determination as to unavailability.

The determination as to whether a particular officer is unavailable during a civil defense emergency period shall be made by the city council or the remaining available members of the council.
(Sec. 1-8.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.3)

§ 1-7.4 Succession to office of mayor.

(a) If the office of the mayor becomes vacant during a civil defense emergency period, the vacancy shall be filled as provided by Charter § 5-106.

(b) If the vacancy referred to in subsection (a) cannot be filled in conformity with Charter § 5-106, the following shall serve as standby officers for the office of mayor in the order of succession set forth hereinbelow:

(1) The chair of the city council;

(2) The vice-chair of the city council;

(3) Councilmembers-at-large in the order of the longest continuous tenure; provided that if there are two or more councilmembers with equal length of tenure, then the councilmember polling the larger number of votes in the preceding general election shall be prior in the order of succession;

(4) District councilmembers in the order of the longest continuous tenure; provided that if there are two or more district councilmembers with equal length of tenure, then the councilmember polling the larger number of votes in the preceding general election shall be prior in the order of succession; and

(5) The managing director.

(c) Pending the assumption of office by any councilmember as hereinabove provided, or where a temporary absence from the State, or temporary disability or unavailability of the mayor, the managing director shall act as mayor. If the managing director should resign or be unable to act, the director of budget and fiscal services shall then act as mayor.

(Sec. 1-8.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.4)

§ 1-7.5 Succession to office of councilmember.

(a) If a vacancy occurs in the office of a councilmember during a civil defense emergency period, the vacancy shall be filled as provided by Charter § 3-105.

(b) If the vacancy referred to in subsection (a) cannot be filled in the manner prescribed therein, the remaining members of the council shall appoint a successor possessing the requisite qualifications to fill the vacancy.

(c) If subsections (a) and (b) cannot be complied with within seven calendar days after the occurrence of a civil defense emergency, the mayor shall appoint the successor to the office of any councilmember that is vacant or for which a councilmember is otherwise unavailable; provided that any person so appointed shall have the requisite qualifications specified by Charter § 3-104.

(Sec. 1-8.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.5)

§ 1-7.6 Succession to office of chair or vice-chair.

(a) In the event of a vacancy in the office of chair or vice-chair of the council, the council shall elect one of its members as the successor to such office as provided by Charter § 3-105.

(b) If both the chair and vice-chair are unavailable during a civil defense emergency period, the council shall appoint a presiding officer pro tempore from its membership.

(Sec. 1-8.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.6)

§ 1-7.7 Term of office.

(a) Any person who assumes the office of mayor or of a councilmember due to a vacancy in such office shall continue in office for the unexpired term, if such unexpired term is for less than one year. If the unexpired term is for one year or more, such person shall continue in office until a successor is chosen pursuant to the Charter; provided that if the existence of the civil defense emergency prevents compliance with the provisions of the Charter, the person filling the vacancy shall continue in office until a successor has been chosen as provided by law.

(b) Any person who assumes the office of a councilmember during a civil defense emergency period, other than to fill a vacancy, shall continue in office until the original incumbent becomes available or, if the original incumbent remains unavailable, then for the duration of the civil defense emergency period and thereafter, until a successor has been chosen as provided by Charter § 3-105.

(Sec. 1-8.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.7)

§ 1-7.8 Effect of succession to office.

If any councilmember or the managing director assumes the office of mayor because of a vacancy in the office of the mayor, then a vacancy shall exist in the office of councilmember or the managing director, as the case may be.

(Sec. 1-8.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.8)

§ 1-7.9 Standby officers—Compensation.

(a) Persons designated as standby officers for the mayor or councilmembers shall receive no compensation for such designation as standby officers.

(b) In the event of a vacancy in any such office, the person filling the vacancy shall be entitled to the compensation attaching to such office.

(c) In the event any person assumes the office of a councilmember during a civil defense emergency, other than to fill a vacancy, such person shall be entitled to compensation, as may be provided by ordinance, while performing the duties and functions of such office.

(Sec. 1-8.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 7, § 1-7.9)

§ 1-7.10 Absence of the mayor.

(a) Consistent with Charter § 5-106.2, the mayor shall provide written notice to the council and file the notice with the city clerk before any anticipated absence from the city. The notice shall provide the date of the mayor's anticipated departure from the city, the date of the mayor's anticipated return to the city, and the name of the city officer who will be acting as mayor during the mayor's anticipated absence.

(b) If the mayor must be absent from the city due to an unanticipated emergency, the mayor or the mayor's designee shall provide the notice to the council and file the notice with the city clerk as soon as is practicable after the mayor's departure, stating the date on which the mayor departed from the city, the date of the mayor's anticipated return to the city, and the name of the city officer who is acting as mayor during the mayor's absence.

(1990 Code, Ch. 1, Art. 7, § 1-7.10) (Added by Ord. 04-41)

ARTICLE 8: INTERGOVERNMENTAL AGREEMENTS AND PRIVATE GRANT AGREEMENTS

Sections

§ 1-8.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agreement. An intergovernmental agreement or a private grant agreement.

Annual Action Plan. An annual application for funding under the HUD CPD formula grant for the CDBG, HOME, ESG, and HOPWA programs. The Annual Action Plan is submitted to HUD on a yearly basis and identifies projects and activities for HUD review and approval.

CDBG. HUD's Community Development Block Grant program and any successor program.

Conditional Gift. Any voluntary contribution of money, securities, other personal property, or of real estate or any interest in real estate to the city for a public purpose, which imposes an obligation on the city.

Consolidated Plan. A three- or five-year plan prepared in accordance with HUD CPD requirements submitted to HUD that serves as a planning document that describes needs, resources, priorities and proposed activities to be undertaken with respect to CDBG, HOME, ESG, and HOPWA programs.

CPD. The Community Planning and Development programs of HUD.

ESG. HUD's Emergency Shelter Grants program and any successor program.

HART. The Honolulu Authority for Rapid Transportation.

HOME. HUD's HOME Investment Partnership program and any successor program.

HOPWA. HUD's Housing Opportunities for Persons with AIDS program and any successor program.

HUD. The United States Department of Housing and Urban Development.

Intergovernmental Agreement. Any instrument in the nature of a contract, compact, memorandum of understanding, or agreement that is intended to be executed between the city and either the federal government, the State government, the government of any other state, any political subdivision of any state, any combination thereof, or with a quasi-governmental agency. Intergovernmental agreement also includes any arrangement between the city and a governmental entity listed above, or between the city and a nongovernmental entity under contract with a governmental agency listed above, to provide training to city personnel, alone or in combination with travel and lodging for the city personnel to participate in the training. To be deemed an intergovernmental agreement, such an arrangement need not be formalized in a contract, compact, memorandum of understanding, or agreement that is executed between the city and governmental entity.

Obligation. Any commitment, promise, or similar representation contained in an agreement that the city or any agency thereof will provide either funds, documents, statistical data, or any professional or technical services to another party, send personnel to training provided by another party, or to expend city funds as required by that party. An obligation does not include the duty to acknowledge a gift, or to report to the donor on the use of a gift.

Private Grant Agreement. Any instrument in the nature of a contract, compact, memorandum of understanding, or agreement that is intended to be executed between the city and a private party where the private party agrees to furnish assistance, financial or otherwise, to support a city program or function in exchange for the city incurring an obligation. To be deemed a private grant agreement, such assistance shall be valued at $2,500 or more. The term includes a conditional gift or an agreement providing for a private party to provide training to city personnel, alone or in combination with travel and lodging for the city personnel to participate in the training, provided the gift or agreement meets all of the elements of this definition. To be deemed a private grant agreement, such an arrangement need not be formalized in a contract, compact, memorandum of understanding, or agreement that is executed between the city and private party. Private grant agreement shall not include any procurement or procurement contract as defined by the Hawaii Public Procurement Code, or that relates to any grant of funds subject to Chapter 6, Article 9.

Private Party. A person or entity who is neither an officer or employee of any governmental or quasi-governmental body nor a governmental or quasi-governmental body.

Project. A CPD-funded activity in which an applicant requests CPD funding assistance. The term does not include the portion of CPD funding set aside for program administration and planning.
(Sec. 1-9.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 8, § 1-8.1) (Am. Ords. 05-040, 06-14, 08-33, 11-18, 16-35)

§ 1-8.2 Intergovernmental and private grant agreement reporting requirements.

(a) Each department shall submit an annual report to the council by September 30 detailing all agreements placing obligations upon the department that were entered into or used during the previous fiscal year. The annual report need not include agreements subject to council approval in §§ 1-8.3, 1-8.6, and 1-8.7.

(b) Agreements for the rental of a facility for the purpose of holding a public meeting or a public hearing are exempted from the requirements of this section.

(Sec. 1-9.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 8, § 1-8.2) (Am. Ords. 06-14, 07-40, 08-24, 11-2, 11-18, 16-35, 19-22)

§ 1-8.3 Approval of Consolidated Plan and Annual Action Plans.

(a) Any Consolidated Plan or Annual Action Plan prepared by a city agency relating to CPD formula entitlement moneys requires council approval before submittal to HUD and must be submitted to council for its review and approval a minimum of 90 days before its HUD-required transmittal date. The council shall review and approve the Consolidated Plan, Annual Action Plan, or both, no later than 15 days before the HUD-required plan transmittal date. The council may approve the Consolidated Plan, Annual Action Plan, or both, by resolution.

(b) Amendments to the Consolidated Plan and Annual Action Plan will not be subject to the 90- and 15-day transmittal and approval periods, but rather may be transmitted to HUD at any time per HUD regulations subject to council approval.

(1990 Code, Ch. 1, Art. 8, § 1-8.3) (Added by Ord. 05-040; Am. Ords. 13-2, 16-35)

§ 1-8.4 Penalties.

Penalty for violations of this article shall be a fine not to exceed $1,000 or one year's imprisonment, or both. Prosecutions in such cases shall be as provided by law for the prosecution of misdemeanors.

(Sec. 1-9.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 8, § 1-8.4) (Am. Ord. 05-040)

§ 1-8.5 Separability.

It is the intention of the council that this article and every provision thereof shall be considered separable, and the invalidity of any section, clause, provision, or part thereof, shall not affect the validity of any other portion of this article.

(Sec. 1-9.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 8, § 1-8.5) (Am. Ord. 05-040)

§ 1-8.6 Approval of Honolulu High Capacity Transit Corridor Project agreements.

Any agreements or amendments to agreements concerning the Honolulu High Capacity Transit Corridor Project that place an obligation on the city (other than HART or the board of water supply) will require prior council consent and approval. The final or draft version of the agreement or amendment to the agreement must be provided to the council for its review before the council's approval. In the event a draft agreement or draft amendment to an agreement is provided, if a material change is made to the draft agreement or draft amendment to the agreement after council approval, such change will require additional council review and approval.

(1990 Code, Ch. 1, Art. 8, § 1-8.6) (Added by Ord. 16-35)

§ 1-8.7 Approval of agreements with significant fiscal impacts.

Any intergovernmental agreements or amendments to intergovernmental agreements that place an obligation on the city requiring or anticipated to require the city to expend more than $30,000,000, either as a one-time payment or cumulatively as payments made over any number of fiscal years, require prior council consent and approval. When the agreement calls for the city to acquire infrastructure, including but not limited to sewerage, drainage, or roadway infrastructure, the calculation shall include capital, operating and maintenance expenditures over the expected useful life of the infrastructure.
(Added by Ord. 19-22)

ARTICLE 9: AUTHORITY OF EXECUTIVE AGENCY TO ADOPT RULES

Sections

§ 1-9.1 Adoption of rules.

The head of any executive agency whose power or function as prescribed by law directly affects the public, may adopt rules having force and effect of law pursuant to HRS Chapter 91, setting forth procedures that are necessary for such agency in dealing with the public concerning such power or function.
(Sec. 1-10.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 1, Art. 9, § 1-9.1)

§ 1-9.2 Format of rules.

(a) The department of the corporation counsel shall prescribe a uniform format for the preparation and publication of rules of departments and agencies of the city. The uniform format shall provide that each rule published shall be accompanied by a reference to the authority pursuant to which the rule has been adopted, the law implemented by the rule, if any, and the effective date of the rule. The uniform format shall further provide that whenever possible, applicable law should be incorporated by reference and not be reprinted in the rule.

(b) Until such time as a uniform format is established pursuant to subsection (a), the rules of the city shall be prepared and published in the form prescribed in the Hawaii Administrative Rules Drafting Manual, provided that references therein to the Hawaii Revised Statutes shall be deemed references to the Revised Ordinances of Honolulu, when appropriate, and other such adjustments shall be made as necessary to give such drafting manual a reasonable interpretation when applied to the City and County of Honolulu.

(Sec. 1-10.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 1, Art. 9, § 1-9.2)

ARTICLE 10: LIMITATION OF SERVICE ON COUNTY BOARDS AND COMMISSIONS

Section

§ 1-10.1 Limitation.

Any other provision of law to the contrary notwithstanding, no person shall be allowed to serve on more than one county board or commission expressly created by State or county law; provided that this provision shall not apply to prohibit county officers and employees from serving on more than one county board or commission when such service is required by the Charter or the Revised Ordinances of Honolulu.
(Sec. 1-11.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 1, Art. 10, § 1-10.1)

ARTICLE 11: NONDISCRIMINATION POLICY

Sections

§ 1-11.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Discriminatory Practices. Practices that discriminate on the basis of race, sex, sexual orientation, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record.

Nonability-Based Criteria. Criteria not substantially related to the ability of an individual to perform competently the duties of a position.
(1990 Code, Ch. 1, Art. 11, § 1-11.1) (Added by Ord. 88-16)

§ 1-11.2 City employment practices—Provision of city services.

The City and County of Honolulu shall refrain from discriminatory practices in city employment, including any practice that discriminates on the basis of nonability-based criteria. Further, the City and County of Honolulu shall refrain from discriminatory practices in the provision of city services.
(1990 Code, Ch. 1, Art. 11, § 1-11.2) (Added by Ord. 88-16)

§ 1-11.3 Local adoption of the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

(a) *Findings and purpose.* The City and County of Honolulu finds and declares as follows.

(1) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an international human rights treaty, provides a universal definition of discrimination against women and brings attention to a whole range of issues concerning women's human rights. Countries that ratify CEDAW are mandated to condemn all forms of discrimination against women and girls and to ensure equality for women and girls in the civil, political, economic, social, and cultural arenas. The United Nations General Assembly adopted CEDAW in 1979 and President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has not yet ratified CEDAW.

(2) Since 1995, state and local jurisdictions have stepped up and passed resolutions in support of CEDAW. Some have implemented ordinances establishing CEDAW principles as law. In 2014, municipalities across the nation began signing onto the Cities for CEDAW Initiative, pledging to step up where the federal government has failed and implement the principles of CEDAW at the local level.

(3) There is a continued need for the City of and County of Honolulu to protect the human rights of women and girls by addressing discrimination, including violence, against them and to implement, locally, the principles of CEDAW. Adherence to the principles of CEDAW on the local level will especially promote equal access to and equity in health care, employment, economic development, and educational opportunities for women and girls and will also address the continuing and critical problems of violence against women and girls. There is a need to analyze the operations of city departments, policies, and programs to identify discrimination in but not limited to employment practices, budget allocation, and the provision of direct and indirect services and, if identified, to remedy that discrimination. In addition, there is a need to work toward implementing the principles of CEDAW in the private sector.

(4) There is a need to strengthen effective national and local mechanisms, institutions, and procedures and to provide adequate resources, commitment, and authority to:

(A) Advise on the impact of all government policies on women and girls;

(B) Monitor the situation of women comprehensively in recognition of the interconnectedness of discrimination based on gender, race, and other social criteria; and

(C) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

(b) *Definitions.* For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. The City and County of Honolulu.

Discrimination Against Women. Includes but is not be limited to any distinction, exclusion, or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status and on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty by family, community, or government.

Gender. The way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities, and needs, rather than their biological differences.

Gender Analysis. An examination of the cultural, economic, social, civil, legal, and political relations between women and men within a certain entity, recognizing that women and men have different social roles, responsibilities, opportunities, and needs and that these differences, which permeate our society, affect how decisions and policy are made.

Human Rights. The rights every individual possesses that are intended to improve the conditions in society that protect each person's dignity and well-being and the humanity of all people.

Nontraditional Jobs. Jobs that have not traditionally been filled by women.

Racial Discrimination. Any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.

(c) *Local principles of CEDAW.* It shall be the goal of the city to implement the principles underlying CEDAW by addressing discrimination against women and girls in areas including economic development, violence against women and girls, and health care. In implementing CEDAW, the city recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. The city shall ensure that the city does not discriminate against women in areas including employment practices, allocation of funding, and delivery of direct and indirect services. The city shall conduct gender analyses, to determine what, if any, city practices and policies should change to implement the principles of CEDAW.

(1) *Economic development.*

(A) The city shall take all appropriate measures to eliminate discrimination against women and girls in the city in employment and other economic opportunities, including but not limited to ensuring:

(i) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;

(ii) The right to promotion, job security, and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision making posts and to city revenue generating and managing commissions and departments;

(iii) The right to equal remuneration, including benefits and to equal pay in respect to work of equal value; and

(iv) The right to the protection of health and safety in working conditions, including supporting efforts not to purchase sweatshop goods, regular inspection of work premises, and protection from violent acts at the workplace.

(B) The city shall encourage and, where possible, fund the provisions of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies, and work-life balance.

(C) The city shall encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(2) *Violence against women and girls.*

(A) The city shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including but not limited to:

(i) Police enforcement of criminal penalties and civil remedies, when appropriate;

(ii) Providing appropriate protective and support services for survivors, including counseling and rehabilitation programs;

(iii) Providing gender-sensitive training of city employees regarding violence against women and girls, where appropriate; and

(iv) Providing rehabilitation programs for perpetrators of violence against women or girls, where appropriate.

The city shall not discriminate on the basis of race, ethnicity, culture, language, or sexual orientation, when providing the above supportive services.

(B) It shall be the goal of the city to take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment. Such protection must include streamlined and rapid investigation of complaints.

(C) Prostitutes are especially vulnerable to violence because their legal status tends to marginalize them. It shall be the policy of the city that the Honolulu police department diligently investigate violent attacks against prostitutes and take efforts to establish the level of coercion involved in the prostitution, in particular where there is evidence of trafficking in women and girls. It shall be the goal of the city to develop and fund projects to help prostitutes who have been subject to violence and to prevent such acts.

(D) The city shall ensure that all public works projects include measures, such as adequate lighting, to protect the safety of women and girls.

(E) It shall be the goal of the city to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.

(3) *Health care.*

(A) It shall be the goal of the city to take all appropriate measures to eliminate discrimination against women and girls in the field of health care to ensure, on a basis of equity, information about and access to adequate health care facilities and services, according to the needs of all communities, regardless of race, ethnicity, culture, language, and sexual orientation, including information, counseling, and services in family planning.

(B) It shall be the goal of the city to ensure that women and girls receive appropriate services in connection with prenatal care, delivery, and the post-natal period, granting free services where possible, as well as adequate nutrition during pregnancy and lactation.

In undertaking the enforcement of this article, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(1990 Code, Ch. 1, Art. 11, § 1-11.3) (Added by Ord. 15-50)

ARTICLE 12: PURCHASE OF RECYCLED PAPER PRODUCTS

Sections

§ 1-12.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. Includes both the executive and legislative branches of the City and County of Honolulu.

Nonrecycled Paper Product. A paper product that is not a recycled paper product.

Paper Product. A paper or wood pulp product comprised of sheets or individual units, each of which is intended to be used for printing, writing, drawing, sanitation, or hygiene, including but not limited to bond paper, computer paper, ledger paper, printing paper, copy machine paper, preprinted forms, writing pads, stick-on notes, file folders, boxes, paper towels, and toilet tissue. Paper product does not include a book, pamphlet, newspaper, or periodical intended solely or primarily for reading.

Recycled Paper Product. A paper product, each sheet or individual unit of which conforms to the definitions and specifications of the Paper Products Recovered Materials Advisory Notice, as developed and updated by the United States Environmental Protection Agency.
(1990 Code, Ch. 1, Art. 12, § 1-12.1) (Added by Ord. 89-116; Am. Ords. 93-53, 94-62, 00-01)

§ 1-12.2 Required procurement of recycled paper products.

(a) Except as otherwise provided under subsection (b), when procuring a paper product, the city shall procure only a recycled paper product.

The specifications for any procurement by the city of a paper product shall conform to and implement this section.

(b) The city may procure a type and quantity of nonrecycled paper product under the following circumstances:

(1) A recycled paper product of the same type and quantity as the nonrecycled paper product is unavailable in Honolulu or cannot be supplied from elsewhere within 30 days of placement of a purchase order;

(2) Legal considerations prevent the procurement of a recycled paper product of the same type and quantity as the nonrecycled paper product; and

(3) A recycled paper product of the same type and quantity as the nonrecycled paper product is at least 25 percent more expensive than the nonrecycled paper product. For the purpose of this exception, the price of a type and quantity of nonrecycled paper product shall be ascertained by the following:

(A) Examination of a price schedule maintained by the city; or

(B) If not included in a price schedule, an informal request for a price from at least one supplier selling the type of nonrecycled paper product in Honolulu. If, however, no supplier sells the type of nonrecycled paper product in Honolulu, an informal request for a price shall not be necessary.

For the purpose of this subsection, a recycled paper product and nonrecycled paper product shall be deemed the "same type" when both have the same intended use, dimensions, weight, color, and, if applicable, lining, glossiness, and inscription.

(1990 Code, Ch. 1, Art. 12, § 1-12.3) (Added by Ord. 93-53; Am. Ord. 94-62)

ARTICLE 13: SEAL AND MOTTO OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY

Sections

§ 1-13.1 Seal and motto.

The prosecuting attorney is authorized to formulate and adopt a departmental seal and motto to be displayed on the official badges issued to its investigators and to be used for other official purposes as the prosecuting attorney deems appropriate.
(1990 Code, Ch. 1, Art. 13, § 1-13.1) (Added by Ord. 90-9)

§ 1-13.2 Filing with city clerk.

A copy of the seal and motto adopted by the prosecuting attorney shall be filed in the office of the city clerk.
(1990 Code, Ch. 1, Art. 13, § 1-13.2) (Added by Ord. 90-9)

ARTICLE 14: PERSONAL NAMES ON SIGNS RELATING TO PUBLIC PROJECTS AND GOVERNMENTAL ACTIVITIES

Sections

§ 1-14.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Governmental Activity. Any of the following:

(1) A public hearing, meeting, or other activity of the city or any agency thereof that is subject to HRS Chapter 91 or Chapter 92; or

(2) A hearing, meeting, or other activity of the city or any agency thereof not subject to HRS Chapter 91 or Chapter 92, for which notice to the general public is actually provided, such as a workshop or informational meeting.

Officer or Employee. An officer or employee as defined under § 1-4.1 or a member of a city board or commission that is created by law or ordinance.

Public Project. An activity that the city operates, participates in with another person or governmental agency, endorses, sponsors, or provides, partially or totally, funding, labor, or materials. Public project includes a project involving general construction, public improvement, housing, street or sidewalk improvement, or beautification.

Sign. Any of the following:

(1) A sign as defined under § 21-7.20 that:

(A) Indicates participation by the city in the public project described on the sign; or

(B) Intends to notify the public of a governmental activity; or

(2) Includes a "public sign" as defined in § 21-7.20.

(1990 Code, Ch. 1, Art. 14, § 1-14.1) (Added by Ord. 91-30)

§ 1-14.2 Signs relating to public projects and governmental activities.

A sign relating to a public project or governmental activity:

(1) Shall display only the name of the agency responsible for the public project or governmental activity, the name of the City and County of Honolulu, or both; and

(2) Shall not be signed by or indicate the personal name of any officer or employee, unless the display on the sign of the personal name of a particular officer or employee is required by law, ordinance, or rule or is a condition for the receipt of State or federal funds.

(1990 Code, Ch. 1, Art. 14, § 1-14.2) (Added by Ord. 91-30)

§ 1-14.3 Enforcement.

(a) The circuit courts of the State shall have jurisdiction to enforce this article by injunction or other appropriate remedy.

(b) Any person may commence a suit in a circuit court for the purpose of requiring compliance with or preventing violations of this article or to determine the applicability of this article to a specific sign or notice. The court may order payment of reasonable attorney fees and costs to the prevailing party in a suit brought under this article.

(1990 Code, Ch. 1, Art. 14, § 1-14.3) (Added by Ord. 91-30)

§ 1-14.4 Penalty.

Any person who wilfully violates this article shall be guilty of a misdemeanor.

(1990 Code, Ch. 1, Art. 14, § 1-14.4) (Added by Ord. 91-30)

ARTICLE 15: ONLINE ACCESS TO CITY FORMS

Sections

§ 1-15.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. Includes the departments and agencies of both the executive and legislative branches of the City and County of Honolulu.

Forms. Refers to all city issued documents to be filled by a noncity person, organization, or entity requesting the provision of a city service or the issuance of a city license or permit. The term does not refer to such documents after they have been filled out by any person, organization, or entity.

Online. Refers to being connected to the Internet or World Wide Web.
(1990 Code, Ch. 1, Art. 15, § 1-15.1) (Added by Ord. 13-29)

§ 1-15.2 Access to city forms.

(a) The city shall make all city forms available online for electronic filing or downloading.

(b) The city shall recognize and accept all properly filled in downloaded forms, provided that the form is accompanied by all necessary payments and specified supplemental materials.
(1990 Code, Ch. 1, Art. 15, § 1-15.2) (Added by Ord. 13-29)

ARTICLE 16: CODIFICATION OF ORDINANCES

Sections

§ 1-16.1 Revisor of ordinances.

The office of council services shall be the revisor of ordinances of the city. As the revisor of ordinances, the office of council services shall have direct supervision over the contractor's performance under any contract entered into pursuant to § 1-16.2, subject to the oversight of the council.
(1990 Code, Ch. 1, Art. 16, § 1-16.1) (Added by Ord. 93-26)

§ 1-16.2 Contracting for the preparation of the Revised Ordinances of Honolulu.

The presiding officer of the council or the presiding officer's designated representative shall be authorized to contract for the revision, codification, and printing of the ordinances of the city that are appropriate for continuation as law. Such codification shall be known as the "Revised Ordinances of Honolulu."
(1990 Code, Ch. 1, Art. 16, § 1-16.2) (Added by Ord. 93-26)

§ 1-16.3 Ordinance revision.

(a) In preparing any amendment to, revision of, or supplement to the Revised Ordinances of Honolulu, the revisor of ordinances shall add, delete, or substitute words and phrases as appropriate to change any ordinance term that refers to the male or female gender to a term that is neutral in gender, as long as the meaning or effect of the ordinance is not changed.

(b) In preparing any amendment to, revision of, or supplement to the Revised Ordinances of Honolulu, the revisor of ordinances may:

(1) Replace the phrase "effective date of this ordinance" or similar phrase used in an ordinance with the actual date on which the ordinance takes effect;

(2) Adjust the location of table and column headings and footnotes as deemed appropriate and may indicate that the table or column is continued;

(3) Correct manifest clerical or typographical errors;

(4) Number and renumber chapters, articles, parts, sections, and parts of sections;

(5) Rearrange sections;

(6) Add or change reference numbers to agree with renumbered chapters, articles, parts, or sections;

(7) Change capitalization for the purpose of uniformity;

(8) Change the form of numbers and of monetary sums for the purpose of uniformity;

(9) Delete any ordinance or part thereof that has been expressly repealed under the terms of the ordinance; and

(10) Prepare for submission to the city council from time to time:

(A) Bills to make additional amendments necessary to eliminate inconsistencies or correct technical flaws in and clarify the intent of the Revised Ordinances of Honolulu; and

(B) A rewriting and revision, either complete, partial, or topical of the Revised Ordinances of Honolulu.

(1990 Code, Ch. 1, Art. 16, § 1-16.3) (Added by Ord. 95-45; Am. Ord. 01-55)

ARTICLE 17: SEXUAL HARASSMENT POLICY FOR CITY OFFICER OR EMPLOYEE

Sections

§ 1-17.1 "Sexual harassment"—Definition.

For the purposes of this article, ***sexual harassment*** means any of the following:

(1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to a second officer or employee when:

(A) Submission to the advances, requests, or conduct is a term or condition of the second officer's or employee's employment;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for employment decisions relating to the second officer or employee; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the second officer's or employee's work performance; or

(ii) Creating an intimidating, hostile, or offensive working environment for the second officer or employee;

(2) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to an individual under consideration for city employment when:

(A) Submission to the advances, requests, or conduct is used as a term or condition for the employment of the individual;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for a decision to employ or reject the individual; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the individual's ability to display qualifications for city employment; or

(ii) Creating an intimidating, hostile, or offensive environment in which the individual seeks city employment; or

(3) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to an individual engaged in business or other activity with the city when:

(A) Submission to the advances, requests, or conduct is a term or condition of the individual's engagement in business or other activity with the city;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for a decision on the individual's engagement in business or other activity with the city; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the individual's engagement in business or other activity with the city; or

(ii) Creating an intimidating, hostile, or offensive environment in which the individual engages in business or other activity with the city.

(1990 Code, Ch. 1, Art. 17, § 1-17.1) (Added by Ord. 93-84)

§ 1-17.2 Other definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Council Office. The office of the city clerk and office of council services.

Department. Each executive department of the city. For the purpose of this article, the office of the mayor, office of the managing director, office of information and complaint, civil defense agency, and the municipal reference and records center shall each be deemed a department.

Employee. Has the same meaning as defined in § 1-4.1.

Individual Engaged in Business or Other Activity with the City. An individual who:

(1) Is performing services as an independent contractor with the city;

(2) Is seeking an independent contract with the city;

(3) Is seeking to sell or has sold products or services to the city;

(4) Is applying for or has received a permit or other ministerial or discretionary approval from the city;

(5) Is appealing or has appealed a decision by the city to a city department, board, officer, or employee;

(6) Is applying for or participating in a city program available to the general public or a class of the general public;

(7) Is engaged in lobbying, as defined in § 3-13.2;

(8) Is engaged in influencing the city's policy making process, as defined in § 3-13.2, but is not registered as a lobbyist; or

(9) Is working as a journalist for a news medium.

Individual under Consideration for City Employment. An individual who has applied for and is being considered for employment with the city.

Offender. An officer or employee who has engaged in sexual harassment.

Officer. Has the same meaning as defined in § 1-4.1.

Victim. An officer, employee, or individual who has been subjected to sexual harassment.
(1990 Code, Ch. 1, Art. 17, § 1-17.2) (Added by Ord. 93-84; Am. Ord. 05-033)

§ 1-17.3 Prohibition of sexual harassment.

(a) An officer or employee shall not engage in the sexual harassment of another officer or employee.

(b) An officer or employee shall not engage in the sexual harassment of an individual who is under consideration for city employment.

(c) An officer or employee shall not engage in the sexual harassment of an individual engaged in business or other activity with the city.

(d) A management or supervisory officer or employee shall not knowingly permit a subordinate officer or employee to engage in sexual harassment prohibited under this section.
(1990 Code, Ch. 1, Art. 17, § 1-17.3) (Added by Ord. 93-84)

§ 1-17.4 Complaint, investigation, and resolution procedures for departments.

(a) Each department shall comply with the procedures of this section, which relate to the receipt, investigation, and resolution of complaints of sexual harassment.

With respect to an alleged victim or alleged offender who is an officer or employee covered by a collective bargaining agreement, the procedures of this section shall be additional to any grievance or other procedures in the agreement.

Each department shall inform its officers and employees of the procedures of this section.

(b) Each department shall allow an alleged victim to make an informal or formal complaint of sexual harassment as follows:

(1) If the alleged victim is an officer or employee, the making of a complaint to the:

(A) Alleged victim's immediate supervisor or, if the immediate supervisor is the alleged offender, to the next higher supervisor;

(B) Alleged victim's department director;

(C) Alleged victim's departmental equal employment opportunity officer; or

(D) City's equal employment opportunity officer; or

(2) If the alleged victim is an individual under consideration for city employment or an individual engaged in business or other activity with the city, the making of a complaint to the:

(A) Alleged offender's immediate supervisor;

(B) Alleged offender's department director;

(C) Alleged offender's departmental equal employment opportunity officer; or

(D) City's equal employment opportunity officer.

(c) Each department shall allow an alleged victim to make an informal complaint verbally or in writing. When making the complaint, the alleged victim shall name the alleged offender and state the nature and circumstance of the alleged sexual harassment.

The officer or employee receiving the complaint or the departmental equal employment opportunity officer, or both, shall promptly investigate the complaint. The investigation shall be conducted in an unbiased, fair, and discreet manner with appropriate safeguards to maintain confidentiality and protection from embarrassment. During the investigation, the investigating officer or employee shall allow the alleged offender to respond to the complaint.

The investigation shall be completed within 10 working days after the making of the complaint, unless additional time for completion is considered justified and approved by the city's equal employment opportunity

officer. If the complaint is deemed true, the offender shall be notified of the sexual harassment and disciplined by a warning not to sexually harass or retaliate against the victim and, if deemed warranted, other disciplinary action imposed in accordance with § 1-17.7. If the complaint is deemed false or unsupported by the evidence, the complaint shall be dismissed. A written report shall be prepared on each informal complaint and the findings and results of the investigation.

(d) Each department shall allow an alleged victim to make a formal complaint:

(1) Without first making an informal complaint; or

(2) While an investigation or resolution of an informal complaint is pending if the alleged victim desires to make the formal complaint.

The complaint shall be in writing, name the alleged offender, and state the nature and circumstance of the alleged sexual harassment.

A team of officers and employees shall promptly investigate the complaint. The team shall be selected by the alleged offender's department director or, if the director is the alleged offender, by the city's equal employment opportunity officer. The team shall include at least one member of each gender. At least one departmental equal employment opportunity officer shall be on the team. Selected officers and employees may be from any department.

The investigation shall be conducted in an unbiased, fair, and discreet manner with appropriate safeguards to maintain confidentiality and protection from embarrassment. During the investigation, the team shall allow the alleged offender to respond to the complaint.

The investigation shall be completed within 10 working days after the filing of the complaint, unless additional time for completion is considered justified and approved by the city's equal employment opportunity officer. If the complaint is deemed true, the offender shall be notified in writing of the sexual harassment and disciplined by a warning not to sexually harass or retaliate against the victim and, if deemed warranted, other disciplinary action imposed in accordance with § 1-17.7. If the complaint is deemed false or unsupported by the evidence, the complaint shall be dismissed. A written report shall be prepared on each formal complaint and the findings and results of the investigation.

(e) (1) Each department shall maintain the confidentiality of the alleged victim and alleged offender during an investigation of an informal or formal complaint; provided that the names of the alleged victim and alleged offender may be revealed to the following:

(A) Each other;

(B) Any officer or employee investigating a complaint;

(C) The alleged victim's or alleged offender's department director;

(D) The city's equal employment opportunity officer;

(E) Any witness to the alleged sexual harassment under investigation; and

(F) Any other person to whom revealing the names is necessary to conduct the investigation.

(2) Each department also shall maintain the confidentiality of the written report on a complaint and investigation. Inspection of the report shall be permitted only by the following:

(A) The parties to the complaint;

(B) Officers or employees involved in the management, supervision, or disciplining of the parties to the complaint;

(C) The city's equal employment opportunity officer; and

(D) Other persons authorized by law or ordinance.

(f) Each department may establish procedures and provisions additional to, but consistent with, the procedures of this section. The additional procedures and provisions may differ among the departments, unless the mayor determines that uniform procedures and provisions are desirable. If so determined, the additional procedures and provisions shall be uniform among all departments.

The additional procedures and provisions available to an alleged victim who is an officer or employee need not be adopted by rules under HRS Chapter 91. The procedures and provisions shall be established in the same manner as other regulations concerning only the internal management of an executive agency and not affecting private rights of or procedures available to the public.

The additional procedures and provisions available to an alleged victim who is not an officer or employee shall be adopted by rules in accordance with HRS Chapter 91. If directed by the mayor, one department may adopt rules establishing uniform procedures and provisions on behalf of and applicable to all other departments.

(1990 Code, Ch. 1, Art. 17, § 1-17.4) (Added by Ord. 93-84)

§ 1-17.5 Complaint, investigation, and resolution procedures for council and council offices.

(a) The council and each council office shall comply with the procedures of this section, which relate to the receipt, investigation, and resolution of complaints of sexual harassment.

With respect to an alleged victim or alleged offender who is an officer or employee covered by a collective bargaining agreement, the procedures of this section shall be additional to any grievance or other procedures in the agreement.

The council and each council office shall inform its officers and employees of the procedures of this section.

(b) The council and each council office shall allow an alleged victim to make an informal or formal complaint of sexual harassment as follows:

(1) If the alleged victim is an officer or employee, the making of a complaint to the:

(A) Alleged victim's immediate supervisor or, if the immediate supervisor is the alleged offender, to the next higher supervisor;

(B) Councilmember employing the alleged victim;

(C) Head or equal employment opportunity officer of the council office employing the alleged victim;

(D) Council chair; or

(E) City's equal employment opportunity officer; or

(2) If the alleged victim is an individual under consideration for city employment or an individual engaged in business or other activity with the city, the making of a complaint to the:

(A) Alleged offender's immediate supervisor;

(B) Councilmember employing the alleged offender;

(C) Head or equal employment opportunity officer of the council office employing the alleged offender;

(D) Council chair; or

(E) City's equal employment opportunity officer.

(c) The council and each council office shall allow an alleged victim to make an informal complaint verbally or in writing. When making the complaint, the alleged victim shall name the alleged offender and state the nature and circumstance of the alleged sexual harassment.

The officer or employee receiving the complaint or the council office equal employment opportunity officer, or both, shall promptly investigate the complaint. The investigation shall be conducted in an unbiased, fair, and discreet manner with appropriate safeguards to maintain confidentiality and protection from embarrassment. During the investigation, the investigating officer or employee shall allow the alleged offender to respond to the complaint.

The investigation shall be completed within 10 working days after the making of the complaint, unless additional time for completion is considered justified and approved by the city's equal employment opportunity officer. If the complaint is deemed true, the offender shall be notified of the sexual harassment and disciplined by a warning not to sexually harass or retaliate against the victim and, if deemed warranted, other disciplinary action imposed in accordance with § 1-17.7. If the complaint is deemed false or unsupported by the evidence, the complaint shall be dismissed. A written report shall be prepared on each informal complaint and the findings and results of the investigation.

(d) The council and each council office shall allow an alleged victim to make a formal complaint:

(1) Without first making an informal complaint; or

(2) While an investigation or resolution of an informal complaint is pending if the alleged victim desires to make the formal complaint.

The complaint shall be in writing, name the alleged offender, and state the nature and circumstance of the alleged sexual harassment.

A team of officers and employees shall promptly investigate the complaint. The team shall be selected by the council chair if the chair received the complaint. Otherwise, the team shall be selected by the officer employing the alleged offender or, if that officer is the alleged offender, by the city's equal employment opportunity officer. The team shall include at least one member of each gender. At least one council office or departmental equal employment opportunity officer shall be on the team. Selected officers and employees may be from the council, any council office, or any department.

The investigation shall be conducted in an unbiased, fair, and discreet manner with appropriate safeguards to maintain confidentiality and protection from embarrassment. During the investigation, the team shall allow the alleged offender to respond to the complaint.

The investigation shall be completed within 10 working days after the filing of the complaint, unless additional time for completion is considered justified and approved by the city's equal employment opportunity officer. If the complaint is deemed true, the offender shall be notified in writing of the sexual harassment and disciplined by a warning not to sexually harass or retaliate against the victim and, if deemed warranted, other disciplinary action imposed in accordance with § 1-17.7. If the complaint is deemed false or unsupported by the evidence, the complaint shall be dismissed. A written report shall be prepared on each formal complaint and the findings and results of the investigation.

(e) (1) The council and each council office shall maintain the confidentiality of the alleged victim and alleged offender during an investigation of an informal or formal complaint; provided that the names of the alleged victim and alleged offender may be revealed to the following:

(A) Each other;

(B) Any officer or employee investigating a complaint;

(C) If the alleged victim or alleged offender is employed by a councilmember, the council chair and that councilmember;

(D) If the alleged victim or alleged offender is employed by a council office, the council chair and head of that council office;

(E) The city's equal employment opportunity officer;

(F) Any witness to the alleged sexual harassment under investigation; and

(G) Any other person to whom revealing the names is necessary to conduct the investigation.

(2) The council and each council office also shall maintain the confidentiality of the written report on a complaint and investigation. Inspection of the report shall be permitted only by the following:

(A) The parties to the complaint;

(B) Officers or employees involved in the management, supervision, or disciplining of the parties to the complaint;

(C) The city's equal employment opportunity officer; and

(D) Other persons authorized by law or ordinance.

(f) The council and each council office may establish procedures and provisions additional to, but consistent with, the procedures of this section. The additional procedures and provisions shall be established separately by the council and each council office, unless the council chair determines that uniform procedures and provisions are desirable. If so determined, the additional procedures and provisions shall be uniform among the council and each council office.

Adoption of the additional procedures and provisions by rules under HRS Chapter 91 shall not be required.
(1990 Code, Ch. 1, Art. 17, § 1-17.5) (Added by Ord. 93-84)

§ 1-17.6 Use of "reasonable person of the same gender standard."

(a) In determining whether an alleged conduct constitutes sexual harassment, an officer, employee, or team investigating a complaint of sexual harassment pursuant to § 1-17.4 or 1-17.5 shall use the "reasonable person of the same gender standard." Under the standard, sexual harassment shall be deemed to have occurred if the alleged offender's conduct would be considered sexual harassment from the perspective of a reasonable person of the same gender as the alleged victim. If the alleged victim is a woman, the "reasonable person of the same gender standard" shall be equivalent to and may be called the "reasonable woman standard."

(b) The investigating officer, employee, or team shall look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advance, sexual favor request, or visual display and the context in which the alleged conduct occurred.
(1990 Code, Ch. 1, Art. 17, § 1-17.6) (Added by Ord. 93-84)

§ 1-17.7 Disciplinary action.

(a) An officer or employee who is found, after an informal complaint and investigation, to be an offender shall be disciplined by the warning required under § 1-17.4(c) or 1-17.5(c) and may be otherwise appropriately disciplined if deemed warranted.

An officer or employee who is found, after a formal complaint and investigation, to be an offender shall be appropriately disciplined.

(b) Any disciplinary action, additional to the warning required under § 1-17.4(c), (d) or 1-17.5(c), (d), shall be determined:

(1) In accordance with just cause standards; and

(2) On a case-by-case basis, with consideration of the severity of the sexual harassment and, if any, other incidents of sexual harassment by the offender.

(c) Disciplinary action against an offender may include but is not limited to one or more of the following:

(1) Written reprimand;

(2) Suspension without pay;

(3) Disciplinary demotion; or

(4) Dismissal from employment.

A particular disciplinary action shall not be taken against an offender if not permitted by law, ordinance, or collective bargaining agreement relevant to that particular offender.

(d) For an offender who is an elected officer of the executive branch, the appropriate disciplinary action shall be determined by the investigating officer or team.

(e) For an offender who is a department director, the appropriate disciplinary action shall be determined by the director's appointing authority. This subsection shall not apply to the prosecuting attorney, who shall be subject to subsection (d).

(f) For an offender who is an officer or employee of a department, but not its director, the appropriate disciplinary action shall be determined by the department director.

(g) For an offender who is a councilmember or head of a council office, the appropriate disciplinary action shall be determined by the council.

(h) For an offender who is an officer or employee employed by a councilmember or council office, the appropriate disciplinary action shall be determined by the councilmember or head of the office employing the offender.

(i) All disciplinary actions, before implementation, shall be given final review and approval by the city's equal employment opportunity officer.

(1990 Code, Ch. 1, Art. 17, § 1-17.7) (Added by Ord. 93-84)

§ 1-17.8 Retention of written report on complaint and investigation.

(a) This section applies to each written report on an informal or formal complaint and investigation required under §§ 1-17.4 and 1-17.5.

(b) The written report on a complaint against an officer or employee of an executive department shall be retained by that department.

The written report on a complaint against a councilmember or employee of a councilmember shall be retained by the council.

The written report on a complaint against an officer or employee of a council office shall be retained by that office.

(c) The written report on a complaint deemed true shall be retained for at least five years after the offender terminates service as a city officer or employee. After the five-year period, the report may be discarded.

The written report on a dismissed complaint shall be retained for a two-year period, commencing from the date the report is completed. Upon termination of the period, the report shall be expunged, unless its retention is requested by the officer or employee, the complaint against whom was dismissed. When the officer or employee requests retention, the report shall be retained at least until the officer or employee terminates service with the city. After the termination of service, the report may be discarded.

This subsection shall be subordinate to collective bargaining agreement provisions concerning the retention and expungement of information on an officer or employee covered by the agreement. Accordingly, the collective bargaining agreement provisions, rather than this subsection, shall apply with respect to the retention and expungement of the written report on a complaint against the officer or employee.

(1990 Code, Ch. 1, Art. 17, § 1-17.8) (Added by Ord. 93-84)

§ 1-17.9 Prohibition of retaliation for complaint.

(a) An officer or employee shall not retaliate against another officer, employee, or individual who has complained of sexual harassment, conducted an investigation of a complaint, or acted as a witness during an investigation of a complaint.

(b) An officer or employee who retaliates against another officer, employee, or individual in violation of subsection (a) shall be appropriately disciplined. The disciplinary action may consist of:

(1) Any of the disciplinary actions listed under § 1-17.7; or

(2) Any other disciplinary action authorized by law, ordinance, or rule.

If the officer or employee is covered by a collective bargaining agreement, the disciplinary action against the officer or employee shall not be contrary to the agreement.

(c) Disciplinary action against an officer, employee, or individual making a malicious false complaint shall not be considered retaliation prohibited under this section.

(1990 Code, Ch. 1, Art. 17, § 1-17.9) (Added by Ord. 93-84)

§ 1-17.10 Malicious false complaint.

(a) An officer, employee, or individual shall not make a malicious false complaint of sexual harassment.

(b) An officer or employee who has made a malicious false complaint shall be appropriately disciplined or sanctioned in accordance with law, ordinance, or rule. The disciplinary action may consist of:

(1) Any of the disciplinary actions listed under § 1-17.7; or

(2) Any other disciplinary action authorized by law, ordinance, or rule.

(c) An individual, other than an officer or employee, who has made a malicious false complaint shall be subject to appropriate sanctions authorized by law, ordinance, or rule. The sanctions may include the termination of

the individual's business or other activity with the city or disqualification of the individual from participating in any business or other activity with the city.

(1990 Code, Ch. 1, Art. 17, § 1-17.10) (Added by Ord. 93-84)

§ 1-17.11 Training program for equal employment opportunity officers and management or supervisory officers and employees.

(a) The following persons shall complete a training program on sexual harassment: the city's equal employment opportunity officer, each council office equal employment opportunity officer, each departmental equal employment opportunity officer, and each management or supervisory officer and employee. The program shall provide each equal employment opportunity officer and each management or supervisory officer and employee with training to properly:

(1) Identify and investigate sexual harassment;

(2) Interact with an alleged victim, alleged offender, and witness during an investigation; and

(3) Apply and interpret this article and other pertinent laws on sexual harassment.

(b) The training program shall be formulated and provided by the department of human resources.

(1990 Code, Ch. 1, Art. 17, § 1-17.11) (Added by Ord. 93-84)

§ 1-17.12 Sexual harassment policy training for each officer and employee.

(a) Each officer and employee shall receive training of the highest standards on the sexual harassment policy at least once every two years in accordance with this section.

(1) An officer or employee who enters city employment after July 1, 1997 shall receive the training during the orientation provided upon entering employment.

(2) An officer who enters city service, other than employment, after July 1, 1997 shall receive the training within the one-month period following entrance into service.

(3) An officer or employee who is in city employment or service on July 1, 1997 shall receive the training within the two-year period following that date.

(4) For the duration of city employment or service after the training described in subdivision (1), (2), or (3), an officer or employee shall again receive the training at least once within each two-year period following the immediate previous training.

(b) The department of human resources shall be responsible for scheduling and enrolling an officer or employee for the training on the sexual harassment policy. In doing so, the department of human resources shall consult with the officer's or employee's appointing authority to set a training date and time which will cause the least possible disruption to the officer's or employee's work, service, or department or office of employment. After the department of human resources enrolls an officer or employee for training, the officer's or employee's appointing authority shall require the officer or employee to attend the training on the scheduled date and time.

The department may excuse an enrolled officer or employee from attending for legitimate reason, but shall again enroll the excused officer or employee for training on another date and time in accordance with this section.

(c) The department of human resources shall be responsible for providing the training on the sexual harassment policy to officers and employees. The training shall be designed to make officers and employees aware of the policy, actions that constitute sexual harassment, and impacts of violating the policy. For management or supervisory officers or employees, the training required under this section shall be integrated with that required under § 1-17.11.

(1990 Code, Ch. 1, Art. 17, § 1-17.12) (Added by Ord. 93-84; Am. Ord. 97-25)

§ 1-17.13 Nonexclusiveness of provisions of article.

(a) The complaint, investigation, resolution, and disciplinary provisions of this article shall not be exclusive. This article shall not be construed as preventing:

(1) An officer, employee, or individual from filing a complaint of sexual harassment with any other government agency authorized to receive the complaint;

(2) An officer, employee, or individual from filing a civil action in court based on sexual harassment; or

(3) An officer or employee covered by a collective bargaining agreement from filing a grievance based on sexual harassment in accordance with the agreement.

(b) Nor shall an officer, employee, or individual be required to exhaust the procedures and remedies of this article before filing a complaint with any other government agency, grievance under a collective bargaining agreement, or civil action in court.

(1990 Code, Ch. 1, Art. 17, § 1-17.13) (Added by Ord. 93-84)

ARTICLE 18: SEXUAL HARASSMENT POLICY FOR EMPLOYER HAVING A CONTRACT WITH THE CITY

Sections

§ 1-18.1 "Sexual harassment"—Definition.

For the purposes of this article, ***sexual harassment*** means any of the following:

(1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to a second officer or employee when:

(A) Submission to the advances, requests, or conduct is a term or condition of the second officer's or employee's employment;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for employment decisions relating to the second officer or employee; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the second officer's or employee's work performance; or

(ii) Creating an intimidating, hostile, or offensive working environment for the second officer or employee;

(2) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to an individual under consideration for employment with an employer when:

(A) Submission to the advances, requests, or conduct is used as a term or condition for the employment of the individual;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for a decision to employ or reject the individual; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the individual's ability to display qualifications for employment; or

(ii) Creating an intimidating, hostile, or offensive environment in which the individual seeks employment; or

(3) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to an individual engaged in business with an employer when:

(A) Submission to the advances, requests, or conduct is a term or condition of the individual's engagement in business with the employer;

(B) Submission to or rejection of the advances, requests, or conduct is used as the basis for a decision on the individual's engagement in business with the employer; or

(C) The advances, requests, conduct, or visual display has the purpose or effect of:

(i) Substantially interfering with the individual's engagement in business with the employer; or

(ii) Creating an intimidating, hostile, or offensive environment in which the individual engages in business with the employer.

(1990 Code, Ch. 1, Art. 18, § 1-18.1) (Added by Ord. 93-84)

§ 1-18.2 Other definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City Officer in Charge. The city executive officer having the final authority to enter into or renew a contract with an employer.

Employee. An individual employed by an employer.

Employer. A sole proprietorship, partnership, profit or nonprofit corporation, or any other private person employing at least one individual.

Individual Engaged in Business with an Employer. An individual who:

(1) Is performing services as an independent contractor with an employer;

(2) Is seeking an independent contract with an employer;

(3) Is seeking to sell or has sold products or services to an employer;

(4) Is engaged or seeking to engage in a business activity jointly with an employer;

(5) Is a customer or seeking to become a customer of an employer; or

(6) Is a client or seeking to become a client of an employer.

Individual under Consideration for Employment with an Employer. An individual who has applied for and is being considered for employment with an employer.

Officer. An individual serving as a director, officer, partner, or proprietor of an employer.
(1990 Code, Ch. 1, Art. 18, § 1-18.2) (Added by Ord. 93-84)

§ 1-18.3 Applicability of article.

This article shall apply to the following employers having contracts with the city:

(1) An employer under contract to provide products or services to or on behalf of the city;

(2) An employer with a contract to lease real property from the city; and

(3) An employer with a contract to operate a concession on city property.
(1990 Code, Ch. 1, Art. 18, § 1-18.3) (Added by Ord. 93-84)

§ 1-18.4 Sexual harassment policy required of employer.

(a) Each employer to which this article applies shall have and enforce a policy prohibiting sexual harassment that sets forth the same or greater protections than those contained in Article 17 that are correspondingly applicable to the employer's business and including the following:

(1) Prohibitions against an officer's or employee's sexual harassment of the following:

(A) Another officer or employee of the employer;

(B) An individual under consideration for employment with the employer; or

(C) An individual doing business with the employer;

(2) A provision prohibiting a management or supervisory officer or employee from knowingly permitting a subordinate officer or employee to engage in the sexual harassment prohibited under subdivision (1);

(3) A prohibition against retaliation towards an officer, employee, or individual who has complained of sexual harassment, conducted an investigation of a complaint, or acted as a witness during an investigation of a complaint;

(4) A prohibition against a malicious false complaint of sexual harassment by an officer, employee, or individual;

(5) Provisions allowing an officer, employee, or individual to make a sexual harassment complaint to an appropriate management, supervisory, or personnel officer or employee;

(6) Procedures for investigating a sexual harassment complaint in an unbiased, fair, and discreet manner with appropriate safeguards to maintain confidentiality and protection from embarrassment;

(7) A provision requiring the use of the "reasonable person of the same gender standard," as described under § 1-17.6, to determine if sexual harassment has occurred;

(8) Disciplinary actions that may be imposed on an officer or employee who committed a prohibited act; and

(9) For an employer with at least five employees, a provision requiring the annual viewing of a video on the sexual harassment policy by each management or supervisory officer or employee.

(b) The policy required under this section shall be in effect for at least the duration of the employer's contract with the city.

(c) The department of budget and fiscal services shall prepare a standard form of the policy required under this section. The standard form shall set forth a policy containing minimum requirements which conform to this section.

(1990 Code, Ch. 1, Art. 18, § 1-18.4) (Added by Ord. 93-84)

§ 1-18.5 Pledge of compliance—Prohibition on contract without pledge—Revocation, termination, or suspension of contract for noncompliance with pledge.

(a) When entering into or renewing a contract with an employer, the city officer in charge shall require the employer to pledge compliance with:

(1) This article; and

(2) The sexual harassment policy set forth in the standard form prepared by the department of budget and fiscal services.

A provision in the contract or renewal document shall express the pledge. Approval of the contract or renewal document by the employer shall be deemed an agreement with the pledge.

(b) A city officer in charge shall not enter into or renew a contract with an employer unless the employer agrees to the pledge required by this section.

A city officer in charge may revoke, terminate, or suspend a contract with an employer if finding that the employer is not in compliance with the pledge required by this section.

(1990 Code, Ch. 1, Art. 18, § 1-18.5) (Added by Ord. 93-84)

§ 1-18.6 Debarment for violation.

(a) The director of budget and fiscal services may debar an employer who, contrary to a pledge made pursuant to § 1-18.5, has violated this article or the sexual harassment policy set forth in the standard form prepared by the department of budget and fiscal services.

The director of budget and fiscal services shall have discretion in determining whether to debar an employer for a violation. When making a debarment decision, the director of budget and fiscal services shall consider the seriousness of the violation and any remedial measures taken by or mitigating factors applicable to the employer.

(b) The debarment of an employer:

(1) Shall extend to the employer's divisions or other organizational elements; and

(2) May extend to a business affiliate of the employer if so ordered by the director of budget and fiscal services. A "business affiliate of the employer" means a business concern, organization, or individual that, directly or indirectly:

(A) Has the power to control the employer;

(B) Is subject to the control of the employer; or

(C) Is subject, along with the employer, to the control of a third party.

Any provision of this section applicable to a "debarred employer" also shall be applicable to a division or other organizational element of the debarred employer and, if so ordered by the director of budget and fiscal services, a business affiliate of the debarred employer.

(c) The director of budget and fiscal services shall set the debarment period for a debarred employer. The debarment period shall be commensurate with the seriousness of the employer's violation, but not more than three years.

(d) Unless the director of budget and fiscal services orders otherwise for a compelling reason, a debarred employer shall not be eligible for the following during the debarment period:

(1) The award or renewal of a contract with the city; or

(2) A subcontract to another person's contract with the city.

(e) The director of budget and fiscal services shall establish procedures for making a decision on the proposed debarment of an employer. The procedures shall include but not be limited to the following:

(1) Notice to the employer proposed to be debarred; and

(2) An opportunity for the employer to present arguments against debarment.

The director of budget and fiscal services also may establish rules or policies deemed necessary to implement this section.

The procedures, rules, and policies shall be in conformance with HRS § 103D-702 and any rules of the State procurement policy office.

(1990 Code, Ch. 1, Art. 18, § 1-18.6) (Added by Ord. 93-84)

§ 1-18.7 Rules.

The department of budget and fiscal services may adopt rules pursuant to HRS Chapter 91 to carry out the purposes of this article.

(1990 Code, Ch. 1, Art. 18, § 1-18.7) (Added by Ord. 93-84)

ARTICLE 19: ADDITIONAL STANDARDS OF CONDUCT

Sections

Editor's note:

**See also Chap. 3, Art. 6.*

§ 1-19.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Any of the following:

(1) The City and County of Honolulu;

(2) The council and its committees;

(3) All departments, offices, boards, commissions, and committees;

(4) All independent commissions and other similar establishments of the city government;

(5) The board of water supply;

(6) The Honolulu Authority for Rapid Transportation; and

(7) Any other governmental unit of the city.

Business. Any of the following:

(1) A corporation;

(2) A partnership;

(3) A sole proprietorship;

(4) Institutions;

(5) Trusts;

(6) Foundations; or

(7) Any other individual or organization carrying on a business, whether or not operated for profit.

City. The City and County of Honolulu.

Compensation. Any of the following:

(1) Any money;

(2) Thing of value; or

(3) Economic benefit conferred on or received by any person in return for services rendered or to be rendered by such person or another.

Controlling Interest. An interest that is sufficient in fact to control, whether the interest be greater or less than 50 percent.

Financial Interest. An interest held by an individual, the individual's spouse or minor children that 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 debtor interest; or

(6) A directorship or officership in a business.

Former Employee. Any person who has served the city in a position involving the taking of official action, as hereinafter defined.

Officers and Employees. Shall be given the meaning as prescribed in subsections 3 and 4 of Charter § 13-101 and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation; provided that the term officers and employees shall also include officers and employees under a personal services contract with the executive branch of the city as prescribed in subsections (f) and (g) of Charter § 6-1103, or under equivalent contracts with the legislative branch of the city as prescribed in subsection (f) of Charter § 6-1104 and shall also include officers and employees under a personal services contract with the board of water supply and the Honolulu Authority for Rapid Transportation, but excluding independent contractors.

Official Act or ***Official Action.*** A decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.
(Sec. 6-1.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 8, § 3-8.1) (Am. Ords. 94-49, 12-31)

§ 1-19.2 Additional standards of conduct.

No officer or employee of the city, except as hereinafter provided, shall:

(1) Participate, as an agent or representative of a city agency, in any official action directly affecting a business or matter in which:

(A) Such person has a substantial financial interest; or

(B) By or for which a firm of which such person is a member, an associate or an employee has been engaged as a legal counsel or advisor or consultant or representative in a matter directly related to such action; provided that a councilmember is not precluded from voting on such matter before the council so long as a written disclosure has been made in the event there is a conflict of interest involving this subsection and relating to such matter;

(2) Acquire financial interest in business enterprises which such person has reason to believe may be directly involved in official action to be taken by such person;

(3) Appear in behalf of private interests before any agency other than a court of law, nor shall such person represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party; provided that a member of any board, commission, or committee may appear in behalf of private interests before agencies other than the board, commission, or committee on which such person serves; provided further, that no officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's personal rights, privileges, or property, including real property. This prohibition shall not apply to any architect, landscape architect, surveyor, or engineer registered as such under HRS Chapter 464, who is a city employee or officer, with respect to the affixing by such registered professional of such person's registered stamp to any plans, specifications, drawings, etc., to be submitted to the city for permits for such person's principal residence or that of members of such person's immediate family; provided that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under such person's supervision; and provided further, that the registered professional may not, in the capacity of a city employee or officer, review, approve, or otherwise act upon the plans, specifications, drawings, etc., such person has stamped. For the purposes of this section, "immediate family" means the employee's or officer's spouse, siblings, children, or parents; spouse's children or parents; or children's spouses;

(4) Accept a retainer, compensation, or election campaign contribution that is contingent upon action by an agency;

(5) Enter into any contract in behalf of the city with an officer or employee or with a business in which an officer or employee has a controlling or substantial financial interest, involving the furnishing of services, materials, supplies, and equipment, unless the contract is made after competitive bidding; provided that this subsection shall not apply to personal contracts of employment with the executive branch of the city

as prescribed in Charter § 6-1103(f) and (g) or equivalent contracts with the legislative branch of the city as prescribed in Charter § 6-1104(f); and

(6) Order any person to violate, or aid or abet any person in the violation of the provisions of Charter § 6-1112.2 relating to prohibition on political activities of persons in the civil service.

(Sec. 6-1.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 8, § 3-8.2) (Am. Ords. 96-58, 02-11)

§ 1-19.3 Restrictions relative to post employment.

(a) No former officer or employee of the city shall disclose any information that by law or practice is not available to the public and that the former officer or employee acquired in the course of the former officer's or employee's official duties or use the information for the former officer's or employee's personal gain or the benefit of anyone.

(b) No former officer or employee of the city shall within a period of one year after termination of city service or employment and for compensation appear before any city agency in relation to any case, proceeding, or application with respect to which such person was directly concerned or that was under the person's active consideration while employed or in the service of the city.

(c) (1) A former officer or employee of the city may, within a period of one year after termination of city service or employment and for compensation:

(A) Appear before any city agency in any case, proceeding, or application, with respect to which knowledge or information in relation to such case, proceeding, or application, was made available to the former officer or employee during the term of employment or service; or

(B) Assist another person or business, including but not limited to one in which such person is an officer or employee, in any official act or action by the city; provided that in either instance the former city officer or employee shall first file an affidavit as provided below.

(2) Such former officer or employee of the city shall file a sworn affidavit with the city agency involved stating that the former officer or employee:

(A) Was not directly concerned with;

(B) Did not actively consider;

(C) Did not participate in; and

(D) Was not given access to knowledge or information not readily available to the public during the period of active service or employment;

with respect to such case, proceeding or application or other matter before the city agency. All city agencies that receive such an affidavit shall forward a copy to the ethics commission.

(d) For the purposes of this section, the term "appear before any city agency" includes acting as an agent or attorney for, or otherwise representing, any other person or business in any formal or informal appearance.

"Appear" also includes making any oral or written communications, including letters or telephone calls, to any city agency or personnel with the intent to influence on behalf of any other person or business. The date of termination of city service or employment shall be defined as the date upon which a person's resignation, dismissal, or retirement takes effect.

(e) No officer or employee of the city shall do business with any former officer or employee who falls within the scope of this section, unless such former officer or employee first files a sworn affidavit as provided herein.

(f) Any former officer or employee who falls within the scope of this section and who makes a false statement in the person's sworn affidavit or files a false affidavit shall be deemed to have committed perjury and thereby subject to HRS Chapter 710 (Penal Code), § 710-1060, and be punished as provided in Chapter 710.

(g) This section shall not prohibit any city agency from contracting with a former officer or employee to act on a matter on behalf of the city within the period of limitation stated herein and shall not prevent such officer or employee from appearing before any city agency in relation to such employment.

(Sec. 6-1.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 8, § 3-8.3) (Am. Ords. 90-96, 96-58)

§ 1-19.4 Financial disclosures.

(a) *Definitions.* For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

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.

Candidate. Has the same meaning as defined in HRS § 11-191.

Elective. All elective offices of the City and County of Honolulu.

Employee. All full-time employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to Charter §§ 6-1103 and 6-1104, but excluding all persons hired under the Comprehensive Employment and Training Act and under Charter § 6-1103(e), (f), (g), and (h).

Income. Gross income as defined by § 61 of the Internal Revenue Code of 1954.

Officer. Has the same meaning as defined in Charter § 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.

(b) *Filing of financial disclosures.*

(1) *Candidates to office.* Any candidate for nomination or elective office for the City and County of Honolulu shall file within 10 working days after the deadline for filing as a candidate for office, a financial disclosure as provided herein.

(2) (A) *Officers.* Any officer of the executive or legislative branch shall file a financial disclosure as prescribed herein within 20 working days after taking the oath of office and annually thereafter on or before January 31 of each year until the end of the term of office.

(B) If an officer is reelected or reappointed for a new term, the foregoing prescription of filing financial disclosures shall be observed.

(3) *Employees.* Employees of the executive or legislative branches shall file financial disclosures as prescribed herein within 20 working days after the effective date of this section and file financial disclosures annually thereafter on or before January 31 of each year.

(c) The disclosure of financial interests shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children, and shall include:

(1) The source and amount of all income of $1,000 or more received, for services rendered, by the person in such person's own name or by any other person for such person's use or benefit during the preceding calendar year and the nature of the services rendered; provided that information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income 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 interests held during the disclosure period in any business incorporated, regulated, or licensed to carry on business in the State having a value of $5,000 or more or equal to 10 percent 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) The street address, if any, the tax map key number, if any, and the value of any real property in the City and County of Honolulu in which the person holds an interest whose value is $10,000 or more, and if the interest was transferred or obtained during the preceding calendar year, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that public disclosure shall not be required of the street address and tax map key number of the person's residence;

(6) The amount and identity of every creditor interest in an insolvent business held during the preceding calendar year having a value of $5,000 or more; and

(7) The names of clients personally represented before city agencies, except in ministerial matters, for a fee or compensation during the preceding calendar year and the names of the city agencies involved.

(d) *Filing requirements.*

(1) All public financial disclosures shall be filed with the office of the city clerk and a copy shall be transmitted by that office to the ethics commission. All confidential disclosures shall be filed with the city ethics commission.

(2) The form for all public financial disclosures shall be as prescribed by the city clerk; provided that the person's residence address, including tax map key number, is disclosed on a separate form for "internal use only" and shall not be publicly disclosed by the city clerk or city ethics commission. The forms for confidential disclosures shall be as prescribed by the city ethics commission.

(3) *When leaving office or employment with the city.* Any officer or employee of the city shall file a financial disclosure as prescribed herein 10 working days before an officer is to leave such person's office or an employee is to terminate such person's employment with the city. This requirement will also include transfer of an officer or employee from the city to either the State or federal governments.

(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 city clerk:

(1) All candidates for elective office;

(2) All elected officers; and

(3) The directors of the city agencies and their first deputies.

All other financial disclosure statements required to be filed under this section shall be confidential.

(f) *Penalty.*

(1) *Officers and employees.*

(A) *Late filing.* Any officer or employee of the city whose required financial disclosure is not received by the ethics commission or the city clerk, whichever applies, by the close of business on the deadline date specified in subsection (b), shall be given a notice of violation of this section by the ethics commission or the city clerk, whichever applies. The notice shall state that the city officer or employee has 10 days from receipt of the notice in which to file the required financial disclosure or be subject to the penalties provided in this paragraph and § 1-19.5. Any city officer or employee, who has received this notice and fails to file the required disclosure within 10 days of receipt of the notice, shall be subject to a civil fine according to the following schedule:

(i) $100 for the first late filing;

(ii) $200 for the second late filing; and thereafter;

(iii) For each additional late filing, the fine imposed for the previous late filing plus $200.

Any penalty or fine shall be imposed after an opportunity for a hearing conducted by the ethics commission under HRS Chapter 91.

(B) *Failure to file.* Any officer or employee of the city who fails to file a financial disclosure as required in this section within 30 days from receipt of the notice of violation referred to in paragraph (A), shall, in addition to any civil fines imposed under paragraph (A), be subject to:

(i) The provisions of § 1-19.5 relating to noncompliance; or

(ii) A criminal penalty of a fine of not more than $2,000 or of imprisonment for not more than one year, or of both such fine and imprisonment; or

to both (i) and (ii).

(2) *Candidates.*

(A) *Late filing.* Any candidate whose required financial disclosure is not received by the city clerk by the close of business on the deadline date specified in subsection (b), shall be given a notice of violation of this section by the city clerk. The notice shall state that the candidate has 10 days from receipt of the notice in which to file the required financial disclosures or be subject to the penalties provided in this paragraph. Any candidate, who has received this notice and fails to file the required disclosure within 10 days of receipt of the notice, shall, upon election to office, be subject to the provisions of § 1-19.5 and a civil fine according to the following schedule:

(i) $100 for the first late filing;

(ii) $200 for the second late filing; and thereafter;

(iii) For each additional late filing, the fine imposed for the previous late filing plus $200.

Any penalty or fine shall be imposed after an opportunity for a hearing conducted by the ethics commission under HRS Chapter 91.

(B) *Failure to file.* Any candidate who fails to file a financial disclosure as required in this section within 30 days from receipt of the notice of violation referred to in paragraph (A), shall, in addition to any civil fines imposed under paragraph (A), be subject to a criminal penalty of a fine of not more than $2,000 or of imprisonment for not more than one year, or of both such fine and imprisonment.

(3) *Rules.* The ethics commission shall have the authority to establish rules to implement subdivisions (1) and (2).

(Sec. 6-1.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 8, § 3-8.4) (Am. Ords. 95-23, 96-58, 07-43, 09-9, 12-31, 14-1)

§ 1-19.5 Violation—Penalty.

(a) The failure to comply with or any violation of the standards of conduct of this article or of Charter Article XI shall be grounds for impeachment of elected officers and for the removal from office or from employment of all other officers and employees. The appointing authority may, upon the recommendation of the ethics commission, reprimand, put on probation, demote, suspend, or discharge an employee found to have violated

the standards of conduct established by this article. Nothing contained herein shall preclude any other remedy available against such officer or employee.

(b) In addition to any other penalty provided by law, any contract entered into by the city in violation of Charter Article XI or of this article is voidable on behalf of the city; provided that in any action to void a contract pursuant to this article the interest of third parties who may be damaged thereby shall be taken into account, and the action to void the official act or action is initiated within six months after the matter is determined by the ethics commission.

(c) The city, by the corporation counsel, may recover any fee, compensation, gift, or profit received by any person as a result of a violation of the standards in this article or in Charter Article XI by an officer or employee or former officer or employee. Action to recover under this subsection shall be brought within four years of such violation.

(d) In addition to any other penalty, sanction, or remedy provided by law, the ethics commission may impose a civil fine against a former or current officer or exempt employee of the city who has been found by the ethics commission to have violated the standards of conduct in Charter Article XI or this article. For the purposes of this section, "officer" has the same meaning as in Charter § 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation and "exempt employee" means all employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to Charter §§ 6-1103(a) through (d), (i), and (k) and 6-1104(a) through (d), but shall not mean exempt employees in clerical positions or employees within a bargaining unit as described in HRS § 89-6.

(1) Where a civil fine has not otherwise been established in this article, the amount of the civil fine imposed by the ethics commission for each violation shall not exceed the greater of $5,000 or three times the amount of the financial benefit sought or resulting from each violation.

(2) In determining whether to impose a civil fine and the amount of the civil fine, the ethics commission shall consider the totality of the circumstances, including but not limited to:

(A) The nature and seriousness of the violation;

(B) The duration of the violation;

(C) The effort taken by the officer or exempt employee to correct the violation;

(D) The presence or absence of any intention to conceal, deceive, or mislead;

(E) Whether the violation was negligent or intentional;

(F) Whether the officer or exempt employee demonstrated good faith by consulting the ethics commission staff or another government agency or an attorney;

(G) Whether the officer or exempt employee had prior notice that the officer's or the exempt employee's conduct was prohibited;

(H) The amount, if any, of the financial or other loss to the city as a result of the violation;

(I) The value of anything received or sought in the violation;

(J) The costs incurred in enforcement, including reasonable investigative costs and attorney fees;

(K) Whether the officer or exempt employee was truthful and cooperative in the investigation; and

(L) Any other relevant circumstance.

(3) No civil fine shall be imposed unless the requirements of HRS Chapter 91 and HRS § 46-1.5(24), have been met.

(4) The ethics commission may recover any civil fines imposed pursuant to this section and may, through the corporation counsel, institute proceedings to recover any civil fines.

(5) Pursuant to Chapter 1, Article 19, the ethics commission shall have executive authority to add unpaid fines by administrative order to any taxes, fees, or charges.

(6) Notwithstanding § 3-6.3(c), no civil fine may be imposed under this subsection:

(A) If the applicable complaint or request for advisory opinion is submitted more than four years after the alleged violation occurred; or

(B) For an investigation commenced by the commission on its own initiative, if the investigation is commenced more than four years after the alleged violation occurred.

(Sec. 6-1.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 8, § 3-8.5) (Am. Ords. 90-96, 02-15, 07-43, 09-9, 12-31)

§ 1-19.6 Additional standards of conduct concerning campaign contributions and campaign assistance.

(a) This section applies to the conduct of an exempt officer or employee.

This section is additional to the prohibitions of Charter § 6-1112(2) and (3), both of which are directed at an officer or employee in the civil service.

(b) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Campaign Assistance. Any service, including donating time or anything of value, to assist:

(1) The campaign of a person seeking nomination or election to a public office;

(2) The effort to:

(A) Place a question on an election ballot; or

(B) Approve or reject a question which is on an election ballot;

(3) The effort to recall an officer; or

(4) The activities of a political party or campaign committee by:

(A) Serving as a member;

(B) Soliciting members;

(C) Performing administrative or other duties;

(D) Raising funds;

(E) Campaigning for the political party's or campaign committee's candidate or position on an issue; or

(F) Volunteering on a campaign or campaign committee.

Campaign Committee. A "committee" as defined in HRS § 11-191.

Campaign Contribution. A "contribution" as defined in HRS § 11-191.

Exempt Officer or Employee. An officer or employee, including officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation, exempt from the civil service pursuant to Charter §§ 6-1103, 6-1104, or any other provision.

Officer or Employee. Any of the following:

(1) An officer or employee as defined in § 1-19.1; or

(2) An independent contractor with the city, the board of water supply or the Honolulu Authority for Rapid Transportation, whether or not contracted pursuant to competitive bidding procedures, and including without limitation a municipal bond dealer.

Political Party. Has the same meaning as defined in HRS § 11-61.

(c) An exempt officer or employee shall not:

(1) Coerce, demand, or otherwise require a campaign contribution or campaign assistance from another officer or employee;

(2) Deny employment to a person who will not agree, as a condition of the employment, to:

(A) Make a campaign contribution or request a campaign contribution from another person; or

(B) Render campaign assistance or request another person to render campaign assistance;

(3) Discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee because that officer or employee:

(A) Refused to make a campaign contribution or render campaign assistance when requested or demanded by the exempt officer or employee or a third person;

(B) Sought or received an advisory opinion from the ethics commission on a possible violation of this subsection; or

(C) Filed with a public agency or officer a complaint alleging a violation of this subsection;

(4) Promise or threaten to discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee, unless that officer or employee:

(A) Makes a campaign contribution or renders campaign assistance as requested or demanded by the exempt officer or employee or a third person;

(B) Refrains from seeking an advisory opinion from the ethics commission on a possible violation of this subsection; or

(C) Refrains from filing with a public agency or officer a complaint alleging a violation of this subsection;

(5) Promote or increase the compensation of another officer or employee because that officer or employee made a campaign contribution or rendered campaign assistance when requested or demanded by the exempt officer or employee or a third person;

(6) Solicit or request a specified or minimum campaign contribution amount from another officer or employee;

(7) Request another officer or employee to provide a specified or minimum amount of campaign assistance; or

(8) Solicit or receive any campaign contribution from a person, including another officer or employee, in a building or facility during its use for official city functions.

An exempt officer or employee also shall not request or direct another exempt officer or employee to engage in an activity prohibited under this subsection.

(d) The activities prohibited under subsection (c) shall not preclude an exempt officer or employee from:

(1) Voting as the exempt officer or employee chooses;

(2) Voluntarily expressing an opinion on any political candidate, question, or issue;

(3) Voluntarily serving as a member of a political party, campaign committee, or other political organization;

(4) Voluntarily making a campaign contribution or rendering campaign assistance; or

(5) Voluntarily soliciting or requesting a campaign contribution or campaign assistance from another person, so long as the solicitation or request does not violate subsection (c).

(e) An exempt officer or employee who violates subsection (c) shall be guilty of a petty misdemeanor.

The prosecution of a violation pursuant to this subsection shall be commenced within two years after commitment of the violation. No violation shall be prosecuted after the expiration of the two-year period.

The prosecuting attorney shall be responsible for prosecution of a violation. If the prosecuting attorney becomes disqualified, the State attorney general shall have the responsibility for prosecution.

The penalty of this subsection shall be in addition to the penalty provided under § 1-19.5(a). Both penalties may be imposed for the same violation.

(1990 Code, Ch. 3, Art. 8, § 3-8.6) (Added by Ord. 93-113; Am. Ords. 94-54, 12-31)

§ 1-19.7 Gifts to mayor, prosecuting attorney, and appointed officer or employee—Prohibition under certain circumstances.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Appointed Officer or Employee. An officer or employee, as defined under § 1-19.1, other than an elected officer and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation. Appointed officer includes a member of a board or commission including board members of the board of water supply and the Honolulu Authority for Rapid Transportation.

Gift. Any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form.

(b) Neither the mayor, the prosecuting attorney, nor any appointed officer or employee shall solicit, accept, or receive, directly or indirectly, any gift under circumstances in which it can be reasonably inferred that the gift is intended:

(1) To influence the solicitor or recipient in the performance of an official duty; or

(2) As a reward for any official action on the solicitor's or recipient's part.

(c) During each one-year period beginning on July 1 and ending on June 30, neither the mayor, the prosecuting attorney, nor any appointed officer or employee shall solicit, accept, or receive, directly or indirectly, from any one source any gift or gifts, not exempted by subsection (d), valued singly or in the aggregate in excess of $200.

(d) Exempted from the prohibition of subsection (c) 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 shall not be exempt from subsection (c) if the person is acting as an agent or intermediary for any person not covered by this subdivision;

(4) Political campaign contributions that comply with State law;

(5) Anything available or distributed to the public generally without regard to the official status of the recipient;

(6) Gifts that, within 30 days after receipt, are returned to the giver or donated to a public body or to a bona fide educational or charitable organization without the donation being claimed by the mayor, the prosecuting attorney, or an appointed officer or employee as a charitable contribution for tax purposes. In the event the gift is donated to a public body or to a bona fide educational or charitable organization, the donor shall send, along with the gift, documentation acknowledging the initial giver of the gift; and

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

(e) A violation of this section by the mayor, the prosecuting attorney, or an appointed officer or employee shall be punishable in accordance with § 1-19.5.

(1990 Code, Ch. 3, Art. 8, § 3-8.7) (Added by Ord. 94-49; Am. Ords. 02-15, 12-31)

§ 1-19.8 Gifts to councilmember—Prohibition under certain circumstances.

(a) No councilmember shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can be reasonably inferred that the gift is intended to influence the councilmember in the performance of the councilmember's official duties or is intended as a reward for any official action on the councilmember's part.

(b) During each one-year period beginning on July 1 and ending on June 30, no councilmember shall solicit, accept, or receive, directly or indirectly, from any one source any gift or gifts, not exempted by subsection (c), valued singly or in the aggregate in excess of $200.

(c) Exempted from the prohibition of subsection (b) 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 of the councilmember or the spouse, fiancé, or fiancée of such a relative. A gift from any such person shall not be exempt from subsection (b) if the person is acting as an agent or intermediary for any person not covered by this subdivision;

(4) Political campaign contributions that comply with State law;

(5) Anything available or distributed to the public generally without regard to the official status of the recipient;

(6) Gifts that, within 30 days after receipt, are returned to the giver or donated to a public body or to a bona fide educational or charitable organization without the donation being claimed by the councilmember as a charitable contribution for tax purposes. In the event the gift is donated to a public body or bona fide educational or charitable organization, the councilmember shall send, along with the gift, documentation acknowledging the initial giver of the gift; and

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

(d) A violation of this section by a councilmember shall be punishable in accordance with § 1-19.5.
(1990 Code, Ch. 3, Art. 8, § 3-8.8) (Added by Ord. 94-48; Am. Ord. 02-15)

§ 1-19.9 Additional standards of conduct concerning campaign contributions and campaign assistance from lobbyists.**

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Campaign Assistance, Campaign Committee, Campaign Contribution, Exempt Officer or Employee and Political Party. Have the same meaning as defined in § 1-19.6.

Candidate for City Office. Any person who:

(1) Falls within the definition of a candidate contained in HRS § 11-191;

(2) Files nomination papers in accordance with HRS Chapter 12, Part I; or

(3) Makes any public statement concerning the person's intention to be a candidate for a city office within two years preceding the next special election, coinciding with a general election, for that city office.

Lobbyist. Any person:

(1) Seeking, or having sought within two years preceding any activity prohibited under this section, any type of discretionary approval, whether legislative, administrative, or quasi-judicial, from the city, including without limitation a landowner, developer, architect, engineer, planner, or agent of the foregoing; or

(2) Qualifying as a lobbyist under § § 3-13.2.

(3) Excluded from (1) and (2) above are activities conducted by neighborhood boards, community associations, coalitions, and individuals not employed by those specified in subdivision (1), unless they engage the services of a paid lobbyist.

(b) An exempt officer or employee shall not:

(1) Coerce, demand, or otherwise require a campaign contribution or campaign assistance from a lobbyist;

(2) Disapprove the application of or otherwise punish a lobbyist because that lobbyist:

(A) Refused to make a campaign contribution or render campaign assistance when requested or demanded by the exempt officer or employee or a third person;

(B) Sought or received an advisory opinion from the ethics commission on a possible violation of this section; or

(C) Filed with a public agency or officer a complaint alleging a violation of this section;

(3) Promise or threaten to disapprove the application of or otherwise punish a lobbyist, unless that lobbyist:

(A) Makes a campaign contribution or renders campaign assistance as requested or demanded by the exempt officer or employee or a third person;

(B) Refrains from seeking an advisory opinion from the ethics commission on a possible violation of this section; or

(C) Refrains from filing with a public agency or officer a complaint alleging a violation of this section;

(4) Approve the application of a lobbyist because that lobbyist made a campaign contribution or rendered campaign assistance when requested or demanded by the exempt officer or employee or third person;

(5) Solicit or request a specified or minimum campaign contribution amount from a lobbyist;

(6) Request a lobbyist to provide a specified or minimum amount of campaign assistance;

(7) Solicit or receive any campaign contribution from a person, including a lobbyist, in a building or facility during its use for official city functions; or

(8) Request or direct another exempt officer or employee to engage in an activity prohibited under this subsection.

An exempt officer or employee shall not be prohibited from soliciting or requesting a campaign contribution or campaign assistance from a lobbyist, so long as the solicitation or request does not violate this subsection.

(c) A lobbyist shall not make a campaign contribution or render campaign assistance to any candidate for city office within two years after receipt of a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.

(d) A candidate for city office shall not accept a campaign contribution from a lobbyist within two years after the lobbyist receives a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.

A candidate for city office shall not accept or use campaign assistance from a lobbyist within two years after the lobbyist receives a discretionary approval, whether legislative, administrative, or quasi-judicial, from the city.

(e) Any lobbyist, as defined under this section, who cannot make a campaign contribution to a candidate for city office shall register with the clerk. A lobbyist receiving a discretionary approval shall register within 10 days of receipt of the approval.

A lobbyist who is not seeking a discretionary approval shall register simultaneously with registration as a lobbyist under Chapter 3, Article 13.

(f) An exempt officer or employee, candidate for city office, or lobbyist who violates this section shall be guilty of a petty misdemeanor.

The prosecution of a violation pursuant to this subsection shall be commenced within two years after commitment of the violation. No violation shall be prosecuted after the expiration of the two-year period.

The prosecuting attorney shall be responsible for prosecution of a violation. If the prosecuting attorney becomes disqualified, the State attorney general shall have the responsibility for prosecution.

The penalty of this subsection shall be in addition to the penalty provided under § 1-19.5(a) if applicable to the violator. Both penalties may be imposed for the same conduct.

(1990 Code, Ch. 3, Art. 8, § 3-8.9) (Added by Ord. 94-54)

Editor's note:

***In Civil No. 96-2844-07 in the First Circuit Court, State of Hawaii, subsections (c) and (d) (then § 3.29(c) and (d), were held to conflict with and be preempted by HRS Chapter 11. The final judgment was entered on August 4, 1998 and was not appealed.*

ARTICLE 20: DRUG AND ALCOHOL ABUSE TRAINING PROGRAM

Sections

§ 1-20.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

Alcohol-Testing Policy. Any policy, whether established by any federal, State, or city statute, ordinance, rule, regulation, or administrative directive, or by an applicable collective bargaining agreement, under which a city officer or employee may be tested for the presence of alcohol in the officer's or employee's system.

CFR. The Code of Federal Regulations.

Commercial Motor Vehicle. A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds);

(2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds);

(3) Is designed to transport 16 or more passengers, including the driver; or

(4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the federal statutes on the transportation of hazardous materials, Public Law 103-272, July 5, 1994, 108 Statutes at Large 759, as amended, codified at 49 USC Chapter 51, and that require the motor vehicle to be placarded under the federal Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

Controlled Substances Act. Public Law 91-513, October 27, 1970, 84 Statutes at Large 1236, Titles 2 and 16, as amended, codified at 21 USC §§ 801 et seq.

Driver. Any person who operates a commercial motor vehicle. This includes but is not limited to:

(1) Full-time, regularly employed drivers;

(2) Casual, intermittent, or occasional drivers; and

(3) Leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the city or who operate a commercial motor vehicle at the direction of or with the consent of the city.

Drug. Any controlled substance, including marijuana, cocaine, any opiate, any amphetamine, and phencyclidine, identified in the federal Controlled Substances Act, as amended.

Drug-Testing Policy. Any policy, whether established by any federal, State, or city statute, ordinance, rule, regulation, or administrative directive, or by an applicable collective bargaining agreement, under which a city officer or employee may be tested for the presence of any particular drug or class of drugs in the officer's or employee's system.

Employee. Has the same meaning as defined in § 1-4.1, provided the term shall also include any person meeting the definition of "driver" in this section.

Officer. Has the same meaning as defined in § 1-4.1.

Reasonable Suspicion Test. A test for the presence of alcohol or drugs, or both, in an officer's or employee's system, which test may be required by a management or supervisory officer or employee under the city's alcohol-testing policy, the city's drug-testing policy, or both, as applicable, based on a specific, contemporaneous, and articulable observation of the appearance, behavior, speech, or body odor of the tested officer or employee leading to a reasonable suspicion of alcohol misuse or drug use.

Safety-Sensitive Functions. Include:

(1) All time at a city or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the city;

(2) All time inspecting equipment as required by 49 CFR §§ 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All time spent at the driving controls of a commercial motor vehicle in operation;

(4) All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR § 393.76);

(5) All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending such a vehicle being loaded or unloaded, remaining in readiness to operate such a vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

(1990 Code, Ch. 1, Art. 20, § 1-20.1) (Added by Ord. 97-70)

§ 1-20.2 Drug and alcohol abuse policy training for each officer and employee.

(a) Each city officer and employee shall receive training of the highest standards on the city's drug and alcohol abuse policy by July 1, 2000, in accordance with this section.

(1) An officer or employee who enters city employment after July 1, 1998* shall receive the training during the orientation provided upon entering employment.

(2) An officer who enters city service, other than employment, after July 1, 1998* shall receive the training within the one-month period following entrance into service.

(3) An officer or employee who is in city employment or service on July 1, 1998* shall receive the training within the two-year period following that date.

(4) For the duration of city employment or service after the training described in subdivision (1), (2), or (3), an officer or employee shall receive follow-up or refresher training, or both, as deemed necessary by the department of human resources.

(b) The department of human resources shall be responsible for scheduling and enrolling each officer or employee for the training on the city's drug and alcohol abuse policy.

(c) The department of human resources shall be responsible for providing the training on the city's drug and alcohol abuse policy to make officers and employees aware of:

(1) The policy;

(2) What constitutes drug and alcohol abuse;

(3) The adverse effects of drug use and alcohol misuse on an individual's health, work and personal life; and

(4) The signs and symptoms of an alcohol or drug problem (the employee's or a co-worker's).

For management or supervisory officers or employees, the training required under this section shall be integrated with that required under § 1-20.3.

(d) (1) In addition to the training provided in subsection (c), city drivers subject to 49 CFR Part 382 shall be provided a copy of the information and materials specified in 49 CFR § 382.601(b) before their engaging in any safety-sensitive function. This requirement shall be deemed to have been met for officers and employees who were provided the materials and information required under 49 CFR § 382.601 before July 1, 1998.* This information and these materials shall also be provided to the exclusive bargaining representatives of any such officers or employees.

(2) The department of human resources may, in addition to the materials and information required to be provided under subdivision (1), provide additional materials or information under a statute, ordinance, rule, regulation, administrative directive, or collective bargaining agreement; however, any materials or information not required to be provided under 49 CFR Part 382 shall expressly state the basis on which the materials or information is provided and shall state that it is not provided pursuant to 49 CFR Part 382.

(1990 Code, Ch. 1, Art. 20, § 1-20.2) (Added by Ord. 97-70)

Editor's note:

* "*July 1, 1998" is substituted for "the effective date of this ordinance."*

§ 1-20.3 Training program for management or supervisory officers and employees.

(a) Each management or supervisory officer or employee of the city shall complete a training program on the city's alcohol and drug abuse policy. The program shall provide each management or supervisory officer or employee with training to properly:

(1) Identify officers or employees under the management or supervisory officer's or employee's management or supervision who exhibit the signs and symptoms of an alcohol or a drug problem;

(2) Refer employees identified under subdivision (1) to city, State, community, or medical resources available for evaluation, diagnosis, counseling, and rehabilitation of persons with drug and alcohol dependency or addiction, as appropriate, including the names, addresses, and telephone numbers of substance abuse professionals, and of counseling and rehabilitation programs; and

(3) Inform employees identified under subdivision (1) as to disciplinary and other measures that may be taken if adverse behavior believed to be the result of the abuse of drugs or alcohol, or both, is not corrected.

The training program shall include information on alcohol and drug misuse and indicators of probable misuse.

(b) Management or supervisory officers or employees having managerial or supervisory control over city officers or employees who are subject to city alcohol or drug-testing policies, or both, shall, in addition to the training provided pursuant to subsection (a):

(1) Receive training in the alcohol- or drug-testing policies, or both, applicable to the officers or employees under their management or supervision; and

(2) Receive training in the procedures and requirements for documentation of observations that may permissibly lead to an alcohol or drug reasonable suspicion test.

(c) Management or supervisory officers or employees having managerial or supervisory control over city officers or employees who are subject to 49 CFR Part 382 shall, in addition to the training pursuant to subsection (b), receive the materials and information enumerated in 49 CFR § 382.601(b) and any additional training deemed necessary by the director of human resources relating to alcohol- and drug-testing policies applicable to the officers and employees subject to 49 CFR Part 382.

(d) The training program provided under this section shall be formulated and provided by the department of human resources.

(e) (1) For management or supervisory officers or employees who are in a management or supervisory position on July 1, 1998,* the applicable training program shall be provided within one year of July 1, 1998.*

(2) For persons elected or appointed to city management or supervisory positions following July 1, 1998,* but who are not subject to subdivision (3) or (4), the training program described in subsection (a) shall be provided within one year of the person's election or appointment to the position.

(3) For city management or supervisory officers or employees appointed to positions with management or supervisory control over city officers or employees subject to the city's alcohol- or drug-testing policies, or both, following July 1, 1998,* but who are not subject to subdivision (4), the training program described in subsection (b) shall be provided within 60 days of the date of the appointment.

(4) For city management or supervisory officers or employees appointed to positions with management or supervisory control over city officers or employees who are subject to alcohol- or drug-testing, or both, under 49 CFR Part 382, the training program described in subsection (c) shall be provided within 60 days of the date of the appointment.

(5) For the duration of the management or supervisory officer's or employee's employment in the managerial or supervisory position, after the training described in subdivision (1), (2), (3), or (4), whichever applies, the management or supervisory officer or employee shall receive follow-up or refresher training, or both, as deemed necessary by the department of human resources.

(1990 Code, Ch. 1, Art. 20, § 1-20.3) (Added by Ord. 97-70)

Editor's note:

* "*July 1, 1998" is substituted for "the effective date of this ordinance."*

ARTICLE 21: CITY ADVERTISEMENTS

Sections

§ 1-21.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Advertisement. Includes any communication paid for in whole or in part with city funds, and publicly distributed to support, advocate for, or inform the public about a city project, program, action, or legislation. The term does not apply to notices of public meetings, notices of public hearings, notices of real property tax assessments, liquor commission advertisements, and other legal notices required by ordinance or other law. A radio or television broadcast that differs in content from day-to-day or program-to-program shall be treated as a separate advertisement for each day or program, respectively.

City Employee. Has the same meaning as is defined in Charter § 13-101, as amended.

City Funds. Includes all funds appropriated in the city's executive operating and capital budgets and its legislative budget and include funds obtained by the city from the State or federal government.

City Officer. Has the same meaning as is defined in Charter § 13-101, as amended.

Liquor Commission Advertisement. Any communication paid for with fees collected and received by, as well as all other moneys received on behalf of, the liquor commission and deposited into the liquor commission fund, and publicly distributed to support, advocate for, or inform the public about a liquor commission project, program, action, or legislation. The term does not apply to notices of public meetings, notices of public hearings, and other legal notices required by ordinance or other law. A radio or television broadcast that differs in content from day-to-day or program-to-program shall be treated as a separate liquor commission advertisement for each day or program, respectively.

Publicly Distributed. To make available to the public by broadcasting on television or radio, by publishing in a newspaper, magazine, periodical, or other form of mass print media, or by bulk mailing a city publication. (1990 Code, Ch. 1, Art. 21, § 1-21.1) (Added by Ord. 08-18; Am. Ord. 20-8)

§ 1-21.2 Disclosure required.

(a) No city officer, employee, or consultant, contractor, subconsultant, or subcontractor to the city shall submit or cause to be submitted any advertisement without including the following statement in the advertisement: "Paid for (or paid in part) by the taxpayers of the City and County of Honolulu." For radio advertisements, the statement may be altered to state: "Paid for (or in part) by city taxpayers."

(b) No Honolulu liquor commission officer, employee, or consultant, contractor, subconsultant, or subcontractor to the Honolulu liquor commission, shall submit or cause to be submitted any liquor commission advertisement without including the following statement in the liquor commission advertisement: "Paid for solely by fees collected and received by, as well as all other moneys received on behalf of, the liquor commission and deposited into the liquor commission fund."

(c) If an advertisement or liquor commission advertisement is in printed or published form, the statement required in subsection (a) or (b) shall be displayed in a prominent location in the advertisement or liquor commission advertisement, and be of sufficient type size to be clearly readable by the recipient or audience of the advertisement or liquor commission advertisement. If the advertisement or liquor commission advertisement is broadcast on the radio, the statement shall be stated orally at the end of the advertisement or liquor commission advertisement.

(1990 Code, Ch. 1, Art. 21, § 1-21.2) (Added by Ord. 08-18; Am. Ord. 20-8)

§ 1-21.3 Penalty.

Any person who wilfully violates this article shall be subject to the penalty provided in § 1-3.1.

(1990 Code, Ch. 1, Art. 21, § 1-21.3) (Added by Ord. 08-18)

ARTICLE 22: HAWAIIAN LANGUAGE SIGNS OF THE CITY AND COUNTY OF HONOLULU

Sections

§ 1-22.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. The government of the City and County of Honolulu.

City Sign. A public sign as defined under § 21-7.20 that was prepared by or for the city.

Kahakō. A diacritical mark, which is placed above a vowel to indicate a long sound or phonetic value in pronunciation.

ʻOkina. A diacritical mark indicating an interruption of the breath stream during speech.
(1990 Code, Ch. 1, Art. 21, § 1-22.1) (Added by Ord. 08-21)

§ 1-22.2 Hawaiian language on city signs.

All city signs that include Hawaiian language or Hawaiian names shall use proper Hawaiian spelling, including kahakō and ʻokina.
(1990 Code, Ch. 1, Art. 21, § 1-22.2) (Added by Ord. 08-21)

ARTICLE 23: CITY SEAL

Sections

§ 1-23.1 Adoption and description.

(a) The existing seal of the city, the impress, which is on file with the city clerk's office, and description that is shown below, is adopted as the new seal of the city, State of Hawaii with the following modification:

The term "Territory of Hawaii" appearing in the existing seal of the city is deleted and the term "State of Hawaii" inserted in lieu thereof.

(b) The impress of the city's seal, which was included as a part of Ordinance 1730 but inadvertently omitted in the 1961 codification of ordinances, shall be reenacted herein to provide specific information for the benefit of the general public. The seal of the city shall be circular in shape, 3 inches in diameter, and of the design being described, with the tinctures added as a basis for the coat of arms as follows:

Arms. A heraldic shield quartered; first and fourth quarters bearing the stripes and colors of the Hawaiian flag; second and third quarters, on a yellow field, a white ball pierced on a staff; overall, a green escutcheon surcharge, with a five pointed yellow star in the center.

Supporters. Nuuanu Pali on the dexter side and Diamond Head on the sinister side; overall green color.

Crest. A rising sun irradiated in gold, surrounded by a legend "City and County of Honolulu-State of Hawaii"

(c) A line drawing version of the above-described city seal shall be on file with the city clerk's office.
(Sec. 1-7.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 1, § 41-1.1)

§ 1-23.2 Unauthorized use of seal—Penalty.

(a) (1) Whoever knowingly displays any facsimile of the seal of the city 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 city or by any department, agency, or instrumentality thereof, shall be guilty of a misdemeanor.

(2) Subdivision (1) 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 city.

(b) (1) Whoever, except when authorized in writing by the council for official use of the city, 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 city, or any substantial part thereof, shall be guilty of a misdemeanor.

(2) As used in this subsection, the term "sell" shall be broadly construed to include transactions involving cash donations to the seller or the seller's agent or representative, or both.

(c) As used in this section, the term "facsimile" means the use of the seal as described or impressed or the gold color replica or any combination thereof found in § 1-23.1 of this article.

(d) This section shall not apply to the noncommercial manufacture or reproduction for display, or the noncommercial display, of a facsimile of the seal of the city described in § 1-23.1, on that certain vessel of the United States Navy known as the USS Honolulu (SSN-718).

(Sec. 1-7.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 1, § 41-1.2) (Am. Ord. 01-54)

ARTICLE 24: PUBLIC RECORDS

Sections

§ 1-24.1 Defined.

The term "public records" has the same meaning as defined in HRS § 92-50.
(Sec. 5-16.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 12, § 6-12.1)

§ 1-24.2 Storage of public records.

The managing director shall adopt rules regarding the maintenance and storage of public records for all city agencies pursuant to HRS Chapter 91. The regulations shall be complementary to HRS § 92-51, and shall provide for, but not be limited to:

(1) Guidelines to be used in determining which documents must remain confidential to prevent invasions of privacy;

(2) Segregation of all public records into confidential files and files open to public inspection;

(3) Maintenance of separate storage facilities for open and confidential files;

(4) Listing (by title) of all records in confidential files; and

(5) Certification by the corporation counsel that each document contained in confidential files is not a public record as defined in § 1-24.1.

(Sec. 5-16.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 12, § 6-12.2)

CHAPTER 2: THE MAYOR AND EXECUTIVE AGENCIES–ADDITIONAL POWERS, DUTIES, AND FUNCTIONS

Article

35. ENERGY STAR Products
36. Light Pollution
37. Zoo Sponsorship Program
38. Solar Photovoltaic Systems
39. Department of Design and Construction
40. Sponsorship of City Assets
41. Enforcement of Water Safety Rules by Lifeguards
42. Community Workforce Agreements
43. "Keep Hawaii Hawaii - Promise to Our Keiki Pledge"

ARTICLE 1: MAYOR*

Sections

Editor's note:

**In general, see Charter Art. V, Chap. 1.*

§ 2-1.1 Election and term of office.

Except for the filling of a vacancy in the office of the mayor as provided by Charter § 5-106, the electors of the city shall elect a mayor whose term of office shall be four years beginning at 12 o'clock meridian on the second day of January following the mayor's election.
(Sec. 2-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 1, § 2-1.1)

§ 2-1.2 Annual energy evaluation.

Within 60 days following the end of each fiscal year, beginning with the fiscal year ending June 30, 2009, and each year thereafter, the mayor shall submit to the council a written report detailing the city's:

(1) Electricity, gasoline, diesel, and biodiesel consumption and costs during the previous fiscal year; and

(2) Progress in implementing energy conservation policies, programs, and projects.
(1990 Code, Ch. 2, Art. 1, § 2-1.2) (Added by Ord. 16-29)

ARTICLE 2: OFFICERS*

Sections

Editor's note:

**Civil Service exemptions, see Charter § 6-1103.*
Limitation on salary of first deputy or assistant, see HRS § 46-24.
Officers defined, see Charter § 13-101.4; ROH § 1-4.1.
Permitting coffee break, see HRS § 80-2.

§ 2-2.1 Additional duties.

Each officer shall perform all duties required of such person's office by State law, the Charter, and ordinances of the city and such other duties not in conflict therewith as may be required by the mayor.
(Sec. 2-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 2, § 2-2.1)

§ 2-2.2 Inaugurate sound practices.

The heads of all executive agencies shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the mayor and managing director, such new practices as appear to be of benefit and service to the public.
(Sec. 2-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 2, § 2-2.2)

§ 2-2.3 Records.**

The heads of all agencies shall establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control and audit of agency activities and to form a basis for the periodic reports to the mayor.
(Sec. 2-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 2, § 2-2.3)

Editor's note:

*** Open to public inspection, see Charter § 13-105, superseding HRS §§ 92-1 to 92-6.*

§ 2-2.4 Acts by subordinate officer.

When any provision herein requires an act to be done by an agency head, the agency head may direct a subordinate to perform the act.
(Sec. 2-2.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 2, § 2-2.4)

§ 2-2.5 Acting agency head.

(a) *Absence due to illness, incapacity or temporary absence from the city—when vacancy occurs.* An agency head may appoint with the approval of the mayor, an officer, or employee in such person's department, to serve as acting agency head during the agency head's illness, incapacity, or temporary absence from the city. As acting head, such person shall execute all the powers and duties of the agency head. Vacancies resulting from death, resignation, dismissal, or expiration of term of office of an agency head shall be filled in accordance with applicable provisions pertaining to that agency contained in the Charter. Notwithstanding any other provision to the contrary, any incumbent corporation counsel and prosecuting attorney whose term of office has expired coterminously with that of the appointing authority shall not serve in an acting or interim agency head capacity, unless and until their appointments have been approved by the city council. Any person whose appointment fails to receive council's confirmation shall not be eligible for another appointment to the same office during the term of the appointing authority.

(b) *Additional compensation for temporary absence of agency head.* Any person designated as acting agency head pursuant to subsection (a) of this section shall not be entitled to the compensation received by the agency head; provided that if an agency head's illness, incapacity, or temporary absence from the city exceeds 10 continuous working days involving a single occurrence, such acting agency head shall be entitled to compensation paid to the agency head until the agency head returns; provided further, that such additional compensation shall be paid to the acting agency head retroactive to the termination of the 10-day waiting period.

(c) *Additional compensation when vacancy occurs.* Any person designated as acting agency head pursuant to subsection (a) of this section shall not be entitled to the compensation received by the agency head; provided that if such vacancy exceeds 10 continuous working days involving a single occurrence, such acting agency head shall be entitled to compensation paid to the agency head until the position is filled; provided further, that such additional compensation shall be paid to the acting agency head retroactive to the termination of the 10-day waiting period.
(Sec. 2-2.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 2, § 2-2.5)

ARTICLE 3: CORPORATION COUNSEL*

Sections

Editor's note:

**Defense of liquor commission employees, see HRS § 281-103.*
Fees for services prohibited, see Charter § 11-102.1(d).
In general, see Charter Art. V, Chap. 2.
Legal counsel for board of water supply, see Charter § 7-116.
Pay plan and organization, see Chap. 5, Art. 2.
Pay plan for legal assistants, see Chap. 5, Art. 2.
Private Practice Prohibited, see Charter § 11-102.2.
Special Counsel, see Charter § 5-204.

§ 2-3.1 Additional powers, duties, and functions.

The corporation counsel shall:

(1) *Prepare ordinances.* Prepare bills for enactment into ordinances or amendments of ordinances when so requested by the council or any committee or member thereof or the mayor or any city officer;

(2) *Attend council meetings.* Attend all council meetings in their entirety for the purpose of giving the council any legal advice requested by its members;

(3) *Prepare legal instruments.* Prepare for execution and approve, as to form and legality, all contracts and instruments to which the city is a party and also approve, as to form and legality, all bonds required to be submitted to the city;

(4) *Settle claims.*

(A) *By corporation counsel.* Have the power to adjust, settle, compromise, or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters in favor of or against the city or in which the city is concerned as debtor or creditor, now existing or which may arise, not involving or requiring payment in excess of $5,000; provided the money to settle claims generally has been appropriated and is available therefor; and provided further, that a quarterly report of all settlements shall be filed with the council within 15 days after the end of each quarter;

(B) *Outstanding claims for or debts owed to the city.* The corporation counsel shall determine whether any claim for the city or any debt owed to the city not in excess of $1,000 is collectible. If the

corporation counsel determines that any claim for the city or any debt owed to the city is not collectible, the corporation counsel is authorized to advise the director of budget and fiscal services that any claim for the city or any debt owed to the city shall be stricken from the director of budget and fiscal services' records and such claim for the city or such debt owed to the city is extinguished; and

(C) *Private claims adjustment service.* Any private claims adjustment service that has been awarded a contract to provide coverage for liability by established bid procedures and where the deductible amount of any insurance is to be paid out of city funds, has the power to adjust, settle, compromise, or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters against the city for any injury or death to a person or damage to property; provided that before such service can commit the payment of any claim in excess of $15,000, it shall be first presented to the corporation counsel for approval;

(5) *Make reports.*

(A) *Report of decision.* Report the outcome of any litigation in which the city has an interest to the mayor and council; and

(B) *Annual report of pending litigation.* Make an annual report to the mayor and council, as of January 15, of all pending litigation in which the city has an interest, and the status thereof;

(6) *Investigate workers' compensation.* Investigate all cases in which workers' compensation is involved and appear on behalf of the city before the State workers' compensation board;

(7) *Keep records.*

(A) *Suits.* Keep a complete record of all suits in which the city had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its status if pending; and

(B) *Opinions and titles.* Keep a complete record of all written opinions furnished by the corporation counsel; and

(8) *Settle land acquisitions.* Have the power to adjust, compromise, settle, or submit to arbitration, any land acquisition requests referred to this office by other city agencies or eminent domain actions, causes of eminent domain actions in favor of or against the city or in which the city is concerned as purchaser, seller, condemnor, or condemnee, now pending or that may arise, not involving or requiring payment in excess of $2,500; provided that the money to settle any specific land acquisition or eminent domain action generally has been appropriated and is available therefor; and provided further, that a quarterly report of all settlements shall be filed with the council within 15 days after the end of each quarter.

(Sec. 2-3.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 3, § 2-3.1) (Am. Ord. 16-29)

§ 2-3.2 Prohibited acts.

The corporation counsel shall not:

(1) Initiate, engage, or participate in any legal action or proceedings in which any of the city, its officials, or its employees are not directly involved in or named as a party to a contemplated or ongoing legal proceeding; and

(2) Other than situations where corporation counsel is expressly authorized by federal or State statutes or city laws, bring action against a private person as defined in § 1-4.1 without first obtaining the consent and approval of the council that shall be manifested by an adopted council resolution.

(Sec. 2-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 3, § 2-3.2) (Am. Ord. 96-58)

§ 2-3.3 Penalties.

Penalty for violation of this article shall be a fine not to exceed $1,000 or one year's imprisonment or both. Prosecution in such cases shall be as provided by law for the prosecution of misdemeanors.
(Sec. 2-3.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 3, § 2-3.3)

§ 2-3.4 Procedure governing council approval for the settlement of claims against the city.

(a) Except as otherwise provided in § 2-3.1(4), no claim shall be adjusted, settled, or compromised without the prior approval of the council.

(b) The council shall determine and specify from time to time, by resolution, claims for which all written offers of settlement are to be transmitted to the council by legal counsel. Upon adoption of such a resolution, legal counsel assigned to the claim specified in the council resolution shall transmit any written offer of settlement to the council promptly, but no later than three working days from the receipt of the offer, or before the expiration date of the offer, if any, whichever occurs first.

Together with the offer, legal counsel shall transmit to the council: (i) the recommendation of the agency, officer or employee against whom the claim is made; and (ii) the recommendation of the legal counsel, as to whether to accept, reject, or make a counter-offer to the offer. If, due to the shortness of time within which to respond to an offer of settlement, legal counsel is unable to obtain a recommendation from the agency, officer, or employee against whom the claim is made, legal counsel need include only legal counsel's recommendation in the transmittal. However, legal counsel shall obtain the recommendation of the affected agency, officer, or employee as soon as practicable, and submit the recommendation in writing to the council.

(c) The council may, after deliberation in executive session, accept or reject the offer, or propose a counter-offer. If the council decides to accept the offer of settlement, the council shall do so by adopting a committee report or a resolution specifying the terms of settlement and expressing its approval of the terms.

The decision of the council to accept a settlement offer shall be binding on the city and on legal counsel. In the event the council rejects the offer or proposes a counter-offer, it shall so inform legal counsel in executive session. Legal counsel shall transmit the council's acceptance of the offer of settlement or the council's proposed counter-offer to the claimant promptly and without delay.

(d) Nothing in this section shall preclude the corporation counsel from establishing procedures consistent with the Code of Professional Responsibility governing all attorneys licensed to practice law in the State of Hawaii, and

the Charter, for the transmittal of settlement offers to the council involving claims not specified by the council pursuant to subsection (b). Further, nothing in this section shall preclude legal counsel from recommending to the council on legal counsel's own initiative, or at the request of the affected agency, officer or employee against whom a claim is made, offers to adjust, settle, or compromise any claim, or to recommend to the council that the city make an offer of settlement or judgment in any case in which the city is a party.

(e) *Definitions.* For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Charter. The Revised Charter of the City and County of Honolulu, as amended.

City. The City and County of Honolulu, its agencies, officers, and employees.

Claim. Includes any claim, demand, debt, dispute, or other matter in favor of or against the city, its agencies, officers or employees, initiated, brought, or made by any person as defined in § 1-4.1, or any federal or State agency. The term includes claims for injunctive, declaratory, and extraordinary relief.

Legal Counsel. Includes the corporation counsel, deputies corporation counsel, special deputies, and special counsel representing the city in any claim.

Special Counsel. The private attorney or law firm retained by the city pursuant to Charter § 5-204.3, to represent the city.

Special Deputies. The private attorney or law firm appointed by the corporation counsel with the approval of the council pursuant to Charter § 5-204.1, to represent the city.

(f) *Exception.* This section shall not apply to claims arising between the executive branch of city government and the council involving court litigation for which corporation counsel, or if corporation counsel has been disqualified, special counsel, has been retained to represent the agencies, officers, or employees of the executive branch and either the attorneys in the office of council services or special counsel has been retained by the council to represent the council.

(1990 Code, Ch. 2, Art. 3, § 2-3.4) (Added by Ord. 93-78)

ARTICLE 4: DEPARTMENT OF BUDGET AND FISCAL SERVICES*

Sections

Editor's note:

**In general, see Charter Art. IV, Chap. 2.*

§ 2-4.1 Refund of license fees authorized.

(a) *Legislative findings and declaration of intent.* The council finds that:

Whenever a business license fee has been paid improperly or paid under circumstances when it need not have been paid or otherwise paid in excess of the amount required by law and such payments have been either voluntary, involuntary, the result of a mistake of law or of fact, or any combination thereof, and the payor has derived no benefit from the payment of such fee, there exists a moral obligation on the part of the city to refund the payment or such amount as represents the illegal excess collected over that required by law.

(b) *Director of budget and fiscal services authorized to refund—when.* Upon the written request of the payor received within six months from the date of the erroneous payment, the director may refund license fees or so much thereof as represents the illegal excess collected over the amount required to be collected by law or regulation when paid under the following conditions: when such fees need not have been paid but were in fact paid voluntarily or involuntarily, under a mistake as to the applicable law or mistake of fact; provided that the payor has not derived any benefit from the payment of the license fee. If such a benefit has been derived therefrom as in the case of a payment made pursuant to a law or regulation subsequently declared by a court of competent jurisdiction to be invalid, only the amount of the fee, which when prorated over the term of the license represents the balance of the term for which the license fee was paid after the decision invalidating the law or regulation under which payment was made, shall be refunded; provided further, that notwithstanding the receipt of any benefits by the payor, payments made involuntarily as defined in subsection (d) shall be refunded in their entirety.

(c) *Limitations.* The authority granted the director in subsection (b) shall not extend to the payment of any other claims based on an asserted moral obligation.

(d) *Involuntary payment.* For the purposes of this article, involuntary payments shall be those payments made under protest to prevent interference with or the closing of the payor's business or the arrest of such person. Similarly, payment made under the threat of force or procured by fraud shall be deemed involuntary.

(Sec. 2-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 4, § 2-4.1) (Am. Ord. 16-29)

§ 2-4.2 Additional powers, duties, and functions of the director of budget and fiscal services.

(a) *Collection.* The director shall be the chief accounting officer of the city and shall:

(1) Collect and receive moneys due to or receivable by the city and issue receipts therefor or authorize other executive agencies to do so under conditions prescribed by the director; and

(2) Have the responsibility of writing off uncollectible debts or accounts of $1,000 or less for moneys due the city, upon recommendation of or with the concurrence of the corporation counsel.

(b) *Payment—Check or electronic means.*

(1) In all instances where money due the city is paid by check or electronic means, and the payment subsequently is dishonored by a bank or other financial institution when presented for collection, a service fee shall be assessed against the payor. The service fee shall be established and may be amended by the director. The service fee shall be incorporated into the rules of the department of budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing and collection of dishonored checks, or electronic payments.

(2) Personal checks shall not be accepted by the city in payment of moneys due the city of less than $1.

(3) The director may accept payments of city taxes and other amounts owed to the city made by electronic means, which in the director's discretion are determined acceptable to the city.

If any payment by electronic means tendered for payment of any taxes or other amounts owed to the city is not paid by the bank, credit card company, or other financial institution, the person for whom such payment was tendered shall remain liable for the payment of the taxes or other amounts owed to the city, including the service fee established pursuant to subdivision (1), the same as if such payment had not been tendered.

(4) The director may establish, where allowable, convenience and service fees for payments made by electronic means to be added to the amounts owed to the city. The convenience and service fees shall be adopted by rules of the department of budget and fiscal services and shall not exceed the reasonable costs of the city relating to the processing of the payments.

(5) For purposes of this subsection, payments made by "electronic means" include payments made by automated clearing house (ACH) transactions, fedwires, credit cards, charge cards, debit cards, stored value cards, and other electronic payment technology not yet developed.

(c) *Change orders.* The director shall report in writing to the council whenever:

(1) The city approves change orders for a city-financed construction project where the change orders result in an increase in project costs, which in aggregate exceed one of the following amounts:

(A) Seven percent of the original construction contract award, for construction projects involving renovations to existing buildings, structures, or facilities; or

(B) Five percent of the original construction contract award, for construction projects involving new buildings, structures, or facilities.

The director's report to the council on the change orders shall include the amount of the original contract award, the amount appropriated for construction of the project, the amount of the appropriation for construction allocated for contingencies, the total number and total dollar amount of the change orders and the reason or reasons for the change orders. The director shall report to the council within 30 days of the approval of the change order or orders that result in the dollar amount of the change orders exceeding the limits set forth in paragraph (A) or (B), as the case may be. For the purposes of this subsection, a "contract award" means any separate award to a contractor for construction work to be done for a city-financed construction project, and a "city-financed construction project" means a project for which $500,000 or more in city funds have been appropriated; provided that funds originally from the State or federal government shall not be counted towards the $500,000 threshold.

(2) The actual completion date of a city-financed construction project, as defined in subdivision (1), occurs 90 days or more after its scheduled completion date, as set forth in the contract for the construction of the project. The director's report on the aforementioned projects shall include for each project the scheduled completion date, the actual completion date, the number of days that the project was overdue and the reason or reasons for the delay in completing the project. The director shall report to the council within 30 days of the completion of a project that was overdue by 90 days or more.

(d) *Annual review of fees and charges.*

(1) The director shall annually review all city fees and charges and recommend to the council whether to increase, decrease, or maintain the current amount of each fee and charge. Each recommendation shall be accompanied by a statement of the reason or reasons why the particular fee or charge may be increased, decreased, or maintained at the current level and the projected amount by which city revenues would increase or decrease as a result of the recommended increase or decrease in each fee or charge.

(2) The director's written recommendations, along with the appropriate proposed ordinance, if any, shall be submitted to the council each year at the same time that the city administration submits the annual executive operating and capital budgets.

(3) All changes in the city's fees and charges recommended by the director shall be reflected in the executive operating budget's projection of revenues for the upcoming fiscal year.

(Sec. 2-4.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 4, § 2-4.2) (Am. Ords. 91-27, 95-09, 96-17, 97-02, 97-14, 16-29)

ARTICLE 5: RISK MANAGEMENT

Sections

§ 2-5.1 General.

The director of budget and fiscal services shall establish a risk management program to identify and control the city's exposure to liability. The program shall be administered by the department of budget and fiscal services. (Sec. 2-16.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 5, § 2-5.1) (Am. Ords. 91-27, 97-02, 16-29)

§ 2-5.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Risk. The potential for financial loss through occurrences, including but not limited to accidents, personal injury, tort claims, legal obligations, and natural disasters.

Risk Management. A management system to conserve the earning power and assets of the city by minimizing the financial effect of accidental losses.
(Sec. 2-16.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 5, § 2-5.2)

§ 2-5.3 Purchase of insurance.

The policies of insurance purchased pursuant to and in accordance with the director of budget and fiscal services' risk management program shall be procured from companies authorized to do business in the State of Hawaii and according to the applicable laws and ordinances on competitive bidding.
(Sec. 2-16.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 5, § 2-5.3) (Am. Ords. 91-27, 97-02, 16-29)

ARTICLE 6: DEPARTMENT OF HUMAN RESOURCES*

Sections

Editor's note:

**In general, see Charter Art. VI, Chap. 11. ROH Art. 6 title was amended by Ords. 96-58, 16-29.*

§ 2-6.1 Director of human resources—Additional powers, duties and functions.

The director shall:

(1) Prepare and recommend to the civil service commission reasonable regulations to carry out applicable provisions of the charter; and

(2) Examine all applicants for employment and all officers and employees of the city pursuant to any applicable ordinance, civil service laws, and rules then in effect.

(Sec. 2-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 6, § 2-6.1) (Am. Ords. 96-58, 16-29)

§ 2-6.2 Functions of the safety program administrator.

The functions of the safety program administrator are assigned to the department of human resources.

(Sec. 2-6.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 6, § 2-6.2) (Am. Ords. 96-58, 16-29)

ARTICLE 7: DEPARTMENT OF INFORMATION TECHNOLOGY*

Section

Editor's note:

**In general, see Charter Art. VI, Chap. 12. ROH Art. 7 title was amended by Ord. 16-29.*

§ 2-7.1 Qualifications.

The director of information technology shall have had:

(1) A minimum of five years of experience in an electronic data processing position, including experience with third generation concepts and hardware to include teleprocessing;

(2) At least three years' experience out of the five years' experience in an administrative and managerial capacity; and

(3) At least one year of experience out of the three years of experience in a comprehensive management capacity for the development, implementation, and operation of business applications on a large scale computer system.

(Sec. 2-7.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 7, § 2-7.1) (Am. Ord. 16-29)

ARTICLE 8: DEPARTMENT OF FACILITY MAINTENANCE*

Sections

Editor's note:

**In general, see Charter Art. IV, Chap. 9. ROH Art. 8 title was amended by Ord. 16-29.*

§ 2-8.1 Divisions.

The department of facility maintenance shall be divided under the chief engineer into the following divisions:

(a) *Division of automotive equipment service.* The division of automotive equipment service, under the direction of a division chief, shall:

(1) Have charge of the municipal garage and be responsible for the acquisition, custody, repair, maintenance, and disposal of all automotive vehicles and equipment assigned to and used by all city departments, except the police department, fire department, board of water supply, and the Honolulu Authority for Rapid Transportation, and except such stationary machinery as may more practicably be maintained by the division or department having control thereof;

(2) Furnish when needed all parts, accessories, gasoline, distillate, fuel oil, lubricants, and tires necessary for the repair of all such automobiles, equipment, trucks, cranes, graders, sweepers, eductors, mixers, tankers, trailers, large riding tractor mowers, and rollers;

(3) Furnish or assign when needed for use by other city departments, on a rental basis, such vehicular equipment as may be available to it from time to time;

(4) Have charge of the municipal corporation yard or yards occupied by the division and any other place for the storing or housing of all such vehicular equipment belonging to the city;

(5) By proper methods, monitor the use of all vehicular equipment belonging to or under the jurisdiction of the city and from time to time, report all instances of accidents or apparent abuse of such equipment to the department or division head concerned and to the chief engineer and the mayor. For the purpose of this subdivision, vehicular equipment belonging to or under the jurisdiction of the department of parks and recreation shall be deemed as belonging to or under the jurisdiction of the city;

(6) *Municipal automobiles to be kept in garage.* All automobiles belonging to the city and under the jurisdiction of the division of automotive equipment service shall be kept at the municipal corporation

yard when not in the actual service of the city, except such automobiles as the director and chief engineer may specifically authorize to be kept elsewhere;

(7) *Repairs.* All repairs upon any such automobile, equipment, truck, crane, grader, sweeper, eductor, mixer, tanker, trailer, large riding tractor mower, roller, or machinery belonging to the city shall be made at the municipal garage to the fullest extent that the facilities of the garage permit, except repairs made in an emergency. The municipal garage shall also make repairs upon and furnish gasoline, oils, parts, and accessories for equipment coming under the jurisdiction and control of other departments, excepting only the board of water supply, police department, fire department, and the Honolulu Authority for Rapid Transportation, and it may, upon request, furnish such repairs, gasoline, oils, parts, and accessories for such excepted departments;

(8) *Accounting records.* It shall be the duty of the division chief to keep a system of accounting records as shall be approved by the director of budget and fiscal services and the council so as to properly charge against the proper division, department, or fund the cost of the service rendered and facilities and equipment furnished by the division of automotive equipment service and the cost shall be so charged;

(9) *Reports by division chief.* The division chief shall make a full report to the chief engineer and the council not later than the 15th day of the month following the close of each quarter of all of the affairs of the division chief's division, including therein, among other things, work done and equipment and stock on hand, and equipment purchased and disposed of during such quarter. The report shall be made in such form and manner as shall be approved by the director of budget and fiscal services and the council;

(10) *Fees or rates applicable to automotive equipment charges.* The fees or rates applicable to automotive equipment shall reflect the actual cost of services performed or contracted for, goods provided, and overhead; and

(11) *Limitation.* This subsection shall not be construed as authorizing the division of automotive equipment service to control the routing and direction of equipment while in use by another division or department.

The powers, duties, and functions provided to the division of automotive equipment service by this subsection shall not apply to motor vehicles used for the city bus system or special transit service. For the purpose of this limitation, "city bus system" and "special transit service" have the same meanings as defined in § 15B-1.1.

(b) *Division of road maintenance.* The division of road maintenance, under the supervision of a director, shall be responsible for the construction and maintenance of roads, streets, highways, footpaths, storm drain facilities, and bridges.

(c) *Division of public building and electrical maintenance.* The division shall:

(1) Repair, maintain, and renovate all:

(A) City buildings and appurtenant structures;

(B) Street, park, mall, outdoor, and other city lighting and electrical facilities; and

(C) Communication facilities under the jurisdiction of the department;

(2) Provide daily custodial and utility services for city buildings;

(3) Manage city employees' parking and motor pool services; and

(4) Manage security services for Honolulu Hale, Kapolei Hale, the Frank F. Fasi Municipal Building and other city facilities.

(Sec. 2-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 8, § 2-8.1) (Am. Ords. 91-27, 93-31, 97-02, 16-29)

§ 2-8.2 Adopt-a-block graffiti and litter removal program.

(a) *Establishment.* The chief engineer shall establish an "Adopt-A-Block Graffiti and Litter Removal Program" that shall be administered by the department of facility maintenance. The chief engineer may adopt rules or policies and shall adopt forms necessary to implement this section.

(b) *Definitions.* For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Adopter. A person adopting a block or portion thereof under the program established pursuant to this section.

Block. One side of any street, the length of such side extending between two consecutive intersections; or, in the case of a dead-end street, one side of such dead-end street, the length of such side extending between the dead-end and the nearest intersection.

Bus Stop Shelter or Bench. A shelter or bench owned by the city and located at an official or unofficial bus stop for the use of persons waiting for a city bus.

Chief Engineer. The chief engineer of the department of facility maintenance.

Curb. Has the same meaning as defined in § 14-14.2.

Department. The department of facility maintenance.

Graffiti. Any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances. Graffiti also means any unauthorized sticker, decal, or tape.

Person. Individuals, corporations, firms, associations, societies, communities, and assemblies.

Program. The Adopt-A-Block Graffiti and Litter Removal Program established pursuant to this section.

Public Facility. Any city-owned light post, traffic control box or device, or sign.

Sidewalk. Has the same meaning as defined in § 14-14.2.

(c) *Elements of program.* The program shall at a minimum include the following elements:

(1) Interested persons may volunteer to remove or cover graffiti on walls, public facilities, and bus stop shelters and benches along a city block or blocks and remove litter from these facilities and public sidewalks and curbs along a city block or blocks specified by the persons, which block or blocks shall be "adopted" by the persons for the purposes of this section. A portion of a block may be adopted, provided that the portion is a minimum of 200 feet in length;

The adopter shall enter into an agreement with the department:

(A) To adopt the block or portion thereof for a minimum of two years; and

(B) To perform the applicable of the following on the same day at least four times a year:

(i) To remove litter from the public sidewalks and curbs along the adopted block or portion;

(ii) To remove or cover graffiti on walls and public facilities along the adopted block or portion; and

(iii) If there is a bus stop shelter or bench on the adopted block, to also remove or cover any graffiti on the shelter or bench;

(2) The department shall provide the adopter with the supplies and materials necessary to remove or cover the graffiti and collect the litter, including but not limited to cleaning agents, paint, brushes, trash bags, and gloves, at no charge to the adopter. The paint provided by the department need not match the existing color of the wall. The department also shall provide instruction on proper removal, painting, and safety procedures. The adopter shall return any unused or reusable supplies and materials to the department after each graffiti and litter removal operation. The department shall be responsible for the prompt removal of all filled trash bags after each graffiti and litter removal operation. This subdivision shall not preclude the adopter from providing its own supplies and materials, provided that they are approved by the department, or from removing filled trash bags;

(3) Walls not owned by the city shall not be subject to the program unless the adopter obtains the written consent thereto from the owner of the wall. The owner's consent shall be obtained on a form prescribed by the chief engineer and shall include a provision holding the city harmless with respect to claims for injury or damage by the owner or the owner's lessees, agents, employees, customers, or invitees arising from the removal or covering of the graffiti. The department shall assist the adopter in identifying the owner of any wall not owned by the city along the adopted block or portion thereof;

(4) All of the adopter's participants shall be at least 12 years of age. The adopter shall provide adequate and necessary supervision of all participants under the age of 18. There shall be at least one adult supervisor for every five or fewer participants between the ages of 12 and 17. A signed parental release form shall be provided for every participant between the ages of 12 and 17; and

(5) The agreement between the adopter and the department may be terminated by either party on written notice to the other.

(d) *Additional authority of chief engineer.* The chief engineer may:

(1) Declare a block or portion thereof as ineligible for the program if its location or physical attributes would pose safety hazards to the adopter or the public;

(2) Impose additional requirements for adoption not in conflict with this section and in the interests of public safety or necessary for practical administration of the program;

(3) Require the adopter or the owner of any wall along the adopted block or portion thereof who consents to inclusion of the wall in the program to execute such releases, indemnity agreements, and similar agreements as the chief engineer may deem advisable in consultation with the corporation counsel; and

(4) Attach to a bus stop shelter or bench or bus stop sign pole a plaque citing the adopter's adoption of the block. To be eligible for a plaque, the block adopted shall consist of a city block that includes a city-owned bus stop shelter or bench on it. The chief engineer shall have the authority to determine whether and where to attach a plaque, but that authority shall be exercised in accordance with this subdivision and other applicable law or ordinance and after consultation with the director of transportation services. A plaque shall state: "_____ (Adopter's name) Adopt-A-Block Cleanup Program." It shall not include any other word or logo, trademark, symbol, or other image. The chief engineer shall determine the dimension, design, and coloring of a plaque; provided that, if the plaque is to be attached to a bus stop sign pole, it shall be smaller than the bus stop sign, attached beneath the sign, and designed and oriented so as not to constitute a traffic or pedestrian hazard. A plaque shall be deemed a "public sign," not "plaque," for the purpose of the land use ordinance. When the chief engineer attaches or directs the attachment of a plaque in accordance with this section, the action shall be deemed a performance of a public duty for the purpose of HRS Chapter 445, Part IV.

(1990 Code, Ch. 2, Art. 8, § 2-8.3) (Added by Ord. 98-07; Am. Ords. 99-21, 16-29)

§ 2-8.3 Street lighting to be energy efficient.

All new and replacement municipal street lighting fixtures installed by the department shall equal or exceed the energy efficiency of low pressure sodium lighting fixtures, unless waived by the chief engineer in accordance with rules adopted pursuant to HRS Chapter 91.

(1990 Code, Ch. 2, Art. 8, § 2-8.4) (Added by Ord. 16-29)

ARTICLE 9: DEPARTMENT OF EMERGENCY SERVICES

Sections

§ 2-9-1 Extended lifeguard services program.

(a) *Legislative findings and declaration of intent.* Public safety and welfare would be served by providing public safety programs that protect and educate beachgoers about ocean safety. With increasing use of Oahu's beaches and ocean waters from early mornings to late afternoons by both residents who want to swim before and after work, and by visitors who are enticed by the visitor industry and social media postings to maximize their beach activities during their stays, the city needs to provide lifeguard services that encompasses the times when beaches and ocean waters are being utilized by residents and visitors.

(b) *Director of emergency services to develop extended lifeguard services program.* The director of emergency services shall undertake and develop an extended lifeguard services program that provides for lifeguard personnel during all daytime hours, as provided in § 2-9.2.

(Added by Ord. 19-26)

§ 2-9-2 Additional powers, duties, and functions of the director of emergency services.

(a) The director of emergency services shall establish a program that provides for extended lifeguard services that shall encompass all daytime hours, from dawn to dusk.

(b) The extended lifeguard services shall apply to emergencies arising on the beach and in the near shore waters of the city.

(c) The director of emergency services shall formalize a long-term plan to implement this program for extended lifeguard services within nine months of the effective date of this article, and provide this plan to the Council by January 1, 2021.

(d) The director of emergency services shall begin implementation of this program for extended lifeguard services no later than July 1, 2021.

(Added by Ord. 19-26)

ARTICLE 10: OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

Section

§ 2-10.1 Report on visitor industry sustainability progress.

(a) The executive for climate change, sustainability and resiliency shall issue an annual report on the Oahu visitor industry's sustainability efforts and progress toward reducing solid waste, energy consumption, fossil fuel use, and water waste, and encouraging multi-modal transportation options. The executive for climate change, sustainability and resiliency may consult with other government and private agencies in order to produce the report.

(b) The content and metrics of the report shall be determined by the executive for climate change, sustainability and resiliency based on internationally-accepted best practices and be updated periodically as best practices evolve. The report may include but not be limited to:

(1) Identifying industry stakeholders and forms of engagement;

(2) Setting parameters for information gathered;

(3) Identifying key topics to report;

(4) Documenting organization management approaches to relevant topics, including organization policies and practices, commitments, goals, and (short, medium, and long-term) targets;

(5) Identifying risks and opportunities for various organizations;

(6) Defining performance-based reporting for material topics, which could include subjects such as energy and water consumption;

(7) Developing content management procedures and structure to support the accuracy and ease of overall sustainability reporting; and

(8) Setting goals and targets, and transparently reporting on progress toward meeting them.

(c) Tourism-related entities shall respond to annual requests from the executive for climate change, sustainability and resiliency for information on solid waste generation, energy consumption, fossil fuel use, and water use. For the purposes of this annual report, the executive for climate change, sustainability and resiliency shall determine relevant tourism-related entities from the lodging, transportation, activity, and other tourism-related sectors.

(Added by Ord. 20-3)

ARTICLE 11: FIRE DEPARTMENT*

Section

Editor's note:

**In general, see Chap. 10, Art. VI. Retirement system, see HRS §§ 88-21, 88-45, and 88-63.*

§ 2-11.1 Powers, duties, and functions.**

The fire chief shall be charged with the prevention of fires and the protection of life and property against fire and shall:

(1) *Report losses.* Report all fire losses periodically to the mayor;

(2) *Maintain equipment.* Be responsible for the maintenance and care of all property and equipment used by the fire chief's department; and

(3) *Fire extinguishers.* Grant, withhold, suspend, or revoke certificates of fitness authorizing persons to repair, fill, or refill portable fire extinguishers.

(Sec. 2-11.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 11, § 2-11.1)

Editor's note:

*** Additional duties are prescribed in HRS Chapter 132.*

ARTICLE 12: DEPARTMENT OF TRANSPORTATION SERVICES*

Section

Editor's note:

** In general, see Charter Art. VI, Chap. 17.*

§ 2-12.1 Powers, duties, and functions.

The director of transportation services shall:

(1) Be authorized to issue permits for the movement of vehicles, equipment, or other objects of excessive weight, width, or height as prescribed by law;

(2) Be responsible for the collection of revenue from on-street and off-street parking meters and for the construction and maintenance of multideck parking lots;

(3) Plan, develop, promote, and coordinate:

(A) Ridesharing programs, which include but are not limited to carpool, vanpool, taxipool, and buspool programs. The director shall assist organizations interested in promoting ridesharing programs, arrange for contracts with private organizations to manage and operate the programs, and assist in the formulation of ridesharing arrangements. Ridesharing programs include informal arrangements in which two or more persons ride together in a motor vehicle to and from work or school; and

(B) Other transportation systems management programs, which include but are not limited to alternate work hours programs and bicycling programs;

(4) Prepare a bikeway system and master plan for urban Honolulu to be submitted to the council for approval, and thereafter prepare and submit for council approval revisions to the plan at least every five years after the adoption of the plan by the council. The bikeway system in the plan shall, at a minimum, connect the following principal bicycle destinations:

(A) Waikiki;

(B) Diamond Head;

(C) The University of Hawaii and Manoa Valley;

(D) Punchbowl;

(E) The Hawaii Capital Special District;

(F) Chinatown;

(G) Aloha Tower;

(H) The State Waterfront Park and redevelopment area;

(I) Ala Moana Beach Park;

(J) The airport area; and

(K) Military bases;

(5) Be responsible for the:

(A) Planning, administration, and coordination of programs and projects that are:

(i) Proposed to be funded, wholly or partially, under the federal Urban Mass Transportation Act of 1964, as amended, the Federal Aid Highway Act of 1973, as amended, or any other federal law or regulation; and

(ii) Required to be transmitted by the city to the Oahu metropolitan planning organization;

In the planning, administration, and coordination of the programs and projects, the director shall consult with the department of planning and permitting. When deemed appropriate, the director may assign the responsibility for planning and administering a particular program or project to the department of planning and permitting;

(B) Receipt of federal funds for the programs and projects and:

(i) Expenditure of those federal funds appropriated to the department of transportation services; and

(ii) With respect to those federal funds appropriated to the department of planning and permitting, apportionment of the funds to that department for expenditure;

(C) Preparation of the short-range transit plan and any update. The "short-range transit plan" has the same meaning as defined in § 4-2.1; and

(6) Manage and maintain all commercial parking facilities except facilities that are attached or adjacent to a building or project managed by another city agency.

(Sec. 2-12.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 12, § 2-12.1) (Am. Ords. 89-149, 91-27, 94-39, 97-02, 16-29)

ARTICLE 13: DEPARTMENT OF ENTERPRISE SERVICES*

Sections

Editor's note:

**In general, see Charter Art. VI, Chap. 15.*

§ 2-13.1 Powers, duties, and functions.

The director of the department of enterprise services shall:

(1) Have the authority to negotiate contracts for:

(A) Concessions in or on; or

(B) The renting, leasing, or licensing of;

property under the control of the department, including the auditorium, cultural, entertainment, and recreational facilities assigned to the department, pursuant to Chapter 38; provided that all such contracts shall be executed by the director of budget and fiscal services; and **

(2) Have the authority to manage, control, and operate the facilities of the municipal auditorium complex and the Waikiki Shell complex of the city, including the right of custody, repair, and maintenance of all property and equipment assigned to and used by the department.

(Sec. 2-13.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 13, § 2-13.1) (Am. Ord. 16-29)

Editor's note:

*** See ROH Chapter 38.*

§ 2-13.2 Status of city parks and recreational facilities.

(a) Except as provided in subsection (b), parks and recreational facilities, or any portion thereof, under the ownership, management, or control of the city shall not be cultural or entertainment facilities subject to the jurisdiction of, or assignment to, the department of enterprise services.

(b) Subsection (a) does not apply to the following:

(1) The Honolulu Zoo;

(2) The Waikiki Shell complex; and

(3) Municipal golf courses.

(1990 Code, Ch. 2, Art. 13, § 2-13.2) (Added by Ord. 17-21)

ARTICLE 14: RESERVED

ARTICLE 15: ROYAL HAWAIIAN BAND*

Sections

Editor's note:

**In general, see Charter § 6-105.*
Pensions, see HRS Chapter 88.
Travel, see HRS § 46-10.

§ 2-15.1 Powers, duties, and functions.

The bandmaster shall:

(1) Be charged with the supervision, direction, and control of the Royal Hawaiian Band; and

(2) Keep a permanent and accurate inventory of the musical instruments and other related equipment and fixtures assigned to or used by the band.

(Sec. 2-15.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 2, Art. 15, § 2-15.1)

§ 2-15.2 Fees for services.

(a) The following are the fees to be assessed for any performance by the Royal Hawaiian Band of the city:

Private function	$1,200 for the first hour, and thereafter, $150 for each 15 minutes or fraction thereof
Television, radio, movies or recordings	$150 per 15 minutes or fraction thereof, plus royalties and residuals
Vessel arrival or departure	$300 for each performance
Public or semipublic function	No fee

(b) The term "public" includes occasions sponsored by or related to a governmental purpose. The term "semipublic" includes occasions that are sponsored by or related to community, civic, athletic, or ethnic organizations or associations and that are either eleemosynary corporations chartered under the laws of the State of Hawaii, or listed by the Internal Revenue Service as a nonprofit organization or association or duly recognized by the residents of the city as a community or civic organization, with sufficient public purpose to warrant performance by the band with incidental benefits to the private organizations or associations.

(c) All fees collected under this article shall be paid into the general fund of the city.

(Sec. 2-15.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 15, § 2-15.2) (Am. Ords. 99-10, 02-66)

ARTICLE 16: DEPARTMENT OF PARKS AND RECREATION

Section

§ 2-16.1 Powers, duties, and functions.

The director of parks and recreation shall:

(1) Operate and maintain the Waikiki war memorial and natatorium, including its structures, facilities, and grounds;

(2) Schedule the use of parks areas and facilities, provided that the director may give preference to events which promote Hawaii-based artists, whenever practicable; and

(3) Perform such other duties as may be required by law.

(1990 Code, Ch. 2, Art. 16, § 2-16.1) (Added by Ord. 90-1; Am. Ord. 94-77)

ARTICLE 17: EXECUTION OF EXECUTIVE OPERATING BUDGET AND EXECUTIVE CAPITAL BUDGET ORDINANCES

Sections

§ 2-17.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Activity. The lowest level in the appropriations ordinance at which resources are budgeted.

Permanent Position Count. The number of permanent full-time equivalent positions authorized for each activity by law.

Program. A combination of activities designed to achieve a specific goal of the city.

Temporary Position Count. The number of temporary, full-time equivalent positions that are authorized for each activity by law. Temporary positions shall include those positions defined in Charter § 6-1103(f) and (g). (Sec. 2-18.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 17, § 2-17.1) (Am. Ords. 90-49, 96-58, 16-29)

§ 2-17.2 Budget execution.

Upon the enactment of the executive operating budget ordinance and the executive capital budget ordinance, each executive agency may make expenditures pursuant to the charter, subject, however, to the following.

(a) *Authorized positions.* Only those positions authorized within the specified permanent position count and temporary position count for each activity under the executive operating budget ordinance may be established, filled, and have funds allotted to them; provided if because of an unforeseen or emergency circumstance a temporary position is required for an activity for which a temporary position count has not been authorized, the mayor, after notifying the council, may establish, fill and allot funds for that temporary position.

The notification shall identify:

(1) The type of temporary position required;

(2) The anticipated duration of the employment of the temporary position;

(3) The cost of the temporary position;

(4) The source of budgetary savings that will accrue to finance the temporary position; and

(5) The unforeseen or emergency circumstance justifying the need for the temporary position.

(b) (1) *Temporary transfers of positions.* Temporary transfers of positions by the mayor shall be permitted pursuant to Charter § 5-103 within the fiscal year. A quarterly status report of all transfers shall be filed with the office of the city clerk. Such report shall include but need not be limited to the following information for each position transferred:

(A) The position title and position number of the position transferred;

(B) The originating activity from which the position is transferred;

(C) The activity to which the position is transferred;

(D) The title and function of the position in its temporary assignment;

(E) The purpose for the transfer; and

(F) The effective date and the anticipated duration of the temporary transfer.

(2) Temporary transfer of position actions shall not be used as a means to circumvent the annual budget policies and process.

(c) *Transfer of funds.*

(1) No transfer of funds from an activity shall be executed without council approval by resolution when the cumulative amount of transfers from that activity shall total in excess of $100,000 or 10 percent of the amount appropriated for that activity in the executive operating budget ordinance, as may be amended, whichever is less. No transfer of funds to an activity shall be executed without council approval by resolution when the cumulative amount of transfers to that activity shall total in excess of $100,000 or 10 percent of the amount appropriated for that activity in the executive operating budget ordinance, as may be amended, whichever is less. A report of all individual transfers of funds between activities occurring within each month shall be filed with the office of the city clerk within 15 days after the end of the month. Such report shall include but need not be limited to the following information:

(A) The amount of funds transferred;

(B) The source of funding of the transferred funds;

(C) The originating activity and character of expenditure thereof from which the funds are transferred;

(D) The activity and character of expenditure thereof to which the funds are transferred;

(E) The purpose for the transfer; and

(F) The impact of the loss of funds on the originating activity.

(2) Except as otherwise provided in subdivision (4), no transfer of funds between characters of expenditure within the same activity shall be executed without council approval by resolution when the cumulative amount of such transfers exceeds the lesser of:

(A) $100,000; or

(B) The greater of:

(i) Ten percent of the appropriation for either the originating or receiving character of expenditure; or

(ii) $10,000.

A report of all individual transfers of funds between characters of expenditure shall be filed with the office of the city clerk within 15 days after the end of the month. Such report shall include but need not be limited to the following information:

(i) The amount of funds transferred;

(ii) The source of funding of the transferred funds;

(iii) The originating character of expenditure from which the funds are transferred;

(iv) The character of expenditure to which the funds are transferred;

(v) The purpose of the transfer; and

(vi) The impact of the loss of funds on the originating character of expenditure.

(3) For the purposes of this subsection, "character of expenditure" has the same meaning as defined in § 2-18.1.

(4) Council approval shall not be required for transfers of funds between characters of expenditure within the same activity when the funds transferred are from and will remain a part of the appropriations to the transit management services contractor as defined in Chapter 15B. A report of all individual transfers of funds as provided herein shall include the same information prescribed in subdivision (2). The report shall be filed with the office of the city clerk within 15 days after the end of the month and a copy of the report shall be transmitted to the council.

(d) *Force and effect of the executive program.* The temporary position count for each activity as may be provided for in the executive program, as attached to the executive operating budget ordinance, shall have the same force and effect as provided by this article, to limit funding only to duly authorized temporary positions.

(Sec. 2-18.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 17, § 2-17.2) (Am. Ords. 88-14, 90-49, 91-27, 96-23, 97-02, 98-02, 00-48)

§ 2-17.3 Moneys earned on investment of funds.

Unless otherwise provided by law, or by ordinance or resolution providing for the issuance of and security for bonds of the city, all moneys earned on the investment of funds shall be deposited to the general fund of the city. (Sec. 2-18.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 2, Art. 17, § 2-17.3) (Am. Ord. 98-20)

§ 2-17.4 Notice of bid results.

(a) Whenever the city receives bids for a capital improvement project, one or more of which bids exceed the city's estimate of the project's cost, and the user agency decides not to proceed with the project, the user agency shall notify the council of the following as soon as the user agency determines not to award the contract because of insufficient funds:

(1) The name of the project;

(2) The city's estimate of the project's cost;

(3) The dollar amount of each bid received for the project; and

(4) The amount and percentage by which the lowest bid exceeds the city's estimate of the project's cost.

(b) For the purpose of this section, "user agency" means the city agency for which the project is being built. (1990 Code, Ch. 2, Art. 17, § 2-17.4) (Added by Ord. 94-74)

ARTICLE 18: FORM OF EXECUTIVE OPERATING BUDGET AND EXECUTIVE CAPITAL BUDGET BILLS

Sections

§ 2-18.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Activity. The lowest level in the appropriations ordinances at which resources are budgeted.

Character of Expenditure. The major categories of expenditures. For the operating budget, it includes but is not limited to salaries, other current expenses, and equipment. For the capital budget, it includes the work phases.

Function. A combination of programs designed to achieve a major purpose of the city.

Position Count. The number of permanent full-time equivalent positions requested for authorization.

Program. A combination of activities designed to achieve a specific goal of the city.

Source of Funding. The source from which funds are requested for appropriation for the activities and projects specified in the executive operating budget and executive capital budget bills. Each source of funding shall be identified with a unique letter symbol.

Work Phase. A stage or element of a capital project including but not limited to planning and engineering, land acquisition, construction, inspection, equipment and artwork purchased for display on city property.
(1990 Code, Ch. 2, Art. 18, § 2-18.1) (Added by Ord. 88-107)

§ 2-18.2 Executive operating budget bill—Form.

The proposed executive operating budget bill shall be substantially in the form found in Exhibit A, attached to the ordinance codified in this article, and made a part hereof, and it shall include but not be limited to the following:

(1) A summary of the estimated revenues, by source, with which the expenditures requested for appropriations shall be financed. If the source of funding is a broad category of funds composed of specific component funds, such as other operating funds, other federal funds or other State funds, a listing of all anticipated grants or programs, along with the estimated revenue for each, which comprise this source of funding shall also be included;

(2) Definitions of key words, phrases and symbols including but not limited to letter symbols designating the source of funding for the appropriations;

(3) For each activity, the number of full-time equivalent positions, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by character of expenditure, and the moneys that comprise the requested appropriation for the activity;

(4) For each function, the total full-time equivalent positions, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by character of expenditure, and the total of all moneys that comprise the requested appropriation for the function;

(5) The total of all moneys requested for appropriation by function; and

(6) The executive operating budget bill may include provisos or conditions applicable to one or more activity and that relate to the receipt or expenditure of funds or positions requested within the bill.

Volume I of the executive program and budget shall show, as appropriate, amounts reflecting prior fiscal year expenditures, current appropriations, and funding proposals for the ensuing fiscal year at a level below the activity level. Where necessary for review purposes, the council may request that additional subactivities be added. These new subactivities shall be shown in future budgets submitted to the city council. In addition, each budgeted item within the miscellaneous function shall be deemed a separate activity and Volume I shall include a statement of purpose for each activity and show prior fiscal year expenditures inclusive of any transfer to and from the activity and current appropriations and funding proposals for the ensuing fiscal year.

(1990 Code, Ch. 2, Art. 18, § 2-18.2) (Added by Ord. 88-107; Am. Ords. 91-24, 96-23)

EXHIBIT A

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO THE EXECUTIVE OPERATING BUDGET AND PROGRAM FOR THE FISCAL YEAR JULY 1, 20_____ TO JUNE 30, 20_____.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The revenues from the following sources estimated for the fiscal year July 1, 20_____ to June 30, 20_____ are hereby provided and appropriated for the purposes set forth in Sections 2 through _____:

OPERATING FUNDS

Fund Code	SOURCE OF FUNDS	AMOUNT	LESS INTERFUND TRANSFER	NET AMOUNT	TOTAL
XX	XXXX	$	$	$	$
	TOTAL	$	$		$

SECTION 2. The moneys described in Section 1 for the fiscal year July 1, 20_____ to June 30, 20_____ are appropriated as indicated to the following activities in the _____ function.

FUNCTIONS, PROGRAMS & ACTIVITIES	NUMBER OF POSITIONS (F.T.E.)	SALARIES	CURRENT EXPENSES	EQUIPMENT	TOTAL ALL FUNDS	SOURCE OF FUNDS
FUNCTION						
PROGRAM						
Department						
Activity	XX	$	$	$	$	$ XX
TOTAL FUNCTION	XX	$	$	$	$	$

FUNCTION	
SOURCE OF FUNDS	
XX XXXX	$
TOTAL FUNCTION	$

SECTION 11. The sums appropriated above are totalled as follows:

FUND CODE	GROSS APPROPRIATIONS BY SOURCE OF FUNDS	EXECUTIVE AGENCIES	DEBT SERVICE	MISCELLANEOUS	TOTAL
XX	XXXX	$	$	$	$
	TOTAL	$	$	$	$

FUNCTION	TOTAL	LESS INTERFUND TRANSFER	NET TOTAL
XXXX	$	$	$
	$	$	$
TOTAL	$	$	$

(Added by Ord. 01-52)

§ 2-18.3 Executive capital budget bill—Form.

The proposed executive capital budget bill shall be substantially in the form found in Exhibit B, attached to the ordinance codified in this article, and made a part hereof, and it shall include but not be limited to the following:

(1) A summary of the estimated revenues, by source, with which the capital improvement projects are to be financed. If the source of funding is a broad category of funds composed of specific component funds, such as other federal funds or other State funds, a listing of all anticipated grants or programs, along with the estimated revenue for each, which comprise these sources of funding shall also be included;

(2) Definitions of key words, phrases, and symbols including but not limited to letter symbols designating the source of funding for the appropriations;

(3) For each capital improvement project requested, the title of the project, the amount of the requested appropriation by source of funding, the amount of the requested appropriation by work phase, and the total of all moneys that comprise the requested appropriation for the project. The display of the appropriation for each project by work phase is for information purposes only and shall not be construed as restricting the allocation of moneys among the work phase appropriations;

(4) For each function, the total amount of requested appropriations by source of funding, the total amount of the requested appropriations by work phase, and the total of all moneys that comprise the requested appropriation for the function. The display of the appropriation for each function by work phase is for information purposes only and shall not be construed as restricting the allocation of moneys among the work phase appropriations;

(5) The total of all moneys requested for appropriation by function; and

(6) The executive capital budget bill may include provisos or conditions applicable to one or more than one project and that relate to the receipt or expenditure of funds appropriated in the ordinance.

(1990 Code, Ch. 2, Art. 18, § 2-18.3) (Added by Ord. 88-107; Am. Ords. 91-02, 01-52)

EXHIBIT B

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO THE EXECUTIVE CAPITAL BUDGET AND PROGRAM FOR THE FISCAL YEAR JULY 1, 20_____ TO JUNE 30, 20_____.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The revenues from the following sources estimated for the fiscal year July 1, 20_____ to June 30, 20_____ are hereby provided and appropriated for the purposes set forth in Sections 2 through _____:

FUND CODE	SOURCE OF FUNDS	AMOUNT	TOTAL
XX	XXXX	$	$
	TOTAL ALL FUNDS		$
			==========

SECTION 2. The moneys described in Section 1 for the fiscal year July 1, 20_____ to June 30, 20_____ are appropriated as indicated to the following projects and public improvements in the _____ function.

Nothing in this section shall be construed as restricting the allocation of moneys among the work phase appropriations (e.g., planning, design, and construction).

PROJECT NUMBER	**FUNCTIONS, PROGRAMS & PROJECTS**	**WORK PHASE**	**SOURCE OF FUNDS**	**TOTAL ALL FUNDS**
	FUNCTION			
	Program DEPARTMENT			
XX	Project	$ XX	$ XX	$
	TOTAL FUNCTION			$
	FUNCTION SOURCE OF FUNDS			
XX XXXX			$	
TOTAL SOURCE OF FUNDS			$_____	
	WORK PHASE			
XX XXXX			$	
TOTAL WORK PHASES			$_____	

SECTION 9. The sums appropriated above are totaled as follows:

FUNCTION	
XXXX	$
	_____
TOTAL	$_____

(Added by Ord. 01-52)

§ 2-18.4 Transfer and allocation of funds.

The execution of the budget appropriations and the transfer of funds therein shall be governed by Article 17 of this chapter, as amended. Nothing herein shall be construed as to restrict the allocation of an appropriation among the work phase appropriations.
(1990 Code, Ch. 2, Art. 18, § 2-18.4) (Added by Ord. 88-107; Am. Ord. 96-23)

§ 2-18.5 Executive program and budget.

Nothing in this article shall be construed to mandate that the format of volumes I and II of the documents entitled executive program and budget previously submitted to the council pursuant to Charter § 9-102, as amended, be altered or that any information provided therein be deleted. The executive program and budget shall, at the outset, define and identify those sections of the document that constitute the executive program and that constitute the executive budget.
(1990 Code, Ch. 2, Art. 18, § 2-18.5) (Added by Ord. 88-107)

§ 2-18.6 Line-item budget details.

(a) At the same time the mayor submits the budget documents specified in Charter § 9-102.1 to the council, the mayor also shall submit related line-item budget details for each budgeted activity in the executive operating budget bill, according to salary, current expense, and equipment expenditure categories.

(1) The line-item budget for salary cost items shall include but not be limited to the class description of budgeted positions.

(2) The line-item budget for current expenses shall include but not be limited to the object description of each item. For line items exceeding $50,000, additional information shall be provided, including descriptions of the budgeted items or services, or both.

(3) The line-item budget for equipment shall include but not be limited to a listing of the type of equipment. For line items exceeding $50,000, additional information shall be provided, including description and purpose of the budgeted equipment.

(4) The amounts displayed in the details shall total to the activity appropriations of the budget.

(b) At the same time the mayor submits the budget documents specified in Charter § 9-102.1 to the council, the mayor also shall submit related line-item budget details for each miscellaneous project in the executive capital budget bill exceeding $50,000, such as ADA improvements, public building facilities improvements, rehabilitation of streets, landscape improvements, playfield lighting improvements, reconstruction of wastewater systems for various parks, renovation of recreational facilities, etc. As used in this subsection, "miscellaneous project" means a single capital project that provides a lump-sum appropriation for a number of similar projects.
(1990 Code, Ch. 2, Art. 18, § 2-18.6) (Added by Ord. 95-58; Am. Ords. 08-7, 13-15)

§ 2-18.7 Report on position vacancies.

Within five days after the mayor submits to the council the budget documents specified in Charter § 9-102.1, the mayor shall also submit to the council a report on position vacancies in the city executive branch. The report shall include but not be limited to an updated listing (as of January 31 of the year of submittal or later) of all vacant positions, by activity, within each city department and agency and by position number and position title. For each vacant position, the report shall indicate the amount budgeted for the position in the upcoming fiscal year, including the source of funds; whether the position has ever been filled; if the position has at some time been filled, the date on which the position became vacant; whether the position is temporary or permanent; and whether and when the position is proposed to be filled or abolished.
(1990 Code, Ch. 2, Art. 18, § 2-18.7) (Added by Ord. 96-32)

§ 2-18.8 Park land acquisition—Report.

(a) No funds for the acquisition of 5 acres or more of land for a park or expansion of a park shall be included, by either the council or the mayor, in the executive capital budget or any amendment thereto, unless the director of parks and recreation, after consultation with the department of design and construction, department of enterprise services, or other applicable departments, has transmitted to the council a report which sets forth the anticipated cost of operating and maintaining the proposed park and states the major assumptions underlying the report, including assumptions relating to anticipated uses of the park, particularly the anticipated uses of the land to be acquired. In lieu of the report, the information on the anticipated cost of operating and maintaining the proposed park, including the assumptions relating to anticipated park uses, may be provided by the department of planning and permitting when a proposal to amend a public infrastructure map to add a park symbol is submitted to the council. For the purposes of this section, a "park" includes the areas and facilities listed in the definition of a "public park" in § 10-1.1, including a city golf course, regardless of the city department or agency that will control, maintain, and manage the areas and facilities.

(b) Notwithstanding the requirement established in subsection (a), in the event there is an urgent need to acquire park land or there is a time-sensitive opportunity to acquire park land at a cost significantly below the market value of the land, at any time the council, by resolution, may waive the requirement for the report if the council makes a finding that the waiver of the requirement is necessary.

(1990 Code, Ch. 2, Art. 18, § 2-18.8) (Added by Ords. 01-44, 16-29)

ARTICLE 19: EXECUTIVE BRANCH OPEN DATA REQUIREMENTS

Sections

§ 2-19.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Has the same meaning as "Executive agency" as defined in Charter § 13-101.

Data. Final versions of statistical or factual information that is:

(1) In alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form, which can be digitally transmitted or processed; and

(2) Regularly created, or maintained by or on behalf of, and owned by an agency that records a measurement, transaction, or determination related to the mission of that agency.

Data Set. A named collection of related records on an electronic storage device, with the collection containing individual data units organized or formatted in a specific and prescribed way, often in tabular form, and accessed by a specific access method that is based on the data set organization; provided that a data set shall not include any data that are protected from disclosure under applicable federal or State law, or contract, or data that are proprietary or privileged.
(1990 Code, Ch. 2, Art. 19, § 2-19.1) (Added by Ord. 13-39)

§ 2-19.2 Electronic data set availability and updates.

(a) Each agency shall use reasonable efforts to make appropriate and existing electronic data sets maintained by the agency electronically available at no cost to the public through the city's open data portal at data.honolulu.gov or its successor website designated by the city's director of information technology; provided that:

(1) Nothing in this article shall require agencies to create new electronic data sets or to make data sets available upon demand;

(2) Data licensed to the city by another person or entity shall not be made public under this article, unless the person or entity licensing the data agrees to the public disclosure; and

(3) Proprietary, privileged, and other information protected from disclosure by law, ethical standard, or contract shall not be disclosed.

Such disclosure shall be consistent with the procedures and standards developed by the director of information technology and consistent with applicable law, including HRS Chapter 92F and other State and federal laws and ethical standards related to security, privacy, and confidentiality and no personally identifiable information shall be posted online unless the identified individual has consented to the posting or the posting is necessary to fulfill the lawful purposes or duties of the agency.

(b) Nothing in this article shall, if necessary, prevent the director of information technology from adopting rules pursuant to HRS Chapter 91 and nothing in this article shall supersede HRS Chapter 27G.

(c) Each agency shall update its electronic data sets in the manner prescribed by the director of information technology and as often as is necessary to preserve the integrity and usefulness of the data sets to the extent that the agency regularly maintains or updates the data sets.

(1990 Code, Ch. 2, Art. 19, § 2-19.2) (Added by Ord. 13-39)

§ 2-19.3 City liability for data sets.

Data sets shall be available for informational purposes only. The city does not warrant, either expressly or impliedly, the completeness, accuracy, content, or fitness of any data set for a particular purpose and shall not be liable for any deficiencies in the completeness or accuracy of any data set, or third-party application using any data set.

(1990 Code, Ch. 2, Art. 19, § 2-19.3) (Added by Ord. 13-39)

§ 2-19.4 Data set licensing.

The director of information technology may make the agencies' electronic data sets on data.honolulu.gov or its successor website available to third parties pursuant to a license, which may require the licensee to allow any user to copy, distribute, display, or create derivative works at no cost and with an appropriate level of conditions placed on the use.

(1990 Code, Ch. 2, Art. 19, § 2-19.4) (Added by Ord. 13-39)

§ 2-19.5 Data set policies and procedures.

(a) The director of information technology, in consultation with the office of information practices and the State's office of enterprise technology services, shall adopt rules, pursuant to HRS Chapter 91 to establish policies to implement § 2-19.2, including standards to determine which data sets are appropriate for online disclosure as provided in § 2-19.2; provided that the standards shall not require the agencies to post information that is otherwise required to be disclosed under HRS Chapter 92F, but is personally identifiable information,

information that may pose a personal or public security risk, or is otherwise inappropriate for online disclosure as part of a data set. The rules shall include the following:

(1) Technical requirements with the goal of making data sets available to the greatest number of users and for the greatest number of applications, including whenever practicable, the use of machine readable, nonproprietary technical standards for web publishing; and

(2) Guidelines for agencies to follow in making data sets available.

(b) Notice of the public hearing to be held on the draft rules pursuant to HRS § 91-3 shall be published within 180 days of November 27, 2013, * and shall provide notice of the opportunity for public input and comment.

(1990 Code, Ch. 2, Art. 19, § 2-19.5) (Added by Ord. 13-39)

Editor's note:

** "November 27, 2013" is substituted for "the effective date of this ordinance."*

ARTICLE 20: RESERVED

ARTICLE 21: DEPARTMENT OF CUSTOMER SERVICES

Sections

§ 2-21.1 Municipal reference and records center.

(a) There shall be a municipal reference and records center in the department of customer services.

(b) It shall be the duty of the director of customer services to guide the development and maintenance of a collection of publicly released documents, which may be made available to any officer or employee of the city government, and to maintain an electronic depository for the purpose of facilitating public access.

(c) The municipal reference and records center is designated as a depository for publications issued by or for city agencies. Each city agency shall, immediately upon release of a publication, deposit with the municipal reference and records center a copy or copies of the final version of any consultant study, document, compilation, journal, report, rules and regulations in a manner, quantity, and format as determined by the municipal reference and records center, but excluding publications determined by the issuing agency to be of a confidential nature.

(Added by Ord. 18-30)

ARTICLE 22: AGE-FRIENDLY CITY PROGRAM

Sections

§ 2-22.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Action Plan. "Making Honolulu an Age-Friendly City: An Action Plan," a June 2015 report prepared by the University of Hawaii Center on Aging, including any revisions or updates thereto from time to time.

Age-Friendly Checklist. A tool to collect data and information about the status of city programs, services, facilities, or projects with the goal of ensuring that city directors and their departments consider the goals and objectives of the age-friendly city program and action plan in the conduct of their normal business, and to provide a mechanism for informing the public of the status of age-friendly city program implementation.

Age-Friendly City. An inclusive and accessible urban or suburban environment that encourages active and healthy aging, as elaborated in the action plan.

Area Plan on Aging. A four-year plan prepared in compliance with the federal Older Americans Act by the Department of Community Services, Elderly Affairs Division, the recognized Area Agency on Aging, that outlines major goals and objectives to be achieved in the delivery of elderly services.

Consolidated Plan. Has the same meaning as defined in § 1-8.1.

Directors. The administrative heads of all city departments of the executive branch, however denominated.

General Plan. Has the same meaning as defined in § 2-24.2.
(Added by Ord. 18-36)

§ 2-22.2 Age-friendly city program.

(a) There is hereby established within the department of community services an age-friendly city program.

(b) The purpose of this program is to make Honolulu an "age-friendly city" as envisioned in the World Health Organization's Global Network of Age-Friendly Cities and Communities program. The initial steps towards this goal were outlined in the action plan and overseen by a joint city and community implementation committee. Age-friendly programs, services, facilities, and projects as outlined in the World Health Organization's 'Global age-friendly cities: A guide,' in its original published form or as amended, will be incorporated, as appropriate, within the city's planning documents, including, but not limited to, the general plan, Consolidated Plan, and Area Plan on Aging. The program will sustain the age-friendly city initiative into the future by guiding the comprehensive and balanced planning, budgeting, design, construction, implementation, operation, and evaluation of city programs, services, facilities, and projects in accordance with the age-friendly city concept.

(Added by Ord. 18-36)

§ 2-22.3 Administration–Implementation.

(a) The managing director shall designate a city employee as program coordinator. The program coordinator shall work with all city departments to encourage and incorporate age-friendly city features in the planning, budgeting, design, construction, implementation, operation, and evaluation of city programs, services, facilities, and projects.

(b) The directors shall:

(1) Establish age-friendly checklists and administrative procedures appropriate to their departments, and apply the checklists to programs and projects within their departments. The age-friendly checklists shall be updated from time to time by the directors as necessary to reflect age-friendly city best practices;

(2) Establish appropriate metrics, as described in the action plan, to measure, assess, and report on progress in meeting the goals and objectives of the age-friendly city program; and

(3) Provide training for their staffs in developing age-friendly city policies, principles, and implementation procedures that may be applicable to the performance of their duties.

(c) Rules, policies, plans, and design guidelines shall be consistent with the age-friendly city concept and with the age-friendly city goals and strategies as elaborated in the action plan. Design standards, guidelines, and manuals shall incorporate national best practice guidelines and shall be updated from time to time by the directors as necessary to reflect current best practices.

(d) Within six months of October 11, 2018*, the directors shall establish and begin to apply to the activities of their departments age-friendly checklists, administrative procedures, and metrics as set forth in subsection (b) of this section. Where age-friendly checklists, administrative procedures, and metrics are already in use, they shall be updated within this period.

(e) Within one year of October 11, 2018*, the directors shall review existing ordinances, codes, subdivision standards, rules, policies, plans, and design guidelines, assess their consistency with the age-friendly city concept and with the age-friendly city goals and strategies as elaborated in the action plan, and initiate any updates needed to achieve compliance with subsection (c) of this section.

(Added by Ord. 18-36)

Editor's note:

** "October 11, 2018" is substituted for "the effective date of this ordinance."*

§ 2-22.4 Annual report.

(a) For each fiscal year commencing subsequent to October 11, 2018*, the directors shall submit to the council a report detailing their compliance with the age-friendly city program during the prior fiscal year, including:

(1) A listing of the department's age-friendly city-related budgetary appropriations and expenditures for the prior fiscal year;

(2) A listing of the department's age-friendly city programs, services, facilities, or projects initiated during the prior fiscal year and the age-friendly city features incorporated therein; and

(3) A listing of metrics used by the department in the prior fiscal year to monitor progress towards the attainment of age-friendly city goals and objectives.

The annual report required by this section may be part of each agency's annual report required by charter.

(b) The managing director, with input from the directors, shall make public the city's efforts at advancing the age-friendly city program.

(Added by Ord. 18-36)

Editor's note:

** "October 11, 2018" is substituted for "the effective date of this ordinance."*

ARTICLE 23: DEPARTMENT OF ENVIRONMENTAL SERVICES

Sections

§ 2-23.1 Powers, duties, and functions.

The director of the department of environmental services shall:

(1) Advise the director of design and construction concerning the planning and design of wastewater facilities;

(2) Oversee the operation and maintenance of sewer lines, treatment plants, and pumping stations;

(3) Monitor the collection, treatment, and disposal of wastewater;

(4) Provide chemical treatment and pumping of defective cesspools;

(5) Develop and administer solid waste collection, processing, and disposal systems including a comprehensive curbside recycling system;

(6) Adopt rules as necessary to administer and enforce requirements established by law; and

(7) Perform such other duties as may be required by law.

(Added by Ord. 93-31) (1990 Code, Ch. 2, Art. 23, § 2-23.1) (Am. Ord. 16-29)

§ 2-23.2 Used oil recycling program.

(a) The department of environmental services shall establish a used oil recycling program. Under the program, the department, by January 1, 1990, shall:

(1) Establish and operate at least one used oil collection center; and

(2) Conduct used oil recycling education and promotion activities.

In addition, the department may establish and provide a curbside used oil collection service, but only after establishment of at least one used oil collection center and commencement of the used oil recycling education and promotion activities.

(b) For the purposes of this section, "used oil" means a petroleum-based oil that through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

(c) The department shall establish at least one used oil collection center, at which used oil, generated from other than commercial or industrial activities, shall be accepted from individuals. Each center shall be established on the grounds of a solid waste disposal facility, wastewater treatment plant, wastewater pump station, corporation yard, or other facility under the jurisdiction of the department, or at privately operated service stations designated by the department. Establishment shall be contingent upon a finding by the department that the used oil collection activity shall not unduly interfere with or endanger the employees or operations of the other facility. In the operation of the used oil collection center, the department shall not:

(1) Accept used oil from any business or any individual who has generated the used oil from commercial or industrial activities;

(2) Impose any charge on an individual for accepting used oil from the individual; or

(3) Pay any amount to an individual for accepting the used oil from the individual, except from funds appropriated by the council for the payment of incentives to encourage individuals to turn in used oil.

(d) The department shall conduct used oil recycling education and promotion activities, which shall include but not be limited to the following:

(1) Promotion of public awareness of the hazards and detrimental effects that may result from disposal of used oil in the solid waste disposal system and wastewater treatment and disposal system;

(2) Promotion of public awareness of the hazards and detrimental effects that may result from release of used oil into the environment, especially the groundwater;

(3) Promotion of public awareness of the businesses and facilities to which used oil may be transported for lawful disposal; and

(4) Provision of information to businesses generating used oil of federal, State, and city laws and rules concerning disposal of the used oil.

(e) The department may establish a curbside used oil collection service, under which used oil shall be collected by the department from private dwellings and multi-unit residential buildings. If established, the department periodically on scheduled days, shall collect containers of used oil which are placed within the sidewalk area. The department shall establish the procedures for the collection of used oil, which shall be separate from the procedures for collection of refuse. Under no circumstances shall the department collect used oil from businesses, nor shall the department impose a charge for collection of the used oil.

(f) Used oil accepted or collected by the department shall be disposed of under arrangement with a holder of a permit under HRS Chapter 342J, to transport, market, or recycle used oil. The city may pay a fee or charge to the used oil transporter, marketer, or recycler under an arrangement to transport, market, or recycle the used oil. To keep that fee or charge to a minimum, the department may transport any collected or accepted used oil to the facility of the used oil transporter, marketer, or recycler.

(g) In the implementation of the used oil recycling program, the department shall comply with all applicable federal and State laws and rules. If a permit from the federal or State government is required to undertake any activity under the program, the department shall obtain the necessary permit.

(1990 Code, Ch. 2, Art. 23, § 2-23.2) (Added by Ord. 16-29)

ARTICLE 24: DEPARTMENT OF PLANNING AND PERMITTING

Sections

PART A. COUNCIL PROPOSALS TO REVISE OR AMEND THE GENERAL PLAN, A DEVELOPMENT PLAN, THE ZONING ORDINANCES, AND THE SUBDIVISION ORDINANCE

§ 2-24.1 Applicability.

This part shall apply to council proposals to revise or amend:

(1) The general plan;

(2) A development plan;

(3) The zoning ordinances; and

(4) The subdivision ordinance.

(1990 Code, Ch. 2, Art. 24, § 2-24.1) (Added by Ord. 08-8; Am. Ords. 09-4, 16-29)

§ 2-24.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Charter. The Revised Charter of the City and County of Honolulu.

Council Proposal. Any proposal set forth in § 2-24.1.

Development Plan. A development plan for a particular area within the city, as described in Charter § 6-1509, and sometimes referred to as a sustainable communities plan, codified in Chapter 24.

Director. The director of planning and permitting.

Director's Alternative. Any ordinance or resolution proposed by the director as an alternative to a council proposal as provided in § 2-24.4.

General Plan. The general plan for the city, as described in Charter § 6-1508.

Subdivision Ordinance. The city's ordinance governing the subdivision and consolidation of land, as described in Charter § 6-1515.1, codified as Chapter 22.

Zoning Ordinance. Any of the following:

(1) The land use ordinance, codified as Chapter 21; or

(2) An ordinance designating and redesignating land to one or more of the zoning districts specified in the land use ordinance.

(1990 Code, Ch. 2, Art. 24, § 2-24.2) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.3 Initiation by the council.

(a) A council proposal shall be initiated by adoption of a resolution by the council directing the director to process the proposal. The resolution shall state the reason for the proposal and shall attach a draft ordinance or resolution, as appropriate, setting forth the revision or amendment. Upon introduction of a resolution for a council proposal, the city clerk shall transmit a copy of the resolution to the director.

(b) Before the adoption of the resolution pursuant to subsection (a), the director shall assist the council in the preparation of the council proposal by:

(1) Advising the council, within 30 days of the submission to the director of the introduced resolution, on the accompanying documentation, if any, needed to satisfy the director's usual requirements for the commencement of processing of the type of proposal being considered (general plan amendment, development plan amendment, land use ordinance amendment, or rezoning of land) in the same manner as if proposed by the director. Any specification of required documentation shall be in sufficient detail to enable production of the documentation by third parties contracted by the council pursuant to subdivision (2);

(2) Providing documents and information in the possession and control of the department of planning and permitting, as requested by any councilmember, including but not limited to maps; provided that this subdivision shall not require the director to prepare arguments, justifications, or analyses in favor of the council proposal. Requested documents shall be submitted to the council within 30 days of the submission to the director of a written request from any councilmember. The council may contract with third parties for the preparation of any documentation, and shall submit copies of such documentation to the director for the director's review; and

(3) Advising the council on the sufficiency of any documentation prepared by the council or its contractor to accompany the proposal within 30 days of submission of the documentation to the director.

The director's assistance in the preparation of the council proposal pursuant to this subsection shall not be construed as the director's support for or approval of the council proposal. The director's failure to advise the council on the necessary documentation or the sufficiency thereof within the deadlines specified above shall constitute a waiver by the director of any objection for insufficient accompanying documentation. Any supporting documentation shall be attached to and be deemed an integral part of the resolution adopted.

(c) Upon adoption of a resolution initiating a council proposal, the city clerk shall transmit copies of the resolution to the director and, in the case of council proposals set forth in § 2-24.1(1), (2), and (3), the planning commission, along with a writing setting forth the date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission or the council, as applicable, under the deadlines set forth in § 2-24.4(a) and (b).

(1990 Code, Ch. 2, Art. 24, § 2-24.3) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.4 Processing by the department.

(a) *Council proposals to revise or amend the general plan, any development plan, or a zoning ordinance.* Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, the director shall submit a report, accompanied by the proposed ordinance or resolution, to the planning commission. If the director proposes an alternative ordinance or resolution for consideration by the planning commission, both versions shall be attached to the director's report in a form sufficient for introduction in the council.

(b) *Council proposal to revise or amend the subdivision ordinance.* Within 270 days of the adoption of the resolution initiating a council proposal to revise or amend the subdivision ordinance, the director shall submit a report, accompanied by the proposed ordinance, to the council. If the director proposes an alternative ordinance, both versions shall be attached to the director's report in a form sufficient for introduction in the council.

(c) *Extension of deadline.* Notwithstanding the foregoing, if the director finds that the council proposal involves complex issues that require additional time for review, the director may request a 60-day extension of the deadline as follows.

(1) Within the existing deadline, the director shall submit to the council a request for an extension of the deadline and an interim report describing the status of the director's processing of the council proposal and the reasons that additional time is needed for processing.

(2) The council may approve or deny the proposed extension by adoption of a committee report or resolution. If the council fails to take final action on the proposed extension within 60 days after receipt of the director's request, the extension shall be deemed denied. The city clerk shall advise the director and, for council proposals set forth in § 2-24.1(1), (2), and (3), the planning commission, in writing of the council's action on the director's extension request. If the council approves the extension, the clerk shall also advise the director and, for council proposals set forth in § 2-24.1(1), (2), and (3), the planning commission, in writing of the new date by which the director's report and accompanying proposed ordinance or resolution are required to be submitted to the planning commission.

(3) If an extension of the deadline is approved by the council, the director may thereafter request subsequent extensions of the deadline in accordance with the procedures described in subdivisions (1) and (2).

(1990 Code, Ch. 2, Art. 24, § 2-24.4) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.5 Processing by planning commission.

(a) The planning commission shall commence processing of a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, upon the first to occur of:

(1) Submission of the director's report and proposed ordinance or resolution; or

(2) The director's failure to transmit the report and proposed ordinance or resolution by the deadline required by this part, including any extensions approved by the council pursuant to § 2-24.4(c).

(b) The planning commission shall hold a public hearing on the council proposal and any director's alternative within 45 days of the commencement of processing. Within 30 days of the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report, if any, council proposal, and any director's alternative, with its recommendations. If the director has proposed an alternative ordinance or resolution, the planning commission shall make recommendations on both the council proposal and the director's alternative. The mayor shall submit the director's report, if any, council proposal, any director's alternative, and planning commission recommendations to the council within 30 days of receipt of the same from the planning commission.

(1990 Code, Ch. 2, Art. 24, § 2-24.5) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.6 Action by council.

(a) If the planning commission disapproves a council proposal to revise or amend the general plan, any development plan, or a zoning ordinance, or recommends a modification thereof not accepted by the council,

or fails to make its report within a period of either 30 days after the close of its public hearing or 90 days after the commencement of processing by the commission pursuant to § 2-24.5(a), whichever occurs first, the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.

(b) If the director disapproves a council proposal to revise or amend the subdivision ordinance, or recommends a modification thereof not accepted by the council, or fails to submit the report and proposed ordinance to the council within the required deadline specified in § 2-24.4(b), including any extensions approved by the council pursuant to § 2-24.4(c), the council may nevertheless consider and adopt such council proposal, but only by the affirmative vote of at least two-thirds of its entire membership.

(1990 Code, Ch. 2, Art. 24, § 2-24.6) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.7 Determination of submission date.

(a) For the purposes of this part, a document shall be deemed submitted to the recipient when the document is received by the recipient.

(b) The director shall cause the date and time of receipt by the department of planning and permitting of any of the following documents to be promptly stamped on the first page of the document, and notify the council in writing of the date of receipt:

(1) Any correspondence from the city clerk transmitting a copy of any introduced resolution for a council proposal pursuant to § 2-24.3(a);

(2) Any correspondence from the council or any councilmember regarding the nature, preparation, or sufficiency of supporting documentation for the council proposal pursuant to § 2-24.3(b); and

(3) Any correspondence from the city clerk transmitting a copy of any adopted resolution initiating a council proposal pursuant to § 2-24.3(c).

(c) The planning commission shall cause the date and time of receipt by the commission of any director's report on a council proposal, and accompanying proposed ordinance or resolution, to be promptly stamped on the first page of the report, and notify the council in writing of the date of receipt.

(d) The city clerk shall promptly stamp the date and time of receipt by the council of any report or recommendation from the director or the planning commission, and accompanying proposed ordinance or resolution, on the first page of the report or recommendation.

(e) If the date and time of receipt of a document is not stamped on a document, the document shall be received by the recipient one day after the date set forth on the transmittal letter.

(1990 Code, Ch. 2, Art. 24, § 2-24.7) (Added by Ord. 08-8; Am. Ord. 16-29)

§ 2-24.8 Severability.

If any provision of this part, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.
(1990 Code, Ch. 2, Art. 24, § 2-24.8) (Added by Ord. 08-8; Am. Ord. 16-29)

PART B. CENTRAL COORDINATING AGENCY FOR OAHU

§ 2-24.9 Authority and purpose.

This part is adopted pursuant to authority conferred by HRS Chapter 46. The purpose of this part is to improve the coordination and efficiency of the land use and planning control systems.
(1990 Code, Ch. 2, Art. 24, § 2-24.9) (Added by Ord. 16-29)

§ 2-24.10 Designation.

Pursuant to HRS Chapter 46, as amended, the department of planning and permitting is designated the central coordinating agency for the City and County of Honolulu.
(1990 Code, Ch. 2, Art. 24, § 2-24.10) (Added by Ord. 16-29)

§ 2-24.11 Powers, duties, and functions.

The department of planning and permitting as the central coordinating agency shall:

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

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

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

(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 any one or more of the following: other federal, State, or city commissions or agencies pursuant to existing laws pertaining to the city; and

(5) Assist the council in proposing amendments to Chapter 21 (LUO) as permitted by Charter § 6-1513, by gathering and preparing the necessary supporting documentation sufficient to satisfy the usual requirements to commence processing the amendments.

(1990 Code, Ch. 2, Art. 24, § 2-24.11) (Added by Ord. 16-29)

§ 2-24.12 Rules.

The central coordinating agency shall compile the repository and adopt necessary rules pursuant to HRS Chapter 46, as amended. Drafts of rules to be adopted by the agency to implement the functions specified in § 2-24.11 shall be presented to the council for its review before its finalization.

(1990 Code, Ch. 2, Art. 24, § 2-24.12) (Added by Ord. 16-29)

§ 2-24.13 Applicability.

All State and city departments, divisions, agencies, and commissions, with control or regulatory powers over land development projects within the city shall cooperate with the central coordinating agency in making available and updating information regarding laws, rules, procedures, permit requirements, and review criteria they enforce upon land development projects. The term "agency" has the same meaning as defined in HRS Chapter 91.

(1990 Code, Ch. 2, Art. 24, § 2-24.13) (Added by Ord. 16-29)

§ 2-24.14 Appeals.

Appeals from actions by the director of planning and permitting in the administration of the rules adopted pursuant to this part shall be heard and decided by the council. An appeal shall be sustained only if the council 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.

(1990 Code, Ch. 2, Art. 24, § 2-24.14) (Added by Ord. 16-29)

§ 2-24.15 Validity.

The validity of any word, section, clause, paragraph, sentence, part, or provision of §§ 2-24.9 to 2-24.14 shall not affect the validity of any other part of the sections which can be given effect without the invalid part or parts.

(1990 Code, Ch. 2, Art. 24, § 2-24.15) (Added by Ord. 16-29)

PART C. ADDITIONAL POWERS, DUTIES, AND FUNCTIONS

§ 2-24.16 Additional powers, duties, and functions.

(a) The director shall be charged with the supervision, direction, and control of:

(1) The administration and enforcement of the building code, and all statutes and ordinances relating to the work of the department of planning and permitting;

(2) Inspecting, supervising, regulating, and approving the construction, alteration, repair, and moving of buildings, structures, and certain accessories related thereto, such as electrical, plumbing, and gas systems, as are prescribed by the building code and other statutes and ordinances related to the work of the department of planning and permitting; and

(3) Reviewing private subdivision plans and inspecting the construction of the subdivisions.

(b) *Reports and records.* The director shall:

(1) Submit reports to the mayor, upon request, in addition to the submission of an annual report, covering the work of the department of planning and permitting during the preceding period. The director shall incorporate in the report a summary of recommendations as to desirable amendments to the building code and other related ordinances that the director administers and enforces; and

(2) Keep a permanent, accurate account of all fees and other moneys collected and received, the names of the persons upon whose account the same were paid, and the date and amount thereof as authorized by the director of budget and fiscal services.

(c) *Valuation.* The determination of value or valuation under the building code shall be made by the director.

(d) *Right of entry.* Upon presentation of proper credentials, the director or the director's duly authorized representatives may enter at reasonable times any building, structure, or premises in the city to perform any duty imposed upon such persons by the building code.

(e) *Stop order.* Whenever any building work is being done contrary to the building code or any other statutes or ordinances related to the work of the department of planning and permitting, the director may order the work stopped by notice, in writing, served on any person engaged in the doing or causing such work to be done, and such person shall stop such work until authorized by the director to proceed with the work.

(f) For the purposes of this part, except as otherwise indicated, "director" means the director of planning and permitting.

(1990 Code, Ch. 2, Art. 24, § 2-24.16) (Added by Ord. 16-29)

§ 2-24.17 House numbering.

(a) *Authorization.* The director or the director's designated assistant shall plan and regulate the numbering of all buildings in the city.

(b) *Method in rural areas.* The director or such person's designated assistant in numbering buildings in areas outside of the districts of Honolulu, Pearl City, Lanikai, Kailua, Wahiawa, the city of Kapolei, and any urban areas specifically designated by the director as exempt from this subsection shall adhere in all respects to the following system of numeration. The first digit of the building number shall correspond with the zone number

of the appropriate tax map of the City and County of Honolulu; the second digit of the building number shall correspond to the section number of the tax map. The remaining digits of the building number shall be assigned in a manner to be determined by the director or such person's designated assistant.

(c) *Numbering of entrances.* All main entrances to buildings shall be numbered, and the director or the director's designated assistant shall assign to each building its proper number or numbers and furnish free of charge to the owner a certificate designating each number and location.

(d) *Duty of the property owner.*

(1) It shall be the duty of every person owning any building within the city to number the same or cause the same to be numbered correctly within 60 days after receipt of the certificate designating the assigned number, and to remove or efface any wrong number upon such building.

(2) All numbers shall be placed in such manner as to be readily seen from the street, roadway, or lane, shall be of different color from the background on which they are placed, and shall be at least 2 inches in height. The number shall be placed in a permanent manner, chalk, or other effaceable material not being permitted.

(3) All buildings shall be numbered at the expense of the owner.

(4) An owner of a building may supplement the building numbers required by this section with numbers on the curb fronting the building. Curb numbers shall be painted on the curb fronting the respective building in an area as close to the middle of such curb frontage as possible, measured from property line to property line, or, where a driveway exists, in the area immediately adjacent to the driveway, or in any other such manner as to make clear to which building the numbers refer. The numbers shall only be allowed in addition to the numbers required by this section and shall be painted in a manner to be determined by the director.

(e) *Penalty for tearing, defacing, or changing number.* Any person tearing down, defacing, or changing any number put up in accordance with this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $10 and not less than $1.

(f) *Penalty for failure to conform to requirements of numbering.* Any owner of a building in the city who neglects to number such buildings as provided in this section or who shall place, maintain, or allow to remain thereon any number other than that assigned by the director or the director's designated assistant after being notified in writing by the director or assistant, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $5 nor more than $20, and a further penalty of like sum for every two weeks thereafter that such property owner shall neglect or refuse to properly number such house or building or efface an improper number.

(1990 Code, Ch. 2, Art. 24, § 2-24.17) (Added by Ord. 16-29)

ARTICLE 25: DEPARTMENT OF EMERGENCY MANAGEMENT*

Section

Editor's note:

** Section 5 of Ord. 87-97 provided that the article would take effect upon a determination by the council by resolution that "the current dispute concerning the city's civil defense administrator position has been concluded." In Res. 93-246, the council determined that the dispute had been concluded and that the section of Ord. 87-97 enacting the article would take effect upon the filing of a stipulation to dismiss with prejudice plaintiff's claims against all defendants in all capacities in Civil No. 88-1285-04. Such a stipulation was filed on August 13, 1993.*

§ 2-25.1 Director of emergency management.

(a) The director of emergency management shall serve in that capacity on a full-time basis.

(b) The director of emergency management shall be subject to the civil service laws.

(c) Except as provided herein, the director of emergency management shall not be made subordinate to or answerable to any person or department with respect to State or city civil defense matters other than the mayor or the managing director.

(d) The director of emergency management shall install, maintain, and repair the civil defense siren warning system and the fire alarm and police communication systems, other than radio.

(1990 Code, Ch. 2, Art. 25, § 2-25.1) (Added by Ord. 87-97; Am. Ord. 16-29)

ARTICLE 25A: CONTROL OF AND EVACUATION FROM DISASTER AREAS DURING POTENTIAL DISASTERS

Sections

§ 2-25A.1 Legislative findings.

The council finds that:

(1) Because of the possibility of disaster of great destructiveness resulting from flood, tidal waves, storm waves, fire, or other natural causes or from enemy attack, sabotage, or other hostile enemy action; and

(2) To ensure the orderly evacuation of persons and property; and

(3) To protect the public peace, health, safety, and welfare; and

(4) To preserve the lives and property of the people of the City and County of Honolulu;

it is in the public interest to make unlawful certain activities as provided herein.
(Sec. 13-30.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 11, § 41-11.1)

§ 2-25A.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Authorized Personnel. Any of the following:

(1) City or State employee assigned to disaster duty during an impending disaster or disasters;

(2) National Guard members;

(3) United States Armed Forces personnel; or

(4) Department of emergency management personnel or volunteers.

Disaster. 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 mayor of the City and County of Honolulu has declared a State of disaster or emergency.

Disaster Area. The area in which a disaster occurs.

Highway. Any primary or secondary road, street, alley, pedestrian walkway, and trail.

Impending Disaster. Any situation where a catastrophe threatens an inhabited area and the department of emergency management has issued a warning that the inhabitants thereof should evacuate the threatened area.

Impending Disaster Area. The area which is threatened by a catastrophe such as a flood, tidal waves, storm waves, fire, or other natural causes, or from enemy attack, sabotage, or other hostile enemy action.
(Sec. 13-30.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 11, § 41-11.2)

§ 2-25A.3 Prohibitions.

(a) No person shall commit the following acts during an impending disaster or disasters:

(1) Loiter, loaf, or idle upon any public or private highway, place, sidewalk, or beach, on foot or on any vehicle, in or close to an impending disaster or disaster area;

(2) Disobey any direction or command of any authorized person directing traffic;

(3) Refuse or fail to evacuate any area, public or private, upon order of any authorized person, which action impedes or tends to impede the effectiveness and orderly handling of the evacuation of persons from an impending disaster area; and

(4) Refuse or fail to leave any area, public or private, upon order of any authorized person, which action impedes or tends to impede the effective and orderly handling of the disaster; provided nothing herein shall be construed to 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 within a disaster area after the danger to life and property from natural causes or enemy action has passed.

(b) For the purposes of this section, the director of emergency management shall determine when the danger to life and property has subsided.
(Sec. 13-30.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 11, § 41-11.3)

§ 2-25A.4 Declaration by mayor.

The power to declare a state of disaster or emergency is conferred on the mayor of the City and County of Honolulu.
(Sec. 13-30.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 11, § 41-11.4)

§ 2-25A.5 Violation—Penalty.

Any person violating this article shall be subject to a fine not to exceed $500 or imprisonment in the city and county jail for a term not to exceed 30 days, or both.
(Sec. 13-30.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 11, § 41-11.5)

ARTICLE 26: EMPLOYMENT OF PRIVATE ATTORNEYS AS SPECIAL COUNSEL TO REPRESENT THE CITY, ITS AGENCIES, OFFICERS, AND EMPLOYEES

Sections

§ 2-26.1 Applicability.

(a) This article shall apply to the employment of private attorneys retained as special counsel to represent the city, its agencies, and its officers and employees sued for acts done in their official capacities, pursuant to Charter § 5-204.3, when the corporation counsel has been disqualified from representing the city, its agencies, officers, and employees.

(b) This article shall not apply to private attorneys retained:

(1) To represent the mayor or any councilmember in impeachment proceedings as provided by Charter § 5-204.3;

(2) Pursuant to the city's consultant contract procedures;

(3) As special deputies appointed by the corporation counsel with the approval of the council to represent the city pursuant to Charter § 5-204.1;

(4) As special counsel employed by the council to represent the council pursuant to Charter § 3-107.5;

(5) To defend police officers and firefighters as provided in State law;

(6) By the Honolulu liquor commission to act as an adviser to or represent the commission or any of its employees or investigators in litigation; or

(7) By the department of water to act as an adviser to or represent the department in litigation.

(1990 Code, Ch. 2, Art. 26, § 2-26.1) (Added by Ord. 94-27; Am. Ord. 16-29)

§ 2-26.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Any office, department, board, commission, or other governmental unit of the city, including the council and agencies of the legislative branch of the city, and unless otherwise specified in this article, semi-autonomous agencies.

City. The municipal corporation known as the City and County of Honolulu.

Employee. Has the same meaning as defined in Charter § 13-101.

Lawsuit. Any civil action filed in a court of law that names the city, an officer, employee, or agency of the city as a defendant.

Officer. Has the same meaning as defined in Charter § 13-101.

Private Attorney. An attorney in private practice who is licensed to practice or permitted by law to practice law in the State of Hawaii, and includes the law firm for which the private attorney works and all the attorneys associated with the law firm.
(1990 Code, Ch. 2, Art. 26, § 2-26.2) (Added by Ord. 94-27)

§ 2-26.3 Written contract required.

(a) No private attorney retained as special counsel pursuant to Charter § 5-204.3, to represent the city, an officer, employee, or agency of the city, shall be paid for legal services rendered except pursuant to a formal written contract. The contract shall be dated and signed by the private attorney retained, by the director of budget and fiscal services, and by the corporation counsel, who shall approve as to form and legality. The contract shall also contain the signature of the officer, employee, or head of the agency being represented by the private attorney, or in the case of special counsel representing the city or the council, the signature of the chair of the council, as confirmation that the attorney has been selected by the officer, employee, agency, or city.

(b) The contract required by this section shall include but need not be limited to the following provisions:

(1) The name of the case and civil number for which the private attorney is being retained and the name of the represented party;

(2) The commencement date of legal services, the approximate date when the case is expected to be concluded, and an estimate of the total cost of the case, exclusive of any appeal;

(3) The categories and names of the private attorneys, if known, assigned to the case who will provide legal services and the hourly rate charged by each attorney;

(4) The nature of the work and the rates to be charged to the city for work performed by nonattorneys, including persons on contract with the private attorney who perform specialized services, such as investigators, expert witnesses, etc.;

(5) Special rates, if any, which differ from the hourly rate specified in subdivision (3) for legal work performed by attorneys;

(6) A description of court costs and out-of-pocket expenses that will be charged to the city; and

(7) Express agreements that:

(A) Should the case continue beyond the estimated date for conclusion, or the total cost exceed the estimated cost, the council shall be promptly informed in writing;

(B) No appeal shall be taken or settlement entered into in the case without the prior approval of the council;

(C) All settlement proposals received from the opposing party shall be transmitted to the council in a timely manner and within the time frame specified by the proposal, if any, for its acceptance or rejection;

(D) When requested, the attorney will attend meetings with the council or a council committee to discuss matters relating to the case; and

(E) The attorney shall comply with all the applicable provisions of this article.

(c) A copy of the executed contract shall be transmitted to the city clerk after it has been signed by all parties.
(1990 Code, Ch. 2, Art. 26, § 2-26.3) (Added by Ord. 94-27; Am. Ord. 16-29)

§ 2-26.4 Payment procedure.

(a) Private attorneys shall bill the city on a monthly basis for services rendered. The billing shall identify the attorneys rendering services, the number of hours or fraction of an hour each attorney has worked, a description of the legal work performed, and an itemization of the costs being billed and the date each cost was incurred.

(b) All billings for payment of legal fees to a private attorney shall be submitted to the department of corporation counsel for review and approval. Before making payment, the corporation counsel shall notify the council in writing that a billing for payment has been received and the amount of billing. The notification shall specify that unless objected to in writing by a majority of the council, the billing shall be approved for payment within 30 days from the council's receipt of the corporation counsel's notice. Upon request of a councilmember, the corporation counsel shall transmit copies of the billing to the councilmember.

(c) In the event a majority of the council objects to the payment of all or a portion of the billing, the corporation counsel shall bring the objection to the attention of the private attorney and attempt to resolve the matter to the

satisfaction of the council. No payment to the private attorney shall be made for any billing for which an objection has been made by a majority of the council and not resolved.
(1990 Code, Ch. 2, Art. 26, § 2-26.4) (Added by Ord. 94-27)

§ 2-26.5 Quarterly reports required.

Beginning March 31 following the date of the enactment of this ordinance and every three months thereafter, the corporation counsel shall compile and transmit to the council, a report listing the names of all the cases, civil numbers, and contract numbers for which a private attorney has been retained pursuant to Charter § 5-204.3, the date of commencement of each contract, the officer, employee, or agency being represented, the total amount of legal fees billed, the total amount of legal fees paid, and the amount of legal fees remaining unpaid.
(1990 Code, Ch. 2, Art. 26, § 2-26.5) (Added by Ord. 94-27)

§ 2-26.6 Selection of legal representation.

(a) *A single defendant named in a lawsuit.*

(1) *An officer or employee named.* If an officer or employee of the city is sued for acts done solely in the performance of the officer's or employee's official duties, the officer or employee named shall be entitled to and shall select no more than one private attorney as special counsel to represent the officer or employee.

(2) *An officer or employee named in official and personal capacities.* If an officer or employee is sued for acts done in the performance of the officer's or employee's official duties and the complaint alleges that some acts were done outside the scope of the officer's or employee's official duties, if the council determines by resolution that:

(A) The acts for which the officer or employee is being sued were done solely in the officer's or employee's official capacity; and

(B) The city will indemnify the officer or employee for any and all liability arising out of the lawsuit, the officer or employee shall be entitled to and shall select a single attorney as special counsel to represent the officer or employee.

(3) *Agency named.* If an agency is named in the lawsuit, the agency shall be entitled to and shall select no more than one private attorney as special counsel to represent the agency.

(4) *City named.* If the city is named in the lawsuit, the council shall select no more than one private attorney as special counsel to represent the city.

(b) *Multiple defendants named.* If a lawsuit names multiple city defendants, each named defendant shall be entitled to and shall select no more than one private attorney to represent the defendant as special counsel, providing that the following shall apply to the following specified circumstances.

(1) If more than one officer or employee is named in a lawsuit for acts done in the performance of the officers' or employees' official duties, unless a conflict of interest arises between two or more of the

officers and employees, the officers and employees shall select a single private attorney as special counsel to represent all the officers and employees jointly. If the officers and employees cannot agree on a single private attorney, the council by resolution, shall select a private attorney to represent the officers and employees.

(2) If more than one officer or employee is sued for acts done in the performance of the officers' or employees' official duties and the complaint alleges that some acts were done outside the scope of the officers' or employees' official duties, if the council determines by resolution that:

(A) The acts for which the officers and employees are being sued were done solely in the performance of the officers' and employees' official duties; and

(B) The city will indemnify the officers and employees for any and all liability arising out of the lawsuit, unless a conflict of interest arises between two or more of the officers and employees, the officers, and employees shall be entitled to and shall select a single private attorney to represent all the officers and employees jointly. If the officers and employees cannot agree on a single private attorney, the council by resolution shall select a private attorney to represent the officers and employees.

(3) If any agency is named in a lawsuit and one or more officers or employees of the agency are also named for acts done in the performance of their official duties, unless a conflict of interest arises between the agency and one or more of the officers and employees, the agency and the named officers and employees shall select a single private attorney to represent the agency and all the officers and employees jointly. If the agency, officers, and employees cannot agree on a single private attorney, the council by resolution shall select a private attorney to represent the agency, officers, and employees.

(4) If the city is named in a lawsuit and one or more officers or employees are also named for acts done in the performance of their official duties, unless a conflict of interest arises between the city and one or more of the officers and employees, the council shall select a single private attorney to represent the city and all the officers and employees jointly.

(5) If the city is named in the lawsuit and an agency is named in the same lawsuit, unless a conflict of interest arises between the agency and the city, the council shall select a single attorney as special counsel to represent the city and the named agency jointly.

(c) No private attorney shall be paid by the city to represent an officer or employee of the city sued for acts done outside the scope of the officer's or employee's official duties, except as provided by subsections (a)(2) and (b)(2). If the corporation counsel is disqualified because of a conflict of interest from participation in the lawsuit, the council shall make the determination as to whether the matters raised in a lawsuit relate to an officer's or employee's official powers, duties, and responsibilities.

(d) Nothing herein shall preclude an officer or employee from employing, at the officer's or employee's own expense, additional private counsel to represent the officer or employee.

(1990 Code, Ch. 2, Art. 26, § 2-26.6) (Added by Ord. 94-27)

§ 2-26.7 Control of fees—Reduction in hourly rates.

Reasonable fees billed to the city by private attorneys shall be paid at the rates specified in the written contract; except, where the fees billed, exclusive of court costs and out-of-pocket expenses, exceed the following amounts, the hourly rates payable to each attorney or category of attorneys specified in the written contract referred to in § 2-26.3 and any special hourly rates specified in the contract shall be reduced by the following percentages and applied to fees billed in excess of the threshold amounts:

(1) Where fees billed exceed $100,000, the hourly rates shall be reduced by 5 percent;

(2) Where fees billed exceed $300,000, the hourly rates shall be reduced by 10 percent;

(3) Where fees billed exceed $500,000, the hourly rates shall be reduced by 20 percent;

(4) Where fees billed exceed $750,000, the hourly rates shall be reduced by 25 percent; and

(5) Where fees billed exceed $1,000,000, the hourly rates shall be reduced by 30 percent.

(1990 Code, Ch. 2, Art. 26, § 2-26.7) (Added by Ord. 94-27)

ARTICLE 27: VOLUNTEER SERVICES PROGRAM

Sections

§ 2-27.1 Policy.

It is the policy of the City and County of Honolulu to:

(1) Recognize the volunteer spirit in our citizenry as a fundamental ingredient to our democratic form of government;

(2) Adhere to the principle that every citizen regardless of race, color, ancestry, politics, religion, sex, age, economic condition, physical or mental disability, or marital status has the right to participate voluntarily in city government;

(3) Foster the use of volunteer services in city government to supplement, strengthen, and support the ability of city agencies to accomplish their missions;

(4) Demonstrate the vital role that volunteers can offer in assisting and augmenting city services;

(5) Become a model employer by developing a program on the use of volunteer services and effectively using volunteers; and

(6) Take a positive and active role in promoting the use of volunteers by city agencies in a manner that would benefit the volunteers as well as the agencies.

(1990 Code, Ch. 2, Art. 27, § 2-27.1) (Added by Ord. 95-14)

§ 2-27.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Any city agency within the executive branch, excepting the prosecuting attorney and the board of water supply.

Chief of Police. The chief of the Honolulu police department or the chief's authorized designee.

Laws. Includes Hawaii State statutes, city ordinances, and Hawaii State and city rules adopted pursuant to HRS Chapter 91.

Volunteer. A person or organization who is willing to provide any of the following services with no monetary or material gain:

(1) Occasional service consisting of one-time, on-call, or single-task service to any agency without receipt of any compensation, except as provided in this article; or

(2) Regular service consisting of activities on an ongoing or continuous basis to an agency without receipt of any compensation, except as provided in this article; or

(3) Stipend service consisting of the receipt of a support allowance that then enables a person to provide voluntary service to an agency. The allowance may be for food, mileage, and other related expenses, but does not reflect compensation for work performed.

(1990 Code, Ch. 2, Art. 27, § 2-27.2) (Added by Ord. 95-14; Am. Ords. 97-02, 03-40)

§ 2-27.3 Volunteer services program—Established—Nondiscrimination— Coordinator.

(a) A volunteer services program shall be established within a city department designated by the mayor. The director of the designated department may adopt rules to carry out the purposes of this article.

(b) Except as otherwise provided in this article, no person shall, on the basis of sex, age, race, color, ancestry, religion, national origin, marital status, economic condition, physical or mental disability, or politics, be excluded from participation in the volunteer services program.

(c) The volunteer services program shall be headed by a volunteer services coordinator who shall be charged with the following duties:

(1) In cooperation with each city agency, identify tasks that may be appropriately performed by volunteers;

(2) In cooperation with the department of human resources, develop written guidelines for the recruitment, screening, supervision, and use of volunteers by city agencies;

(3) Serve as a central clearinghouse for volunteer recruitment for the city;

(4) Assist each agency in training existing staff on how to supervise, assist, and support agency volunteers;

(5) Maintain a list of available volunteers and a list of jobs for which agencies are seeking volunteers;

(6) In cooperation with the director of budget and fiscal services, establish a risk management program aimed at minimizing the risk of liability to the city due to the volunteer service program while protecting volunteers from liability when performing services as city volunteers; and

(7) Prepare and submit an annual report to the council with a breakdown of the number of volunteers used by each agency, the number of volunteer service hours donated to each agency, the types of tasks performed by volunteers in each agency, and the cost of using volunteers by each agency.

(d) Any volunteer used by the city shall be excluded from the civil service system of Charter Article VI, Chapter 11, and any other public employee benefit program except those provided in this article.

(1990 Code, Ch. 2, Art. 27, § 2-27.3) (Added by Ord. 95-14; Am. Ord. 03-40)

§ 2-27.4 Agency rights and responsibilities.

(a) An agency has the right to decline any offer of voluntary services, or if accepted, to release subsequently the volunteer whose services are no longer needed or whose performance is found unacceptable.

(b) An agency using the services of volunteers has the responsibility to:

(1) Use volunteers to extend city services without displacing regular, full-time employees;

(2) Provide volunteers with the orientation and training necessary to do work for the agency;

(3) Provide each volunteer with a designated supervisor to assist and direct the work of the volunteer;

(4) Allow volunteers to serve on a trial or probationary period for a specified period;

(5) Assign volunteers to tasks that are suited to their respective skills or geared to develop new skills; and

(6) Recognize volunteers for their services to the agency.

(1990 Code, Ch. 2, Art. 27, § 2-27.4) (Added by Ord. 95-14)

§ 2-27.5 Volunteer benefits.

(a) An agency may reimburse volunteers for out-of-pocket costs incurred in carrying out their volunteer duties, consistent with subsection (b), as deemed necessary to assist volunteers in performing their services.

(b) Volunteer benefits may include, within the limits of an agency's budget, the following:

(1) Meals without charge or the cost thereof reimbursed;

(2) Transportation costs including parking fees, bus and taxi fares to cover expenses incurred in carrying out a volunteer's duties;

(3) Out-service training and attendance at conferences pertaining to a volunteer's assigned duties; and

(4) Other reasonable expenses incurred by volunteers in connection with their assignments.

(c) Volunteers shall not be deemed "employees of the city" when acting for an agency in their capacity as volunteers.

(d) Personal liability insurance coverage may be furnished for volunteers.
(1990 Code, Ch. 2, Art. 27, § 2-27.5) (Added by Ord. 95-14)

§ 2-27.6 Volunteer policing program.

(a) There is established within the Honolulu police department, and under the supervision of the chief of police, a volunteer policing program to use volunteers to assist the Honolulu police department in the enforcement of certain city and State laws related to abandoned and derelict vehicles and parking, including parking for persons with disabilities, and other laws designated by the chief of police.

(b) The chief of police is authorized to commission volunteers as special enforcement officers to issue citations on public and private property to persons violating certain city and State laws relating to abandoned and derelict vehicles, parking, including parking for persons with disabilities, and other laws designated by the chief of police.

(c) The chief of police, in cooperation with the directors of other city agencies as appropriate, shall:

(1) Establish minimum qualifications for persons wishing to volunteer their services to become special enforcement officers and application procedures for volunteers;

(2) Provide a required training program for police volunteers totaling not less than 20 hours, which shall include but not be limited to training on:

(A) Pertinent city and State laws;

(B) Identifying violators and issuing citations;

(C) Use of communication and other necessary equipment;

(D) Procedures to follow in the event of confrontations with suspected violators; and

(E) 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 enforcement officers; and

(4) Provide for supervision and monitoring of the special enforcement officers while such officers are on duty.

(d) Each special enforcement officer shall agree to:

(1) Work 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.

(e) Each special enforcement officer who is assigned duties under this program shall:

(1) Complete a volunteer application;

(2) Be a United States citizen, a resident of the city, and at least 21 years of age;

(3) Pass a background check conducted by the chief of police, which may include a criminal background check;

(4) Possess a valid State of Hawaii driver's license;

(5) Complete the training program established by the chief of police; and

(6) Be provided with an identification card.

(f) The chief of police shall coordinate recruitment of volunteers.
(1990 Code, Ch. 2, Art. 27, § 2-27.6) (Added by Ord. 03-40; Am. Ord. 14-25)

§ 2-27.7 Rules.

The chief of police, in cooperation with the directors of other city agencies, may adopt rules to implement the volunteer policing program.
(1990 Code, Ch. 2, Art. 27, § 2-27.7) (Added by Ord. 03-40)

ARTICLE 28: PROHIBITION ON TAKE-HOME USE OF CITY MOTOR VEHICLE BY EXECUTIVE AGENCY HEAD OR DEPUTY HEAD

Sections

§ 2-28.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City Motor Vehicle. A motor vehicle owned or leased by the city.

Executive Agency. Any agency of the executive branch of city government, excluding the board of water supply and the Honolulu Authority for Rapid Transportation.

Executive Agency Head. The director or other officer serving as the administrative head of an executive agency.

Executive Agency Deputy Head or Deputy Head. The officer serving as a deputy head of an executive agency.

Use of a City Motor Vehicle on a Take-Home Basis. The use of a city motor vehicle by a person for the following:

(1) Travel between the person's work and home; and

(2) Other travel incidental to travel between the person's work and home.

(1990 Code, Ch. 2, Art. 28, § 2-28.1) (Added by Ord. 96-66; Am. Ord. 97-02, 16-29)

§ 2-28.2 Prohibition on take-home use of city motor vehicle by executive agency head or deputy head—Exceptions.

(a) Except as otherwise provided under subsection (b), an executive agency head or deputy head shall not be allowed to use a city motor vehicle on a take-home basis.

(b) The prohibition of subsection (a) shall not apply to the following:

(1) The police chief or any deputy police chief;

(2) The fire chief or deputy fire chief;

(3) The medical examiner or first deputy medical examiner; and

(4) The director of emergency management.

(1990 Code, Ch. 2, Art. 28, § 2-28.2) (Added by Ord. 96-66; Am. Ord. 16-29)

§ 2-28.3 Applicability of article.

(a) This article applies only to the use of a city motor vehicle on a take-home basis by an executive agency head or deputy head.

(b) This article does not apply to the following:

(1) The use of a city motor vehicle by an executive agency head or deputy head on other than a take-home basis; or

(2) The use of a city motor vehicle by any other city officer or employee, including the mayor.

Other applicable law, ordinance, rule, or policy shall govern the use of a city motor vehicle in a manner described under this subsection.

(1990 Code, Ch. 2, Art. 28, § 2-28.3) (Added by Ord. 96-66)

ARTICLE 29: DEPARTMENT OF COMMUNITY SERVICES

Sections

§ 2-29.1 Definition.

For the purposes of this article, the following definition applies unless the context clearly indicates or requires a different meaning.

Department. The department of community services.
(1990 Code, Ch. 2, Art. 29, § 2-29.1) (Added by Ord. 97-24; Am. Ord. 16-29)

§ 2-29.2 Prohibition on presale or prelease of dwelling unit in proposed housing project on city real property before council approval.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Development Agreement. The agreement or contract between the city and a developer concerning the development of a housing project on city real property to be leased or otherwise conveyed to the developer.

Prelease of a Dwelling Unit. The lease of a dwelling unit by its developer to a lessee before the commencement of construction of the unit.

Presale of a Dwelling Unit. The sale of a dwelling unit by its developer to a purchaser before the commencement of construction of the unit.

Proposed Housing Project on City Real Property. A housing project proposed to be developed by a private person on city real property to be leased or otherwise conveyed to that person.

(b) The department shall not allow the presale or prelease of a dwelling unit in a proposed housing project on city real property before council approval of the pertinent development agreement.

(c) A prospective developer of a proposed housing project on city real property shall not engage in or authorize the presale or prelease of a dwelling unit in the proposed project before council approval of the pertinent development agreement.

(d) Subsections (b) and (c) shall not prohibit the following:

(1) The presale or prelease of a dwelling unit in a proposed housing project after council approval of the pertinent development agreement; or

(2) The presale or prelease of a nondwelling unit in a proposed housing project at any time.

(1990 Code, Ch. 2, Art. 29, § 2-29.2) (Added by Ord. 97-24)

ARTICLE 30: PERSONAL SERVICES CONTRACTS

Sections

§ 2-30.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Contractor. Any individual, corporation, trust, partnership, or other business or governmental entity.

Department. The department of budget and fiscal services.

Director. The director of budget and fiscal services.

Employer-Employee Contract. A contract entered into by an executive agency of the city pursuant to Charter § 6-1103(f), (g), (h), in which the contractor is paid on a payment schedule applicable to regular employees. This term includes any amendment to, extension, or renewal of the contract.

Executive Agency. Has the same meaning as defined in Charter § 13-101.

Independent Contractor. A person who provides independent services of a technical, expert, or professional nature to the city, who may lawfully provide such services concurrently with other private employment, if any, who is not supervised or directed on a daily basis by a city officer or employee, and who is not paid on a payment schedule applicable to regular employees.
(1990 Code, Ch. 2, Art. 30, § 2-30.1) (Added by Ord. 97-54; Am. Ord. 16-29)

§ 2-30.2 Review and competitive procurement of personal services contracts.

(a) The director shall review all employer-employee contracts requested by an executive agency before contract execution and determine whether the contract is appropriate or whether the personal services to be procured would be more appropriately procured by a contract with an independent contractor. This determination shall be made in accordance with written guidelines established by the director for all executive agencies regarding the types of personal services that shall be competitively procured.

(b) If the director determines that a proposed employer-employee contract is more appropriately procured by a contract with an independent contractor, the director shall so notify the executive agency making the request and determine the proper method of procurement.

(c) No employer-employee contract requested by an executive agency shall be entered into without the approval of the director.

(1990 Code, Ch. 2, Art. 30, § 2-30.2) (Added by Ord. 97-54; Am. Ord. 16-29)

§ 2-30.3 Public notice of employer-employee contracts.

The director shall post or cause to be posted a public notice of the request to enter into an employee-employer contract not less than seven days before final approval of the request. The notice shall be posted in an area accessible to the public.

(1990 Code, Ch. 2, Art. 30, § 2-30.3) (Added by Ord. 97-54; Am. Ord. 16-29)

§ 2-30.4 Reporting of employer-employee contracts.

(a) Within 30 days following the end of each fiscal year, the director shall submit to the council and file with the city clerk a report regarding all employer-employee contracts of the executive agencies of the city during the fiscal year just ended. An employer-employee contract shall be included in the report for the fiscal year if:

(1) The contract was executed, extended, amended, or renewed during the fiscal year; or

(2) The city made any payments pursuant to such contract during the fiscal year.

(b) The report required by subsection (a) shall be organized by the executive agency requesting the employer-employee contract and, for each contract, shall include the following information:

(1) The executive agency that procured the services of the contractor;

(2) A brief statement of the nature of the personal services provided to the city under the contract and justification for procuring such services through an employer-employee contract;

(3) The name of the contractor;

(4) A statement of the qualifications of the contractor to provide the contracted services;

(5) A statement of whether the information provided relates to the original contract or to an amendment, extension, or renewal of the contract;

(6) The total amount of compensation to be paid to the contractor;

(7) A statement of whether the contractor is working on a full- or part-time basis, and if the latter, the amount of hours per week that the contractor is working;

(8) The time period and duration of the contract;

(9) A statement of which subsection of Charter § 6-1103 provided the basis for the contract, amendment, renewal, or extension;

(10) A statement as to whether, in the immediately preceding fiscal year, the contractor was engaged in the same or any other employer-employee contract with the city;

(11) A statement as to whether, in the immediately preceding fiscal year, the executive agency engaged the same or a different contractor to perform the same or similar services for the agency; and

(12) A statement as to whether funds are included in the city's executive budget ordinance for the current fiscal year for the same or similar contract, and if so, whether the contract is with the same contractor.

(c) If a contractor provided personal services pursuant to more than one employer-employee contract with the city during the fiscal year, the report required by subsection (a) shall specify the number of contracts entered into, the type and service provided and the aggregate compensation received by the contractor under the various employer-employee contracts.

(1990 Code, Ch. 2, Art. 30, § 2-30.4) (Added by Ord. 97-54; Am. Ord. 16-29)

§ 2-30.5 Public record-keeping requirements.

(a) The department shall keep a record of all employer-employee contracts, by executive agency, for a period of at least five years. Each record shall contain at least the following information:

(1) The executive agency that procured the services of the contractor;

(2) The type of services provided by the contractor;

(3) The name of the contractor;

(4) The total amount of compensation paid the contractor; and

(5) The time period and duration of the contract.

(b) Records of employer-employee contracts required to be kept under subsection (a) shall be made available for public inspection; provided that no information shall be disclosed to the public which is prohibited from disclosure by HRS Chapter 92F or any other State, city, or federal privacy law.

(1990 Code, Ch. 2, Art. 30, § 2-30.5) (Added by Ord. 97-54; Am. Ord. 16-29)

ARTICLE 31: SEALS AND LOGOTYPES OF EXECUTIVE AGENCIES

Sections

§ 2-31.1 Adoption of official seals and logotypes.

(a) Executive agencies of the City and County of Honolulu are authorized to adopt official seals or logotypes. A copy of any official seal or logotype adopted by a city agency shall be filed with the office of the city clerk within 30 days of its adoption. For the purposes of this article, "logotype" includes any trade name, trademark, service mark, nickname, motto, slogan, abbreviation, word, logo, logogram, logographic, logotype, symbol, design, graphic depiction, or other work or designation that may be associated with the city or an executive city agency, facility, property, operation, or activity.

(b) The seals and logotypes may be used only for:

(1) Official governmental purposes;

(2) City-sponsored articles or activities when the sponsorship of the article or activity and the use of the seal or logotype on the article or for the activity is approved by the director; or

(3) Revenue-raising activities authorized pursuant to subsections (c) and (d).

(c) The department, to the extent deemed necessary and practicable, shall register any official seal or logotype adopted by an executive city agency with the State of Hawaii and take any additional measures required by law to ensure the city's exclusive ownership of the seal or logotype. As the exclusive owner of an agency's seal or logotype, the city, through the department, may enter into contracts with private parties for the manufacture, fabrication, production, reproduction, marketing, distribution, and sale of articles or materials imprinted with the agency's seal or logotype for the purpose of raising revenues or securing goods, materials, supplies, or equipment at no or reduced costs for the city, nonprofit city support or friends group, or city employee organizations. Any goods, materials, supplies, or equipment received under this article shall not be a gift or donation within the meaning of Charter § 13-113.

(d) The city may provide for an exclusive or nonexclusive license to use an agency's official seal or logotype; provided that in contracting for an exclusive license for the use of an agency's seal or logotype, the director, to the extent feasible, shall follow procedures similar to the procurement procedures provided for in HRS Chapter 103D and the rules adopted pursuant thereto; and provided further, that such procedures need not be applied to any exclusive license granted to a nonprofit city support or friends group or city employee organization. In granting a license, the director shall establish an appropriate duration for the license. Any license for exclusive use of an agency's official seal or logotype shall not preclude the use of the agency's official seal or logotype for official governmental purposes.

(e) The department shall maintain a copy of all contracts relating to the use of an official seal or logotype of an executive city agency and make them available for public inspection.

(f) The director shall provide a report to the council on or before January 1 of each year relating to official seals and logotypes registered pursuant to subsection (c).

(g) For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Department. The department of budget and fiscal services.

Director. The director of budget and fiscal services.

(1990 Code, Ch. 2, Art. 31, § 2-31.1) (Added by Ord. 98-43; Am. Ord. 16-29)

§ 2-31.2 Unauthorized use of seals and logotypes—Penalty.

Whoever knowingly manufactures, fabricates, produces, reproduces, markets, distributes, sells, or purchases for sale any article or material imprinted with the official seal or logotype of a city executive agency or knowingly displays the official seal or logotype of a city executive agency, or any facsimile thereof, in any display, 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 city or any executive agency thereof, except for a city-sponsored article, material, or activity approved by the director in accordance with this article, shall be guilty of a misdemeanor.

(1990 Code, Ch. 2, Art. 31, § 2-31.2) (Added by Ord. 98-43; Am. Ord. 16-29)

ARTICLE 32: CITY VIDEO MONITORING OF PUBLIC ACTIVITY

Sections

§ 2-32.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Chief. The chief of police of the Honolulu police department or the chief's designee.

Chinatown Area. The area generally bounded by Nuuanu Stream, Vineyard Boulevard, and Bishop Street, extended to meet Vineyard Boulevard and Honolulu Harbor.

General Area. Includes a district, subdistrict, neighborhood, street, or intersection.

Illumination. Making visible details not visible to the naked eye because of poor lighting conditions.

Law Enforcement Official. An officer of the Honolulu police department; a similar officer or a criminal investigator employed by any federal, State, or local government agency; the attorney general, the prosecuting attorney, the corporation counsel or any of their deputies; or a similar attorney employed by any federal, State, or local government agency for purposes of criminal prosecutions.

Legitimate Law Enforcement Objective. The detection, investigation, prevention, or deterrence of crime, protection of a person or property from harm, or the apprehension and prosecution of a suspected criminal or traffic violator. An action is "reasonably likely to achieve a legitimate law enforcement objective" if there is an articulable reason for concluding that one of these objectives may be met by taking the action.

Legitimate Public Purpose. The detection, investigation, prevention, or deterrence of violations of federal, State, or city regulatory requirements, the evaluation of city programs and operations, the training of city personnel, the investigation of claims involving the city, and other activities supporting public functions. An action is "reasonably likely to achieve a legitimate public purpose" if there is an articulable reason for concluding that one of these objectives may be met by taking the action.

Officer. An officer of the Honolulu police department.

Overt Monitoring. Monitoring of which a reasonable person would be aware.

Private Activity, Condition, or Location. Any activity, condition, or location when the place where it occurs or exists and other relevant considerations afford it a constitutionally protected reasonable expectation of privacy with respect to the person asserting the claim of an expectation of privacy. A place is "private" if physical entry therein would be an intrusion upon the constitutionally protected reasonable expectation of privacy of the person asserting the claim of an expectation of privacy. The term private activity, condition, or location shall not be deemed to include any streets, sidewalks, or other places owned or controlled by the city or another governmental entity or streets, sidewalks, or other places owned or controlled by private entities, but open to the general public.

Public Activity. Any activity, condition, or location that is not a private activity, condition, or location.

Public Buildings or Other Facilities. Any buildings or other facilities or portion thereof owned or controlled by the city whether such buildings or other facilities or portions thereof are managed by the city or a private entity, including but not limited to the sidewalks, driveways, and grounds immediately adjacent to public buildings or other facilities

Responsible City Official. The chief with respect to the overt video monitoring of public activity from fixed locations to be implemented pursuant to § 2-32.3(a)(1), (2), and (5), the director and chief engineer of facility maintenance with respect to the overt video monitoring of public activity from fixed locations to be implemented pursuant to § 2-32.3(a)(3), and the director of transportation services with respect to overt video monitoring of public activity from fixed locations to be implemented pursuant to § 2-32.3(a)(4). For purposes of § 2-32.4, responsible city official means the chief or the head of any other city department or agency.

Telescopic. Making visible details not visible to the naked eye because of distance.

Video Monitoring. The use of a lawfully positioned camera as a means of viewing or recording activities, conditions, or locations other than those occurring within the sight or immediate vicinity of the person conducting the video monitoring.

Video Monitoring Tapes. Includes any film, photographs, slides, videotapes, diskettes, or other recorded representations resulting from overt video monitoring of public activity.
(1990 Code, Ch. 2, Art. 32, § 2-32.1) (Added by Ord. 98-59)

§ 2-32.2 Overt video monitoring of public activity.

No overt video monitoring of public activity shall be conducted by the city or under the sponsorship of the city except as authorized by this article.
(1990 Code, Ch. 2, Art. 32, § 2-32.2) (Added by Ord. 98-59)

§ 2-32.3 Authorization for certain overt video monitoring of public activity from fixed locations.

(a) Overt video monitoring of public activity conducted by the city or under the sponsorship of the city from fixed locations is specifically authorized in the following areas and for the following purposes:

(1) In the Waikiki special district as defined in § 21-9.80-2 for purposes of the general prevention and deterrence of criminal activity;

(2) In the Chinatown area for purposes of the general prevention and deterrence of criminal activity;

(3) In and around public buildings or other facilities for the purposes of the general prevention and deterrence of criminal activity;

(4) On streets or roads under the jurisdiction of the city for purposes of facilitating the efficient flow of traffic;

(5) On streets or roads under the jurisdiction of the city for the purposes of detecting, investigating, preventing, or deterring traffic violations; and

(6) In such other areas or for such other purposes as are designated by the council, by resolution, following the holding of a public hearing at which members of the public may express their views on the proposed monitoring and the proposed general area where the monitoring shall take place, notice of which public hearing shall have been given to the public at least 10 days in advance of the public hearing in a publication meeting the State's requirements for the publication of public notice.

(b) In implementing overt video monitoring of public activity authorized by subsection (a), the responsible city official shall act in accordance with the following standards and guidelines.

(1) The overt video monitoring of public activity authorized by subsections (a)(1) and (2) shall be conducted in partnership with the affected communities. To the extent practicable, the overt video monitoring of public activity in these areas shall be conducted by community volunteers.

(2) Cameras may use telescopic, zoom, panoramic, illumination, pan, tilt, and rotate capabilities.

(3) Cameras shall be installed in such a manner that they are not likely to view a private activity, condition, or location.

(4) All individuals conducting or supervising video monitoring shall receive training and written instructions in the proper operation of the video monitoring equipment and the applicable requirements of this article.

(5) Before initiating overt video monitoring of public activity in any area or public building or other facility, the responsible city official shall publish or cause to be published a notice of such monitoring in a newspaper of general circulation in the city at least 10 days before implementation of such monitoring. The notice shall include a general description of the area or building to be monitored, the general location of the cameras, the general capability of the cameras, and a statement that the public may submit written comments to the council and the responsible city official relating to the monitoring. Before materially changing the location of any camera, changing the general capability of cameras, or with respect to the overt video monitoring of public activity authorized by subsections (a)(1) and (2), terminating the video monitoring on a permanent basis, the responsible city official shall publish or cause to be published a notice of such change in a newspaper of general circulation in the city at least 10 days before implementing such change, with a statement that the public may submit written comments to the council and the responsible city official relating to the monitoring.

(6) The responsible city official shall post or cause to be posted a reasonable number of signs in the affected area or in or around the public building or other facility advising the public that the area or public building or other facility is subject to video monitoring of public activity; provided that such signs shall not be required for video monitoring conducted pursuant to subsections (a)(4) and (5).

(7) The responsible city official may, at any time, discontinue the overt video monitoring of public activity, including but not limited to discontinuation during certain hours of the day or days of the week and discontinuation for purposes of maintenance and repair, or where there are not an adequate number of community volunteers or city personnel to conduct such monitoring.

(8) The responsible city official shall provide an annual report to the council on activities relating to the overt video monitoring of public activity under this section no later than January 15 of each year.

(1990 Code, Ch. 2, Art. 32, § 2-32.3) (Added by Ord. 98-59)

§ 2-32.4 Authorization for other overt video monitoring of public activity.

(a) No overt video monitoring of public activity, other than overt video monitoring of public activity from fixed locations specifically authorized by § 2-32.3, shall be conducted by the city or under the sponsorship of the city except where the responsible city official finds that it:

(1) Is reasonably likely to achieve a legitimate law enforcement objective or other legitimate public purpose; and

(2) Is not likely to view a private activity, condition, or location.

An officer of the Honolulu police department may make the determinations required under the preceding sentence when there are exigent circumstances.

(b) Overt video monitoring of public activity pursuant to this section shall be subject to the standards and guidelines set forth in § 2-32.3(b)(4).

(c) Overt video monitoring of public activity pursuant to this section shall be conducted for the duration reasonably necessary as determined by the responsible city official.

(1990 Code, Ch. 2, Art. 32, § 2-32.4) (Added by Ord. 98-59)

§ 2-32.5 Use, storage, and disposition of video monitoring information and tapes.

(a) Except as otherwise required by HRS Chapter 92F, ordered by the office of information practices pursuant to HRS Chapter 92F, or ordered by a court of competent jurisdiction, information obtained from overt monitoring of public activity and video monitoring tapes shall be used only for legitimate law enforcement objectives and traffic management and other legitimate public purposes and shall be disclosed only to city personnel or community volunteers conducting or supervising the video monitoring, law enforcement officials, city personnel involved in the evaluation of city programs or operations or training of city personnel, and to individuals involved in or potentially involved in criminal or civil proceedings to be brought by a governmental entity, including but not limited to victims or perpetrators or suspected or potential victims or perpetrators of criminal activity. Nothing contained in this paragraph shall be construed as prohibiting the disclosure or use

of information obtained from overt monitoring of public activity under any of the subdivisions of § 2-32.3(a) or under § 2-32.4 for: (i) the detection, investigation, prosecution or adjudication of criminal activity, traffic infractions, or regulatory violations, violations of conditions of bail, parole or probation, or violations of court orders; or (ii) the detection, investigation, discovery, and trial of alleged violations of the civil legal rights of victims of criminal activity other than traffic infractions, including but not limited to property damage claims resulting from criminal activities. Nothing contained in this paragraph shall be construed as prohibiting the disclosure or use of information obtained from overt monitoring of public activity under § 2-32.3(a)(4) to the media for purposes of advising the public of prevailing traffic conditions.

(b) Video monitoring tapes shall be stored in secure locations so as to limit access to such tapes to the purposes specified in subsection (a).

(c) Except where the responsible city official finds that there is a need to maintain a specific video monitoring tape for a longer period for a purpose specified in subsection (a), video monitoring tapes shall be erased or destroyed within 30 days after they are taken or made.

(1990 Code, Ch. 2, Art. 32, § 2-32.5) (Added by Ord. 98-59)

§ 2-32.6 Third party rights.

Nothing contained in this article is intended to or shall in any manner create or afford any rights, privileges, or benefits not otherwise recognized by law, including but not limited to any right to suppress evidence because of an alleged violation of the requirements of this article or any claim against the city for invasion of privacy or failure to continuously maintain overt video monitoring of public activity. Rather, this article is intended as internal policy guidance to the affected city departments to ensure that overt monitoring of public activity decisions is based on all relevant considerations and information.

(1990 Code, Ch. 2, Art. 32, § 2-32.6) (Added by Ord. 98-59)

ARTICLE 33: FIRST SOURCE PROGRAM

Sections

§ 2-33.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Beneficiary. An entity that enters into a contract with the city or that receives a grant from the city, but excludes an entity which is a nonprofit organization or a government entity or quasi-government entity.

Contract. A written agreement between the city and a beneficiary that will provide services for compensation to or on behalf of the city or which will construct capital improvements for or on behalf of the city.

Department. The department of community services.

Director. The director of community services, or the director's designee.

First Source Agreement. The provisions in the contract required by § 2-33.4.

First Source Program. The program established by this article to assist residents to find only nonmanagerial and nonprofessional employment.

Grant. Public funds given to a beneficiary based on merit or need to stimulate and support the beneficiary's activities for the benefit of the community.

Resident. An individual domiciled in the State of Hawaii.

WorkHawaii Program. The work training and job placement program administered by the department, and shall include any subsequent work training and job placement program administered by the department.
(1990 Code, Ch. 2, Art. 33, § 2-33.1) (Added by Ord. 99-71)

§ 2-33.2 Effect.

(a) This article shall not affect any contract that existed before December 16, 1999.*

(b) A beneficiary shall not be required to undertake any action required by this article if the beneficiary can establish, to the satisfaction of the director as stated in the rules, that it is fulfilling the purpose of this article.

(c) Notwithstanding any provision in this article to the contrary, the beneficiary shall make all hiring decisions in the beneficiary's sole and absolute discretion.

(1990 Code, Ch. 2, Art. 33, § 2-33.2) (Added by Ord. 99-71)

Editor's note:

** "December 16, 1999" is substituted for "the effective date of the ordinance which created this article."*

§ 2-33.3 First source register.

(a) The department, through the WorkHawaii program, shall compile and maintain a first source register.

(b) The first source register shall list residents who are qualified for nonmanagerial and nonprofessional jobs only, in categories which are stated in the rules.

(c) The department shall consult with the State, department of human resources, the Oahu private industry council, nonprofit and community organizations, labor unions, and other interested organizations to compile and maintain the first source register.

(1990 Code, Ch. 2, Art. 33, § 2-33.3) (Added by Ord. 99-71)

§ 2-33.4 First source agreement required.

Each contract between the city and a beneficiary shall provide:

(1) That the beneficiary shall use the resources of the first source program as the initial contact for recruitment and referral of individuals for new and replacement nonmanagerial and nonprofessional employment related to a city contract with or grant to a beneficiary;

(2) That the beneficiary shall contact the director as provided in the rules before interviewing a new or replacement nonmanagerial and nonprofessional individual for employment related to a contract;

(3) That the director shall have three days from the date that the beneficiary contacts the director, as stated in the rules, to refer qualified individuals to the beneficiary before the beneficiary may interview other individuals, provided that the beneficiary may apply to the director to waive the three-day requirement as stated in the rules;

(4) That the beneficiary shall interview and consider individuals referred by the director before interviewing other individuals;

(5) That the beneficiary shall use its best efforts to hire individuals referred by the director; and

(6) That the first source agreement shall terminate contemporaneously with the termination of the beneficiary's contract.

(1990 Code, Ch. 2, Art. 33, § 2-33.4) (Added by Ord. 99-71)

§ 2-33.5 Rules.

The director shall adopt rules pursuant to HRS Chapter 91 to implement this article.

(1990 Code, Ch. 2, Art. 33, § 2-33.5) (Added by Ord. 99-71)

§ 2-33.6 Department's report.

The department shall submit a report to the council within 30 working days from the end of each calendar quarter, which shall include the following:

(1) The noncumulative number of contracts for which first source agreements were executed;

(2) The noncumulative number of individuals listed in the first source register who have been employed;

(3) The length of time individuals listed in the first source register have been employed; and

(4) The number of residents listed in the first source register at the beginning and at the end of the reported calendar quarter.

(1990 Code, Ch. 2, Art. 33, § 2-33.6) (Added by Ord. 99-71)

§ 2-33.7 Enforcement.

(a) Any transfer of the assets of the beneficiary that are related to a contract shall be subject to the first source agreement and shall bind and be enforceable against the transferee.

(b) If a beneficiary defaults in the performance of its obligations stated in the first source agreement, the city shall notify the beneficiary of the default in writing addressed to the beneficiary at its address stated in the contract, or at an address otherwise provided to the city by the beneficiary.

(c) The beneficiary shall commence to correct all of the defaults stated in the city's written notice within five days of the date of the written notice and shall complete the correction within a reasonable time.

(d) If the beneficiary fails to correct all of the defaults stated in the city's written notice, the city may exercise its remedies stated in the contract.

(1990 Code, Ch. 2, Art. 33, § 2-33.7) (Added by Ord. 99-71)

ARTICLE 34: BIODIESEL OR RENEWABLE FUEL CONVERTED FROM COMMERCIAL FOG WASTE OR COMMERCIAL COOKING OIL WASTE

Sections

§ 2-34.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Biodiesel or Renewable Fuel. Fuel converted from commercial FOG waste or commercial cooking oil waste.

City Executive Agency. An agency of the executive branch other than the board of water supply. The term does not include the transit management services contractor as defined under Chapter 15B.

Commercial Cooking Oil Waste. Has the same meaning as defined in Chapter 43, Article 5A.

Commercial FOG Waste. Has the same meaning as defined in Chapter 43, Article 5A.
(1990 Code, Ch. 2, Art. 34, § 2-34.1) (Added by Ord. 02-14)

§ 2-34.2 Policy on procurement of biodiesel or renewable fuel converted from commercial fog waste or commercial cooking oil waste.

(a) This section shall apply when a city executive agency engages in the procurement of fuel to power a city vehicle fleet or city facility.

(b) In such a procurement, the city executive agency shall not, without justification based upon quality or price, discriminate against biodiesel or renewable fuel. The city executive agency shall allow a person to submit a bid or offer to supply such biodiesel or renewable fuel as the fuel for the procurement if the agency determines that:

(1) The biodiesel or renewable fuel is usable by the city vehicle fleet or city facility, as applicable; and

(2) The biodiesel or renewable fuel will perform at least as efficiently and effectively as petroleum-based fuel that meets the specifications of the procurement.

The city executive agency shall issue specifications for the procurement that are consistent with this subsection.

The city executive agency shall not be required to award the contract to a person who submits a bid or offer to supply biodiesel or renewable fuel. Instead, the city executive agency shall select the winning bid or offer and award the fuel supply contract in accordance with HRS Chapter 103D and after consideration of relevant factors, including quality and price.

(c) This section shall not be construed as preventing the application of a preference in a procurement for biodiesel or renewable fuel.

(1990 Code, Ch. 2, Art. 34, § 2-34.2) (Added by Ord. 02-14)

ARTICLE 35: ENERGY STAR PRODUCTS

Sections

§ 2-35.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. Includes both the executive and legislative branches of the City and County of Honolulu.

ENERGY STAR. The joint program of the United States Environmental Protection Agency (EPA) and the United States Department of Energy designed to identify and promote energy efficient products.

ENERGY STAR Qualified Product. A product that has met strict energy efficiency guidelines set by the EPA and Department of Energy and is identified by the ENERGY STAR label.
(1990 Code, Ch. 2, Art. 35, § 2-35.1) (Added by Ord. 08-28)

§ 2-35.2 Required procurement of ENERGY STAR Qualified products.

(a) Except as otherwise provided under subsection (b), when procuring products that are listed under the ENERGY STAR program, the city shall procure only ENERGY STAR qualified products.

(b) The city may procure products not ENERGY STAR qualified under the following circumstances:

(1) No comparable product is ENERGY STAR qualified; or

(2) The life-cycle costs of all comparable ENERGY STAR qualified products are more than 105 percent of the life-cycle cost of a product that is not ENERGY STAR qualified.

(1990 Code, Ch. 2, Art. 35, § 2-35.2) (Added by Ord. 08-28)

ARTICLE 36: LIGHT POLLUTION

Sections

§ 2-36.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Full-Cutoff. The street 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.

Semi-Cutoff. The street lighting fixture is constructed so that at least 90 percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

Street Lighting Fixture. An outdoor artificial lighting device, fixture, lamp, or other similar device that is intended to provide illumination for visibility on city or city-approved streets and roadways.
(1990 Code, Ch. 2, Art. 36, § 2-36.1) (Added by Ord. 13-4)

§ 2-36.2 Street lighting to minimize light pollution.

All new and replacement municipal street lighting fixtures installed by the department of design and construction or the department of facility maintenance from July 1, 2013, shall be full-cutoff or semi-cutoff lighting fixtures. This section shall not apply to any street lighting fixture that is existing and legally installed, or planned and approved before July 1, 2013; provided that any street lighting fixture exempt under this section that subsequently becomes inoperable shall be replaced with a full-cutoff or semi-cutoff street lighting fixture that provides illumination and uniformity equal to or better than the recommendations of the Illuminating Engineering Society of North America; provided further, that if the appropriate fixture for the existing light pole spacing is not available, a noncomplying fixture that meets the illumination and uniform design criteria of the Illuminating Engineering Society of North America shall be allowed.
(1990 Code, Ch. 2, Art. 36, § 2-36.2) (Added by Ord. 13-4)

ARTICLE 37: ZOO SPONSORSHIP PROGRAM

Sections

§ 2-37.1 Declaration of legislative intent and findings.

In an effort to support and improve the Honolulu Zoo, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations, and other organizations, through sponsorship arrangements. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternative revenue streams that will increase the city's ability to improve and to maintain the Honolulu Zoo or to provide enhanced levels of service and maintenance beyond the core levels funded from the city's special events fund or general fund, or both, for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition may adhere to the aesthetic values and purposes of the Honolulu Zoo. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the Honolulu Zoo or be perceived as creating a proprietary interest.
(1990 Code, Ch. 2, Art. 37, § 2-37.1) (Added by Ord. 15-42)

§ 2-37.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Financial Contribution. Any one of the following: cash, goods, or services, paid, given, or provided to the city at such time or times as set forth in the sponsorship agreement.

Person. Has the same meaning as defined in § 1-4.1.

Request for Proposals. An open competitive process whereby persons may express their interest in participating in sponsorship opportunities with the city. Requests for proposals shall include a summary of the

sponsorship opportunity, benefits for participation, and a description of the open and competitive procedure for expressing interest in participating in sponsorship opportunities.

Sponsor. A person that enters into a sponsorship agreement with the city.

Sponsorship. A mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for recognition of the sponsor, for a specified period of time, toward the construction, renovation, or maintenance of an exhibit or facility at the zoo.

Sponsorship Agreement. A written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor.
(1990 Code, Ch. 2, Art. 37, § 2-37.2) (Added by Ord. 15-42)

§ 2-37.3 Exclusions.

This article shall not apply to:

(1) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required; and

(2) Memorials and the name of a city park, site or facility subject to §§ 22-9.3 to 22-9.5.
(1990 Code, Ch. 2, Art. 37, § 2-37.3) (Added by Ord. 15-42)

§ 2-37.4 Sponsorship of honolulu zoo exhibits or facilities.

(a) The department of enterprise services, in consultation with the director of the Honolulu Zoo, may, through the department of budget and fiscal services, establish a Honolulu Zoo sponsorship program to allow sponsorships of exhibits or facilities within the boundaries of the Honolulu Zoo, provided that the terms of sponsorship of the exhibit or facility must include but will not be limited to:

(1) Designation of the specific exhibit or facility at the Honolulu Zoo being sponsored;

(2) The financial contribution proposed to be made for the sponsorship of the specified exhibit or facility; and

(3) The duration of the sponsorship agreement.

(b) The department of enterprise services may recognize the sponsor of an exhibit or facility in any city publications or city informational notices describing the exhibit or facility and may place a plaque or sign within the boundaries of the Honolulu Zoo in recognition of sponsors stating that an exhibit or facility is "sponsored by" or "made possible through the support of" the sponsor; provided that a plaque or sign in view of the general public from outside the boundaries of the Honolulu Zoo is prohibited.

(c) Placement of sponsorship signs shall require specific authorization, and no sponsorship sign shall be intended or considered as an open, limited, or designated public forum.

(d) Signs providing sponsorship recognition shall conform to all applicable laws and rules.

(e) The city reserves the right to refuse to enter into any proposed sponsorship agreement.
(1990 Code, Ch. 2, Art. 37, § 2-37.4) (Added by Ord. 15-42)

§ 2-37.5 Funds received from sponsorship agreements.

All funds received from any sponsorship agreements made pursuant to this article shall be deposited into the special events fund established in Chapter 6, Article 53.
(1990 Code, Ch. 2, Art. 37, § 2-37.5) (Added by Ord. 15-42)

§ 2-37.6 Approval of sponsorship agreements.

No sponsorship agreement may be executed by the city without the approval of the city executive department designated by the mayor.
(1990 Code, Ch. 2, Art. 37, § 2-37.6) (Added by Ord. 15-42)

§ 2-37.7 Sponsorship guidelines.

(a) The following guidelines shall apply to a sponsorship agreement.

(1) Signage, publications, and informational notices shall conform to all applicable laws and rules.

(2) The sponsorship shall not confer a personal benefit, directly or indirectly, to any particular city employee or official.

(3) The sponsorship shall not constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or Honolulu Zoo.

(4) No materials, communications, or advertisements including but not limited to print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, may use the city's name, seal, or logo without express prior written approval from the city.

(5) The sponsorship shall not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability.

(6) Signage, branding, publicity, and advertising in conjunction with the sponsorship agreement shall not contain the following:

(A) Obscenity;

(B) Pornography;

(C) Incitement to imminent lawless action;

(D) Speech presenting a grave and imminent threat;

(E) Fighting words;

(F) Fraud;

(G) True threats;

(H) Defamation (libel/slander); or

(I) Solicitations to commit, or speech integral to, criminal conduct.

(7) Sponsorships shall be nonexclusive, and the city shall retain the right to grant multiple sponsorships for the Honolulu Zoo.

(8) Sponsorship recognition benefits may include the following during the term of the agreement:

(A) Recognition of the sponsor for the exhibit or facility;

(B) Appropriate mention in media releases and promotional materials as sponsor for the exhibit or facility;

(C) Appropriate sponsor signage at the exhibit or facility;

(D) Appropriate recognition on the program website as a sponsor for the exhibit or facility; and

(E) Other possible benefits as negotiated.

(9) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city.

(10) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship signs, affiliations, and messages.

(11) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations, shall not be allowed.

(b) The city shall not solicit or accept sponsorship from any potential sponsor if not deemed in the best interest of the city. In addition, sponsorships involving the following shall not be accepted:

(1) Persons or companies whose business is substantially derived from the sale or manufacture of tobacco, alcohol, or firearms;

(2) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in public office;

(3) Religious speech that advocates or opposes a religion or religious belief; and

(4) Entities that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability.

(1990 Code, Ch. 2, Art. 37, § 2-37.7) (Added by Ord. 15-42)

§ 2-37.8 Sponsorship rules.

The city executive department designated by the mayor, in consultation with the director of the Honolulu Zoo, may adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article. Such rules may include but will not be limited to the:

(1) Facilities and exhibits that may be sponsored;

(2) Use of the request for proposal process for selection of the sponsor;

(3) Types of access to the commercial or marketing potential association with the city, or both, including giving sponsorship credit to the sponsor, size, number, and placement of plaques or signs;

(4) Use of city logos; and

(5) Types of facilities and exhibits that are not eligible for sponsorship.

(1990 Code, Ch. 2, Art. 37, § 2-37.8) (Added by Ord. 15-42)

ARTICLE 38: SOLAR PHOTOVOLTAIC SYSTEMS

Section

§ 2-38.1 Required construction, installation, and operation of solar photovoltaic systems at municipal buildings and municipal facilities.

The city shall install solar photovoltaic systems in municipal buildings and facilities to the extent practicable to meet the city's electrical demand. All solar photovoltaic systems installed at a city building or facility must be designed, erected, and installed in accordance with all applicable codes, regulations, and standards. For the purposes of this article, "solar photovoltaic system" means any system that converts solar radiation to electricity. (1990 Code, Ch. 2, Art. 38, § 2-38.1) (Added by Ord. 15-49)

ARTICLE 39: DEPARTMENT OF DESIGN AND CONSTRUCTION

Sections

§ 2-39.1 General.

The department of design and construction shall be responsible for:

(1) The planning, engineering, design, and construction of city buildings, structures, and grounds, except as otherwise provided by the Charter or ordinance;

(2) Surveys, title searching, appraising, and negotiation for acquisition of lands and easements for rights-of-way for street widening and extensions, sewers, water, drainage, and other public uses; and

(3) Planning, engineering, design, and construction services and expertise as needed for public works and improvement district functions other than for sewers.

(1990 Code, Ch. 2, Art. 39, § 2-39.1) (Added by Ord. 16-29)

§ 2-39.2 Notice of proposed condemnation action.

Whenever the city proposes to acquire real property by means of the right and power of eminent domain, the city shall mail a notice to every owner and lessee of record of the property whenever the council is being requested to authorize condemnation of the property. The notice shall be mailed to the owners' and lessees' last known addresses no later than the date a request is transmitted to the council for authorization, pursuant to HRS § 101-13, to institute condemnation proceedings against the owners and claimants of the property sought to be condemned.

(1990 Code, Ch. 2, Art. 39, § 2-39.2) (Added by Ord. 16-29)

§ 2-39.3 Green building standards for city facilities.

(a) Qualifying city facilities shall comply with LEED™ Silver, in the version most recently adopted by the U.S. Green Building Council, as a minimum design standard.

(b) As used in this section, "qualifying city facilities" means facilities with a floor area greater than 5,000 square feet, the design of which is appropriated in the executive capital budgets for the fiscal years 2008 and thereafter. The term excludes wastewater treatment, solid waste, and other facilities for which LEED™ certification is not available or facilities for which the director of design and construction has determined that compliance with LEED™ Silver would be infeasible or inappropriate.

(1990 Code, Ch. 2, Art. 39, § 2-39.3) (Added by Ord. 16-29)

ARTICLE 40: SPONSORSHIP OF CITY ASSETS*

Sections

Editor's note:

** Article 40 of Chapter 2 will be repealed on May 12, 2022.*

§ 2-40.1 Declaration of legislative intent—Purpose.

In an effort to use and maximize the community's resources, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations, and other organizations, through commercial sponsorships. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternate revenue streams that will increase the city's ability to deliver services and to maintain city assets, including its facilities, parks, programs, equipment, and tangible property, and provide enhanced levels of service and maintenance beyond the core levels funded from the city's general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition should adhere to the aesthetic values and purposes of the city's assets. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the city asset or be perceived as creating a proprietary interest. Sponsorship recognition must conform to all applicable laws and rules.

The purpose of this article is to establish the criteria and parameters for the granting of sponsorship opportunities in relation to city assets. This article provides executive agencies the authority to consider and approve sponsorship opportunities for a person that has provided a financial contribution to support a city asset. (1990 Code, Ch. 2, Art. 40, § 2-40.1) (Added by Ord. 17-16)

§ 2-40.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Cash Sponsorship. A type of sponsorship where a sponsor provides cash.

City Asset. A city facility, park, program, equipment, or tangible property.

Equipment. Any vehicle, construction equipment, machine, device, gear, apparatus, or tool with a value in excess of $25,000 used in the operation of the city, but does not include city-operated buses or special transit service vehicles.

Facility. Any building, including any stadium, arena, or station, owned, managed, or operated by the city.

Financial Contribution. Cash, goods, or services, paid or provided to the city at such time or times as set forth in the sponsorship agreement.

In-Kind Sponsorship. A type of sponsorship where a sponsor provides a good or service.

Person. Has the same meaning as defined in § 1-4.1.

Program. Any program, festival, contest, event, fair, athletic race, gala, or similar event provided by a city department in connection with the operations of a department.

Sponsor. A person that enters into a sponsorship agreement with the city.

Sponsorship. A mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for sponsor recognition on or in connection with one or more city assets, for a specified period of time.

Sponsorship Agreement. A written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor. A sponsorship agreement may include provisions that allow for the recognition of the sponsor.

Sponsorship Recognition. A tangible acknowledgement and expression of gratitude issued as part of the sponsorship agreement.
(1990 Code, Ch. 2, Art. 40, § 2-40.2) (Added by Ord. 17-16)

§ 2-40.3 Exclusions.

This article does not apply to:

(1) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required;

(2) Memorials and the naming of a city park, site, or facility subject to §§ 22-9.3 to 22-9.5;

(3) Parades or events sponsored or co-sponsored by the city pursuant to other ordinances or rules;

(4) Facilities in Kapiolani Regional Park; and

(5) Facilities in Hanauma Bay Nature Preserve.

(1990 Code, Ch. 2, Art. 40, § 2-40.3) (Added by Ord. 17-16)

§ 2-40.4 Authorization required.

(a) City assets are intended and exclusively used for operations of the city in providing governmental services and programs to and for the public, and except as required by law or expressly established by an affirmative action by the council, no person will have a right to access or use any city asset for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon a city asset will require specific authorization.

(b) The city possesses sole and final decision-making authority for determining the appropriateness of a sponsorship and reserves the right to refuse to enter into any proposed sponsorship agreement. Approval of proposals will be subject to the following guidelines:

(1) A director of an executive agency shall have the authority to enter into a sponsorship agreement, pursuant to the rules to be adopted under § 2-40.6, that is for:

(A) A term of less than five years; and

(B) A financial contribution of less than $50,000;

(2) All sponsorship agreements for a financial contribution of $50,000 or more must be approved by a resolution adopted by the council; and

(3) All sponsorship agreements for a period of five years or more must be approved by a resolution adopted by the council.

(1990 Code, Ch. 2, Art. 40, § 2-40.4) (Added by Ord. 17-16)

§ 2-40.5 Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements will be deposited into the appropriate fund as determined by the director of budget and fiscal services, provided that such funds are expended for their designated purpose.

(1990 Code, Ch. 2, Art. 40, § 2-40.5) (Added by Ord. 17-16)

§ 2-40.6 Sponsorship rules.

The director of budget and fiscal services or other director as designated by the mayor shall adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article. In adopting the rules, the director of budget and fiscal services or other director as designated shall ensure that this article and any sponsorship agreements entered into pursuant to this article are implemented in a manner consistent with all other applicable laws including and without limitation, HRS Chapter 89.

(1990 Code, Ch. 2, Art. 40, § 2-40.6) (Added by Ord. 17-16)

§ 2-40.7 Sponsorship requirements.

(a) The following requirements apply to all sponsorship agreements:

(1) The city shall not relinquish any aspect of the city's right to direct, manage, and control the city asset;

(2) Sponsorship recognition, publications, and publicity must conform to all applicable laws and rules, including but not limited to HRS Chapter 445, Part IV, pertaining to outdoor advertising, including billboards, and Chapter 21, Article 7, pertaining to sign regulations;

(3) The sponsorship must not create a conflict of interest for the city;

(4) The sponsorship must not confer a personal benefit, directly or indirectly, to any particular city officer or employee;

(5) Sponsorships shall not be deemed to constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or the city assets;

(6) No materials, communications, or advertisements including but not limited to print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, may use the city's name, seal, or logo without express prior written approval from the city;

(7) Any physical form of sponsorship recognition must blend in with the surrounding environment;

(8) The sponsorship must not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;

(9) Sponsorship recognition, branding, publicity, and advertising in conjunction with the sponsorship agreement must not contain the following:

(A) Obscenity;

(B) Pornography;

(C) Incitement to imminent lawless action;

(D) Speech presenting a grave and imminent threat;

(E) Fighting words;

(F) Fraudulent material;

(G) True threats;

(H) Defamatory, libelous, or slanderous material;

(I) Solicitations to commit, or speech integral to, criminal conduct;

(J) The promotion of drugs, alcohol, tobacco, gambling, or adult entertainment;

(K) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in or campaigning for public office; or

(L) Religious speech that advocates or opposes a religion or religious belief;

(10) Each sponsorship agreement must specify whether the sponsorship for a particular asset will be exclusive or nonexclusive;

(11) Sponsorship recognition may include the following, or any combination thereof, during the term of the agreement:

(A) Recognition of the sponsor for a specific city program;

(B) Appropriate mention in media releases and promotional materials of a sponsor for the city program;

(C) Appropriate sponsorship recognition or display at the city program location;

(D) Appropriate recognition on the program website as a sponsor for the program; or

(E) Other possible benefits as negotiated;

(12) Sponsors shall defend, indemnify, and hold harmless the city, its officers, agents, and employees against all liability, loss, damage, cost, and expense, including attorney fees, arising out of or resulting from the acts or omissions of the sponsor, its directors, employees, officers, agents, or contractors, in connection with the sponsorship and the sponsorship agreement;

(13) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city;

(14) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship recognitions, affiliations, and messages; and

(15) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations are prohibited.

(b) The following sponsorships will not be accepted:

(1) Sponsorships from persons that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;

(2) Sponsorships from persons that have a pending open application with the city for a discretionary approval;

(3) Sponsorships from persons opposing the city in a pending or ongoing legal proceeding; and

(4) Sponsorships that involve situations where the corporation counsel determines that there would be or are conflicts of interest.

(1990 Code, Ch. 2, Art. 40, § 2-40.7) (Added by Ord. 17-16)

§ 2-40.8 Severability.

The provisions of this article are declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion will not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance will not be affected.

(1990 Code, Ch. 2, Art. 40, § 2-40.8) (Added by Ord. 17-16)

ARTICLE 41: ENFORCEMENT OF WATER SAFETY RULES BY LIFEGUARDS

Sections

§ 2-41.1 Authority.

Lifeguards employed by the city are authorized to accept appointment by the State department of transportation as enforcement officers, in accordance with HRS § 266-24, and to carry out water safety enforcement duties and responsibilities assigned by the State department of transportation.
(1990 Code, Ch. 41, Art. 24, § 41-24.1) (Added by Ord. 88-3)

§ 2-41.2 Administration.

Appointment of and service by city lifeguards as enforcement officers under this article shall be governed by applicable rules of the State department of transportation, the department of parks and recreation, and all other applicable laws, including the provisions of Chapter 1, Article 8.
(1990 Code, Ch. 41, Art. 24, § 41-24.2) (Added by Ord. 88-3)

§ 2-41.3 Rules.

Subject to HRS Chapter 91, the director of parks and recreation shall adopt rules having the force and effect of law for the implementation, administration, and enforcement of this article.
(1990 Code, Ch. 41, Art. 24, § 41-24.3) (Added by Ord. 88-3)

ARTICLE 42: COMMUNITY WORKFORCE AGREEMENTS

Sections

§ 2-42.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agreement to be Bound. The agreement attached to the Community Workforce Agreement that may be executed by a Contractor as a condition of working on a Covered Project, under which a Contractor agrees to be bound by the CWA.

Community Workforce Agreement or CWA. The multi-craft collective bargaining agreement between the city, the Hawaii Building and Construction Trades Council and its affiliated labor unions, and the Hawaii Construction Alliance and its affiliated labor unions, that governs the terms and conditions of employment on Covered Projects.

Contractor. Any individual, firm, partnership, corporation, or other business entity (including but not limited to a general contractor, project manager, construction manager, or primary employer, or combination thereof), including joint ventures, and any successors and assigns of the foregoing, that has entered into a contract to perform, assign, award, or subcontract any part of the construction work on a Covered Project, and all contractors and subcontractors of any tier.

Covered Work. All work covered by Master Agreements of the Unions.

Covered Project. Any large-scale public works project, including any police, fire, emergency services, erosion, rock-fall mitigation, road, stormwater or sewer infrastructure, and pump station projects, in which there is a contract in excess of $2,000,000 for the building, erection, installation, or assembly of a new structure, building, or facility, or of new infrastructure, including any such projects receiving funding from a bond issuance of the city, and any other public works project where the city has determined that delay in completing the project may lead to interruption or delay of services or use of facilities that are important to the essential operations or infrastructure of the city; provided, however, that the term does not include the routine operation or maintenance of a structure, building, or facility, or of new infrastructure.

Local Area. The City and County of Honolulu.

Maintenance. The upkeep of a structure, building, or facility, or of infrastructure, to preserve the original functional and operational state of the structure, building, facility, or infrastructure, and includes any task that has

been traditionally and historically performed by public workers in or upon structures, buildings, facilities, and infrastructure.

Master Agreement. The master collective bargaining agreement of each Union signatory to the Community Workforce Agreement.

Operation. Activities related to the normal performance of the functions for which a structure, building, facility, or infrastructure is intended to be used.

Union. Includes the Hawaii Building and Construction Trades Council ("HBCTC") and the Hawaii Construction Alliance ("HCA"), and their affiliated labor organizations, acting on their own behalf and on behalf of their own respective affiliates and member organizations, whose names are subscribed to the Community Workforce Agreement. The parties to the Community Workforce Agreement may mutually agree, in writing, to amend or modify the list of affiliated labor organizations in the event there is a change in affiliation. Nothing in this article is intended to imply that the city has the authority to approve which local unions may affiliate with the HBCTC or HCA.
(Added by Ord. 19-24; Am. Ord. 20-14)

§ 2-42-2 Contract awards.

The award of a contract on a Covered Project may be conditioned upon the execution of an Agreement to be Bound by the CWA, and all Contractors on all Covered Projects so conditioned must execute an Agreement to be Bound by the CWA as a precondition of performing, assigning, awarding, or subcontracting work on a Covered Project.
(Added by Ord. 20-14)

§ 2-42.3 Required terms for citywide community workforce agreement.

In the event a Community Workforce Agreement is required, the CWA must include the following terms:

(1) The CWA must be binding on all Contractors at all tiers, and all Contractors shall condition the engagement of each subcontractor on the subcontractor's execution of an Agreement to be Bound;

(2) The City may select any qualified bidder for its award of a contract for a Covered Project without regard to whether it is otherwise a signatory to a Master Agreement. The bidder need only be willing, ready and able to execute and comply with the terms of the CWA in order to be awarded a contract on a Covered Project;

(3) The CWA must prohibit discrimination on any basis prohibited by federal, State, or local law;

(4) Alleged violations of the CWA must be resolved by a mandatory, final, and binding arbitration procedure;

(5) The Unions shall refrain from strikes, picketing, and other labor actions on or arising from a Covered Project and the Contractors shall refrain from lockouts or similar actions on or arising from a Covered Project;

(6) All apprentices must be indentured in a State-approved apprenticeship program;

(7) Incorporation of the "Helmets to Hardhats" program, which creates pathways for careers in construction to returning veterans; and

(8) The CWA must be in effect for a five-year term, and unless otherwise ordered by the city, will roll over for successive five-year terms thereafter. The CWA must apply to each Covered Project until completion of the project.

(Added by Ord. 20-14)

ARTICLE 43: "KEEP HAWAII HAWAII - PROMISE TO OUR KEIKI PLEDGE"

Section

§ 2-43.1 "Keep Hawaii Hawaii - Promise to Our Keiki Pledge."

(a) For the purposes of this article, the term "agency" means the mayor's office of economic development, or such other city department or agency as may be designated by the mayor.

(b) There is established within the agency a "Keep Hawaii Hawaii - Promise to Our Keiki Pledge" aimed at promoting visitor awareness and on-island behaviors that are as environmentally responsible and culturally sensitive as possible.

(c) The agency will create and promote a "Keep Hawaii Hawaii - Promise to Our Keiki Pledge" that joins in the spirit of the other established county pledges.

(d) The agency will publish the pledge in multiple languages and formats to improve accessibility, especially to visitors from abroad.

(e) The agency may partner with other public and private persons and entities, including those in the airline, cruise ship, visitor, and hospitality industries, and those receiving funding from the Hawaii Tourism Authority, to promote the pledge.

(f) The pledge may be promoted on the city's websites and may be promoted on such other media and social media as the agency deems appropriate.

(g) The agency may institute community service dates such as those that have been used in other counties where select businesses and nonprofit organizations host volunteer activities at various locations throughout the county in order to heighten community awareness of the pledge.

(Added by Ord. 20-2)

CHAPTER 3: ADDITIONAL BOARDS, COMMISSIONS, AND COMMITTEES

Articles

ARTICLE 1: TEMPORARY VACANCIES ON BOARDS, COMMISSIONS, AND COMMITTEES

Sections

§ 3-1.1 Purpose.

This article is enacted pursuant to the Charter § 13-103.1(e), which provides that temporary vacancies on boards, commissions, and committees shall be filled by the mayor as provided by ordinance.
(Sec. 3-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 1, § 3-1.1)

§ 3-1.2 Filling of temporary vacancies.

(a) The mayor is authorized to fill, subject to council approval, temporary vacancies on boards, commissions, or committees for which the mayor has been initially authorized by charter, law, or ordinance to make an original appointment on boards, commissions, or committees when a regularly appointed member of a board, commission, or committee is ill, incapacitated, out of the State, or when such office becomes temporarily vacant for any other reason.

(b) Whenever the mayor fills a temporary vacancy on boards, commissions, or committees for less than 120 calendar days, no confirmation by council is necessary.

(c) The mayor's written request for approval to fill a temporary vacancy of less than 120 calendar days shall include the effective date of appointment, the effective date of termination, and the reasons for appointment.

(d) *No reappointment permitted.* The mayor shall not reappoint the same temporary appointee who has been appointed to fill a temporary vacancy on boards, commissions, or committees for less than 120 calendar days on the same board, commission, or committee upon the expiration of the initial 120 calendar days.

(e) This section shall not apply to temporary appointments made pursuant to § 3-1.5.
(Sec. 3-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 1, § 3-1.2) (Am. Ord. 08-6)

§ 3-1.3 When confirmation necessary by council.

(a) *Filling of temporary vacancies in excess of 120 calendar days.* The mayor is authorized to fill temporary vacancies on boards, commissions, or committees for which the mayor has been initially authorized by Charter, law, or ordinance to make an original appointment on boards, commissions, or committees when a regularly appointed member of a board, commission, or committee is:

(1) Ill;

(2) Incapacitated;

(3) Out of the State; or

(4) When such office becomes temporarily vacant for any other reason in excess of 120 calendar days; provided such temporary appointee shall be subject to confirmation by the council as provided in Charter § 3-107.9 (public hearing).

(b) *No reappointment.* The mayor shall not reappoint the same temporary appointee who has been appointed to fill a temporary vacancy on boards, commissions, or committees in excess of 120 calendar days on the same boards, commissions, or committees upon the expiration of the initial temporary appointment.

(c) *Date of termination.* In any message from the mayor stating that the temporary vacancy is to be filled in excess of 120 calendar days, the mayor shall state the date of termination of such appointment.

(d) *No confirmation of council necessary—when.* When the mayor fills a temporary vacancy on boards, commissions, or committees pursuant to this section, no confirmation by the council is necessary where the Charter does not require confirmation by the council of original appointees of the mayor on such boards, commissions, or committees.

(Sec. 3-1.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 1, § 3-1.3)

§ 3-1.4 Termination of appointment.

All appointments, with the exception of the temporary appointments made under § 3-1.5, shall terminate on the date noted on the mayor's letter of appointment.

(Sec. 3-1.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 1, § 3-1.4) (Am. Ord. 08-6)

§ 3-1.5 Temporary appointments to attain quorum for contested case hearings.

(a) When a board lacks a quorum to adjudicate a specific contested case due to the recusal or disqualification of one or more regularly appointed members, the mayor may make temporary appointments to the board. For the purposes of this section, "board" has the same meaning as any board, commission, or committee that has the power to conduct a contested case as defined in HRS Chapter 91.

(b) The number of temporary appointments the mayor may make to the board shall not exceed the minimum number of members necessary to constitute a quorum to adjudicate the specific contested case.

(c) Any temporary appointee appointed pursuant to this section shall substitute for and have the qualifications, experience, and training as required of the member who has been disqualified or recused from the contested case.

(d) The appointment of a temporary appointee under this section shall be limited to the duration of the specific contested case and shall terminate upon the adoption of the final decision and order in the contested case by the board.

(e) Temporary appointments made pursuant to this section shall not be subject to confirmation by the council.

(f) The mayor shall give written notice to the council when temporary appointments are made pursuant to this section. Such notice shall identify the contested case, the effective date of appointment, and reasons for appointment.

(1990 Code, Ch. 3, Art. 1, § 3-1.5) (Added by Ord. 08-6)

§ 3-1.6 Inapplicability.

(a) This article shall not apply to temporary appointments on boards, commissions, or committees for which the mayor is not required by law, Charter, ordinance, or rules to have either the council's approval or confirmation.

(b) This article also shall not apply to the rate commission established under Charter § 6-1704.

(Sec. 3-1.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 1, § 3-1.6) (Am. Ords. 97-02, 08-6)

ARTICLE 2: COMMISSION ON CULTURE AND THE ARTS

Sections

§ 3-2.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Arts. Includes music, dance, painting, drawing, sculpture, architecture, drama, poetry, prose, crafts, industrial design, interior design, fashion design, photography, television, motion picture art, and all other creative activity of imagination and beauty.

Commission. The commission on culture and the arts established pursuant to § 3-2.2.

Culture. Includes the arts, customs, traditions, and mores of all of the various ethnic groups of Hawaii. (Sec. 3-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.1) (Am. Ord. 95-68)

§ 3-2.2 Creation.

(a) There shall be a commission on culture and the arts consisting of 11 members, excluding ex officio members, who shall be appointed by the mayor with the approval of the council. There shall be one member for each of the below-listed categories, except for the category specified in subdivision (3) that shall have two members:

(1) Design: graphic, industrial, visual;

(2) Urban design: architecture, landscape architecture, and interior design;

(3) Drawing, painting, printmaking, and sculpture;

(4) Crafts: ceramics, weaving, woodworking, etc.;

(5) Music: contemporary and classical;

(6) Theater arts: drama;

(7) Dance;

(8) Multi-media: cinematography, photography, television;

(9) Literature: prose, poetry; and

(10) At large.

(b) Each member of the commission shall be appropriately qualified to fulfill the roles of the commission within each member's respective category. Of the members originally appointed:

(1) Two shall serve for a term of one year;

(2) Three shall serve for a term of two years;

(3) Two shall serve for a term of three years;

(4) Two shall serve for a term of four years; and

(5) Two shall serve for a term of five years.

Thereafter, each member shall be appointed for a term expiring five years from the date of expiration of the term of the member's predecessor, or in the case of a vacancy, for the remainder of the unexpired term. Each member shall serve until the member's successor has been appointed and qualified. The commission shall annually select a chair and a vice-chair from its members, whose duties shall be as set forth in this article and in the rules adopted by the commission.

(Sec. 3-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.2)

§ 3-2.3 Rules—Meetings.

The commission shall adopt the necessary procedural rules which will enable it to conduct its business and to carry out its powers, duties, and functions. Meetings of the commission shall be held at the call of the chair but at least once each calendar quarter. Six members shall constitute a quorum and the affirmative vote of a majority of members present at such meeting, a quorum being present, shall be necessary to take any action.

(Sec. 3-3.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.3)

§ 3-2.4 Objectives, powers, duties, and functions.

The objectives of the commission shall be to assist the city in attaining national preeminence in culture and the arts, to assist the city in the preservation of the artistic and cultural heritages of all its people, to promote a community environment which provides equal and abundant opportunity for exposure to culture and the arts in all its forms, and to encourage and provide equal opportunity for the development of cultural and artistic talents of the

people of Honolulu. In the furtherance of these objectives, the commission shall have the following powers, duties, and functions.

(a) The commission shall decide on and purchase the specific works of art to be acquired under § 3-2.7. In doing so, the commission shall be responsible for the evaluation, selection, commissioning of artists, reviewing of design, reviewing of implementation and works in progress, purchasing of works of art not specifically commissioned by the commission, and placement of art in city buildings and facilities. In performing this function, the commission shall consult with the affected agencies and departments.

In addition, the commission shall determine the acceptability of works of art offered as gifts to the city. If monetary gifts are made to the city for the acquisition of works of art pursuant to Charter § 13-113, the commission shall be responsible for the acquisition of such works of art.

(b) In the area of community aesthetics, the commission shall review the architectural, landscape, and interior design of all planned and existing city buildings, grounds, and facilities, and make recommendations to the executive and legislative branches of the city with respect to the establishment of aesthetic standards.

(c) In the development of the city's program for the preservation, advancement, and dissemination of culture and the arts to its citizens, the commission shall make recommendations and submit proposals to the various branches, departments, agencies, and offices of the city with respect to the formulation of new arts and culture programs and the expansion of existing programs.

(Sec. 3-3.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.4) (Am. Ord. 95-68)

§ 3-2.5 Compensation.

The members of the commission shall receive no compensation, but shall be entitled to reimbursement of expenses incurred by them in the performance of their duties.

(Sec. 3-3.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.5)

§ 3-2.6 Administrative services.

(a) The commission shall be attached to the office of the mayor for administrative purposes and the mayor shall cause employees of the mayor's office to furnish such services as may be needed by the commission. The mayor shall designate an employee of the city to serve as coordinator and provide liaison between the commission and the various city agencies, departments, and offices.

(b) In addition to the coordinator, the following officials, or their designated representatives, shall attend and participate ex officio in all meetings of the commission:

(1) The director of community services;

(2) The director of parks and recreation;

(3) The director of planning and permitting;

(4) The director of enterprise services; and

(5) The Royal Hawaiian bandmaster.

The ex officio representatives shall have no vote in proposed actions of the commission.
(Sec. 3-3.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.6) (Am. Ords. 96-58, 97-17)

§ 3-2.7 Art in city buildings.

(a) An amount equal to not less than 1 percent of the construction phase appropriation for the original construction of any city building shall be appropriated to the commission for the acquisition of works of art. The moneys shall be used solely for the following purposes:

(1) Costs related to the acquisition of works of art, including the commissioning of artists and the purchase of art work;

(2) Site modifications, display, and interpretive work necessary for the exhibition of works of art;

(3) Upkeep services, including maintenance, repair, and restoration of works of art; and

(4) Storing and transporting works of art.

(b) Notwithstanding the foregoing limitation on the amount of the appropriation for acquisition of works of art, an amount in excess of 1 percent may be set aside upon recommendation of the commission and with the concurrence of the council. If the amount shall not be required in total or in part for any project, the unrequired amounts may be accumulated and expended for the purposes specified in subsection (a).

(c) (1) The commission shall consider, unless impracticable, placing the works of art acquired pursuant to this section in or at the following city buildings listed in their order of priority:*

(A) In or at the city building to which the 1 percent funding for art requirement applies; provided that the building is frequented by the public;

(B) If the city building described in paragraph (A) is not a building frequented by the public, in or at a city building frequented by the public that is within close proximity to the building described in paragraph (A);

(C) If neither the city building described in paragraph (A), nor any city building in close proximity thereto, is frequented by the public, in or at any other city buildings frequented by the public; and

(D) If it is impracticable to place works of art acquired in accordance with subsection (a) in any of the city buildings described in paragraphs (A), (B), or (C), in or at other city buildings.

(2) For the purposes of this subsection:

(A) A work of art shall be placed “in or at a city building” if it is placed in or outside of, as an integral part of, or attached to the building;

(B) The placement of works of art at a particular building shall be deemed "impracticable" if the art would be exposed to damage, abnormal wear, or threat of vandalism or theft, if there is no suitable surface at the building for the display of art, if there already is an adequate number of works of art displayed at the building, or if for other reasons, the commission finds that the placement of the art at the particular building would be inadvisable; and

(C) "City buildings that are frequented by the public" include:

(i) Publicly owned buildings, any part of which is routinely visited by the public; and

(ii) Those portions of privately owned buildings that are leased to city agencies and routinely visited by the public.

(d) Moneys that the commission was unable to expend or encumber in the immediately preceding calendar year for the acquisition of works of art before their lapsing pursuant to Charter § 9-106.3 may be reappropriated in the capital budget effective July 1 of the fiscal year next following the lapsing of such funds.

(Sec. 3-3.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 2, § 3-2.7) (Am. Ords. 95-68, 96-52, 14-24)

Editor's note:

** Ord. 96-52 shall not apply to nonmoveable works of art that are already on display in or at a city building, or have been commissioned by the city on or after the effective date of the ordinance (July 31, 1996), and are intended to be exhibited or displayed at a particular location. See § 4 of Ord. 96-52.*

§ 3-2.8 Art inspection, inventory, and maintenance.

(a) To preserve and account for the city's movable and permanent works of art, the mayor's designated coordinator and liaison to the commission, referred to as the arts coordinator, shall:

(1) Annually inspect and conduct an inventory of such works of art;

(2) Develop an annual maintenance, preservation, and restoration program and budget for the city's movable and permanent works of art; and

(3) File with the city clerk on a biennial basis a report on the art inspections and inventories conducted since the immediately prior report.

The arts coordinator may engage consultants as is necessary to assist in the performance of these duties.

(b) On or before March 1 of every year, the arts coordinator shall submit to the mayor and the council:

(1) An annual maintenance, preservation, and restoration program for the city's art inventory, including a description of the program, its needs and accomplishments; and

(2) The amount of funds budgeted for the upcoming fiscal year for the annual inspection and inventory, and for the maintenance, preservation, and restoration program.

(c) To accomplish the duties provided in this section, the arts coordinator may request funds through the annual operating budget.

(d) For the purposes of this section, "movable and permanent works of art" means a work of art, as defined in § 3-2.1, purchased or otherwise acquired by the city or made an integral part of a city building.

(1990 Code, Ch. 3, Art. 2, § 3-2.8) (Added by Ord. 90-82; Am. Ord. 14-24)

ARTICLE 3: OAHU COMMITTEE ON CHILDREN AND YOUTH*

Sections

§ 3-3.1 Organization.

There shall be an Oahu committee on children and youth as provided by law. (Sec. 3-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 3, § 3-3.1)

Editor's note:

** In general, see HRS Chapter 352D.*

ARTICLE 4: POUNDMASTERS*

Sections

Editor's note:

**Brands, see HRS Chapter 142, Part II.*

**City's authority to provide public pounds, see HRS § 46-1.5(15)*

§ 3-4.1 Appointment.

The mayor, with the approval of the council, shall appoint suitable persons as poundmasters for the city whose term of office shall be coterminous with the term of the mayor, but who shall continue in office until their successors are duly qualified and appointed, and whose compensation shall be as hereinafter provided.
(Sec. 3-5.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.1)

§ 3-4.2 Acting poundmaster.

The mayor may appoint an acting poundmaster to serve during the period in which any regular poundmaster is temporarily absent from the city, ill, or otherwise unable temporarily to perform the poundmaster's duties as poundmaster. Such acting poundmaster shall have the same powers and duties as the regular poundmaster.
(Sec. 3-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.2)

§ 3-4.3 Duties—Compensation.

(a) Each poundmaster shall be responsible for the safekeeping and proper care of any estray committed to the poundmaster's charge.

(b) The poundmaster shall give the estrays a sufficient quantity of food and water, and any poundmaster who shall abuse or neglect any estray in the poundmaster's charge, shall forfeit the pound fees to which the poundmaster would otherwise have been entitled and shall also be liable to the owner thereof for damages.

(c) Each poundmaster shall receive for the poundmaster's services from the owner of such estray the following fees:

(1) *Impounding of estrays.*

(A) *Animals trespassing on private property.* The owners of such animals shall pay the poundmaster the fees prescribed in HRS § 142-70;

(B) *Animals trespassing on public highways or property.* The owners of such animals shall pay the poundmaster the fees prescribed in HRS § 142-66; and

(C) *Pound fees.*

(i) Bulls, stallions, and boars of breeding age, $5 for each animal for each 24-hour period;

(ii) All other estrays, $3 for each animal for each 24-hour period;

(2) *Fees for transporting animals to pound or back to owner or both; and*

Type of Animal	***Use of Trailer***	***Use of Tow Vehicle***	***Helper's Fees***
Bulls, stallions, and boars of breeding age	$5	$0.50 per mile	$3 per hour
All other strays	$2.50	$0.50 per mile	$2 per hour

(3) *Fees for transporting animals other than to pound or back to owner.* The poundmaster is authorized to negotiate with the owner of the animal for the fees to transport and to keep animals other than as prescribed in paragraphs (A) and (B).

(Sec. 3-5.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.3)

§ 3-4.4 Application for impounding.*

No poundmaster shall receive estrays that have trespassed on private property until the person wishing to impound the same shall have signed such person's name to a statement setting forth the number and species of estrays, locality trespassed upon, name of owner or owners of such estrays, if known, together with the date on which they were taken and the amount of damages claimed.

(Sec. 3-5.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.4)

Editor's note:

** Damages for trespass, see HRS §§ 142-62, 142-63, 142-64, 142-66, 142-69.*

§ 3-4.5 Estrays.

If any horse, mule, ass, hog, sheep, goat, or cattle shall be found at large, and not upon the land of the owner or person having charge of such animal, or if found doing damage to the property of private individuals, or of the government, such animal shall be regarded as estray within the meaning of this article.

(Sec. 3-5.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.5)

§ 3-4.6 Notice and method of pound sales.***

It shall be the duty of every poundmaster to publish a notice in a newspaper of general circulation in the city as soon as possible after the expiration of 24 hours from the time of impounding of any estrays giving a full description of the same together with an announcement of the day on which it will be sold at public auction if unclaimed, for which notice the poundmaster shall receive $1 for each estray included in the notice plus the cost of publication which shall be assessed pro-rata according to the number of animals advertised therein. The poundmaster shall also upon the impounding of any animal, notify in writing any person known to the poundmaster to be the owner of such animal. For each such notice the poundmaster shall receive 25 cents. If the owner does not claim such estray and pay the poundmaster's fees, together with the charges for advertising and notifying and the damages claimed for trespass and expense of driving or conveying, within five days from the date of impounding or at any time before sale, the poundmaster shall sell such estray at public auction to the highest bidder at 2:00 p.m. on the first Saturday afternoon ensuing after the expiration of the five days.
(Sec. 3-5.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.6)

Editor's note:

****Damages for trespass, see HRS §§ 142-62, 142-63, 142-64, 142-66, 142-69.*
Expenses for driving and conveying, see HRS § 142-70.
Owner's relief, see HRS § 142-72.
Jurisdiction of district magistrate, appeal, see HRS § 142-73.

§ 3-4.7 Proceeds of sales.

The proceeds of such sale after deducting the poundmaster's fees, expenses of advertisement, expenses of conveying or driving, and damages shall be remitted by the poundmaster to the director of budget and fiscal services and shall be deposited in the general fund. If the owner of the estray shall substantiate the owner's claim thereto within one year, the council may make provision for reimbursement to the owner of the amount so deposited.
(Sec. 3-5.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.7)

§ 3-4.8 Administrative services.

The poundmasters shall be attached to the department of parks and recreation for administrative, fiscal, and budgeting purposes and the director of parks and recreation shall cause employees of the director's department to furnish such administrative, fiscal, and budgeting services as may be needed by the poundmasters from time to time.
(Sec. 3-5.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 4, § 3-4.8)

ARTICLE 5: ANIMAL CONTROL

Sections

§ 3-5.1 Definitions.

For the purposes of this article, the following definition apply unless the context clearly indicates or requires a different meaning.

Animal Control Contractor. The duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the city to perform animal control services.
(1990 Code, Ch. 3, Art. 5, § 3-5.1) (Added by Ord. 02-54)

§ 3-5.2 Authorization to issue summons.

Officers of the animal control contractor, having the duty of seizing and impounding stray dogs pursuant to Chapter 12, Article 4, who are deputized as special officers by the chief of police for the purpose of enforcing this article, are authorized and empowered to issue summonses according to the procedures set forth in Chapter 12, Article 4, to violators of Chapter 12, Articles 4 and 6.
(Sec. 3-6.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 5, § 3-5.2) (Am. Ords. 95-21, 02-54)

§ 3-5.3 Expenses incurred—Appropriations.

All expenses of seizing, impounding, and disposing of stray dogs shall be borne by the animal control contractor; provided that the council may from time to time make such appropriations to assist the contractor, as in its discretion and judgment shall be deemed necessary.
(Sec. 3-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 5, § 3-5.3) (Am. Ord. 02-54)

§ 3-5.4 Annual report required.

The animal control contractor shall render a full report of its activities and operations relating to the impounding of stray dogs and cats to the department of customer services and council within one month after the end of each fiscal year. The report must include, among other things, the number of impounded dogs and cats that

were adopted, the number of impounded dogs and cats that were placed in foster care, and the number of impounded dogs and cats that were euthanized.
(Sec. 3-6.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 5, § 3-5.4) (Am. Ords. 02-54, 20-1)

§ 3-5.5 Authorization to impound cats.

The animal control contractor is authorized and empowered to impound any cat released to the animal control contractor and to dispose of the same pursuant to Chapter 12, Article 6.
(1990 Code, Ch. 3, Art. 5, § 3-5.5) (Added by Ord. 95-21; Am. Ord. 02-54)

ARTICLE 6: ETHICS COMMISSION*

Sections

Editor's note:

** See also Chap. 3, Art. 8.*

§ 3-6.1 Membership, term, and appointment.

The number, term, and appointment of members of the ethics commission shall be subject to Charter § 11-107. (Sec. 3-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.1) (Am. Ord. 01-51)

§ 3-6.2 Rules—Meetings.

Meetings of the commission shall be held at the call of the chair and the affirmative vote of a majority of the entire membership shall be necessary to take any action.
(Sec. 3-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.2)

§ 3-6.3 Powers, duties, and functions.

(a) The commission shall render advisory opinions at any time at the request of an officer or employee of the city involving the possible conflict of interest or unethical conduct on the part of or the solicitation, acceptance, or receipt of a gift by such officer or employee.

(b) The commission shall also render advisory opinions regarding complaints.

(c) The commission shall have jurisdiction for purposes of investigation and taking appropriate action over a complaint or request for an advisory opinion alleging a violation of the standards of conduct established in Charter Article XI or of Chapter 1, Article 19 by a current or former officer or employee that has been submitted to the ethics commission within six years after the alleged violation occurred. Any investigation

commenced by the commission on its own initiative into an alleged violation of Charter Article XI or of Chapter 1, Article 19 by a current or former officer or employee shall be commenced within six years after the alleged violation occurred.

(d) The commission shall recommend to the appointing authority or the council, in the case of a councilmember, appropriate disciplinary action against officers and employees found to have violated the standards of conduct established in Charter Article XI or Chapter 1, Article 19.

(e) The commission may impose civil fines as set forth in § 3-8.5.

(f) The commission may submit to the mayor and council recommendations and reports that it deems advisable and that pertain to the standards of conduct contained in Charter Article XI, to the administration referred to in Article XI or to any other matter relating to the fostering and maintenance of ethical conduct.

(g) The commission may initiate or make investigations and hold hearings.

(h) The commission may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and issue subpoenas for the production for examination of any books, papers, or other documents relative to any matter under investigation or in question before the commission. The commission may exercise its subpoena power upon the signature of a subpoena by the chair of the commission, by the vice chair, or by a vote of the majority of the members of the commission.

(i) The commission may, from time to time adopt, amend, and repeal such rules, not inconsistent with the provisions herein and of Chapter 1, Article 19, as in the judgment of the commission seem appropriate for the carrying out of the provisions herein and of Chapter 1, Article 19, and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules, when approved, adopted, and filed as provided in HRS Chapter 91, shall have the force and effect of law.

(j) The commission may disclose the name of any officer or employee who has been determined by the commission, following an investigation and a hearing or opportunity for a hearing, to have violated Chapter 1, Article 19 or of Charter Article XI in accordance with HRS Chapter 92F.

(k) The commission may submit information or records to another agency, a State agency, an agency of another state, or to an agency of the federal government, or a foreign law enforcement agency or authority as permitted under HRS Chapter 92F.

(Sec. 3-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.3) (Am. Ords. 92-17, 93-113, 94-49, 02-15, 07-43, 12-1)

§ 3-6.4 Requirements applicable to the rendering of advisory opinions.

(a) In addition to this section, requests for advisory opinions that are complaints shall also meet the requirements specified in § 3-6.6.

(b) Except in the case of a written request by the officer or employee concerned, the commission may, for good cause, refuse to entertain a request for an advisory opinion. Without limiting the generality of the foregoing, the commission may refuse to entertain a request where:

(1) The request is speculative or purely hypothetical and does not involve an actual situation; or

(2) The request is frivolous.

(c) The commission shall acknowledge the receipt of the request in writing to the person submitting the request. If the request involves an employee or officer and the request is made by a person other than such employee or officer, a copy of the request shall be sent to the employee or officer so involved with the name of the person making the request deleted so that such person's name will not be disclosed.

(d) Within 30 days after a request for an opinion, or within 30 days after a hearing on any request shall have been concluded, whichever is later, the commission shall render its opinion in writing. All formal advisory opinions rendered by the commission shall be in writing and shall be published in such form and with such deletions as may be necessary to prevent the disclosure of the identity of the persons involved, unless disclosure is in accordance with applicable law.

(e) After an opinion has been rendered, the commission shall notify the appointing authority of the officer or employee involved, or the council in the case of elected officials, of its decision and shall recommend appropriate disciplinary action against officers and employees found to have violated standards of conduct established by the Charter or by ordinance. The appointing authority or the council shall take whatever action is deemed necessary, and report the action taken and the reasons for the action to the commission within 15 days after receiving the decision and recommendation of the commission.

(Sec. 3-2.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.5) (Am. Ords. 96-58, 12-1)

§ 3-6.5 Requests for advice.

(a) Any officer or employee may make a request for advice from the commission relating to any situation involving such officer or employee which may give rise to the possibility of a conflict of interest under Charter Article XI. Any officer or employee also may make a request for advice from the commission on a situation which may give rise to the possibility of unethical conduct under this article. Any officer or employee also may request advice from the commission relating to the solicitation, acceptance, or receipt of a gift.

(b) The request for advice may be written or oral and shall set forth the pertinent facts, if known.

(Sec. 3-2.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.6) (Am. Ords. 93-113, 94-49, 02-15, 12-1)

§ 3-6.6 Complaints.

(a) Any person may submit a written complaint to the commission, which shall be signed by the complainant. The complaint shall relate to an actual situation and shall set forth the pertinent facts if known, including the names of those involved and the nature of the alleged acts or omissions. The commission shall not consider any complaint that is not submitted in writing and signed by the complainant, except that it may consider one initiated by the commission.

(b) The employee or officer whose conduct is the subject of the complaint shall have an opportunity to respond in writing within 15 days after receipt of a copy of the complaint. The response may include a request for a hearing before the commission.

(c) Where no hearing is requested by the officer or employee whose conduct is the subject of the complaint, the commission shall render its opinion on the basis of the information available; provided that the commission may request for additional information when deemed necessary.

(d) The commission shall, upon receipt of a request for a hearing within the period above referred to by the officer or employee involved, set a time and place for the hearing for the purpose of determining the facts. The complainant and the employee or officer whose conduct is the subject of the complaint shall have the opportunity to appear at the hearing, alone or by counsel, and to present any and all evidence, including testimony and exhibits, which are relevant to the issue involved. No testimony shall be excluded, except for irrelevancy.

(e) All meetings or hearings before the commission involving an alleged violation of the standard of conduct by any employee or officer shall be held in executive session, provided that a public hearing or meeting may be held where the officer or employee alleged to have violated the standards of conduct, consents thereto.

(Sec. 3-2.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.7) (Am. Ord. 12-1)

§ 3-6.7 Prohibiting political management or activity or candidacy to an elective political office.

(a) Except for exercising the right to vote or making a campaign contribution to a candidate for elective public office, no member of the ethics commission shall support, advocate or aid in, or manage, the election or defeat of any candidate for public office.

No member of the ethics commission shall be a candidate for any elective public office nor engage in campaigning for such office.

(b) Any member of the ethics commission who violates this section shall be removed by the mayor, since such person serves at the pleasure of the mayor.

(Sec. 3-2.9, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 3, Art. 6, § 3-6.9) (Am. Ord. 01-51)

§ 3-6.8 Training of officers and employees on standards of conduct.

(a) Each officer or employee shall complete a training program on the standards of conduct established under Charter Article XI and Chapter 1, Article 19.

For purposes of this section, "officer" includes a person who is an officer due to membership on a board or commission, including the board of water supply and the board of the Honolulu Authority for Rapid Transportation. The term does not include a member of an advisory committee established under the executive branch pursuant to Charter § 4-103 or under the council pursuant to council rule or resolution.

The program shall provide training and information that gives the officer or employee knowledge of at least the following:

(1) The various standards of conduct applicable to officers and employees, and former officers or employees who appear before the officer's or employee's agency;

(2) Actions that officers or employees must or may take to avoid a violation of a standard of conduct;

(3) Actions that the officer or employee may take when ordered or requested by a superior officer or employee to violate a standard of conduct;

(4) Remedies that may be sought by the officer or employee when knowing or suspecting that another person has violated a standard of conduct; and

(5) Requirements concerning the filing of financial disclosures and conflict of interest disclosures by officers and employees.

(b) The ethics commission shall formulate the training program and provide it to officers or employees according to the following timetable:

(1) Officers or employees employed on June 22, 2012*, who have not previously received ethics training shall receive the training within two years of that date; and

(2) Officers or employees elected, appointed, or hired after June 22, 2012* shall receive ethics training within six months of the election, appointment, or hiring date of the officer or employee. The ethics commission, however, may exempt an officer or employee from the training program of this subdivision if the officer or employee previously completed the program while occupying a former position.

(c) The ethics commission shall determine the time interval at which officers and employees shall receive retraining on the standards of conduct.

(d) The ethics commission may request the department of human resources to assist in formulating, providing, and scheduling the training program. The department may provide the assistance if able and willing to do so.

(e) An officer or employee who fails to timely obtain ethics training may be subject to discipline or penalty pursuant to § 1-19.5.

(1990 Code, Ch. 3, Art. 6, § 3-6.10) (Added by Ord. 01-35; Am. Ords. 02-15, 12-25, 12-31)

Editor's note:

** "June 22, 2012" is submitted for "the effective date of this ordinance."*

§ 3-6.9 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Advisory Opinion. A written or oral response by the commission or its staff to a request for advice or a complaint.

Complaint. A written statement of facts or allegations giving rise to a reasonable inference that a violation of the standards of conduct by an officer or an employee has occurred, which statement is either:

(1) Submitted to the ethics commission by a person other than the person whose conduct is in question; or

(2) Initiated by the commission, based on written or nonwritten information.

Employee. Has the same meaning as defined in Charter § 13-101.3 and shall include employees of the board of water supply and the Honolulu Authority for Rapid Transportation.

Formal Advisory Opinion. A written opinion in response to a request for advice or a complaint approved by an affirmative vote of the majority of the entire membership of the commission.

Officer. Has the same meaning as defined in Charter § 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.

Request for Advice. A written or oral request to the commission for an opinion whether the conduct of an officer or employee would be a violation of the standards of conduct.

Standards of Conduct. The provisions regarding ethical conduct stated in Charter Article XI and Chapter 1, Article 19.
(1990 Code, Ch. 3, Art. 6, § 3-6.11) (Added by Ord. 12-1; Am. Ord. 12-31)

§ 3-6.10 Confidentiality of commission records.

(a) All advisory opinions, files, records, reports, writings, documents, exhibits, electronic records, and other information prepared or received by the commission or its staff or consultants relating to a request for advice or a complaint shall be held in confidence and no information as to the contents thereof shall be disclosed, unless such disclosure is:

(1) The result of the information being presented to or received by the commission at a hearing or meeting that is open to the public;

(2) Ordered by a court of competent jurisdiction;

(3) Reasonably required by the commission, its staff, or consultant to investigate or otherwise discharge its duties regarding the request for advice or the complaint, including but not limited to providing information to the appointing authority or council, in the case of a councilmember, in support of the commission's advisory opinion and recommended disciplinary action, unless otherwise protected by law. If disciplinary action is taken against an employee, the employee's exclusive representative shall also be entitled to the information, unless otherwise protected by law; or

(4) Allowed or required by applicable law.

(b) Any commission member, commission staff member, or consultant who discloses information related to a request for advice or complaint, unless disclosure is allowed pursuant to subsection (a), shall be subject to Charter § 11-106 and § 1-19.5.

(c) The disclosures of conflicts of interests as provided in the Charter shall be made matters of public record at any time that such a conflict becomes apparent.
(1990 Code, Ch. 3, Art. 6, § 3-6.12) (Added by Ord. 12-1)

ARTICLE 7: SALARY COMMISSION

Sections

§ 3-7.1 Convening of commission.

The commissioners shall be appointed and the commission shall convene its first meeting pursuant to Charter § 3-122. The commission may reconvene at any time, but not less than at intervals of two years.
(1990 Code, Ch. 3, Art. 7, § 3-7.1) (Added by Ord. 88-42)

§ 3-7.2 Powers, duties, and functions.

The commission shall perform all duties required by Charter § 3-122. The commission shall establish rules of procedure and adopt rules pursuant to law.
(1990 Code, Ch. 3, Art. 7, § 3-7.2) (Added by Ord. 88-42)

ARTICLE 8: RESERVED

ARTICLE 9: APPOINTMENT ON BOARDS, COMMISSIONS, AND COMMITTEES

Sections

§ 3-9.1 Purpose.

This article is enacted pursuant to the Charter § 13-103(b), which provides that members of boards and commissions shall be appointed by the mayor and confirmed by the council.
(1990 Code, Ch. 3, Art. 9, § 3-9.1) (Added by Ord. 90-54)

§ 3-9.2 Method of appointment on boards, commissions, and committees.

(a) The mayor is authorized to appoint, subject to council approval, members to boards, commissions, or committees for which the mayor has been initially authorized by charter, law, or ordinance to make such original appointment.

(b) The mayor shall submit proposed appointments to boards, commissions, or committees in accordance with the following requirements:

(1) All boards, commissions, or committees shall, no later than 90 days before the expiration of a member's appointed term, advise the mayor and council of the pending expiration of the appointed member's term; and

(2) Within 30 days of the issuance of such notice of pending expiration, the mayor shall submit to the council a written request for approval of appointment to the respective board, commission, or committee.

(c) The mayor's written request for approval for appointment to a board, commission, or committee shall include the effective date of such appointment, effective date of expiration, and reasons for appointment.

(d) *Newly created boards, commissions, or committees.* In the case of newly created boards, commissions, or committees, the mayor shall submit a written request for approval of appointment to the council no later than 90 days from the effective date of the action establishing such board, commission, or committee.
(1990 Code, Ch. 3, Art. 9, § 3-9.2) (Added by Ord. 90-54; Am. Ord. 97-57)

§ 3-9.3 Termination of appointment.*

All appointments covered by this article shall terminate on the expiration date noted on the mayor's letter of appointment, and in no instance shall such appointees immediately continue to serve in the same capacity beyond the expiration date whether as a temporary appointee or as a reappointed member for a full consecutive term.
(1990 Code, Ch. 3, Art. 9, § 3-9.3) (Added by Ord. 90-54; Am. Ord. 97-57)

Editor's note:

**The Hawaii Supreme Court in* Fasi v. City Council of the City and County of Honolulu*, 72 Haw. 513, 823 P.2d 742 (1992), held that the City Council could not enact this provision which forbids members of certain boards and commissions from holding over until their successors have been appointed and qualified.*

§ 3-9.4 Inapplicability.

(a) This article shall not apply to appointments to boards, commissions, or committees for which the mayor is not required by law, charter, ordinance, or rule to have either the council's approval or confirmation.

(b) This article also shall not apply to appointments for temporary vacancies as provided for in Chapter 3, Article 1.

(c) This article also shall not apply to appointments to the rate commission established under Charter § 6-1704.
(1990 Code, Ch. 3, Art. 9, § 3-9.4) (Added by Ord. 90-54; Am. Ords. 97-02, 97-57)

§ 3-9.5 Composition on boards and commissions.

The mayor shall nominate and appoint, subject to council confirmation, representatives of both genders to serve as members of each city board and commission. This requirement is in addition to any other qualifications that may be required for a city board or commission governed by charter or by law.
(1990 Code, Ch. 3, Art. 9, § 3-9.5) (Added by Ord. 92-58)

§ 3-9.6 Removal of members of boards, commissions, and committees.

(a) When a member of a board, commission, or committee to which this article applies has:

(1) Failed to attend four or more consecutive regularly scheduled meetings of the board, commission, or committee spanning a period in excess of one month;

(2) Failed to attend more than one-third of the regularly scheduled meetings of the board, commission, or committee in any calendar year; or

(3) Failed to provide to the chair the certification of participation required by § 3-12.5 within 30 days following the applicable deadline established in § 3-12.3(a) or (b), and, after having been given written notice by the chair that the member has 30 days from the date of that notice to provide the certification, the member fails to provide the certification to the chair by the chair's 30-day deadline, the chair of the board, commission, or committee shall provide written notice of the fact to the mayor.

(b) In addition to the notice referred to in subsection (a), the chair shall provide the mayor with the following:

(1) A record of the attendance of the board, commission, or committee member, from the time of the council's approval of the appointment;

(2) Minutes of the meetings not attended by the board, commission, or committee member and any written communications and records of any telephonic communications from the board, commission, or committee member to the chair or staff of the board, commission, or committee stating why the meetings would not be or were not attended; and

(3) A statement that the board, commission, or committee member has or has not provided certification of participation in the sunshine law training program before the deadline established by the chair under subsection (a)(3).

(c) Within 10 days of the mayor's receipt of the notice referred to in subsection (a), the following shall be mailed by the mayor or the mayor's designee to the board, commission, or committee member at the member's last known address on file with the board, commission, or committee:

(1) A copy of the notice referred to in subsection (a);

(2) A copy of this section;

(3) If the notice to the mayor included a statement that the member of the board, commission, or committee had not provided the certification required under § 3-12.5, a copy of Chapter 3, Article 12; and

(4) A statement of the deadline for response, as specified in subsection (d).

It shall be the responsibility of the member to keep the board, commission, or committee apprised of the member's current address.

(d) The board, commission, or committee member shall have 30 days following the notification of the mayor in which to provide the mayor with a written statement that the member:

(1) Wishes to continue to serve on the board, commission, or committee; or

(2) Wishes to resign from the board, commission, or committee.

(e) If the member states that the member wishes to continue to serve, the member shall provide the mayor with one or more of the following:

(1) True information or documentation refuting the record of nonattendance or nonparticipation;

(2) A true statement as to why the member failed to attend the meetings referred to in subsection (a), to timely participate in the sunshine law training program, or to timely certify participation in the sunshine law training program; or

(3) A true statement of other mitigating circumstances.

(f) If the board, commission, or committee member provides a statement pursuant to subsection (d) that the member wishes to continue to serve, the mayor may, following the 30-day period referred to in subsection (d), but before 90 days following the notification given to the mayor pursuant to subsection (a):

(1) Issue a notice of removal of the board, commission, or committee member from the board, commission, or committee;

(2) Issue a notice of conditional retention of the board, commission, or committee member setting forth conditions under which the mayor will not remove the member; or

(3) Issue a notice of unconditional retention of the board, commission, or committee member.

Before the issuance of the notice, the mayor may consult with, among others, the director of the department or agency to which the board, commission, or committee is attached and the administrator of the sunshine law training program. The mayor's notice of removal, conditional retention, or retention shall be mailed to the board, commission, or committee member at the member's last known address on file with the board, commission, or committee. A copy of the mayor's notice of removal, conditional retention, or retention shall be given to the chair of the board, commission, or committee. If the mayor fails to issue a notice under this subsection before the end of the 90-day period, the board, commission, or committee member shall be retained.

(g) If the mayor finds that a board, commission, or committee member has not abided by the conditions of a notice of conditional retention, the mayor may, after notifying the member of this finding and giving the member 14 days in which to respond, issue a notice of removal of the board, commission, or committee member and notify the board, commission, or committee member and chair in the manner provided in subsection (f).

(h) The chair of a board, commission, or committee who provides the mayor a notice pursuant to subsection (a) may also provide a copy of the notice to the director of any department or the head of any agency to which the board, commission, or committee is attached and the department's director or the agency's head may make to the mayor any recommendation deemed appropriate.

(i) In the event the board, commission, or committee member referred to in subsection (a) is the chair of a board, commission, or committee, the vice-chair of the board, commission, or committee shall act in the place of, and receive the notices provided for, the chair under this section.

(j) Two days following the issuance of a notice of removal, the board, commission, or committee member named in the notice shall be deemed removed as a member of the board, commission, or committee and the mayor shall notify the council that the board, commission, or committee member has been removed from office. Notwithstanding § 3-9.3, the removed board, commission, or committee member may continue to serve on the board, commission, or committee until a replacement has been appointed by the mayor and confirmed by the council.

(k) Notwithstanding this section, a member of a board, commission, or committee who is convicted of providing a false certification of participation in the sunshine law training program in violation of § 3-12.5(b), or is convicted of providing false information or documentation or a false statement to the mayor in violation of subsection (e) shall, upon conviction, be immediately removed as a member of the board, commission, or committee.

(1990 Code, Ch. 3, Art. 9, § 3-9.6) (Added by Ord. 97-03; Am. Ord. 03-30)

ARTICLE 10: OAHU HISTORIC PRESERVATION COMMISSION

Sections

§ 3-10.1 Purpose and intent.

(a) 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 qualities relating to the history and culture of the city be preserved through comprehensive historic preservation planning and administration. Implementation of HRS Chapter 6E on historic preservation, the Honolulu general plan, and the adopted Oahu development plans provide the means to perpetuate the value of various cultures of which our community is comprised.

(b) It is the intent of this article to:

(1) Protect and preserve historic properties and artifacts in the county and encourage, where appropriate, their special emphasis and attention to the cultural resources of the native Hawaiian people;

(2) Encourage the restoration, rehabilitation, and continued functional use of historic properties;

(3) Encourage the identification, preservation, maintenance, development, 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) Formulate county-wide, comprehensive, historic preservation polices, programs, and plans.

(1990 Code, Ch. 3, Art. 10, § 3-10.1) (Added by Ord. 93-55)

§ 3-10.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Commission. The Oahu Historic Preservation Commission.

Historic Preservation. The research, identification, protection, restoration, rehabilitation, maintenance, 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. 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, including but not limited to those listed on the Hawaii or national registers of historic places and those that are of historic or cultural significance to the indigenous people of this island.

Mayor. The mayor of the City and County of Honolulu.

Professional. A person with qualifications enumerated in 36 CFR Part 61, Appendix A.

State. The State of Hawaii.
(1990 Code, Ch. 3, Art. 10, § 3-10.2) (Added by Ord. 93-55)

§ 3-10.3 Commission established.

(a) There is established a commission to be known as the "Oahu Historic Preservation Commission" which shall be attached to the department of planning and permitting.

(b) The commission shall consist of nine members appointed by the mayor with the approval of the council. The commission members shall be appointed from among professionals and persons with special interest in the following disciplines:

(1) Architecture;

(2) History;

(3) Archaeology;

(4) Planning;

(5) Architectural history; and

(6) Hawaiian culture;

provided that the commission shall include an expert in architectural history, two archaeologists, a Hawaiian mythology expert and native speaker, an expert in Hawaiian culture and a Hawaiian Kahu (religious expert). At least a majority of the members shall be professionals from among the disciplines listed in (1) through (6).

Members also shall reflect an ethnic diversity to carry out the purposes of the commission to identify, protect, preserve, and restore historic properties and artifacts of all ethnic cultures. The mayor shall solicit lists of two or more persons, recommended by the community and professional organizations and appropriate ethnic organizations dedicated to preserving unique cultural heritages, including but not limited to the Center for Hawaiian Studies at the University of Hawaii-Manoa, the Hawaii Civic clubs, the Honolulu Chapter of the American Institute of Architects, and others, for consideration in making commission appointments. All commission members shall have a demonstrated interest, competence, and knowledge in historic preservation.

(c) The disciplines of archaeology, architecture, architectural history, and history shall have professional representation on the commission, to the extent such professionals are available to the community. In the event such expertise is not available within the county, experts from the statewide community may be appointed to the commission. When one of the aforementioned disciplines is not professionally represented, the commission shall seek, through a consultant contract or other appropriate means, the expertise in the unrepresented discipline when considering national register nominations and other activities that will affect properties that are normally evaluated by a professional in such a discipline.

(d) Whenever possible, the commission shall include members from different areas of the county who possess a knowledge and interest in local area history.

(e) *Applicability of charter.* Except as otherwise provided in this article, Charter § 13-103, as amended, shall apply to the commission.

(1990 Code, Ch. 3, Art. 10, § 3-10.3) (Added by Ord. 93-55)

§ 3-10.4 Officers and expenses.

(a) The commission shall annually elect a chair and vice chair from its membership.

(b) The commission members shall serve without compensation, but shall be reimbursed for expenses necessary for the performance of their duties.

(1990 Code, Ch. 3, Art. 10, § 3-10.4) (Added by Ord. 93-55)

§ 3-10.5 Staff.

The commission shall employ a full-time staff to include but not limited to a staff archaeologist, an archivist-researcher, and a clerk-typist.

(1990 Code, Ch. 3, Art. 10, § 3-10.5) (Added by Ord. 93-55)

§ 3-10.6 Meetings.

(a) The commission shall hold meetings at least quarterly. All meetings shall be held in accordance with HRS Chapter 92, and any person, agency, 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 chair or by any three members of the commission.

(c) The commission shall publish minutes of its meetings in a newspaper of general circulation in the county. (1990 Code, Ch. 3, Art. 10, § 3-10.6) (Added by Ord. 93-55)

§ 3-10.7 Powers and duties.

The commission:

(1) Shall advise and assist federal, State, and county government agencies in carrying out their historic preservation responsibilities;

(2) Shall provide public information, education, training, and technical assistance relating to the national, State, and county historic preservation programs;

(3) May initiate nominations of historic properties for inclusion in the Hawaii or national registers of historic places;

(4) Shall accept, review, and recommend to the State historic preservation officer, nominations of historic properties to the keeper of the national register. This activity shall be consistent and coordinated with the identification, evaluation, and preservation priorities of the statewide comprehensive historic preservation planning process, and shall be consistent with the requirements of § 101(c)(2) of the National Historic Preservation Act;

(5) Shall maintain a system for the survey, identification, and inventory of historic properties and archaeological sites within the county. This system shall be coordinated with and be complementary to that of the State historic preservation office, but shall not be limited to that office's system;

(6) Shall administer the certified local government program of federal assistance for historic preservation within the City and County of Honolulu;

(7) Shall, pursuant to rules adopted by the department of planning and permitting concerning the review of all proposed projects affecting historic, cultural, or archaeological sites, buildings, structures, or districts, make recommendations when appropriate to the department of planning and permitting, or other city agencies, in accordance with the rules. Review of all proposed projects shall be conducted by the commission as provided for in the rules. Such review shall commence, notwithstanding completion of the inventory, no later than January 1, 1995;

(8) Shall develop and implement a comprehensive county-wide historic preservation identification and planning process that is consistent and coordinated with the statewide comprehensive historic preservation planning process. The commission shall submit information pertaining to the State inventory of historic places to the State historic preservation officer;

(9) Shall also establish a county register of historic places as provided by § 3-10.8, which shall include but not be limited to those sites listed on the Hawaii and national registers, and shall establish policies and procedures for the preservation, acquisition, development, and nomination of historic properties to the national and Hawaii registers of historic places;

(10) 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;

(11) Shall advise the mayor, the council, and the county planning commission on the establishment of historic districts in the county and regulations thereof;

(12) Shall adopt rules pursuant to HRS Chapter 91, for the implementation of this article and the administration and enforcement of the county's historic preservation program;

(13) May review and comment on archaeological reports submitted as part of development proposals to various county agencies;

(14) May undertake any other action or activity necessary or appropriate to implement its powers and duties and to implement the purpose of this article. More specifically, these may include but not be limited to the following:

(A) Recommend new ordinances establishing special districts and archaeological districts;

(B) Review and recommend amendments to current policies and laws relating to historic sites;

(C) Continually reevaluate building code requirements and recommend amendments that are more sympathetic to historic preservation or provide exemptions for historic properties;

(D) 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

(E) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications, and other educational means that increase public awareness and participation in preserving the past;

(15) With respect to city-owned or controlled land having historical significance, carry out the policies and provisions of Chapter 40, Article 10;

(16) Shall prepare an annual report that reviews and evaluates the state of historic preservations in the city, which includes but is not limited to its achievements, concerns, and recommendations; and

(17) May provide design review assistance and comment to appropriated agencies on projects proposed to be located within locally-designated historic and other special districts.

(1990 Code, Ch. 3, Art. 10, § 3-10.7) (Added by Ord. 93-55)

§ 3-10.8 Establishment of the OAHU register of historic places.

(a) The commission shall establish a register of historic places for the county, hereinafter to be known as the "Oahu Register of Historic Places."

(b) The commission shall adopt criteria for nominations to and inclusions on the Oahu register, and shall serve as the review board for determining inclusion on the register. Such criteria shall be consistent with but not limited to the criteria used for the Hawaii or national registers of historic places.

(c) The commission shall give special emphasis to inclusion of prehistoric Hawaiian sites for nomination to the Oahu register.

(1990 Code, Ch. 3, Art. 10, § 3-10.8) (Added by Ord. 93-55)

§ 3-10.9 Nominations to the Oahu, Hawaii or national register of historic places.

(a) Any person or organization, including the commission, may submit a nomination to the Hawaii register of historic places by submitting a completed nomination form to the State historic preservation officer.

(b) The commission may submit a nomination to the national register by submitting a completed nomination form to the State historic preservation officer.

(c) Any person or organization may submit a nomination to the Oahu register by submitting a completed nomination form to the county historic preservation officer.

(d) The commission shall hold a public hearing after receiving notification from the State or county historic preservation officer of properties within the county nominated for inclusion on the Hawaii, national, or Oahu registers of historic places. At least 10 days before 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. Not later than 14 days before the date of the hearing, the commission shall send such notice by certified mail to the owner or owners of property nominated for inclusion on the Oahu register. The notice shall state that the owner or owners may submit written comments, including an objection to the inclusion of the property on the Oahu register. Oral or written testimony concerning the significance of the proposed nomination to the Hawaii, national, or Oahu registers shall be taken at the public hearing from any person.

(e) With regard to nominations to the Hawaii or national registers, the commission shall forward its report to the mayor within 45 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 its recommendation that the property be included or not included in the Hawaii or national registers, as the case may be. The mayor shall have 15 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.

(f) With respect to nominations to the Oahu register, the commission shall decide whether to include the property on the register within a reasonable time after the close of the hearing on the matter. The commission's decision shall be consistent with the criteria it has adopted pursuant to § 3-10.8.

(g) The commission shall publish procedures for the assessment of potential national register nominations and for compliance with appropriate regulations.

(1990 Code, Ch. 3, Art. 10, § 3-10.9) (Added by Ord. 93-55)

§ 3-10.10 Guidelines.

The following documents shall be placed on file in the department of planning and permitting and shall be used as a guide in matters pertaining to the review functions of the commission:

(1) "Oahu revised general plan";

(2) "State historic preservation plan" prepared by the State department of land and natural resources;

(3) "Historic preservation program guidelines" prepared by the national park service;

(4) "National Historic Preservation Act of 1966, as amended"; and

(5) Other reports, plans, studies, issue papers, and memos as may be adopted by the commission.

(1990 Code, Ch. 3, Art. 10, § 3-10.10) (Added by Ord. 93-55)

§ 3-10.11 Accounting and funding.

(a) The commission shall recommend a yearly budget that shall be administered by the director of planning and permitting.

(b) Subject to Chapter 1, Article 8 and Charter § 13-113, the commission may receive public and private funds, and subject to council appropriation, spend such funds for the purpose of implementing this article. Funds received from outside sources shall not replace appropriated governmental sources.

(1990 Code, Ch. 3, Art. 10, § 3-10.11) (Added by Ord. 93-55)

ARTICLE 11: RATE COMMISSION

Sections

§ 3-11.1 Applicability to rate commission.

This article applies to the rate commission established under Charter § 6-1704.
(1990 Code, Ch. 3, Art. 11, § 3-11.1) (Added by Ord. 97-02)

§ 3-11.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Appointing Authority. Any of the following:

(1) The mayor with respect to members of the rate commission who are appointed by the mayor, whether with or without council confirmation; and

(2) The council with respect to members of the rate commission who are appointed by the council.

Commission. The rate commission referred to under § 3-11.1.
(1990 Code, Ch. 3, Art. 11, § 3-11.2) (Added by Ord. 97-02)

§ 3-11.3 Gender representation.

An appointing authority shall make its appointments to the commission so that both genders are represented by the authority's appointed members at any point in time.

This section shall not be deemed violated during any period a gender is not represented among an authority's appointed members because of a vacancy.
(1990 Code, Ch. 3, Art. 11, § 3-11.3) (Added by Ord. 97-02)

§ 3-11.4 Appointment to fill temporary vacancy.

(a) When the commission finds that a member cannot serve temporarily because of illness, incapacity, or absence, the commission shall notify the appointing authority for that member. Then, the appointing authority may appoint a temporary replacement to serve until the earliest of the following:

(1) The date on which the replaced member resumes service on the commission;

(2) The date of expiration of the replaced member's term on the commission; or

(3) The date that is 120 days after the effectiveness of the temporary replacement's appointment.

If the replaced member cannot resume service after the 120th day of subdivision (3), but has an unexpired term remaining, the appointing authority may appoint a different temporary replacement.

(b) For the purposes of this section only, council confirmation shall not be required of a temporary replacement for a member who was appointed by the mayor and confirmed by the council.

(1990 Code, Ch. 3, Art. 11, § 3-11.4) (Added by Ord. 97-02)

ARTICLE 12: SUNSHINE LAW TRAINING

Sections

§ 3-12.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Administrator. The city officer or employee designated by the mayor to administer this article.

Board. Any agency, board, commission, authority, or committee of the executive branch of the city that is created by constitution, statute, charter, ordinance, rule, or executive order, to have supervision, control, jurisdiction, or advisory power over specific matters and that is required to conduct meetings and to take official actions, and includes the neighborhood boards and the city's community visioning teams.

Date of Taking Office. Any of the following:

(1) For a member of a board who is appointed by the mayor and confirmed by the council, the date of the council confirmation;

(2) For a member of a board who is appointed by the mayor or a department head, without the necessity of council confirmation, the date of the appointment, even if the appointing document is received by the member on a later date;

(3) For a member of a board who is appointed by the council, the council chair, a council committee or a council committee chair, the date of the appointment, even if the appointing document is received by the member on a later date;

(4) For a member of a neighborhood board, the date on which the member is sworn into office; and

(5) For a person who has attended a meeting of a community visioning team, the date on which the person attends the person's third meeting of the community visioning team for a particular geographical area.

Meeting. The convening of a board for which a quorum is required to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power.

Office of Information Practices. The State office of information practices or any successor State agency designated by State law to administer the sunshine law.

Sunshine Law. Has the same meaning as defined in HRS Chapter 92, Part I.
(1990 Code, Ch. 3, Art. 12, § 3-12.1) (Added by Ord. 03-30)

§ 3-12.2 Establishment of sunshine law training program.

(a) The city administration shall establish a sunshine law training program for members of city boards no later than July 1, 2004.

(b) The program shall be under the supervision and control of an administrator designated by the mayor and shall be conducted by the office of information practices; provided that if the office of information practices cannot or will not conduct the program, it shall be conducted by:

(1) The administrator or a city officer or employee designated by the administrator;

(2) Persons with whom the administrator contracts to conduct the program; or

(3) A combination of the foregoing.

(c) The administrator shall maintain records on all persons participating in the program. The records shall be open to the public and shall include, for each participant, the participant's full name, the name of the applicable board, the participant's affiliation with the board, and the date of participation.
(1990 Code, Ch. 3, Art. 12, § 3-12.2) (Added by Ord. 03-30)

§ 3-12.3 Requirement for participation in training program.

(a) A board member whose date of taking office is before July 1, 2004 and who continues to serve as a board member on July 1, 2004 shall participate in the sunshine law training program as soon as practicable, but no later than December 31, 2004.

(b) Any board member whose date of taking office is after July 1, 2004 shall participate in the sunshine law training program within three months from the date of taking office.

(c) A board member shall not be required to participate in the sunshine law training program again if, on the date of taking office, the board member had participated in the sunshine law training program within the two immediately preceding calendar years.

(d) Notwithstanding any other provision of this section, a member of a community visioning team who has participated in the sunshine law training program need not participate again, unless the member is appointed or elected to a board other than a community visioning team.

(e) The following may participate in the sunshine law training program on a space available basis in the following order of priority:

(1) City officers or employees who are not members of a board, but who prepare agendas or minutes for, or otherwise provide service to a board;

(2) Persons who have been appointed, but not yet confirmed, as a member of a board; and

(3) Candidates for election to the neighborhood boards.

(1990 Code, Ch. 3, Art. 12, § 3-12.3) (Added by Ord. 03-30)

§ 3-12.4 Contents of program.

(a) If the office of information practices conducts the sunshine law training program, the program content shall be as prescribed by that office. The office is encouraged to include, at a minimum, the information enumerated in subsection (b).

(b) If the office of information practices does not conduct the program, the program shall, at a minimum, include information on the following:

(1) The purposes of the sunshine law;

(2) Agenda and notice requirements;

(3) Open meeting requirements, including the requirements on the acceptance of oral public testimony;

(4) Permitted and prohibited interactions among members of a board;

(5) Permissible grounds and required procedures for holding a meeting closed to the public;

(6) The taking of, and public availability requirements for, minutes of board meetings;

(7) Penalties for sunshine law violations; and

(8) Administration of the sunshine law.

The program may include such additional information as the administrator and persons conducting the program deem appropriate.

(c) Nothing in this article shall be construed to prohibit board members from participating in the sunshine law training program by viewing an online training video; provided that an online training video that is not created and maintained by the office of information practices shall comply with subsection (b).

(1990 Code, Ch. 3, Art. 12, § 3-12.4) (Added by Ord. 03-30; Am. Ord. 12-5)

§ 3-12.5 Certification of participation.

(a) A member of a board, other than a member of a community visioning team, shall provide the chair of the board with a certification of the member's participation in the sunshine law training program no later than:

(1) Thirty days after the date of participation; or

(2) Thirty days after date of taking office;

whichever is later; provided that if the member is the chair of the board, the certification shall be provided to the board's vice-chair. The certification of participation may be mailed or hand-delivered, and, if mailed, shall be deemed to have been provided on the postmark date.

(b) No member of a board shall provide false certification of participation in the sunshine law training program to the chair or vice-chair of the board.

(c) A standard form certification shall be prescribed by the administrator and shall be provided to all participants in the sunshine law training program.

(d) A board member who participates in the sunshine law training program by viewing an online training video shall sign a notice of self-certification, as prescribed by the administrator.

(1990 Code, Ch. 3, Art. 12, § 3-12.5) (Added by Ord. 03-30; Am. Ord. 12-5)

ARTICLE 13: REGISTRATION OF LOBBYISTS

Sections

§ 3-13.1 Declaration of intent.

The council declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the council, to committees of the council, and to officers of the executive branch their opinions on pending legislation and rules involved in the city's policy making process. However, the preservation and maintenance of the integrity of the policy making process require the identification in certain instances of persons and groups who engage in efforts to persuade members of the council or officers of the executive branch to take specific action. It is the purpose of this article to require registration of lobbyists to make available to the council, the executive branch, and the public information relating to the activities of such persons and groups. (1990 Code, Ch. 3, Art. 13, § 3-13.1) (Added by Ord. 05-33)

§ 3-13.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agency. Has the same meaning as defined in Charter § 13-101.

Contribution. A gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

Lobbying. Certain activities of a person who is included in the definition of a "lobbyist" as defined in this section and not specifically excluded under § 3-13.3(e). Lobbying shall be deemed to include the representation, by any person, whether or not compensated, of an association, corporation, or organization that accepts membership dues or contributions with the understanding that a portion of the funds so received will be used to influence the policy making process of the City and County of Honolulu.

Lobbyist. Any person who engages oneself for pay or other consideration for the purpose of influencing, directly or indirectly, and whether by such person or through any agent or employee or other person in any manner, the policy making process of the City and County of Honolulu. A person who accepts membership dues or contributions made, or a fee or salary paid, with the understanding that the person accepting the same intends to devote a portion of the funds contributed or the time for which the salary is paid to lobbying activities shall be deemed to have "engaged oneself" to conduct such activities.

Officer or Employee of the City and County of Honolulu. Any officer or employee as defined in Charter § 13-101.

Person. An individual, partnership, committee, association, corporation, and any other organization or group of individuals.

The Policy Making Process. Any action taken by an officer or employee of the City and County of Honolulu with respect to any bill, resolution, or other measure in the council, or with respect to any rule, regulation, standard, rate, or other regulatory enactment of any city agency.
(1990 Code, Ch. 3, Art. 13, § 3-13.2) (Added by Ord. 05-33)

§ 3-13.3 Registration and reporting.

(a) Each lobbyist shall, not later than five days after engaging the lobbyist's to conduct lobbying activities or receiving contributions, membership dues, or a fee or salary as set forth in § 3-13.2, file a registration form with the ethics commission.

(b) Such registration form shall be developed by the ethics commission and shall include the registrant's full name and address; place of business; the full name and complete address of each person, whether or not an employee, who will lobby on behalf of the registrant; the full name of each person by whom the registrant is retained or employed or on whose behalf the registrant lobbies; duration of such person's employment; and a description of the matters on which the registrant expects to lobby. If the registrant lobbies or purports to lobby on behalf of members, such registration form shall include a statement of the number of members, and a full and complete description of the methods by which the members develop and make decisions about positions on policy. In addition thereto, each registration form shall be accompanied by a written authorization from each person (as defined in § 3-13.2) by whom the registrant is employed or authorized to lobby. In a situation where the "person" is other than a natural person, i.e., a corporation, association, partnership, or any organization consisting of groups of individuals, written authorization shall be executed by the president or an officer delegated such power by the president or the organization's board of directors.

(c) Each lobbyist shall file with the ethics commission an annual report concerning the lobbyist's activities during the preceding calendar year ending December 31 by January 10 of each year, or, if the date falls on a Saturday, Sunday, or holiday, the next business day, as long as such lobbyist continues to engage in the activity described in § 3-13.2. The annual report form shall be developed by the ethics commission and shall include, in addition to an up-to-date statement of the information required to be supplied in the registration form, such information for the preceding calendar year concerning:

(1) Contributions, membership fees, and other receipts relating to lobbying activities of the lobbyist;

(2) Amounts expended for lobbying by the lobbyist; and

(3) Each decision of the policy making process the reporting lobbyist sought to influence, as the ethics commission deems necessary to effectuate the purposes of this article.

(d) Each lobbyist shall file a supplementary registration form with the ethics commission no later than 10 days after any change in the information supplied in the lobbyist's last registration form under subsection (b). Such supplementary registration form shall include a complete description of the information that has changed.

(e) The registration and reporting requirements set forth herein shall not apply to:

(1) Any person who merely appears at a public hearing before the council, its committees, or city agencies to express such person's opinion on pending legislation or rules involved in the city's policy making process, or both;

(2) Any federal, State, or county official or employee acting in such person's official capacity;

(3) Any elected public official acting in such person's official capacity;

(4) Any newspaper or other regularly published periodical, radio, or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station), which in the ordinary course of business, publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge the taking of legislative or executive action, if the newspaper, periodical, radio, or television station or individual engages in no further or other activities in connection with influencing decisions in the policy making process of the City and County of Honolulu;

(5) Any person representing a bona fide church solely for the purpose of protecting the public right to practice the doctrines of the church;

(6) Any unpaid volunteer representing a nonprofit organization, association, or corporation; provided that the organization, association, or corporation:

(A) Is registered in accordance with this section; and

(B) Files a written authorization with the ethics commission specifically designating such person to represent it;

and such persons may engage in the activities described in this subsection without being holders of a certificate of registration.

(1990 Code, Ch. 3, Art. 13, § 3-13.3) (Added by Ord. 05-33)

§ 3-13.4 Registration and report forms to conform to law and truth.

Each registration and report form required to be filed under this article shall conform to law and truth and shall be signed and certified under oath as true and correct by the registrant, or, if the registrant is a person other than an individual, by an appropriate officer of such registrant.
(1990 Code, Ch. 3, Art. 13, § 3-13.4) (Added by Ord. 05-33)

§ 3-13.5 Certification of registration.

(a) Within 10 working days after receipt of a registration form completed as provided in § 3-13.3(b) and certified under oath as true and correct as provided in § 3-13.4, the ethics commission shall either issue a certificate of registration to the registrant or notify the registrant that the form lacks relevant information or is improperly filled out, and no certificate of registration will be issued unless the omission is rectified or the form properly filled out.

(b) Within 10 working days after receipt of the annual report form prescribed by § 3-13.3(c), the ethics commission shall renew the registrant's certificate of registration or shall, upon notice to the registrant, suspend the certificate until such time as the registrant's annual report form has been brought into compliance with the requirements of this article.

(c) The initial certificate and any renewed certificate shall remain in force until 10 working days following the next succeeding annual reporting date as set forth in § 3-13.3(c), except that a certificate may be suspended or revoked as set forth in subsections (d) and (e).

(d) If, either prior or after the issuance or renewal of a certificate of registration, the ethics commission obtains information leading it to believe that the registration or report form under consideration or on which issuance or renewal of a certificate has been based contains a material misstatement of fact, the ethics commission, after notice and a hearing, may suspend or revoke, for a period of up to one year following hearing on the misstatement, any effective certificate and may decline to issue or renew a certificate for a period of up to one year following the hearing. In exercising its discretion with respect to suspending or revoking or declining to issue or renew certificates of registration, the ethics commission shall grant a hearing to the aggrieved registrant at which it shall consider the nature of the material misstatement of fact, whether it was made intentionally or inadvertently, and any other circumstances surrounding the making of the material misstatement of fact.

(e) If, after filing of the registration form and issuance of the certificate, the ethics commission obtains information leading it to believe that a change in the information set forth in the registration form occurred and was not reflected in a supplementary registration form filed as required by § 3-13.3(d), the ethics commission may, upon notice to the registrant, suspend the certificate of registration until a supplementary report containing the appropriate information is on file.
(1990 Code, Ch. 3, Art. 13, § 3-13.5) (Added by Ord. 05-33)

§ 3-13.6 Prohibition.

No person who is not the holder of a current certificate of registration issued by the ethics commission under this article shall engage in lobbying activities.
(1990 Code, Ch. 3, Art. 13, § 3-13.6) (Added by Ord. 05-33)

§ 3-13.7 Additional duties of the ethics commission.

In addition to other duties prescribed by law, it shall be the duty of the ethics commission:

(1) To prescribe registration and report forms required to be filed under this article, and to furnish and make available such forms to city agencies affected by, and persons required to register and report under, this article;

(2) To accept and file any information voluntarily supplied that exceeds the requirements of this article;

(3) To make registration and report forms filed with it available for public inspection and copying during regular office hours; a reasonable charge for reproducing copies may be assessed for the reimbursement of costs thereof;

(4) To preserve such registration and report forms for a period of five years from the date of receipt;

(5) To report suspected violations of law to the appropriate law enforcement authorities;

(6) To establish procedures for the orderly processing of lobbyist registration; and

(7) To adopt rules, if needed, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article.
(1990 Code, Ch. 3, Art. 13, § 3-13.7) (Added by Ord. 05-33)

§ 3-13.8 Penalties.

Except as otherwise provided in this article, the ethics commission may suspend or revoke the certificate of registration of a lobbyist who has been found to have violated this article. No certificate shall be suspended or revoked, except after a notice has been issued to the violator and a hearing held. The suspension or revocation shall not exceed one year from the date of the hearing.
(1990 Code, Ch. 3, Art. 13, § 3-13.8) (Added by Ord. 05-33)

§ 3-13.9 Severability.

If any provision of this article, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this article and the application of such provisions to other persons and circumstances shall not be affected thereby.
(1990 Code, Ch. 3, Art. 13, § 3-13.9) (Added by Ord. 05-33)

ARTICLE 14: ETHICS BOARD OF APPEALS

Sections

§ 3-14.1 Establishment of ethics board of appeals.

There shall be an ethics board of appeals that shall consist of five members. The ethics board of appeals shall be governed by the provisions of Charter § 13-103 and HRS Chapter 91.
(1990 Code, Ch. 3, Art. 14, § 3-14.1) (Added by Ord. 07-43)

§ 3-14.2 Restrictions on conduct.

(a) Except for exercising the right to vote or making a campaign contribution to a candidate for elective public office, no member of the ethics board of appeals shall support, advocate or aid in, or manage, the election or defeat of any candidate for public office. No member of the ethics board of appeals shall be a candidate for any elective public office nor engage in campaigning for such office.

(b) Any member of the ethics board of appeals who violates this section shall be removed by the mayor, since such person serves at the pleasure of the mayor.
(1990 Code, Ch. 3, Art. 14, § 3-14.2) (Added by Ord. 07-43)

§ 3-14.3 Appeals to the board.

Any person aggrieved by a civil fine imposed by the ethics commission may appeal the civil fine to the ethics board of appeals within 30 days of the mailing or service of the decision by the ethics commission.
(1990 Code, Ch. 3, Art. 14, § 3-14.3) (Added by Ord. 07-43)

ARTICLE 15: PERIODIC REVIEW OF BOARDS AND COMMISSIONS

Sections

§ 3-15.1 Application.

(a) This article applies to all city boards and commissions established by charter or by ordinance, except those specified in subsection (b).

(b) This article does not apply to:

(1) The board of water supply;

(2) The board of directors of the Honolulu Authority for Rapid Transportation;

(3) Boards or commissions mandated or established pursuant to federal or State law; and

(4) Periodic commissions, including reapportionment commissions and charter commissions.

(1990 Code, Ch. 3, Art. 15, § 3-15.1) (Added by Ord. 17-44)

§ 3-15.2 Periodic review required.

The council shall review each board or commission in accordance with the schedule established by § 3-15.3 to determine whether the charter provisions or ordinances establishing the board or commission should be retained, amended, or repealed.

(1990 Code, Ch. 3, Art. 15, § 3-15.2) (Added by Ord. 17-44)

§ 3-15.3 Schedule of review.

The Council shall review each board or commission in accordance with the following schedule:

(a) 2018, and every five years thereafter:

(1) Board of parks and recreation;

(2) Building board of appeals;

(3) Neighborhood commission; and

(4) Citizens advisory commission on civil defense;

(b) 2019, and every five years thereafter:

(1) Child care advisory board;

(2) Oahu committee on children and youth;

(3) Commission on culture and the arts; and

(4) Ethics board of appeals;

(c) 2020, and every five years thereafter:

(1) Fire commission;

(2) Grants in aid advisory commission; and

(3) Oahu historic preservation commission;

(d) 2021, and every five years thereafter:

(1) Planning commission;

(2) Real property tax boards of review I, II, and III; and

(3) Salary commission;

(e) 2022, and every five years thereafter:

(1) Clean water and natural lands advisory commission;

(2) Rate commission;

(3) Zoning board of appeals; and

(4) Climate change commission.

(f) Boards or commissions established after August 24, 2017, shall be reviewed in accordance with § 3-15.6. (1990 Code, Ch. 3, Art. 15, § 3-15.3) (Added by Ord. 17-44; Am. Ord. 18-37)

§ 3-15.4 Reports by board or commission.

(a) No later than January 31 of each calendar year, each board or commission scheduled for review during that year shall submit to the council a report containing the following information:

(1) A statement of the purpose for which the board or commission was created;

(2) A summary of the accomplishments of the board or commission during the preceding five-year period;

(3) Factors that aided or inhibited the achievement of the accomplishments, including but not limited to the composition and purpose of the board or commission and staff support;

(4) A statement of the measures implemented by the board or commission to enhance transparency in its operations;

(5) A statement of the measures implemented by the board or commission to ensure responsiveness to inquiries and comments from the mayor, the council, and the public;

(6) The annual costs of operation of the board or commission for each year of the preceding five-year period;

(7) A statement of whether the charter or ordinance provisions establishing the board or commission should be retained without change, amended, or repealed; and

(8) If applicable, suggested modifications and revisions to membership number and qualifications; organization; purpose; or powers, duties, and functions to better enable the board or commission to serve its purpose, including justification and suggested amendatory language.

(b) The agency to which the board or commission is administratively attached, if any, or the council, in the case of the salary commission, shall assist the board or commission in the preparation of the report required by this section.

(1990 Code, Ch. 3, Art. 15, § 3-15.4) (Added by Ord. 17-44)

§ 3-15.5 Action by the council.

(a) Upon receipt by the council of a report required by § 3-15.4, the presiding officer of the council shall refer the report to an appropriate standing committee of the council, which shall consider the report, evaluate the board or commission, and make recommendations to the council by committee report. If the committee recommends amendments to or repeal of the charter provisions or ordinances establishing the board or commission, the committee shall submit as part of its recommendations a proposed resolution or bill to implement its recommendations. The committee shall submit its recommendations no later than May 31 of that year.

(b) The council shall consider the report and any recommendations of the standing committee and, no later than August 31 of that year, shall determine whether to retain the board or commission in its current form, propose amendments to the charter or ordinance provisions establishing the board or commission, or propose abolition of the board or commission. The council shall make its determination by adoption of the committee report, and shall hold a public hearing on the matter.

(c) If the council's determination pursuant to subsection (b) is to propose amendments to or repeal of the board or commission's establishing provisions, the presiding officer of the council shall introduce the appropriate resolution or bill for consideration by the council; provided that if the council's determination requires a charter amendment that would be presented to the electorate at the same general election in which a charter commission will present proposals to the electorate, the resolution shall submit the proposal to the charter commission rather than initiate the amendment or repeal.

(1990 Code, Ch. 3, Art. 15, § 3-15.5) (Added by Ord. 17-44)

§ 3-15.6 Establishment of additional boards or commissions.

Unless otherwise provided by its establishing provisions or by amendment to this article, any board or commission established by charter or by ordinance after August 4, 2017* shall be subject to this article and shall be reviewed under this section commencing in the calendar year five years after the calendar year of its establishment, and every five years thereafter.

(1990 Code, Ch. 3, Art. 15, § 3-15.6) (Added by Ord. 17-44)

Editor's note:

** "August 24, 2017" is substituted for "the effective date of this article."*

CHAPTER 4: ADDITIONAL POWERS AND DUTIES OF COUNCIL AND LEGISLATIVE AGENCIES

Articles

ARTICLE 1: RESERVED

ARTICLE 2: OAHU METROPOLITAN PLANNING ORGANIZATION

Sections

§ 4-2.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Mayor's Appointee. The person appointed by the mayor to the policy committee of the Oahu metropolitan planning organization.

Policy Committee. The policy committee of the Oahu metropolitan planning organization.

Project. A project subject to § 4-2.2. The term includes a work element for the overall work program.

Short-Range Transit Plan. The document specifying the operating plan and capital program for the public transit system.
(1990 Code, Ch. 4, Art. 2, § 4-2.1) (Added by Ord. 91-27)

§ 4-2.2 Cooperation.

(a) Officers and department heads of the city shall cooperate, in a timely and satisfactory manner, with the Oahu metropolitan planning organization and provide whatever pertinent or necessary report, information, or data required or requested by the Oahu metropolitan planning organization in the preparation and updating of the Oahu regional transportation plan, short-range transit plan, and other planning documents required under federal law or regulation.

(b) (1) All projects for which the department of transportation services or department of planning and permitting desires assistance under the Urban Mass Transportation Act of 1964, as amended, or the Federal Aid Highway Act of 1973 or any other federal act, program, or regulations involving or affecting the Oahu metropolitan planning organization shall be initiated by submission of the proposed project to the council

for its prior approval. Upon approval by the council, the project description, along with all required accompanying data, shall be forwarded to the Oahu metropolitan planning organization for appropriate review and action.

(2) Only proposed projects approved by the department of transportation services shall be submitted to the council. The director of transportation services shall coordinate the submission to the council of projects proposed by the department of transportation services and department of planning and permitting. The director of transportation services shall forward proposed projects approved by the council to the Oahu metropolitan planning organization. If the director of transportation services is not the mayor's appointee, the director shall forward the proposed projects approved by the council to the Oahu metropolitan planning organization through the mayor's appointee.

(c) In addition, any department desiring to implement a transportation project not requiring federal funds shall so inform the Oahu metropolitan planning organization so that such project may be included in the Oahu regional transportation plan, short-range transit plan, or other appropriate planning document.

(Sec. 4-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 2, § 4-2.2) (Am. Ord. 91-27, 96-58, 97-02)

§ 4-2.3 Committee membership.

(a) The mayor's appointee to the policy committee of the Oahu metropolitan planning organization shall represent the interests of the department of transportation services and department of planning and permitting. If the expressed interests of the departments are incompatible on an issue, the mayor's appointee shall take the action on the issue that, in the appointee's judgment, is in the best, overall interest of the city.

Before taking any official action at a policy committee meeting:

(1) If the mayor's appointee is the director of transportation services or the director of planning and permitting, the appointee shall solicit the advice and recommendations of the other officer; or

(2) If the mayor's appointee is not the director of transportation services or the director of planning and permitting, the appointee shall solicit the advice and recommendations of both officers.

(b) The department of transportation services and department of planning and permitting shall each be represented by at least one member on every technical or other committee of the Oahu metropolitan planning organization, except:

(1) The citizens advisory committee; and

(2) Any committee on which city representation is not requested by the policy committee or executive head of the Oahu metropolitan planning organization.

(1990 Code, Ch. 4, Art. 2, § 4-2.3) (Added by Ord. 91-27; Am. Ord. 96-58, 97-02)

§ 4-2.4 General work elements.

The department of transportation services and department of planning and permitting shall be responsible for their respective general work elements as established by the participating agencies of the Oahu metropolitan planning organization. Exhibit 1* that is incorporated by reference in and made a part of Ordinance 4570 shall be superseded upon the establishment of general work elements conforming to this article.
(Sec. 4-2.2, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 4, Art. 2, § 4-2.4) (Am. Ords. 91-27, 96-58, 97-02)
Editor's note:
** See Ord. 4570 for general work elements.*

§ 4-2.5 City official authorized to execute comprehensive agreement with Oahu metropolitan planning organization.

The presiding officer and chair of the council shall be authorized to execute the comprehensive agreement on behalf of the city.
(Sec. 4-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 2, § 4-2.5) (Am. Ord. 91-27)

§ 4-2.6 Severability.

It is the intention of the council that this article and every provision thereof shall be considered severable, and the invalidity of any section, clause, provision, or part thereof, shall not affect the validity of any other portion of this article.
(Sec. 4-2.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 2, § 4-2.6) (Am. Ord. 91-27)

ARTICLE 3: OFFICE OF COUNCIL SERVICES

Sections

§ 4-3.1 Office established.

The office of council services is established.
(Sec. 4-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 3, § 4-3.1)

§ 4-3.2 Purpose.

The purpose of the office of council services shall be:

(1) To provide a comprehensive research and reference service for the council;

(2) To conduct research, including legal research, as may be necessary for the enactment or consideration of legislation;

(3) To serve in an advisory or a consultative capacity to the council and its committees on all matters within its competencies and responsibilities;

(4) To assist the council to carry out its responsibilities under Charter § 3-114:

(A) To conduct an annual financial audit of all operations of the city and all operations for which the city is responsible and of their funds and accounts for each fiscal year; and

(B) To conduct performance audits of any or all of the agencies and operations of the city and all operations for which the city is responsible;

(5) To serve as special counsel to the council consistent with the Charter;

(6) To serve as the revisor of ordinances pursuant to Chapter 1, Article 16; and

(7) To perform such other duties as may be assigned by the council or by the presiding officer of the council.
(Sec. 4-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 3, § 4-3.2) (Am. Ords. 94-52, 94-89)

§ 4-3.3 Authority of the director of council services.

The director of council services shall:

(1) Have the same powers with respect to the personnel of the office of council services as department heads of the executive branch, unless otherwise expressly limited by the Charter or ordinance. The attorneys in the office of council services shall be licensed to practice in the State of Hawaii and in good standing before the Supreme Court of the State of Hawaii; and

(2) Be authorized to administer oaths and, in the name of the council, subpoena witnesses and compel the production of books, papers, documents, records, and any government record as that term is defined in HRS § 92F-3, relevant to a financial or performance audit authorized by the council. This authorization is granted to the director or a person duly designated by the director in exercise of the council's investigative power established in Charter § 3-120.

(1990 Code, Ch. 4, Art. 3, § 4-3.3) (Added by Ord. 94-52; Am. Ord. 94-89)

§ 4-3.4 Director—Appointment, tenure, removal, suspension, compensation, and vacancy.

(a) The presiding officer of the council shall appoint, with the concurrence of the council, a director of the office of council services, who shall serve for a term of six years, and thereafter until a successor is appointed. The council, by a two-thirds vote of its entire membership, may remove or suspend the director from office, but only for cause.

(b) If the office of the director becomes vacant, the deputy director shall become the acting director until a successor is duly appointed.

(c) The salary of the director shall be equal to that of the majority of executive department heads who are subject to the salary commission. If no majority of such department heads is entitled to the same salary, then the salary of the director shall be equal to the salary of the director of budget and fiscal services.

(1990 Code, Ch. 4, Art. 3, § 4-3.4) (Added by Ord. 94-89; Am. Ord. 03-34)

ARTICLE 4: LEGISLATIVE HEARINGS AND PROCEDURES

Sections

§ 4-4.1 Purpose.

The purpose of this article is to establish procedures governing legislative investigating committees to provide for the creation and operation of legislative investigating committees in a manner which will enable them to perform properly the powers and duties vested in them, including the conduct of hearings, in a fair and impartial manner, consistent with protection of the constitutional rights of persons called to testify at such hearings and preservation of the public good.
(Sec. 4-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.1)

§ 4-4.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Hearing. Any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public in conformance with HRS § 92-5.

Investigating Committee. Any of the following that are authorized to compel the attendance and testimony of witnesses or the production of books, records, papers, and documents for the purpose of securing information on a specific subject for the use of the council:

(1) A standing committee;

(2) A special committee; or

(3) A committee of the whole of the council.

Public Hearing. Any hearing open to the public, or the proceedings of which are made available to the public.
(Sec. 4-4.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.2)

§ 4-4.3 Establishment of investigating committees.

(a) An investigating committee may exercise its powers pursuant to Charter § 3-120 or by council resolution by which the committee was established or from which it derives its investigatory powers.

(b) The resolution establishing an investigating committee shall state the:

(1) Committee's purposes;

(2) Powers;

(3) Duties and duration (when ascertainable);

(4) The subject matter and scope of its investigatory authority; and

(5) The number of its members.
(Sec. 4-4.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.3) (Am. Ord. 96-58)

§ 4-4.4 Finances and staff.

Each investigating committee may employ such professional, technical, clerical, or other personnel as necessary for the proper performance of its duties, to the extent of funds made available to it for such purpose and subject to such restrictions and procedures relating thereto as may be provided by law or any applicable rules or procedures of the council.
(Sec. 4-4.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.4)

§ 4-4.5 Membership—Quorum—Voting.

(a) An investigating committee shall consist of not less than five members.

(b) A quorum shall consist of a majority of the total authorized membership of the committee.

(c) No action shall be taken by a committee at any meeting, unless a quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum.

(Sec. 4-4.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.5)

§ 4-4.6 Hearings.

(a) An investigating committee may hold hearings appropriate for the performance of its duties, at such times and places as the committee determines.

(b) Each member of the committee shall be given at least three days' written notice of any hearing to be held. The notices shall include a statement of the subject matter of the hearing. A hearing, and any action taken at a hearing, shall not be deemed invalid solely because notice of the hearing was not given in accordance with this requirement.

(c) Any investigating committee shall not conduct a hearing unless a quorum is present.

(Sec. 4-4.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.6)

§ 4-4.7 Issuance of subpoenas.

(a) The presiding officer of either the council or any committee of the council, as the case may be, may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of books, documents, or other evidence, in any matter pending before either the council or committee, as the case may be.

(b) Every investigating committee may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of books, documents, or other evidence, in any matter pending before the committee.

(c) Any subpoena issued under the authority of the council or its authorized committee shall run in the name of the City and County of Honolulu and shall be addressed to any or all of the following officers:

(1) The sergeant at arms or bailiff of the council;

(2) The sheriff or the sheriff's deputies;

(3) The chief of police of any county or the chief of police's deputies; or

(4) Any police officer of the State or any county.

The subpoena shall:

(1) Be signed by the officer authorized to issue it;

(2) Set forth the officer's official title;

(3) Contain a reference to Charter § 3-120 or resolution, or other means, by which the taking of testimony or other evidence was authorized; and

(4) In the case of a summons or subpoena, set forth in general terms the matter or question with reference to which the testimony or other evidence is to be taken.

(d) Any officer to whom such process is directed, if within such officer's territorial jurisdiction, shall serve or execute the same upon delivery thereof to the officer without charge or compensation, except in the case of the sheriff or the sheriff's deputies where the council shall pay the customary service fee plus the mileage expenses.

(Sec. 4-4.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.7) (Am. Ord. 96-58)

§ 4-4.8 Notice to witnesses.

(a) Service of a subpoena requiring the attendance of a person at a hearing of an investigating committee shall be made at least five days before the date of the hearing unless a shorter period of time is authorized by majority vote of all the members of the committee in a particular instance when, in their opinion, the giving of five days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

(b) Any person who is served with a subpoena to attend a hearing of an investigating committee also shall be served with a copy of the resolution or the Charter provision establishing the committee, a copy of the ordinance under which the committee functions, a general statement informing such person of the subject matter of the committee's investigation or inquiry, and a notice that such person may be accompanied at the hearing by counsel of such person's own choosing.

(Sec. 4-4.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.8)

§ 4-4.9 Conduct of hearing.

(a) All hearings of an investigating committee shall be public, unless the committee, by two-thirds vote of all its members, determines that a hearing may not be open to the public in a particular instance.

(b) The chair of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witnesses or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chair's absence or disability, the vice-chair shall serve as presiding officer. In the absence or disability of both the chair and the vice-chair, an acting chair shall be selected from among the remaining members of the committee.

(Sec. 4-4.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.9)

§ 4-4.10 Right to counsel and submission of questions.

(a) Every witness at a hearing of an investigating committee may be accompanied by counsel of such person's own choosing, who may advise the witness as to such person's rights, subject to reasonable limitations that the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

(b) Any witness at a hearing, or such person's counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such of the questions as are appropriate to the subject matter of the hearing.

(Sec. 4-4.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.10)

§ 4-4.11 Testimony.

(a) An investigating committee shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chair may direct.

(b) All testimony given or adduced at a hearing shall be under oath or affirmation, unless the requirement is dispensed with in a particular instance by majority vote of the committee members present at the hearing.

(c) The presiding officer of either the council or of an investigating committee may administer an oath or affirmation to a witness at a hearing of such committee.

(d) The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document, the production of which has been required by subpoena duces tecum. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt. The proper court, upon request of the council, shall have power to compel obedience to any process of the council and require such witness to answer questions put to such person and to punish as contempt of the court, any refusal to comply therewith without good cause shown therefor.

(e) A witness at a hearing or such person's counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

(f) A witness at a hearing, upon such person's advance request and at such person's own expense, shall be furnished a certified transcript of the person's testimony at the hearing.

(g) Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.

(h) All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be confidential. No such information shall be made public unless authorized by majority vote of all of the members of the committee for legislative purposes, or unless its use is required for judicial purposes.

(Sec. 4-4.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.11)

§ 4-4.12 Interested persons.

(a) Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who, in the opinion of the committee, may be adversely affected thereby, may, upon such person's request or upon the request of any member of the committee, appear personally before the committee and testify in such person's own behalf, or with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(b) Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission of evidence shall limit in any way the investigating committee's power of subpoena.

(c) Any person who appears before an investigating committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided by this article.

(Sec. 4-4.12, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.12)

§ 4-4.13 Contempt.

A person shall be in contempt if such person:

(1) Fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify or, having appeared, fails or refuses to testify under oath or affirmation;

(2) Fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or

(3) Commits any other act or offense against an investigating committee that, if committed against the council, would constitute a contempt.

(Sec. 4-4.13, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.13)

§ 4-4.14 Penalties.

(a) A person guilty of contempt under this article shall be fined not more than $1,000 or imprisoned not more than one year or both. Prosecutions in such cases shall be as provided by law for the prosecution of misdemeanors.

(b) If any investigating committee fails in any material respect to comply with the requirements of this article, any person subject to a subpoena or a subpoena duces tecum who is injured by the failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and the failure shall be a complete defense in any proceeding against the person for contempt or other punishment.

(c) Any person other than the witness concerned or such person's counsel who violates § 4-4.11(g) or (h) shall be fined not more than $500 or imprisoned not more than six months, or both. The corporation counsel or special counsel for the council, depending upon the discretionary judgment of the council on such person's own motion or on the application of any person claiming to have been injured or prejudiced by an unauthorized

disclosure may institute proceedings for trial of the issue and imposition of the penalties provided herein. Nothing in this subsection shall limit any power which the council may have to discipline a member or employee or to impose a penalty in the absence of action by a prosecuting officer or court.
(Sec. 4-4.14, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.14)

§ 4-4.15 Government officers and employees to cooperate.

The officers and the employees of the State and of each county shall cooperate with any investigating committee or committees or with their representatives and furnish to them or to their representatives such information as may be called for in connection with the investigative and research activities of the committees.
(Sec. 4-4.15, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.15)

§ 4-4.16 Limitation.

Nothing contained in this article shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein.
(Sec. 4-4.16, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 4, Art. 4, § 4-4.16)

ARTICLE 5: REGISTRATION OF VOTER'S AT DRIVER'S LICENSING SITES

Sections

§ 4-5.1 Arrangement for voter registration at driver's licensing sites.

(a) The city clerk, subject to the availability of funds, may arrange for the registration of voters:

(1) At driver's licensing sites;

(2) During the days and hours when the driver's licensing sites are open to the general public, except when the registration of voters is closed under State law; and

(3) As:

(A) Part of or simultaneous to the processing of applications for an original, renewed, or duplicate driver's license; or

(B) A function distinct from and conducted before or after the processing of applications for an original, renewed, or duplicate driver's license.

(b) Any arrangement for the registration of voters with personnel or facilities under the control of another city agency at driver's licensing sites shall require the approval of the appropriate head of the other agency.

(1990 Code, Ch. 4, Art. 5, § 4-5.1) (Added by Ord. 89-148)

§ 4-5.2 Definitions.

(a) For the purposes of this article, "driver's licensing site" means a location where the general public may apply for an original, renewed, or duplicate driver's license or instruction permit.

(b) For the purposes of this article, "driver's license" and "instruction permit" has the same meaning as defined in § 15A-2.1.

(1990 Code, Ch. 4, Art. 5, § 4-5.2) (Added by Ord. 89-148)

ARTICLE 6: SERVICES FOR DEAF AND HARD-OF-HEARING PERSONS REGARDING COUNCIL AND COMMITTEE MEETINGS

Sections

§ 4-6.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Committee Meeting. A regular meeting, special meeting, hearing, or informational meeting of a standing committee, special committee, or advisory committee of the council.

Council Meeting. A regular meeting, special meeting, public hearing, or informational meeting of the full council.

Qualified Interpreter. An interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Qualified Interpretive Services. The services of a qualified interpreter.

Real-Time Captioning. The simultaneous transcription of spoken words during a televised council or committee meeting for appearance on a television screen.

Regular Council Meeting. A council meeting fulfilling the requirement of Charter § 3-107.8.

Televised Council or Committee Meeting. A council or committee meeting that is televised on a live or delayed basis under a broadcast production of the council.
(1990 Code, Ch. 4, Art. 6, § 4-6.1) (Added by Ord. 94-37)

§ 4-6.2 Real-time captioning of televised council or committee meeting.

(a) Subject to this article, the council:

(1) Shall provide for the real-time captioning of each televised regular council meeting; and

(2) May provide for the real-time captioning of any other televised council or committee meeting at the discretion of the council chair.

(b) The real-time captioning provided pursuant to this section shall:

(1) Transcribe the spoken words of each participant at the televised council or committee meeting; and

(2) Be visible on all properly equipped televisions tuned to the televised council or committee meeting.

(c) The council shall include terms and conditions to implement this section in each contract with a person responsible for the broadcast production of televised council and committee meetings.

(d) This section shall not be construed as requiring:

(1) The real-time captioning of any council or committee meeting that is not televised; or

(2) The real-time captioning of any portion of a council or committee meeting televised under a noncouncil broadcast production.

(e) The council shall conduct a pilot program of the real-time captioning of selected televised council and committee meetings. The purpose of the pilot program shall be to discover and then correct problems associated with real-time captioning before full implementation. The council shall review the pilot program and, if necessary, modify this article and the real-time captioning to be provided.

Full implementation of real-time captioning in accordance with this section shall be initiated upon adoption by the council of an authorizing resolution.

(1990 Code, Ch. 4, Art. 6, § 4-6.2) (Added by Ord. 94-37)

§ 4-6.3 Qualified interpretive services.

(a) Except as provided under subsection (b), the council shall make available qualified interpretive services for a deaf or hard-of-hearing person requesting the services to personally attend a council or committee meeting and understand or participate in the proceedings. The council shall make the services available at no charge to the requesting deaf or hard-of-hearing person.

(b) The council shall not be required to make available qualified interpretive services for a deaf or hard-of-hearing person at a council or committee meeting when:

(1) A qualified interpreter cannot be retained for the deaf or hard-of-hearing person after reasonable effort by the council;

(2) The request for qualified interpretive services is not made before a deadline established by the council chair for a council meeting or a committee chair for a committee meeting; or

(3) The cost of the qualified interpretive services would place an undue financial burden on the council, as determined and justified in writing by the council chair.

(c) This section shall not be construed as requiring the council to pay for the services of a qualified interpreter retained without the appropriate council approval. The council shall have no responsibility or liability for those services.

(1990 Code, Ch. 4, Art. 6, § 4-6.3) (Added by Ord. 94-37)

§ 4-6.4 Substitution of more advanced system.

The council may substitute a more advanced system for real-time captioning or qualified interpretive services when:

(1) The system becomes commercially available at an affordable cost to the council; and

(2) The system improves the accessibility of deaf and hard-of-hearing persons to council and committee meetings.

(1990 Code, Ch. 4, Art. 6, § 4-6.4) (Added by Ord. 94-37)

§ 4-6.5 Council chair responsibility.

The council chair shall establish policies and be responsible for the implementation of this article. The policies shall be consistent with this article.

(1990 Code, Ch. 4, Art. 6, § 4-6.5) (Added by Ord. 94-37)

ARTICLE 7: REPORT ON STATUS OF ANTICIPATED OR ONGOING COLLECTIVE BARGAINING

Sections

§ 4-7.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Bargaining Unit. A bargaining unit of public employees established pursuant to HRS § 89-6.

Collective Bargaining. Has the same meaning as defined in HRS § 89-2.

Committee. A standing committee, special committee, or committee of the whole of the council. The term does not include a council-established committee, the membership of which includes persons who are not councilmembers.

Committee Meeting. A regular or special meeting of a committee.

Cost Items. Has the same meaning as defined in HRS § 89-2.

Council Meeting. A regular or special meeting of the council.

Exclusive Representative. Has the same meaning as defined in HRS § 89-2.

Impasse. Has the same meaning as defined in HRS § 89-2.

Ongoing Collective Bargaining. The collective bargaining negotiation and impasse resolution process undertaken before the public employers and exclusive representative of a bargaining unit enter into a written agreement on wages, hours, and other terms and conditions of employment.

Public Employer. Has the same meaning as defined in HRS § 89-2.
(1990 Code, Ch. 4, Art. 7, § 4-7.1) (Added by Ord. 98-49)

§ 4-7.2 Mayor's prerogative to withhold information.

At a council or committee meeting, the mayor or designated representative may withhold information if determining that disclosure will result in:

(1) A prohibited practice charge under HRS Chapter 89;

(2) The breach of a written or oral confidentiality agreement with the exclusive representative, another public employer, the Hawaii labor relations board, or a mediator, fact-finding board, or arbitration panel;

(3) The violation of an existing, valid written agreement with the exclusive representative;

(4) The violation of any law; or

(5) The weakening of the public employers' position in the collective bargaining negotiations.

(1990 Code, Ch. 4, Art. 7, § 4-7.3) (Added by Ord. 98-49)

§ 4-7.3 Executive session.

At the recommendation of the corporation counsel, the council or committee may recess a meeting and convene in executive session to discuss an ongoing collective bargaining matter with the mayor or designated representative. The corporation counsel shall make such a recommendation if finding that, based on the matter to be discussed, an executive session is permissible under HRS Chapter 92 and the Charter.

(1990 Code, Ch. 4, Art. 7, § 4-7.4) (Added by Ord. 98-49)

§ 4-7.4 Mayoral authority in collective bargaining.

This article shall not affect the mayor's authority under HRS Chapter 89 regarding collective bargaining with an exclusive representative of city employees.

(1990 Code, Ch. 4, Art. 7, § 4-7.5) (Added by Ord. 98-49)

§ 4-7.5 Nonapplicability to council or committee meeting on other collective bargaining issue—Nonapplicability to investigating committee meeting.

(a) This article shall not apply to a council or committee meeting at which a collective bargaining agreement executed by the public employers and exclusive representative is to be considered. This article also shall not apply to a council or committee meeting at which a term or condition of an executed collective bargaining agreement is to be considered.

(b) This article also shall not apply to a council or committee meeting at which a proposed appropriation for a collective bargaining cost item is to be considered.

A council or committee meeting on an executed agreement or a term, condition, or cost item of such an agreement shall be subject to other applicable law, Charter, ordinance, or council rule.

(c) This article shall not apply to a hearing or meeting of a council investigating committee established pursuant to Article 4. Such a hearing or meeting shall be subject to Article 4.

(1990 Code, Ch. 4, Art. 7, § 4-7.6) (Added by Ord. 98-49)

ARTICLE 8: PUBLIC INFRASTRUCTURE MAPS

Sections

§ 4-8.1 General provisions.

(a) The council shall adopt public infrastructure maps reflecting major public infrastructure projects, as defined in § 4-8.4, that impact adopted growth policies or needed public facility policies for each of the development plan areas in the city as each of the development plans is revised and adopted pursuant to the 1992 charter amendments.

(b) The public infrastructure maps shall not be deemed part of the development plans, shall be adopted by resolution, and shall be revised by resolution in accordance with the procedures set forth in § 4-8.2. The city shall, when making any land use decision, consider the potential impact of the decision on those proposed projects that are represented by symbols on the public infrastructure maps.

(c) The public infrastructure maps shall include symbols showing the general locations of major public infrastructure, as defined in § 4-8.4. Symbols for publicly funded facilities for a development plan area for which a public infrastructure map has been adopted shall be shown on the applicable public infrastructure map before the appropriation of land acquisition or construction funds. In addition, no funds for land acquisition or construction shall be expended or encumbered for a project, unless either the symbol for the project is shown on the public infrastructure map or the project does not meet the applicability criteria specified in § 4-8.4 and, therefore, a symbol for the project is not required to be on the public infrastructure map. However, when time is of the essence in order for the city to comply with a State or federal consent decree or court-ordered deadlines, or when there is an imminent threat to public health, safety, or property, funding for capital improvement projects may be initiated and appropriations may be made therefor without amending the public infrastructure map.

(d) The department of planning and permitting shall consider all phases of a project when determining whether a project meets the applicability criteria specified in § 4-8.4. All phases of a project shall be presented to the council before its adoption of the resolution revising the public infrastructure map to include a symbol for the project. Intentional parceling of projects to avoid the designation of a project as "major public infrastructure" pursuant to § 4-8.4 shall be prohibited.

Land acquisition for the purpose of preserving open space or protecting scenic viewplanes shall not constitute parceling and shall not require a revision to the public infrastructure map. Future use of the land for any public improvement project of a type that meets the criteria specified in § 4-8.4, however, will require a revision to the public infrastructure map.

(e) Any questions of interpretation regarding whether a project requires placement of a symbol therefor on the public infrastructure map, or relocation of an existing symbol, shall be resolved by the council.

(1990 Code, Ch. 4, Art. 8, § 4-8.1) (Added by Ord. 99-69; Am. Ords. 02-03, 07-37)

§ 4-8.2 Procedure for the adoption and revision of public infrastructure maps.

(a) During the initial preparation of the public infrastructure maps, projects that are designated on the public facilities map for each development plan area on the effective date of the new area development plan, that are of a type enumerated in § 4-8.3 and that meet the criteria set forth in § 4-8.4 shall have a symbol therefor placed on the public infrastructure map for that development plan area. The public infrastructure maps shall be drawn at a scale no smaller than 1:24,000 (1 inch on the map equals no more than 2,000 feet).

(b) Revisions of the public infrastructure maps shall be made by council resolution. The council shall consider the public infrastructure map in its review of the city's annual budget. Any public infrastructure map symbol may be administratively deleted by the department of planning and permitting once the improvement or land acquisition is completed. The council shall be informed of the administrative deletion of any public infrastructure map symbol.

(c) The council resolution revising the map shall include but not be limited to:

(1) The general location of the proposed public infrastructure; and

(2) A description of the project including a description of the project's size and function.

(d) Revisions of the public infrastructure maps shall be made only for those public infrastructure projects that are of a type enumerated in § 4-8.3, that meet the criteria set forth in § 4-8.4, and that are consistent with the general plan, the development plans, any applicable special area plans, and the appropriate functional plans.

Any revision of a public infrastructure map may be proposed by the director of planning and permitting or proposed by the council. Upon introduction of a council-proposed resolution to revise a public infrastructure map, the city clerk shall transmit a copy of the resolution to the director of planning and permitting.

The department of planning and permitting shall have 75 days following introduction of the council-proposed resolution to review the proposal, consult with other governmental agencies and with appropriate community organizations, and prepare a report to the council making a recommendation to the council. Unless a report is received by the council, the council shall not take action on the resolution before the expiration of the 75 days except on a motion supported by two-thirds of the entire membership of the council.

The need to revise by resolution the location of an existing symbol when a selected site differs from the location of a symbol on the public infrastructure map shall be determined by the department of planning and permitting on a case-by-case basis based on the distance between the two locations, different environmental and urbanization conditions between the two locations, a change in the neighborhood board area, and past public comments. The director of planning and permitting shall timely notify the council of any decision that an existing symbol need not be relocated, and that decision shall be subject to review and action by the council pursuant to § 4-8.1(e).

(1990 Code, Ch. 4, Art. 8, § 4-8.2) (Added by Ord. 99-69; Am. Ords. 02-03, 07-37)

§ 4-8.3 Types of public infrastructure to be shown on public infrastructure map.

(a) Symbols for the following types of public improvement projects shall be shown on the public infrastructure maps; provided that they meet the applicability criteria specified in § 4-8.4:

(1) Corporation yard;

(2) Desalination plant;

(3) Drainage way (open channel);

(4) Fire station;

(5) Government building;

(6) Golf course (municipal);

(7) Park (includes neighborhood, urban, community, district, and regional parks, beach parks, shoreline parks, dog parks, nature parks and preserves, zoos and botanical gardens, and stream greenbelts);

(8) Police station;

(9) Parking facility;

(10) Water reservoir;

(11) Sewage treatment plant;

(12) Solid waste facility;

(13) Rapid transit corridor;

(14) Transit station (includes park and rides, bus transit centers, and rapid transit stations);

(15) Major collector or arterial roadway;

(16) Sewage pump station; and

(17) Potable water well.

(b) The alignment of linear facilities, and the location of project boundaries, shall be considered approximate and conceptual.

(1990 Code, Ch. 4, Art. 8, § 4-8.3) (Added by Ord. 99-69; Am. Ords. 02-03, 06-50, 07-001, 07-37)

§ 4-8.4 Applicability criteria.

"Major public infrastructure" means any public improvement project that is of a type enumerated in § 4-8.3 and that meets any one or more of the following criteria:

(1) It has a significant impact on surrounding land uses or the natural environment;

(2) It establishes a new facility;

(3) It substantially changes the function of an existing facility; or

(4) It involves modification (replacement or renovation) of an existing facility that would permit significant new development or redevelopment.

(1990 Code, Ch. 4, Art. 8, § 4-8.4) (Added by Ord. 99-69; Am. Ord. 02-03, 07-37)

ARTICLE 9: OFFICE OF THE CITY CLERK

Section

§ 4-9.1 City clerk—Appointment, tenure, suspension, removal, and compensation.

(a) The city clerk shall be appointed by the council to serve for a term of six years and thereafter until a successor is appointed. The council, by two-thirds vote of its entire membership, may remove or suspend the city clerk from office, but only for cause.

(b) The salary of the city clerk shall be equal to that of the majority of executive department heads who are subject to the salary commission. If no majority of such department heads is entitled to the same salary, then the salary of the city clerk shall be equal to the salary of the director of budget and fiscal services.

(1990 Code, Ch. 4, Art. 9, § 4-9.1) (Added by Ord. 03-34)

ARTICLE 10: OFFICE OF THE CITY AUDITOR

Section

§ 4-10.1 City auditor—Appointment, tenure, suspension, removal, and compensation.

(a) The city auditor shall be appointed by the council to serve for a term of six years as provided in Charter § 3-501 and thereafter until a successor is appointed. The council, by two-thirds vote of its entire membership, may remove or suspend the city auditor from office for cause.

(b) The salary of the city auditor shall be equal to that of the majority of executive department heads who are subject to the salary commission. If no majority of such department heads is entitled to the same salary, then the salary of the city auditor shall be equal to the salary of the director of budget and fiscal services.

(1990 Code, Ch. 4, Art. 10, § 4-10.1) (Added by Ord. 03-34)

ARTICLE 11: COUNCIL COMMITTEES

Section

§ 4-11.1 Standing committees—Quorum—Number of votes necessary to validate acts.

(a) The number of members necessary to constitute a quorum for a council standing committee to do business shall be a majority of the number of voting members to which the committee is entitled.

(b) The number of members necessary to make the action of a council standing committee valid shall be:

(1) When a majority is required, a majority of the number of voting members to which the committee is entitled; or

(2) When a supermajority vote is required, that supermajority of the number of voting members to which the committee is entitled.

(c) The numbers specified in subsections (a) and (b) shall be unaffected by a nonvoting member of a standing committee serving as a voting member under particular circumstances, such as due to the lack of a quorum of voting members or to break a tie vote, pursuant to council rules.

(1990 Code, Ch. 4, Art. 11, § 4-11.1) (Added by Ord. 08-16)

CHAPTER 5: SALARIES, EMPLOYMENT, AND BONDING REQUIREMENTS OF ELECTED OFFICIALS AND NON-CIVIL-SERVICE OFFICERS

Articles

ARTICLE 1: BONDS OF ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES

Sections

§ 5-1.1 Bonds of elected officials.

Before entering upon the duties of the councilmember's office, each councilmember and the mayor shall be covered by an individual bond in the amount of $25,000, conditioned on the faithful performance of the duties of the councilmember's office.
(Sec. 6-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 1, § 5-1.1)

§ 5-1.2 Bonds of officers and employees.

All officers and employees of the city, except the board of water supply, shall be covered by a public employee's faithful performance blanket position bond in the amount of $25,000 for each officer and employee, subject to excess indemnity coverage in the following amounts for the below-listed officers and employees:

Officer/Employee	*Excess Indemnity Coverage*
Director of budget and fiscal services	$225,000
Deputy director of budget and fiscal services	$225,000
Chief of treasury	$225,000
Assistant chief of treasury	$225,000
Treasury head teller	$75,000
Director of enterprise services	$75,000
Deputy director of enterprise services	$75,000
Enterprise services fiscal officer	$75,000
Enterprise services accountant V	$75,000

Officer/Employee	*Excess Indemnity Coverage*
Enterprise services box office manager	$25,000
Enterprise services box office accountant	$25,000

(Sec. 6-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 1, § 5-1.2) (Am. Ords. 91-27, 97-02)

§ 5-1.3 Procurement of bonds.

The bonds specified in §§ 5-1.1 and 5-1.2 shall be procured by the director of budget and fiscal services as the director may deem in the best interest of the city, subject to the following conditions:

(1) That such bonds be procured from companies licensed to do business in Hawaii; and

(2) That such bonds be in favor of, and the premiums thereof shall be borne by, the city; provided that if any undertaking or project involving joint participation between the city and the United States or any agency of the United States, and is conditioned on the requirement that the officers of the city entrusted with the receipt and disbursement of funds be covered by a faithful performance or fidelity bond, then the United States may be named as co-obligee in the bond.

(Sec. 6-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 1, § 5-1.3)

§ 5-1.4 Liability of officers and employees on bonds.

If any bonded city officer or employee refuses or neglects to account for and pay over all moneys received by such person by virtue of such person's office or employment, such person shall be liable for such refusal or neglect upon such person's official bond, and the director of budget and fiscal services shall bring an action against such person for the recovery thereof, in the name of the city and recover in such action, in addition to the amount so received, 50 percent thereon by way of damages. No order of the council shall be necessary to bring such action. The director of budget and fiscal services's reasonable expenses, including any attorney fees, if necessarily incurred, shall be a city charge.

(Sec. 6-2.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 1, § 5-1.4)

ARTICLE 2: PAY PLAN IN THE OFFICES OF THE CORPORATION COUNSEL AND THE PROSECUTING ATTORNEY

Sections

§ 5-2.1 Deputies and clerks.

The salary ranges and schedules of the deputies and law clerks of the departments of the corporation counsel and prosecuting attorney shall be set by the corporation counsel and prosecuting attorney respectively with the salary range and schedule of the highest ranking deputy to be 5 percent less than that of the corporation counsel or prosecuting attorney and for subsequent salary ranges and schedules in descending order with a 5 percent differential between salary ranges and schedules.
(Sec. 6-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 2, § 5-2.1)

§ 5-2.2 Variations from pay plan.

The department heads are authorized to set a salary of any deputy between the salary range of one LS position to another LS position, including entry level.
(Sec. 6-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 2, § 5-2.2)

Honolulu - Administration

ARTICLE 3: SALARIES OF VARIOUS CITY OFFICERS

Sections

§ 5-3.1 Salaries of elected officials.

The salaries of all elected officials shall be established by an independent salary commission, pursuant to the charter.
(Sec. 6-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 5, Art. 3, § 5-3.1) (Am. Ord. 88-12)

§ 5-3.2 Salaries of appointed officials of the executive branch.

The annual salaries of appointed officials of the executive branch, other than the manager and chief engineer of the board of water supply, shall be established by an independent salary commission pursuant to the charter. Any action of the commission altering salaries shall be by resolution accompanied by findings of fact. The resolution shall be forwarded to the mayor and the council but shall take effect without their concurrence 60 calendar days after its adoption, unless rejected by a three-quarters vote of the council's entire membership. The council may reject either the entire resolution or any portion of it. All such salaries shall be paid semimonthly out of the city treasury.
(Sec. 6-4.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 5, Art. 3, § 5-3.2) (Am. Ords. 88-12, 91-27, 91-59, 93-82, 97-02)

§ 5-3.3 Salaries of appointed officials of the council.

(a) The salary of the city clerk shall not exceed an amount equal to the salaries of the department heads of the executive branch, payable semimonthly out of the city treasury.

(b) The salaries of the deputy city clerk and the deputy director of the office of council services shall not exceed an amount equal to the salaries of the first deputy department heads of the executive branch, payable semimonthly out of the city treasury.

(c) *Positions of staff attorney.* All positions of staff attorney in the office of council services shall be compensated at rates consistent with those attorneys in the department of the corporation counsel, payable semimonthly out of the city treasury.

(d) *Positions of legislative analyst.* All positions of legislative analyst in the office of council services shall be compensated at rates not to exceed the highest amount payable to an employee at SR-31 in the salary schedule applicable to city and county civil service employees, payable semimonthly out of the city treasury.

(e) *Positions of legislative aide.* The salaries of legislative aides shall be set by the chair of the council, with the concurrence of the council, payable semimonthly out of the city treasury.

(Sec. 6-4.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 5, Art. 3, § 5-3.3) (Am. Ords. 88-12, 90-48, 94-89)

§ 5-3.4 Salaries of other employees of the executive branch.

(a) *Students.* The salary rates of students hired under Charter § 6-303(e), shall be set by the director of human resources, payable semimonthly out of the city treasury.

(b) *Personal services.* The salaries of personal services employees hired under Charter § 6-303(f), (g), (h) or (j), shall be consistent with the position classification plan established under Charter § 6-309, and shall be payable semimonthly out of the city treasury.

(c) *Administrative or executive assistants of the prosecuting attorney.* Positions of administrative or executive assistants of the prosecuting attorney under Charter § 6-303(c), shall have salaries that are consistent with the position classification plan established under Charter § 6-309, and those salaries shall be payable semimonthly out of the city treasury.

(1990 Code, Ch. 5, Art. 3, § 5-3.4) (Added by Ord. 93-82)

TITLE II: TAXATION AND FINANCES

Chapters

Honolulu - Taxation and Finances

CHAPTER 6: FUNDS, FEES, AND LOAN PROGRAMS

Articles

40. Application Fees for General Plan and Development Plan Amendments
41. Fee Schedule for Land Use Ordinance—Applications and Variances
42. Deferred Compensation Fund
43. Charges by Municipal Reference and Records Center for Computer Online Service
44. Fees and Charges for Services of the Honolulu Police Department
45. Rental Assistance Fund
46. Housing Development Special Fund
47. Wastewater System Facility Charge
48. Solid Waste Improvement Bond Fund
49. Solid Waste Special Fund
50. Reserved
51. Hanauma Bay Nature Preserve Fund
52. Grants in Aid Fund
53. Special Events Fund
54. Sewer Revenue Bond Improvement Fund
55. Transit Construction Mitigation Fund
56. Reserve for Fiscal Stability Fund
57. Golf Fund
58. Contributions to the County
59. Land Conservation Fund
60. Transportation Surcharge—Use of Funds
61. Transit Fund
62. Clean Water and Natural Lands Fund
63. Affordable Housing Fund
64. Reserved
65. Transit Improvement Bond Fund

ARTICLE 1: ADDITION OF UNPAID CIVIL FINES TO TAXES, FEES, OR CHARGES COLLECTED BY THE CITY*

Sections

Editor's note:

**Sec. 3 of Ord. 93-109 originally provided that this article (then Ch. 1, Art. 19) be repealed as of June 30, 1997; however, Ord. 96-42 deleted the repeal provision to make this article (then Ch. 1, Art. 19), permanent.*

§ 6-1.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Civil Fines. Any monetary penalty, imposed by competent judicial or executive authority, on a person for violation of city ordinances, rules, or regulations.

Civil Fines Program. Any duly adopted program for imposing civil fines as a means of enforcing violations of city ordinances, rules, or regulations.

Unpaid Civil Fines. Any outstanding civil fines due and owing to the city by a person, in whole or in part.
(1990 Code, Ch. 1, Art. 19, § 1-19.1) (Added by Ord. 93-109)

§ 6-1.2 Judicial authority.

The addition of any unpaid civil fines to any taxes, fees, or charges collected by the city may be ordered by any court of competent jurisdiction.
(1990 Code, Ch. 1, Art. 19, § 1-19.2) (Added by Ord. 93-109)

§ 6-1.3 Executive authority.

(a) Any unpaid civil fines that remain due, after all rights to administrative appeal or judicial review have been exhausted, and as may be further provided in § 6-1.5, may then be added by administrative order to any taxes, fees, or charges collected by the city by any administrative agency empowered to collect such civil fines pursuant to § 6-1.5. The city may condition the issuance or renewal of any city license, approval, or permit for which a fee or charge is assessed, except for water for residential use and sewer charges, on payment of

the unpaid civil fines, and any such license, approval, or permit may be withheld until full payment of all such unpaid civil fines has been made.

(b) Upon recordation of a notice of unpaid civil fines in the bureau of conveyances, the amount of the civil fine, including any increase in the amount of the fine that the city may assess, and any enforcement cost, shall constitute a lien upon all real property belonging to any person liable for the unpaid civil fines.

(c) The lien in favor of the city shall be subordinate to any lien in favor of any person recorded or registered before the recordation of the notice of unpaid civil fines and senior to any lien recorded or registered after the recordation of the notice. The lien shall continue until the unpaid civil fines are paid in full or until a certificate of release or partial release of the lien, prepared by the city at the owner's expense, is recorded. The notice of unpaid civil fines shall state the amount of the fine as of the date of the notice and maximum permissible daily increase of the fine. The city shall not be required to include a social security number, State general excise taxpayer identification number, or federal employer identification number on the notice. Recordation of the notice in the bureau of conveyances shall be deemed, at such time, for all purposes and without any further action, to procure a lien on land registered in land court under HRS Chapter 501.

(d) All remedies and penalties under this article may be enforced in civil proceedings by the corporation counsel.
(1990 Code, Ch. 1, Art. 19, § 1-19.3) (Added by Ord. 93-109; Am. Ord. 05-35)

§ 6-1.4 Administrative procedures.

(a) *Notices of order.* Notices of order for violations of city ordinances, rules, or regulations, for which civil fines are imposed, shall include, in addition to any other required content, the following:

(1) A statement declaring that the civil fines being imposed, if unpaid within the time periods prescribed therein, can be added to specified taxes, fees, or charges collected by the city; and

(2) A statement or statements advising persons receiving notices of order that their rights to an administrative appeal or judicial review, as appropriate, shall also involve all potential remedies, including the addition of unpaid civil fines to certain taxes, fees, or charges collected by the city, and specified in the notice of order.

(b) *Rules.* Only the executive agency administering a specific civil fines program shall be able to administratively add those unpaid civil fines imposed under their authority to specified taxes, fees, or charges collected by the city. Before administratively adding unpaid civil fines to any taxes, fees, or charges collected by the city, each eligible executive agency shall adopt or amend appropriate rules, pursuant to Chapter 1, Article 9, for administratively adding unpaid civil fines, and such rules shall specify, at least, the following:

(1) The particular taxes, fees, or charges to which unpaid civil fines may be added;

(2) The manner whereby written notification shall be made to the executive agency responsible for administering, and thereby collecting, the unpaid civil fines after their addition to each particular tax, fee, or charge;

(3) The period of delinquency that must elapse before any unpaid civil fines may be added to any taxes, fees, or charges;

(4) The manner whereby written notification shall be made to any person affected by the addition of unpaid civil fines to any taxes, fees, or charges collected by the city, pursuant to this section. The express purpose of such notice shall be only to properly inform an affected person of the action taken; and such notice shall not be construed to provide any additional rights for further review or appeal, other than the appeal rights already provided by this article. Such notice shall provide statements specifying, at a minimum:

(A) The particular tax, fee, or charge to which any unpaid civil fine has been administratively added as provided in the notice of order;

(B) The effective date of the addition of the unpaid civil fine to the tax, fee, or charge; and

(C) The amount of the unpaid civil fine that has been added to the tax, fee, or charge; and

(5) Where daily civil fines are accruing, unpaid civil fines shall be added to taxes, fees, or charges, as fixed amounts, subject to the following alternative methods:

(A) Unpaid civil fines may be added to any taxes, fees, or charges at such time when the civil fines cease to accrue, whereby the accrual shall cease at a point in time specified in the rules, and the total fine at the cessation of accrual shall become the total unpaid civil fine deemed due and owing; or

(B) Unpaid civil fines may continue to accrue so long as a violation is outstanding, whereby the unpaid balance due and owing each year may then be added to the tax, fee, or charge, as specified in the rules, and unpaid balances accruing after this date may be added annually in subsequent years, in the same manner, until paid in full.

(1990 Code, Ch. 1, Art. 19, § 1-19.4) (Added by Ord. 93-109)

§ 6-1.5 Collection procedures.

(a) After any unpaid civil fines are added to any taxes, fees, or charges collected by the city, the unpaid civil fines shall be deemed immediately due, owing and delinquent, and shall be collected in any lawful manner. The executive agency with direct authority for the collection of a particular tax, fee, or charge shall be responsible for the collection of any unpaid civil fine after its addition to the particular tax, fee, or charge.

(b) The procedure for collection of any unpaid civil fines shall be in addition to any other procedures for collection available to the city by ordinance, or rule or regulation, or to any court of competent jurisdiction.

(1990 Code, Ch. 1, Art. 19, § 1-19.5) (Added by Ord. 93-109; Am. Ord. 05-35)

ARTICLE 2: PAYROLLS CLEARANCE FUND

Sections

§ 6-2.1 Creation.

There is created a working capital fund to be known as the "payrolls clearance fund." (Sec. 5-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 2, § 6-2.1)

§ 6-2.2 Authorization.

The director of budget and fiscal services is authorized to approve claims payable out of the payrolls clearance fund, only when such claims are accompanied by properly executed distribution vouchers, requesting the issuance of warrants chargeable to the respective funds or appropriation accounts against which the segregated amounts of the total payrolls listed on such claims are legally chargeable, and payable to the payrolls clearance fund in amounts, the total of which is equal to the total of payroll claims sought to be charged to the payrolls clearance fund. (Sec. 5-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 2, § 6-2.2)

ARTICLE 3: HIGHWAY FUND*

Section

§ 6-3.1 Redesignation.

The special fund designated as "road fund" is redesignated "highway fund" pursuant to HRS § 249-18, as amended.
(Sec. 5-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 3, § 6-3.1)
Editor's note:
**Establishment, see HRS § 249-18, as amended.*

ARTICLE 4: TREASURY TRUST FUND

Sections

§ 6-4.1 Creation.

There is created and established a special trust fund to be known as the "treasury trust fund."
(Sec. 5-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 4, § 6-4.1)

§ 6-4.2 Purpose.

All moneys received by the various agencies of the city for specific purposes, as trustee, escrow agent, custodian, or security holder and which moneys are found by the director of budget and fiscal services, in view of the nature of the purposes for which the same have been received, to require expeditious disbursement shall be deposited into the treasury trust fund from which the director of budget and fiscal services may authorize disbursements through checking accounts. Such moneys shall be maintained by separate accounts according to, and used for, the purposes for which such moneys are received.
(Sec. 5-6.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 4, § 6-4.2)

§ 6-4.3 Administration.

The administrative head of each city agency shall be responsible for the administration of the respective agency account or accounts in the treasury trust fund under such procedures as may be prescribed by the director of budget and fiscal services.
(Sec. 5-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 4, § 6-4.3)

§ 6-4.4 Disposition of unclaimed moneys.

All moneys deposited into the treasury trust fund, not used for the purposes for which such moneys were received, and remaining unclaimed for a period of at least five years after the purposes for which such moneys were originally received have ceased to exist, shall be transferred into the general fund of the city as general realization.
(Sec. 5-6.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 4, § 6-4.4)

ARTICLE 5: GENERAL TRUST FUND

Sections

§ 6-5.1 Creation.

There is created and established a special trust fund to be known as the "general trust fund."
(Sec. 5-7.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 5, § 6-5.1)

§ 6-5.2 Purpose.

All moneys received by the various agencies of the city for specific purposes, as trustee, escrow agent, donee, beneficiary, custodian or security holder, for which no special trust fund exists, shall be deposited into the general trust fund and maintained in separate accounts according to, and used for, the purposes for which such moneys are received; provided that gifts and donations shall be first accepted by the council pursuant to Charter § 13-113.
(Sec. 5-7.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 5, § 6-5.2)

§ 6-5.3 Administration.

The administrative head of each city agency shall be responsible for the administration of the respective agency account or accounts in the general trust fund under such procedures as may be prescribed by the director of budget and fiscal services.
(Sec. 5-7.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 5, § 6-5.3)

§ 6-5.4 Disposition of unclaimed moneys.

All moneys deposited into the general trust fund, not used for the purposes for which such moneys were received, and remaining unclaimed for a period of at least five years after the purposes for which such moneys were originally received have ceased to exist, shall be transferred into the general fund of the city as general realization.
(Sec. 5-7.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 5, § 6-5.4)

ARTICLE 6: IMPROVEMENT DISTRICT BOND AND INTEREST REDEMPTION FUND

Sections

§ 6-6.1 Creation.

There is created and established a special fund to be known as the "improvement district bond and interest redemption fund." The director of budget and fiscal services shall transfer from the improvement district assessment fund into the improvement district bond and interest redemption fund such moneys as are required for the payment of principal of and interest on the bonds as are issued under Chapter 14, Articles 8 through 15, when the same becomes due and payable.
(Sec. 5-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 6, § 6-6.1)

§ 6-6.2 Administration.

The director of budget and fiscal services shall be responsible for the administration of the improvement district bond and interest redemption fund under such procedures as may be prescribed by the director.
(Sec. 5-8.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 6, § 6-6.2)

ARTICLE 7: HOUSING AND COMMUNITY DEVELOPMENT REVOLVING FUND

Sections

§ 6-7.1 Creation.

There is created and established a working capital fund to be known as the "housing and community development revolving fund."
(Sec. 5-9.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 7, § 6-7.1)

§ 6-7.2 Purpose.

The purpose of the housing and community development revolving fund is to facilitate the expenditure of joint costs allocable to the separate programs undertaken by the department of community services.
(Sec. 5-9.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 7, § 6-7.2)

§ 6-7.3 Administration.

The administrative head of the department of community services shall be responsible for the administration of the housing and community development revolving fund under such procedures as may be prescribed by the director of budget and fiscal services.
(Sec. 5-9.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 7, § 6-7.3)

§ 6-7.4 Disposition of unexpended balance.

All moneys remaining unexpended in the housing and community development revolving fund after the purposes for which such moneys were originally deposited have ceased to exist, shall be transferred to the funds from which the working capital was originally provided.
(Sec. 5-9.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 7, § 6-7.4)

ARTICLE 8: GENERAL OBLIGATION BOND AND INTEREST REDEMPTION FUND

Sections

§ 6-8.1 Creation.

There is created and established a special fund to be known as the "general obligation bond and interest redemption fund."
(Sec. 5-10.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 8, § 6-8.1)

§ 6-8.2 Purpose.

All moneys as are provided for the payment of principal of and interest on general obligation bonds of the city shall be deposited into the general obligation bond and interest redemption fund, and shall be used only for the payment of such principal and interest when the same become due and payable.
(Sec. 5-10.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 8, § 6-8.2)

ARTICLE 9: COMMUNITY RENEWAL PROGRAM FUND

Section

§ 6-9.1 Creation.

There is created and established a special fund to be known as the "community renewal program fund." All community renewal program grant moneys received from the United States of America under Title I of the Housing Act of 1949, as amended, shall be deposited into the community renewal program fund, and all budgetary appropriations made for the community renewal program shall be transferred to the community renewal program fund. All moneys deposited or transferred into the community renewal program fund shall be used only for the purposes for which such moneys were received or appropriated.
(Sec. 5-12.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 9, § 6-9.1)

ARTICLE 10: SERVICE FEES FOR DISPOSITION OF REAL PROPERTY

Sections

§ 6-10.1 Property sold at public auction.

Whenever any real property, or any interest therein, owned by the city is sold at public auction, the purchaser thereof shall pay, in addition to the purchase price, fees for services rendered by the city in connection with such sale according to the following schedule:

Services	***Fee***
Advertising	Actual cost
Appraisal	Actual cost but not less than $25
Preparation or processing of document of conveyance	$20
Preparation or processing of map land description	$25
Survey	Actual cost

(Sec. 5-14.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 10, § 6-10.1)

§ 6-10.2 Property disposed of by negotiated sale or exchange.

Whenever any real property, or any interest therein, owned by the city is disposed of by negotiated sale or exchange, no service fee for such sale or exchange shall be charged by the city; provided that where the proceeds from such negotiated sale or exchange do not inure to the exclusive use of the city, the purchaser thereof shall be charged with service fees, in accordance with the schedule provided in § 6-10.1.
(Sec. 5-14.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 10, § 6-10.2)

ARTICLE 11: FEE SCHEDULE FOR PUBLIC RECORDS

Sections

§ 6-11.1 Charges for extracts, certified copies, and searches of public records.

Except as otherwise provided in this article, a copy or extract of any public document or record that is open to inspection by the public must 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:

Service	*Fee*
(a) Duplicated copy of any record (by duplicating machines including but not limited to microfilm printer, Thermofax, Verifax, Xerox, etc.)	
For the first page of each document or record	$0.50
Each additional page or copy thereof	$0.25
(b) Abstract of information from public record	
Each page	$0.50
Each additional copy	$0.25
(c) Typewritten copy of any record	
Per 100 words or fraction thereof	$1
(d) Copy of map, plan, diagram	
Black and white reproductions	
Up to 22 in. x 36 in. size; per sheet	$5
Larger than 22 in. x 36 in. size; prevailing commercial rate, with minimum charge per sheet	$5
Color reproductions	
Up to 8-½ in. by 14 in.; per sheet	$1
Up to 11 in. x 17 in.; per sheet	$2

Service	*Fee*
Larger than 11 in. x 17 in.; prevailing commercial rate, with minimum charge per sheet	$25
Black and white or color custom prints	
For each 10 minutes or fraction thereof of searching, creation, and printing of document; per sheet	$5
(e) Photograph or photograph enlargement	Prevailing commercial rate
(f) City clerk's certificate of voter registration	$5
(g) Countywide voter data or any portion thereof (as may be available)	$750 per data export
Voter data subscription (6 data exports)	$4,000
(h) Certified copy of medical examiner's report and autopsy report	$5
(i) Medical information extracted from city records for insurance companies and other firms	$5
(j) Certified statement attesting to veracity of information obtained from public records	
Per 100 words of statement or fraction thereof	$1
(k) Certification by public officer or employee as to correctness (or in attestation that document is a true copy) of any document, including maps, plans, and diagrams	
Per document	$5
(l) Use of motion picture film for the purpose of producing a copy, subject to the terms, conditions, and covenants contained in an agreement between the city and the party seeking to use the film for the purpose stated herein	
Per minute of film	$2
(m) Searches of real property tax records	
For each 15 minutes or fraction thereof of searching and typing	$4.75

(Sec. 5-15.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 11, § 6-11.1) (Am. Ord. 99-29, 03-12, 18-3)

§ 6-11.2 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.

(b) The term "publications" refers to copies of documents that are reproduced on a volume basis for general distribution and shall include but not be limited to such items as: ordinances; engineering and construction standards; directories; manuals and handbooks.

(Sec. 5-15.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 11, § 6-11.2)

§ 6-11.3 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.

(Sec. 5-15.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 11, § 6-11.3)

§ 6-11.4 Exemption from payment of fees and charges.

(a) The following agencies and organizations may be exempted from the payment of fees established in this article, 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) Nonprofit organizations directly concerned with the matter involved in the records or publications; provided that the exemption from the payment of fees or charges, or both, is limited to one copy or one set of such records or publications;

(3) Newspapers; provided that the exemption from the payment of fees or charges, or both, is limited to one copy or one set of such records or publications; and

(4) Organizations that have arranged a reciprocal agreement with a city agency for the mutual exchange of records and publications

(b) The director of budget and fiscal services may waive fees or charges, or both, for the following:

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

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

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

(Sec. 5-15.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 11, § 6-11.4) (Am. Ord. 18-3)

§ 6-11.5 Director of budget and fiscal services to administer.

The director of budget and fiscal services shall administer this article. The director may determine:

(1) The specific organizations and agencies that will be exempt from the payment of fees for public records and charges for publications; and

(2) The specific records or publications, or both, for which no fees or charges will be required.

(Sec. 5-15.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 11, § 6-11.5) (Am. Ord. 18-3)

ARTICLE 12: OVERTIME INSPECTION FEES

Sections

§ 6-12.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Applicant. Any person requesting inspectional services from the city.

Cost. The amount to be charged by the city for overtime inspections at a rate to be recomputed annually by the director of budget and fiscal services based on current salaries and applicable fringe benefits for inspectors.

Inspection. Includes all inspections provided for by law.
(Sec. 10-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 19, § 41-19.1)

§ 6-12.2 Charges.

(a) When an applicant requests that an inspection be made during any hour after the normal working hours of an inspector in any workday or on a Saturday, Sunday, or legal holiday, the applicant shall bear the cost of such inspection, and shall pay the cost to the city, before the final approval of any project so inspected.

(b) The moneys so realized shall be general realizations and the same shall be deposited into the general fund.
(Sec. 10-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 20, § 41-20.1)

ARTICLE 13: FEDERAL GRANTS FUND

Sections

§ 6-13.1 Creation.

There is created and established a special fund to be known as the "federal grants fund."
(Sec. 5-17.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 13, § 6-13.1)

§ 6-13.2 Purpose.

All moneys received from the United States of America as grants for specific projects, in addition to supporting moneys from other sources, where such moneys are not accounted for in any other fund, shall be deposited into the federal grants fund. Any related budgetary appropriations of city moneys shall be transferred into the federal grants fund. All moneys deposited or transferred into the federal grants fund shall be maintained in separate accounts identified with, and expended for, the purposes for which such moneys are received or appropriated.
(Sec. 5-17.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 13, § 6-13.2)

ARTICLE 14: SPECIAL PROJECTS FUND

Sections

§ 6-14.1 Creation.

There is created and established a special fund to be known as the "special projects fund."
(Sec. 5-18.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 14, § 6-14.1)

§ 6-14.2 Purpose.

All moneys received under special contracts entered into by and between the city and the State, such as for maintenance of State highways, and all moneys received from various other sources for operating and capital improvement expenses for which no financing has been provided in other funds, such as contributions from property owners exclusive of improvement district assessment collections, shall be deposited into the special projects fund and expended for the purposes authorized.
(Sec. 5-18.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 14, § 6-14.2)

ARTICLE 15: FURNISHING OF ELECTRONIC DATA PROCESSING SERVICES

Sections

§ 6-15.1 Definition.

For the purposes of this article, the following definition applies unless the context clearly indicates or requires a different meaning.

Public Data. Information stored by the department of information technology that may be released to the public pursuant to Charter § 13-105, and accessibility of which is in accordance with rules adopted by the managing director to implement Ordinance 78-21 (Article 12 of this chapter).

An invasion of "the right of privacy of individuals" shall be deemed to result from, but shall not be limited to, the granting of access to:

(1) Criminal history records and investigatory files compiled for law enforcement purposes;

(2) Applications for licenses or permits required by law;

(3) Personnel and employment records, employment examinations, and personal references of applicants for employment. However, an examinee shall have the right to review the examinee's own completed examination;

(4) Medical records;

(5) Credit histories; and

(6) Information of a personal nature when disclosure would result in economic or personal hardship to the subject party that outweighs the public's fundamental right of access to information concerning the conduct of city agencies.

(Sec. 5-19.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 15, § 6-15.1)

§ 6-15.2 Policy and conditions governing availability of public data.

The following policy shall govern the availability of public data.

(a) Public data may be obtained by governmental agencies and the general public from the department of information technology in the medium (such as compact disk) as determined by the department of information technology.

(b) The following conditions shall apply to the release, sale, or rent of public data:

(1) The applicant must obtain written permission from the head of the agency that controls the data, which permission shall be withheld in circumstances where release of the data would result in the invasion of the right of privacy of individuals;

(2) The agency that controls the data may place restrictions on the use of that data in any circumstances where it deems such restrictions are necessary to protect the right of privacy of individuals;

(3) All federal, State, and county statutes and rules regarding accessibility, privacy, and security shall apply;

(4) The director of information technology may decline the request if special programming or operating procedures must be developed to meet the needs of the applicant;

(5) The responsible officer of the agency shall review the request with the department of information technology; and

(6) The request shall be processed by the department of information technology on a "not to interfere" basis with respect to other jobs being processed for governmental agencies.

(c) This article shall not apply to data under the control of the Honolulu police department or the prosecutor's office of the City and County of Honolulu or other agencies making up the criminal justice system.

(Sec. 5-19.2, R.O. 1978 (1983 Ed.); Am. Ord. 98-62) (1990 Code, Ch. 6, Art. 15, § 6-15.2)

§ 6-15.3 Charges for furnishing electronic data processing services.

Charges for data processing services shall be computed on the basis of the cost of equipment, time, labor, and materials used in connection with processing the request for data. The director of information technology shall adopt rules prescribing the method of computing the charges.

(Sec. 5-19.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 15, § 6-15.3)

§ 6-15.4 Exemption from payment of charges.

Government agencies requiring data for public purposes may be exempt from all or a portion of the cost of services provided by the department of information technology.

(Sec. 5-19.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 15, § 6-15.4)

§ 6-15.5 Administration.

This article shall be administered by the director of budget and fiscal services and the director shall be authorized to determine when government agencies may be exempt from payment of charges.
(Sec. 5-19.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 15, § 6-15.5)

§ 6-15.6 Violation—Penalty.

It is unlawful for any person to use data in violation of restrictions placed upon its use in accordance with § 6-15.2(b)(2), and violation of these provisions shall be punishable by a fine not to exceed $1,000, or imprisonment not to exceed 30 days, or both.
(Sec. 5-19.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 15, § 6-15.6) (Am. Ord. 98-62)

ARTICLE 16: GENERAL IMPROVEMENT BOND FUND

Sections

§ 6-16.1 Creation.

There is created and established a special fund to be known as the "general improvement bond fund." (Sec. 5-20.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 16, § 6-16.1)

§ 6-16.2 Deposit.

There shall be deposited into the general improvement bond fund the proceeds of the sale of general obligation bonds of the city and county issued to pay all or part of those appropriations for public improvements made in the capital budget ordinance of the city and county and specified therein to be expended from the general improvement bond fund.
(Sec. 5-20.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 16, § 6-16.2)

§ 6-16.3 Source of payment.

There shall be paid from the general improvement bond fund the costs of public improvements appropriated in the capital budget ordinance and specified therein to be expended from the general improvement bond fund.
(Sec. 5-20.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 16, § 6-16.3)

ARTICLE 17: HIGHWAY IMPROVEMENT BOND FUND

Sections

§ 6-17.1 Creation.

There is created and established a special fund to be known as the "highway improvement bond fund." (Sec. 5-21.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 17, § 6-17.1)

§ 6-17.2 Deposit.

There shall be deposited into the highway improvement bond fund the proceeds of the sale of general obligation bonds of the city and county issued to pay all or part of those appropriations for public improvements made in the capital budget ordinance of the city and county and specified therein to be expended from the highway improvement bond fund.
(Sec. 5-21.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 17, § 6-17.2)

§ 6-17.3 Source of payment.

There shall be paid from the highway improvement bond fund the costs of public improvements appropriated in the capital budget ordinance and specified therein to be expended from the highway improvement bond fund. (Sec. 5-21.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 17, § 6-17.3)

ARTICLE 18: TRANSPORTATION FUND

Sections

§ 6-18.1 Creation.

There is created and established a special fund to be known as the "transportation fund."
(Sec. 5-23.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 18, § 6-18.1) (Am. Ord. 20-19)

§ 6-18.2 Purpose.

The transportation fund is for the following purposes:

(1) For city bus, handi-van, and rail system purposes, including:

(A) The management, operation, and maintenance of the city bus, handi- van, and rail system; and

(B) The pro rata share of the expenses of the department of transportation services attributable to the administration of the city bus, handi-van, and rail system;

(2) As a depository for all revenues generated by or received from the city bus, handi-van, rail system, and parking fees derived from the joint traffic management center parking garage.

(3) To provide for expenses of operation, maintenance, improvement, and betterment of the joint traffic management center parking garage facilities.

(Sec. 5-23.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 18, § 6-18.2) (Am. Ords. 91-27, 97-02, 12-36, 20-19)

ARTICLE 19: FEDERAL REVENUE SHARING FUND

Sections

§ 6-19.1 Creation.

There is created and established a special fund to be known as the "federal revenue sharing fund." (Sec. 5-24.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 19, § 6-19.1)

§ 6-19.2 Purpose.

(a) There shall be deposited into the federal revenue sharing fund all moneys received from the United States of America under the State and Local Fiscal Assistance Act of 1972. All moneys deposited into the federal revenue sharing fund shall be expended for "priority expenditure" purposes authorized by the Act based on appropriations in the operating budget and capital budget ordinances. The appropriations shall be explicit as to the purpose for which intended, and shall be accompanied by a statement of such conditions and restrictions as may apply to ensure full compliance with the Act.

(b) Priority expenditure purposes outlined in the Act mean only:

(1) Ordinary and necessary maintenance and operating expenses for:

(A) Public safety (including law enforcement, fire protection, and building code enforcement);

(B) Environmental protection (including sewage disposal, sanitation, and pollution abatement);

(C) Public transportation (including transit systems and streets and roads);

(D) Health;

(E) Recreation;

(F) Libraries;

(G) Social services for the poor and aged; and

(H) Financial administration; and

(2) Ordinary and necessary capital expenditures authorized by law.
(Sec. 5-24.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 19, § 6-19.2)

§ 6-19.3 Administration.

The director of budget and fiscal services and the chief budget officer shall be responsible for the administration of the federal revenue sharing fund. Expenditures from the federal revenue sharing fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.
(Sec. 5-24.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 19, § 6-19.3)

ARTICLE 20: HIGHWAY BEAUTIFICATION AND DISPOSAL OF ABANDONED VEHICLES REVOLVING FUND

Sections

§ 6-20.1 Creation.

There is created and established a special fund to be known as the "highway beautification and disposal of abandoned vehicles revolving fund."
(Sec. 5-25.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 20, § 6-20.1)

§ 6-20.2 Purpose.

There shall be deposited into the highway beautification and disposal of abandoned vehicles revolving fund all receipts from the fee permitted under HRS § 286-51. The fee assessed and collected shall be $1 per vehicle for U-drive motor vehicles, and for motor vehicles other than U-drive motor vehicles:

Per vehicle	***Effective date***
$6	September 1, 2009
$7	July 1, 2010

All moneys deposited into the highway beautification and disposal of abandoned vehicles revolving fund shall be expended in accordance with HRS § 286-51 for:

(a) Beautification and other related activities of primary highways under the ownership, control, and jurisdiction of the city; and

(b) Disposition and other related activities of abandoned vehicles as prescribed in HRS Chapter 290.
(Sec. 5-25.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 20, § 6-20.2) (Am. Ords. 02-30, 03-13, 09-16)

§ 6-20.3 Expenditures.

All expenditures from the highway beautification and disposal of abandoned vehicles revolving fund shall be for purposes authorized herein, based on appropriations in the operating budget or capital budget ordinances, or both.
(Sec. 5-25.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 20, § 6-20.3)

§ 6-20.4 Administration.

The director of budget and fiscal services and the chief budget officer shall be responsible for the administration of the highway beautification and disposal of abandoned vehicles revolving fund. Expenditures from the highway beautification and disposal of abandoned vehicles revolving fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.
(Sec. 5-25.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 20, § 6-20.4)

ARTICLE 21: BIKEWAY FUND

Sections

§ 6-21.1 Creation.

There is created and established a special fund to be known as the "bikeway fund."
(Sec. 5-26.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 21, § 6-21.1)

§ 6-21.2 Purpose.

There shall be deposited into the bikeway fund all receipts from the biennial registration fee of $8 levied and collected under HRS § 249-14, as amended. All moneys deposited into the bikeway fund shall be expended for:

(1) Acquisition, design, construction, improvement, repair, and maintenance of bikeways, including the installation and repair of storm drains and bridges;

(2) Installation, maintenance, and repair of bikeway lights and power, including replacement of old bikeway lights;

(3) Purposes and functions connected with traffic control and preservation of safety upon bikeways; and

(4) Payment of interest on and redemption of bonds issued to finance bikeway construction and improvements.

(Sec. 5-26.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 21, § 6-21.2) (Am. Ord. 92-67)

§ 6-21.3 Expenditures.

All expenditures from the bikeway fund shall be for purposes authorized herein, based on appropriations in the operating budget or capital budget ordinances, or both.
(Sec. 5-26.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 21, § 6-21.3)

§ 6-21.4 Administration.

The director of budget and fiscal services shall be responsible for the administration of the bikeway fund. Expenditures from the bikeway fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.
(Sec. 5-26.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 21, § 6-21.4)

ARTICLE 22: COMMUNITY DEVELOPMENT FUND

Sections

§ 6-22.1 Creation.

There is created and established a special fund to be known as the "community development fund." (Sec. 5-27.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 22, § 6-22.1)

§ 6-22.2 Purpose.

There shall be deposited into the community development fund all moneys received from the United States of America under the Housing and Community Development Act of 1974. All moneys deposited into the community development fund shall be expended for the primary objective of the community development program as authorized by the Act based on appropriations in the operating budget and capital budget ordinances. The primary objective is the development of viable urban communities, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

(a) This primary objective is for the support of community development activities that are directed toward the following specific objectives:

(1) The elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally for persons of low and moderate income;

(2) The elimination of conditions that are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) The conservation and expansion of the nation's housing stock to provide a decent home and a suitable living environment for all persons, but principally for those of low and moderate income;

(4) The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) A more rational use of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) The reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) The restoration and preservation of properties of special value for historic, architectural, or esthetic reasons.

(b) It is also the purpose of the Act to further develop a national urban growth policy by consolidating a number of complex and overlapping financial assistance programs to communities of varying sizes and needs into a consistent federal aid system that:

(1) Provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) Encourages community development activities that are consistent with comprehensive local and area-wide development planning;

(3) Furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) Fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner.

(Sec. 5-27.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 22, § 6-22.2)

§ 6-22.3 Administration.

The director of budget and fiscal services shall be responsible for the administration of the community development fund. Expenditures from the community development fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.

(Sec. 5-27.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 22, § 6-22.3)

ARTICLE 23: HOUSING AND COMMUNITY DEVELOPMENT SECTION 8 CONTRACT FUND

Sections

§ 6-23.1 Creation.

There is created and established a special fund to be known as the "housing and community development Section 8 contract fund."
(Sec. 5-29.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 23, § 6-23.1)

§ 6-23.2 Purpose.

There shall be deposited into the housing and community development Section 8 contract fund all moneys received from the United States of America under the Housing and Community Development Act of 1974 for the purposes set forth under Title II of the Act, and expended for such purposes.
(Sec. 5-29.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 23, § 6-23.2)

§ 6-23.3 Administration.

The director of community services shall be responsible for the administration of the housing and community development Section 8 contract fund in accordance with disbursement procedures prescribed by the director of budget and fiscal services.
(Sec. 5-29.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 23, § 6-23.3)

ARTICLE 24: HONOLULU ZOO FUND

Sections

§ 6-24.1 Creation.

There is created and established a special fund to be known as the "Honolulu Zoo fund." (1990 Code, Ch. 6, Art. 24, § 6-24.1) (Added by Ord. 16-12)

§ 6-24.2 Purpose.

(a) There will be deposited into the Honolulu Zoo fund:

(1) All revenues generated for the city by the Honolulu Zoo, the Honolulu Zoo food concessions, and the Honolulu Zoo parking lot;

(2) All entrance fees, rents, user fees, and miscellaneous revenues generated from operations of the Honolulu Zoo;

(3) All proceeds from the sale of surplus animals from the Honolulu Zoo;

(4) Gifts made to the Honolulu Zoo;

(5) Any funds remaining in the zoo animal purchase fund, which will continue to be used for the purchase of animals;

(6) All moneys appropriated to the fund by the council in the annual executive operating budget ordinance and any amendments thereto; and

(7) Any interest earned on moneys deposited into the Honolulu Zoo fund.

(b) The purpose of the Honolulu Zoo fund is to provide the following:

(1) Funds for the administration, operation, repair, maintenance, and improvement of the Honolulu Zoo;

(2) The salaries of persons employed to work at the Honolulu Zoo and related expenses;

(3) Acquisition of zoo animals for the city, including shipping, insurance, travel, and other costs related to the purchase of animals for the Honolulu Zoo; and

(4) To pay for debt service owed for capital improvements at the Honolulu Zoo.

(1990 Code, Ch. 6, Art. 24, § 6-24.2) (Added by Ord. 16-12)

§ 6-24.3 Administration.

The director of budget and fiscal services shall administer the Honolulu Zoo fund in accordance with prescribed laws and procedures applicable to expenditures of city funds.

(1990 Code, Ch. 6, Art. 24, § 6-24.3) (Added by Ord. 16-12)

ARTICLE 25: PARKS AND PLAYGROUNDS FUND

Sections

§ 6-25.1 Creation.

There is created and established a special fund to be known as the "parks and playgrounds fund."
(Sec. 5-32.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 25, § 6-25.1)

§ 6-25.2 Purpose.

All moneys received by the city pursuant to § 22-7.6, shall be deposited into the parks and playgrounds fund to be expended for the purposes prescribed in § 22-7.6.
(Sec. 5-32.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 25, § 6-25.2)

§ 6-25.3 Administration.

The director of budget and fiscal services shall be responsible for the administration of the parks and playgrounds fund in accordance with prescribed laws and procedures applicable to expenditures of city funds.
(Sec. 5-32.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 25, § 6-25.3)

ARTICLE 26: HOUSING AND COMMUNITY DEVELOPMENT REHABILITATION LOAN FUND

Sections

§ 6-26.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Concentrated Code Enforcement Project Area. A deteriorated or deteriorating area as described by § 105(a)(3) of the Housing and Community Development Act of 1974.

Department. The department of community services.

Eligible Applicant. One or more persons who own or lease a parcel of land.

General Property Improvement. The general renovation, improvement, alteration, expansion, and enhancement of a property.

Local Code Requirements. Requirements of fire, health, safety, sanitation, building, and other requirements as cited in various laws, ordinances, codes, and regulations of the City and County of Honolulu.

Project Standards. Code requirements of a concentrated code enforcement project and a rehabilitation project, and provisions of the urban renewal plan for the urban renewal project.

Rehabilitation Project Area. An area designated by the administering department, with the consent of the city council, for a voluntary property rehabilitation program.

Rehabilitation. The necessary and required improvement of a property in accordance with project standards or local code requirements.

Urban Renewal Project Area. A slum or blighted, deteriorated or deteriorating area as defined by HRS § 53-51.
(Sec. 5-33.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 26, § 6-26.1)

§ 6-26.2 Title.

There is created and established a "housing and community development rehabilitation loan fund," which may be cited as "H&CD loan fund."
(Sec. 5-33.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 26, § 6-26.2)

§ 6-26.3 Purpose.

(a) The purposes of the housing and community development rehabilitation loan fund are to:

(1) Make loan money available primarily to low- and moderate-income applicants who are owners or lessees of parcels of land within urban renewal, concentrated code enforcement or rehabilitation project areas or are owners or lessees of a parcel of land in the City and County of Honolulu that have been cited for local code violations by departments of the City and County of Honolulu, or are owners or lessees of parcels of land who have need of rehabilitation or general property improvement as determined by the department. Applicants eligible for financing under this loan program must be unable to secure funds under the Rehabilitation Loan Program, § 312 of the Housing Act of 1964, as amended, or from other sources under comparable terms and conditions, to finance rehabilitation of their properties; and

(2) Fund any project that is eligible to receive and expend community development block grant moneys.

(b) For the purpose set forth in subsection (a)(1), there may be authorized sufficient sums appropriated each fiscal year that may constitute a revolving account to be used by the department to carry out this loan program. All moneys in such revolving account may be available for servicing loans made pursuant to this article.
(Sec. 5-33.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 26, § 6-26.3) (Am. Ord. 04-22)

§ 6-26.4 Limitations concerning rehabilitation loans.

The following limitations shall only apply to loans made pursuant to § 6-26.3(a)(1).

(a) Loans shall be made in the name of the City and County of Honolulu to an eligible applicant who is an owner or lessee of a parcel of land containing one or more structures which is situated in an approved urban renewal, concentrated code enforcement, or rehabilitation project area or are owners or lessees of a parcel of land that have been cited for local code violations from departments of the city, or has need of rehabilitation or general property improvements.

(b) The amount of each loan, together with other existing liens, shall not exceed 90 percent of the appraised value of the fee property or leasehold property after rehabilitation.

(c) If there are rental units situated on properties under this loan program, priority shall be given by the property owner or lessee to low-income and moderate-income families.

(d) All loans shall be adequately secured as determined by the department.

(e) All loans shall bear interest on the outstanding balance thereof at an annual interest rate to be determined by the department; provided that the department may forego interest for loan leveraging purposes, or if such interest poses a hardship on a low-income applicant.

(f) Monthly payments shall be made on all loans. The department may defer the payments for such periods as deemed appropriate and necessary upon its determination that the applicant is unable to meet these payments because of limited income, unemployment, or for any other valid reason.

(g) The term of each loan shall not exceed three-fourths of the remaining economic life of the structure after rehabilitation or the remaining period of a leasehold property, whichever is the lesser.

(h) The department may require that the loan be paid in full should the owner-occupant or lessee-occupant borrower cease to be an occupant of the property or if title or lease to the property is transferred before the maturity date, unless the succeeding titleholder or leaseholder meets the eligibility requirements established by the department for the loan.

(i) If there are rental units on the subject parcel of land, the loan shall be paid in full if it is found that the property owner is in violation of the loan agreements as set by the department.

(j) The department may prescribe such charges, fees, and other costs as may be related to each loan.

(k) All loans shall be periodically reviewed to assure compliance with the above limitations.

(Sec. 5-33.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 26, § 6-26.4) (Am. Ord. 04-22)

§ 6-26.5 Rules.

The department shall, under its powers, adopt necessary and appropriate rules to implement the purpose of the housing and community development rehabilitation loan fund and be responsible for the administration thereof.

(Sec. 5-33.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 26, § 6-26.5)

ARTICLE 27: STATE SPECIAL USE PERMIT

Section

§ 6-27.1 Fees for State special use permits.

The following fees shall be charged for a State special use permit:

(a) An application fee of $700, plus $300 per acre or major fraction thereof, up to a maximum of $15,000, shall be charged for a State special use permit. In the event of a joint application (conditional use permit and State special use permit), only one fee shall apply; and

(b) When an environmental assessment or impact statement is required to be prepared as a prerequisite to a State special use permit, and is submitted to the department of planning and permitting for processing as the accepting agency, there shall be a processing fee of $600 for an environmental assessment and $1,200 for an environmental impact statement.

(Sec. 5-34.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 27, § 6-27.1) (Am. Ords. 03-12, 14-4)

ARTICLE 28: THE WAIPIO PENINSULA SOCCER PARK FUND

Sections

§ 6-28.1 Creation.

There is created and established a fund to be known as the "Waipio Peninsula Soccer Park fund."
(1990 Code, Ch. 6, Art. 28, § 6-28.1) (Added by Ord. 15-30)

§ 6-28.2 Purpose.

All revenues generated from the Waipio Peninsula Soccer Park shall be deposited into the Waipio Peninsula Soccer Park fund. All moneys deposited into the Waipio Peninsula Soccer Park fund must be expended, as appropriated, for the improvement, maintenance, and repair of the city's Waipio Peninsula Soccer Park. All appropriations from the Waipio Peninsula Soccer Park fund must be used to supplement, and not supplant, other city fund appropriations for the Waipio Peninsula Soccer Park.
(1990 Code, Ch. 6, Art. 28, § 6-28.2) (Added by Ord. 15-30)

§ 6-28.3 Administration.

The director of budget and fiscal services shall administer the Waipio Peninsula Soccer Park fund.
(1990 Code, Ch. 6, Art. 28, § 6-28.3) (Added by Ord. 15-30)

ARTICLE 29: STANDARDS FOR THE APPROPRIATION OF FUNDS TO PRIVATE ORGANIZATIONS

Sections

§ 6-29.1 Legislative intent.

The purpose of this article is to establish standards for the appropriation of funds to private organizations providing programs and services that the City and County of Honolulu has determined to be in the public interest. (Sec. 5-36.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 29, § 6-29.1)

§ 6-29.2 Appropriation of funds.

All grants of public funds made by the City and County of Honolulu to private organizations are to be made in accordance with the standard that the private programs and services so funded shall result in a direct benefit to the public and accomplish public purposes. No grant, subsidy, or purchase of services contract to a private organization shall be made or allotted, unless the private organization meets the following criteria:

(a) The private organization is a not-for-profit organization or association chartered or otherwise authorized to do business in the State for charitable purposes;

(b) The purposes for which the private not-for-profit corporation or association is organized provides direct benefits to the people of the City and County of Honolulu; and

(c) The purposes for which the not-for-profit corporation or association is organized includes one of the following categories:

(1) Social services for the poor, the aged, and the youth of the City and County of Honolulu;

(2) Health services including services for those with physical or emotional/mental disabilities, or both;

(3) Any one or more of the following: educational, manpower, or training services; and

(4) Services to meet a definitive cultural, social, or economic need within the City and County of Honolulu not being met by any other private organization.

(Sec. 5-36.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 29, § 6-29.2)

§ 6-29.3 Organizations applying/granted funds.

No grant, subsidy, or purchase of services contract to a private organization shall be made or allotted by the City and County of Honolulu, unless a private organization so funded agrees to the following conditions:

(1) To comply with all applicable federal and State laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, handicap, or age, in employment and any condition of employment with the recipient or in participation in the benefits of any program or activity funded in whole or in part by the State;

(2) To comply with all applicable licensing requirements of the county, State, and federal governments and with all applicable accreditation and other standards of quality generally accepted in the field of the recipient's activities;

(3) To have in its employ or under contract such persons as are professionally qualified to engage in the activity funded in whole or in part by the State;

(4) To comply with such other requirements as the director of budget and fiscal services may prescribe to ensure adherence by the provider or recipient with county, federal, and State laws and to ensure quality in the service or activity rendered by the recipient; and

(5) To allow the expending or related county agency, or a committee of the council, or the council full access to records, reports, files, and other related documents in order that they may monitor and evaluate the management and fiscal practices of the recipient organization to assure proper and effective expenditure of city and county funds.

(Sec. 5-36.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 29, § 6-29.3)

§ 6-29.4 Reports.

All organizations granted funds must keep these funds financially separate in their book of accounts and submit quarterly program and financial reports on the use of these funds, due on or before the 15th of the month following the close of the quarter; and a year-end report on the same within 90 days following the close of the fiscal year in which the money is appropriated. In lieu of a year-end report, the City and County of Honolulu may elect to require a final report be submitted within 90 days following the completion of the program or services for which the grant was awarded. The reports shall contain, but are not limited to:

(1) Program status summary;

(2) Program data summary;

(3) Summary of participant characteristics;

(4) Financial status report of the city and county funds used;

(5) Financial status report of the remaining balance of city and county funds, if any; and

(6) A narrative report.

In lieu of quarterly and year-end reports for grants in the amount of $10,000 or less, a final report shall be submitted within 90 days following the close of the fiscal year in which the money is appropriated or the completion of the program or services, whichever is later.
(Sec. 5-36.4, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 6, Art. 29, § 6-29.4) (Am. Ord. 07-12)

ARTICLE 30: LIQUOR COMMISSION FUND

Sections

§ 6-30.1 Creation.

There is created and established a special fund to be known as the "liquor commission fund."
(Sec. 5-37.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 30, § 6-30.1)

§ 6-30.2 Purpose.

All fees collected and received by, as well as all other moneys received on behalf of the liquor commission, shall be deposited into the liquor commission fund and used for the operational and administrative costs of the liquor commission.
(Sec. 5-37.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 30, § 6-30.2)

§ 6-30.3 Administration.

The moneys in the liquor commission fund shall be administered in accordance with the procedures prescribed by the director of budget and fiscal services and as provided by law.
(Sec. 5-37.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 30, § 6-30.3)

ARTICLE 31: THE PATSY T. MINK CENTRAL OAHU REGIONAL PARK FUND

Sections

§ 6-31.1 Creation.

There is created and established a special fund to be known as the "Patsy T. Mink Central Oahu Regional Park fund."
(1990 Code, Ch. 6, Art. 31, § 6-31.1) (Added by Ord. 15-8)

§ 6-31.2 Purpose.

All revenues generated from the Patsy T. Mink Central Oahu Regional Park shall be deposited into the Patsy T. Mink Central Oahu Regional Park fund. All moneys deposited into the Patsy T. Mink Central Oahu Regional Park fund must be expended, as appropriated, for the improvement, maintenance, and repair of the city's Patsy T. Mink Central Oahu Regional Park. All appropriations from the Patsy T. Mink Central Oahu Regional Park fund must be used to supplement, and not supplant, other city fund appropriations for the Patsy T. Mink Central Oahu Regional Park.
(1990 Code, Ch. 6, Art. 31, § 6-31.2) (Added by Ord. 15-8)

§ 6-31.3 Administration.

The director of budget and fiscal services shall administer the Patsy T. Mink Central Oahu Regional Park fund.
(1990 Code, Ch. 6, Art. 31, § 6-31.3) (Added by Ord. 15-8)

ARTICLE 32: ESTABLISHING MAXIMUM INTEREST RATE FOR URBAN RENEWAL PROJECT NOTES

Section

§ 6-32.1 Maximum interest rate.

Any ordinance to the contrary notwithstanding, project notes to aid in financing urban renewal projects of the city to be authorized for issuance and sale under HRS Chapter 53 shall bear interest at a coupon or stated rate or rates not exceeding 10 percent a year.
(Sec. 5-39.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 32, § 6-32.1)

ARTICLE 33: ESTABLISHING MAXIMUM INTEREST FOR GENERAL OBLIGATION BONDS

Sections

§ 6-33.1 Maximum interest rate.

Except as may be otherwise provided in an ordinance authorizing the issuance of general obligation bonds, all general obligation bonds of the City and County of Honolulu shall bear interest at a rate or rates not exceeding 13 percent per year.
(Sec. 5-40.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 33, § 6-33.1)

§ 6-33.2 Council approval required.

Where general obligation bonds of the City and County of Honolulu have been authorized for issuance and sale by the council of the City and County of Honolulu in accordance with HRS Chapter 47, the director of budget and fiscal services shall not offer for sale or sell the whole or any part of any issue of the bonds so authorized without first obtaining the determination of the council, by resolution, of the form, date, amount, denomination, and maturity of the bonds to be offered for sale and sold by the director of budget and fiscal services.
(Sec. 5-40.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 33, § 6-33.2)

ARTICLE 34: HOUSING LOAN AND MORTGAGE PROGRAMS

Sections

§ 6-34.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Bonds. General obligation bonds of the city issued pursuant to HRS Chapter 47 and § 46-15.2, or revenue bonds of the city issued pursuant to HRS Chapter 49 and § 46-15.2 to carry out the loan programs authorized thereunder.

City. The City and County of Honolulu.

Director. The director of community services.

Eligible Borrower. Any person or family meeting the requirements established by rules adopted by the director for a mortgagor under a housing loan program, and further meeting the requirements of HRS § 46-15.2.

Eligible Loan. A loan to an eligible borrower made under a housing loan program meeting the requirements established by rules adopted by the director for a loan made under a housing loan program, and further meeting the requirements of HRS § 46-15.2.

Housing Loan Program. A housing loan and mortgage program authorized under HRS § 46-15.2, established by the city.

Mortgage Lender. Any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or other financial institution meeting the requirements of a mortgage lender under a housing loan program established in rules adopted by the director and further meeting the requirements of HRS § 46-15.2.
(Sec. 31-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.1)

§ 6-34.2 Adoption of rules.

The director shall adopt rules for the implementation, administration, and enforcement of any housing loan program to be undertaken in compliance with HRS § 46-15.2. In accordance with HRS Chapter 91 and Charter § 4-105.4, such rules shall have the force and effect of law. The director shall file in the office of the city clerk not less than three copies of such rules.
(Sec. 31-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.2)

§ 6-34.3 Eligible borrowers.

Rules adopted pursuant to § 6-34.2 shall establish the qualifications of an eligible borrower, and may consider, but not be limited to, the following:

(1) The proportion of income spent for shelter;

(2) The size of the family;

(3) The cost and condition of housing available to the total housing market; and

(4) The ability of the person to compete successfully in the normal housing market and to pay the amounts on which private enterprise is providing loans for safe, decent, and sanitary housing in the State.

(Sec. 31-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.3)

§ 6-34.4 Eligible loans.

Rules adopted pursuant to § 6-34.2 shall establish the qualification of an eligible loan, and may establish, but not be limited to, requirements as to the location, age, conditions, and other characteristics of the property. Such rules may further establish the terms, maturities, interest rates, collateral, and other requirements for eligible loans.
(Sec. 31-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.4)

§ 6-34.5 Additional program procedures and requirements.

Rules adopted pursuant to § 6-34.2 shall establish such procedures and requirements as are deemed necessary to implement a housing loan program, including but not limited to procedures and requirements governing:

(1) The qualifications of mortgage lenders;

(2) The making of advance commitments to purchase and the purchasing of eligible loans to be made by mortgage lenders;

(3) Loan applications made through mortgage lenders to eligible borrowers;

(4) The allocation of loans to mortgage lenders;

(5) The making of advance commitments and allocation of funds to purchase eligible loans from mortgage lenders; and

(6) The participation by mortgage lenders as originators and processors of eligible loans on behalf of the city.
(Sec. 31-2.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.5)

§ 6-34.6 Establishment of rental housing loan program.

This section establishes a loan program for the construction of multi-family rental units by using tax exempt revenue bonds.
(Sec. 31-3.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.6)

§ 6-34.7 Adoption of rules of rental housing loan program.

The director of community services is authorized and directed, under and pursuant to and upon compliance with HRS Chapter 356, Part II, HRS Chapters 91 and 92, as amended, and the Charter, to adopt from time to time rules for the multi-family rental housing program for the city. The rules shall further the purposes of the multi-family rental housing program as set forth in HRS Chapter 356, Part II, as amended, and be consistent with the purposes of this section. Such rules shall have the force and effect of law. The director shall file in the office of the city clerk not less than three copies of such rules.
(Sec. 31-3.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 34, § 6-34.7)

ARTICLE 35: HOTEL AND BOARDINGHOUSE ANNUAL LICENSE FEE

Sections

§ 6-35.1 Purpose.

In accordance with the authority granted by HRS § 445-15, the annual fee for a license to keep a hotel or boardinghouse, as established by HRS § 445-92, shall be $50 per hotel.

For the purposes of this article, "hotel or boardinghouse" means a building or buildings having at least 10 rooms for the accommodation of guests.
(Sec. 5-42.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 35, § 6-35.1)

§ 6-35.2 State statutes to remain in effect.

HRS Chapter 445, Part III, shall continue in effect for the purposes of this article.
(Sec. 5-42.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 35, § 6-35.2) (Am. Ord. 96-58)

ARTICLE 36: CAPITAL PROJECTS FUND

Sections

§ 6-36.1 Creation.

There is created and established a special fund to be known as the "capital projects fund."
(Sec. 5-44.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 36, § 6-36.1)

§ 6-36.2 Purpose.

Moneys received by the city, from sources other than the federal government, in the form of grants, entitlements, shared revenues, or payments in lieu of taxes to fund capital projects and city moneys appropriated for capital projects may be deposited or transferred into the capital projects fund. All moneys deposited or transferred into the capital projects fund shall be maintained in separate accounts identified with, and expended for, the purposes for which such moneys are received or appropriated. Appropriated moneys transferred from another fund into the capital projects fund shall lapse into that other fund if not encumbered or expended in a timely manner pursuant to Charter Article IX, as amended.
(Sec. 5-44.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 36, § 6-36.2)

ARTICLE 37: FEDERAL GRANTS CAPITAL PROJECTS FUND

Sections

§ 6-37.1 Creation.

There is created and established a special fund to be known as the "federal grants capital projects fund." (Sec. 5-45.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 37, § 6-37.1)

§ 6-37.2 Purpose.

All moneys received from the federal government, in the form of grants, entitlements, or payments in lieu of taxes to fund capital projects and federal revenue sharing funds appropriated for capital projects may be deposited or transferred into the federal grants capital projects fund. All moneys deposited or transferred into the federal grants capital projects fund shall be maintained in separate accounts identified with, and expended for, the purposes for which such moneys are received or appropriated. Appropriated moneys transferred from another fund into the federal grants capital projects fund shall lapse into that other fund if not encumbered or expended in a timely manner pursuant to Charter Article IX, as amended.
(Sec. 5-45.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 37, § 6-37.2)

ARTICLE 38: LEISURE SERVICES INCENTIVE FUND

Sections

§ 6-38.1 Creation.

There is created and established a special fund to be known as the "leisure services incentive fund." (Sec. 5-46.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 38, § 6-38.1)

§ 6-38.2 Definitions.

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Director. The director of parks and recreation or the director's authorized representative.

Incentive Fund Project. A project funded under this article.

Matching Contribution. The contribution required from the sponsor for an incentive fund project.

Sponsor. The organization, individual, or other eligible entity that sponsors an incentive fund project. (Sec. 5-46.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 38, § 6-38.2)

§ 6-38.3 Purpose.

There shall be deposited in the leisure services incentive fund amounts as may be appropriated by the council, to be used to fund up to one-half of the cost of any project for the construction or improvement of recreation and park facilities authorized under this article.
(Sec. 5-46.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 38, § 6-38.3)

§ 6-38.4 Eligibility.

Expenditures from the leisure services incentive fund shall be made subject to the following.

(1) A project to be funded under this article must be sponsored by a recognized nonprofit civic, neighborhood, or community group, or by identified individuals. Determination of qualifying organizations will be made by the director pursuant to rules adopted under this section, and will involve consideration of the financial ability of the applicant to participate. Nothing in this section shall prevent a sponsor from seeking or accepting contributions from other private sources to constitute all or part of the community's matching contribution.

(2) Incentive fund projects shall benefit the entire community as a whole and be available for use by all citizens.

(3) An incentive fund project under this article must:

(A) Be located on publicly owned property;

(B) Result in a new parks and recreation facility or improve an existing facility;

(C) Be open to the public on a nondiscriminatory basis upon completion, subject to such reasonable restrictions for protection of the property as may be agreed upon by the sponsor and the city and stipulated in the application agreement;

(D) Have a minimum life expectancy of five years; and

(E) Involve a total financial cost of over $100.

(4) The leisure services incentive fund will provide up to 50 percent of the total estimated project cost, up to the total amount approved. The matching contribution shall be in cash, materials, or equipment. The director may agree to accept in-kind labor or services as part or all of the matching contribution.

(5) All purchases made in whole or in part with leisure services incentive fund moneys must be agreed to by the department of parks and recreation, and all property so purchased shall become the property of the City and County of Honolulu.

(Sec. 5-46.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 38, § 6-38.4)

§ 6-38.5 Administration.

(a) The department of parks and recreation shall, under its powers, adopt necessary and appropriate rules to implement the purpose of the leisure services incentive fund and be responsible for the administration thereof.

(b) Upon approval of an application under this article, the department of parks and recreation will extend a written confirmation of the grant to the sponsor, specifying the amount, time period, and conditions thereof.

(c) The department of parks and recreation may, by rules, establish procedures to expedite approval of requests to use a park facility by sponsors of the facility.

(Sec. 5-46.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 38, § 6-38.5)

ARTICLE 39: LANDSCAPING AND BEAUTIFICATION

Sections

§ 6-39.1 Purpose.

The purpose of this article is to provide for landscaping and beautification of open space areas surrounding city buildings to enhance their visual image.
(Sec. 5-41.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 39, § 6-39.1)

§ 6-39.2 Site improvement and beautification.

In connection with any city building when first constructed or acquired, the improvement of the site and beautification of the land shall be considered by the agency expending funds for such construction or acquisition.
(Sec. 5-41.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 39, § 6-39.2)

§ 6-39.3 Funding.

An amount not less than 1 percent of the construction or acquisition appropriation shall be set aside for landscaping and beautification purposes. Notwithstanding the foregoing limitation on the amount to be set aside for landscaping and beautification purposes, an amount in excess of 1 percent may be set aside with the concurrence of the council.
(Sec. 5-41.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 39, § 6-39.3)

ARTICLE 40: APPLICATION FEES FOR GENERAL PLAN AND DEVELOPMENT PLAN AMENDMENTS

Sections

§ 6-40.1 Purpose.

The purpose of this article is to establish fees for general plan and development plan amendment applications, pursuant to Charter § 3-112.
(Sec. 5-47.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 40, § 6-40.1) (Am. Ord. 96-58)

§ 6-40.2 Fees.

(a) General plan amendment applications shall be accompanied by a fee of $1,500, and development plan amendment applications shall be accompanied by a fee of $1,500 per amendment.

(b) When an environmental assessment or impact statement must be prepared as a prerequisite to a general or development plan amendment, or both, where the department of planning and permitting is the accepting agency, there shall be a processing fee of $600 for an environmental assessment, and $1,200 for an environmental impact statement.

(c) The application fee is not refundable, except for applications the director of planning and permitting chooses not to process, in which case such fee shall be refunded upon request of the applicant.

(Sec. 5-47.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 40, § 6-40.2) (Am. Ord. 03-12, 14-4)

ARTICLE 41: FEE SCHEDULE FOR LAND USE ORDINANCE*—APPLICATIONS AND VARIANCES

Section

Editor's note:

The land use ordinance is codified as Chapter 21 of this code.

§ 6-41.1 Fee schedule.

(a) The fees set forth in the following schedule for applications under Chapter 21 and for variances therefrom must be paid upon application:

Type of Application	*Fee*
(1) Zone change	$700, plus $300 per acre or major fraction, up to a maximum of $15,000
(2) Cluster housing	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(3) Conditional use permit (major), and conditional use permit (minor) for a meeting facility, day-care facility, or school (elementary, intermediate, or high)	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(4) Major project in special districts and downtown building heights in excess of 350 feet	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(5) Plan review use	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(6) Planned development—housing	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(7) Special districts: establishment of, or amendment to	$1,200, plus $300 per acre or major fraction, up to a maximum of $15,000
(8) Conditional use permit (minor), other than for a meeting facility, day-care facility, or school (elementary, intermediate or high)	$600
(9) Existing use	$600, plus $150 per acre or major fraction, up to a maximum of $15,000
(10) Exempt project in special districts	No permit fee required

Type of Application	*Fee*
(11) Minor project in special districts	
(A) Tree removal	$100 per tree
(B) Other than tree removal	$600
(12) Waiver	$600
(13) Zoning adjustment	
(A) Sign master plan	$1,200
(B) Other than for sign master plan	$600
(14) Signs—estimated value of work	
(A) $0.01 to $500	$18
(B) $500.01 to $1,000	$35
(C) $1,000.01 and above	$70
(15) Zoning variance	$2,400
(16) Nonconforming use certificate renewal	$600 for 2 years
(17) Minor modifications	
(A) To approved cluster housing permit; conditional use permit (major); conditional use permit (minor) for a meeting facility, day-care facility, or school (elementary, intermediate, or high); plan review use; planned development-housing permit, planned development-apartment, and planned development-resort; major projects in special districts, and downtown building heights in excess of 350 feet; and zoning adjustment for a sign master plan	$600
(B) To conditional use permit (minor) other than for a meeting facility, day-care facility, or school (elementary, intermediate, or high); existing use; exclusive agriculture site approval; minor projects in special districts other than tree removal; agricultural site development plan; waiver; and zoning adjustment for other than for a sign master plan	$300
(C) To temporary use approval	$50
(18) Agricultural site development plan	$600
(19) Planned development—apartment and planned development—resort	$15,000

Type of Application	*Fee*
(20) Written zoning clearance or confirmation, and flood hazard district interpretation	$150 per request or for each tax map key when multiple parcels are involved; or $300 per tax map key for requests involving confirmation of nonconforming status
(21) Temporary use approval	
(A) For a sales office	$100
(B) For other than a sales office	$200
(22) Exclusive agriculture site approval	$600
(23) Flood variance	$600
(24) Zoning district boundary adjustment	$500
(25) Appeals to zoning board of appeals	$400
(26) Environmental document processing, when the department of planning and permitting is the accepting agency	
(A) Environmental assessment	$600
(B) Environmental impact statement	$1,200
(27) Reconsideration	$2,400
(28) Declaratory Ruling	$2,400
(29) Short-term rental advertisement registration	$50

(b) Application fees are not refundable, notwithstanding provisions in the Revised Ordinances of Honolulu to the contrary, except when the director of planning and permitting determines that a land use ordinance application or variance is not required to proceed with the development proposed.

(c) When the council initiates, by resolution, a zone change application on behalf of a private landowner, the owner shall be required to pay the applicable zone change application fee.

(d) When an application under Chapter 21 or for a variance therefrom is sought after the applicant's being cited for taking action without having obtained necessary approvals, the application fee set forth in subsection (a) shall be doubled.

(e) The payment of the fee required by this section shall not relieve the applicant from compliance with Chapter 21 or from imposed penalties.

(f) When an application identified in subsection (a) is submitted for processing, there shall be a nonrefundable application review fee to determine whether the application is complete or incomplete, as follows:

(1) Applications with a minimum fee of $1,200 or more shall have an application review fee of $400;

(2) Applications with a fee of $600 to less than $1,200 shall have an application review fee of $200; and

(3) Applications with a fee of less than $600 shall have an application review fee equivalent to one-half the application fee; provided that a request for a sign permit, a nonconforming use certificate renewal, a written zoning clearance or confirmation, a flood hazard district interpretation, or an appeal to the zoning board of appeals or other contested case hearing fee, shall not be subject to the application review fee required by this subsection. When an application under this section has been accepted by the department for processing, the application review fee for the submitted application shall be counted as partial payment towards the total application fee for that submittal.

(g) The application fees required by this section shall be waived for city projects.
(Sec. 5-48.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 41, § 6-41.1) (Am. Ord. 94-36, 99-31, 03-12, 13-16, 14-4, 20-18)

ARTICLE 42: DEFERRED COMPENSATION FUND

Sections

§ 6-42.1 Creation.

There is created and established a special fund to be known as the "deferred compensation fund."
(Sec. 5-49.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 42, § 6-42.1)

§ 6-42.2 Purpose.

All amounts of compensation deferred under the Internal Revenue Code § 457 public employee deferred compensation plan of the City and County of Honolulu as well as property and rights purchased with such amounts and all income attributable to such amounts, property and rights shall be recorded in the deferred compensation fund and shall be held in trust outside the city treasury in accordance with § 457 of the Internal Revenue Code for the exclusive benefit of the plan's participants and its beneficiaries.
(Sec. 5-49.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 42, § 6-42.2) (Am. Ord. 08-17)

§ 6-42.3 Administration.

The director of budget and fiscal services shall be responsible for the administration of the deferred compensation fund.
(Sec. 5-49.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 42, § 6-42.3)

ARTICLE 43: CHARGES BY MUNICIPAL REFERENCE AND RECORDS CENTER FOR COMPUTER ONLINE SERVICE

Sections

§ 6-43.1 Fee for computer services.

Charges for computer online services of private vendor providing commercially available data bases and information services shall be computed on the basis of the cost of equipment, time, labor, and materials used in connection with processing the request for data. The municipal reference and records center shall adopt rules prescribing the method of computing the charges.
(Sec. 5-50.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 43, § 6-43.1)

§ 6-43.2 Exemption from payment of charges.

Government agencies requiring data for public purposes may be exempt from all or a portion of the cost of services provided by the municipal reference and records center.
(Sec. 5-50.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 43, § 6-43.2)

ARTICLE 44: FEES AND CHARGES FOR SERVICES OF THE HONOLULU POLICE DEPARTMENT

Sections

§ 6-44.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Special Activity. An activity, including an entertainment or athletic event, for which a fee is charged to any person attending or participating in the activity. This section shall not affect the obligations of the City and County of Honolulu under any existing settlement agreement that applies to parades held for the purpose of participants expressing views or engaging in other activities protected by the First Amendment of the United States Constitution.

Special Duty. The performance of a service for a person, organization, or governmental entity, other than the Honolulu police department, by an officer of the Honolulu police department acting in a police capacity, in return for which the officer receives a direct or indirect payment or compensation of some kind.
(Sec. 5-52.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 44, § 6-44.1) (Am. Ord. 05-025)

§ 6-44.2 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 Honolulu police department.
(Sec. 5-52.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 44, § 6-44.2)

§ 6-44.3 Fees for special duty requests.

(a) Any person or entity requesting the services of a special duty police officer shall be assessed an administrative fee of $14 for each request for a police officer, plus $2 for each additional officer requested. For every request, there shall also be a workers' compensation fee of up to $5 per day for each officer. The workers' compensation fees shall be deposited into the general trust fund and maintained in a separate account for the purpose of paying workers' compensation expenses for officers injured while on special duty assignments.

These fees shall be assessed by the Honolulu police department and shall be in addition to any charge assessed for the services of the special duty police officer. These fees shall not be assessed to the extent that a request is not fulfilled.

(b) Once the workers' compensation fee separate account reaches a range between $500,000 and $1,000,000, the chief of police shall reduce the workers' compensation fee to maintain the account within this range.

(c) Within 30 days after the first day of each fiscal year, the department of budget and fiscal services shall file a report with the city clerk. The report shall include the following information for the prior fiscal year:

(1) The fee charged;

(2) Total workers' compensation fees collected;

(3) The fund balance in the workers' compensation fee separate account at the end of the prior fiscal year; and

(4) Details of expenditures from the account, including administrative costs, fringe benefits, workers' compensation benefits, and training costs.

(Sec. 5-52.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 44, § 6-44.3) (Am. Ord. 01-57, 09-21)

§ 6-44.4 Waiver.

(a) The chief of police shall waive the administrative fee established in § 6-44.3 when the special duty services are for an event or activity mandated by law or otherwise conducted by the federal, State, or city government.

(b) The chief of police shall not waive the administrative or workers' compensation fee when special duty services are provided to a private person or entity performing a government function or renting or leasing a government facility for a nongovernmental event.

(c) The chief of police shall waive the workers' compensation fee when the special duty services are for an event or activity conducted by the city government.

(d) The chief of police shall not waive the workers' compensation fee when the special duty services are for an event or activity conducted by the federal or State government.

(Sec. 5-52.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 44, § 6-44.4) (Am. Ord. 01-57)

§ 6-44.5 Rules.

(a) The chief of police may adopt rules, in accordance with HRS Chapter 91, governing the processing of requests for special duty officers.

(b) The chief of police shall adopt rules, in accordance with HRS Chapter 91, to establish the fee schedule and fees for additional police services provided at special activities as authorized by § 6-44.6.

(Sec. 5-52.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 44, § 6-44.5) (Am. Ord. 05-025)

§ 6-44.6 Fee authorized for special activities.

The police department is authorized to establish a fee schedule and charge a fee to any person, sponsor, promoter, organizer, or organization conducting a special activity for which the services of uniformed police officers, in addition to special duty officers, are required. Fees collected pursuant to this subsection shall be deposited in a special account of the general fund and shall be used for expenses related to police services.
(1990 Code, Ch. 6, Art. 44, § 6-44.6) (Added by Ord. 05-025)

ARTICLE 45: RENTAL ASSISTANCE FUND

Sections

§ 6-45.1 Establishment.

There is established a fund to be known as the "rental assistance fund."
(Sec. 5-51.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.1)

§ 6-45.2 Funding.

(a) There shall be deposited into the rental assistance fund all net receipts from the Hale Pauahi parking structure. This fund shall pay for expenses related to the operation and maintenance of the Hale Pauahi parking structure that are not within the scope of the parking concession, for any assessments attributable to the parking unit of the Hale Pauahi Association of Owners, and for monthly rental assistance payments to a landlord on behalf of an eligible applicant, as defined herein.

(b) Unless designated by resolution for deposit into the reserve for fiscal stability fund, there may be deposited into the rental assistance fund net proceeds from the leasing or sale of any property interest in a city affordable housing project.

(c) There shall be deposited into the rental assistance fund such additional moneys as may be appropriated for that purpose.
(Sec. 5-51.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.2) (Am. Ord. 93-47, 13-17)

§ 6-45.3 Amount of assistance.

Monthly rental assistance payments shall be as prescribed in the rules.
(Sec. 5-51.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.3)

§ 6-45.4 Eligibility for assistance.

(a) An eligible applicant is defined as any single person or family who:

(1) May be displaced from a city-assisted housing project sold or leased by the city;

(2) Has been displaced by governmental action, fire, or natural disaster;

(3) Has been determined to be homeless as defined in the rules; or

(4) Has been selected for placement in a city-assisted housing project; and

whose total income, by number in the household does not exceed 80 percent of the median income for the city as determined by HUD.

(b) Applicants receiving assistance under the federal Section 8 existing housing program, the State rent supplement program, or living in government-subsidized housing projects are ineligible for assistance.

(c) Assistance shall be given in the following order of priority:

(1) Applicants displaced as a result of governmental action and applicants who are current tenants in a city affordable housing project when it is sold by the city or leased by the city to a new lessor and who, without rental assistance, may be displaced by rent increases implemented by the buyer or new lessor;

(2) Applicants displaced as a result of fire or natural disaster;

(3) Applicants determined to be "homeless" as defined in the rules; and

(4) Applicants selected for placement in city-assisted housing projects.

(Sec. 5-51.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.4) (Am. Ord. 13-17)

§ 6-45.5 Expenditures.

All expenditures from the rental assistance fund shall be for rental assistance payments to or on behalf of eligible applicants, for administration of the rental assistance program and for such other purposes as may be authorized in appropriations from the rental assistance fund made in the operating budget ordinance. During any fiscal year, no more than 5 percent of the moneys appropriated from the rental assistance fund may be used for administrative expenses.

(Sec. 5-51.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.5) (Am. Ord. 13-17)

§ 6-45.6 Administration.

The department of community services shall be responsible for the administration of the rental assistance fund and, pursuant to HRS Chapter 91, shall adopt uniform rules for the administration of the rental assistance fund, including but not limited to establishing criteria and procedures for determining requirements for eligibility of tenants and amounts of rental assistance.

(Sec. 5-51.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 6, Art. 45, § 6-45.6)

ARTICLE 46: HOUSING DEVELOPMENT SPECIAL FUND

Sections

§ 6-46.1 Creation.

There is created and established a special fund to be known as the "housing development special fund."

There is established in the housing development special fund a separate account to be designated as the "housing development account" and a separate account to be designated as the "affordable housing development account."
(1990 Code, Ch. 6, Art. 46, § 6-46.1) (Added by Ord. 88-80; Am. Ord. 16-36)

§ 6-46.2 Purpose.

Moneys in the housing development special fund shall be used for the development of housing for sale or for rental in the city.
(1990 Code, Ch. 6, Art. 46, § 6-46.2) (Added by Ord. 88-80; Am. Ords. 05-008, 16-36)

§ 6-46.3 Receipts and expenditures.

(a) The proceeds of general obligation bonds and bond anticipation notes authorized and issued for the purpose of developing housing for sale or for rental in the city, including, without limitation, paying the cost of construction of housing for sale or for rental in the city and the acquisition of land therefor, must be deposited in the housing development special fund and credited to the housing development account therein. Moneys on credit to the housing development account must be expended solely for the purpose of developing housing for sale or for rental in the city, including all expenses incurred in connection with and related to the issuance of general obligation bonds or bond anticipation notes issued for such purpose; provided that the proceeds of general obligation bonds and bond anticipation notes must be applied solely to the particular project or projects for which such bonds and notes are authorized.

(b) Moneys from the sale or rental of housing developed from moneys on deposit in the housing development special fund and credited to the housing development account therein, including housing developed from the proceeds of general obligation bonds and bond anticipation notes of the city authorized and issued for such purpose, must be deposited in the housing development special fund as and when received.

(c) Moneys in the housing development special fund, other than moneys on credit to the housing development account therein, may be expended in such amounts as appropriated in the annual executive operating and capital budget ordinances and amendments thereto for the following purposes:

(1) For rebate to the United States of America to the extent and as required by federal law;

(2) For additional credits to the housing development account for the development of additional housing for sale or for rental in the city;

(3) For the retirement of general obligation bonds or bond anticipation notes issued for the purpose of, and the proceeds of which have been applied to, the development of housing for sale or for rental in the city;

(4) For transfers to the general fund of the city as reimbursement of the principal of and interest on general obligation bonds or bond anticipation notes issued for, and the proceeds of which have been applied to, the development of housing for sale or rental in the city; and

(5) For payment of all expenses incurred in connection with and related to the issuance of general obligation bonds or bond anticipation notes issued for the development of housing for sale or rental in the city.

(d) Pending the expenditure of moneys on deposit in the housing development special fund or on credit to the housing development account therein, the director of budget and fiscal services shall, to the extent reasonable and practicable, invest and reinvest such moneys in accordance with law. Income from or earnings on the investment and reinvestment of such moneys must be deposited in the housing development special fund and must be expended as are all other moneys on deposit therein.

(e) In lieu fees or any other moneys received to satisfy city affordable housing requirements must be deposited in the housing development special fund and must be credited to the affordable housing development account. Moneys on credit in the affordable housing development account must be expended to increase the stock of affordable housing in the city by city or State agencies or by private persons or community housing development organizations under the sponsorship of or in partnership with city or State agencies. For the purposes of this section, "affordable housing" means housing for households earning between 30 and 80 percent of the area median income in the city as determined by the United States Department of Housing and Urban Development.

(f) Except for land acquired using moneys from the affordable housing development account, land acquired using moneys from the housing development special fund may be exchanged with another government entity for other land of equivalent value if the land disposed of by exchange is used for the development of housing for sale or rental in the city; provided first that such exchange must be approved by council resolution, and second, that if the land acquired by the city through such exchange is subsequently leased or sold by the city, the proceeds of the lease or sale must be deposited in the housing development special fund to the credit of the housing development account. Land acquired by such exchange need not be used for the development of housing.

(1990 Code, Ch. 6, Art. 46, § 6-46.3) (Added by Ord. 88-80; Am. Ord. 89-61, 05-008, 16-36)

§ 6-46.4 Administration.

The director of budget and fiscal services shall be responsible for the administration of the housing development special fund. The director of budget and fiscal services may adopt such rules and regulations as may be deemed necessary for the administration of the housing development special fund.
(1990 Code, Ch. 6, Art. 46, § 6-46.4) (Added by Ord. 88-80)

ARTICLE 47: WASTEWATER SYSTEM FACILITY CHARGE

Section

§ 6-47.1 Use of wastewater system facility charges.

(a) All moneys received as wastewater system facility charges are intended to recover an equitable share of the value of the capacity in the backup facilities that were or will be constructed to serve that new applicant for sewer service or an existing sewer user and shall be deposited into the sewer fund created by § 43-8.1. All moneys shall be accounted for and expended for the expansion of and addition to the capacity of wastewater facilities. Unencumbered or lapsed wastewater facility charge moneys shall remain in the sewer fund earmarked for the stated wastewater facility charge purpose and shall not become available for other sewer fund uses.

(b) For the purposes of this section, "wastewater system facility charges" and "backup facilities" have the same meaning as defined in § 43-1.2.

(1990 Code, Ch. 6, Art. 47, § 6-47.1) (Added by Ord. 90-80; Am. Ords. 98-21, 14-24)

ARTICLE 48: SOLID WASTE IMPROVEMENT BOND FUND

Sections

§ 6-48.1 Creation.

There is created and established a special fund to be known as the "solid waste improvement bond fund."
(1990 Code, Ch. 6, Art. 48, § 6-48.1) (Added by Ord. 01-30)

§ 6-48.2 Deposit.

There shall be deposited into the solid waste improvement bond fund the proceeds of the sale of general obligation bonds of the city and county issued to pay all or part of those appropriations for the public improvements made in the capital budget ordinance of the city and county and specified therein to be expended from the solid waste improvement bond fund.
(1990 Code, Ch. 6, Art. 48, § 6-48.2) (Added by Ord. 01-30)

§ 6-48.3 Source of payment.

There shall be paid from the solid waste improvement bond fund the costs of public improvements at solid waste collection and disposal facilities to include any one or more of the following: recycling, glass, or other related capital improvements appropriated in the capital budget ordinance and specified therein to be expended from the solid waste improvement bond fund.
(1990 Code, Ch. 6, Art. 48, § 6-48.3) (Added by Ord. 01-30)

ARTICLE 49: SOLID WASTE SPECIAL FUND

Sections

§ 6-49.1 Creation of solid waste special fund.

There is created and established a special fund to be known as the "solid waste special fund." There is established in the solid waste special fund separate accounts to be designated as the "glass incentive account," the "Honolulu solid waste disposal facility account," the "recycling account," the "general operating account," and such additional accounts as may be established by the director of budget and fiscal services.
(1990 Code, Ch. 6, Art. 49, § 6-49.1) (Added by Ord. 99-22)

§ 6-49.2 Deposits into fund.

(a) There shall be deposited into the solid waste special fund:

(1) All revenues and income derived from the operation of the refuse division, as well as all other moneys received on behalf of the refuse division, including without limitation:

(A) All moneys collected pursuant to § 42-4.2(e) and any interest earned on such moneys, which shall be credited to the "recycling account;"

(B) All moneys as may accrue to the glass recycling program from the assessment of glass dealers, and any interest earned on such moneys, which shall be credited to the "glass incentive account;" and

(C) All moneys derived from the operation of the Solid Waste Disposal and Energy and Materials Recovery Project established by Ordinances 85-90 and 97-44, including without limitation all fees for disposal of waste at the Project and income derived from the sale of energy produced from the Project and materials recovered from waste processed at the Project, and any interest earned on such moneys, which shall be credited to the "Honolulu solid waste disposal facility account;" and

(2) All existing moneys in the glass incentive special fund, Honolulu solid waste disposal facility special fund, and recycling special fund, including any interest earned on such moneys; provided that existing moneys in the glass incentive special fund shall be credited to "glass incentive account," existing moneys in the Honolulu solid waste disposal facility special fund shall be credited to the "Honolulu solid waste disposal facility account," and existing moneys in the recycling special fund shall be credited to the "recycling account."

(b) There shall also be deposited into the solid waste special fund all revenues, fees, income, and any other moneys derived from the operation of the refuse division (other than those derived from the glass incentive special fund, the Honolulu solid waste disposal facility special fund, and the recycling special fund).

(1990 Code, Ch. 6, Art. 49, § 6-49.2) (Added by Ord. 99-22)

§ 6-49.3 Expenditures.

Moneys on credit to the glass incentive special fund account shall be expended solely for the purposes of administering the glass recycling program and paying incentives to glass recyclers. Moneys on credit to the Honolulu solid waste disposal facility special fund account shall be expended solely for the purposes specified in Section 11 of Ordinance 85-90. Moneys on credit to the recycling special fund account shall be expended solely for the purposes of establishment, operation, management, and expansion of the city's recycling programs, including programs for waste reduction, development of recycling markets, and recycling awareness sponsored by the city.

Any and all payments required for the refuse division (other than those required by the glass incentive special fund, the Honolulu solid waste disposal facility special fund, and the recycling special fund) shall be made from the general operating fund account.

(1990 Code, Ch. 6, Art. 49, § 6-49.3) (Added by Ord. 99-22)

§ 6-49.4 Administration.

The director of budget and fiscal services shall be responsible for the administration of the fund established in this article. Expenditures from the fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.

(1990 Code, Ch. 6, Art. 49, § 6-49.4) (Added by Ord. 99-22)

ARTICLE 50: RESERVED

ARTICLE 51: HANAUMA BAY NATURE PRESERVE FUND

Sections

§ 6-51.1 Creation of fund.

There is created and established a special fund to be known as the "Hanauma Bay Nature Preserve fund." (1990 Code, Ch. 6, Art. 51, § 6-51.1) (Added by Ord. 96-19)

§ 6-51.2 Purpose and deposits.

There will be deposited into the Hanauma Bay Nature Preserve fund all receipts from the fees imposed under § 10-2.11 and all concession revenues from the Hanauma Bay Nature Preserve concessions, plus any interest earned on deposits in the Hanauma Bay Nature Preserve fund. All moneys deposited into the Hanauma Bay Nature Preserve fund will be used for the following purposes in the order of priority as indicated:

(1) First, for the operation, maintenance, and improvement of the Hanauma Bay Nature Preserve;

(2) Second, for educational and orientation programs for visitors to the preserve; and

(3) Third, for a carrying capacity study of the preserve and for other studies relating to the environmental condition of the preserve.

(1990 Code, Ch. 6, Art. 51, § 6-51.2) (Added by Ord. 96-19; Am. Ords. 00-25, 03-21, 15-5)

§ 6-51.3 Expenditures.

All expenditures from the Hanauma Bay Nature Preserve fund shall be for purposes authorized in this article, based on appropriations in the operating or capital budget ordinances, or amendments thereto.
(1990 Code, Ch. 6, Art. 51, § 6-51.3) (Added by Ord. 96-19)

§ 6-51.4 Administration.

The director of budget and fiscal services shall be responsible for the administration of the Hanauma Bay Nature Preserve fund in accordance with prescribed laws and procedures applicable to expenditures of city funds.
(1990 Code, Ch. 6, Art. 51, § 6-51.4) (Added by Ord. 96-19; Am. Ord. 03-21)

ARTICLE 52: GRANTS IN AID FUND

Sections

§ 6-52.1 Creation.

There is created and established a special fund to be known as the "grants in aid fund."
(1990 Code, Ch. 6, Art. 52, § 6-52.1) (Added by Ord. 13-7)

§ 6-52.2 Purpose.

The purpose of the grants in aid fund is to receive and expend moneys to be used by the city to award grants in aid to charitable nonprofit organizations that provide services to economically or socially disadvantaged populations, or both, or provide services for public benefit in the areas of the arts, culture, economic development, or the environment pursuant to Charter § 9-205.

For the purpose of this section, "charitable nonprofit organization" means an organization that can establish that it:

(1) Is exempt (or would be qualified for an exemption) from federal income tax pursuant to § 501 of the United States Internal Revenue Code; and

(2) Is organized and operated exclusively for religious, charitable, scientific, or educational purposes on a nonprofit basis in which no part of the net earnings of the organization inures to the benefit of any private individuals.

(1990 Code, Ch. 6, Art. 52, § 6-52.2) (Added by Ord. 13-7)

§ 6-52.3 Deposit.

There shall be deposited into the grants in aid fund a minimum of 0.5 percent of the estimated general fund revenues, plus any interest earned on deposits in the grants in aid fund.
(1990 Code, Ch. 6, Art. 52, § 6-52.3) (Added by Ord. 13-7)

§ 6-52.4 Additional expenditure requirements.

(a) There is established a grants in aid advisory commission that shall review applications for grants in aid moneys and advise the city on projects to be funded with grant moneys from the grants in aid fund. The recommendations made by the grants in aid advisory commission regarding recommended expenditures from the grants in aid fund shall be consistent with the priorities established by the council by resolution.

(b) Applications for projects to be funded with grants in aid moneys, including projects submitted by the city administration and by councilmembers to benefit their respective council districts, shall be submitted to the commission by January 20 of each year. The council shall only consider for the funding those projects for which applications have been submitted to the commission by the January 20 deadline.

(c) The commission shall annually submit a report setting forth its recommendations to the council by March 4.

(d) The council shall select the projects to be funded with grants in aid moneys through the annual budget process and the selection of the projects must comply with the requirements set forth in the charter.

(e) All moneys for projects to be funded with grants in aid moneys shall be awarded and encumbered within 45 days of the beginning of the fiscal year. All notices to proceed shall not be unreasonably withheld and in all instances shall be issued no later than 30 days from the date of encumbrance. All requests for payments from grantees shall be processed, reconciled, and paid within 30 calendar days from its receipt. The administering agency may only withhold payment for disputed charges but only for the disputed amount. The administering agency shall notify the grantee and reconcile any disputes within 60 days from the date whereupon the applicable request for payment was received.

(f) In the event of a disagreement between the department of community services, department of budget and fiscal services, or any other city agency involved in the administration of the program as to a disputed charge, the decision of the director of community services shall prevail.

(g) At any given time, no more than 5 percent of the moneys in the grants in aid fund shall be used for administrative expenses.

(h) Any balance remaining in the grants in aid fund at the end of any fiscal year shall not lapse, but shall remain in the grants in aid fund, accumulating from year to year. The moneys in the grants in aid fund shall not be used for any purposes except those listed in this article.

(1990 Code, Ch. 6, Art. 52, § 6-52.4) (Added by Ord. 13-7; Am. Ord. 13-40)

§ 6-52.5 Administration.

The director of budget and fiscal services shall administer the grants in aid fund and the director of community services shall administer the projects funded by grants awarded from the grants in aid fund. Procedures for the administration of the grants in aid fund and the expenditure of funds awarded from the grants in aid fund may be established by the director of community services by rule.

(1990 Code, Ch. 6, Art. 52, § 6-52.5) (Added by Ord. 13-7)

§ 6-52.6 Annual report.

The director of community services shall provide the council with an annual report within one month of the end of the fiscal year setting forth for each project funded with grants in aid moneys:

(1) The amount budgeted for each project;

(2) The amount encumbered by the city for each project;

(3) The amount expended by the city for each project; and

(4) Whether each project is in compliance with the terms of the grant award and, in the event of a project's failure to comply with the terms, the measures the city is taking to either assure the project's compliance or to recover the grant award moneys.

(1990 Code, Ch. 6, Art. 52, § 6-52.6) (Added by Ord. 13-7)

ARTICLE 53: SPECIAL EVENTS FUND

Sections

§ 6-53.1 Creation.

There is created and established a single purpose special fund to be known as the "special events fund." (1990 Code, Ch. 6, Art. 53, § 6-53.1) (Added by Ord. 96-45; Am. Ord. 98-31)

§ 6-53.2 Purpose.

(a) There shall be deposited into the special events fund:

(1) All revenues generated by the department of enterprise services, including rents, concession fees, user fees, and miscellaneous revenues generated from operations at the Neal S. Blaisdell Center and the Waikiki Shell;

(2) All proceeds from the charges for services provided for box office operations, ushering, and events activities;

(3) A 25 cents per ticket sale charge that shall be added to the price of each computerized ticket sold for an event held at the Neal S. Blaisdell Center and Waikiki Shell; and

(4) All moneys appropriated to the special events fund by the council in the annual executive operating budget ordinance and any amendments thereto.

(b) The purpose of the special events fund is to provide the following:

(1) The operating funds for the department of enterprise services, including funds for the operations and development of the Neal S. Blaisdell Center and the Waikiki Shell;

(2) The salaries of persons providing part-time assistance in box office, ushering, and events operations to the department of enterprise services, involving the Neal S. Blaisdell Center and the Waikiki Shell, and related expenses; and

(3) Loans of up to $10,000 per nonprofit organization to cover marketing costs and charges required to be paid in advance of an event conducted by a nonprofit organization for the use of the Neal S. Blaisdell Center and the Waikiki Shell; provided that there shall be a $100,000 limit on the total outstanding amount of loans to nonprofit organizations.

(c) For purposes of this section, "nonprofit organization" has the same meaning as defined in § 38-6.2.
(1990 Code, Ch. 6, Art. 53, § 6-53.2) (Added by Ord. 96-45; Am. Ords. 97-43, 99-23, 16-12)

§ 6-53.3 Administration.

(a) The director of budget and fiscal services shall be responsible for the administration of the special events fund in accordance with prescribed laws and procedures applicable to expenditures of city funds.

(b) At any time during a fiscal year, the director of budget and fiscal services may, with the approval of the council by resolution, transfer from the special events fund to the general fund all or any portion of moneys determined to be in excess of the fiscal year's requirements for the special events fund.

(c) The loans to nonprofit organizations shall be made according to the following terms.

(1) Loans shall be noninterest bearing, due on the event settlement date, and have a maximum term of one year.

(2) All loans shall be paid in full from the first revenues collected from the event with respect to which the loan was made.

(3) Any loan that is not paid when due will be considered delinquent and subject to interest as specified in § 1-3.3.

(4) Organizations that have not repaid a loan in full when due shall not be eligible for a subsequent loan until the previous loan has been paid in full and until four years have elapsed from the loan delinquency date.

(5) The department of budget and fiscal services shall adopt rules as may be necessary and appropriate to implement the loan program.

(d) All moneys deposited in the special events fund that are in excess of the amounts appropriated from the special events fund are to be considered single purpose moneys and appropriated for the purposes specified herein; provided that the expenditure of such moneys is authorized by council resolution.
(1990 Code, Ch. 6, Art. 53, § 6-53.3) (Added by Ord. 96-45; Am. Ords. 97-45, 98-31)

ARTICLE 54: SEWER REVENUE BOND IMPROVEMENT FUND

Sections

§ 6-54.1 Creation.

There is created and established a special fund to be known as the "sewer revenue bond improvement fund."
(1990 Code, Ch. 6, Art. 54, § 6-54.1) (Added by Ord. 97-40)

§ 6-54.2 Deposits.

There shall be deposited into the sewer revenue bond improvement fund the proceeds from the sale of revenue bonds of the city issued to pay for the expenditures specified in § 6-54.3.
(1990 Code, Ch. 6, Art. 54, § 6-54.2) (Added by Ord. 97-40)

§ 6-54.3 Expenditures.

Moneys deposited into the sewer revenue bond improvement fund shall be expended for the costs of improvements to, repairs to, and maintenance of the wastewater treatment system as appropriated in the capital budget ordinances of the city, and any amendments thereto, and specified therein to be expended from the sewer revenue bond improvement fund.
(1990 Code, Ch. 6, Art. 54, § 6-54.3) (Added by Ord. 97-40)

§ 6-54.4 Administration.

The director of budget and fiscal services and the chief budget officer shall be responsible for the administration of the sewer revenue bond improvement fund. Expenditures from the sewer revenue bond improvement fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.
(1990 Code, Ch. 6, Art. 54, § 6-54.4) (Added by Ord. 97-40)

ARTICLE 55: TRANSIT CONSTRUCTION MITIGATION FUND

Sections

§ 6-55.1 Establishment.

There is created a special fund to be known as the "transit construction mitigation fund."
(1990 Code, Ch. 6, Art. 55, § 6-55.1) (Added by Ord. 15-37)

§ 6-55.2 Purpose.

The purpose of the transit construction mitigation fund is to receive and expend moneys to mitigate negative economic impacts from the construction of the Honolulu High Capacity Transit project.
(1990 Code, Ch. 6, Art. 55, § 6-55.2) (Added by Ord. 15-37)

§ 6-55.3 Deposits.

Only moneys from the general fund or other federal, State, or private sources that have been so specified for these purposes may be deposited into the transit construction mitigation fund.
(1990 Code, Ch. 6, Art. 55, § 6-55.3) (Added by Ord. 15-37)

§ 6-55.4 Expenditures.

Expenditures from the transit construction mitigation fund shall only be used to mitigate negative economic impacts on businesses from the construction of the Honolulu High Capacity Transit project and such expenditures may include but not be limited to:

(1) Reestablishment payments (grants): Available to businesses that were forced to physically relocate due to rail construction;

(2) Business interruption payments (grants): To compensate businesses located along the corridor for loss of business income due to construction impacts; and

(3) Working capital advances (loans): For covering legitimate business operating expenses required to continue operation during the construction phase.

(1990 Code, Ch. 6, Art. 55, § 6-55.4) (Added by Ord. 15-37)

§ 6-55.5 Administration.

The director of budget and fiscal services shall administer the transit construction mitigation fund.

(1990 Code, Ch. 6, Art. 55, § 6-55.5) (Added by Ord. 15-37)

ARTICLE 56: RESERVE FOR FISCAL STABILITY FUND

Sections

§ 6-56.1 Creation of fund.

There is created and established a special fund to be known as the "reserve for fiscal stability fund." (1990 Code, Ch. 6, Art. 56, § 6-56.1) (Added by Ord. 98-32; Am. Ord. 06-23)

§ 6-56.2 Purpose.

The reserve for fiscal stability fund is designated for economic and revenue downturns and emergency situations. Fund moneys may be appropriated by ordinance only when one or more of the conditions identified in subdivisions (1), (2), or (3) are met:

(1) *Economic triggers.*

(A) The unemployment rate for the City and County of Honolulu increases by more than 2 percent within three fiscal quarters; or

(B) The total value of net taxable real property declines by 2 percent or more from the preceding fiscal year;

(2) *Revenue triggers.*

(A) City general fund and highway fund revenues decline by 2 percent or more from the preceding fiscal year;

(B) Transient accommodation tax revenues decline by 5 percent or more from the preceding fiscal year; or

(C) Nondiscretionary city expenditures increase by more than 5 percent of the preceding fiscal year's revenues; or

(3) *Emergencies.*

(A) The Governor of the State of Hawaii or the President of the United States of America declares that a state of emergency exists within the City and County of Honolulu as a result of a natural disaster or an occurrence, or imminent threat thereof, which results or may likely result in substantial injury or harm to the population in the City and County of Honolulu, or substantial damage to or loss of property of residents of the City and County of Honolulu. For the purposes of this subdivision, the phrase "occurrence, or imminent threat thereof," means a pandemic or other widespread health crisis for which the Governor of the State of Hawaii has declared a state of emergency; or

(B) Unfunded mandates are enacted by the State or federal government, imposed after the enactment of the City and County of Honolulu's fiscal year budget, and require outlays before the start of the subsequent fiscal year.

(1990 Code, Ch. 6, Art. 56, § 6-56.2) (Added by Ord. 98-32; Am. Ords. 99-41, 06-23, 20-5)

§ 6-56.3 Deposits into the fund.

There shall be deposited into the reserve for fiscal stability fund:

(1) Moneys deemed by the director of budget and fiscal services to be in excess of funding required to sustain city services; such as moneys realized when the previous fiscal year's general fund or highway fund "unreserved fund balance" as determined by the comprehensive annual financial report exceeds the respective fund's current fiscal year budget for "unreserved fund balance," adjusted for any moneys required under Charter § 9-105, subject to council approval by resolution;

(2) Moneys appropriated by the council to the reserve for fiscal stability fund;

(3) Moneys realized from the conveyance of city property that are designated for deposit into the reserve for fiscal stability fund by the council resolution authorizing the conveyance; and

(4) Any interest earned on the deposits of the reserve for fiscal stability fund.

(1990 Code, Ch. 6, Art. 56, § 6-56.3) (Added by Ord. 98-32; Am. Ords. 06-23, 07-27)

§ 6-56.4 Expenditures.

(a) All expenditures from the reserve for fiscal stability fund shall be solely for the purpose of addressing the conditions set forth in § 6-56.2.

(b) Notwithstanding the approval requirement in § 6-56.2, in the event moneys need to be expended pursuant to an emergency as described in § 6-56.2(3)(A), and if the Governor's declaration or proclamation of emergency waives the provisions of HRS § 46-45 for any reason, such moneys are deemed appropriated and may be expended without council approval. Within 30 days of the expenditure of any moneys made pursuant to this subsection, the director of budget and fiscal services shall provide a report to the council detailing the expenditure.

(c) No moneys from the reserve for fiscal stability fund may be expended for any costs relating to the Honolulu High-Capacity Transit Corridor Project

(1990 Code, Ch. 6, Art. 56, § 6-56.4) (Added by Ord. 98-32; Am. Ords. 06-23, 20-5)

§ 6-56.5 Administration.

The director of budget and fiscal services shall be responsible for the administration of the reserve for fiscal stability fund in accordance with the prescribed laws and procedures applicable to expenditures of city funds.

(1990 Code, Ch. 6, Art. 56, § 6-56.5) (Added by Ord. 98-32; Am. Ord. 06-23)

ARTICLE 57: GOLF FUND

Sections

§ 6-57.1 Creation.

There is created and established a special fund to be known as the "golf fund."
(1990 Code, Ch. 6, Art. 57, § 6-57.1) (Added by Ord. 99-23)

§ 6-57.2 Purpose.

There shall be deposited into the golf fund all revenues generated by the department of enterprise services from operations related to municipal golf courses and all moneys appropriated to the golf fund by the council in the annual executive operating budget ordinance and any amendments thereto. All moneys deposited into the golf fund shall be expended for the operating funds for the department of enterprise services for operations related to municipal golf courses and for related debt service payments.
(1990 Code, Ch. 6, Art. 57, § 6-57.2) (Added by Ord. 99-23)

§ 6-57.3 Administration.

(a) The director of budget and fiscal services shall be responsible for the administration of the golf fund in accordance with prescribed laws and procedures applicable to expenditures of city funds.

(b) All moneys deposited in the golf fund that are in excess of the amounts appropriated from the golf fund are to be considered single-purpose moneys and appropriated for the purposes specified in § 6-57.2; provided that the expenditure of such moneys is authorized by council resolution.

(1990 Code, Ch. 6, Art. 57, § 6-57.3) (Added by Ord. 99-23)

ARTICLE 58: CONTRIBUTIONS TO THE COUNTY

Sections

§ 6-58.1 Purpose.

The purpose of this article is to establish a schedule for an annual contribution to the city from certain federal lessees where such leased federal property does not use the city's refuse and road maintenance services, and routine police, fire, and ambulance services, where "routine police, fire, and ambulance services" do not include services provided by the city on such federal property:

(1) Pursuant to agreements between the federal government and the city or the State, including without limitation, mutual aid agreements; or

(2) In accordance with policies or procedures developed by the city to coordinate the provision of such services as between the federal government and the city.

The payment of this annual contribution is for the use, benefit, and enjoyment of the other city services of the leased federal property and the individual residents of the military housing project, which are not subject to an easy cost analysis for establishment of a fee assessment for the city services. Such other city services include such activities as the planning, land acquisition, development, and maintenance of public parks, subsidized bus service, landscaping and beautification projects countywide, the availability of police, fire, and ambulance services throughout the county, planning, land acquisition, development, and maintenance of public roadways throughout the county, and the many cultural and athletic city-co-sponsored events in the county.
(1990 Code, Ch. 6, Art. 58, § 6-58.1) (Added by Ord. 04-38)

§ 6-58.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

BAH. The United States military basic allowance for housing.

Department. The department of budget and fiscal services.

Director. The director of budget and fiscal services.

Federal Lease. The lease of federal property to a private person who under such lease is contractually obligated to develop, rehabilitate, maintain, and operate a military housing project under the authority of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104-106, Title XXVIII, Subtitle A - Military Housing Privatization Initiative (codified at 10 USC §§ 2871 through 2885), as amended, including all improvements thereon.

Federal Lessee. The private person to whom federal property is leased pursuant to a federal lease.

Federal Property. Real property owned by the United States.

United States Military Services. Includes the Air Force, Army, Navy, Marine Corps, and Coast Guard.
(1990 Code, Ch. 6, Art. 58, § 6-58.2) (Added by Ord. 04-38)

§ 6-58.3 Contributions to the county.

A federal lessee of federal property that does not use the city's refuse and road maintenance services, and routine police, fire, and ambulance services, where "routine police, fire, and ambulance services" do not include services provided by the city on such federal property:

(1) Pursuant to agreements between the federal government and the city or the State, including without limitation, mutual aid agreements; or

(2) In accordance with policies or procedures developed by the city to coordinate the provision of such services as between the federal government and the city, may, pursuant to an agreement under § 6-58.5, elect for the duration of the federal lessee's federal lease, to remit annual contributions to the city in accordance with § 6-58.4, to contribute toward the use, benefit, and enjoyment of the leased federal property and the individual residents of the military housing project of other city services than refuse and road maintenance services, and routine police, fire, and ambulance services.

(1990 Code, Ch. 6, Art. 58, § 6-58.3) (Added by Ord. 04-38)

§ 6-58.4 Schedule, time for payment, and increase of contribution.

(a) The initial annual contribution shall be established by the number of housing units the federal lessee is to construct, rehabilitate, operate, manage, and maintain in accordance with the federal lease upon execution of the federal lease.

Housing Units, Number Not to Exceed	*Contribution*
300	$15,000
500	$25,000
1,000	$50,000
1,500	$75,000
2,000	$104,000

Housing Units, Number Not to Exceed	*Contribution*
2,500	$133,000
3,000	$162,000
3,500	$192,000
4,000	$221,000
4,500	$250,000
5,000	$280,000
5,500	$308,000
6,000	$337,000
6,500	$367,000
7,000	$396,000
7,500 and over	$425,000

(b) The annual contribution to the city shall be payable in semiannual installments as set forth in the agreement under § 6-58.5, except that the first payment shall be due within 60 days of the execution of the federal lease, prorated from the date of the execution of the federal lease to the remaining days of the calendar year.

(c) The annual contribution shall be adjusted each January 1, beginning with the first January 1, which is at least six months after execution of the federal lease, by multiplying the amount of the annual contribution for the immediately preceding calendar year by the percentage change between the weighted average BAH for the applicable military service effective as of January 1 of the subject year, and the weighted average BAH effective as of January 1 of the immediately preceding calendar year, provided that the annual contribution shall not be adjusted below the initial annual contribution established in subsection (a) above. For the purpose of this subsection, the "weighted average BAH" means the average of all of the BAH by rank classification as of the applicable date, weighted by the number of housing units designated for rent in each respective BAH rank classification as of the applicable date, provided that the rank classification and number of housing units for the earlier of such two years shall be assumed to be the same as that for the later year.

(d) In the event there is an increase of more than 5 percent in the number of housing units operated by a federal lessee whether under an existing federal lease or a new federal lease over the number of housing units in a prior year, the annual contribution at that time shall be increased by a proportional amount reflecting the proportional increase in the number of housing units.

(1990 Code, Ch. 6, Art. 58, § 6-58.4) (Added by Ord. 04-38)

§ 6-58.5 Notice to director, documentation.

(a) A federal lessee who elects to remit the contribution to the city under this article shall provide written notice to the director, supported by documentation to establish the initial annual contribution and the eligibility under this article.

(b) The director is authorized to request additional documentation, records, and other information from the federal lessee to establish the initial annual contribution and eligibility, and to verify the amount of the annual contribution and the continued eligibility of the federal lessee under this article.

(c) The director shall verify whether the federal lessee is eligible under this article within 30 days of submission by the federal lessee pursuant to subsections (a) and (b). Upon verification of the eligibility of the federal lessee under this article, the director shall execute an agreement with the federal lessee for the contribution to the city consistent with the terms of this article on the date of execution of the federal lease and which shall contain such other terms necessary or appropriate for the implementation of this article.

(1990 Code, Ch. 6, Art. 58, § 6-58.5) (Added by Ord. 04-38)

ARTICLE 59: LAND CONSERVATION FUND

Sections

§ 6-59.1 Establishment—Purpose—Administration.

There is established a special fund to be known as the "land conservation fund." The purpose of the land conservation fund is to facilitate the purchase or otherwise acquire lands or property entitlements for natural resource land conservation purposes in the city. Such a fund would assist the city in its preservation efforts by:

(1) Enabling the city to act quickly when purchasing private lands or interests therein; and

(2) Allowing the city to leverage any private and governmental funding sources for such land acquisitions by having matching funds available.

The director of budget and fiscal services shall administer the fund.
(1990 Code, Ch. 6, Art. 59, § 6-59.1) (Added by Ord. 05-003)

§ 6-59.2 Deposits.

There shall be deposited into the land conservation fund all gifts and voluntary contributions to the city for the purposes of the land conservation fund, all appropriations made to the land conservation fund, and all revenues designated by ordinance or resolution for deposit into the land conservation fund.
(1990 Code, Ch. 6, Art. 59, § 6-59.2) (Added by Ord. 05-003)

§ 6-59.3 Expenditures.

Moneys on credit to the land conservation fund shall be expended solely for the purposes of the land conservation fund.
(1990 Code, Ch. 6, Art. 59, § 6-59.3) (Added by Ord. 05-003)

ARTICLE 60: TRANSPORTATION SURCHARGE—USE OF FUNDS*

Sections

Editor's note:

** Effective until 12-31-2022. See Ord. 17-11, § 2, and Ord. 17-48, § 2.*

§ 6-60.1 Establishment of surcharge—Conditions.

Pursuant to § 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as HRS § 46-16.8, there is established a 0.5 percent general excise and use tax surcharge to be used for purposes of funding the capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.
(1990 Code, Ch. 6, Art. 60, § 6-60.1) (Added by Ord. 05-027; Am. Ords. 07-001, 16-1, 17-11)

§ 6-60.2 Use of funds.

(a) As required by HRS § 248-2.6(d), moneys received from the State derived from the imposition of the surcharge established under this article will be a general fund realization. Moneys received from the surcharge may be expended for capital costs of a locally preferred alternative for a mass transit project.

(b) No moneys received from the surcharge may be used for the following purposes:

(1) To build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence before July 12, 2005;

(2) Operating costs or maintenance costs of the mass transit project or any purpose not consistent with subsection (a); or

(3) Administrative or operating costs, marketing, or maintenance costs, including personnel costs, of the Honolulu Authority for Rapid Transportation or the department of transportation services.

(c) The annual report of the board of directors of the Honolulu Authority for Rapid Transportation required by the Charter must include:

(1) Any and all costs associated with:

(A) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;

(B) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;

(C) Planning and design costs for route expansion within the limits of the locally preferred alternative adopted by Ordinance 07-001; and

(D) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and federal law;

(2) An updated cash balance summary that contains all revenues and expenditures. The summary will include cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period;

(3) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program; and

(4) All amounts invoiced by and paid to general contractors for the fiscal year just ended. The amounts must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:

(A) The names of general contractors and their respective subcontractors;

(B) The type of services provided by each general contractor and subcontractor;

(C) A detailed description and justification for the work done by each general contractor and subcontractor; and

(D) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

(d) For purposes of this article, "capital costs" has the same meaning as defined in HRS § 46-16.8, as it may be amended, for a county with a population greater than 500,000.

(1990 Code, Ch. 6, Art. 60, § 6-60.2) (Added by Ord. 05-027; Am. Ords. 16-1, 17-11, 17-48)

§ 6-60.3 Repeal of surcharge.

Pursuant to § 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, this article will be repealed on December 31, 2022.

(1990 Code, Ch. 6, Art. 60, § 6-60.3) (Added by Ord. 05-027; Am. Ords. 16-1, 17-11, 17-48)

ARTICLE 60: TRANSPORTATION SURCHARGE—USE OF FUNDS*

Sections

Editor's note:

*Effective 1-1-2023. See Ord. 17-48, § 5.

§ 6-60.1 Establishment of surcharge—Conditions.

Pursuant to § 2 of Act 1, Session Laws of Hawaii, First Special Session of 2017, codified as HRS § 46-16.8, there is established a 0.5 percent general excise and use tax surcharge to be used for purposes of funding the capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

(1990 Code, Ch. 6, Art. 60, § 6-60.1) (Added by Ord. 05-027; Am. Ords. 07-001, 16-1, 17-11, 17-48)

§ 6-60.2 Use of funds.

(a) As required by HRS § 248-2.6(d), moneys received from the State derived from the imposition of the surcharge established under this article will be a general fund realization. Moneys received from the surcharge may be expended for capital costs of a locally preferred alternative for a mass transit project.

(b) No moneys received from the surcharge may be used for the following purposes:

(1) To build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence before July 12, 2005;

(2) Operating costs or maintenance costs of the mass transit project or any purpose not consistent with subsection (a); or

(3) Administrative or operating costs, marketing, or maintenance costs, including personnel costs, of the Honolulu Authority for Rapid Transportation or the department of transportation services.

(c) The annual report of the board of directors of the Honolulu Authority for Rapid Transportation required by the Charter must include:

(1) Any and all costs associated with:

(A) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;

(B) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;

(C) Planning and design costs for route expansion within the limits of the locally preferred alternative adopted by Ordinance 07-001; and

(D) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and federal law;

(2) An updated cash balance summary that contains all revenues and expenditures. The summary will include cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period;

(3) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program; and

(4) All amounts invoiced by and paid to general contractors for the fiscal year just ended. The amounts must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:

(A) The names of general contractors and their respective subcontractors;

(B) The type of services provided by each general contractor and subcontractor;

(C) A detailed description and justification for the work done by each general contractor and subcontractor; and

(D) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

(d) For purposes of this article, "capital costs" means nonrecurring costs required to construct a transit facility or system, including debt service, costs of land acquisition and development, acquiring of rights-of-way, planning, design, and construction, including equipping and furnishing the facility or system. "Capital costs" also include nonrecurring personal services and other overhead costs that are not intended to continue after completion of construction of the minimum operable segment of the locally preferred alternative for a mass transit project.

(1990 Code, Ch. 6, Art. 60, § 6-60.2) (Added by Ord. 05-027; Am. Ords. 16-1, 17-11, 17-48)

§ 6-60.3 Repeal of surcharge.

Pursuant to § 6 of Act 1, Session Laws of Hawaii, First Special Session of 2017, this article will be repealed on December 31, 2030.

(1990 Code, Ch. 6, Art. 60, § 6-60.3) (Added by Ord. 05-027; Am. Ords. 16-1, 17-11, 17-48)

ARTICLE 61: TRANSIT FUND

Sections

§ 6-61.1 Establishment.

There is created a special fund to be known as the "transit fund."
(1990 Code, Ch. 6, Art. 61, § 6-61.1) (Added by Ord. 06-37)

§ 6-61.2 Purpose.

The purpose of the transit fund is to receive transfers of all moneys collected from the county surcharge on State excise and use tax by the general fund and to provide budgetary control and accountability of moneys collected pursuant to § 6-60.1.
(1990 Code, Ch. 6, Art. 61, § 6-61.2) (Added by Ord. 06-37)

§ 6-61.3 Deposits.

(a) There shall be deposited into the transit fund:

(1) All county surcharge on State general excise and use tax moneys collected pursuant to § 6-60.1 and deposited into the general fund; and

(2) Any interest earned on the deposits of the transit fund and all other receipts dedicated for the mass transit project.

(b) No revenues required to be deposited into the transportation fund under Article 18 shall be deposited in the transit fund.
(1990 Code, Ch. 6, Art. 61, § 6-61.3) (Added by Ord. 06-37; Am. Ord. 20-19)

§ 6-61.4 Expenditures.

All expenditures from the transit fund shall be used for:

(1) Operating or capital costs of a locally preferred alternative for a mass transit project;

(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subsection (a) above; and

(3) Reimbursement of the general fund or the highway fund by the transit fund for any prior operating or capital expenditures incurred by the general fund or highway fund relating to the development of a locally preferred alternative for a mass transit project. All reimbursements by the transit fund shall be included in the executive operating budget.

(1990 Code, Ch. 6, Art. 61, § 6-61.4) (Added by Ord. 06-37; Am. Ord. 11-24)

§ 6-61.5 Administration.

The director of budget and fiscal services shall administer the transit fund.

(1990 Code, Ch. 6, Art. 61, § 6-61.5) (Added by Ord. 06-37)

ARTICLE 62: CLEAN WATER AND NATURAL LANDS FUND

Sections

§ 6-62.1 Creation.

There is created and established a special fund to be known as the "clean water and natural lands fund." (1990 Code, Ch. 6, Art. 62, § 6-62.1) (Added by Ord. 07-18)

§ 6-62.2 Purpose.

The purpose of the clean water and natural lands fund is to provide for the purchase of or to otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes:

(1) Protection of watershed lands to preserve water quality and water supply;

(2) Preservation of forests, beaches, coastal areas, and agricultural lands;

(3) Public outdoor recreation and education, including access to beaches and mountains;

(4) Preservation of historic or culturally important land areas and sites;

(5) Protection of significant habitats or ecosystems, including buffer zones;

(6) Conservation of land to reduce erosion, floods, landslides, and runoff; and

(7) Acquisition of public access to public land and open space.

(1990 Code, Ch. 6, Art. 62, § 6-62.2) (Added by Ord. 07-18)

§ 6-62.3 Deposit.

There shall be deposited into the clean water and natural lands fund an amount equal to one-half of the appropriation by the council of a minimum of 1 percent of the estimated real property tax revenues, plus any interest earned on deposits in the clean water and natural lands fund.
(1990 Code, Ch. 6, Art. 62, § 6-62.3) (Added by Ord. 07-18)

§ 6-62.4 Report required.

Within 15 calendar days after the mayor submits the budget documents specified in Charter § 9-102.1 to the council, the mayor shall also submit a report on the clean water and natural lands fund that shall include but not be limited to:

(1) The calculation of the minimum amount required by the charter to be appropriated from the estimated real property tax revenues and deposited into the clean water and natural lands fund and the amount to be deposited into the clean water and natural lands fund as provided in the proposed budget for the ensuing fiscal year, which shall at least equal the minimum amount;

(2) An explanation of the operating and capital program for the ensuing six fiscal years for the use of the clean water and natural lands fund. The explanation may be in the form of a functional plan spanning at least the ensuing six fiscal years for the clean water and natural lands fund, adopted by the council, and any annual updates thereto, also adopted by the council. If applicable, the explanation shall demonstrate that the operating and capital program complies with the appropriation priorities the council has established for the clean water and natural lands fund. Identification of applicable information contained in the administration's budget submittal may satisfy this requirement;

(3) The amount included in the mayor's proposed executive operating and capital budgets for the ensuing fiscal year from the clean water and natural lands fund, separately identifying the amount to be appropriated for administrative expenses and demonstrating that the appropriation complies with the charter's maximum amount, and an explanation of how the budgeted amount complies with the charter requirement that the amount does not substitute for, but is in addition to the appropriations historically made for the purposes set forth in the Charter; and

(4) A list of proposed amendments to the public infrastructure maps required by the proposed appropriations from the clean water and natural lands fund.

(1990 Code, Ch. 6, Art. 62, § 6-62.4) (Added by Ord. 07-18)

§ 6-62.5 Additional requirements.

(a) All expenditures from the clean water and natural lands fund shall be made consistent with the priorities established by a commission created by council resolution or, in the absence of a commission, with the priorities established by the council by resolution.

(b) Moneys in the clean water and natural lands fund may be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued after enactment of this ordinance and pursuant to Charter §§ 3-116 or 3-117, in whole or in part, for the purposes enumerated above and for the payment of costs associated with the purchase, redemption, or refunding of such bonds.

(c) At any given time, no more than 5 percent of the moneys in the clean water and natural lands fund shall be used for administrative expenses.

(d) Any balance remaining in the clean water and natural lands fund at the end of any fiscal year shall not lapse, but shall remain in the clean water and natural lands fund, accumulating from year to year. The moneys in the clean water and natural lands fund shall not be used for any purposes except those listed in this article.

(e) The appropriations to the clean water and natural lands fund shall not substitute for, but shall be in addition to, those appropriations historically made for the purposes stated in this article.

(1990 Code, Ch. 6, Art. 62, § 6-62.5) (Added by Ord. 07-18)

§ 6-62.6 Administration.

The director of budget and fiscal services shall administer the clean water and natural lands fund.

(1990 Code, Ch. 6, Art. 62, § 6-62.6) (Added by Ord. 07-18)

ARTICLE 63: AFFORDABLE HOUSING FUND

Sections

§ 6-63.1 Creation.

There is created and established a special fund to be known as the "affordable housing fund."
(1990 Code, Ch. 6, Art. 63, § 6-63.1) (Added by Ord. 07-19)

§ 6-63.2 Purpose.

The purpose of the affordable housing fund is to provide and maintain affordable rental housing for persons earning 60 percent or less of the median household income in the city for any one or more the following purposes: provision and expansion of affordable rental housing and suitable living environments in projects, which may include mixed-use, mixed-income projects, having residential units that are principally for persons of low and moderate income through land acquisition for, development of, construction of, or capital improvements or rehabilitation to such housing, provided that the funded housing remains affordable for at least 60 years.
(1990 Code, Ch. 6, Art. 63, § 6-63.2) (Added by Ord. 07-19; Am. Ord. 20-9)

§ 6-63.3 Deposit.

There shall be appropriated by the council and deposited into the affordable housing fund an amount equal to one-half of 1 percent of the estimated real property tax revenues, plus any interest earned on deposits in this fund.
(1990 Code, Ch. 6, Art. 63, § 6-63.3) (Added by Ord. 07-19; Am. Ord. 20-9)

§ 6-63.4 Report required.

Within 15 calendar days after the mayor submits the budget documents specified in Charter § 9-102.1 to the council, the mayor shall also submit a report on the affordable housing fund that shall include but not be limited to:

(1) The calculation of the minimum amount required by the charter to be appropriated from the estimated real property tax revenues and deposited into the affordable housing fund and the amount to be deposited into the affordable housing fund as provided in the proposed budget for the ensuing fiscal year, which shall at least equal the minimum amount;

(2) An explanation of the operating and capital program for the ensuing six fiscal years for the use of the affordable housing fund. The explanation may be in the form of a functional plan spanning at least the ensuing six fiscal years for the affordable housing fund, adopted by the council, and any annual updates thereto, also adopted by the council. If applicable, the explanation shall demonstrate that the operating and capital program complies with the appropriation priorities the council has established for the affordable housing fund. Identification of applicable information contained in the administration's budget submittal may satisfy this requirement;

(3) The amount included in the mayor's proposed executive operating and capital budgets for the ensuing fiscal year from the affordable housing fund, separately identifying the amount to be appropriated for administrative expenses and demonstrating that the appropriation complies with the Charter's maximum amount, and an explanation of how the budgeted amount complies with the Charter requirement that the amount does not substitute for but is in addition to the appropriations historically made for the purposes set forth in the Charter; and

(4) A list of proposed amendments to the public infrastructure maps required by the proposed appropriations from the affordable housing fund.

(1990 Code, Ch. 6, Art. 63, § 6-63.4) (Added by Ord. 07-19)

§ 6-63.5 Additional requirements.

(a) All expenditures from the affordable housing fund shall be made consistent with the priorities established by a commission created by council resolution or, in the absence of a commission, with the priorities established by the council by resolution.

(b) Moneys in the affordable housing fund may also be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued after enactment of this ordinance and pursuant to Charter §§ 3-116 or 3-117, in whole or in part, for the purpose enumerated above and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) At any given time, no more than 5 percent of the moneys in the affordable housing fund shall be used for administrative expenses.

(d) Any balance remaining in the affordable housing fund at the end of any fiscal year shall not lapse, but shall remain in the affordable housing fund, accumulating from year to year. The moneys in the affordable housing fund shall not be used for any purposes except those listed in this article.

(e) The appropriations to the affordable housing fund shall not substitute for, but shall be in addition to, those appropriations historically made for the purposes stated in this article.

(1990 Code, Ch. 6, Art. 63, § 6-63.5) (Added by Ord. 07-19)

§ 6-63.6 Administration.

The director of budget and fiscal services shall administer the affordable housing fund. (1990 Code, Ch. 6, Art. 63, § 6-63.6) (Added by Ord. 07-19)

ARTICLE 64: RESERVED

ARTICLE 65: TRANSIT IMPROVEMENT BOND FUND

Sections

§ 6-65.1 Creation.

There is created and established a special fund to be known as the "transit improvement bond fund."
(1990 Code, Ch. 6, Art. 65, § 6-65.1) (Added by Ord. 09-14)

§ 6-65.2 Deposit.

There shall be deposited into the transit improvement bond fund the proceeds of the sale of general obligation bonds of the city issued to pay all or part of those appropriations for public improvements made in the capital budget ordinance of the city and specified therein to be expended from the transit improvement bond fund.
(1990 Code, Ch. 6, Art. 65, § 6-65.2) (Added by Ord. 09-14)

§ 6-65.3 Expenditure.

There shall be paid from the transit improvement bond fund the costs of public improvements appropriated in the capital budget ordinance and specified therein to be expended from the transit improvement bond fund.
(1990 Code, Ch. 6, Art. 65, § 6-65.3) (Added by Ord. 09-14)

§ 6-65.4 Administration.

The director of budget and fiscal services shall be responsible for the administration of the transit improvement bond fund. Expenditures from the transit improvement bond fund shall be in accordance with prescribed laws and procedures applicable to expenditures of city revenues.
(1990 Code, Ch. 6, Art. 65, § 6-65.4) (Added by Ord. 09-14)

CHAPTER 7: RESERVED

CHAPTER 8: REAL PROPERTY TAX

Articles

ARTICLE 1: ADMINISTRATION

Sections

§ 8-1.1 Legislative intent.

The purpose of this chapter is to implement the authority granted to the city to assess, impose, and collect real property taxes based on Article VIII, Section 3 of the Constitution of the State of Hawaii.
(1990 Code, Ch. 8, Art. 1, § 8-1.1) (Added by Ord. 80-72)

§ 8-1.2 Definitions.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. The City and County of Honolulu.

Director. The director of budget and fiscal services or the director's authorized subordinate.

Property or ***Real Property.*** Includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same, and any fixture that 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 and any device that converts solar radiation to electricity or heat.
(Sec. 8-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.2) (Am. Ords. 96-58, 07-47, 15-23)

§ 8-1.3 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 city 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 city, 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 evasion of its provisions, and to see that complaints are made against persons violating 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 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 this chapter, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with this chapter and to change the same from time to time as deemed necessary;

(6) *Maps.*

(A) The director shall provide for the city, 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 maps, as far as possible, shall show the names of owners of each division of land, and shall be revised from time to time as ownership changes and as further divisions of parcels occur. The director shall also maintain, as and when such information is available, maps showing present use, zoning and physical use capabilities of land located within the city for the guidance of assessors and the information of various tax review tribunals and the general public; and

(B) 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 ordinance;

(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 this chapter 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 director's department, and such other matters or information concerning real property taxation as may be deemed of general interest; the mayor shall transmit copies of such reports to the council within 30 days of receipt;

(11) *Rules.* To adopt such rules as the director may deem proper, and to effectuate the purposes for which the director's department is constituted, and to regulate matters of procedure by or before the director pursuant to HRS Chapter 91;

(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 city 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 director's department's office a statement of:

(A) The amount of tax assessed, or proposed to be;

(B) The amount of penalties and interest imposed or proposed to be assessed;

(C) The amount of penalties and interest imposed or that could have been imposed by law with respect to paragraph (A) as computed by the director;

(D) The total amount of liability as determined by the terms of the compromise, and the actual payments made 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, regulations, or construction 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 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 90 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 city, 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 city; 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; and

(16) *Other powers and duties.* In addition to the powers and duties contained in this section, the assessing, collecting, receiving, and enforcing payments of the tax imposed under this section, 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.

(Sec. 8-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.3)

§ 8-1.4 Oaths.

The director may administer all oaths or affirmations required to be taken or be administered under this chapter.

(Sec. 8-1.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.4)

§ 8-1.5 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 first 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 such person's refusal to do so, commit such person to jail until such person testifies but not for a longer period than 60 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 city, from any moneys available for expenses of the director.
(Sec. 8-1.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.5)

§ 8-1.6 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 city that is:

(1) Transmitted through the United States mail, shall be deemed filed and received by the city on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it; and

(2) Mailed but not received by the city or where received and the cancellation mark 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 city a duplicate within 30 days after written notification is given to the sender by the city 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 or department of budget and fiscal services, and the date of registration, certification, or certificate shall be deemed the postmarked date.
(Sec. 8-1.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.6)

§ 8-1.7 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 shall be released from accountability as provided in § 8-1.9. The corporation counsel shall assist the director in the collection of all taxes under this chapter.
(Sec. 8-1.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.7)

§ 8-1.8 District court judges—Misdemeanors and actions for tax collections.

Except as otherwise provided in this chapter, the district court judges for the first circuit court for the State as authorized in HRS § 231-12, 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.
(Sec. 8-1.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.8)

§ 8-1.9 Director—Collection, records of delinquent taxes, uncollectible delinquent taxes.

(a) 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.

(b) The director shall prepare and maintain a complete record, open to public inspection, of the amounts of taxes assessed which have become delinquent with 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.

(c) The director may from time to time prepare lists of all taxes delinquent that in the director's judgment are uncollectible. Such taxes as the director finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the director, and the director 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 director finds that the alleged facts as previously presented to the director were not true, or that such items are in fact collectible.

(Sec. 8-1.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.9)

§ 8-1.10 Legal representative.

The corporation counsel or the prosecuting attorney shall assign one of such persons' deputies as attorney and legal advisor and representative of the director. The corporation counsel or the prosecuting attorney may proceed to enforce payment of any delinquent taxes by any means provided by law. Any legal proceedings may be instituted in the name of the director or the deputy director.
(Sec. 8-1.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.10)

§ 8-1.11 Abstracts of registered conveyances, copies of corporation exhibits furnished to director.

The director may request abstracts 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 as 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 or the land court, executed, or filed, as the case may be, during the period covered by such abstract. The State department of commerce and consumer affairs 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.
(Sec. 8-1.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.11)

§ 8-1.12 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.
(Sec. 8-1.15, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.12)

§ 8-1.13 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 city 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 such person 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.
(Sec. 8-1.16, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.13)

§ 8-1.14 Records—Public and confidential.

(a) Except as provided in subsection (b), all maps and records compiled, made, obtained, or received by the director or any of the director's subordinates, shall be public records, and where 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.

(b) Real property tax records stamped confidential and provided in a form separable from public tax records by a taxpayer containing trade secrets or confidential commercial or financial information of a taxpayer shall not be open to inspection by the public including but not limited to:

(1) Lease agreements not involving the use of government land;

(2) Income statements; and

(3) Income and general excise tax statements.

(c) Nothing in subsection (b) shall be construed to preclude the city from using the records enumerated in subsection (b) in any proceeding before a board of review or a court in any appeal brought by a taxpayer.
(Sec. 8-1.17, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.14) (Am. Ord. 01-06)

§ 8-1.15 Tax records as evidence.

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 assessments 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.
(Sec. 8-1.18, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.15)

§ 8-1.16 Due date on Saturday, Sunday, or holiday.

When the due date for any notice, application, document, or remittance required by this chapter falls on a Saturday, Sunday, or legal holiday, the notice, application, document, or remittance shall not be due until the next succeeding day which is not a Saturday, Sunday, or legal holiday. Notwithstanding the foregoing, the due date for any appeal shall comply with the jurisdictional requirements set forth in the law establishing the right to appeal.
(Sec. 8-1.19, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.16) (Am. Ord. 15-34)

§ 8-1.17 Changes 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 § 8-2.2 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 clerical errors, such as transposition in figures, typographical errors, and errors in calculation.
(Sec. 8-1.20, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.17)

§ 8-1.18 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 clerical errors, such as 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 before such adjustment has been paid.

(2) There may be refunded in the manner provided in subsection (b) 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 from taxation under § 8-10.17, if there has been paid before 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 that have been paid on account of the property and attributable to the period following the effective date of the exemption.

(4) No such adjustment shall be entered on the records except within five years after the end of the tax year in which the amount to be adjusted 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) Payment of all refunds and adjustments shall be made out of the real property tax refund account in the real property tax trust fund hereinafter created. All refunds and adjustments shall be paid by voucher approved by the director, setting forth the details of each transaction, provided that if the person entitled to the refund or adjustment is the current owner of the property, the refund or adjustment shall be first applied to satisfy any interest, then penalties, then delinquent taxes, due for the property, and if there are no delinquent taxes due then as a credit against future taxes due for the property, unless the city is in receipt of a written request from the current owner for payment by voucher.

(2) There is created and established a fund known as the real property tax trust fund to be used for the purpose of making refunds and adjustments of taxes collected under this chapter. The director may, from time to time, deposit taxes collected under this chapter to the credit of real property tax refund account in the real property tax trust fund so that there may be maintained at all times an amount from which refunds may be paid.

(Sec. 8-1.21, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.18) (Am. Ords. 00-52, 05-030, 05-041)

§ 8-1.19 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.

(Sec. 8-1.22, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.19)

§ 8-1.20 Abetting misdemeanor.

All persons wilfully aiding, abetting, or assisting in any manner any person to commit any act constituted a misdemeanor by this chapter, shall be deemed guilty of a misdemeanor.

(Sec. 8-1.24, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.20)

§ 8-1.21 Neglect of duty—Misdemeanor.

Any officer or employee of the department of budget and fiscal services, 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 of such person required by this chapter, shall be deemed guilty of a misdemeanor.

(Sec. 8-1.25, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.21)

§ 8-1.22 Penalty for misdemeanors.

Any person convicted of any misdemeanor under this chapter, for which no punishment is otherwise prescribed, shall be fined not more than $500 or (if a natural person) imprisoned for not more than one year or both. (Sec. 8-1.26, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 1, § 8-1.22)

ARTICLE 2: NOTICE OF ASSESSMENTS—ASSESSMENT LISTS

Sections

§ 8-2.1 Notice of assessments—Addresses of persons entitled to notice.

(a) On or before December 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 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 § 8-7.1(c) and setting forth the valuation placed upon the real property, determined pursuant to § 8-7.1(a), the exemption, if any, allowed or denied, as the case may be, and the net taxable value of the real property. The general class of the property shall be set forth in clear and descriptive language as used in § 8-7.1(c)(1) without abbreviation and without reference to a code of any kind on the notice of assessment. In lieu of the notification methods set forth in this subsection, the director shall, at the option of the owner, give notice of the assessment by electronic transmission.

(b) In addition to the foregoing, the director shall, in each year, give notice of the assessments for the upcoming tax year by public notice (by publication thereof at least three times on different days before December 31 of each year in a newspaper of general circulation, published in the English language) of a time when (which shall be not less than a period of 10 days before December 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 such person to ascertain what assessments have been made against such person or such person's property and to confer with the director so that any errors may be corrected before the filing of the assessment list.

(c) On or before December 15 preceding the tax year, the director shall notify by mail or by electronic transmission each known owner whose property has been assigned a different general class from the general class assigned the previous tax year, that the property has been reclassified for property tax assessment purposes for the ensuing tax year. Such notification shall state the property's general class immediately before the change, the new general class, and the effective date of the new general class.

(Sec. 8-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 2, § 8-2.1) (Am. Ords. 92-20, 93-95, 96-15, 02-45, 05-003, 07-49, 07-50)

§ 8-2.2 Assessment lists.

On or before January 31 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 § 8-7.1(c), the valuation of the real property, the amount of exemption allowed on the real property, and the net taxable value of the real property. The assessment list 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 § 8-1.17. There shall be noted upon such lists all appeals taken pursuant to § 8-12.1 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 city clerk.
(Sec. 8-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 2, § 8-2.2) (Am. Ords. 92-20, 96-15, 97-55, 02-45)

§ 8-2.3 Informalities or mistakes in names or notices not to invalidate assessments.

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 § 8-2.1 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 or electronic transmission provided for by § 8-2.1.
(Sec. 8-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 2, § 8-2.3) (Am. Ord. 07-49)

ARTICLE 3: TAX BILLS, PAYMENTS, AND PENALTIES

Sections

§ 8-3.1 Tax rolls—Tax bills.

(a) The director shall prepare tax rolls from the assessment lists provided for by § 8-2.2, showing thereon, in each case, names and addresses of the assessed and the amount of taxes that shall be not less than the minimum tax amount required in § 8-11.1(g).

(b) The director shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by § 8-3.2, 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 such 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 such 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.

(Sec. 8-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 3, § 8-3.1) (Am. Ords. 92-124, 10-9)

§ 8-3.2 Taxes—Due when—Installment payments—Billing and delinquent dates.

All real property taxes shall be due and payable after June 30 of each tax year and the payment thereof shall be determined in the following manner:

(1) 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 § 8-3.1. Each taxpayer shall pay the real property taxes due from such person 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

(2) 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.

(Sec. 8-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 3, § 8-3.2)

§ 8-3.3 Penalty for delinquency.

(a) There shall be added to the amount of all delinquent taxes under § 8-3.2(2) a penalty of 2 percent for each month or fraction thereof beginning with the first calendar day following the date designated for payment in § 8-3.2, provided that the maximum penalty levied shall not exceed 10 percent of the taxes levied. The penalty shall accrue on the delinquent taxes only and not on any accrued penalties. The penalty shall be and become a part of the tax and be collected as a part thereof.

(b) All delinquent taxes and penalties shall bear interest at the rate of 1 percent for each month or fraction thereof until paid, beginning with the first calendar month following the calendar month designated for payment in § 8-3.2. Interest shall accrue on the delinquent taxes and penalties only and not on any accrued interest. The interest shall be and become a part of the tax and be collected as a part thereof.

(c) No taxpayer shall be exempt from delinquent penalties by reason of having made an appeal on such taxpayer's assessment, but the tax paid, covered by an appeal duly taken, shall be held in a trust account as provided in § 8-12.12.

(Sec. 8-3.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 3, § 8-3.3) (Am. Ords. 89-147, 07-36)

§ 8-3.4 Assessment of unreturned or omitted property—Review—Penalty.

(a) If, when returns are required under this chapter, any person refuses or neglects to make such returns, or declines to authenticate the accuracy thereof, 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 10 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 by filing with the director a written notice thereof in the manner prescribed in § 8-12.9 at any time within 30 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 § 8-12.8.

(b) A penalty of 10 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 owner's return.

(c) 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 30 days after the date of mailing of notice of

assessment, or if assessed for the current assessment year, within 30 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.
(Sec. 8-3.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 3, § 8-3.4)

§ 8-3.5 Reassessments.

Any property assessed to a person or persons who did not have the record title upon October 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 § 8-3.4.
(Sec. 8-3.5, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 8, Art. 3, § 8-3.5) (Am. Ord. 96-15)

ARTICLE 4: REMISSIONS

Sections

§ 8-4.1 Remission of taxes on acquisition by government.

(a) Whenever any real property is acquired for public purposes by the United States, the State or the city, 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.

(b) If the State or the city 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 city, taxes are authorized to be remitted as provided in HRS §§ 101-35 to 101-39, subject to HRS § 101-39.

(c) If the owner of real property grants to the State or the city a right of entry with respect to such real property and the State or the city 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 city 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 city for the balance of the taxation period which is after the date of possession.

(d) If 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. HRS § 101-39 is made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this subsection. 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 10 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.

(Sec. 8-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 4, § 8-4.1)

§ 8-4.2 Remission of taxes in cases of natural disasters.

(a) The director shall remit taxes due or paid for real property damaged or destroyed as a result of natural disaster, where the mayor has declared a natural disaster for purposes of real property tax relief, under this section. Remissions shall be granted:

(1) Of taxes on the damaged or destroyed real property for the tax year in which the natural disaster occurred; and

(2) To the extent and in the manner set forth in this section.

(b) The director shall determine whether the real property was wholly destroyed or was partially destroyed or damaged from the natural disaster. If the real property was partially destroyed or damaged, the director shall determine what percentage of the value of the whole property was destroyed or otherwise lost by reason of the natural disaster.

(c) If the real property was wholly destroyed, the amount remitted shall be the lower of the following, but subject to subsection (e):

(1) The total tax on the property for the tax year in which the natural disaster occurred; or

(2) $25,000.

(d) If the real property was partially destroyed or damaged, the amount remitted shall be the lower of the following, but subject to subsection (e):

(1) The amount derived by multiplying the total tax on the property for the tax year by the percentage of the value destroyed or otherwise lost, determined as provided in subsection (b); or

(2) $25,000.

(e) The minimum tax of § 8-11.1(g) shall apply to real property, the tax on which is remitted under this section. In no case shall the amount remitted for a parcel of real property under this section cause the tax on that parcel to be less than the minimum.

(f) 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 60 days after the declaration by the mayor of the natural 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 appropriated general funds.

(g) For purposes of this section, the term "natural disaster" means any disaster caused by seismic or tidal wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, or flood waters.

(Sec. 8-4.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 4, § 8-4.2) (Am. Ords. 92-38, 97-56)

§ 8-4.3 Remission of penalties and interest due for National Guard and military reserve personnel.

(a) The director shall remit the amount of penalties or interest added under this chapter to any tax, for which the following applies:

(1) The property owner is a member of the National Guard or of a reserve component of the armed forces of the United States serving on active duty pursuant to deployment for a war or national emergency declared in accordance with federal law;

(2) The taxes owed become due and payable during the period the property owner serves on active duty;

(3) The property owner has provided proof of active duty status to the director; and

(4) The taxes due and owing on the owner's property are paid no later than 180 days from the date the property owner's active duty is terminated.

(b) The director shall adopt rules having the force and effect of law for the implementation, administration, and enforcement of this section.

(c) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Active Duty. Full-time duty in the uniformed services.

National Guard. The Army National Guard or the Air Force National Guard.

Reserve Component of the Armed Forces of the United States. The air force reserve, army reserve, coast guard reserve, marine corps reserve, and naval reserve.
(1990 Code, Ch. 8, Art. 4, § 8-4.3) (Added by Ord. 04-44)

ARTICLE 5: LIENS—FORECLOSURES

Sections

§ 8-5.1 Tax liens—Co-owners' rights—Foreclosure, limitation.

(a) Every tax due upon real property, as defined by § 8-1.2, 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 the proceedings or the completion of such sale.

(b) Where cotenancy, if one cotenant pays, within the period of the government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within 90 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 of conveyances shall cause the same to be indexed in the general indexes of the bureau of conveyances. If 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 of conveyances, in the registrar of conveyances' 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.

(c) 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 a 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 pendency thereof is recorded or filed and registered as provided by law, within the period.

(d) The director or the director's subordinate, where 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.

(e) This section as to cotenancy shall apply as well, in any case of ownership by more than one assessable person.

(f) Upon enforcement or foreclosure by the government in any manner, of any such real property tax lien, all taxes of whatever 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.

(g) The liens may be enforced by action of the director in the circuit court of the first 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 HRS Chapter 667. If the owners or claimants of the property against which a lien is sought to be foreclosed, are at the time out of the city or cannot be served within the city, 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 HRS §§ 634-23 through 634-29.

(h) 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.

(Sec. 8-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.1)

§ 8-5.2 Tax liens—Foreclosure without suit, notice.

All real property on which a lien for taxes exists may be sold by way of foreclosure without suit by the director, and if any lien, or any part thereof, has existed thereon for three years, shall be sold by the director 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 tax, lien, and sale, the surplus, if any, to be rendered to the person thereto entitled. The sale shall be held at any public place proper for sales on execution, after notice published at least once a week for at least four successive weeks immediately prior thereto in any newspaper with a general circulation of at least 60,000 published in the State and any newspaper of general circulation published and distributed in the county. 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 budget and fiscal services. The notice shall be deposited in the mail at least 45 days before the date set for the sale. The notice shall also be posted for a like period in at least three conspicuous public places within the city, and if the land is improved, one of the three postings shall be on the land.
(Sec. 8-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.2)

§ 8-5.3 Tax liens—Registered land.

If the land has been registered in the land court, the director shall also send by registered mail a notice of 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 such person's last address as shown by the records in the office of the registrar, and shall be deposited in the mail at least 45 days before the date set for the sale.
(Sec. 8-5.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.3)

§ 8-5.4 Tax liens—Notice—Form.

The notice of sale shall contain the names of the persons assessed, the names of the present owners (so far as shown by the records of the director and the records, if any, in the office of the assistant registrar of the land court), the character and amount of the tax, and the tax year or years, with interest, penalties, costs, expenses, and charges accrued or to accrue to the date appointed for the sale, a brief description of the property to be sold, and the time and place of sale, and shall warn the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon or any legal or equitable right, title, or other interest in the property, that unless the tax, with all interest, penalties, costs, expenses, and charges accrued to the date of payment, is paid before the time of sale appointed, the property advertised for sale will be sold as advertised. The director may include in one advertisement of notice of sale 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.
(Sec. 8-5.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.4)

§ 8-5.5 Tax liens—Postponement of sale.

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 when 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.
(Sec. 8-5.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.5)

§ 8-5.6 Tax liens—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 to the property sold; provided that the deed to the premises shall be recorded within 60 days after the sale; provided further, that the taxpayer may redeem the property sold by payment to the purchaser at the sale, within one year from the date thereof, or if the deed shall not have been recorded within 60 days after the sale, then within one year from the date of recording of the deed, of the amount paid by the purchaser, together with all costs and expenses that 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 12 percent a year, but in a case of redemption more than one year after the date of sale by reason of extension of the redemption period on account of late recording of the tax deed, interest shall not be added for the extended redemption period.
(Sec. 8-5.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.6)

§ 8-5.7 Tax liens—Costs.

The director by rules or regulations 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 § 8-5.3 with respect to mortgages or other liens registered in the office of the assistant registrar of the land court.
(Sec. 8-5.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.7)

§ 8-5.8 Tax deed as evidence.

The tax deed referred to in § 8-5.6 is prima facie evidence that:

(1) The property described by the deed was duly assessed for taxes 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 §§ 8-5.2 to 8-5.7 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.
(Sec. 8-5.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.8)

§ 8-5.9 Disposition of surplus moneys.

(a) The director shall pay from the surplus all taxes, including interest and penalties, of whatever nature and however accruing, as provided in § 8-5.1, 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 that nothing herein contained shall be construed to require the director to make or cause any such search to be made. 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 first circuit court. The director may require the claimants to interplead, in which event the director shall state the names of all claimants known to the director, and shall cause them to be made parties to the action. If in the director's opinion there may be other claimants who are unknown, the director may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.

(b) 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 HRS §§ 634-23 through 634-29, 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 city, and the form of notice to be published shall provide a brief description of the property that was sold.

(c) All expenses incurred by the director shall be met out of the surplus moneys realized from the sale.
(Sec. 8-5.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 5, § 8-5.9)

§ 8-5.10 Tax debt due the county—Lien.

(a) The director may record in the bureau of conveyances, State department of land and natural resources or in the case of a lien on a motor vehicle to file with the director, a certificate setting forth the amount of taxes due and unpaid, which have been assessed or as to which a notice of proposed assessment has been issued. The certificate shall identify the taxpayer, the taxpayer's last known address, and the tax or taxes involved. The certificate shall include such further information, if any, as may be required by HRS Chapter 501, to procure a lien on registered land. The recording or filing of the certificate creates a lien in favor of the city upon all property and rights to property, whether real or personal, belonging to any person liable for the tax. The lien for the tax, including penalties and interest thereon, arises at the time of filing by the director of the certificate of tax lien. From and after the time the lien arises, it shall be a paramount lien upon the property and rights

to property against all parties. The certificate, if recorded or filed with the director shall be entered of record as provided by law, and if recorded or filed in the bureau of conveyances, State department of land and natural resources, shall be recorded in the office of the registrar of conveyances. Any cost incurred in the filing of the certificate shall be a part of the lien for the tax therein set forth.

(b) The lien imposed in subsection (a) shall not be valid as against:

(1) A mortgagee or purchaser of real property, or the lien of a judgment creditor upon real property, whose interest arose before the recording by the director of the certificate provided for herein; and

(2) A mortgagee or purchaser of a motor vehicle who becomes the legal owner or owner at a time when the tax lien and encumbrance record provided for by HRS § 286-46 does not show the lien.

(c) As to tangible personal property, possession of which is held by a person liable for tax for the purpose of sale to the public in the ordinary course of the person's business, the lien imposed in subsection (a) is extinguished as to any such property sold in the ordinary course of the business by or under the direction of the person to any purchaser for valuable consideration. As to securities, negotiable instruments and money, the lien imposed in subsection (a) is extinguished as to such property upon passage of title to a person without notice or knowledge of the existence of the lien, for an adequate and full consideration in money or money's worth.

(d) The director may issue a certificate of discharge of any part of the property subject to the lien imposed by this section, upon payment in partial satisfaction of such lien, of an amount not less than the value as determined by the director of the lien on the part to be so discharged, or if the director determines that the lien on the part to be discharged has no value. Any such discharge so issued shall be conclusive evidence of the discharge of the lien as therein provided.

(e) The lien imposed in this section may be foreclosed in a court proceeding or by distraint under § 8-5.11.

(f) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Mortgagee and ***Purchaser.*** Do not mean or include any person to whom property or an interest in property is conveyed:

(1) As security for or in satisfaction of an antecedent or preexisting debt of a debtor who is insolvent within the meaning of the Bankruptcy Reform Act of 1978, as amended; or

(2) As trustee, assignee or agent for the benefit of one or more creditors, other than mortgage bondholders.

Motor Vehicle. Any self-propelled vehicle to be operated on the public highways.

Real Property. Includes a leasehold or other interest in real property and also any personal property sold or mortgaged with real property if affixed to the real property and described in the instrument of sale or mortgage. (1990 Code, Ch. 8, Art. 5, § 8-5.10) (Added by Ord. 90-19)

§ 8-5.11 Enforcement of payment by assumpsit action or by levy and distraint upon all property and rights to property.

(a) If any tax be unpaid when due, the director may proceed to enforce the payment of the same, with all penalties, as follows:

(1) By action in assumpsit, in the director's own name, on behalf of the city for the amount of taxes and costs, or if the tax is delinquent for the amount of taxes, costs, penalties, and interest, in any district court of the first circuit, State of Hawaii, irrespective of the amount claimed. Execution may issue upon any judgment rendered in any such action that may be satisfied out of any real or personal property of the defendant; and

(2) By levy upon all property and rights to property (except such property as is exempt under subsection (b)(5)) belonging to such taxpayer or on which there is a lien, as the director may deem sufficient to satisfy the payment of taxes due, penalties and interest if any, and the costs and expenses of the levy.

(b) The following rules are applicable to the levy as provided in subsection (a)(2).

(1) *Seizure and sale of property.* The term "levy" as used in this section includes the power of distraint and seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the director or director's representative may levy upon property or rights to property, they may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(2) *Successive seizures.* Whenever any property or right to property upon which levy has been made is not sufficient to satisfy the claim of the city for which levy is made, the director or director's representative may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from such person, together with all expenses, is fully paid.

(3) *Surrender of property subject to levy.*

(A) *Requirement.* Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the director or director's representative, surrender such property or rights (or discharge such obligation) to the director or director's representative, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(B) *Extent of personal liability.* Any person who fails or refuses to surrender property or rights of property, subject to levy, upon demand by the director or director's representative, shall thereby subject such person individually and such person's estate to liability to the city in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of 12 percent a year from the date of such levy. Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(C) *Penalty for violation.* In addition to the personal liability imposed by paragraph (B), if any person required to surrender property or rights to property fails or refuses to surrender such property or

rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (B). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(D) *Effect of honoring levy.* Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the director or director's representative, surrenders such property or rights to property (or discharges such obligation) to the director or to the director's representative shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

(E) *Person defined.* The term "person," as used in paragraph (A), includes an officer or employee of a corporation or a member or employee of a partnership, or a member or employee of any other type of organization, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

(4) *Production of books.* If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the director or director's representative, exhibit such books or records to the director or such representative.

(5) *Property exempt from levy.* Notwithstanding any other law of the city, no property or rights to property shall be exempt from levy other than the following:

(A) *Wearing apparel and school books*. Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of the taxpayer's family;

(B) *Fuel, provisions, furniture, and personal effects.* If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $500 in value;

(C) *Books and tools of a trade, business, or profession.* So many of the books and tools necessary for the trade, business or profession of the taxpayer as do not exceed in the aggregate $250 in value;

(D) *Unemployment benefits.* Any amount payable to an individual with respect to such individual's unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States or the State; and

(E) *Undelivered mail.* Mail, addressed to any person, that has not been delivered to the addressee.

(6) *Sale of the seized property.*

(A) *Notice of sale.* The director shall take possession and keep the levied property until the sale. After taking possession, the director shall sell the taxpayer's interest in the property at public auction after first giving 20 days' public notice of the time and place of the sale by publication at least once in the newspaper, published in the district, or by posting the notice in at least three public places in the district where the sale is to be held.

(B) *Assistance in seizure and sale.* The director may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of the levied property. The director may further retain the services of any person competent and qualified to aid in the sale of the levied property. Any sheriff or the person so retained by the director shall be paid a fair and reasonable fee but in no case shall the fee exceed 10 percent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist the director may be required to furnish bond in an amount to be determined by the director. The fees and the cost of the bond shall constitute a part of the costs and expenses of the levy.

(C) *Time and place of sale.* The sale shall take place within 45 days after seizure; provided that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for not more than two weeks. The sale shall, in any event, be completed within 60 days after seizure of the property unless consent of the delinquent taxpayer is obtained for further extension of the sale.

(D) *Manner and conditions of sale.* Sufficient property shall be sold to pay all taxes, penalties, interest, costs, and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the taxes, penalties, interest, costs, and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited with the department, subject to the order of owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner.

(E) *Redemption of property.* If the owner of the property seized desires to retain or regain possession thereof, such owner may give a sufficient bond with surety to produce the property at the time and place of sale, or pay all taxes, penalties, interest, costs, and expenses.

(1990 Code, Ch. 8, Art. 5, § 8-5.11) (Added by Ord. 90-19)

ARTICLE 6: RATE—LEVY

Sections

§ 8-6.1 Tax base and rate.

Except as exempted by ordinance, or as otherwise provided for, all real property shall be subject to a tax upon 100 percent of its fair market value determined in the manner provided by ordinance, at such rate as shall be determined in the manner provided in § 8-11.1. 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. For the purpose of this section, an exemption listed and recognized under § 8-10.20 shall be deemed an exemption granted by ordinance.
(Sec. 8-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.1) (Am. Ords. 92-38, 00-64, 00-65)

§ 8-6.2 Tax year—Time of levy and assessment.

For real property tax purposes, "tax year" means the fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year. Real property shall be assessed as of October 1 preceding each tax year and taxes shall be levied thereon in the manner and when provided in this chapter.
(Sec. 8-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.2) (Am. Ord. 96-15)

§ 8-6.3 Assessment of property—To whom in general.

(a) Real property shall be assessed in its entirety to the owner thereof, provided that where improved residential land has been leased for a term of 15 years or more, the real property shall be assessed in its entirety to the lessee or the lessee's successor in interest holding the land for such term under such lease and the lessee or successor in interest shall be deemed the owner of the real property in its entirety for the purpose of this chapter; provided that the lease and any extension, renewal, assignment, or agreement to assign 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 before October 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.

(b) For the purposes of this section, "improved residential land" means land improved with a single-family dwelling on it.

(c) 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 § 8-10.14 and further, notwithstanding any provisions to the contrary in this chapter, any tenant occupying government land, whether such occupancy has continued for a period of one year or more, as more fully provided in § 8-10.14. 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 to last during the lifetime of the lessee, 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 before October 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.

(Sec. 8-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.3) (Am. Ord. 96-15)

§ 8-6.4 Imposition of real property taxes on reclassification.

(a) 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 15 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, who occupies the property, petitioning for such higher classification.

(b) Taxes that 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 who occupies the property 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 before the classification change times the applicable tax rate.
(Sec. 8-6.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.4)

§ 8-6.5 Assessment of property of corporations or copartnerships.

Property of a corporation or copartnership shall be assessed to it under its corporate or firm name.
(Sec. 8-6.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.5)

§ 8-6.6 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 such person represents in such person's fiduciary capacity, and such person shall be liable as such fiduciary for the payment of taxes thereon up to the amount of the available property held by such person in such capacity, but such person shall not be personally liable. Such person may retain, out of the money or other property that such person may hold or that may come to such person in such person's fiduciary capacity, so much as may be necessary to pay the taxes or to recoup oneself for the payment thereof, or such person may recover the amount thereof paid by such person from the beneficiary to whom the property shall have been distributed.
(Sec. 8-6.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.6)

§ 8-6.7 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 October 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.
(Sec. 8-6.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 6, § 8-6.7) (Am. Ord. 96-15)

ARTICLE 7: VALUATIONS

Sections

§ 8-7.1 Valuation—Considerations in fixing.

(a) The director shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for ad valorem taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the city.

(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) (1) Real property shall be classified into the following general classes, upon consideration of its highest and best use, and upon other criteria set forth in this section:

(A) Residential;

(B) Hotel and resort;

(C) Commercial;

(D) Industrial;

(E) Agricultural;

(F) Preservation;

(G) Public service;

(H) Vacant agricultural;

(I) Residential A; and

(J) Bed and breakfast home.

(2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, specific class definitions or criteria set forth in this section, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.

(3) When real property is subdivided into condominium units, each unit and its appertaining common interest:

(A) Shall be deemed a parcel and assessed separately from other units; and

(B) Shall be classified as follows:

(i) If the unit has a single, legally permitted, exclusive actual use, it shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; or

(ii) If the unit has multiple, legally permitted uses; it shall be classified:

(aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or

(bb) Residential, only upon approved dedication as provided in § 8-7.5 when the unit is legally permitted multiple exclusive uses, including residential use; or

(iii) If the unit is a condominium parking unit or a condominium storage unit, it shall be classified residential, only upon approved dedication when the unit is used in conjunction with a unit in residential use within the project.

(4) Notwithstanding any provision contained in this subsection, a condominium unit that is used at any time during the assessment year as a time share unit, shall be classified for the following tax year as hotel and resort unless:

(A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct;

(B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property; and

(C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A, as it read prior to its repeal on January 1, 2019, or HRS Chapter 514B.

If the requirements of paragraphs (A), (B), and (C) are met, the time share unit shall be classified as residential. For the purposes of this subdivision, "assessment year" means the one-year period beginning October 2 of the previous calendar year and ending October 1, inclusive, of the calendar year preceding the tax year, and "time sharing" has the same meaning as defined in § 21-10.1.

(5) "Vacant agricultural" means a parcel, or portion thereof, that would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors that influence highest and best use, but which parcel, or portion thereof:

(A) Has no residential buildings; and

(B) Is not dedicated for agricultural purposes.

If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

(6) Notwithstanding any provision contained in this subsection, all real property actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection,"public service company" means a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:

(A) "Public utility" includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land, water, or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

(i) Includes any person insofar as that person owns or operates a private sewer company or sewer facility;

(ii) Includes any telecommunications carrier or telecommunications common carrier;

(iii) Does not include any person insofar as that person owns or operates an aerial transportation enterprise;

(iv) Does not include persons owning or operating taxicabs, as defined in this subsection;

(v) Does not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the State Public Utilities Commission finds to be inadequately serviced without regulation under this chapter;

(vi) Does not include persons engaged in the business of warehousing or storage, unless the State Public Utilities Commission finds that regulation thereof is necessary in the public interest;

(vii) Does not include:

(aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the

carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and

(bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;

(viii) Does not include any person who:

(aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and

(bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;

(ix) Does not include a telecommunications provider only to the extent determined by the State Public Utilities Commission, pursuant to applicable State law;

(x) Shall not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable State law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and

(xi) Shall not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:

(aa) The services of the facility shall be provided pursuant to a service contract between the person and a State or county agency and at least 10 percent of the wastewater processed is used directly by the State or county that has entered into the service contract;

(bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a State or county agency;

(cc) The facility shall not make sales of water to residential customers;

(dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a State or county service contract; provided that in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and

(ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes;

(B) "Motor carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab;

(C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air;

(D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person engages in transportation;

(E) "Taxicab" includes:

(i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

(ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city, and a terminal in a geographical district outside the limits of the city, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957;

(F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices; and

(G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable State law.

(d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.

(e) When a parcel of land that has been classified as agricultural is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel that is used for residential purposes shall be classified as residential. This classification shall:

(1) Apply only to that portion used for residential purposes;

(2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and

(3) Remain in effect only so long as the property qualifies for a home exemption.

(f) When a parcel of land that has been classified as preservation is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as residential. This classification shall:

(1) Apply only to that portion used for residential purposes;

(2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and

(3) Remain in effect only so long as the property qualifies for a home exemption.

(g) (1) 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 a higher assessable valuation of the buildings; provided that any increase in value resulting from any additions, alterations, modifications, or other new construction, improvement, 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 HRS Chapter 53, Part II, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.

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

(A) In the case of additions, alterations, modifications or other new construction, improvement, or repair work to a building that is undertaken pursuant to any urban redevelopment, rehabilitation, or conservation project as hereinabove mentioned, the statement shall be certified by the mayor or any governmental 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 development, rehabilitation, or conservation act provision; or

(B) 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:

(i) The building was inspected by them and found to be substandard when the owner or occupant made the claim; and

(ii) The maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.

(h) (1) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units in accordance with § 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.

(2) Real property operating as transient vacation units as otherwise permitted under Chapter 21 must be classified as hotel and resort.

(3) For purposes of this subsection, "transient vacation unit" means the same as defined in § 21-10.1.

(i) "Residential A" means a parcel, or portion thereof, which:

(1) Is improved with no more than two single-family dwelling units; and

(A) Has an assessed value of $1,000,000 or more;

(B) Does not have a home exemption; and

(C) Is zoned R-3.5, R-5, R-7.5, R-10, or R-20 or is dedicated for residential use.

(2) Is vacant land zoned R-3.5, R-5, R-7.5, R-10, or R-20 and has an assessed value of $1,000,000 or more; or

(3) Is a condominium unit with an assessed valuation of $1,000,000 or more and does not have a home exemption.

Residential A excludes any parcel, or portion thereof, improved with military housing located on or outside of a military base.

(j) For purposes of this subsection, "bed and breakfast home" has the same meaning as defined in § 21-10.1.

(1) Notwithstanding the provisions of subsection (c)(2), properties operating as bed and breakfast homes in accordance with § 21-4.110-2, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.

(2) Real property operating as a bed and breakfast home as otherwise permitted under Chapter 21 must be classified as bed and breakfast home.

(Sec. 8-7.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 7, § 8-7.1) (Am. Ords. 91-84, 92-63, 94-08, 94-79, 00-66, 02-39, 02-45, 02-57, 04-34, 04-35, 07-4, 07-10, 09-32, 10-31, 13-33, 13-41, 17-13, 19-32)

§ 8-7.2 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 the taxpayer's own domestic use, shall be exempted in determining and assessing the value of such taxable real property.
(Sec. 8-7.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 7, § 8-7.2)

§ 8-7.3 Dedication of lands for agricultural use.

(a) For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Agricultural Products. Includes such products as floricultural, horticultural, viticultural, aquacultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, tree farm, animals raised by grazing and pasturing, and any other farm, agronomic, or plantation products.

Agricultural Use of Land. The active use of the land for the production of agricultural products.

Land Use Change. For land dedicated for a specific agricultural use, either:

(1) A change in the State land use classification from agricultural to urban or rural district;

(2) A change in the county zoning from agricultural, preservation, or country district; or

(3) A subdivision of the land dedicated for a specific agricultural use into parcels of 5 acres or less, which change or subdivision is initiated or authorized by the owner.

Land Use Change Cancellation. A written notice of cancellation, filed by the owner with the director, due to a land use change whereby the land dedicated for a specific agricultural use or a portion thereof is no longer being maintained as agricultural land. The notice shall specify the nature of the land use change, the acreage and location of the land removed from the dedication, and the acreage and location of the dedicated land remaining, if any. Upon receipt of the notice, the dedication shall be canceled or amended, as the case may be, and the land affected by the land use change shall be subject to rollback tax and penalty as calculated in subsection (m)(1) or (m)(2). Such cancellation shall be effective on the next July 1 that is at least nine months after the filing.

Maintain as Agricultural Land. That the land dedicated for a specific agricultural use shall remain in substantial and continuous agricultural use throughout the dedication period, unless the owner files with the director a land use change cancellation.

Owner or ***Property Owner.*** The fee simple owner of the real property provided that for government-owned real property, owner or property owner means a lessee of the land where:

(1) The lease allows the specific agricultural use; and

(2) The lease term extends through the period of the dedication.

Residential Homesite Area. That portion of the parcel, which is zoned agricultural and used for residential purposes, including land upon which the house is located and the land designated to be the yard space. A residential homesite area cannot be dedicated for agricultural use.

Substantial and Continuous Agricultural Use. No less than 75 percent of the area of the subject land, but excluding the area of unusable land, is in active, continuous and revenue-generating agricultural use throughout the subject time period. For lands dedicated for a period of five years or 10 years, substantial and continuous agricultural use shall include necessary and customary fallowing periods.

Tree Farm Property and ***Tree Farm.*** Land classified as tree farm property under HRS Chapter 186.

Unusable Land. That portion of the lands dedicated for a specific agricultural use that the director determines to be unsuitable for the dedicated agricultural use.

(b) Lands for which the director has approved a petition for dedication for a specific agricultural use for a period of five or 10 years shall be classified and assessed for real property tax purposes at a percentage of the land's fair market value as established in subdivision (2) and shall be subject to the following:

(1) The land dedicated must be substantially and continuously used for the business of raising and producing agricultural products in their natural state;

(2) Dedicated land shall be assessed as follows:

(A) Except as provided in paragraph (C), land dedicated for a period of five years, the land shall be assessed at 3 percent of its fair market value;

(B) For land dedicated for a period of 10 years, the land shall be assessed at 1 percent of its fair market value; and

(C) For land dedicated for a pasture use for a period of five or 10 years, the land shall be assessed at 1 percent of its fair market value; and

(3) The land dedicated shall be substantially and continuously in a use specified under subdivision (1) for the duration of the dedication period.

(c) Notwithstanding the provisions of subsection (b), in the event the highest per-acre calculation for lands dedicated for five years under subsection (b)(2)(A) based on the minimum lot size as designated in Chapter 21 for lands located in agricultural districts exceeds the average agricultural production value per acre for the county for vegetables and melon crops, and fruits excluding pineapple, as determined annually by the director, then the percent of market value for five-year dedications set forth in subsection (b)(2)(A) shall be changed so as not to exceed the average agricultural production value per acre for such crops. The percent of market value for 10-year dedications set forth in subsection (b)(2)(B) shall be changed to not exceed the percent of market value for five-year dedications by more than 0.33 times.

(d) Lands for which the director has approved a petition for dedication as vacant agricultural land for a period of 10 years shall be classified and assessed for real property tax purposes at 50 percent of the land's fair market value, provided that for the period of the dedication, the land dedicated is not, at the initiation of the owner or with the authorization of the owner, subject to:

(1) A change in the State land use classification from agricultural to urban or rural district;

(2) A change in the county zoning from agricultural; or

(3) A subdivision of the land into parcels of 10 acres or less.

(e) A petition to dedicate land or a portion thereof for a specific agricultural use or as vacant agricultural land shall be filed with the director. An owner of the land may petition for dedication, or with the written authorization

of the owner, a lessee, permittee, or licensee may petition for dedication of the owner's land. The petition for dedication for a specific agricultural use shall require a declaration that if the petition is approved by the director, the land shall be used for the specific agricultural use for the duration of the dedication period, unless the owner files with the director a land use change cancellation, and a petition for dedication as vacant agricultural land shall require a declaration that if the petition is approved by the director, the land shall be maintained as agricultural land for the duration of the dedication period. The petition for a dedication for a specific agricultural use shall be supported by an agricultural plan. The director shall prescribe the form of the petition and of the agricultural plan. The agricultural plan shall include the following:

(1) A description of the specific agricultural use;

(2) A tax map key number of the owner's land;

(3) A description of the total acreage of the land;

(4) A description of the acreage to be used for the specific agricultural use or as vacant agricultural land;

(5) A description of the residential homesite area, if any, excluded from the dedication;

(6) A timetable for implementation of the plan; and

(7) A copy of a valid State of Hawaii general excise tax license issued for agricultural purposes.

With the owner's written authorization, lessees, licensees, and permittees of government-owned land not currently in productive agricultural use, may petition to dedicate the government-owned land for a period of 24 months as vacant agricultural land, effective as of the commencement date of the lease, license, or permit, provided the petitioner files a subsequent petition for the dedication of the land for a specific agricultural use no later than the next September 1 after 24 months in vacant agricultural use has lapsed. The lessee, licensee, or permittee may petition for a dedication of the land for a specific agricultural use at any time during the 24 months that the land is dedicated to vacant agricultural use. If a petition for the dedication of the land for a specific agricultural use is not filed by the next September 1 after the 24 months in vacant agricultural use has lapsed or if the director disapproves the petition, the property will be subject to rollback taxes and penalties as stated in subsection (m)(3).

(f) A parcel, or portion thereof, which has been approved for dedication as vacant agricultural land may have its dedicated use, for all or a portion thereof, changed to a specific agricultural use without the imposition of the rollback tax and penalty upon petition to the director to change the dedication of the parcel or portion thereof to a specific agricultural use, provided that:

(1) When the remaining period of the dedication for vacant agricultural land is more than five years, the dedication for a specific agricultural use shall be for a 10-year period; or

(2) When the remaining period of the dedication for vacant agricultural land is less than five years, the dedication for a specific agricultural use shall be for a five- or 10-year period.

The petition for a change of the dedication shall be filed by the owner of the land or with the written authorization of the owner, by a lessee, permittee, or licensee of the land, as the case may be. The director shall prescribe the form of the petition to change the dedication.

(g) Upon receipt of a petition as provided in subsection (e), the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the designated specific agricultural use or is classified vacant agricultural under § 8-7.1 and qualifies to be maintained as agricultural land. The finding shall be based upon a study of the ownership, size of operating unit, the present use of surrounding similar lands, the State and county land use restrictions for the land and other criteria as may be appropriate. The director shall also make a finding of fact as to whether the designated specific agricultural use or vacant agricultural land use conforms to the development plan for the area. The director shall also make a finding of fact as to the economic feasibility of the designated specific agricultural use of the land. If all the findings are favorable, the director shall approve the petition and declare the land to be dedicated for the designated specific agricultural use or as vacant agricultural land.

(h) The 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 owner's land to a use other than agricultural for a minimum period of five or 10 years, as the case may be, except in the case of land dedicated for a specific agricultural use where the owner files with the director a land use change cancellation, or to cease to maintain the land as vacant agricultural land for a minimum of 10 years.

(i) The petition for dedication shall be filed with the director by September 1 of any calendar year. The notice of assessment shall serve as notice of approval or disapproval of the petition for dedication. If approved, the assessment based upon the use requested in the petition for dedication shall be effective on October 1 of the same calendar year.

(j) The owner of any parcel of land dedicated under this section shall annually submit a report to the director no later than September 1 following each tax year of the dedication. The report may be rejected by the director in the event the report is incomplete or contains erroneous or incorrect information. The report shall be accepted or rejected by the director by December 15 of the year in which it is submitted. The director shall prescribe the form of the report. The report may include but is not limited to:

(1) An updated description of the agricultural use of the land during the immediately preceding and current tax years;

(2) A copy of all State general excise tax returns for the immediately preceding tax year concerning activities conducted on the parcel of land dedicated for a specific agricultural use;

(3) A description of the acreage and percentage of the area of the parcel of land used for the specified agricultural use during the immediately preceding and current tax years; and

(4) A declaration, if applicable, that the owner will keep the land in substantial and continuous agricultural use, or will maintain the land as agricultural land through the remaining period of the dedication.

Any part of the report containing confidential commercial or financial information, including income statements or tax statements, shall be clearly labeled by the owner as such and shall not be open to inspection by the public.

(k) If land dedicated for agricultural use undergoes a change in classification that is not at the initiation of the owner or with the authorization of the owner, such that there is:

(1) A change in the State land use classification from agriculture to urban or rural district; or

(2) A change in the county zoning from agriculture, preservation or country district, the dedication shall continue, unless the owner files a written notice of cancellation with the director within 60 days of the change.

Such cancellation shall be effective on the next July 1 that is at least nine months after the filing.

(l) If a dedication is canceled or expires, the director shall execute an expiration or cancellation of the dedication.

(m) If the director, upon inspection, finds that dedicated agricultural land is not in substantial and continuous agricultural use, that the land has not been maintained as agricultural land, that the property owner failed to file the required report in a timely manner, or that the required report must be rejected, the owner shall be notified of the finding and the owner shall have 60 days to address the finding. In the event the owner fails to satisfactorily address the finding, the dedication shall be canceled and the property owner shall be subject to a rollback tax and penalty. The rollback tax shall be the difference between the taxes owed for the land at 100 percent of the land's assessed value at fair market value and the taxes actually imposed on the land, retroactive from June 30 of the tax year in which the dedication was canceled to July 1 of the initial year of the dedication at the tax rate applicable for the respective tax years, except as provided in subdivisions (1), (2), and (3). The penalty shall be 10 percent for each year of the rollback tax. The rollback tax and penalty shall be a paramount lien upon the property.

(1) For lands dedicated for five years and subject to a cancellation after the third tax year of the dedication period, the period of the rollback tax shall be in accordance with the following schedule:

(A) For two tax years for a cancellation in the fourth tax year of the dedication period, retroactive from June 30 of the fourth tax year to July 1 of the third tax year of the dedication period; or

(B) For one tax year for a cancellation in the fifth tax year of the dedication period, retroactive from June 30 of the fifth tax year to July 1 of the fifth tax year of the dedication period.

(2) For lands dedicated for 10 years and subject to a cancellation after the fifth year of the dedication period, the period of the rollback tax shall be in accordance with the following schedule:

(A) For five tax years for a cancellation in the sixth tax year of the dedication period, retroactive from June 30 of the sixth tax year to July 1 of the second tax year of the dedication period;

(B) For four tax years for a cancellation in the seventh tax year of the dedication period, retroactive from June 30 of the seventh tax year to July 1 of the fourth tax year of the dedication period;

(C) For three tax years for a cancellation in the eighth tax year of the dedication period, retroactive from June 30 of the eighth tax year to July 1 of the sixth tax year of the dedication period;

(D) For two tax years for a cancellation in the ninth tax year of the dedication period, retroactive from June 30 of the ninth tax year to July 1 of the eighth tax year of the dedication period; or

(E) For one tax year for a cancellation in the tenth tax year of the dedication period, retroactive from June 30 of the tenth tax year to July 1 of the tenth tax year of the dedication period.

(3) For government-owned land dedicated as vacant agricultural land for a period of 24 months, if a petition for the dedication of the land for a specific agricultural use is not filed by the next September 1 after the 24 months during which the land is dedicated to vacant agricultural use has lapsed or that the director disapproves the petition, a rollback tax and penalty will be imposed. The rollback tax will be the difference between the taxes owed for the land at 100 percent of the land's assessed value at fair market value and the taxes actually imposed on the land and will be retroactive to the commencement date of the lease, license, or permit. The penalty will be 10 percent for each year of the rollback tax.

(n) The owner may appeal any disapproved petition for dedication, rejection of the annual report, cancellation of the dedication, or imposition of a rollback tax and penalty in the same manner as an appeal from an assessment.

(o) Notwithstanding any provision in this section to the contrary, the occurrence of any of the following events shall cause the dedication to be canceled without the imposition of any rollback taxes or penalties:

(1) The death of any owner;

(2) Events beyond the owner's control that make it unfeasible to continue the agricultural use of the dedicated property, including but not limited to:

(A) A serious or debilitating long-term illness or injury suffered by the owner;

(B) A natural disaster such as a windstorm, flood, disease, or infestation that destroys the crop or livestock on the dedicated parcel; or

(C) The taking of the dedicated parcel or any portion thereof by a governmental entity, provided that where only a portion of the parcel is taken, the cancellation shall be effective only as to the portion taken; or

(3) The change of a dedication of vacant agricultural lands to a dedication for a specific agricultural use under subsection (f).

(p) Notwithstanding any provisions in this section to the contrary, for five- and 10-year dedications of land for a specific agricultural use, the director may grant an owner a grace period, subject to the following conditions:

(1) A grace period may be granted only if one of the following events occurs:

(A) A bank or other lending institution acquires possession of a property as a result of a default of a mortgage on the property; or

(B) The agricultural use of a dedicated parcel is terminated because a lessee has abandoned or terminated a lease before the end of the term of the lease, the owner of the parcel has not found another lessee, and the lease has a term of five years or longer;

(2) During the grace period, the owner is not required to use the land for the business of raising and producing agricultural products;

(3) At the end of the grace period, the owner shall use the land for the business of raising and producing agricultural products for the entire remaining period of the owner's dedication. The grace period shall not be counted in determining the owner's compliance with the dedication;

(4) The grace period shall not exceed two years;

(5) During the grace period, the land shall be assessed at 100 percent of market value; and

(6) No grace period shall be granted for a parcel of land within five years following the expiration of a previous grace period.

(1990 Code, Ch. 8, Art. 7, § 8-7.3) (Added by Ord. 04-34; Am. Ords. 07-4, 11-26, 12-16, 15-32, 17-2)

§ 8-7.4 Lands dedicated for golf course use.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Cost of Development. The actual or estimated costs to improve the land into an operating golf course.

Golf Course. Property that has been developed for the sport of golf, including its related and incidental activities.

Golf Course Use. The actual use of property for the sport of golf and its related and incidental activities.

Owner. A fee owner or any lessee of real property whose lease term extends at least 10 years effective from the date of the petition. Such lease must be duly entered into and recorded at the bureau of conveyances or filed in the office of the assistant registrar of the land court, on or before the date of the petition.

Rental Income. Land rent based on golf course use.

Rollback Tax. The difference between the amount of taxes that a dedicated golf course owner paid and the higher amount of taxes, if any, that would have been due from the owner if the golf course had not been dedicated under this section.

Sale Price. The sale price of a property operated and used as a golf course and land acquired for golf course use.

(b) To qualify in having land valued and assessed as a golf course, the owner of any parcel of land desiring to use or presently using such person's land for a golf course shall as a condition precedent qualify as follows.

(1) *Dedication of land.*

(A) The owner of any parcel of land for a golf course shall petition the director and declare in the owner's petition that the owner will dedicate the owner's parcel of land for golf course use.

(B) The approval by the director of the petition to dedicate the land 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 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time.

(C) The failure of the owner to observe the restrictions on the use of the land as a golf course shall cancel the land assessment based on golf course use retroactive to the date of the dedication, but not more than 10 years before the tax year in which the dedication is canceled; 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 6 percent a year 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 12 consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of 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 that land as a golf course.

(D) The director shall prescribe the form of the petition. The petition shall be filed by September 1 of any calendar year and shall be approved or disapproved by October 31 of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on October 1 of the same calendar year.

(E) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(F) When the owner has failed to observe the dedication restriction on golf course use, and at which time the dedication is canceled, the amount of additional taxes due and owing shall attach to the property as a paramount lien in favor of the county.

(c) Dedicated property operated and used as a golf course shall be valued and assessed for property tax purposes on the following basis:

(1) 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; and

(2) In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, and sale price.

(d) *Covenant not to engage in discrimination.* The owner shall covenant in the owner's petition with the director that the owner will not discriminate against any individual in the use of the golf course facilities because of the individual's race, sex, religion, color, or ancestry.

(Sec. 8-7.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 7, § 8-7.4) (Am. Ords. 96-15, 00-64)

§ 8-7.5 CERTAIN PROPERTY DEDICATED FOR RESIDENTIAL USE.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Apartment Building. A multi-family dwelling that is situated on a single parcel, which parcel is not subdivided into condominium units.

Condominium Parking Unit. A unit that is a part of a condominium property regime established pursuant to HRS Chapter 514A or 514B described as a parking stall.

Condominium Storage Unit. A unit that is a part of a condominium property regime established pursuant to HRS Chapter 514A or 514B described as a storage space.

Condominium Unit. A dwelling or lodging unit that is part of a condominium property regime established pursuant to HRS Chapter 514A or 514B.

Detached Dwelling. Has the same meaning as defined in § 21-10.1.

Dwelling Unit. Has the same meaning as defined in § 21-10.1.

Lodging Unit. Has the same meaning as defined in § 21-10.1.

Multi-Family Dwelling. A building containing three or more dwelling or lodging units, as defined in § 21-10.1, which is not a hotel.

Owner. 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 five years from the date of the petition.

Residential Use. The actual use of a dwelling unit or lodging unit as a residence:

(1) By occupants for compensation for periods of 30 or more consecutive days;

(2) By the unit owner personally; or

(3) By the unit owner's guests without compensation.

For purposes of this definition, compensation includes but is not limited to monetary payment, services or labor of employees. Residential use specifically excludes the use of the unit as a transient vacation unit or for time sharing. For purposes of this dedication, residential use shall include the use of the unit as a group living facility, a boarding facility, or as special needs housing for the elderly.

(b) The owner of a parcel may dedicate the parcel for residential use and have the property classified as residential and assessed at its value in residential use, provided that the property:

(1) Is within an apartment, apartment mixed use, resort, business, business mixed use, industrial, or industrial mixed use district; or if it is in the Waikiki special district, is zoned apartment mixed use subprecinct, resort mixed use precinct, or resort-commercial precinct; or is in a transit-oriented development special district pursuant to § 21-9.100;

(2) Is used exclusively for residential use, except that a portion of the property may be used for nonprofit purposes pursuant to § 8-10.9; and

(3) The parcel is improved with one or more detached dwellings, as defined in § 21-10.1 or with one or more apartment buildings or with both dwellings and apartment buildings or is a condominium unit that is legally permitted multiple uses including residential use and is actually and exclusively used as a residence; or

(4) A condominium parking unit or a condominium storage unit that is used in conjunction with a unit in residential use within the project.

(c) The owner of real property who wishes to dedicate such property for residential use and have the property assessed at its value in residential use according to subsection (b) shall petition the director and declare in such petition that if the petition is approved, the owner shall meet the applicable requirements of subsection (b) pertaining to the property.

(d) The approval of the petition by the director to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of such person's property for a minimum period of five years, automatically renewable thereafter for additional periods of five years subject to cancellation by either the owner or the director. Cancellation of the dedication by the owner must be in writing and submitted to the director by September 1 only within the fifth year of the date of the dedication, or the latest five-year renewal period.

Upon sale or transfer of the dedicated property, the dedication shall continue for the remainder of the five-year dedication or latest five-year renewal subject to all restrictions and penalties. Upon expiration of the fifth year the dedication will not automatically renew and will be canceled by the director.

For the purpose of this dedication, there is no change in use if the owner demolishes and constructs or reconstructs one or more detached dwellings or multi-family dwellings, provided that such construction or reconstruction is permitted pursuant to Chapter 21, as amended, the replacement structure or structures are completed no less than 24 months after the building permit is issued, and at least the same number of dwelling or lodging units as those demolished are developed. The five-year dedication will be suspended during this period of demolition and construction or reconstruction, and the parcel and any improvements thereon will continue to be classified and assessed at their value in residential use during the suspension.

(e) (1) Failure of the owner to observe the restrictions on the use of such person's property shall cancel the dedication retroactive to the tax year preceding the tax year in which the breach of the dedication occurs, 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 10 percent per year penalty retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Any assessment under Chapter 28, levied upon a special improvement district noted in Appendix 28-A, that would have been due but for the dedication shall also be due and payable along with applicable penalties and interest, retroactive to the tax year preceding the tax year in which the breach of the dedication occurs. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use the property in the manner requested in the petition or the overt act of changing the use for any period. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the property.

(2) The additional taxes and penalties, due and owing as a result of failure to observe the restrictions on use or any other breach of the dedication shall be a paramount lien upon the property as provided for by this chapter. Any special assessment under Chapter 28, due and owing as a result of failure to observe the

restrictions on use or any other breach of the dedication shall be a lien against the land and improvements of the parcel of land in accordance with§ 28-3.5.

(f) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year. The notice of assessment shall serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication shall be effective as of October 1 of the same calendar year.

(g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
(Sec. 8-7.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 7, § 8-7.5) (Am. Ords. 96-15, 09-32, 10-14, 10-30, 10-31, 12-14, 17-13)

§ 8-7.6 Property dedicated for low-income rental housing.

(a) For the purposes of this section, "low-income rental housing" means housing rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 80 percent of the city's area median income for the applicable household size, or less.

(b) An owner of real property classified as Residential A used as low-income rental housing may make a five-year dedication of the property for low-income rental housing use and have the property classified as Residential provided that:

(1) The property was purchased by the owner for less than $1,000,000;

(2) The property is exclusively used during the dedication period as a rental home or apartment unit with a lease period of at least one year; and

(3) The rental home or apartment unit is rented at a rate that meets the requirements of low-income rental housing as defined in subsection (a).

(c) Any owner desiring to dedicate the owner's property for low-income rental housing shall petition the director, describing the property to be dedicated, providing evidence that the property is currently used exclusively for affordable rental housing, and declaring that such use will continue in the dedicated tax years and the owner shall meet the applicable requirements of subsection (b) pertaining to the property.

(d) The director shall prescribe the form of the petition. The petition for the following tax year must be filed with the director by September 1 of any calendar year. The notice of assessment will serve as notification of approval or disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication will be effective on October 1 of the same calendar year and apply to the following tax year.

(e) The director shall make a finding whether the property is and will be maintained and used for the sole purpose of providing low-income rental housing. That finding will be based on the rental agreement or agreements and such other evidence required of and provided by the owner as the director may deem pertinent.

(f) 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 real property for low-income rental housing for the dedication period. The dedication period may be renewed in the same manner as the initial petition.

(g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(h) (1) Failure of the owner to observe the restrictions on the use of such person's real property will cancel the exemption retroactive to the date of the initial dedication, and all differences between the amount of taxes that were paid and the amount that would have been due from assessment without the dedication will be payable with a 10 percent per year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means any failure of 45 consecutive days or more during the tax year of the exemption to use the real property in the manner certified in the petition or the overt act of changing the use for any period. Nothing in this subsection precludes the city from pursuing any other remedy to enforce the covenant on the use of the real property.

(2) The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication will be a paramount lien upon the property as provided for by this chapter.

(i) Before September 1 in each of the five years of the dedication, the owner shall submit to the director a copy of the rental agreement to be in force in the upcoming tax year.

(j) The director shall make and adopt necessary rules to administer this section.

(1990 Code, Ch. 8, Art. 7, § 8-7.6) (Added by Ord. 15-6; Am. Ords. 16-8, 18-17)

ARTICLE 8: WASTELAND DEVELOPMENT

Sections

§ 8-8.1 Definitions.

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Department. The department of budget and fiscal services.

Director. The director of budget and fiscal services.

Owner. Includes any person leasing the real property of another under a lease having a stated term of not less than 30 years.

Wasteland. Land that is classified as such by the director.
(Sec. 8-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.1)

§ 8-8.2 Eligibility.

Any property of not less than 25 acres in area is eligible for classification as wasteland development property if it meets the classification requirements of wasteland property as established by the director. No real property under a lease having an unexpired term of less than 30 years shall be eligible for classification as wasteland development property.
(Sec. 8-8.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.2)

§ 8-8.3 Application.

The owner of any property may apply to the director for classification of the owner's land as wasteland development property. The application shall include a description of the property, the manner in which the property will be developed, and such additional information as may be required by the director. The application shall state that all persons having any interest in or holding any encumbrance upon the property have joined in making the

application and that all of them will comply with the laws and regulations relating to the use, building requirements, and development of real property.
(Sec. 8-8.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.3)

§ 8-8.4 Classification.

(a) Within four months after the filing of the application with the director, the director shall make a finding of fact as to the eligibility of such land for classification as wasteland development property, whether it can be developed in the manner specified by the owner, whether the development will add to the development of the economy of the State, and whether the development will broaden the tax base of the State. The determination shall be based upon all available information on soils, climate, land use trends, watershed values, present use of surrounding similar lands, and other criteria as may be appropriate.

(b) Upon the finding by the director that the property is eligible for classification as wasteland development property, that it can be developed in the manner specified by the owner, that the development will add to the economy of the State, and that it will broaden the tax base of the State, the property shall be classified as wasteland development property. If the director finds it otherwise for any one of the above criteria, the application shall be disapproved.

(c) The applicant may appeal any disapproved application as in the case of an appeal from an assessment.

(d) Land classified as wasteland development property shall be administered by the department and the department may from time to time adopt rules for their administration pursuant to HRS Chapter 91.
(Sec. 8-8.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.4)

§ 8-8.5 Development and maintenance of wasteland development property.

Within one year following the approval of the application, the owner shall develop that portion of the owner's land as specified in the owner's application and as approved by the director. Additional areas shall be developed each year as prescribed by the director.
(Sec. 8-8.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.5)

§ 8-8.6 Special tax assessment.

Any property classified as wasteland development property by the director shall be, for a period of five years, assessed for real property tax purposes at its value as wasteland. The five-year period shall commence after June 30 of the tax year following the approval of the application.
(Sec. 8-8.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.6)

§ 8-8.7 Declassification.

Thirty days after notification to the owner by the department for noncompliance of any law, ordinance, rule or regulation, the director may declassify any land classified as wasteland development property. The department shall notify the owner of the declassification and in that event, the director shall cancel the special tax assessment

provided in § 8-8.6 retroactive to the date that the property qualified for special tax assessment and the difference between the real property taxes that would have become due and payable but for such classification for all the years the land was classified as wasteland development property and the real property taxes paid by the owner during such period shall become immediately due and payable together with a 5 percent a year penalty from the respective dates that such additional tax would otherwise have been due.
(Sec. 8-8.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.7)

§ 8-8.8 Appeals.

Any person aggrieved by the additional assessment for any year may appeal from such assessment in the manner provided in the case of real property tax appeals.
(Sec. 8-8.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 8, § 8-8.8)

ARTICLE 9: NONTAXABLE PROPERTY—ASSESSMENT

Section

§ 8-9.1 Nontaxable property.

(a) For purposes of accountability, the director shall prepare a notice of property assessment for each parcel of nontaxable real property within the city.

(b) The notice shall contain the valuation of the real property and an exemption in the full amount of the valuation.
(Sec. 8-9.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 9, § 8-9.1) (Am. Ords. 92-124, 02-45)

ARTICLE 10: EXEMPTIONS

Sections

§ 8-10.1 Claims for certain exemptions.

(a) None of the exemptions from taxation granted in §§ 8-10.3, 8-10.5 through 8-10.9, 8-10.21, 8-10.24, 8-10.26, 8-10.29, and 8-10.30 will be allowed in any case, unless the claimant has filed with the department of budget and fiscal services on or before September 30 preceding the tax year for which the exemption is claimed, a claim for exemption in a form as 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 notice (either to the claimant or to all claimants in the manner provided for by this chapter) that the claim or claims on file will be voided on a certain date, not less than 30 days after such notice;

(3) The five-year period for exemption, as allowed in §§ 8-10.3(e), expires; or

(4) The report required by subsection (d) is made.

(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) The owner of any property that has been allowed an exemption under §§ 8-10.3, 8-10.5 through 8-10.9, 8-10.21, 8-10.24, 8-10.26, 8-10.29, or 8-10.30 has a duty to report to the assessor within 30 days after such owner or property ceases to qualify for such an exemption for, among others, the following reasons:

(1) The ownership of the property has changed;

(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) A change in status has occurred that affects the owner's 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 30 days after the assumption of the fiduciary's duties or within the time otherwise required, whichever is later.

A penalty shall be imposed if the change in facts occurred in the 12 months ending September 30 preceding the tax year for which an exemption is to take effect and the report required by this subsection is not filed by the immediately following November 1. The amount of the penalty shall be $300 imposed on the November 2 preceding the tax year for which the owner or the property no longer qualifies for the exemption and on November 2 for each year thereafter that the change in facts remains unreported. In addition to this penalty,

the taxes due on the property plus any additional penalties and interest thereon shall be a paramount lien on the property as provided for by this chapter.

(e) If the assessor is of the view that, for any tax year, the exemption may not be allowed, in whole or in part, the assessor may at any time within five years of October 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 this chapter for the assessment of omitted property.

(Sec. 8-10.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.1) (Am. Ords. 88-1, 89-129, 95-67, 96-15, 01-60, 03-05, 06-04, 07-7, 09-24, 09-32, 12-29)

§ 8-10.2 Rules.

The director may adopt rules as may be necessary to administer §§ 8-10.3 to 8-10.14.

(Sec. 8-10.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.2)

§ 8-10.3 Homes.

(a) Real property owned and occupied as the owner's principal home as of the date of assessment by an individual or individuals, is exempt only to the following extent from property taxes:

(1) Totally exempt where the value of a property is not in excess of $100,000;

(2) Where the value of the property is in excess of $100,000, the exemption is the amount of $100,000; provided that:

(A) No such exemption will be allowed to any corporation, copartnership, or company;

(B) The exemption will not be allowed on more than one home for any one taxpayer;

(C) Where the taxpayer has acquired the taxpayer's home by a deed made on or after July 1, 1951, the deed is recorded on or before September 30 immediately preceding the year for which the exemption is claimed;

(D) Spouses will not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case each is entitled to one-half of one exemption;

(E) A person living on premises, a portion of which is used for commercial purposes, is not entitled to an exemption with respect to such portion, but is entitled to an exemption with respect to the portion thereof used exclusively as a home;

(F) Notwithstanding any law to the contrary, real property will continue to be entitled to the exemption contained in this section in the event the owner of the real property moves from the home on which the exemption is granted to a long-term care facility or an adult residential care home licensed to operate in the State; provided that:

(i) The taxpayer designates the adult residential care home or long-term care facility on the form necessary to administer this subsection;

(ii) The home the taxpayer moves from is not rented, leased, or sold during the time the taxpayer is in the long-term care facility or the adult residential care home; and

(iii) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period;

(G) Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to a temporary residence within the city during the renovation of the home, the real property will continue to be entitled to the exemption contained in this section; provided that:

(i) The taxpayer submits to the director a change in status report regarding vacating the home during renovations which identifies:

(aa) The building permit number issued by the city department of planning and permitting;

(bb) The renovation start date as indicated on the building permit; and

(cc) A verifiable address within the city where the taxpayer will reside during the renovation period and where the assessment notices will be mailed;

(ii) The renovation period will commence on the renovation start date and must not exceed two years. The taxpayer may reoccupy the home before the expiration of two years. Prior to the reoccupation of the home, the taxpayer must submit to the director a change in status report regarding reoccupation of the home along with a dated certificate of occupancy, notice of completion, or close permit indicating the date the renovations have been completed;

(iii) Upon receipt by the director of the change in status report regarding reoccupation of the home and a dated certificate of occupancy, notice of completion, or close permit, assessment notices will be mailed to the reoccupied home and the owner may sell the home without penalty;

(iv) The home must not be rented, leased, or sold during the renovation period; and

(v) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period;

(H) Notwithstanding any law to the contrary, in the event the owner of the real property vacates the home for which the exemption is granted and moves to a temporary residence outside the city during a sabbatical or temporary work assignment, the real property will continue to be entitled to the exemption contained in this section, provided that:

(i) The taxpayer submits to the director a change in status report that provides verification of the sabbatical or temporary work assignment and documentation from the taxpayer's employer which specifies the start and completion dates of the sabbatical or temporary work assignment;

(ii) Within the report, the taxpayer provides a verifiable address of temporary residence and certification of intent to reoccupy the home on which the exemption is granted after the sabbatical or temporary work assignment concludes;

(iii) The home the taxpayer moves from is not rented, leased, or sold during the time the taxpayer resides in the designated temporary residence;

(iv) The taxpayer reoccupies the home on which the exemption is granted within 24 months after the sabbatical or temporary work assignment begins, however, prior to reoccupation of the home the taxpayer submits to the director a change in status report with the actual date the home will be reoccupied; and

(v) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period; and

(I) Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to a temporary residence within the city as a result of the home being damaged or destroyed by fire, the real property will continue to be entitled to the exemption contained in this section; provided that:

(i) The damage or destruction of the home is not the result of the taxpayer or any person residing in the home intentionally, knowingly, or recklessly setting fire to the home;

(ii) The taxpayer submits to the director a change in status report that provides the date the fire occurred and evidence that the fire caused the home to be uninhabitable;

(iii) The taxpayer intends to remain in the city and within the report provides a verifiable address of temporary residence and certification of intent to reoccupy the home on which the exemption is granted after the home is repaired or replaced;

(iv) The home the taxpayer moves from is not rented, leased, or sold during the time the taxpayer resides in the designated temporary residence;

(v) The taxpayer reoccupies the home on which the exemption is granted within 24 months after the date of the fire; however, prior to reoccupation of the home, the taxpayer submits to the director a change in status report with the actual date the home will be reoccupied; and

(vi) Continuation of the home exemption entitles the taxpayer to the benefits of this section in effect during the applicable time period.

Failure to comply with any of the requirements stipulated within paragraphs (F), (G), (H), and (I) will result in the disallowance of the home exemption and will subject the taxpayer to rollback taxes, interest, and penalties as set forth in §§ 8-10.1(d) and (e) for the period of time the home exemption is continued.

For the purposes of this section, "real property owned and occupied as the owner's principal home" means occupancy of a home in the city and may be evidenced by but not limited to the following indicia: occupancy of a home in the city for more than 270 calendar days of a calendar year; registering to vote in the city; being stationed in the city under military orders of the United States; and filing of an income tax return as a resident

of the State, with a reported address in the city. The director may demand documentation of the above or other indicia from a property owner applying for an exemption or from an owner as evidence of continued qualification for an exemption.

Failure to respond to the director's request is grounds for denying a claim for an exemption or disallowing an existing exemption. The director may demand documentary evidence such as a tax clearance from the State indicating that the taxpayer filed an income tax return as a full-time resident for the year prior to the effective date of the exemption. Failure to respond to the director's demand in 30 days is grounds for disallowance or denial of a claim for an exemption.

In the event the director receives satisfactory evidence that an individual occupies a home outside the city or there is documented evidence of the individual's intent to reside outside the city, that individual will not be qualified for an exemption or continued exemption under this section, as the case may be.

Notwithstanding any provision to the contrary, for real property held by a trustee or other fiduciary, the trustee or other fiduciary is entitled to the exemption where:

(1) The settlor of the trust occupies the property as the settlor's principal home; or

(2) The settlor of the trust dies and a beneficiary entitled to live in the home under the terms of the trust document occupies the property as the beneficiary's principal home.

For purposes of this subsection, real property is "sold" when title to the real property is transferred to a new owner; and property is deemed "uninhabitable" if the property owner is unable to live in or on the property for health or safety reasons.

The director may adopt rules and shall provide forms as may be necessary to administer this subsection.

(b) The use of a portion of any building or structure for the purpose of drying coffee and the use of a portion of real property, including structures, in connection with the planting and growing for commercial purposes, or the packing and processing for such purposes, of flowers, plants, or foliage, shall not affect the exemptions provided for by this section.

(c) Where two or more individuals 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 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 65 years of age or over on or before June 30 preceding the tax year for which the exemption is claimed and who qualifies for a home exemption under subsection (a) shall be entitled to a home exemption of $140,000.

For the purposes of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under subsection (a) has been granted shall be entitled to the $140,000 home exemption under this subsection when at least one of the spouses qualifies for the exemption.

(e)* (1) In lieu of the $140,000 home exemption provided in subsection (d), a low-income taxpayer who:

(A) Is 75 years of age or over on or before June 30 preceding the tax year for which the exemption is claimed;

(B) Qualifies for a home exemption under subsection (a);

(C) Applies for the exemption as required in subdivision (2); and

(D) Has household income that meets the definition of "low-income" in § 8-10.17(a),

shall be entitled to one of the following home exemption amounts for that tax year:

Age of Taxpayer	*Home Exemption Amount*
75 years of age or over but not 80 years of age or over	$140,000
80 years of age or over but not 85 years of age or over	$160,000
85 years of age or over but not 90 years of age or over	$180,000
90 years of age or over	$200,000

(2) The claim for exemption, allowed at the applicant's attainment of 75, 80, or 85 years, shall continue for a maximum period of five years, after which period of time the home exemption amount shall revert to $140,000 except the claim for exemption at 90 years of age shall extend for the life of the applicant or until June 30, 2039. The director shall not accept claims for exemption under this subsection after September 30, 2013.

(3) For the purposes of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under subsection (a) has been granted and qualify under this subsection shall be entitled to the applicable home exemption under this subsection when at least one of the spouses qualifies each year for the minimum age of the applicable home exemption.

(f) To qualify for the exemptions under subsections (d) and (e), a taxpayer must provide, upon request, a photocopy of or submit for inspection, a current, valid government-issued identification containing a photo and the date of birth, such as a State driver's license, a State identification card, or a passport.

(Sec. 8-10.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.4) (Am. Ords. 88-84, 89-132, 94-76, 96-15, 04-31, 05-004, 06-04, 06-07, 09-32, 13-32, 15-33, 15-51, 16-3, 19-7)

Editor's note:

** Section 8-10.3(e) shall be repealed on June 30, 2039 pursuant to Ord. 13-32, § 3.*

§ 8-10.4 Home, lease, lessees defined.

(a) For the purposes of § 8-10.3, 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 five 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 before October 1 preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease;

(3) A condominium unit, with its appertaining common interest, that is occupied as a residence by the owner of the unit. The "owner of a condominium unit" means the individual:

(A) Owning the fee simple interest in the unit and its appertaining common interest; or

(B) Holding the leasehold interest in the unit and its appertaining common interest under a lease:

(i) For a term of five years or more for residential purposes;

(ii) Duly entered into and recorded before October 1 preceding the tax year for which the exemption is claimed; and

(iii) Requiring the holder of the leasehold interest to pay all real property taxes during the term of the lease;

(4) An apartment that is a living unit (held under a proprietary lease by the tenant thereof) in a multiunit 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 five 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 before October 1 preceding the tax year for which the exemption is claimed, and whereby the lessee-stockholder agrees to pay all taxes during the term of the lease; provided that:

(A) The exemption shall not be allowed in respect to any cooperative apartment unit where the owner of the cooperative apartment unit claims exemption on a home or other cooperative apartment unit; and

(B) The owner or owners of a cooperative apartment building or premises shall not be permitted exemptions where a husband and wife owner of a cooperative apartment unit own separate cooperative apartment units or separate homes owned by each of them, unless they are living separate and apart, in which case the owner of the cooperative apartment or premises shall be entitled to one-half of one exemption;

(5) An apartment in a multiunit apartment building that is occupied by the owner of the entire apartment building as such person's residence; provided that:

(A) The exemption shall not be allowed in respect to any apartment owner who claims any other home exemption; and

(B) A husband or wife owner of the aforementioned type of apartment shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining an

apartment or home entitled to an exemption, in which case they shall each be entitled to one-half of one exemption;

(6) 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; provided that:

(A) The exemption shall not be allowed in respect to any duplex owner who claims any other home exemption;

(B) The portion of the appurtenant land shall not be exempt unless owned in fee by the duplex owner; and

(C) A husband or wife owner of the duplex shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining a duplex or home entitled to an exemption, in which case they shall each be entitled to one-half of one exemption;

(7) Premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded before October 1 preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises;

(8) An apartment that is a living unit (held under a lease by the tenant thereof) in a multiunit 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 before October 1 preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease; and

(9) That portion of a property which is occupied as the property owner's principal home.

(b) The subletting by the taxpayer of not more than two rooms to a tenant shall not affect the exemption provided for by § 8-10.3.

(c) As used in § 8-10.3, in the first paragraph of § 8-6.3 and in § 8-10.1, the word "lease" shall be deemed to include a sublease, and the word "lessee" shall be deemed to include a sublessee.

(Sec. 8-10.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.5) (Am. Ords. 92-63, 96-15, 09-32, 19-18)

§ 8-10.5 Exemption—Homes of totally disabled veterans.

(a) Real property:

(1) 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;

(2) Owned by any such person together with such person's spouse and occupied by either or both spouses as a home; or

(3) Owned and 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 exempted from all property taxes, other than special assessments, subject to subsection (b).

(b) The exemption provided for in subsection (a) shall be subject to the following:

(1) That the total disability of the veteran was incurred while on duty as a member of the armed forces of the United States, and that the director 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;

(3) That the exemption shall not be allowed on more than one house for any one person;

(4) 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; and

(5) That a widow or widower of a disabled veteran may apply for an exemption and the exemption may be granted even if the disabled veteran did not apply for and obtain the exemption provided for in subsection (a) during the veteran's lifetime; provided that the widow or widower submits proof satisfactory to the director that, at the time of the veteran's death, the veteran would have qualified for an exemption under this section.

(c) For the purposes of this section, the word "home" includes the entire homestead when it is occupied by a qualified totally disabled veteran or the veteran's qualifying widow or widower as a residence; houses where the occupant disabled veteran owner or the qualifying widow or widower owner sublets not more than one room to a tenant; and premises held under an agreement by which the disabled veteran agrees to purchase the same for a residence, where the agreement has been duly entered into and recorded before October 1 preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.

(d) The exemption shall take effect beginning with the next tax payment date, provided that the claimant shall have filed with the department a claim for a disability exemption along with a copy of a physician's certificate of disability on such form as the department shall prescribe on or before June 30 for the first payment or December 31 for the second payment.

(Sec. 8-10.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.6) (Am. Ords. 96-15, 00-63)

§ 8-10.6 Exemption—Persons affected with leprosy.

Any person who has been declared by authority of law to be a person affected with leprosy in the communicable stage and is admitted to a hospital for isolation treatment shall, so long as such person is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, and so long as such person remains or continues under temporary release, be exempted from real property taxes on

all real property owned by such person on the date when such person was declared to be a person so affected with leprosy, up to, but not exceeding, a taxable value of $25,000.
(Sec. 8-10.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.7)

§ 8-10.7 Exemption—Persons with impaired sight or hearing and persons totally disabled.

(a) Any person who is blind or deaf, so long as the person's sight or hearing is so impaired, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of $25,000. The impairment of sight or hearing shall be certified to by a qualified ophthalmologist, optometrist, or otolaryngologist, as the case may be, on forms prescribed by the department of budget and fiscal services.

(b) Any person who is totally disabled, as long as the person is totally disabled, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of $25,000. The disability shall be certified to by a physician licensed under HRS Chapter 453 on forms prescribed by the department of budget and fiscal services.

(c) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Blind. A person whose 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 20 degrees.

Deaf. A person whose average loss in speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse.

Totally Disabled. A person who is totally and permanently disabled, either physically or mentally, which results in the person's inability to engage in any substantial gainful business or occupation.
(Sec. 8-10.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.8) (Am. Ord. 89-138)

§ 8-10.8 Exemption—Nonprofit medical, hospital indemnity association.

Every association or society organized and operating under HRS Chapter 432, solely as a nonprofit medical indemnity or hospital service association or society or both shall be from the time of such organization, exempt from real property taxes on all real property owned by it.
(Sec. 8-10.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.9)

§ 8-10.9 Exemption—Charitable purposes.

(a) There shall be exempt from real property taxes real property, or a portion thereof, 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 either subsection (b) or (c), an exemption for the same property, or a portion thereof, may not also be claimed under the other of these subsections.

(b) This subsection applies to property, or a portion thereof, 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, or a portion thereof, 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 or filed in the office of the assistant registrar of the land court.

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, HRS § 302A-1132, 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 State 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; and

(C) Group child care centers, which meet the child care facilities requirements of HRS Chapter 346, Part VIII; provided that any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the State department of human services stating that the foregoing requirements are met. As used herein, "group child care centers" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months;

(2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; to qualify under this subsection 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 that 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 from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under subdivision (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;

(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; and property that has been set aside for public use and actually used therefor for a period not less than five years; and

(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 federal credit unions chartered by the United States, the sole purpose of which is to promote the development of federal 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 when the exemption is claimed, by either:

(1) A corporation, society, association, or trust having a charter or other enabling act or governing instrument that 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.

Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries, art academies, and senior citizen housing facilities qualifying for a loan under the laws of the United States as authorized by § 202 of the Housing Act of 1959, being 12 USC §§ 1701q et seq., as amended by the Housing Act of 1961, being 12 USC §§ 1701 et seq., the Senior Citizens Housing Act of 1962, being 12 USC § 1701r, the Housing Act of 1964, being 42 USC § 1452, and the Housing and Urban Development Act of 1965 (P.L. 89-117, 79 Stat. 451).

(d) If any portion of the property that 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) As used in this section, the term "for nonprofit purposes" 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 that person's business, trade, occupation, or employment.

(Sec. 8-10.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.10) (Am. Ords. 88-1, 01-52, 09-24)

§ 8-10.10 Exemption—Crop shelters.

Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property consisting of frames or supports and covered by rigid plastic, fiberglass or other rigid and semirigid transparent or translucent material, and including wooden laths, used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property for 10 years or for a period of 10 years from October 1 following commencement of construction or installation of the structure on the property for such purpose; provided that any temporary structure so constructed or installed and covered by flexible plastic or other flexible transparent or translucent material, used for such purpose, shall be so exempted not subject to the 10-year limitation; provided further, that such exemption shall continue only so long as the structure is maintained in good condition. Only structures used for commercial agricultural or horticultural purposes shall be included in the exemption.
(Sec. 8-10.12, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.12) (Am. Ord. 96-15)

§ 8-10.11 Exemption—Dedicated lands in urban districts.

(a) Portions of taxable real property that are dedicated and approved by the director as provided for by this section shall be exempted in determining and assessing the value of such taxable real property.

(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 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 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year.

(d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of the owner's land shall cancel the special tax exemption privilege retroactive to the date of the original dedication, 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 owner's land shall be payable together with interest of 5 percent a year 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 12 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 subsection 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 October 31 of such year. If approved, the exemption based upon the use requested in 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 including such rules governing minimum areas that may be dedicated for the improvement and maintenance of such areas.

(h) As used in this section, "landscaping" means lands that are improved by landscape architecture, cultivated plantings, or gardening.

(i) As used in this section, "open spaces" means lands that are open to the public for pedestrian use and momentary repose, relaxation, and contemplation.

(j) As used in this section, "public recreation" refers to lands that may be used by the public as parks, playgrounds, historical sites, campgrounds, wildlife refuges, scenic sites, and other similar uses.

(k) As used in this section, "owner" includes lessees of real property whose lease term extends at least 10 years from January 1 following the filing of the petition.

(Sec. 8-10.13, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.13) (Am. Ord. 95-15)

§ 8-10.12 Exemption—Alternate energy improvements.

(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, property, or land which results in:

(1) The production of energy from a source, or uses a process that does not use fossil fuels, nuclear fuels, or geothermal source. Such energy source may include but shall not be limited to solid wastes, wind or ocean waves, tides or currents; or

(2) An increased level of efficiency in the use of energy produced by fossil fuels or in the use of secondary forms of energy dependent upon fossil fuels for its generation.

(c) Application for the exemption provided by this section shall be made with the director on or before September 30, preceding the tax year for which the exemption is claimed. No exemption may be claimed for devices that convert solar radiation to electricity or heat because these devices are excluded from the definition of "property" or "real property" and are not assessed. The director may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption.

(d) The claim for exemption, once allowed, shall continue for a period of 25 years thereafter.

(e) The director may adopt rules to implement this section.
(Sec. 8-10.15, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.15) (Am. Ords. 96-15, 09-31, 15-23)

§ 8-10.13 Exemption—Fixtures used in manufacturing or producing tangible personal products.

There shall be exempted and excluded from the measure of the taxes imposed by this chapter, all fixtures that are categorized as machinery and other mechanical or other allied equipment which are primarily and substantially used in manufacturing or producing tangible personal products.
(Sec. 8-10.16, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.16)

§ 8-10.14 Exemption—Public property.

The following real property shall be exempt from taxation:

(a) 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 § 8-10.15, 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:

(1) Property held on October 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;

(2) Property held on October 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;

(3) Property held under a government lease commencing after October 1 preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after October 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;

(4) 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 subdivisions (2) and (3) 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 subdivision; and

(5) (A) 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;

(B) For the purposes of subdivisions (2) and (3): "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 (2) and (3) shall be its fee simple value upon consideration of the highest and best use that can be made of the property by the lessee;

(C) 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 October 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; and

(ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after October 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 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;

(b) Subject to HRS § 101-39(B), any real property in the possession of the State or county that 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 that the fact of such possession has been certified to the director as provided by HRS § 101-36 or 101-38, or is certified not later than September 30 preceding the tax year for which such exemption is claimed;

(c) 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 that the State or county shall have, before September 30 preceding the tax year for which the exemption is claimed, certified to the director the date upon which it took possession;

(d) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and that is actually rendered useless and of no value to the owners thereof by virtue of any ordinance establishing setback lines thereon; provided that to secure the exemption the person claiming it shall annually file between September 15 and September 30 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 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 that would be assessed upon the land but for such exemption;

(e) Real property exempted by any laws of the United States which exemption is not subject to repeal by the council; and

(f) Any other real property exempt by law.

(Sec. 8-10.17, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.17) (Am. Ords. 95-67, 96-15)

§ 8-10.15 Lessees of exempt real property.

(a) When any 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;

(B) Any property or portion thereof taxed under any other provision of this chapter to the extent and for the period so taxed; and

(C) Federal property for which payment of certain contributions are made under § 6-58.3, and which is leased to a private person, who under such lease is contractually obligated to develop, rehabilitate, maintain, and operate a military housing project under the authority of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104-106, Title XXVIII, Subtitle A - Military Housing Privatization Initiative (codified at 10 USC §§ 2871 through 2885), as amended, including all improvements thereon; provided that such federal property does not use the county's refuse and road maintenance services, and routine police, fire, and ambulance services, where "routine police, fire, and ambulance services" do not include services provided by the county on such federal property:

(i) Pursuant to agreements between the federal government and the county or the State, including without limitation, mutual aid agreements; or

(ii) In accordance with policies or procedures developed by the county to coordinate the provision of such services as between the federal government and the county;

(2) The term "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; and

(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. If the use or occupancy is in effect on October 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 authorized to remit the tax due for the balance of the tax year. If the use or occupancy commences after October 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.

(c) 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 § 8-11.1 but the council, when 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.

(d) If a use or occupancy is in effect on October 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 when prescribed as provided for by this chapter, and when so given, the taxpayer, if the taxpayer deems oneself aggrieved, may appeal as provided for by this chapter, if a use or occupancy commences after October 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, and an appeal may be taken therefrom in the manner and when prescribed in § 8-3.4.

(Sec. 8-10.18, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.18) (Am. Ords. 96-15, 04-38)

§ 8-10.16 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:

(a) Shall not be taxed under this chapter upon the lessee's interest or any other interest therein, except as provided in subsection (b); and

(b) 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.

(Sec. 8-10.19, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.19)

§ 8-10.17 Exemption—Low-income rental housing.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Dwelling Unit. A room or rooms connected together, constituting an independent living unit and containing a single kitchen and at least one bathroom. A dwelling unit shall not include a unit used for time sharing or as a transient vacation unit.

Housing Project. A rental housing project where at least 20 percent of the dwelling units are reserved for low-income residents. The housing project must be situated on:

(1) A single parcel of land;

(2) Multiple parcels of land that are contiguous; or

(3) Noncontiguous multiple parcels of land which are separated from each other only by a road or roads.

If the housing project is comprised of multiple parcels of land, or is comprised of individual dwelling units, each situated upon a subdivided parcel of land, the regulatory agreement must specifically identify each such parcel of land or dwelling units as comprising the housing project.

Kitchen. A facility in a dwelling unit that exists when there are fixtures, appliances, or devices for all of the following:

(1) Heating or cooking of food;

(2) Washing of utensils used for dining and food preparation or for washing and preparing food, or both; and

(3) Refrigeration of food.

Low-Income. The annual income of a household that does not exceed 80 percent of the area median income for the county as determined by the United States Department of Housing and Urban Development.

Nonprofit or Limited Distribution Mortgagor. A mortgagor who qualifies for and obtains mortgage insurance under § 202, 221(d)(3), or 236 of the National Housing Act, 12 USC Chapter 13, as amended, as a nonprofit or limited distribution mortgagor.

Owner. Shall include a lessee of the property whose lease term extends at least as long as the regulated period.

Regulatory Agreement. An agreement between an owner and the federal government, State government, or a political subdivision of the State government, or agency of the federal government, agency of the State government or agency of the political subdivision of the State government, embodying provisions regulating rents, charges, profits, dividends, development costs, and methods of operation, in accordance with the laws, policies, or rules of the federal government, State government, or of the political subdivision of the State government, or agency of the federal government, agency of the State government, or agency of the political subdivision of the State government.

Regulated Period. The period during which a housing project is subject to a regulatory agreement, which shall not be less than 15 years.

(b) Real property that is owned and operated by: a nonprofit, limited distribution mortgagor; or a person, corporation, trust, partnership, or association which is used for a housing project that is subject to a regulatory agreement shall be exempt from property taxes for the duration of the regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.

(1) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be exempt from property taxes.

(2) If the housing project fails to meet the requirements under this section at any time during the regulated period, the exemption shall be canceled and the housing project shall be subject to taxes and penalties as determined in § 8-10.18(c).

(3) If any portion of the housing project that qualifies for an exemption under this section is transferred during the regulated period, the exemption shall be canceled and the entire housing project, including the portion retained, if any, and the portion transferred, shall be subject to the taxes and penalties pursuant to § 8-10.18(c)(3). The taxes and penalties shall not apply to any portion of the housing project for which a new claim is filed for an exemption for low-income rental housing as described in this section within 30 days of the recordation or filing of the sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever applies and the exemption is granted by the director.

(4) If the entire housing project is sold or otherwise transferred during the regulated period, a new claim for exemption must be filed within 30 days of the recordation of filing of such sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever applies. Failure to file a new claim for exemption or meet the qualifications under this section shall result in cancellation of the exemption and taxes and penalties imposed pursuant to § 8-10.18(c).

(c) The exemption provided in this section shall not apply to any portion of the property that is used for commercial or other purposes, and not for the primary use of the tenants of the housing project.

(d) Where a housing project is situated upon a single parcel of land, if any portion of the property is ineligible for the property tax exemption under this section:

(1) The remaining eligible portion shall not be deprived of the exemption;

(2) The ineligibility of a portion of the property for exemption under this section shall not disqualify that portion from exemption under any other law; and

(3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.

(e) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under HRS § 53-38.

(Sec. 8-10.20, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.20) (Am. Ords. 90-31, 02-68)

§ 8-10.18 Claim for exemption.

(a) Notwithstanding any provision in this chapter to the contrary, any real property determined by the director to be exempt from property taxes under § 8-10.17 shall be exempt from property taxes effective as of the date the application is filed with the director; provided that the initial application for exemption shall be filed with the director within 60 days of the qualification or in the failure thereof by September 30 preceding the tax year for which the exemption is claimed. A copy of the regulatory agreement that has been recorded with the registrar of the bureau of conveyances or filed with the assistant registrar of the land court, whichever applies, shall be filed with the application along with any additional documents determined by the director to be necessary to supplement the application. As used herein, the date of the qualification shall be the earlier of:

(1) The date when the mortgage made by the nonprofit or limited distribution mortgagor and insured under § 202, 221(d)(3), or 236 of the National Housing Act, 12 USC Chapter 13, as amended, is recorded; or

(2) The date the regulatory agreement is recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State, whichever applies.

For a housing project that qualified for an exemption from real property taxation under § 8-10.17 before December 20, 2002,* the first application filed after December 20, 2002* shall be deemed the initial filing under this subsection.

After the initial year for which the real property has qualified for an exemption, a claim for an exemption shall be filed annually on or before September 30, together with a document from the agency regulating the housing project certifying that the housing project continues to be in compliance with the initial regulatory agreements and is in compliance with the applicable low-income rental requirements in the manner provided by applicable law or rule.

(b) In the event property taxes have been paid to the county in advance for real property that subsequently qualifies for the exemption, the director shall refund to the owner that portion of the taxes attributable to and paid for the period after the qualification.

(c) *Continued exemption.* A claim for a continued exemption may be filed after September 30 but on or before November 15. Such a late filed claim is subject to a nonwaivable late filing penalty of $500, which must be paid at the time of such filing.

(1) *Notice by director.*

Following the initial year for which real property has qualified for an exemption, if an owner fails to file a claim for continued exemption by the September 30 deadline, the director shall promptly mail a notice to the owner at the owner's address of record stating that unless a claim for continued exemption, all the necessary documents, and the late filing penalty of $500 are received by the director by November 15 of the same year, the exemption shall be canceled.

(2) *Cancellation of continued exemption.*

An owner who has been sent a notice under subdivision (1) by the director and who fails to file for a continued exemption by the November 15 deadline or fails to submit the late filing penalty of $500, shall

have the exemption canceled and the housing project shall be subject to taxes and penalties pursuant to subdivision (3).

In the event the director finds that the initial or subsequent claim for exemption contains false or fraudulent information, the housing project fails to meet the requirements of § 8-10.17 during the regulated period, or the owner fails to file annually during the regulated period as required under this section, the director shall cancel the exemption retroactive to the date the exemption was first granted pursuant to an initial filing under subsection (a), and the housing project shall be subject to the taxes and penalties determined in subdivision (3).

(3) *Back taxes and penalties.*

In the event a housing project is subject to taxes and penalties as provided in subdivision (2), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed shall be payable, together with interest at 10 percent a year, from the respective dates that these payments would have been due. The taxes and penalties due shall be a paramount lien upon the real property.

(Sec. 8-10.21, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.21) (Am. Ords. 02-68, 16-37)

Editor's note:

* "*December 20, 2002" is substituted for "the effective date of this ordinance."*

§ 8-10.19 Exemption—Historic residential real property dedicated for preservation.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Alternative Visual Visitations. The alternative visual access provided to the public from a viewing point on the property.

Average Condition of Property. A finding by the director that all major components of a property are still functional and contributing toward an extended life expectancy and effective age and utility are standard for like properties of its class and usage; this finding will allow for some deferred maintenance and normal obsolescence with age, in that a few minor repairs and some refurbishing is needed.

Day. The seven consecutive hours running from 9:00 a.m. to 4:00 p.m.

Historic Property. Property that has been placed on the Hawaii Register of Historic Places.

Public Way. Includes any area open to the general public, such as a road, alley, street, way, right-of-way, lane, trail, bikeway, highway, bridge, sidewalk, park, or beach and any private property usually open to the public, such as a parking lot.

Residential Property. Property improved with a one or two-family detached dwelling or a duplex unit. This definition includes associated structures, such as carriage houses, ohana units, and outbuildings. This definition specifically excludes vacant parcels, districts, areas, or sites, including heiau, burial, and underwater sites.

Visual Access. Visual access at all times with the unaided eye from a distance of not more than 50 feet from the owner's property line from a public way as defined in this section, of the entire front or rear of the one or two-family detached dwelling or duplex unit that is the subject of the petition for dedication under this section.

(b) An owner of taxable historic residential property may dedicate a portion or portions of the residential property thereof for historic preservation by petitioning the director; provided that the residential property has visual access or the owner allows alternative visual visitations.

(1) If the historic residential property does not provide visual access, the petition shall provide the public with alternative visual visitations to the property from a viewing point on the historic residential property for at least the 12 days a year designated in the rules adopted by the director.

(2) The viewing point on the historic residential property for alternative visual visitations shall:

(A) Be clearly identified on the sketch or site plan included in the petition for dedication;

(B) Be identified by a sign on the historic residential property marking the location of the viewing point; and

(C) Establish the point beyond which the public shall not advance.

(c) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year. The notice of assessment shall serve as notification of approval, approval in part, or disapproval of the petition for dedication. The owner may appeal any petition for dedication approved in part or disapproved, on or before the date for appealing an assessment as set forth in § 8-12.1. If the petition is approved or approved in part, the exemption provided for by this section shall be effective October 1 of the same calendar year.

(d) The director shall review the petition and determine what portion or portions of the residential real property shall be exempted from real property taxes. Any building or portion of a building less than 50 years old shall not be exempted from real property taxes. The director shall consult with the State historic preservation office in making this determination. The director shall take into consideration whether the historic property has been maintained, at a minimum, in average condition, and shall determine the total area or areas of real property that shall be exempted. The director shall confirm that the historic residential property has visual access. If the director determines that the historic residential property does not provide visual access, then the director shall confirm that the petition provides the public with acceptable alternative visual visitations.

(e) If the director determines that the historic residential property does not provide visual access to the public or that the petition does not provide the public with acceptable alternative visual visitations, the application for dedication shall be denied.

(f) Portions of residential real property that are dedicated and approved by the director as provided for by this section, shall be exempt from real property taxation except as provided by § 8-9.1.

(g) The approval of the petition by the director shall constitute an obligation on the part of the owner to meet the following requirements:

(1) The owner shall provide visual access to the public of the dedicated historic residential property, or shall provide alternative visual visitations as described in the approved petition;

(2) The owner shall certify that the historic property shall meet or exceed average condition, and, during the dedicated period, shall maintain the historic property in at least average condition. All repair, maintenance, and improvements to the property, and use of the property, shall comply with all statutes, ordinances, rules, and standards for historic properties; and

(3) The owner of a historic residential property that has been approved for dedication pursuant to this section shall place and maintain on the dedicated historic residential property a plaque that has been approved by the director and the State historic preservation officer. The director shall adopt rules prescribing the requirements for such a plaque;

for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year. Legally permitted uses of the historic residential property may continue during the dedication period without cancellation of the dedication.

(h) An owner may appeal any cancellation of the dedication or imposition of any rollback tax or penalty as in the same manner as an appeal from an assessment.

(i) Any person who becomes an owner of historic residential property that is subject to a dedication under this section shall be subject to the requirements imposed under subsection (g).

(j) The director shall cancel the dedication and disallow the tax exemption if:

(1) The owner fails to observe the requirements and obligations of this section and the rules adopted to implement this section;

(2) A city department issues a citation for noncompliance with or violation of Chapters 16 through 21; or

(3) The property is removed from the historic register.

The cancellation and disallowance shall subject the owner to a rollback tax and penalty, retroactive to the date of the last 10-year renewal of the dedication. 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 a 12 percent penalty and interest at 12 percent per year for each year of the rollback tax; provided that the provision in this subsection shall not preclude the city from pursuing any other remedy to enforce the covenant on the use of the property.

(k) The director shall cancel the dedication and the retroactive assessment shall not apply:

(1) Where the owner submits the written notice of cancellation within the prescribed time as provided in subsection (g); and

(2) Where the subject property is destroyed by any natural disaster or by fire, and upon verification by the historic preservation officer that the restoration or reconstruction of the property is not feasible.

(l) The director shall adopt rules deemed necessary to accomplish the foregoing in accordance with HRS Chapter 91.

(Sec. 8-10.22, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.22) (Am. Ords. 96-15, 01-23, 11-7)

§ 8-10.20 Other exemptions.

Exemptions to real property taxes as set forth in HRS Chapter 53 ("Urban Renewal Law") and Chapter 183 ("Forest Reserves, Water Development, Zoning"), and in § 208 of the Hawaiian Homes Commission Act, 1920, and which were enacted before November 7, 1978, shall remain in effect and be recognized and implemented by the city in its administration of the real property tax system; provided that real property leased under homestead and not general lease pursuant to the authority granted the department of Hawaiian home lands by § 207 of the Hawaiian Homes Commission Act, 1920, shall be exempt from real property taxes, the seven-year limitation on the exemption afforded by § 208 of the Hawaiian Homes Commission Act, 1920, notwithstanding.

(Sec. 8-10.23, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 10, § 8-10.23) (Am. Ords. 92-38, 92-63, 93-13, 93-112, 97-56, 00-65)

§ 8-10.21 Exemption—Credit union.

(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 from real property taxes to the extent taxes assessed exceed $1,000. If the property for which exemption is claimed is leased, the lease agreement shall be in force and recorded in the bureau of conveyances when the exemption is claimed. As used in this section, "federal credit union" means a credit union organized under any federal law including the Federal Credit Union Act of 1934, 12 USC Chapter 14, as amended, and "State credit union" means a credit union organized under State law.

(b) If any portion of the property that 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.

(1990 Code, Ch. 8, Art. 10, § 8-10.24) (Added by Ord. 88-1; Am. Ord. 15-36)

§ 8-10.22 Exemption—Slaughterhouses.

All real property in the city used exclusively by the owner or lessee thereof for purposes of slaughtering or butchering cattle, pigs, poultry animals, or other domestic livestock for commercial slaughterhouse purposes shall be exempt from real property taxes for a period of 10 years. In the case of newly constructed slaughterhouses, the exemption shall apply to the tax year following October 1 following commencement of construction of such slaughterhouse.

(1990 Code, Ch. 8, Art. 10, § 8-10.25) (Added by Ord. 93-06; Am. Ord. 96-15)

§ 8-10.23 Exemption—Qualifying construction work.

(a) Any incremental increase in the valuation of buildings primarily attributable to qualifying construction work shall be exempt from property taxes for a period of seven years following the completion of the qualifying construction work, provided that:

(1) The qualifying construction work commences on or after January 1, 1999 as evidenced by the issuance date of the building permits;

(2) The qualifying construction work is completed on or before June 30, 2003, unless extended pursuant to subsection (d); and

(3) The laborers and mechanics who performed the qualifying construction work were paid at or above the rate of wages established by HRS Chapter 104 and the applicable rules adopted thereunder.

(b) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Incremental Increase in the Valuation of Buildings Primarily Attributable to Qualifying Construction Work. Shall be determined by subtracting the valuation of buildings on the property as determined in the real property tax assessment immediately preceding June 22, 1999 from the valuation of buildings following the completion of qualifying construction work as of June 22, 1999.

Qualifying Construction Work. Work to construct new buildings, or to construct additions or renovations to existing buildings, located on land that is classified in accordance with § 8-7.1 as hotel and resort, commercial, industrial, preservation, or agricultural.

(c) The date of the completion of the construction shall be established by the date of the department of planning and permitting's inspection completion date, or the last of the inspection completion dates, where multiple inspections are required for any one or more of the following: the electrical, plumbing, architectural, or structural work allowed under the building permit.

(d) The claimant may request an extension of time of up to one year but before July 1, 2004 to complete construction, and only if a major change in circumstances beyond the control of the claimant has occurred since the issuance of the building permit that causes the delay. The request for an extension setting forth the claimant's justification for an extension shall be made in writing to the director of planning and permitting and either receipt-stamped by the department or U.S. postmarked. By either method, the request shall be receipt-stamped or U.S. postmarked no later than June 29, 2003. The decision of the director of planning and permitting on the request shall be final.

(e) The claim for exemption shall be filed with the department of budget and fiscal services on or before September 30 preceding the first tax year for which such exemption is claimed on such form as shall be prescribed by the department, and shall be supported by documentation establishing the date of the issuance of the building permit, the department of planning and permitting's inspection completion date, and the director of planning and permitting's decision to grant an extension of time to complete construction, if applicable.

(f) The claim for exemption, once allowed, shall continue for a period of seven years; provided that where an extension has been granted under subsection (d), in no event shall such exemption be allowed beyond June 30, 2012.

(g) To confirm that the laborers and mechanics who performed the qualifying construction work were paid at or above the applicable rate of wages, every claim for exemption filed with the department of budget and fiscal services shall include documentation in a form satisfactory to the director that establishes that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder. This documentation shall include but not be limited to a notarized affidavit from the claimant establishing that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder.

(1990 Code, Ch. 8, Art. 10, § 8-10.26) (Added by Ord. 99-42; Am. Ords. 00-45, 02-39)

§ 8-10.24 Exemption—Public service.

(a) Real property that is owned or leased and actually used by a public service company shall be exempt from real property taxes.

(b) If the property for which exemption is claimed is leased by the public service company for a period of one year or more, the lease agreement shall be in force and recorded in the bureau of conveyances when the exemption is claimed.

(c) The exemption provided in this section shall not apply to any portion of the property that is not used for the primary purpose of the public service company.

(d) If any portion of the property is ineligible for the property tax exemption under this section:

(1) The remaining eligible portion shall not be deprived of the exemption;

(2) The ineligibility for exemption under this section shall not disqualify that portion for an exemption under any other law; and

(3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.

(e) "Public service company" has the same meaning as defined in § 8-7.1(c)(6).

(1990 Code, Ch. 8, Art. 10, § 8-10.27) (Added by Ord. 01-60; Am. Ords. 04-34, 04-35)

§ 8-10.25 Additional terms and conditions for exemption of low-income rental housing projects on Hawaiian home lands.

(a) For the purposes of this section, the following definition applies unless the context clearly indicates or requires a different meaning.

Hawaiian Home Lands. The lands described in the Hawaiian Homes Commission Act, HRS § 201.

The definitions provided in § 8-10.17(a) shall also apply to this section.

(b) A low-income rental housing project that occupies Hawaiian home lands and qualifies for an exemption from real property taxes pursuant to § 8-10.17 shall be subject to the following additional terms and conditions:

(1) The exemption shall be for the duration of the regulated period; provided that the lease remains in force and effect for the duration of the regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.

(2) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be:

(A) Exempt from property taxes; and

(B) Subject to the assessment of the minimum tax under § 8-11.1; provided that for an exempt rental housing project consisting of no more than 100 parcels of land, in the event full payment of the annual minimum tax is received on or before June 30 before the tax year for any one of the parcels comprising the exempt rental housing project, no minimum tax shall be due and owing for the tax year for any of the other parcels comprising the exempt rental housing project; provided further, that no tax bill shall be issued for the June 30 full minimum tax payment.

(1990 Code, Ch. 8, Art. 10, § 8-10.28) (Added by Ord. 02-68)

§ 8-10.26 Exemption—Nonprofit organization thrift shops.

(a) Notwithstanding § 8-10.9(d), real property used for a thrift shop shall be exempt from property taxes; provided that:

(1) The thrift shop is operated by a nonprofit organization that sells goods;

(2) Ninety percent or more of the goods sold in the thrift shop have been donated; and

(3) All of the net revenues from the thrift shop are used to provide job training and employment services or drug rehabilitation services at no cost to the person being trained or rehabilitated.

(b) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Nonprofit Organization. An association, corporation, or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational, or other nonprofit purposes, no part of the assets, income, or earnings of which inures to the benefit of any individual or member thereof, and whose charter or other enabling act contains a provision that, in the event of dissolution, the assets owned by such association, corporation, or other entity shall be distributed to another association, corporation, or other entity organized and operated exclusively for nonprofit purposes, and which further qualifies for exemption under § 501 of the Internal Revenue Code of 1954, as amended.

Thrift Shop. A retail outlet.

(1990 Code, Ch. 8, Art. 10, § 8-10.29) (Added by Ord. 03-05)

§ 8-10.27 Exemption—Historic commercial real property dedicated for preservation.

(a) An owner of commercial property that has been placed on either the National or the Hawaii Register of Historic Places after January 1, 1977 who wishes to dedicate such property for historic preservation may petition the director to obtain an exemption from real property taxation as provided herein. As used in this section, "commercial property" means properties classified for real property tax purposes as commercial and excludes properties classified for real property tax purposes as hotel and resort or industrial.

(b) 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 exemption shall be effective July 1 of the immediately following tax year.

(c) The petition shall include a copy of a covenant that has been recorded with the bureau of conveyances or the land court, whichever applies. The covenant shall ensure that the public is provided reasonable visual access to the historic commercial real property and that the property is maintained in accordance with a maintenance agreement approved by the director, in consultation with the State historic preservation division, nonprofit historic preservation organizations and the director of planning and permitting.

(d) The director shall review the petition and determine whether the historic commercial landmark shall be granted the real property tax exemption. The director shall consult with the State historic preservation office and nonprofit historic preservation organizations in making this determination.

(e) Upon approval of the petition, 50 percent of the value of that real property or portion thereof that is designated as a historic site shall be exempt from real property taxes.

(f) 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 exempted property as specified in the maintenance agreement for a minimum period of 10 years. The petition shall be automatically renewable for an unlimited number of additional 10-year periods.

(g) Upon determining that the owner has failed to observe the restrictions of the covenant, the director shall cancel the exemption 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 interest at 12 percent per year from the respective dates that these payments would have been due; provided that the provision in this subsection shall not preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.

(h) An owner applicant may appeal any adverse determination as in the case of an appeal from an assessment.

(i) The director shall adopt rules pursuant to HRS Chapter 91 as deemed necessary to accomplish the purposes of this section.

(1990 Code, Ch. 8, Art. 10, § 8-10.30) (Added by Ord. 04-17)

§ 8-10.28 Exemption—Qualifying agricultural improvements for dedicated vacant agricultural lands.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Drainage Systems. Agricultural systems of channels, ditches, pipes, pumps, and accessory facilities established for the purpose of drawing off water from a land area.

Incremental Increase in the Valuation of Real Property Attributable to Qualifying Agricultural Land Improvements. The sum of all documented expenses incurred to construct the qualifying agricultural land improvements.

Irrigation Systems. The agricultural systems of intakes, diversions, wells, ditches, siphons, pipes, reservoirs, and accessory facilities established for the purpose of providing water for agricultural production.

Qualifying Agricultural Land Improvements. Construction, reconstruction, or improvement of irrigation systems, drainage systems or roads, soil conservation, fire protection, or animal control measures on land classified as vacant agricultural land as defined in § 8-7.1(c) and dedicated for 10 years under § 8-7.3(d), where the cost of such improvements is equal to or greater than $10,000.

(b) Any incremental increase in the valuation of real property attributable to qualifying agricultural land improvements shall be exempt from property taxes for a period of seven years following the construction of the agricultural land improvements.

(c) The claim for exemption shall be filed with the director on or before September 30 preceding the tax year for which such exemption is claimed on such form as shall be prescribed by the department. The claim shall be supported by documentation describing the agricultural land improvements, establishing that the agricultural land improvements have been constructed, and establishing the amount of expenses therefor. Any additional qualifying agricultural improvements for a subsequent fiscal year shall be separately claimed.

(d) The claim for exemption, once allowed, shall continue for a period of seven years.

(1990 Code, Ch. 8, Art. 10, § 8-10.31) (Added by Ord. 04-34)

§ 8-10.29 Exemption—Kuleana land.

(a) Real property zoned as residential or agricultural, any portion of which is designated as kuleana land, shall pay the minimum real property tax as long as the real property is owned in whole or in part by a lineal descendant of the person that received the original title to the kuleana land.

(b) An application for this exemption shall be filed with the director on forms prescribed by the director. The application shall include documents verifying that the condition set forth in subsection (a) has been satisfied. The director shall prescribe what shall be sufficient to show genealogy verification; provided that:

(1) Genealogy verification by the Office of Hawaiian Affairs or by court order shall be deemed sufficient; and

(2) The applicant/landowner shall be responsible for the cost of such evidence.

The director shall require the applicant to obtain a court order verifying ownership of property if the applicant is not identified as the owner of the property in the records of the director.

(c) 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 any subsequent legislation.

(d) Notwithstanding subsection (a), kuleana lands which are Hawaiian home lands, shall not pay the minimum real property tax if they qualify for the exemption set forth in § 8-10.25(b)(2)(B).

(1990 Code, Ch. 8, Art. 10, § 8-10.32) (Added by Ord. 07-7)

§ 8-10.30 Exemption—For-profit group child care centers.

(a) Real property, or a portion thereof, used for a for-profit group child care center shall be exempt from property taxes; provided that:

(1) The property is actually and exclusively used for a group child care center;

(2) If an exemption is claimed under this section, an exemption for the same property may not also be claimed under any other section;

(3) The property is 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;

(4) 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 or filed in the office of the assistant registrar of the land court;

(5) The group child care center meets the child care facilities requirements of HRS Chapter 346, Part VIII; and

(6) Any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the State department of human services stating that the foregoing requirements are met.

(b) For purposes of this section, the term "group child care center" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months.

(1990 Code, Ch. 8, Art. 10, § 8-10.33) (Added by Ord. 09-24)

§ 8-10.31 Exemption—Central Kakaako industrial zone limited development.

(a) The central Kakaako industrial zone is identified as a demonstration area in which to exempt a portion of certain industrial properties from taxation to preserve such uses in the zone.

(b) For the purposes of this section, "floor area ratio" has the same meaning as defined in Hawaii Administrative Rules § 15-217-8.

(c) The exemption from real property taxes for real property, or a portion thereof, is 50 percent of the assessed value; provided that the property is:

(1) Located within the central Kakaako industrial zone as illustrated in attached Exhibit 1, which includes:

(A) The area bounded by the following street segments:

Starting at the intersection of Waimanu Street/Kamani Street; Waimanu Street to the intersection of Waimanu Street/Kamakee Street; Kamakee Street to the intersection of Kamakee Street/Kona Street; Kona Street to the intersection of Kona Street/Hopaka Street; Hopaka Street to the intersection of Hopaka Street/Piikoi Street; Piikoi Street to the intersection of Piikoi Street/Waimanu Street; Waimanu Street to the intersection of Waimanu Street/Queen Street; Queen Street to the intersection of Queen Street/Ward Avenue; Ward Avenue to the intersection of Ward Avenue/Halekauwila Street; Halekauwila Street to the intersection of Halekauwila Street/Cooke Street; Cooke Street to the intersection of Cooke Street/Kawaiahao Street; Kawaiahao Street to the intersection of Kawaiahao Street/Kamani Street; and ending at Kamani Street to the intersection of Kamani Street/Waimanu Street;

(B) The parcels on the makai side of Queen Street identified as Tax Map Keys: 2-3-002:057, 058, 066, 067, 069, 086, 087, and a portion of 059; and

(C) The parcels on the mauka side of Kawaiahao Street and the makai side of Waimanu Street identified as Tax Map Keys: 2-1-049:070, 072, 071, 073, 049, 048, 047, 046, 045, 043, 042, 041, 040, 050, 076, and 054;

(2) Is actively and continuously used for one of the following industrial uses:

(A) Repair services; provided that all operations are enclosed;

(B) Warehouses;

(C) Manufacturing, including furniture and fixtures; stone, clay, and glass products, including pottery and related products, flat glass, glass and glassware (pressed or blown), and cut stone and stone products; fabricated metal products, except ordnance, machinery and transportation; office, computing and accounting machines; electrical machinery, equipment and supplies; motorcycles, bicycles, and parts; professional, scientific, and controlling instruments, musical instruments, photographic and optical goods; watches and clocks; food and related products; textile mill products; apparel and other finished products made from fabrics and similar materials; printing, publishing, and allied industries; chemicals and allied products; rubber and miscellaneous plastic products; tobacco products; leather and leather products; and miscellaneous manufacturing industries;

(D) Manufacturing services and warehousing, including: special trade construction and storage yards; provided that all operations are totally enclosed; electric substations, transformery; gas substation; water reservoir or pump station; telephone; nonextensive yard use; wholesaler with stock; and automotive repair and services; provided that all operations are totally enclosed;

(E) Laundry, laundry service, and cleaning and dyeing plant (includes self-service laundry);

(F) Motion picture recording and sound studios;

(G) Miscellaneous business services, including duplicating; blueprinting; linen supply; services to dwellings; typewriter repair; armature rewinding; and general fix-it shop;

(H) Freight movers and canteen services;

(I) Printing, lithographic, publishing, photographic processing, or similar uses;

(J) Lumber and building materials storage and sales; provided that all operations are totally enclosed;

(K) Miscellaneous services, including electrical shop; reupholstery and furniture repair; and electrical motor repair and rebuild; data processing; food preparation, and catering;

(L) Wholesaler without stock, including motor vehicle and equipment; drug, chemical, and allied product; dry goods and apparel; groceries and related products; farm product, raw material; electrical goods; hardware and supply; and machinery, equipment, and supply;

(M) Aluminum cans collection; provided that all operations are totally enclosed;

(N) Automobile service stations, car washes, and car rental establishments; provided that they comply with the following requirements:

(i) A solid fence or wall of 6 feet in height is required on the side and rear property lines;

(ii) The station must be illuminated so that no unshielded, unreflected, or undiffused light source is visible from any public area or private property immediately adjacent thereto;

(iii) All areas not landscaped must provide an all-weather surface; and

(iv) No water produced by activities on the lot is permitted to fall upon, or drain across, public streets and sidewalks; or

(O) Personal services establishments, including dry cleaning and dyeing; and

(3) Determined by the Hawaii Community Development Authority as being limited to a maximum floor area ratio of 1.5 due to inadequate infrastructure under Hawaii Administrative Rules § 15-217-57.

(1990 Code, Ch. 8, Art. 10, § 8-10.34) (Added by Ord. 16-21)

§ 8-10.32 Claim for Exemption—Central Kakaako industrial zone limited development.

(a) An initial application for exemption under § 8-10.31 shall be filed with the director by September 30 preceding the tax year for which the exemption is claimed. A copy of a certification from the Hawaii Community Development Authority confirming that the property is subject to the maximum floor area ratio of 1.5, as required by Hawaii Administrative Rules § 15-217-57, shall be filed with the application along with any additional documents determined by the director to be necessary to supplement the application.

(b) Two years after the initial year for which the property has qualified for an exemption under § 8-10.31, and every two years thereafter for as long as applicable, the owner of the property shall file, on or before September

30, a recertification by the Hawaii Community Development Authority confirming that the property is still subject to the maximum floor area ratio of 1.5, as required by Hawaii Administrative Rules § 15-217-57.

(c) An owner who fails to file for a recertification from the Hawaii Community Development Authority by the respective September 30 deadline shall have the exemption canceled by the director, and the property shall be subject to taxes and penalties pursuant to subsection (f).

(d) In the event the director finds that the initial claim for exemption or subsequent recertification by the Hawaii Community Development Authority contains false or fraudulent information, the director shall cancel the exemption retroactive to the date the exemption was first granted pursuant to an initial filing under subsection (a), and the project shall be subject to the taxes and penalties determined in subsection (f).

(e) The owner may cancel the exemption by filing a notice of cancellation, and the owner shall not be subject to any penalties; provided that the owner has not filed any claim for exemption or any recertification that contained false or fraudulent information.

(f) In the event a property is subject to taxes and penalties as provided in subsection (c) or (d), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed shall be payable, together with interest at 10 percent per year, from the respective dates that these payments would have been due. The taxes and penalties due shall be a paramount lien upon the real property.

(1990 Code, Ch. 8, Art. 10, § 8-10.35) (Added by Ord. 16-21)

§ 8-10.33 Exemption—Qualifying affordable rental dwelling units or affordable rental housing units.*

(a) For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Affordable Housing Agreement. An affordable housing agreement as described in § 29-1.8, or a "regulatory agreement" as defined in § 8-10.17(a).

Declaration of Restrictive Covenants. Has the same meaning as defined in Chapter 32.

Exemption Period. The ten-year period commencing upon the effective date of the claim for a real property tax exemption pursuant to subsection (b)(4), and ending on June 30 of the last year of the ten-year period.

Regulated Period. The period during which a project is subject to an affordable housing agreement.

(b) This section applies only to the following:

(1) That portion of real property used for affordable rental dwelling units as provided on-site or off-site pursuant to Chapter 29;

(2) That portion of real property used for affordable rental dwelling units provided pursuant to a planned development-transit permit under § 21-9.100-10, or an interim planned development-transit permit under § 21-9.100-5;

(3) That portion of real property used for affordable rental dwelling units located on real property used in connection with a housing project developed in compliance with HRS § 201H-36(a)(5); or

(4) That portion of real property used for affordable rental housing units that:

(A) Are rented to households earning 80 percent and below of the AMI; and

(B) For a period of at least 15 years after a certificate of occupancy is issued for the affordable rental housing project, the affordable units are rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 80 percent of the AMI for the applicable household size;

pursuant to Chapter 32.

(c) The exemption provided in this section does not apply to any portion of the real property that is:

(1) Used for commercial or other non-residential purposes;

(2) Not for the exclusive use of the tenants of the affordable rental dwelling units; or

(3) Subject to any other exemption from real property taxation.

(d) Real property specified in subsection (b) that is subject to an affordable housing agreement will be exempt from property taxes for the duration of the regulated period, and real property specified in subsection (b)(4) that is subject to a declaration of restrictive covenants will be exempt from property taxes for the duration of the exemption period.

(1) If the project fails to meet the requirements under this section at any time during the regulated period or exemption period, whichever is applicable, the exemption will be canceled and the real property will be subject to taxes and penalties pursuant to subsection (i)(3).

(2) If the ownership of any portion of the real property that qualifies for an exemption under this section changes during the regulated period or exemption period, whichever is applicable, the exemption will be canceled and the entire project, including any retained portion and the portion that changed ownership, will be subject to taxes and penalties pursuant to subsection (i)(3). The taxes and penalties do not apply to any portion of the real property for which a new claim is filed for an exemption within 30 days of the recordation or filing of the real property title change with the registrar of the bureau of conveyances or the assistant registrar of the land court, or both, as appropriate, if the director grants the exemption.

(3) If the ownership of the real property changes during the regulated period, a new claim for exemption must be filed within 30 days of the recordation of filing of such change with the registrar of the bureau of conveyances or the assistant registrar of the land court, or both, as appropriate. Failure to timely file a new claim for an exemption, or to meet the qualifications under this section, will result in cancellation of the exemption, and taxes and penalties will be imposed pursuant to subsection (i)(3).

(e) Where a project is situated upon a single parcel of land, if any portion of the property is ineligible for the property tax exemption under this section:

(1) The remaining eligible portion will not be deprived of the exemption; and

(2) The ineligibility of a portion of the property for exemption under this section will not disqualify that portion from an exemption under any other law.

(f) Exemptions claimed under this section disqualify the same property from receiving an exemption under HRS § 53-38; provided that exemptions claimed under subsection (b)(4) also disqualify the same real property from receiving a real property tax exemption under any other law, except for § 8-10.34.

(g) Notwithstanding any provision in this chapter to the contrary, any real property determined by the director to be exempt from property taxes under this section will be exempt from property taxes effective as of the date the application is filed with the director; provided that the initial application for an exemption must be filed with the director within 60 days after the real property qualifies for the exemption, but in no event later than September 30 preceding the tax year for which the exemption is claimed. A copy of the affordable housing agreement that has been recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court, or both, as appropriate, or the declaration of restrictive covenants that has been executed by the owner of the zoning lot on which an affordable rental housing project is situated, must be filed with the application along with any additional documents determined by the director to be necessary to supplement the application.

(1) For exemptions claimed under subsections (b)(1), (b)(2), and (b)(3), after the initial year for which the real property has qualified for an exemption, a claim for a continued exemption must be filed annually on or before September 30, together with a document from the agency regulating the project certifying that the project continues to be in compliance with the initial affordable housing agreement and is in compliance with the applicable rental requirements.

(2) For exemptions claimed under subsection (b)(4), after the initial year for which the real property has qualified for an exemption, a report must be filed with the director annually on or before September 30 during the exemption period. The report must certify that the affordable rental housing project continues to be in compliance with the declaration of restrictive covenants and the applicable rental requirements pursuant to this chapter, including but not limited to the number of affordable rental housing units that are rented to households earning 80 percent or below of the AMI, and rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 80 percent of the AMI for the applicable household size or less.

(3) The director may, after 30 days' written notice, audit the records of the real property exempt from taxes under this section. A taxpayer's refusal or failure to cooperate and produce all records requested by the director may result in the cancellation of the exemption and subject the real property to the taxes and penalties determined in subsection (i)(3).

(h) In the event property taxes have been paid in advance to the city for real property that subsequently qualifies for the exemption, the director shall refund to the owner that portion of the taxes attributable to, and paid for the period after the qualification.

(i) *Cancellation of exemption—penalties.*

(1) *Notice by director.* Following the initial year for which real property has qualified for an exemption under this section, if an owner fails to file a claim for continued exemption by the September 30 deadline, the director shall promptly mail a notice to the owner at the owner's address of record stating that unless a

claim for continued exemption and all the necessary documents are received by the director by November 15 of the same year, the exemption will be canceled.

(2) *Cancellation of exemption.* An owner who has been sent a notice under subdivision (1) by the director and who fails to file for an exemption by the November 15 deadline will have the exemption canceled and the project will be subject to taxes and penalties pursuant to subdivision (3). In the event the director finds that the initial or a subsequent claim for exemption contains false or fraudulent information, the project fails to meet the requirements during the regulated period, or the owner fails to file annually during the regulated period as required under this section, the director shall cancel the exemption retroactive to the date the exemption was first granted pursuant to an initial filing under subsection (g), and the project will be subject to the taxes and penalties determined in subdivision (3).

(3) *Back taxes and penalties.* In the event a project is subject to taxes and penalties, as provided in subdivision (2), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed are payable, together with a penalty in the form of interest at 10 percent per annum, from the respective dates that these payments would have been due. The taxes and penalties due will be a paramount lien upon the real property. In the event a claim for an exemption is submitted after the September 30 deadline but on or before the November 15 deadline, a late filing penalty of $500 will be imposed.

(Added by Ord. 18-1; Am. Ords. 18-10, 19-8, 20-13)

Editor's note:

** Amendments made to § 8-10.33(a) in Ordinance 18-10 will be repealed on June 30, 2027, in accordance with Ordinance 18-10.*

Section 8-10.33 will be repealed on June 30, 2027, in accordance with Ordinance 18-1 and Ordinance 19-8; provided that any real property tax exemptions granted pursuant to § 8-10.33, subject to the requirements and consequences established under § 8-10.33 prior to its repeal.

Amendments made to § 8-10.33 in Ordinance 19-8 will be repealed on May 21, 2024; provided that any exemption under § 8-10.33(b)(4), for portions of real property use for affordable housing units that are rented to households earning 80 percent and below of the area median income, will remain in effect for the duration of the 10-year exemption period in Ordinance 19-8.

§ 8-10.34 Exemption—During construction work for and marketing of affordable dwelling units or affordable rental housing projects.

(a) For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Qualifying Construction Work. Work:

(1) To construct new buildings or portions thereof, or to construct additions or substantial rehabilitations, as defined in § 29-1.2, to existing buildings; provided that the new or existing building is located on land that is classified in accordance with § 8-7.1 as residential, residential A, hotel and resort, or commercial; or

(2) To construct an affordable rental housing project pursuant to Chapter 32.

(b) Any incremental increase in the valuation of the real property primarily attributable to qualifying construction work will be exempt from property taxes; provided that:

(1) The qualifying construction work creates affordable dwelling units pursuant to Chapter 29;

(2) The qualifying construction work creates affordable dwelling units pursuant to a planned development-transit permit pursuant to § 21-9.100-10, or an interim planned development-transit permit pursuant to § 21-9.100-5;

(3) The real property is developed in compliance with HRS § 201H-36(a)(5); or

(4) The qualifying construction work creates affordable rental housing units that:

(A) Are rented to households earning 100 percent and below of the AMI; and

(B) For a period of at least 15 years after a certificate of occupancy is issued for the affordable rental housing project, the affordable units are rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 100 percent of the AMI for the applicable household size;

pursuant to Chapter 32.

(c) A claim for exemption must be filed with the director on or before September 30 preceding the first tax year for which the exemption is claimed on a form as may be prescribed by the director, and must be supported by documentation establishing the date of the issuance of the building permit for demolition, if applicable, or the building permit for new buildings or portions thereof, additions, or substantial rehabilitations, and documenting the creation of:

(1) Affordable dwelling units pursuant to Chapter 29;

(2) A planned development-transit permit pursuant to § 21-9.100-10;

(3) An interim planned development-transit permit pursuant to § 21-9.100-5;

(4) Affordable rental dwelling units pursuant to HRS § 201H-36(a)(5); or

(5) Affordable rental housing units that:

(A) Are rented to households earning 100 percent and below of the AMI; and

(B) For a period of at least 15 years after a certificate of occupancy is issued for the affordable rental housing project, the affordable units are rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 100 percent of the AMI for the applicable household size;

pursuant to Chapter 32.

(d) The real property tax will be based on the assessed value of the property for the tax year immediately preceding the tax year during which the building permit for demolition, if applicable, or a building permit for new buildings or portions thereof, additions, or substantial rehabilitations for the qualifying construction work was issued.

(e) The claim for exemption, once allowed, will expire:

(1) Three calendar years after issuance of a building permit for new buildings or portions thereof, additions, or substantial rehabilitations;

(2) Upon issuance of a certificate of completion; or

(3) Upon issuance of any certificate of occupancy;

whichever occurs first. The director may extend this exemption for good cause.

(f) If, within five years after the expiration of the claim for an exemption under subsection (b)(4), an affordable rental housing project is not in compliance with the executed declaration of restrictive covenants, the exemption will be retroactively revoked and the taxpayer shall reimburse the city for the total exemption amount.

(Added by Ord. 18-1; Am. Ords. 19-8, 20-13)

Editor's note:

** Section 8-10.34 will be repealed on June 30, 2027, in accordance with Ordinance 18-1 and Ordinance 19-8. Amendments made to § 8-10.34 in Ordinance 19-8 will be repealed on May 21, 2024; provided that any exemption under § 8-10.34(b)(4) for qualifying work for affordable rental housing units that are rented to households earning 100 percent and below of the area median income, will remain in effect for the duration of the exemption period as determined under § 8-10.34(e).*

ARTICLE 11: DETERMINATION OF RATES

Section

§ 8-11.1 Real property tax—Determination of rates.

(a) For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Base Tax Year. The tax year immediately before the budgeted tax year.

Budgeted Tax Year. The tax year beginning July 1 from which real property tax revenues are to help finance the proposed legislative and executive budgets.

Class of Property. A class of real property established in accordance with § 8-7.1(c).

Estimated Uncontrollable Cost Adjustment. A factor representing costs that the city is mandated or obligated to pay.

Initial Tax Rate. The preliminary tax rate for a class of property as determined in subsection (b).

Net Taxable Real Property. The fair market value of property determined pursuant to this chapter that the director certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases where appeals from the director's assessment are then unsettled, less 50 percent of the value in dispute.

Tax Rate. The dollar amount of tax levied under this chapter per $1,000 of net taxable real property, computed to the nearest cent.

(b) The council shall annually set the tax rate or rates in accordance with this subsection for the classes of real property established in accordance with § 8-7.1(c). A resolution setting the tax rate or rates must be adopted by the council during the same meeting at which the applicable legislative and executive budget bills are passed on third reading. The tax rate or rates must be set according to the following procedures. The procedures provide for initial tax rates for the net taxable real property within each class of property to be established by the director. The initial tax rates are established in a way that the average real property tax liability within each class of property does not change in the budgeted tax year compared to the base tax except for the estimated uncontrollable cost adjustment only.

(1) The director shall establish the initial tax rates for all taxable classes of property using the following method:

(A) The director shall establish the estimated change in the operating uncontrollable costs of the city, expressed as a percentage of the base tax year's total net tax liability of all classes;

(B) The director shall determine the average tax liability for each class of property for the base tax year as follows: sum the net tax liability for the base tax year of all parcels within the class, then divide the result by the total number of tax parcels in the class;

(C) The director shall then determine the average tax liability for each class of property for the budgeted tax year as follows: adjust the figure determined under paragraph (B) by the estimated uncontrollable cost adjustment;

(D) The director shall then determine the amount to be raised by the initial tax rate for each class of property for the budgeted tax year as follows: multiply the figure determined under paragraph (C) for each class of property by the total number of tax parcels in the class for the budgeted tax year; and

(E) The director shall then determine the initial tax rate per $1,000 of net taxable real property in each class of property for the budgeted tax year as follows: divide the figure determined under paragraph (D) for each class of property by the assessed valuation of net taxable real property within each class of property for the budgeted tax year, then multiply the result by 1,000, then round the result to the nearest cent.

(2) The mayor may propose to the council that the initial tax rates be adopted or be increased or decreased for any class of property. The tax rates proposed by the mayor must be set forth in the form of a resolution transmitted to the council at the same time that other revenue measures for the budgeted tax year are transmitted.

(3) Upon receipt of the mayor's proposed tax rate resolution, the council may adopt the initial tax rates, the mayor's proposed tax rates, or propose new rates.

(c) (1) The council shall advertise its intention to set the tax rate or rates and the date, time, and place of a public hearing in accordance with law. The date of the public hearing must be not less than 10 days after the advertisement is first published and must set forth the proposed tax rate or rates to be considered by the council.

(2) After the public hearing provided for in subdivision (1), the council shall readvertise and reconvene to adopt a resolution setting the tax rate or rates for the tax year for which property tax revenues are to be raised. The advertisement must state the rate or rates proposed to be set and the date, time, and place of the meeting scheduled for setting the rate or rates. The date, time, and place of the meeting must also be announced at the public hearing required by subdivision (1).

(3) If, after adopting an increase or decrease in the tax rates as provided by subdivisions (1) and (2), the council determines that it requires a further increase or decrease in tax rates, the council shall readvertise and follow the requirements of subdivisions (1) and (2).

(d) The council shall notify the director of the tax rate or rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the director shall use the rate or rates in the levying of property taxes as provided by this chapter.

(e) The director shall, on or before February 1 preceding the tax year, furnish the council with a calculation certified by the director as being as nearly accurate as possible of the net taxable real property within the city, separately stated for each class established in accordance with § 8-7.1(c) plus such additional data relating to the property tax base as may be necessary. The director shall include the amount of all tax credits granted under Article 13 for the current tax year and the amount of all tax credit denials appealed during the current tax year as part of the information required by this subsection.

(f) Insofar as the validity of any tax rate is concerned, the provisions of subsection (e) as to dates are directory; provided that all other provisions of this section are mandatory.

(g) Notwithstanding any provision to the contrary, a minimum real property tax of $300 a year is levied upon each individual parcel of real property taxable under this chapter, except for properties exempt under § 8-10.24 and except as provided in § 8-10.25(b)(2).

(h) Notwithstanding any provision to the contrary, rates for property classified as residential A must be assigned to two tiers based on the valuation of the property. The tiers are as follows:

(1) Residential A Tier 1 tax rate: applied to the net taxable value of the property up to $1,000,000; and

(2) Residential A Tier 2 tax rate: applied to the net taxable value of the property in excess of $1,000,000.

(Sec. 8-11.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 11, § 8-11.1) (Am. Ords. 92-75, 96-15, 01-60, 02-45, 02-68, 03-28, 06-10, 10-9, 17-12)

ARTICLE 12: APPEALS

Sections

§ 8-12.1 Generally.

Any taxpayer or owner who may deem the taxpayer or owner 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 HRS § 232-16 on or before January 15 preceding the tax year, as provided in this article. 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 or owner in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair 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 or owner appealed is adjusted to 100 percent fair market value; provided that such evidence shall not in any way affect the right of the taxpayer or owner to any severance damages to which the taxpayer or owner may be entitled.
(Sec. 8-12.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.1) (Am. Ords. 96-15, 97-55)

§ 8-12.2 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 Hawaii Supreme Court, in such person's own name, as if the tax were assessed against such person. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal.
(Sec. 8-12.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.2)

§ 8-12.3 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 10 percent the market value of the property;

(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;

(3) Denial of an exemption to which the taxpayer is entitled and for which such person 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 city in addition to the ground of illegality of the methods used, mentioned in subdivision (2).

(Sec. 8-12.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.3) (Am. Ord. 96-58)

§ 8-12.4 Second appeal.

In every case in which a taxpayer appeals a real property tax assessment to the board of review or to the 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 that the first appeal has not been decided before January 15 preceding the tax year of the second appeal; and provided further, that the director gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal.

(Sec. 8-12.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.4) (Am. Ords. 96-15, 97-55)

§ 8-12.5 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 or payment in question, may elect to employ the small claims procedures of the tax appeal court as set out in HRS § 232-5.

(Sec. 8-12.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.5)

§ 8-12.6 Boards of review—Appointment, removal, compensation.

(a) There shall be up to five boards of review for the City and County of Honolulu, each of which shall consist of five members. In addition to meeting the requirements established in Charter § 13-103, the members shall have resided in the State for at least three years at the time of their appointments. The appointment of a member shall be to serve on one of the boards of review for the duration of the member's appointment and, in accordance with § 8-12.7(c), to serve, temporarily, as a substitute member of one of the other board of review for meetings for which such other board is unable to establish a quorum, but not due to a vacancy on such board. Any vacancy in any of the boards shall be filled for the unexpired term as provided for in the charter.

(b) A chair and vice-chair of each board shall be elected annually from among the board's membership by its respective members. The vice-chair shall serve as the chair of the board during the chair's temporary absence from the city, illness, or disqualification. Each member may receive and be paid out of the treasury compensation for such member's services for each day's actual attendance and the member's actual traveling expenses.

(Sec. 8-12.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.6) (Am. Ords. 96-16, 06-38)

§ 8-12.7 Boards of review—Duties, powers, procedure before.

(a) Each board for the city shall hear disputes between the director and any taxpayer in all cases in which appeals have been duly taken. The fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute. However, this subsection 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, as may be required pursuant to this chapter, unless the taxpayer shows lack of uniformity or inequality as set forth in § 8-12.3.

(b) The assignment of particular tax appeals to a specific board of review shall be made by the director.

(c) Upon the request of the chair of one board, the chair of one of the other boards may administratively, and without requirement of formal action of that chair's board, temporarily assign a member of that board to serve as a substitute member of the requesting board for purposes of establishing a quorum at a designated meeting or designated meetings of the requesting board. The substitute member temporarily assigned under this subsection shall serve only for the particular board meeting or meetings for which the assignment is made and only so long as a quorum may not be maintained by the board to which the substitute member is assigned. During the period of the substitute member's assignment, the substitute member may participate in the discussion of and vote on all appeals before the board. Nothing herein shall prevent a member from again being assigned under this subsection.

(d) Each board shall hold public meetings at some central location in the city commencing not later than January 15 of each year and shall hear, as expeditiously as possible, all appeals assigned to it for each year. With the exception of questions involving the Constitution or laws of the United States, each board shall have the authority to decide all questions of fact and all questions of law necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided that the board shall not have the authority to determine or declare an assessment illegal or void. Each board shall have the authority to allow or disallow exemptions pursuant to law, whether previously allowed or disallowed by the director, and to increase or lower any assessment.

(e) Each board shall base each of its decisions on the evidence before it and, as provided in § 8-1.18, the assessment made by the director shall be deemed prima facie correct. Assessments for the year upon other similar property situated in the city shall be received in evidence upon the hearing. In increasing or lowering any real property assessment, the board shall be governed by this chapter. Each board shall file with the director its written decision on each appeal, and a certified copy thereof shall be delivered or mailed by the director to the taxpayer concerned at the taxpayer's last known place of residence or business.

(f) Upon completion of its review of the property tax appeals for the current year, each board shall compile and submit to the mayor and the council, and shall file with the director for the use of the public, copies of a report detailing the work of the board, which is directed at meeting the objectives of this chapter. The board additionally shall report on instances in which the director, in the application of the valuation methods selected

by the director, erred as to the assessment of a particular property or particular properties not brought before the board by any appeal. Before commencing this phase of its work, each board shall publish, during the first week of September, a notice specifying a period of at least 10 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 appropriate board. Not earlier than one week after the close of the period allowed for filing complaints, the appropriate board shall hear the same, 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 the work proceeds by districts.

(g) The director, in the making of assessments for the succeeding year, shall give due consideration to the reports of the boards made pursuant to subsection (f).

(h) Each board, in addition to all other powers, also shall have the authority 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.

(i) In addition to any notice and publication required by State law or these ordinances, the director, on behalf of each board, shall make available on the city's website all notices of hearings, decisions by the boards and all rules pertaining to the boards.

(Sec. 8-12.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.7) (Am. Ords. 96-15, 96-16, 96-58, 97-55, 05-009, 06-38, 07-47, 15-4)

§ 8-12.8 Appeal to tax appeal court.

(a) An appeal to the tax appeal court may be filed by a taxpayer or the director as provided in HRS §§ 232-8 through 232-14 and HRS §§ 232-16 through 232-18.

(b) Appeals to the State supreme court shall conform to HRS §§ 232-19 through 232-21.

(Sec. 8-12.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.8)

§ 8-12.9 Appeal to board of review.

(a) A notice of appeal to the board of review must be lodged with the director on or before the date fixed by law for the taking of the appeal by either personal delivery, depositing the appeal in the mail, or by electronic transmission, provided that a notice of appeal cannot be lodged by facsimile transmission. Personal delivery shall include delivery by private delivery services. Private delivery services are those designated by the Internal Revenue Service. Notwithstanding any other provision to the contrary:

(1) A notice of appeal with payment of costs personally delivered shall be deemed to have been lodged with the director when personally delivered before the close of city business hours;

(2) A notice of appeal with payment of costs deposited in the mail, postage prepaid, and properly addressed to the director, shall be deemed to have been lodged with the director on the date shown by the postal service cancellation mark stamped upon the envelope or other appropriate wrapper containing the notice of appeal; and

(3) A notice of appeal transmitted electronically, properly addressed to the director, with payment of costs also transmitted electronically, shall be deemed lodged with the director on the date the electronic transmission and electronic payment are electronically received by the server designated by the director to receive appeals and payment of costs transmitted electronically.

(b) 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, provided the payment of costs to be deposited by the taxpayer pursuant to § 8-12.10, including the payment of costs electronically, must be made on or before the date fixed by law for the taking of the appeal to perfect the appeal and for the board of review to have jurisdiction to hear the appeal. 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.

(c) 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 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 before the board's decision; provided the amendment does not substantially change the dispute or lower the valuation claimed.

(Sec. 8-12.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.9) (Am. Ords. 93-20, 07-48)

§ 8-12.10 Costs—Deposit for an appeal.

(a) The costs to be deposited by the taxpayer on appeal to the board of review shall be $50 for each real property tax appeal.

(b) 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 HRS §§ 232-22 and 232-23.

(c) Payment of costs to be deposited by the taxpayer must be made on or before the date fixed by law for the taking of the appeal in order, pursuant to § 8-12.9, to perfect a notice of appeal and for the board of review to have jurisdiction to hear the appeal.

(Sec. 8-12.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.10) (Am. Ords. 93-20, 07-48, 17-6)

§ 8-12.11 Costs—Outcome of appeal.

In the event of an appeal by a taxpayer to the board of review, if the appeal is compromised, or sustained as to any amount of the valuation in dispute, the costs deposited shall be returned to the appellant. Otherwise, the entire amount of costs deposited shall be retained by the city.
(Sec. 8-12.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.11) (Am. Ords. 05-009, 07-47, 08-5, 09-2)

§ 8-12.12 Taxes paid pending appeal.

(a) In any case of any appeal to the tax appeal court, 50 percent of the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer shall, pending the final determination of the appeal, be paid by the director into the "litigated claims account." If the final determination by the tax appeal court 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 there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable. Interest at a rate to be determined by the director based upon the average interest rate earned on city investments in the general fund during the previous fiscal year shall be paid to the appealing taxpayer unless otherwise agreed to by the taxpayer and the director. Interest shall be calculated from the date of each payment by the taxpayer. The balance, if any, of the payment made by the appealing taxpayer and paid into the litigated claims account, or the whole of the payment paid into the litigated claims account, if the decision is wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund.

(b) In case of any appeal to the board of review, 50 percent of 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 a special deposit account. If the final determination by the board of review 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 there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the board of review to have been excessive or nontaxable. Interest at a rate to be determined by the director based upon the average interest rate earned on city investments in the general fund during the previous fiscal year shall be paid to the appealing taxpayer, unless otherwise agreed to by the taxpayer and the director. Interest shall be calculated from the date of each payment by the taxpayer. The balance, if any, of the payment made by the appealing taxpayer and paid into the special deposit account or the whole of the payment paid into the special deposit account, if the decision is wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund.

(Sec. 8-12.12, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.12) (Am. Ords. 05-030, 10-22)

§ 8-12.13 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.
(Sec. 8-12.13, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 8, Art. 12, § 8-12.13)

§ 8-12.14 Appeals settled by director.

(a) The director may review any appeal before a hearing by the board of review to which the appeal is assigned. The director shall notify the board of review to which the appeal is assigned of the director's review of the appeal.

(b) For each appeal reviewed by the director, the director may make an offer of settlement of the appeal, subject to further review and approval by the board of review pursuant to § 8-12.7(a), by allowing or disallowing exemptions or credits pursuant to law, or increasing or lowering the assessment amount, or both.

(c) No later than 90 days following the close of each tax year, the director shall submit to the city clerk a report of all settlements entered into by the director and approved by the board during the tax year, detailing the name of the taxpayer, the tax parcel involved, and the amount of the assessment as initially determined and as settled.

(1990 Code, Ch. 8, Art. 12, § 8-12.14) (Added by Ord. 05-009; Am. Ord. 07-47)

ARTICLE 13: COUNTY TAX CREDIT*

Sections

Editor's note:

** Article 13 title was amended by Ord. 03-28.*

§ 8-13.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Income. The sum of federal total income as defined in the Internal Revenue Code of the United States of 1954, as amended, and all nontaxable income, including but not limited to:

(1) Tax-exempt interest received from the federal government or any of its instrumentalities;

(2) The gross amount of any IRA distribution, pension, or annuity benefits received (including Railroad Retirement Act of 1974 (45 USC Chapter 9, as amended) benefits and veterans disability pensions), excluding rollovers;

(3) All payments received under the federal Social Security and State unemployment insurance laws;

(4) Nontaxable contributions to any one or more of the following: public or private pension, annuity or deferred compensation plans; and

(5) Federal cost of living allowances.

All income set forth in the tax return filed by the titleholder, whether the tax return is a joint tax return or an individual tax return, shall be considered the titleholder's income. Income does not include nonmonetary gifts from private sources, or surplus foods or other relief in kind provided by public or private agencies.

Property Owner. Has the same meaning as defined in § 8-6.3.

Qualified Surviving Spouse. A person who:

(1) Is the surviving spouse of a property owner who, at the time of death, was the owner of property that was granted a tax credit under this article;

(2) Is a transferee of the property directly from the deceased property owner or the estate thereof; and

(3) Qualifies under this article for the tax credit on the same property.

Real Property Tax Credit. The tax credit established pursuant to § 8-13.2.

Taxes Owed. The tax calculated for the owner's property in the tax roll under § 8-3.1(a).

Titleholder. The property owner and any other entity listed on the deed or any other legal instrument establishing the entity's ownership right in the property. The term includes corporations and other business entities and trusts. The term does not include mortgage lenders.
(Sec. 8-13.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 13, § 8-13.1) (Am. Ords. 03-28, 04-43, 05-026, 06-19, 07-30)

§ 8-13.2 Real property tax credit established.

An owner is entitled to a real property tax credit equal to the amount by which the taxes owed for the same tax year in which the application is filed for the property exceed 3 percent of the titleholders' income, provided:

(1) The owner has been granted the home exemption under § 8-10.3 when the application is filed;

(2) The taxes owed for the same tax year in which the application is filed for the tax credit exceed 3 percent of the titleholders' combined income for the calendar year immediately preceding the date of the application;

(3) The combined income of all titleholders of the property for the calendar year immediately preceding the date of the application does not exceed $60,000;

(4) No titleholder owns any other real property anywhere during the applicable tax year;

(5) The titleholders have not violated § 8-13.5;

(6) The amount of the tax after applying the credit is not less than the minimum tax required in § 8-11.1(g);

(7) If the taxes owed less any other one-time tax credit are less than or equal to 3 percent of all titleholders' combined income for the calendar year immediately preceding the date of the application, no credit will be applied;

(8) The titleholders of the property filed income tax returns, if required under Hawaii income tax law and under Internal Revenue Service regulations, on or before filing an application for a tax credit; and

(9) The grant of the application for a tax credit entitles the owner to a credit only for the tax year succeeding the tax year in which the application was filed. There will be no carryover tax credit.

(Sec. 8-13.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 13, § 8-13.2) (Am. Ords. 03-28, 04-43, 05-026, 06-08, 07-20, 07-30, 14-33, 16-20)

§ 8-13.3 Administration.

(a) The director shall determine the eligibility of the owner for a tax credit upon review and verification of each application for the tax credit. The application form will be as prescribed by the director. To verify information in the application, the director shall require proof of the income of each of the titleholders. The director shall require that each titleholder provide copies of:

(1) A tax return transcript from the Internal Revenue Service, or, if a tax return transcript cannot be obtained, a copy of United States Individual Income Tax Return Form 1040 or 1040-SR, and any amendments thereto;

(2) A tax account transcript, if applicable, from the Internal Revenue Service, or, if a tax account transcript cannot be obtained, a copy of United States Income Tax Return for Estates and Trusts Form 1041; and

(3) Any accompanying forms and schedules as the director may require to verify the veracity of the transcripts or tax returns.

For titleholders who did not have to file, and therefore did not file, an income tax return under federal income tax law and under Internal Revenue Service regulations, the director shall require other proof of the titleholders' income, which may include bank statements or other financial records as verification. The director may also require proof of nonreceipt of income from relief programs such as social security, welfare, and unemployment compensation, etc., and may require such authorization from the titleholders as may be necessary to enable the director to fully verify the titleholders' income.

The applicant may refuse to provide such records, information, or authorization. However, upon the applicant's refusal to submit a true and complete application, the director may deny the application for a tax credit. Notwithstanding any provision to the contrary, there will be no appeal from such a decision of the director to deny an application due to the applicant's refusal to provide records, information, or authorization.

(b) The owner's application for a tax credit must be filed on or before September 30 for a credit upon taxes due in the immediately succeeding tax year. The application must require the certification by the owner that:

(1) The requirements of § 8-13.2 under which the credit is applied for will be fulfilled throughout the succeeding tax year; and

(2) The owner's property will continue to qualify for a home exemption under § 8-10.3 throughout such year.

(c) The director shall determine if the owner qualifies for a tax credit before December 31 preceding the tax year and, in the event the application is denied, the director shall notify the applicant in writing on or before the December 31 date.

(1) If an application for a tax credit is granted, the director shall apply the credit to the property tax bill issued pursuant to § 8-3.2, apportioned in two equal parts between the two installments of taxes due pursuant to the section.

(2) If an application for a tax credit is denied, the director shall:

(A) State the basis for denial; and

(B) Unless the denial is unappealable under subsection (a), inform the applicant that the director's decision may be appealed, and the procedure and deadline for appeal.

(1990 Code, Ch. 8, Art. 13, § 8-13.3) (Added by Ord. 03-28; Am. Ords. 04-43, 05-026, 06-19, 06-43, 07-20, 07-30, 16-20, 20-35)

§ 8-13.4 Appeal.

The director shall, pursuant to HRS Chapter 91, establish appeals procedures for denied tax credit applications. (Sec. 8-13.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 13, § 8-13.4) (Am. Ord. 03-28)

§ 8-13.5 Penalties.

(a) Any person who:

(1) Files a fraudulent application or attests to any false statement with the intent to defraud the city or evade the payment of real property taxes or any part thereof; or

(2) In any manner intentionally deceives or attempts to deceive the city;

is guilty of a violation and subject to a criminal fine of not more than $2,000, in addition to being responsible for paying any outstanding taxes, interest, and penalties.

(b) During the tax year for which a tax credit was granted to an owner of property pursuant to this article, if the owner fails to notify the city within 30 days that the requirements of § 8-13.2 under which the credit was granted are no longer met, in addition to the consequences provided in § 8-13.6, the owner will be subject to a fine of $200.

(Sec. 8-13.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 13, § 8-13.5) (Am. Ords. 03-28, 07-20, 16-20)

§ 8-13.6 Revocation of credit.

During the tax year for which a tax credit is granted to an owner of property pursuant to this article, if:

(1) Title to the property is transferred to a new owner by gift, sale, devise, operation of law, or otherwise, except when title is transferred to a qualified surviving spouse; or

(2) The requirements of § 8-13.2 under which the credit was granted are no longer met;

then the tax credit will be revoked and the owner will owe property taxes in the amount of the tax credit. The additional taxes will be billed and be deemed delinquent if not paid within 30 days after the date of mailing of the tax bill, or if the credit is revoked within the tax year for which the credit was granted, within 30 days after the date of mailing of the tax bill, or on or before the next installment payment date, if any, for such taxes, whichever is later.

(1990 Code, Ch. 8, Art. 13, § 8-13.6) (Added by Ord. 03-28; Am. Ords. 07-20, 16-20)

ARTICLE 14: TAX CREDIT FOR THE INSTALLATION OF AN AUTOMATIC SPRINKLER SYSTEM

Sections

§ 8-14.1 Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Automatic Sprinkler System. An integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area.

Existing High-rise Residential Building. Any building that has floors used for human occupancy located more than 75 feet above the highest grade, contains dwelling units, and which was erected prior to 1993.
(Added by Ord. 18-9)

§ 8-14.2 Automatic sprinkler system tax credit established.

(a) An owner of residential real property in an existing high-rise residential building is entitled to a tax credit under this article against the owner's real property tax liability if:

(1) An automatic sprinkler system is either installed throughout the existing residential high-rise building or throughout the common areas of the existing residential high-rise building; and

(2) The owner has been granted an exemption under § 8-10.3.

(b) The amount of the tax credit is $2,000. If an existing high-rise residential building with an automatic sprinkler in the common areas is subsequently improved with an automatic sprinkler system throughout the entire building, no additional tax credit may be claimed. In no event shall the amount of the resulting tax be less than the minimum tax as required in § 8-11.1(g).

(c) The credit will be applied against real property tax liability for the tax year immediately following approval of the application for the credit. If the credit under this section exceeds the real property tax liability for the

tax year immediately following approval of the application for the credit, the excess of the credit over real property tax liability may be claimed as a credit against the real property tax liability in subsequent years until exhausted.

(d) The tax credit under this section, once granted by the director, is not transferable or assignable.
(Added by Ord. 18-9)

§ 8-14.3 Administration—Rules.

(a) The director shall determine the eligibility of the owner for the tax credit upon review and verification that the existing high-rise residential building has been installed with an automatic sprinkler system in accordance with applicable building and fire codes.

(b) The owner shall file an application for the tax credit with the director no later than 24 months after the installation of the automatic sprinkler system is completed. The application must be filed on or before September 30th preceding the tax year in which the credit is claimed.

(c) In accordance with HRS Chapter 91, the director shall adopt rules having the force and effect of law for the administration, implementation, and enforcement of this article.
(Added by Ord. 18-9)

ARTICLE 15: SEVERABILITY

Section

§ 8-15.1 Severability.

This chapter is declared to be severable. In accordance therewith, if any portion of this chapter is held invalid for any reason, the validity of any other portion of this chapter shall not be affected and if the application of any portion of this chapter to any person, property, or circumstance is held invalid, the application hereof to any other person, property, or circumstance shall not be affected.
(Sec. 8-13.1, R.O. 1978 (1983 Ed.); Sec. 8-14.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 8, Art. 15, § 8-15.1)

ARTICLE 16: TAX CREDIT FOR SEPTIC TANK TO REPLACE HOUSEHOLD CESSPOOL

Sections

§ 8-16.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Cesspool. A covered lined or partially lined pool, pit, or deep hole in the ground to receive untreated discharges of sewage and from which the liquids seep into the surrounding soil through the bottom or sides.

Disposal System. Any seepage pit, effluent irrigation system, soil absorption system, disposal trench, or other facility used in the disposal of wastewater, including any wastewater transmission lines, pumps, power, or other equipment associated with the ultimate disposal of wastewater, provided that the term shall not include any cesspool or injection well.

Eligible Costs. Costs incurred after February 9, 2005.*

Septic Tank. A watertight settling tank in which settled sludge is in immediate contact with the sewage flowing through the tank and the organic solids are decomposed by an anaerobic bacterial action.

Wastewater. Has the same meaning as defined in § 43-1.2.
(1990 Code, Ch. 8, Art. 16, § 8-16.1) (Added by Ord. 05-02)
Editor's note:
* "*February 9, 2005" is substituted for "the effective date of this ordinance."*

§ 8-16.2 Septic tank cesspool replacement tax credit established.

(a) An owner of residential real property in the city whose property uses a cesspool to dispose of domestic wastewater and who replaces the cesspool with a septic tank shall be entitled a one-time tax credit under this article against the owner's real property tax liability unless:

(1) A sewer improvement district that would serve the property is planned by the department of environmental services to be established within 10 years after the date of application for the tax credit;

(2) The conversion to a septic tank is required by the State department of health as a condition of expanding the size of the dwelling/dwellings; or

(3) The conversion to a septic tank is required by the U.S. Environmental Protection Agency.

(b) The amount of the tax credit shall not exceed 50 percent of the total cost of the septic tank and disposal system; provided that the tax credit shall apply only to the actual cost to the owner of the septic tank and disposal system and their installation, and shall not include the cost of consumer incentive premiums unrelated to the operation or installation of the septic tank and disposal system; provided further, that the amount of the resultant tax shall not be less than the minimum tax required in § 8-11.1(g).

(c) The credit shall be claimed against real property tax liability for the tax year immediately following approval of the application for the credit. The application must be filed only after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. The tax credit shall entitle the owner to a credit only for the single tax year. There shall be no carryover tax credit.

(d) Allowance of a credit under this article shall not preclude future mandatory connection to a sewer system as required in § 43-1.5(a).

(1990 Code, Ch. 8, Art. 16, § 8-16.2) (Added by Ord. 05-02)

§ 8-16.3 Administration—Rules.

(a) The director shall determine the eligibility of the owner for the tax credit upon review and verification that the owner's cesspool has been sealed and a septic tank installed and operational.

(b) The owner shall file an application therefor with the department of budget and fiscal services after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. Application must be filed 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.

(1990 Code, Ch. 8, Art. 16, § 8-16.3) (Added by Ord. 05-02)

TITLE III: MISCELLANEOUS REGULATIONS

Chapter

Honolulu - Miscellaneous Regulations

CHAPTER 9: BOTANICAL GARDENS

Articles

ARTICLE 1: GENERAL PROVISIONS

Section

§ 9-1.1 Definitions.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

Botanical Garden. An area developed for the recreational and educational appreciation of specific types of plants and plant communities, and includes Foster Botanical Garden, Liliuokalani Botanical Garden, Wahiawa Botanical Garden, Koko Crater Botanical Garden, and the Hoomaluhia Botanical Garden.

Disc Golf. The sport in which a person attempts to throw a disc from at least nine tee areas into at least nine pole hole baskets in the fewest number of throws.
(1990 Code, Ch. 10A, Art. 1, § 10A-1.1) (Added by Ord. 05-022)

ARTICLE 2: USE OF BOTANICAL GARDENS

Sections

§ 9-2.1 Exclusive use of portions of botanical gardens.

(a) Subject to the applicable restrictions in the underlying conveyance document, the director of parks and recreation may allow, by permit, the exclusive use of a portion of a botanical garden for:

(1) Weddings;

(2) Disc golf; and

(3) Any other recreational, cultural, or ceremonial activity permitted by rule adopted by the department of parks and recreation pursuant to HRS Chapter 91.

(b) The director may allow a portion of a botanical garden to be used exclusively and on a temporary basis for disc golf; provided that the director:

(1) Finds that the playing of disc golf will not endanger any plants in the collection of the botanical garden;

(2) Shall issue a permit for the use of a botanical garden for this purpose, which shall include conditions designed to avoid damage to the plants in the garden; and

(3) Shall determine the times and duration that the playing of disc golf will be allowed, which shall be included in the permit.

(c) The director may allow a portion of a botanical garden to be used exclusively and on a temporary basis for weddings; provided that the director:

(1) Shall issue a permit for the use of a botanical garden for a wedding, which permit shall include conditions designed to avoid damage to the plants in the garden; and

(2) Shall determine the times and duration that weddings will be allowed in the botanical garden, which shall be included in the permit.

(d) The director shall establish a fee structure for the use of a portion of a botanical garden for disc golf, weddings, and any other activity permitted by rule.

(e) The director shall establish procedures to notify the public when a portion of a botanical garden will be subject to use under this section.

(1990 Code, Ch. 10A, Art. 2, § 10A-2.1) (Added by Ord. 05-022)

§ 9-2.2 Regulations of botanical gardens.

The city's botanical gardens shall be subject to the same regulations and penalties applicable to parks as provided in Chapter 10, except where such regulations would conflict with the permitted use of botanical gardens as provided in this chapter.

(1990 Code, Ch. 10A, Art. 2, § 10A-2.2) (Added by Ord. 05-022)

ARTICLE 3: FEES AND CHARGES

Sections

§ 9-3.1 Admission fees for the Foster Botanical Garden.

(a) The following daily admission fees shall be assessed for the Foster Botanical Garden:

(1) Child five years of age and under: free. Child must be accompanied by a person 18 years old or older;

(2) Annual family pass holder as specified in subsection (b): free;

(3) Child six to 12 years of age: $1 per person;

(4) Resident of Hawaii, 13 years of age and older: $3 per person;

(5) Nonresident of Hawaii, 13 years of age and older: $5 per person;

(6) Member of the Friends of the Honolulu Botanical Garden: free; and

(7) The director of parks and recreation is authorized to set reduced rates for persons participating in structured educational tours, group purchases, and promotional packages and persons with promotional coupons. The director is also authorized to allow entry of any person into the Foster Botanical Garden as part of a promotional offer or package made available by the city.

(b) An annual family pass may be purchased for $25 each. An annual family pass holder is the person or persons named on the pass who is or are entitled to free unlimited admission, during operating hours, to the Foster Botanical Garden for the period specified in the pass.

(1990 Code, Ch. 10A, Art. 3, § 10A-3.1) (Added by Ord. 05-22)

§ 9-3.2 Students—School staff—Chaperones.

The following shall be admitted free of charge to Foster Botanical Garden; provided that the visit is for educational purposes and the teacher, school staff or group leader has scheduled the class visit at least one week before the requested date, and furnished a firm count of adult supervisors who fall under subdivision (5):

(1) Students at public schools operated by the State department of education (DOE) and private schools licensed by the DOE, except for private trade, vocational, or technical schools;

(2) Children who are exempted from compulsory education under State DOE regulations and procedures with current, approved DOE Form 4140;

(3) Children of child care centers (with current certificate of approval or approved form from the State department of human services) or in after school care programs of the city or the State of Hawaii;

(4) State of Hawaii university and college students with school identification cards; and

(5) Adult supervisors when they accompany Hawaii students in the following categories:

(A) Students five years old and younger: teachers, school staff, or adult chaperones;

(B) Students six years old and older: teachers or school staff only; and

(C) "Special education" students requiring monitors or health-care attendants: as required for children's supervision and care.

(1990 Code, Ch. 10A, Art. 3, § 10A-3.2) (Added by Ord. 05-22)

§ 9-3.3 Community service groups.

(a) The persons referred to in subsections (b) and (c) shall be admitted free of charge to Foster Botanical Garden; provided that their visit is for educational purposes and a group leader has scheduled the visit at least one week before the requested date and has furnished a firm count of the adult attendants or group leaders needed to accompany and supervise the group.

(b) Clients of Hawaii-based public institutions and public or private clinics, hospitals and health care facilities that serve persons on account of their disability, illness, or senior citizen status, and the attendants needed to accompany and assist the group's members. Group leaders are required to present identification for themselves upon entry.

(c) Clients or participants in Hawaii-based public, nonprofit or governmental community service groups, such as "Summer Fun," YWCA/YMCA, scout groups, etc., who are 18 years old and younger, and the staff attendants or group leaders needed to accompany and supervise the group.

(1990 Code, Ch. 10A, Art. 3, § 10A-3.3) (Added by Ord. 05-22)

CHAPTER 10: PUBLIC PARKS AND RECREATION FACILITIES

Articles

ARTICLE 1: USE OF PUBLIC PARKS, PLAYGROUNDS, BEACHES, AND OTHER PUBLIC AREAS

Sections

Editor's note:

** Permits issued on or before February 9, 2017, allowing recreational stops by commercial tour companies to take place at Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Bellows Field Beach Park, Makapuu Beach Park, and Waimanalo Bay Beach Park, will continue to be valid until the permit expires.*

§ 10-1.1 Definitions.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

Camp or ***Camping.*** The use and occupation of a public park as a temporary or permanent dwelling place or sleeping place between the hours of 10:00 p.m. and 5:00 a.m.

Commercial Activity. A use or purpose designed for profit, which includes but is not limited to:

(1) The exchange or buying and selling of commodities;

(2) The providing of services relating to or connected with trade, traffic, or commerce in general;

(3) Any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services; and

(4) The soliciting of business, including the display or distribution of notices, business cards, or advertisements for commercial promotional purposes.

Notwithstanding the foregoing, the following are not considered commercial activities:

(5) The use of land for utilities;

(6) The use of the premises and facilities for official canoe regattas;

(7) The use of the premises and facilities at Waimanalo Bay Beach Park and Waimanalo Beach Park for music festivals, country fairs, farmer's markets, organized youth sports for students ages pre-school through high school, and educational events that are for students ages pre-school through high school and conducted or offered by educational institutions recognized by the State department of education; and

(8) All activities and programs conducted by the department of parks and recreation and any vendors needed to conduct these activities and programs.

Director. The director of parks and recreation or the director's designated representative.

Dwelling Place. A place used for human habitation as an overnight accommodation, lodging, or shelter on either a temporary or permanent basis.

Expressive Activities. 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 participation in or attendance at such activity. Expressive activity generally would not include sports events such as marathons, fundraising events, beauty contests, commercial events, cultural celebrations, or other events the principal purpose of which is entertainment.

Human Habitation. The act of using, occupying, or inhabiting a place of lodging or shelter on a permanent or temporary basis as a place of residence or sojourn.

Off-Leash Park. A public park designated by the director of parks and recreation where dogs, and no other animal, shall be allowed to be off-leash.

Public Park. Any park, park roadway, playground, athletic field, beach, beach right-of-way, tennis court, golf course, swimming pool, or other recreation area or facility under the control, maintenance, and management of the department of parks and recreation.

Public park does not include a public thoroughfare defined as a "mall" under § 13-1.1, unless the public thoroughfare has been:

(1) Accepted, dedicated, or named by the council expressly as a public park or "park";

(2) Placed under the control, maintenance, and management of and classified expressly as a public park or "park" by the department of parks and recreation; or

(3) Constructed or situated within a larger specific recreation area or facility listed in the preceding sentence.

Recreational Stops. The use of city beach parks by commercial tour companies for activities that may include but are not limited to sightseeing, spectating, picture taking, beach combing, swimming, guided tours, and eating of prepared picnic lunches.

Shopping Cart. A metal or plastic handcart on three or more wheels provided by a wholesale or retail establishment such as a supermarket.

Sleeping Place. A place used by a person for the purpose of sleeping, where the person is asleep inside a tent, sleeping bag, or some form of temporary shelter or is asleep atop of or covered by materials such as a cot, mat, bedroll, bedding, sheet, blanket, pillow, bag, cardboard, or newspapers.

Tent. A collapsible structure consisting of sheets of canvas, fabric, or other material attached to or draped over a frame of poles or a supporting rope that has more than one wall.

Traverse. To travel continuously in a direction across or through.

Wall. An upright, vertical, or slanted structure, partition, or divider serving to enclose, divide, support, or protect.
(Sec. 13-14.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.1) (Am. Ords. 01-43, 02-51, 08-22, 10-4, 10-5, 12-2, 12-26, 13-12, 17-3)

§ 10-1.2 Park rules.

(a) Within the limits of any public park, it is unlawful for any person to:

(1) Willfully or intentionally destroy, damage, or injure any property;

(2) Climb onto any tree, except those designated for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play apparatus;

(3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;

(4) Kindle, build, maintain, or use any fire, other than in a grill or brazier;

(5) Annoy, molest, kill, wound, chase, shoot, or throw missiles at any animal or bird;

(6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;

(7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;

(8) Construct or fabricate surfboards;

(9) Permit any animal to enter and remain within the confines of any public park area except as otherwise provided in this article;

(10) Feed any animal or bird when signs are posted prohibiting such feeding;

(11) Wash, polish, or repair cars or other vehicles;

(12) Enter or remain in any public park during the night hours that the park is closed; provided that signs are posted indicating the hours that the park is closed, except that a person may traverse a public beach park using the most direct route during park closure hours for the purpose of reaching the shoreline;

(13) Camp at any park not designated as a campground;

(14) Fail to comply with any sign or notice posted by the City and County of Honolulu; and

(15) Use, place, occupy, leave, or in any other manner, situate a shopping cart.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the department of parks and recreation, it is unlawful for any person, within the limits of any public park, to:

(1) Cut or remove any wood, plant, grass, soil, rock, sand, or gravel;

(2) Sell or offer for sale any services, merchandise, article, or thing;

(3) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;

(4) Repair or condition any surfboard;

(5) Park any vehicle except bicycles on grassed areas;

(6) Amplify music or use battery operated loudspeakers (bullhorns);

(7) Ride or drive any horse or any other animal;

(8) Engage in or conduct any activity that creates any sound, noise or music exceeding 80 dBA sound pressure level taken at a point 10 feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at “A” and response set at “slow” except any activity that is sponsored by the city or the department of parks and recreation or authorized by permit issued by the city; and

(9) Construct, use, place, occupy, leave, or in any other manner, situate any tent.

(c) Within the limits of any public park, it is unlawful for any person, wherever signs are posted prohibiting such activities, to:

(1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;

(2) Ride upon roller skates, skateboards, or bicycles; and

(3) Engage in kite flying.

(d) Except in park areas specifically designated for such purposes, it is unlawful for any person to:

(1) Throw, cast, roll, or strike any bowling ball or golf ball;

(2) Engage in model airplane flying;

(3) Engage in model boat sailing;

(4) Kindle, build, or maintain any campfire;

(5) Discharge firearms for target practice only;

(6) Engage in archery for target practice and tournament only; and

(7) Launch model rockets.

(e) In addition to the requirements of subsection (b), the repair or conditioning of any surfboard shall be performed only by a concessionaire of the department of parks and recreation who has a surfboard concession. Such repair work shall be conducted only in an enclosed building or structure, approved by the department of parks and recreation, the department of planning and permitting, and the State department of health. The terms and conditions to be imposed by the department of parks and recreation shall include, together with the requirements necessary to safeguard the health and safety of the public, the securing of adequate insurance to protect the city from any liability resulting from such repair work.

(f) It is unlawful for any person, other than authorized personnel of the department of parks and recreation, or a person then golfing on the course, or such person's caddy, to gather or pick up golf balls within the boundaries of a public golf course.

(g) (1) Within the limits of any public park, it is unlawful for any person, where signs are posted prohibiting or restricting such activities, to operate, park, or stand a motor vehicle in violation of such prohibitions or restrictions. Such signs may impose any prohibition or restriction upon the operation, parking or standing of motor vehicles which the director of parks and recreation shall determine will maximize the enjoyment and use of any park by park users. Such restrictions may include the installation of parking meters in parks.

(2) *Parking meter charges and time limits.*

(A) Meters at the Honolulu Zoo parking lot must have a four-hour time limit at the rate of $1.50 per hour.

(B) Meters on the mauka side of Kalakaua Avenue between Monsarrat Avenue and the Paki Avenue-Poni Moi Road-Diamond Head Road intersection must have a four-hour time limit at the rate of 50 cents per hour and must be in effect between the hours of 10 a.m. and 6 p.m., seven days a week.

(C) Meters at Kamamalu Neighborhood Park and ʻA'ala Park must have a three-hour time limit at the rate of $1.50 per hour.

(3) *Parking meter violations.*

(A) No person shall violate § 15-22.11.

(B) Every hour a vehicle remains parked, stopped, or standing in violation of § 15-22.11 shall constitute a separate violation.

(3) *Parking meter violations.*

(A) No person shall violate any provision of § 15-22.11.

(B) Every hour a vehicle remains parked, stopped, or standing in violation of any provision of § 15-22.11 shall constitute a separate violation.

(h) Commercial activities, including recreational stops by commercial tour companies, are not allowed at any time at Kailua Beach Park and Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities. Recreational stops by commercial tour companies are not allowed at:

(1) Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park at any time; and

(2) Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays and on all State and federal holidays.

(i) Commercial activities, including recreational stops by commercial tour companies, are not allowed at any time at city owned or operated beach rights-of-way and easements from Lanikai to Kapoho Point (Castle Point). Recreational stops by commercial tour companies are not allowed at any time at city owned or operated beach rights-of-way and easements from Makapuu Point to and including Waimanalo Bay Beach Park, including the Waimanalo Bay Beach Park access gate on Aloiloi Street.

(Sec. 13-14.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.2) (Am. Ords. 90-6, 94-05, 94-24, 97-26, 01-43, 06-20, 07-17, 09-20, 10-4, 10-5, 12-2, 12-28, 13-12, 17-3, 19-5)

§ 10-1.3 Permits.*

(a) *Required.* Any person using the recreational and other areas and facilities under the control, maintenance, management, and operation of the department of parks and recreation must first obtain a permit from the department for the following uses:

(1) Picnic groups, consisting of 50 or more persons;

(2) Camping;

(3) Sports activities conducted by a league, organization, association, group, or individual;

(4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals;

(5) *Expressive activities.*

(A) Expressive activities held at Ala Moana Regional Park or in the following areas of Kapiolani Park require a permit when the expressive activity involves 150 or more persons:

(i) The triangle area fronting the Honolulu Zoo bordered by Kapahulu Avenue and Monsarrat Avenue, but excluding the Honolulu Zoo;

(ii) The area within Kapiolani Park bordered by Monsarrat Avenue, Paki Avenue, Poni Moi Road, and Kalakaua Avenue;

(iii) The Waikiki playground area bordered by Monsarrat Avenue, Leahi Avenue, and Paki Avenue, generally rectangular in shape;

(iv) The Leahi area bordered by Leahi Avenue, Noela Street, and Paki Avenue, generally rectangular in shape; or

(v) The archery range area bordered by Paki Avenue and Poni Moi Road, generally rectangular in shape.

(B) For all other public parks, and areas of Kapiolani Regional Park outside of the areas specified in § 10-1.3(a)(5)(A), a permit is required when the expressive activity involves 75 or more persons.

This subdivision does not apply if the expressive activity is due to a spontaneous event occasioned by news or affairs coming into public knowledge within 48 hours of such expressive activity, in which case the organizer must provide written notice to the city as soon as practicable before such expressive activity;

(6) Meetings or gatherings or other similar activity other than expressive activities held by organizations, associations, or groups;

(7) Nonrecreational, public service activities, meetings, and gatherings other than expressive activities held by organizations, communities, or groups;

(8) Right of entry into parks for installation of utilities or construction work;

(9) The playing of musical instruments as solo or two or more instruments that fall within the standards described in paragraphs (A), (B), and (C):

(A) Musical instruments that are limited to two octaves or less, including but not limited to the following musical instruments:

(i) Tuba;

(ii) Tympani;

(iii) Maracas;

(iv) Uliuli;

(v) Castanets;

(vi) Tambourine; or

(vii) Percussion instruments in which a human hand or drumsticks are used to create sounds therefrom;

(B) Musical instruments that when played do not exceed the sound pressure level established in § 10-1.2(b)(8); and

(C) Musical instruments that are used or played continuously without a regular hourly break of 30 minutes, or for more than six hours within a day.

The use or the playing of a musical instrument that requires a permit as provided under this section is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director.

(D) *Issuance standards for permits.* The department of parks and recreation shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance of a permit under this section, except as provided in this section and in the departmental rules;

(E) *Judicial review.* Upon the department's refusal to issue a permit, the applicant for such permit is entitled to a review by the circuit court within 30 days after the date of such refusal. In such review, the department's decision will be upheld in the absence of a judicial finding of abuse of discretion;

(F) *Restrictions.* The use or the playing of a musical instrument that requires a permit as provided under this section is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:

(i) *Time.* Only between the hours of 9:00 a.m. and 6:00 p.m. daily; and

(ii) *Place.* The playing of such instruments must be restricted to a facility especially constructed for such purpose, such as the bandstand at Kapiolani Park or other areas within the park that are clearly designated in the permit; and

(iii) *Manner.* During the hours mentioned in subparagraph (i), every half-hour of playing period must immediately be followed by a 15-minute break or every one hour of playing period must immediately be followed by a half-hour break; provided that at no time may there be any continuous playing exceeding an hour;

(G) *Duration of permit.* The duration of a permit issued pursuant to subdivision (9) cannot exceed one month;

The foregoing provisions will not apply to the playing of musical instruments in conjunction with expressive activities;

(10) Hang gliding;

(11) Commercial activities, provided that the proposed commercial activities under the permit are consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted, and subject to department of parks and

recreation rules regarding the solicitation of business, advertising, and commercial promotional activities. No permit may be issued for commercial activities, including permits for recreational stops by commercial tour companies, at Kailua Beach Park and Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities. No permit may be issued for recreational stops by commercial tour companies at:

(A) Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park; and

(B) Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays, and on all State and federal holidays; provided that no more than five permits may be issued for recreational stops by commercial tour companies at Waimanalo Bay Beach Park, and such permits may only be issued to commercial tour companies for recreational stops by tour vans or vehicles that seat no more than 15 passengers; and

(12) Constructing, using, placing, occupying, or in any other manner situating any tent.

(b) *Director to adopt rules.* The director shall adopt rules pursuant to HRS Chapter 91, to govern the use of the areas and facilities that will:

(1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users;

(2) Ensure proper, orderly, and equitable use of areas and facilities through scheduling and user controls;

(3) Ensure protection and preservation of areas and facilities by not overtaxing facilities;

(4) Promote the health, safety, and welfare of the users of the areas and facilities;

(5) Establish procedures for obtaining permits and revocation thereof; and

(6) Recommend to the council fee schedules, based upon the cost of administration for each activity authorized under subsection (a)(11).

(c) *Conditions of permit.* Permits shall be issued pursuant to this article and to the rules adopted by the director, and they shall be subject to the conditions in this article and to any rules adopted by the director. Any violation of this article, or of any rules adopted by the director that implement the provisions, or of any conditions contained in this article, or of any rules adopted by the director that implement the conditions, or of the terms or conditions contained in the permit which violation is caused by the permittee, members of the permittee's group, officers, employees, or the permittee's agents shall constitute ground for revocation of the permit by the director of parks and recreation. Any permittee whose permit has been revoked by the director may appeal to the council pursuant to the rules authorized, and the appeal must be filed by the permittee within 30 days of the mailing of a notice of the revocation to the last known address of the permittee.

(Sec. 13-14.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.3) (Am. Ord. 96-58, 10-4, 12-2, 12-26, 12-28, 17-3)

Editor's note:

**Permits issued on or before February 9, 2017, allowing recreational stops by commercial tour companies to take place at Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Bellows Field Beach Park, Makapuu Beach Park, and Waimanalo Bay Beach Park, will continue to be valid until the permit expires.*

§ 10-1.4 Rules pertaining to street trees, hedges, and shrubs.

The director shall adopt rules pursuant to HRS Chapter 91, relative to the planting, trimming, and maintenance of all shade trees, hedges, and shrubs within the public right-of-way on public streets of the city, and relative to the issuance of permits for the replacement, removal, planting, spraying, trimming, or pruning of street trees by private citizens.
(Sec. 13-14.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.4)

§ 10-1.5 Public beaches.

(a) No person shall operate, park, or store or otherwise exert control over any unauthorized motor vehicle on any public beach with the exception of areas specifically designed to accommodate motor vehicles such as paved roads for boat launchings.

(b) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Motor Vehicle. Includes automobiles, trucks, dune buggies, motorcycles, mopeds, motor scooters, or any other vehicles that are mechanically propelled.

Public Beach. Includes all beach areas owned or controlled by city, State, or United States of America seaward of the highest wash of the waves as evidenced by the line of vegetation.

Unauthorized Motor Vehicle. Includes all motor vehicles, except vehicles of the United States Government, the State of Hawaii, the City and County of Honolulu, or contractors thereof, engaged in the care or maintenance of the beach area; any vehicles operated by water safety officers and other emergency and law enforcement vehicles, while carrying out their duties; and any vehicle with a valid permit issued by the department of parks and recreation for the purposes specified upon the permit.
(Sec. 13-14.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.5)

§ 10-1.6 Violation—Penalty.

(a) *Powers of arrest or citation.* Police officers and any other officer so authorized shall issue a citation for any violation of this article or of any rule adopted by the director to administer, implement, or enforce this article, except they may arrest for instances when:

(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 person's illegal activity after being issued a citation; and

(3) The alleged violator has previously been issued a citation for the same offense within a one-year period.

(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 for instances that do not mandate the 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 rules of the State of Hawaii and the City and County of Honolulu.

(2) In every case when a citation is issued, a copy of the same shall be given to the violator, or in the case of a parking, standing or stopping violation, a copy of the same shall be affixed to the vehicle as provided in paragraph (5).

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

(4) Whenever a motor vehicle is in violation of this article, other than a parking, standing, or stopping provision, any police officer and any other officer so authorized shall take the name, address, and driver's license number of the alleged violator and the license plate number or vehicle identification number of the motor vehicle involved, and shall issue to such alleged violator in writing a citation, notifying the alleged violator to answer to the complaint to be entered against such person at a place and at a time provided in the citation.

(5) Whenever any motor vehicle is parked, standing, or stopped in violation of this article, the police officer and any other officer so authorized finding such vehicle shall conspicuously affix to such vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name. The registered owner may be unnamed, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the charge against such registered owner at a time and place specified in the citation.

The registered owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

(A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or

(B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for violation of a parking, standing, or stopping provision of this article, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle shall constitute prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the vehicle.

(6) If a person cited for violating this article does not appear in response to a citation, a penal summons shall be issued ordering such person's appearance in court.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(d) *Penalty.*

(1) Except as otherwise provided in subdivision (2), any person convicted of a violation of this article will be punished by a fine of not more than $500 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(2) Any person who violates or causes a vehicle to violate the following sections will be fined not less than $25, but not more than $500:

(A) Section 10-1.2(a)(11);

(B) Section 10-1.2(b)(5);

(C) Section 10-1.2(g);

(D) Section 10-1.2(h);

(E) Section 10-1.2(i); or

(F) Section 10-1.5.

(Sec. 13-14.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 1, § 10-1.6) (Am. Ords. 90-77, 01-43, 17-3)

§ 10-1.7 Animals in public parks.

(a) Persons may bring animals into public parks as provided in this section in accordance with rules adopted by the director pursuant to HRS Chapter 91. Such rules may provide for the following:

(1) Pony rides may be allowed by permit in conjunction with a carnival or fair;

(2) Shows, classes and other events for cats, dogs, and other common domestic household pets may be allowed by permit;

(3) Persons having custody and control of dogs on a leash may use public parks or areas therein designated for dogs on a leash by the director in accordance with subsection (b); and

(4) Persons having custody and control of unleashed dogs may use an off-leash park designated by the director in accordance with subsection (b).

For purposes of this subsection, "common domestic household pets" includes animals such as domesticated mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals that are considered "livestock" as that term is defined in § 21-10.1.

(b) The director is authorized to designate areas in public parks for use by persons having custody and control of dogs on a leash and to designate public parks for use as off-leash parks for dogs. In designating parks as off-leash parks and in designating parks or areas therein for leashed dogs, 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 included in the designation. The director shall post signs that notify the public of such designation that describe or map the park or park areas so designated. Signs for areas for leashed and off-leash dogs shall further display the applicable requirements in subsection (c). Parks for off-leash dogs shall be appropriately fenced to contain the dogs.

(c) The director shall adopt rules pursuant to HRS Chapter 91 to hold persons bringing permitted animals into public parks responsible for the sanitary use of the park, the protection of shrubbery, trees, turf, and other property, and the safety, health, and welfare of all park users. The rules shall address the specific responsibilities associated with bringing a type of animal into a public park.

(1) Rules for persons bringing leashed dogs into designated parks or park areas shall include:

(A) Requiring the person having custody and control of the dog to restrain the dog at all times on a leash, cord, chain, or other similar means of physical restraint of not more than 8 feet in length;

(B) Requiring all dogs in the park or park areas designated for leashed dogs to display a valid license tag attached to the dog's collar;

(C) Requiring the person having custody and control of the dog to be 18 years of age or older;

(D) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog; and

(E) Allowing, notwithstanding § 10-1.2(a)(9), persons otherwise in compliance with this article and having custody and control of a dog otherwise in compliance with this subdivision to traverse a public beach park using the most direct route for the purpose of reaching the shoreline during either hours when the park is open or hours when it is closed.

(2) Rules for persons bringing dogs off-leash into designated off-leash parks shall include:

(A) Requiring the person having custody and control of the dog to maintain voice control over the dog at all times;

(B) Prohibiting female dogs in estrus from entering the off-leash park;

(C) Requiring all dogs to display a valid license tag attached to the dog's collar;

(D) Notifying any person entering an off-leash park that the person enters and remains in the park at the person's own risk and the city 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 off-leash park;

(E) Requiring the person having custody and control of the dog to be 18 years of age or older; and

(F) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog.

(1990 Code, Ch. 10, Art. 1, § 10-1.7) (Added by Ord. 01-43; Am. Ords. 03-29, 13-12)

ARTICLE 2: FEES AND CHARGES FOR USE OF PARKS AND RECREATIONAL FACILITIES

Sections

§ 10-2.1 Admission fees for the Honolulu Zoo.

(a) The following daily admission fees will be assessed for the Honolulu Zoo:

(1) Children two years of age and under: free. Children must be accompanied by a person 18 years of age or older;

(2) Resident of Hawaii, three to 12 years of age: $4 per person;

(3) Resident of Hawaii, 13 years of age and older: $8 per person; and

(4) Members of the Honolulu Zoological Society: free.

(b) The director of enterprise services may, by rules adopted in accordance with HRS Chapter 91, establish fees for admission to the Honolulu Zoo for the following:

(1) The United States Military;

(2) Nonresidents of Hawaii, three to 12 years of age; and

(3) Nonresidents of Hawaii, 13 years of age and older.

(c) The director of enterprise services may set rates for persons participating in structured educational tours, group purchases, and promotional packages and persons with promotional coupons. The director is also authorized

to allow entry of any person in the Honolulu Zoo as part of a promotional offer or package made available by the city.

(Sec. 27-3.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 2, § 10-2.1) (Am. Ords. 89-82, 90-33, 95-35, 05-022, 06-36, 09-19, 11-16, 17-23)

§ 10-2.2 Canoe storage facilities—Policy and special conditions.

(a) *Policy.* The council finds that Hawaiian outrigger canoe paddling is the official State team sport and, as such, the city recognizes, supports, and encourages the sport by permitting the storage of outrigger canoes at city parks. The council further finds that Olympic canoe and kayak paddling are Olympic sports and, as such, the city recognizes, supports, and encourages those sports by permitting the storage of Olympic canoes and kayaks at city parks.

(b) *Special conditions to be met when providing canoe storage facilities (halaus) at city parks.* The following special conditions shall apply to establishment of halaus at city parks:

(1) Halaus may be constructed only at park locations designated by the department of parks and recreation;

(2) If not constructed by the department of parks and recreation, the design of halaus shall be approved by the department;

(3) No more than 20,000 square feet or 10 percent, whichever is less, of any park shall be used for halaus, unless approved by the council, and halaus shall be situated so as not to impede public access and use of the park property;

(4) The department of parks and recreation shall establish policies to ensure that halaus shall be operated to provide equal opportunity for use by all canoe organizations wishing to store their canoes and kayaks; and

(5) The use of halaus shall be controlled and monitored by the department of parks and recreation.

(Sec. 27-4.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 2, § 10-2.5) (Am. Ord. 89-121)

§ 10-2.3 Outrigger canoes—Fees and charges for storage.

(a) The department of parks and recreation is authorized to issue permits and set fees and charges for the use of the halaus, including the setting of nominal fees to cover operating expenses.

(b) The director shall adopt rules pursuant to HRS Chapter 91, for the implementation, administration, and enforcement of this article.

(Sec. 27-4.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 2, § 10-2.6)

§ 10-2.4 Fees for attendant/custodian services.

Organizations using city recreational facilities outside of the facility's posted operational hours shall pay attendant/custodian service fees to the city of $20 per hour for a custodian or an attendant. For the purposes of this section, "posted operational hours" means the hours a recreational facility is open for use by the public as posted

on a sign or other notice conspicuously posted at the facility or on a city website. Fees collected pursuant to this subsection shall be deposited into a special fund, established by the mayor and approved by the council, or into a special account of the general fund for the use of the department of parks and recreation for expenses relating to park services. No fees shall be collected unless a special account or special fund is established.
(1990 Code, Ch. 10, Art. 2, § 10-2.7) (Added by Ord. 95-38; Am. Ords. 09-20, 12-9, 20-31)

§ 10-2.5 Fees for kitchen usage.

Organizations using kitchen facilities at city recreational facilities for their exclusive use or for fund-raising purposes shall be assessed a fee of $25 per day or fraction thereof to cover the utility and usage costs.

For the purposes of this section, a "day" means any 24-hour period of time that a recreational facility is open for use by an organization.
(1990 Code, Ch. 10, Art. 2, § 10-2.8) (Added by Ord. 95-38)

§ 10-2.6 Fees for processing, rental, and attendant/custodian services.

(a) Community and nonprofit organizations whose use of city recreational facilities requires an attendant or custodian, and who use such facilities for a fund-raising activity, either alone or as part of a recreational or cultural event, shall be assessed fees according to the number of people projected to attend the activity, as follows:

Number of Persons	*Permit Processing Fee*	*Rental*	*Attendant/Custodian Fee*
Fewer than 300	$15	$25	$20 per hour for custodian or attendant
300 through 500	$15	$50	$20 per hour for custodian or attendant
More than 500	$15	$100	$20 per hour for custodian or attendant

(b) Organizations referred to in subsection (a) who use kitchen facilities in city recreational facilities shall also be charged the fee provided in § 10-2.5. Organizations who are assessed an attendant or custodian fee under subsection (a) shall not also be assessed a fee under § 10-2.4.

(c) For the purposes of this section, "fund-raising activity" shall not include an activity where incidental services are provided by organizations to their members for a nominal fee, such as the serving of refreshments, where the fee is charged to recoup the cost of providing the refreshments or other incidental services.
(1990 Code, Ch. 10, Art. 2, § 10-2.9) (Added by Ord. 95-38; Am. Ords. 09-20, 20-31)

§ 10-2.7 Fees for community garden.

Individuals using plots at the city's community garden sites shall be assessed a nonrefundable fee of 10 cents per square foot per plot per year.
(1990 Code, Ch. 10, Art. 2, § 10-2.10) (Added by Ord. 95-35; Am. Ord. 96-41)

§ 10-2.8 Fees for Hanauma Bay Nature Preserve.

(a) The following fees apply for entrance to the Hanauma Bay Nature Preserve:

(1) For nonresidents of Hawaii, 13 years of age and older, to enter the lower preserve (beyond the scenic lookout): $12.00 per person.

(2) For vehicles entering the preserve, the following parking fees apply:

(A) For vehicles operated by residents of Hawaii: $1.00; and

(B) For vehicles operated by nonresidents of Hawaii: $3.00;

provided that the parking fees specified in this subdivision must be refunded for all vehicles departing from the preserve within 15 minutes of their entry.

(3) For licensed motor carriers entering the preserve, the following fees apply:

(A) For motor vehicles that can accommodate 1 to 7 passengers: $10.00;

(B) For motor vehicles that can accommodate 8 to 25 passengers: $20.00; and

(C) For motor vehicles that can accommodate 26 or more passengers: $40.00;

provided that the fees specified in this subdivision do not apply to a taxicab unless the vehicle may also be operated as a licensed motor carrier.

For the purposes of this subdivision, the following definitions apply unless the context clearly indicates or requires a different meaning.

Common Carrier by Motor Vehicle. Has the same meaning as defined in HRS § 271-4, as may be amended or superseded.

Contract Carrier by Motor Vehicle. Has the same meaning as defined in HRS § 271-4, as may be amended or superseded.

Licensed Motor Carrier. A motor carrier with a current certificate of public convenience and necessity or permit issued by the public utilities commission authorizing the transportation of persons.

Motor Carrier. Includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

Motor Vehicle. Has the meaning same as defined in HRS § 271-4, as may be amended or superseded.

Taxicab. Has the same meaning as defined in § 12-1.1(b).

(b) The director may waive the fees in subsection (a) and allow entry of any person to the Hanauma Bay Nature Preserve as part of an educational or promotional program or package made available or authorized by the city.

(c) Customers of a commercial scuba diving and snorkeling permittee and the permittee shall pay the fees in subsection (a), if applicable.

(d) Hawaiians entering the Hanauma Bay Nature Preserve to exercise their traditional and customary rights for subsistence, cultural, and religious purposes shall be exempt from paying the fees in subsections (a)(1) and (2), or both; provided that nothing in this subsection shall be construed as allowing activities that may be otherwise prohibited by the State law or the administrative rules of the State department of land and natural resources. For purposes of this section, "Hawaiian" has the same meaning as defined in HRS § 11-1.

(1990 Code, Ch. 10, Art. 2, § 10-2.11) (Added by Ord. 96-19; Am. Ord. 03-10, 09-20, 20-32)

§ 10-2.9 Fees for use and rental of facilities at Waipio Peninsula Soccer Park, Central Oahu Regional Park Facilities, Hans L'Orange baseball facility, recreational fields, gymnasiums, and other facilities.

(a) The director is authorized to issue a permit and charge a fee for the use and rental of the facilities at Waipio Peninsula Soccer Park, Central Oahu Regional Park, Hans L'Orange baseball facility, recreational fields, gymnasiums, and other recreational facilities to help cover operating and maintenance expenses. The department may require a custodial deposit to serve as security for the cleaning, repairing, and restoration of any damage resulting from the use of the field, gymnasium, or facility. Before establishing the fees, the director shall notify all duly constituted park advisory organizations concerning the proposed fees.

(b) Permittees may charge a reasonable admission fee to any person desiring to attend special events at Waipio Peninsula Soccer Park, Central Oahu Regional Park, Hans L'Orange baseball facility, recreational fields, gymnasiums, or other recreational facility; provided however, that the permittee may not exclude members of the public from entering or remaining on portions of the park or facility that are not subject to the permit.

For the purposes of this subsection, the following definitions apply unless the context clearly indicates or requires a different meaning.

Permittee. The promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purpose of conducting a special event at Waipio Peninsula Soccer Park, Central Oahu Regional Park, Hans L'Orange baseball facility, recreational fields, gymnasiums, or other recreational facility.

Special events. Include but are not limited to:

(1) Athletic practices and events involving:

(A) Professional teams;

(B) Collegiate teams;

(C) National amateur teams;

(D) For-profit organizations; and

(E) Teams and organizations using the facilities for tournament play;

(2) International, national, or regional events; and

(3) Entertainment events.

(c) The director shall adopt rules pursuant to HRS Chapter 91, having the force and effect of law, for the implementation, administration, and enforcement of this section, including procedures and criteria for the waiver of permit fees.

(1990 Code, Ch. 10, Art. 2, § 10-2.12) (Added by Ord. 03-07; Am. Ords. 11-19, 14-24)

§ 10-2.10 Fees for camping.

The following fees shall be assessed for use of campsites:

(1) $10 per day for campsites holding up to 10 people;

(2) $75 per day for campsites holding up to 60 people;

(3) $125 per day for campsites holding up to 100 people;

(4) $187.50 per day for campsites holding up to 150 people; and

(5) $312.50 per day for campsites holding up to 250 people.

Proceeds from the fees assessed under this section shall be deposited in the camping revenue account in the general fund and shall be used to improve and maintain city campsites.

An additional fee of $2 per permit issued shall be assessed to pay for the administrative costs associated with the issuance of the permit. The moneys from this fee shall be deposited in the general fund. A permit shall be valid for one or more consecutive days.

(1990 Code, Ch. 10, Art. 2, § 10-2.13) (Added by Ord. 11-20; Am. Ord. 14-12)

§ 10-2.11 Fees for permits for recreational stops at Waimanalo Bay Beach Park.

Permits for recreational stops issued pursuant to § 10-1.3(a)(11)(B) are subject to a monthly fee of $165 per tour van or vehicle.

(Added by Ord. 18-4)

ARTICLE 3: FEES FOR USE OF PARKS AND RECREATIONAL FACILITIES FOR COMMERCIAL ACTIVITIES

Sections

§ 10-3.1 Commercial scuba diving and snorkeling.

Scuba diving and snorkeling activity:

(a) Annual permit: $900;

(b) Monthly permit: $75; and

(c) Daily permit: $10.

(Sec. 27-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 3, § 10-3.1)

§ 10-3.2 Commercial filming activities.

(a) The fee charged for a commercial filming activity permit shall be as follows:

Activity	*Daily Permit*	*Monthly Permit*	*Annual Permit*
(1) Movie or television for (i) nonlocal network and cable television or major motion picture studios, or both; or (ii) national advertising	$300	No monthly permit	No annual permit
(2) Movie or television for (i) nonprofit organizations as defined in § 13-1.1; (ii) local television and local advertising; (iii) public service, educational, or school productions; or (iv) other movie and television productions not described in subdivision (1)	$20	No monthly permit	No annual permit
(3) Still photos/special event videography	$20	$100	$1,000

Provided that the mayor or a city officer or employee designated by the mayor may reduce any daily permit fee if deemed necessary by the mayor or designee to assist the proposed filming activity and it is deemed by the mayor or designee that such activity will feature or promote any one or more of the following: the State of Hawaii, the island of Oahu, or the City and County of Honolulu. Such promotions may be through the production directly or via indirect promotions related to the production.

"Special event videography" means the production of motion pictures or videos for private noncommercial use, including motion pictures or videos of weddings, graduations, or similar events to be used as family mementos.

(b) The mayor or a city officer or employee designated by the mayor shall determine which fee applies to a particular commercial filming activity permit.

(c) Commercial filming activities at Kailua Beach Park and Kalama Beach Park may take place from 1:00 p.m. on Saturdays through 6:30 a.m. on Mondays; provided that all permit requirements are satisfied.

(Sec. 27-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 3, § 10-3.2) (Am. Ords. 05-021, 05-039, 12-2)

ARTICLE 4: FEES FOR USE OF MUNICIPAL GOLF COURSES

Sections

§ 10-4.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. The City and County of Honolulu.

Junior. Any person 17 years of age or under and attending a recognized educational institution.

Person Totally Disabled. Any person as defined in and certified according to HRS § 235-1.

Qualifying Documents. Documents as defined in rules adopted by the department of enterprise services governing golf course fees.

Senior. Any person 65 years of age or older.

Twilight Hours. The hours after 3:00 p.m. until sunset or darker during the months October through April, and the hours after 4:00 p.m. until sunset or darker during the months May through September.
(Sec. 27-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 4, § 10-4.1) (Am. Ords. 92-76, 93-60, 96-58, 99-62)

§ 10-4.2 Green fees.

The following green fees shall be assessed per round of golf for use of the golf course facilities operated by the city:

Golf Course	*When Played and Effective Date of Fee*	*Person w/Golf Identif. Card*	*Senior or Person Totally Disabled w/Golf Identif. Card*	*Junior w/Golf Identif. Card*	*Person w/o Golf Identif. Card*
All Except Kahuku	**18-hole round**				
	Weekend or holiday				
	July 1, 2020	$28	$28	$0	$86
	July 1, 2021	$30	$30	$0	$86
	July 1, 2022	$32	$32	$0	$86
	Weekday				
	July 1, 2020	$24	$19	$0	$86
	July 1, 2021	$26	$21	$0	$86
	July 1, 2022	$28	$23	$0	$86
	Monthly rate (weekdays only)				
	July 1, 2020	None	$95[1]	None	None
	Twilight or 9-hole round				
	Weekend or holiday				
	July 1, 2020	$14	$14	$0	$43
	July 1, 2021	$15	$15	$0	$43
	July 1, 2022	$16	$16	$0	$43
	Weekday				
	July 1, 2020	$12	$9.50	$0	$43
	July 1, 2021	$13	$10.50	$0	$43
	July 1, 2022	$14	$11.50	$0	$43
Kahuku	**18-hole round**				
	Weekend or holiday				
	July 1, 2020	$22	$20	$0	$60

Golf Course	*When Played and Effective Date of Fee*	*Person w/Golf Identif. Card*	*Senior or Person Totally Disabled w/Golf Identif. Card*	*Junior w/Golf Identif. Card*	*Person w/o Golf Identif. Card*
	July 1, 2021	$24	$22	$0	$60
	July 1, 2022	$26	$24	$0	$60
	Weekday				
	July 1, 2020	$20	$16	$0	$60
	July 1, 2021	$22	$18	$0	$60
	July 1, 2022	$24	$20	$0	$60
	Monthly rate (weekdays only)				
	July 1, 2020	None	$95[1]	None	None
	Twilight or 9-hole round				
	Weekend or holiday				
	July 1, 2020	$11	$10	$0	$30
	July 1, 2021	$12	$11	$0	$30
	July 1, 2022	$13	$12	$0	$30
	Weekday				
	July 1, 2020	$10	$8	$0	$30
	July 1, 2021	$11	$9	$0	$30
	July 1, 2022	$12	$10	$0	$30

[1] Ten-round limit per person per month; may not be used for tournament play.

(Sec. 27-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 10, Art. 4, § 10-4.2) (Am. Ords. 89-81, 92-76, 93-60, 95-37, 99-62, 09-18, 11-14, 17-29, 18-16, 20-17)

§ 10-4.3 Golf cart rental.

The following rates for the rental of golf carts at city golf courses shall be charged by the department of enterprise services.

(a) *Motorized carts.*

Holes Played	When Effective	Amount
18	July 1, 2018	$22
	July 1, 2019	$24
	July 1, 2020	$26
9	July 1, 2018	$11
	July 1, 2019	$12
	July 1, 2020	$13

(b) *Hand carts.* $4 for nine or 18 holes.
(Sec. 27-1.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 4, § 10-4.3) (Am. Ords. 88-122, 89-81, 93-60, 95-37, 99-62, 09-18, 18-16)

§ 10-4.4 Locker rental.

The fee for the rental of a locker at the municipal golf courses shall be $7 per month.
(Sec. 27-1.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 4, § 10-4.4) (Am. Ords. 89-81, 99-62)

§ 10-4.5 Rental—Golf set (clubs and bag).

The fee for the rental of a golf set (clubs and bag) at the Kahuku golf course shall be $12 per set for nine or 18 holes.
(Sec. 27-1.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 10, Art. 4, § 10-4.5) (Am. Ords. 95-37, 99-62)

§ 10-4.6 Junior golf tournament fees.

Notwithstanding the green fees established for the foregoing courses, fees for golf tournaments conducted on any of the foregoing golf courses sponsored by a bona fide junior golf association shall be $3 per round for junior golfers 17 years old and younger.
(1990 Code, Ch. 10, Art. 4, § 10-4.6) (Added by Ord. 93-60; Am. Ord. 99-62)

§ 10-4.7 Golf tournament fees—Collection.

(a) Regular tournaments: $7 per golfer.

(b) Tournaments with a shotgun start: $12 per golfer.

(c) The fee shall be collected at least two weeks before the scheduled date and shall be nonrefundable should a cancellation occur due to fault of the requesting agency. If a cancellation occurs due to inclement weather or actions on the part of the city, the fee will be refunded in accordance with current city procedures.

(d) Once the tournament fee has been collected, the number of golfers participating in the tournament cannot be changed.

(1990 Code, Ch. 10, Art. 4, § 10-4.7) (Added by Ord. 93-60; Am. Ord. 99-62)

§ 10-4.8 Golf identification card.

(a) To qualify for the rates expressly provided in § 10-4.2 for persons with golf identification cards each person must present the person's golf identification card at the time of payment of golf fees.

(b) Verification of Hawaii residency, age, and identity through provision of appropriate documents shall be required in order for a person to qualify for a golf identification card.

(c) A $5 fee shall be assessed for replacement of a golf identification card.

(1990 Code, Ch. 10, Art. 4, § 10-4.9) (Added by Ord. 99-62)

§ 10-4.9 Surcharge for use of qualifying documents.

Persons who present a qualifying document at the time of payment of golf fees instead of a golf identification card shall be charged green fees applicable to persons with golf identification cards in § 10-4.2 plus a $4 surcharge.

(1990 Code, Ch. 10, Art. 4, § 10-4.10) (Added by Ord. 99-62)

§ 10-4.10 Penalty for misuse of golf identification card or qualifying documents.

A golf identification card or qualifying document shall, when used for purposes of this article, only be used by the person to whom the card or document was issued. Any person convicted of a violation of this section shall be subject to a fine of $100 for the first offense and $200 for each subsequent offense occurring within 12 months of the first offense.

(1990 Code, Ch. 10, Art. 4, § 10-4.11) (Added by Ord. 99-62)

ARTICLE 5: COMMERCIAL WINDSURFING

Sections

§ 10-5.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Commercial Windsurfing Permittee. Those persons or business organizations who have a valid permit from the department of parks and recreation to conduct land-based commercial windsurfing activities at Kailua Beach park.

Holidays. Has the same meaning as defined in HRS § 8-1.

Kailua Beach Park. The area that includes the parcels with the following tax map key numbers: 4-3-09, 4-3-10, and 4-3-11, and which are owned or controlled by the city department of parks and recreation.

Land-Based Commercial Windsurfing Activities. Activities conducted in the course of a commercial windsurfing business and includes setting up or breaking down windsurfing equipment, conducting simulated windsurfing instruction and training on land, and storing or laying windsurfing equipment on the ground.
(1990 Code, Ch. 10, Art. 5, § 10-5.1) (Added by Ord. 89-69)

§ 10-5.2 Regulation of land-based commercial windsurfing activities.

The following conditions shall govern commercial windsurfing activities on the grounds of Kailua Beach park.

(1) Commercial windsurfing permittees shall not conduct land-based commercial windsurfing activities in Kailua Beach park on all holidays and during the hours from 1:00 p.m. on Saturdays to sunrise on Mondays.

(2) Commercial windsurfing permittees shall be prohibited from conducting land-based commercial windsurfing activities within Kailua Beach park except in the area within the park as shown in Figure 10-5.1. The area is described as follows:

Starting from Point A which is the makai/Kaneohe corner of parcel 4-3-11-21, extending approximately 100 feet in the Kailua direction along the chain link fence bordering the makai boundary of the parcel to Point B, then from Point B extending approximately 150 feet in the makai direction to Point C on Liliwai Road, then extending approximately 125 feet in the Kaneohe direction along Liliwai Road to Point D, then from Point D returning a distance of approximately 90 feet in the mauka direction to Point A.

The department of parks and recreation shall mark the boundaries of this area.
(1990 Code, Ch. 10, Art. 5, § 10-5.2) (Added by Ord. 89-69)

§ 10-5.3 Enforcement.

(a) Police officers shall issue a citation for any violation under this article, except that they may arrest any person for a violation under this article when any of the conditions specified in § 10-1.6(a) exist. When a citation is issued, the citation shall be in the form and issued in the manner specified in § 10-1.6(b).

(b) Any commercial windsurfing permittee cited for violating this article shall be fined $25 for the first offense, $50 for the second offense, and $100 for the third offense within one calendar year. In addition to the fine for the third offense committed within a year, a commercial windsurfing permittee shall have the permittee's permit revoked by the department of parks and recreation. Upon revocation of the permit, such commercial windsurfing permittee shall not be eligible for another permit until the expiration of one year from the date the permit was revoked.
(1990 Code, Ch. 10, Art. 5, § 10-5.3) (Added by Ord. 89-69)

§ 10-5.4 Fees for land-based commercial windsurfing activities.

(a) The following fees shall apply to windsurfing activity permits:

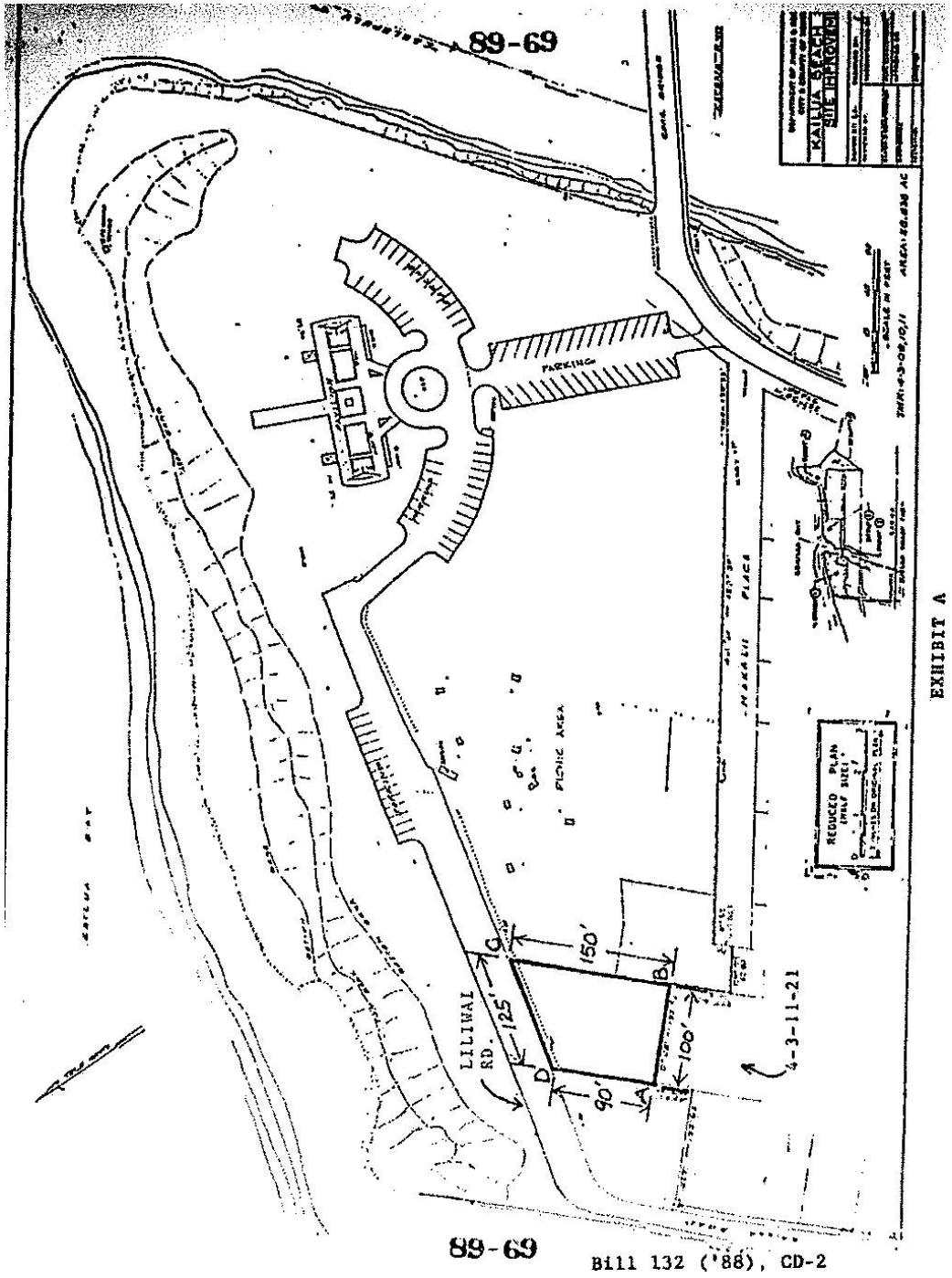
(1) $10 for daily permits;

(2) $75 for monthly permits; and

(3) $900 for annual permits.

(b) The director is authorized to adopt rules to allow for the rebate of the unused portion of an annual permit fee, on a pro rata basis, should a commercial windsurfing permittee voluntarily relinquish the permittee's permit.
(1990 Code, Ch. 10, Art. 5, § 10-5.4) (Added by Ord. 89-69)

Figure 10-5.1


89-69
KAILUA BEACH
SITE DEMONSTRATION
PARKING
PICNIC AREA
LILIHAI RD.
150'
125'
100'
90'
4-3-11-21
EXHIBIT A
89-69
Bill 132 ('88), CD-2

ARTICLE 6: CULTURAL SITES IN PUBLIC PARKS

Sections

§ 10-6.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Cultural Site. Any building, structure, object, area, or site that, because of its association with cultural practices or beliefs of a living community, is rooted in the community's history or important in maintaining the continuing cultural identity of the community; provided that the cultural site is also included in a city development plan or recommended by a neighborhood board.

Department. The department of parks and recreation.

Director. The director of parks and recreation.

Person. A human being, a corporation, an unincorporated association, or other entity.
(1990 Code, Ch. 10, Art. 6, § 10-6.1) (Added by Ord. 16-5)

§ 10-6.2 Cultural sites in Public Parks Program.

(a) The director may establish a program for the designation of cultural sites located in public parks. Any interested person may recommend the designation of a cultural site to the director for approval.

(b) The recommendation to the director by an interested person pursuant to subsection (a) must include the following:

(1) The name and address of the public park where the proposed cultural site is located;

(2) A description of the approximate location where the proposed cultural site will be located within the public park;

(3) A name and brief physical description of the proposed cultural site;

(4) A brief description of the cultural impact of the site on the city or surrounding communities; and

(5) Detailed information, such as the size, shape, types of materials to be used, any maintenance costs, and the total cost, including the labor required, of installing the marker at the designated cultural site.

(c) Upon the approval of the designation by the director, the department shall erect, install, or place a marker, in accordance with subsection (b)(5), informing the public of the designated cultural site; provided that the interested person making the recommendation, pursuant to subsection (a), agrees to reimburse the department for all costs related to the installation and maintenance of the marker and the marker itself, as determined by the director.

(1990 Code, Ch. 10, Art. 6, § 10-6.2) (Added by Ord. 16-5)

ARTICLE 7: POLICY ON FEES FOR ORGANIZED RECREATIONAL PROGRAMS

Section

§ 10-7.1 Findings and policy.

(a) *Findings.* The council finds with respect to fees charged to participants in various organized recreational programs sponsored by the department of parks and recreation that there is a lack of strategic planning by the department that addresses program offerings and fees systematically. To provide the optimum level of service to the public, there is a need for the director to implement a systematic, comprehensive planning approach to establishing fees for organized recreational programs.

(b) *Policy.* It is declared to be the policy of the city that the director, pursuant to the powers, duties, and functions vested by the charter, conduct an ongoing comprehensive strategic evaluation of the department's programs, facilities, and fees, which evaluation shall include but not be limited to:

(1) Surveys of the public to determine specific recreational satisfaction levels, expectations, and needs;

(2) Assessments of recreational programs offered by the private sector, the costs to participants and availability of such programs throughout the city, and a comparative analysis with city programs to align city program offerings in such a manner as to avoid duplication of private sector programs and to respond to the demand for city-organized recreational programs where private sector programs cannot meet service demands in particular areas;

(3) Evaluation and monitoring of fee policies that correlate with rational recreational standards and priorities; and

(4) Identifying and assessing cost-effective methods to maximize the efficiency of city-organized recreational program promotional efforts.

(1990 Code, Ch. 10, Art. 7, § 10-7.1) (Added by Ord. 94-68)

ARTICLE 8: SUMMER FUN ACTIVITIES

Sections

§ 10-8.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Child. Any person between the ages of five and 15 years.

Department. The department of parks and recreation.

Director. The director of parks and recreation.

Enrichment Program. A program of courses and activities for children, other than those of the summer fun program, offered by the department in the summer months or when the public schools are not in session.

Federal Financial Assistance Program. The federal food stamp program, the aid to families with dependent children (AFDC) program or any federally-funded program to assist low-income households or families as determined by the federal government.

Summer Fun Program. A program of recreational activities for children that include arts and crafts, music and dance, excursions, games, or other activities offered by the department during the summer months or when the public schools are not in session.
(1990 Code, Ch. 10, Art. 8, § 10-8.1) (Added by Ord. 95-44)

§ 10-8.2 Fees for participation in summer fun program.

The department shall charge a fee of $25 for each child who participates in a summer fun program. The director may assess a fee, established by rule, for a child who is registered as a participant in an enrichment program but not in a summer fun program.
(1990 Code, Ch. 10, Art. 8, § 10-8.2) (Added by Ord. 95-44)

§ 10-8.3 Waiver.

The director may, by rule adopted pursuant to § 10-8.4, establish procedures and criteria for the waiver of the fees provided in § 10-8.2, upon proof at the time of registration that the child to be participating in the summer fun or enrichment program is from a low-income household or family. Until the rules relating to waivers have been adopted, the director may waive the fees upon proof at the time of a child's registration that the child to be participating in the summer fun or enrichment program is from a family or household receiving financial assistance under a federal financial assistance program as verified by the parent or legal guardian of the child or by the State department of human services.
(1990 Code, Ch. 10, Art. 8, § 10-8.3) (Added by Ord. 95-44)

§ 10-8.4 Rules.

The director is authorized to adopt rules, pursuant to HRS Chapter 91, to effectuate the purposes of this article.
(1990 Code, Ch. 10, Art. 8, § 10-8.4) (Added by Ord. 95-44)

ARTICLE 9: PROFESSIONAL SPORTS ACTIVITY AT HANS L'ORANGE BASEBALL FACILITY

Sections

§ 10-9.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Admission Fee. A fee, charge, or assessment levied by the permittee for the privilege of observing a professional sports activity from the bleachers or other permanently constructed seating within Hans L'Orange baseball facility.

Hans L'Orange Baseball Facility. The playing field, bleachers, stands, and other areas of the facility enclosed by a fence.

Permittee. The promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purposes of conducting a professional sports activity at Hans L'Orange baseball facility for which admission fees are charged.

Professional Sports Activity. A game, event, exhibition, or activity of a recognized sport, the participants in which receive compensation in return for their participation in the sport.
(1990 Code, Ch. 10, Art. 9, § 10-9.1) (Added by Ord. 95-51)

§ 10-9.2 Regulation of professional sports activity at Hans L'Orange baseball facility.

The following conditions shall govern professional sports activities at the Hans L'Orange baseball facility.

(a) Permittees may charge a reasonable admission fee to any person desiring to enter Hans L'Orange baseball facility for the purpose of observing the professional sports activity from the bleachers or other permanently constructed seating.

(b) Permits for professional sports activities at Hans L'Orange baseball facility shall have a maximum duration of six hours.

(c) The department of parks and recreation may, for a period of one year after August 11, 1995*, waive the permit fees established in § 10-9.3 to offset the actual fair market value of any permanently installed improvements

made to the facility by the permittee. Any improvements proposed to be made by the permittee shall be approved by the department of parks and recreation before construction or installation and shall be actually constructed or installed and duly accepted by the council in order for the waiver to be applicable. The fair market value of any improvements made shall be determined by the director of budget and fiscal services.

(d) The issuance of a permit to conduct professional sports activities at Hans L'Orange baseball facility shall not include the right to engage in any other commercial activity or concession in or on parks, facilities, or other areas controlled by the department of parks and recreation, except by lease, rental, or concession, as provided for in Chapter 38.

(1990 Code, Ch. 10, Art. 9, § 10-9.2) (Added by Ord. 95-51)

Editor's note:

** "August 11, 1995" is substituted for "the effective date of this ordinance."*

§ 10-9.3 Fee for professional sports activity at Hans L'Orange baseball facility.

The fee for a permit to conduct professional sports activities at Hans L'Orange baseball facility shall be:

Daily permit	$100

(1990 Code, Ch. 10, Art. 9, § 10-9.3) (Added by Ord. 95-51)

§ 10-9.4 Indemnification and hold harmless.

The permittee shall hold the city harmless with respect to, and indemnify the city against, all liability, loss, damage, cost, and expense, including attorney fees, arising out of or resulting from the acts or omissions of the permittee, or the permittee's employees, officers, agents, or subcontractors with respect to any professional sports activity conducted or any improvement constructed or installed at the Hans L'Orange baseball facility.

(1990 Code, Ch. 10, Art. 9, § 10-9.4) (Added by Ord. 95-51)

ARTICLE 10: RENTAL OF SURFBOARD LOCKERS ON KUHIO BEACH

Sections

§ 10-10.1 Purpose.

The purpose of this article is to establish the rental of surfboard lockers on Kuhio Beach under the jurisdiction of the department of enterprise services and to authorize that department to adopt rules pursuant to law for the proper rental, management, maintenance, and safety of those lockers consistent with the remainder of this article. (1990 Code, Ch. 10, Art. 10, § 10-10.1) (Added by Ord. 06-47)

§ 10-10.2 Surfboard locker fees and charges for storage.

(a) The department of enterprise services is authorized to set reasonable fees for the use of surfboard lockers on Kuhio Beach.

(b) The director of enterprise services shall adopt rules pursuant to HRS Chapter 91, for the implementation, administration, and enforcement of this article.

(1990 Code, Ch. 10, Art. 10, § 10-10.2) (Added by Ord. 06-47)

§ 10-10.3 Management of the surfboard lockers.

The department of enterprise services is authorized to establish a concession or management agreement, or append this function to an existing concession or management agreement for administrative purposes.
(1990 Code, Ch. 10, Art. 10, § 10-10.3) (Added by Ord. 06-47)

ARTICLE 11: RESERVED

ARTICLE 12: AFTER-SCHOOL PROGRAMS

Sections

§ 10-12.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

After-School Program. A program of activities for children, including but not limited to child care, held at public school and public park facilities by the city after regular school hours.

Department. The department of parks and recreation.
(1990 Code, Ch. 10, Art. 12, § 10-12.1) (Added by Ord. 09-27)

§ 10-12.2 Fees for participation in after-school programs.

The department may charge a fee set by administrative rules for each child who is registered as a participant in an after-school program. The department shall adopt rules pursuant to HRS Chapter 91 to establish the fee, and for the administration and implementation of this article. Proceeds from the fee assessed under this section shall be used to defray the cost of running after-school programs.
(1990 Code, Ch. 10, Art. 12, § 10-12.2) (Added by Ord. 09-27)

CHAPTER 11: CHILD CARE

Articles

ARTICLE 1: CHILD CARE

Sections

§ 11-1.1 Policy.

It is the policy of the city to:

(1) Acknowledge the importance of affordable and accessible quality child care on the individual, the family, the workplace, and the community;

(2) Take a positive and active role in the development and promotion of cooperative relationships among parents, employers, child care professionals, employee organizations, businesses, educators, community leaders, and government officials aimed at increasing the availability of accessible and affordable quality child care to working families in the city;

(3) Become a model employer in the delivery of child care services to its employees;

(4) Integrate the child care needs of citizens into the city's land use planning process;

(5) Institute procedures to expedite the necessary approvals and permits required for the construction of child care facilities and for projects that include the construction of child care facilities;

(6) Make vacant or underused city properties available to qualified child care providers;

(7) Ensure that appropriate city personnel possess the requisite understanding of and familiarity with applicable legal, regulatory, and procedural requirements for quality child care programs;

(8) Use the available resources of federal, State, and private agencies to enhance the availability of affordable quality child care on Oahu;

(9) Support federal and State legislation that is consistent with the intent of this section;

(10) Encourage all employers on Oahu to address the issue of child care in their employee policies;

(11) Encourage all city vendors to adopt a stated child care policy. To the extent permitted by law, the city shall give vendors with such policies preference in contracting with the city;

(12) Support efforts to offer a child care benefit option in any cafeteria plan, within the meaning of § 125, Internal Revenue Code of 1986, as amended, for city employees; and

(13) Review the activities of the city in promoting the expansion of child care services in every annual report of the city published by the mayor pursuant to the charter.

(1990 Code, Ch. 11, Art. 1, § 11-1.1) (Added by Ord. 89-64)

§ 11-1.2 Child care coordinator.

There is established in the department of community services, for administrative purposes only, without regard to HRS Chapter 76, a child care coordinator, whose duties shall be to help implement the policies contained in § 11-1.1, bring focus and coordination to the city's activities relating to child care, and provide a wide range of assistance to public and private entities interested in expanding child care services on Oahu.

(1990 Code, Ch. 11, Art. 1, § 11-1.2) (Added by Ord. 89-64; Am. Ords. 96-58, 97-17, 14-24)

§ 11-1.3 Child care advisory board.

(a) There is established within the department of community services, for administrative purposes only, a child care advisory board, the purpose of which shall be to advise the child care coordinator established in § 11-1.2 on means to encourage the private sector to become partners with the city in expanding child care services, and on means to increase the public's awareness of child care issues. The board shall also serve as a forum for the various sectors of the community to address child care needs and consider appropriate actions for public and private implementation. The board may hold public hearings to seek advice and information from the public in furtherance of its duties.

(b) The board shall consist of nine members. Four members shall be appointed by the mayor. Four members shall be appointed by the presiding officer of the council, subject to the approval of the council. The ninth member shall be appointed by the mayor and confirmed by the council. Except as provided otherwise in this section, the board shall be governed by Charter § 13-103.

(1990 Code, Ch. 11, Art. 1, § 11-1.3) (Added by Ord. 89-64; Am. Ords. 96-58, 97-17, 14-24)

§ 11-1.4 Terms of agreement—Child care.

Every contract to lease or rent property of the city for multifamily housing shall provide in the lease agreement that child care is a permitted use on such property as long as such use is in accordance with uses permitted in the LUO, Chapter 21, and the persons comply with the licensing and registration requirements for child care facilities in HRS Chapter 346.

(1990 Code, Ch. 11, Art. 1, § 11-1.4) (Added by Ord. 91-06)

CHAPTER 12: ANIMALS AND FOWLS

Articles

ARTICLE 1: COCKFIGHTING AND RELATED EQUIPMENT

Sections

§ 12-1.1 Prohibited.

It is unlawful for any person to engage or participate in any cockfighting exhibition.
(Sec. 13-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 1, § 7-1.1) (Am. Ord. 01-58)

§ 12-1.2 Gaffs or slashers prohibited.

It is unlawful for any person to manufacture, buy, sell, barter, exchange, or have in such person's possession any of the implements commonly known as gaffs or slashers, or any other sharp instrument designed to be attached in place of or to the natural spur of a gamecock or other fighting fowl.
(Sec. 13-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 1, § 7-1.2)

§ 12-1.3 Violation—Penalty.

Any person violating this article shall be punished by a fine of not less than $250 and not exceeding $1,000 or by imprisonment not exceeding 30 days, or by both.
(Sec. 13-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 1, § 7-1.3) (Am. Ord. 01-58)

ARTICLE 2: ANIMAL NUISANCES

Sections

§ 12-2.1 Purpose.

The purpose of this article is to establish an owner's responsibility for the keeping of animals, farm animals, or poultry on a noncommercial basis and in a manner that will not endanger or unreasonably interfere with the public health, welfare, safety, peace, or comfortable enjoyment of life and property.
(1990 Code, Ch. 7, Art. 2, § 7-2.1) (Added by Ord. 90-55)

§ 12-2.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal Control Contractor. The duly incorporated humane society or organization formed for the prevention of cruelty to animals that is contracted by the city to perform animal control services.

Animal Nuisance. For the purposes of this article, includes but is not limited to any animal, farm animal, or poultry that:

(1) Makes noise continuously or incessantly, or both, for a period of 10 minutes or intermittently for one-half hour or more to the disturbance of any person at any time of day or night and regardless of whether the animal, farm animal, or poultry is physically situated in or upon private property;

(2) Barks, whines, howls, crows, cries, or makes any other unreasonable noise as described in § 12-2.4(c) of this article; or

(3) Notwithstanding the provisions of HRS § 142-75 or any other applicable law, bites or stings a person.

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 that are maintained on the premises of a dwelling unit and kept by the resident of the dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property; excluding aviary game birds and fish as defined in the Hawaii Revised Statutes.

Enclosure. Any kennel, coop, cage, hutch, hive, or other structure used to care for, breed, house, or keep animals, farm animals, or poultry.

Farm Animals. Pigs, cows, goats, sheep, horses, camels, and llamas.

Owner. Any person owning, harboring, or keeping animals, farm animals, or poultry, or having custody thereof, whether temporary or permanent.

Person. Includes corporations, estates, associations, partnerships, and trusts, as well as one or more individual human beings.

Poultry. Chickens, pigeons, turkeys, geese, ducks, and peafowl not regulated by State law.

Zoning Lot and ***Lot Area.*** Have the same meaning as defined in Chapter 21.
(1990 Code, Ch. 7, Art. 2, § 7-2.2) (Added by Ord. 90-55; Am. Ords. 00-73, 04-42, 20-1)

§ 12-2.3 Animal nuisance—Prohibited.

It is unlawful to be the owner of an animal, farm animal or poultry engaged in animal nuisance as defined in § 12-2.2; provided that it shall not be an animal nuisance for purposes of this article if, when the animal, farm animal, or poultry is making any noise, biting, or stinging, a person is trespassing or threatening trespass upon private property in or upon which the animal, farm animal, or poultry is situated, or for any other legitimate cause which teased or provoked the animal, farm animal, or poultry.
(1990 Code, Ch. 7, Art. 2, § 7-2.3) (Added by Ord. 90-55)

§ 12-2.4 General requirements.

(a) Nothing in this article applies to animals, farm animals, or poultry raised, bred, or kept as a commercial enterprise or for food purposes where commercial kennels or the keeping of livestock is a permitted use.

(b) Enclosures for animals, farm animals, and poultry shall meet all applicable zoning and building code requirements for structures; shall not be located within any required front, side, or rear yard setback; and shall meet all other applicable sanitation requirements.

(c) Noise is unreasonable within the meaning of this article if considering the nature and the circumstances surrounding the animal nuisance, including the nature of the location and the time of the day or night, it

interferes with reasonable individual or group activities such as but not limited to communication, work, rest, recreation, or sleep; or the failure to heed the admonition of a police officer or a special officer of the animal control contractor that the noise is unreasonable and should be stopped or reduced.

(1990 Code, Ch. 7, Art. 2, § 7-2.4) (Added by Ord. 90-55; Am. Ords. 00-73, 02-54)

§ 12-2.5 Special requirements.

(a) *Farm animals.* Enclosures for farm animals shall not be located within 300 feet of any property line.

(b) *Honeybees.* There shall be no more than eight honeybee hives per zoning lot and the keeping of honeybees shall be in accordance with the following:

(1) Colonies shall be maintained in movable frame hives, constructed to meet the specifications for "beehives" set by the American Beekeepers Federation;

(2) Hives shall be properly shaded from adjacent night lighting on adjoining properties; and

(3) Hives shall not be located within 25 feet of any property line, public street, sidewalk, or alley, except:

(A) When situated behind a solid fence or hedge at least 6 feet in height, parallel to the property line, and extending at least 15 feet beyond the hive in both directions; or

(B) When located at least 8 feet or more above adjacent ground level.

(c) *Dogs.* The number, four months of age or older, shall not exceed 10 per household.

(d) *Chickens and peafowl.* The number of chickens or peafowl shall not exceed two per household.

(1990 Code, Ch. 7, Art. 2, § 7-2.5) (Added by Ord. 90-55; Am. Ord. 04-42)

§ 12-2.6 Complaint forms for private citizens.

The animal control contractor, in consultation with the Honolulu police department, shall develop a complaint form with respect to the keeping of animals, farm animals, or poultry. The form may be obtained by private citizens from the animal control contractor or the department of customer services.

(1990 Code, Ch. 7, Art. 2, § 7-2.6) (Added by Ord. 90-55; Am. Ord. 00-73)

§ 12-2.7 Summons or citation.

Any authorized police officer, or any officer of the animal control contractor who has been deputized by the chief of police as a special officer for the purpose of enforcing this article, may issue a summons or citation to an alleged violator of this article. Procedures with respect to the design, form, content, numbering, and disposition of copies of the summons or citation shall be in all respects the same as those specified in § 12-4.6, relating to summonses in connection with stray dogs. The summons or citation shall instruct such person to report to the violations bureau of the respective district courts of the City and County of Honolulu. Each such 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 out for such person to appear before the district court. Upon failure to appear upon such date, the bail bond shall be deemed forfeited.
(1990 Code, Ch. 7, Art. 2, § 7-2.7) (Added by Ord. 90-55; Am. Ord. 00-73)

§ 12-2.8 Failure to obey summons or citation.

It is unlawful for any person to fail to appear at the place and within the time specified in the summons issued to such person by an officer for any violation of this article, regardless of the disposition of the charge for which such person was originally cited.
(1990 Code, Ch. 7, Art. 2, § 7-2.8) (Added by Ord. 90-55)

§ 12-2.9 Issuance of complaint.

In the event any person fails to comply with a summons given such person or if any person fails or refuses to deposit bail as required and within the time permitted, the violations bureau shall have a complaint entered against such person and secure the issuance of a warrant for such person's arrest.
(1990 Code, Ch. 7, Art. 2, § 7-2.9) (Added by Ord. 90-55)

§ 12-2.10 Penalties.

(a) Any owner who keeps or permits an enclosure or animal, farm animal, or poultry to remain on the owner's premises in violation of this article shall be deemed to commit an offense under this article. Notwithstanding the foregoing, an enforcing officer may, in the officer's discretion, issue a warning letter to the owner of a dog that is believed by the officer to be an animal nuisance under § 12-2.2(1) or (2) in lieu of citing the owner for a first offense under those provisions. As used in this subsection, "first offense" means an offense that does not occur within two years of the occurrence of a previous offense involving the same provision.

(b) An owner convicted of an offense shall be sentenced as follows:

(1) A fine of $50 if the offense did not occur within two years of the occurrence of a previous offense involving the same provision;

(2) A fine of $100 if the offense occurred within two years of the occurrence of one previous offense involving the same provision; or

(3) A fine of not less than $500 nor more than $1,000, imprisonment not exceeding 30 days, or both, if the offense occurred within two years of the occurrence of two or more previous offenses involving the same provision. In lieu of a term of imprisonment, the court may order the defendant to serve a period of probation of not more than six months in accordance with the procedures, terms, and conditions provided in HRS Chapter 706, Part II.

The fines provided for in this section shall be imposed without the possibility of suspension.

As part of the sentence for any offense, the court also may order the owner to attend a training program conducted or designated by the animal control contractor or train an animal, farm animal, or poultry in a manner recommended by the contractor to stop the animal nuisance that caused the offense. The cost of attending any training program conducted or designated by the animal control contractor shall be paid for by the owner.

(c) For the purposes of this section:

(1) "Provision" means a prohibition or requirement under: §§ 12-2.3, 12-2.4(b), 12-2.5(a), 12-2.5(b), 12-2.5(c), or 12-2.5(d);

(2) An offense shall be deemed to have occurred on the date of the summons or citation identifying the offense; and

(3) A person who commits an offense within two years of the occurrence of a previous offense involving the same provision shall be subject to the escalating penalty of subsection (b)(2) or (b)(3), even if the enclosures or animals involved in the offenses differed.

(1990 Code, Ch. 7, Art. 2, § 7-2.10) (Added by Ord. 90-55; Am. Ord. 00-73)

§ 12-2.11 Annual report required.

The animal control contractor shall render a full report of its activities and operations relating to the enforcement of this article to the mayor and the council within one month after the end of each fiscal year.
(1990 Code, Ch. 7, Art. 2, § 7-2.11) (Added by Ord. 90-55; Am. Ord. 00-73)

§ 12-2.12 Severability.

If this article is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.
(1990 Code, Ch. 7, Art. 2, § 7-2.12) (Added by Ord. 90-55)

ARTICLE 3: RESERVED

ARTICLE 4: REGULATION OF DOGS

Sections

§ 12-4.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal Control Contractor. The duly incorporated humane society or organization formed for the prevention of cruelty to animals that is contracted by the city to perform animal control services.

Handler. Any owner with a disability having custody of a service dog.

Microchip. A device implanted under the skin of an animal containing contact information for the owner of the animal.

Off-Leash Park. A public park designated by the director of parks and recreation where dogs, and no other animal, shall be allowed to be off-leash.

Owner. Every person owning, harboring, or keeping a dog or having custody thereof.

Service Dog. Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service dog must be directly related to the handler's disability.

Stray or ***Stray Dog.*** Any dog:

(1) On the premises of a person other than the owner of the dog, without the consent of an occupant of such premises; or

(2) 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 8 feet in length; and provided further, that this provision shall not be construed to permit that which is prohibited by any other law.

(Sec. 13-23.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.1) (Am. Ords. 00-68, 01-43, 11-1, 20-1)

§ 12-4.2 Strays prohibited.

It is unlawful for the owner of any dog to permit the dog to become a stray.

(Sec. 13-23.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.2) (Am. Ords. 00-68, 20-1)

§ 12-4.3 Impounding.

(a) Any dog, while being a stray, will be seized and impounded by the animal control contractor or any other officer authorized by law and confined for:

(1) Not less than 48 hours for a dog determined not to have a microchip implanted or a visible city issued dog license tag for the then current year, during which time the owner of the dog may redeem the dog upon payment to the animal control contractor of:

(A) The fee to implant a microchip; and

(B) The daily impoundment fee of $10 for each full day, or fraction thereof, that the dog has been held and confined;

(2) Not less than five days for a dog determined to have a microchip implanted, during which time the owner of the dog may redeem the dog upon payment to the animal control contractor of the daily impoundment fee of $10 for each full day, or fraction thereof, that the dog has been held and confined; or

(3) Not less than nine days for a dog that has a visible city issued dog license tag for the then current year, during which time the owner of the dog may redeem the dog upon payment to the animal control contractor of:

(A) The fee to implant a microchip, if necessary; and

(B) The daily impoundment fee of $10 for each full day, or fraction thereof, that the dog has been held and confined.

(b) In addition to the fees specified in subsection (a), an unsterilized dog, while being a stray, that is impounded by the animal control contractor at least three times within a 12 month period, must be spayed or neutered by the animal control contractor before the owner may redeem the dog, unless a licensed veterinarian certifies that the medical condition of the dog disqualifies the dog from being spayed or neutered.

(c) In addition to the fees specified in subsection (a), a sterilized dog that is impounded by the animal control contractor for being a stray at least three times within a 12 month period, may be redeemed by its owner upon payment of a $30 fee.

(d) If an impounded dog is redeemed by its owner within 24 hours of physical possession of the dog by the animal control contractor, the animal control contractor will waive any impoundment fees.

(e) A special officer of the animal control contractor shall be authorized to enforce this article if deputized by the chief of police to do so.

(f) The animal control contractor shall spay or neuter any impounded dog before the dog is adopted, unless a licensed veterinarian certifies that the medical condition of the dog disqualifies the dog from being spayed or neutered, or that being spayed or neutered would otherwise be detrimental to the health of the dog

(Sec. 13-23.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.3) (Am. Ords. 00-68, 07-33, 20-1)

§ 12-4.4 Applicability.

This article does not apply to:

(1) Microchipped dogs functioning as service dogs under control of their handlers. A service dog under control of its handler must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or use of a harness, leash, or other tether would interfere with the service dog's safe, effective performance of work or tasks, in which case the service dog must otherwise be under the handler's control (e.g., voice control, signals, or other effective means);

(2) Microchipped dogs trained and used by the Honolulu police department or another law enforcement agency in law enforcement work, while such dogs are engaged in the performance of such work;

(3) Microchipped hunting dogs when accompanied by their owner on public or private hunting or shooting grounds, or both;

(4) Microchipped obedience trial, tracking, and show dogs accompanied by their owner and being trained or in competition in public parks or school grounds, provided permission is first obtained from the proper park or school authorities for this use; or

(5) Microchipped dogs when accompanied by persons18 years of age or older having custody and control of the dogs and located in a public park or in an area in a public park designated by a sign that the public park or area has been designated by the director of parks and recreation for use by dogs and persons having custody and control of the dogs pursuant to § 10-1.7.

(Sec. 13-23.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.4) (Am. Ords. 01-43, 11-1, 20-1)

§ 12-4.5 Enforcement.

For any violation of this article or of HRS Chapter 143, it is the duty of any police officer and any other 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 this article or with HRS Chapter 143. The summons shall instruct such owner or person to report at the violations bureau of the respective district courts of the City and County of Honolulu. 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, the bail bond shall be deemed forfeited.
(Sec. 13-23.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.5)

§ 12-4.6 Summons.

(a) 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 this article or of HRS Chapter 143. The 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 Hawaii and the City and County of Honolulu. The form and content of such summons shall be as adopted or prescribed by the administrative judge of the district courts.

(b) 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 of a carbon copy of the summons, and provide for the disposition of the original and any other copies.

(c) Every summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
(Sec. 13-23.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.6)

§ 12-4.7 Failure to obey summons.

It is unlawful for any person to fail to appear at the place and within the time specified in the summons issued to such person by an officer for any violation of this article, regardless of the disposition of the charge for which such person was originally cited.
(Sec. 13-23.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.7)

§ 12-4.8 Issuance of complaint.

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 have a complaint entered against such person and secure the issuance of a warrant for such person's arrest.
(Sec. 13-23.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.8)

§ 12-4.9 Violation—Penalty.

(a) The owner of a dog that has become a stray or any other person convicted of a violation of this article shall be punished for the offense as follows:

(1) A fine of $50 if the offense did not occur within two years of the occurrence of a previous offense under this article;

(2) A fine of $100 if the offense occurred within two years of the occurrence of one previous offense under this article; or

(3) A fine of not less than $500 nor more than $1,000, imprisonment not exceeding 30 days, or both, if the offense occurred within two years of the occurrence of two or more previous offenses under this article or if the person convicted has a previous conviction under § 12-7.2 involving the same dog.

(b) For the purposes of this section:

(1) An offense shall be deemed to have occurred on the date of the summons or citation identifying the offense; and

(2) A person who commits an offense within two years of the occurrence of a previous offense shall be subject to the escalating fine of subsection (a), even if the dogs involved in the offenses differed.

(Sec. 13-23.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.9) (Am. Ords. 00-68, 05-007)

§ 12-4.10 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 this article shall be paid into the city treasury and deposited in the general fund of the city.
(Sec. 13-23.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.10)

§ 12-4.11 Severability.

If any provision of this article is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.
(Sec. 13-23.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 7, Art. 4, § 7-4.11)

§ 12-4.12 Procedures for release by the animal control contractor.

(a) The animal control contractor shall do the following for each dog in its custody:

(1) Adopt out the dog;

(2) Return the dog to its owner;

(3) Place the dog in foster care;

(4) Transfer the dog to another animal shelter or animal welfare group; or

(5) Euthanize the dog if permitted under subsection (b).

(b) A dog may be euthanized after the mandatory confinement period as required under § 12-4.3, if applicable; provided that the animal control contractor has determined that:

(1) The dog is suffering from an injury, terminal illness, or other health problem that severely affects the dog's or another animal's quality of life;

(2) The dog exhibits unsocial or dangerous behavior that would preclude adoption;

(3) The dog exhibits behavior that is likely to result in bodily injury or death to another animal or human being; or

(4) The owner of the dog has relinquished custody of the dog to the animal control contractor and has requested that the animal control contractor euthanize the dog.

(Added by Ord. 20-1)

ARTICLE 5: PUBLIC SPAY AND NEUTER CLINIC FOR DOGS AND CATS

Section

§ 12-5.1 Authority for clinic and fees.

(a) The city is authorized and empowered to establish a clinic, through a fee-for-service contract, at which members of the public may have dogs and cats spayed or neutered in a humane manner. Except as provided in subsections (b) and (c), members of the public shall pay either the following fees or the cost to the city under the fee-for-service contract for services performed, whichever is less:

(1) For spaying a female dog: $150;

(2) For spaying a female cat: $50;

(3) For neutering a male dog: $125; and

(4) For neutering a male cat: $40.

(b) A member of the public who has been issued an EBT card shall pay a fee of $20 for the spaying of a female dog or cat or the neutering of a male dog or cat.

For the purposes of this subsection, an "EBT card" means a card issued by the State department of human services that will allow the holder to access social service benefits in an electronic benefit transfer account.

(c) In addition to the fees established in subsections (a) and (b), a veterinarian may charge additional fees for spaying or neutering the following types of animals:

(1) Cats or dogs older than three years of age; and

(2) Dogs weighing over 45 pounds.

The veterinarian shall inform the animal owner of any additional charges before accepting an animal for spay or neuter surgery.

(d) The veterinarian shall conduct an examination before spay or neuter surgery to determine that the animal is healthy and medically fit to undergo surgery. The veterinarian's decision regarding the animal's fitness for surgery shall be final.

(Sec. 13-39.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 7, Art. 5, § 7-5.1) (Am. Ords. 92-72, 95-34, 03-14, 10-1)

ARTICLE 6: CAT MICROCHIP AND IDENTIFICATION PROGRAM

Sections

§ 12-6.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal Control Contractor. The duly incorporated humane society or organization formed for the prevention of cruelty to animals that is contracted by the city to perform animal control services.

At Large. Any of the following:

(1) On the premises of a person other than an owner of the cat, without the consent of an occupant or owner of such premises; or

(2) On a public street, on public or private school grounds, or in any other public place, except when under the control of an owner by leash, cord, chain, or other similar means of physical restraint that is not more than 8 feet in length.

Identification. Any of the following:

(1) A collar or tag worn by a cat, which includes the current name, address, and telephone number of the owner; and

(2) An implanted microchip registering the cat owner's current contact information with a microchip registration company.

Impounded Cat. Any cat released to or under the custody of or control of the animal control contractor.

Microchip. A device implanted under the skin of an animal containing contact information for the owner of the animal.

Person. Includes corporations, estates, associations, partnerships and trusts, and one or more individual human beings.
(1990 Code, Ch. 7, Art. 6, § 7-6.1) (Added by Ord. 95-21; Am. Ords. 02-54, 20-1)

§ 12-6.2 Identification required.

(a) It is unlawful for any person to be an owner of a cat over four months of age, unless the person maintains identification for the cat.

(b) This section does not apply to:

(1) A cat owner who has resided in the city for less than 30 consecutive days;

(2) A cat owner who does not reside in the city and is staying in the city for less than 30 days;

(3) A cat owner who submits proof to the animal control contractor that an active registered microchip has already been implanted in the cat;

(4) A cat in quarantine; or

(5) A cat that is brought into the city for the exclusive purpose of entering the cat into a cat show or cat exhibition and is not allowed to be at large.
(1990 Code, Ch. 7, Art. 6, § 7-6.2) (Added by Ords. 95-21, 20-1)

§ 12-6.3 Owner—Exception.

"Owner" means any person owning, harboring, or keeping, or providing care or sustenance for a cat, whether registered or not, or having custody of a cat, whether temporarily or permanently. This definition shall not apply to any person who has notified the animal control contractor of the cat at large that the person has taken into possession and:

(a) Who is or will be transporting the cat to the animal control contractor; or

(b) Who has made arrangements with the animal control contractor to have the cat picked up by the animal control contractor.
(1990 Code, Ch. 7, Art. 6, § 7-6.3) (Added by Ord. 95-21; Am. Ord. 02-54)

§ 12-6.4 Removal of cat identification.

It shall be unlawful for any person other than an officer of or a person authorized by the animal control contractor to remove any identification from any cat not owned by the person.
(1990 Code, Ch. 7, Art. 6, § 7-6.4) (Added by Ord. 95-21; Am. Ord. 02-54)

§ 12-6.5 Cats released to the animal control contractor.

(a) Any person who takes into the person's possession any cat at large shall immediately notify the animal control contractor and shall release the cat to the animal control contractor upon request.

(b) In the case of any cat with identification that is released to the animal control contractor, the animal control contractor shall make a reasonable attempt to notify the owner by telephone, and shall send written notice to the owner. The cat must be held by the animal control contractor for not less than five days, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if the cat has not been recovered by the owner before the five days have elapsed. An owner wishing to recover the cat shall pay a fee to implant a microchip, if needed, and a daily impoundment fee of $10 to the animal control contractor for each full day, or fraction thereof, that the cat is held by the animal control contractor.

(c) In the case of any cat without identification that is released to the animal control contractor, the animal control contractor shall hold the cat for not less than 48 hours, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if the cat has not been recovered by a person claiming ownership before the 48 hours have elapsed. If a person claiming ownership seeks to recover the cat, the person shall pay a fee to implant a microchip, if needed, and a daily impoundment fee of $10 to the animal control contractor for each full day, or fraction thereof, that the cat is held by the animal control contractor.

(d) Any cat released to the animal control contractor with a notched ear, thereby indicating that the cat is a sterilized feral cat, must be held by the animal control contractor for not less than five days, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if the cat has not been recovered by a person claiming ownership before the five days have elapsed. If a person claiming ownership seeks to recover the cat, the person shall pay a fee to implant a microchip, if needed, and a daily impoundment fee of $10 to the animal control contractor for each full day, or fraction thereof, that the cat is held by the animal control contractor.

(e) If a cat is redeemed by its owner within 24 hours of physical possession of the cat by the animal control contractor, the animal control contractor will waive any impoundment fees.

(f) If a cat released to the animal control contractor is not recovered by the owner, the person who had released the cat to the animal control contractor shall have the right of first refusal for permanent custody and ownership of the cat for a period of 24 hours after being contacted by the animal control contractor; provided that the person must pay to the animal control contractor:

(1) A fee to implant a microchip in the cat, if needed; and

(2) Any fees associated with the spaying or neutering of the cat, if needed.

(g) The animal control contractor shall spay or neuter any impounded cat before a cat is adopted, unless a licensed veterinarian certifies that the medical condition of the cat disqualifies the cat from being spayed or neutered, or that being spayed or neutered would otherwise be detrimental to the health of the cat.

(1990 Code, Ch. 7, Art. 6, § 7-6.5) (Added by Ord. 95-21; Am. Ords. 02-54, 07-33, 20-1)

§ 12-6.6 Sterilization of cats.

It is unlawful for a cat owner to allow a cat over the age of six months to be at large, unless the cat has been sterilized by a veterinarian.
(1990 Code, Ch. 7, Art. 6, § 7-6.6) (Added by Ord. 95-21)

§ 12-6.7 Enforcement.

(a) The animal control contractor may enforce this article.

(b) An impounded cat for which identification is not maintained by an owner may not be released by the animal control contractor to a person claiming ownership of the cat until the owner complies with the identification requirements of this article.

(c) If an impounded cat, with or without identification, has not been sterilized, the person claiming ownership may be cited by an officer of the animal control contractor for a violation of § 12-6.6. The penalty for violating § 12-6.6 shall be waived upon proof of sterilization of the cat by a licensed veterinarian furnished to the animal control contractor within 30 days after the date the citation was issued.
(1990 Code, Ch. 7, Art. 6, § 7-6.7) (Added by Ord. 95-21; Am. Ords. 02-54, 20-1)

§ 12-6.8 Penalty.

Any person found guilty of violating this article shall be fined not more than $100.
(1990 Code, Ch. 7, Art. 6, § 7-6.8) (Added by Ord. 95-21)

§ 12-6.9 Microchip identification.

(a) An owner shall have a microchip implanted in the owner's cat and the owner must register the microchip number and the owner's contact information with a microchip registration company.

(b) When the contact information of the owner of a cat changes, the owner shall provide the new contact information to the applicable microchip registration company no later than 30 days after the change of owner contact information occurs.

(c) When the owner of a cat changes:

(1) The former owner must inform the new owner which microchip registration company the cat's microchip is registered with; and

(2) The new owner shall provide a microchip registration company with the new owner's contact information no later than 30 days after the change of ownership occurs.

(d) The animal control contractor or a nonprofit animal rescue organization shall implant a microchip in all cats in its custody that do not have a microchip.
(Added by Ord. 20-1)

§ 12-6-10 Procedures for release by the animal control contractor.

(a) The animal control contractor shall do the following for each cat in its custody:

(1) Adopt out the cat;

(2) Return the cat to its owner;

(3) Place the cat in foster care;

(4) Transfer the cat to another animal shelter or animal welfare group; or

(5) Euthanize the cat if permitted under subsection (b).

(b) A cat may be euthanized after the mandatory confinement period as required under § 12-6.5, if applicable; provided that the animal control contractor has determined that:

(1) The cat is suffering from an injury, terminal illness, or other health problem that severely affects the cat's or another animal's quality of life;

(2) The cat exhibits unsocial or feral behavior that would preclude adoption;

(3) The cat exhibits behavior that is likely to result in bodily injury or death to another animal or human being; or

(4) The owner of the cat has relinquished custody of the cat to the animal control contractor and has requested that the animal control contractor euthanize the cat.

(Added by Ord. 20-1)

ARTICLE 7: REGULATION OF DANGEROUS DOGS

Sections

§ 12-7.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal. Any "animal," "farm animal," or "poultry" as those terms are defined in § 12-2.2.

Attack. Aggressive physical contact with a person or animal initiated by the dog that may include but is not limited to the dog jumping on, leaping at or biting a person or animal.

Bodily Injury. Has the same meaning as defined in HRS § 707-700.

City Animal Control Service. The animal control services provider contracted by the city to seize and impound dogs.

Dangerous Dog. Any dog that, without provocation, attacks a person or animal. A dog's breed shall not be considered in determining whether it is dangerous.

Enforcement Officer. Any person authorized and designated to enforce this article.

Microchip. Has the same meaning as defined in § 12-4.1.

Negligently. Has the same meaning as defined in HRS § 702-206.

Owner. Any person owning, harboring, or keeping a dog; provided that, if the owner is a minor under the age of 18 years, the parents, guardian, or other person having the care, custody, or control of the minor shall be rebuttably presumed to be the owner. The person whose current contact information is registered with a microchip registration company shall rebuttably be presumed to be the owner of the dog for purposes of this article.

Provocation. The attack by a dog upon a person or animal was precipitated under the following circumstances:

(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 or offense while on the property of the owner of the dog;

(3) The person attacked was teasing, tormenting, abusing, or assaulting the dog or at any time in the past had teased, tormented, abused, or assaulted the dog;

(4) The dog was attacked or menaced by the animal or the animal was on the property of the owner of the dog;

(5) The dog was responding to pain or injury inflicted by the attacked person or animal;

(6) The dog was protecting itself, its kennels, or its offspring from the attacked person or animal;

(7) The person or animal attacked was disturbing the dog's natural functions, such as sleeping or eating, while the dog was on its owner's property; or

(8) The dog was responding to a command or encouragement to attack the person or animal.

Serious Injury to a Domestic Animal. Physical injury to the animal involving a broken bone, a laceration requiring multiple stitches, a concussion, or a tearing or rupture of an organ.
(1990 Code, Ch. 7, Art. 7, § 7-7.1) (Added by Ord. 00-72; Am. Ords. 02-05, 20-1)

§ 12-7.2 Prohibited acts—Conditions on owner—Penalties.

(a) A dog owner commits the offense of negligent failure to control a dangerous dog, if the owner 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 other than the owner.

A person convicted under this subsection shall be guilty of a petty misdemeanor for a first offense and a misdemeanor for a subsequent offense 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 Article 4 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 the following without possibility of suspension of sentence:

(1) A fine of not less than $500 nor more than $2,000; except that if the offense occurred within five years of a previous conviction under this section, a fine of not less than $1,000 nor more than $2,000;

(2) A period of imprisonment of up to 30 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 HRS Chapter 706, Part II; except that if the offense occurred within five years of a previous conviction under this section, a period of imprisonment of up to six months, or in lieu of imprisonment, a period of probation of not more than one year;

(3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog where the individual suffers financial losses or medical expenses due to the attack. For the purposes of this subsection, medical expenses may include the costs of necessary counseling or rehabilitative services; and

(4) Payment of all expenses for the boarding and retention of the dog if seized and impounded pursuant to § 12-7.3(a).

(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 city 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; and

(4) When outside the owner's premises, the dog must be attended and kept on a leash no longer than 6 feet in length and under the control of a person 18 years of age or older.

(e) In addition to 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 18 years of age or older;

(2) When outdoors on the owner's premises and unattended, the dog be kept within a locked fenced or walled area from which it cannot escape;

(3) When outdoors on the owner's premises and unattended, the dog be confined to an escape-proof kennel;

(4) When outdoors on the owner's premises, the dog be attended and kept within a fenced or walled area from which it cannot escape;

(5) When outdoors on the owner's premises, the dog be attended and kept on a leash no longer than 6 feet in length;

(6) When outdoors on the owner's premises, the dog be kept under the control of a person 18 years of age or older;

(7) When outdoors outside the owner's premises, 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;

(8) 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;

(9) 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;

(10) The dog be neutered or spayed at the owner's expense, unless the neutering or spaying of the dog is medically contraindicated;

(11) 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 or veterinary costs, or both, resulting from potential future actions of the dog;

(12) The dog be humanely destroyed; or

(13) 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 that allows the dog to stand normally and without restriction, which is at least 2.5 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 2 inches, and in the case of wooden fences, the gaps therein shall not be more than 2 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 full investigation and finding of probable cause, an enforcement officer shall either arrest or issue a summons and citation to the owner for violation of subsection (a).

(1990 Code, Ch. 7, Art. 7, § 7-7.2) (Added by Ord. 02-05; Am. Ords. 05-07, 20-1)

§ 12-7.3 Citation and summons—Seizure—Relinquishment of ownership.

(a) Upon full investigation and finding of probable cause to believe that there has been a violation of § 12-7.2(a), an enforcement officer shall either arrest or issue a summons and citation to the owner pursuant to § 12-7.2, and may, in addition, have the dog seized and impounded if the dog is posing an imminent threat to human beings or to other animals. At the owner's request, such impoundment may be at the premises of a licensed veterinarian or at a commercial kennel of the owner's choosing. All expenses of the boarding and retention of the dog shall be borne by the owner.

The owner is prohibited from selling or transferring the ownership or physical custody of the dog before the time stated in the summons, and the citation shall notify the owner of this prohibition. This prohibition shall not apply when an owner transfers ownership of the dog to the city animal control service.

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 (b).

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 $50 nor more than $1,000, imprisoned not more than 30 days, or both.

(b) If 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.

(c) Notwithstanding any relinquishment of ownership of the dog pursuant to subsection (b) or voluntary relinquishment of ownership of the dog, the owner shall still be responsible for all expenses of boarding the dog and any fees and penalties that may be imposed by the court.

(1990 Code, Ch. 7, Art. 7, § 7-7.3) (Added by Ord. 00-72; Am. Ords. 02-05, 05-07)

§ 12-7.4 Inspection.

Upon presentation of proper credentials, any enforcement officer may enter at reasonable times any building, structure, or premises in the city for the purpose of determining and enforcing compliance with this article or of any court order issued under this article; provided that such entry shall be made in such manner as to cause the least possible inconvenience to the person in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.

(1990 Code, Ch. 7, Art. 7, § 7-7.4) (Added by Ord. 00-72; Ren. by Ord. 02-05)

§ 12-7.5 Exemption.

This article shall not apply to dogs owned by any law enforcement agency and used in the performance of law enforcement work.
(1990 Code, Ch. 7, Art. 7, § 7-7.5) (Added by Ord. 00-72; Ren. by Ord. 02-05)

§ 12-7.6 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 State law.
(1990 Code, Ch. 7, Art. 7, § 7-7.6) (Added by Ord. 00-72; Ren. by Ord. 02-05)

§ 12-7.7 Severability.

If this article or the application thereof to any person or circumstance is held invalid, the invalidity does 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.
(1990 Code, Ch. 7, Art. 7, § 7-7.7) (Added by Ord. 00-72; Ren. by Ord. 02-05)

§ 12-7.8 Mandatory reporting of dog bites.

(a) All incidents of serious bodily injury from a dog bite shall be reported to the Honolulu police department by:

(1) Any licensed, registered, or certified medical service provider regarding their treatment of a person, as permitted under the regulations implementing the Health Insurance Portability and Accountability Act, specifically, 45 CFR § 164.512(f)(1); and

(2) Any veterinarian, regarding their treatment of an animal.

(b) "Serious bodily injury" means a serious physical injury to a person involving a broken bone, a concussion, a laceration that extends down to the level of muscle or bone, or a tearing or rupture of an organ.

(c) The police department shall forward each reported incident to the animal control contractor for investigation, and the animal control contractor shall make a determination whether the dog involved is a dangerous dog, prepare a report, and maintain a file of all reports.

(d) Anyone participating in good faith in the disclosure of any information pertaining to incidents of serious bodily injury from a dog bite shall be immune from any liability, civil or criminal, that might otherwise be incurred, imposed, or result from such action.
(1990 Code, Ch. 7, Art. 7, § 7-7.8) (Added by Ord. 07-2)

ARTICLE 8: DOG MICROCHIP LICENSE AND IDENTIFICATION PROGRAM

Sections

§ 12-8.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Animal Control Contractor. Has the same meaning as defined in § 12-4.1.

Microchip. Has the same meaning as defined in § 12-4.1.

Owner. Any person owning, harboring, or keeping, a dog; providing care or sustenance for a dog; or having custody of a dog, whether temporarily or permanently. The term does not apply to any person who has taken a stray dog into possession simply for purposes of notifying the animal control contractor of the stray dog and:

(1) Who is or will be transporting the stray dog to the animal control contractor; or

(2) Who has made arrangements with the animal control contractor to have the stray dog picked up by the animal control contractor.

Stray or ***Stray Dog.*** Has the same meaning as defined in § 12-4.1.
(Added by Ord. 20-1)

§ 12-8.2 Microchip licensing for dogs.

A microchip implanted in a dog pursuant to this article will serve as the license for the dog.
(Added by Ord. 20-1)

§ 12-8.3 Microchip identification.

(a) An owner shall have a microchip implanted in the owner's dog and the owner shall register the microchip number and the owner's contact information with a microchip registration company.

(b) When the contact information of the owner of a dog changes, the owner shall provide the new contact information to the applicable microchip registration company no later than 30 days after the change of owner contact information occurs.

(c) When the owner of a dog changes:

(1) The former owner must inform the new owner which microchip registration company the dog's microchip is registered with; and

(2) The new owner shall provide the microchip registration company with the new owner's contact information no later than 30 days after the change of ownership occurs.

(d) The animal control contractor or a nonprofit animal rescue organization shall implant a microchip in all stray dogs in its custody that do not have a microchip.

(Added by Ord. 20-1)

§ 12-8.4 Applicability.

This article does not apply to:

(1) An owner who has resided in the city for less than 30 consecutive days;

(2) An owner who does not reside in the city and is staying in the city for less than 30 consecutive days;

(3) An owner who submits proof to the animal control contractor that an active registered microchip has already been implanted in the dog;

(4) A dog that is less than three months of age which is not a stray;

(5) A dog in quarantine; or

(6) A dog that is brought into the city for the exclusive purpose of entering a dog show or dog exhibition and is not allowed to be a stray.

(Added by Ord. 20-1)

§ 12-8.5 Enforcement.

The animal control contractor may enforce this article.

(Added by Ord. 20-1)

§ 12-8.6 Violation–Penalty.

Any person violating this article is subject to a fine of not more than $100.
(Added by Ord. 20-1)

CHAPTER 13: STREETS, SIDEWALKS, MALLS, AND OTHER PUBLIC PLACES

Editor's note:

** Chapter 13, Article 11, was redesignated as Chapter 13, Article 11A, by Ord. 02-10, such designation to be effective from the date of approval of Ord. 02-10 (March 28, 2002) to June 30, 2002. On July 1, 2002, Chapter 13, Article 11A, was repealed.*

Articles

ARTICLE 1: GENERAL PROVISIONS

Sections

§ 13-1.1 Definitions.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future. Words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Animal. Includes every living creature.

Chief of Police. The chief of police of the city or the chief's authorized representative.

Chinatown. The area of the Chinatown special district as described in § 21-9.60-2.

College Walk Mall. The portion of College Walk established as a pedestrian mall under § 15-25.1(c).

Curbside Teller. Any structure that encroaches in whole or in part over or on a public sidewalk and is used to assist patrons of financial institutions to deposit funds or otherwise transact business with these institutions.

Director of Budget and Fiscal Services. The director of budget and fiscal services of the city or the director's authorized representative.

Freight Chute. A shaft with or without an inclined plane extended downwards from the surface of a public sidewalk intended for the transportation of freight and goods.

Freight Elevator. An appliance or mechanism designed primarily for the transportation of freight and goods from the surface level of the sidewalk downwards and return.

Garbage. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

Litter. "Garbage," "refuse," and "rubbish" as defined in this section and all other waste material, which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

Mall. Any public thoroughfare, other than a sidewalk as defined in this section, which is under the control or jurisdiction of the city and intended exclusively or primarily for the use of pedestrians.

Mobility Device. A wheelchair, crutch, cane, walker, or device that functions similarly to allow an injured or disabled person increased mobility for sidewalk travel.

Newspaper of General Circulation. A newspaper of a State, county, or city, published for the dissemination of local or telegraphic news and intelligence of a general character, having a subscription list of paying subscribers, and established, printed, and published at regular intervals in such State or city, and reaching all classes of the public.

Newsstand. Any appliance, structure, instrument, or stand used for the vending or distribution of newspapers.

Nonprofit Organization. A nonprofit corporation qualifying as such under HRS Chapter 414D or any other society, association, corporation, or other organization engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes whose charter or other enabling act contains provisions to the effect that such organization is not organized for profit; none of its stock or any part of its assets, income or earnings will be issued or distributed to its members, directors, or officers, except for services actually rendered to the organization; and upon dissolution, its assets shall be distributed to another nonprofit corporation, society, association, or organization engaged in one or more of the benevolent purposes listed herein.

Park. Has the same meaning as "public park" as defined in § 10-1.1.

Peddle or ***Peddling.*** The sale or offer for sale, the renting or offer for rent, or the display for sale or rent of any goods, wares, merchandise, foodstuffs, or other kinds of property or services. The term shall include but not be limited to the solicitation of orders or making of referrals on a public place for the future sale, delivery, or performance of property or services in a place other than a public place as part of a scheme to evade Article 6.

Pedestrian. A person who is on foot or assisted by a mobility device and able to move immediately to accommodate other sidewalk users.

Pedestrian Use Zone. The portion of the width of a sidewalk that extends toward the street up to 8 feet from the adjacent private or public property line bordering the sidewalk opposite the curb; provided that the pedestrian use zone also constitutes the portion of the width of a replacement sidewalk that is up to 8 feet from the replacement sidewalk's edge furthest from the street.

Person. Has the same meaning as defined in HRS § 1-19.

Private Premises. Any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox, belonging or appurtenant to, such dwelling, house, building, or other structure.

Public Place. Any and all:

(1) Publicly owned or maintained streets, sidewalks, boulevards, alleys, or other ways open to the general public;

(2) Publicly owned or maintained parks, beaches, squares, spaces, grounds, malls, buildings, or other places open to the general public; or

(3) Privately owned or maintained streets, sidewalks, boulevards, and alleys open to the general public.

Public Telephone Enclosure. Any enclosure constructed or installed for the specific purpose of enclosing a telephone available for the general use of the public with or without charge and operated under franchise as provided by law. The term shall also include the contents of the enclosure and any appurtenant equipment or cables attached thereto.

Refuse. All putrescible and nonputrescible solid wastes, including animal body wastes, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

Replacement Sidewalk. A pedestrian passageway that crosses private property pursuant to a public easement, usually resulting from obstructions on public land that require pedestrians to pass across adjacent private property.

Rubbish. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

Sidewalk. 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 city for road widening purposes.

Stored Personal Property. Any and all tangible personal property, including items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, and household items:

(1) That has been placed on public property for more than 24 hours whether attended or unattended; or

(2) That remains in a park after park closure hours

without authorization by statute, ordinance, permit, regulation, or other authorization by the city or State. The term shall not include any vehicle as defined in HRS § 291C-1, any vessel as defined in HRS § 200-23, or any property subject to HRS Chapter 523A.

Street. The entire width between the property lines of every way publicly owned and maintained when part thereof is open to the use of the public for purposes of vehicular travel or any private street, highway, or thoroughfare, which, for more than five years, has been continuously used by the general public.

Sun Yat Sen Mall. The portion of River Street established as a pedestrian mall under § 15-25.1(c).

Urban Zone. Includes the Ala Moana/Kakaako, Downtown, Kalihi, McCully/Moiliili/Makiki, and Waikiki districts, as described in § 13-18.2 and includes the sidewalks on both sides of the streets, avenues, boulevards, highways, roads and drives within those districts and those marked as the district boundaries.

Vehicle. Every device in, upon, or by which, any person or property is, or may be, transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.
(Sec. 26-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 1, § 29-1.1) (Am. Ords. 96-58, 02-51, 03-26, 10-26, 11-29)

§ 13-1.2 Purpose.

The intent and purpose of this chapter is to promote the public welfare by regulating the use of all public sidewalks and malls.
(Sec. 26-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 1, § 29-1.2)

ARTICLE 2: LEI SELLING

Sections

§ 13-2.1 Regulations.

(a) No person, under the age of 15 years, shall sell lei upon streets, alleys, sidewalks, malls, and other public places, including entrances at piers.

(b) No person, while engaged in the business of selling lei upon streets, alleys, sidewalks, malls, and at entrances to piers, shall obstruct traffic, or wilfully or negligently hold, touch, push, jostle, molest, or in any manner, disturb any person, customer, or another lei seller.

(c) All persons engaged in selling lei at piers shall form not more than two straight single lines in the front of the pier, one line extending to the right and the other to the left from the main entrance, and the lines shall run parallel to and within 3 feet of the front wall of the pier as follows:

The positions in the lines shall be occupied by the lei sellers in the order of their arrival, the person first arriving being entitled to stand at the head of one line and the person arriving next, at the head of the other line; provided that no person shall occupy the head position of any line more than one day within a period of 30 days, unless such person's turn arrives sooner by rotation. The "head" of a line shall be that position which is nearest to the main entrance to the pier.

(d) No lei seller arriving late shall break into a line or usurp the position of another.

(Sec. 26-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 2, § 29-2.1)

§ 13-2.2 Violation—Penalty.

Any person violating this article shall, upon conviction, be punished by a fine not exceeding $25.

(Sec. 26-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 2, § 29-2.2)

ARTICLE 3: RESERVED

ARTICLE 4: LITTER CONTROL

Sections

§ 13-4.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Enforcement Officer. Any individual designated by the department of planning and permitting or the department of parks and recreation to issue citations to enforce this article, and any police officer of the Honolulu police department.

Inspector. Any individual designated by the department of planning and permitting to issue notices of violation to enforce this article.

Litter. Rubbish, waste material, garbage, trash, offal, or any debris of whatever kind or description, whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste. Litter also includes "refuse" as defined in § 13-1.1. Litter may include derelict vehicles.

Littering. The wilful or negligent throwing, dropping, placing, dumping or depositing of any litter, or the directing or otherwise causing of any such act, in any place on land or water, other than in public or private receptacles or designated disposal sites.
(Sec. 26-11.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.1) (Am. Ord. 02-37)

§ 13-4.2 Enforcement authority.

(a) Any enforcement officer is authorized to:

(1) Issue a written citation pursuant to § 13-4.6(a) if such enforcement officer witnesses a violation, receives a report from a private citizen witnessing a violation or has probable cause to believe that a person has violated this article;

(2) Investigate any litter and household garbage found thrown, deposited, or dumped on a street, roadside, alley, or highway to find any personal identification contained therein; and

(3) Issue a written citation pursuant to § 13-4.6(a) for violations of this article.

(b) Any inspector is authorized to:

(1) Investigate any litter and household garbage found thrown, deposited, or dumped on private property, and any notice, poster, or other paper or device, posted, affixed, or displayed on any lamppost, public utility pole or shade tree, or upon any public structure or building; and

(2) Issue a notice of violation pursuant to § 13-4.6(b) or remove and dispose of any notice, poster, or other paper or device posted, affixed or displayed in apparent violation of § 13-4.4(a)(7).

(c) Any person who witnesses the throwing, dropping, placing, dumping, or depositing of litter in violation of this chapter, including the throwing of litter from a vehicle, may report the date, time of day, and location of the littering and, in the case of littering from a vehicle, the license number of the vehicle, to any enforcement officer. The license number, as recorded, shall constitute prima facie evidence that the littering reported to have been done from a vehicle was done by the person to whom the vehicle is registered.

(d) In the case of a notice, poster, or other paper or device displayed in violation of § 13-4.4(a)(7), which advertises an event, establishment, or business, the device displayed shall constitute prima facie evidence in a civil proceeding that it is being displayed by any person owning the establishment or business or organizing the event.

(Sec. 26-11.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.2) (Am. Ord. 02-37)

§ 13-4.3 Responsibilities—Requirements.

(a) It shall be the responsibility of:

(1) Owners and persons in control of any private property to maintain the premises free from litter at all times; provided that this section shall not prohibit the storage of litter in authorized private receptacles for collection;

(2) Persons owning or occupying property to keep the sidewalk area abutting the property line free of litter; and

(3) (A) The operators of all disposal facilities and private disposal facilities, as defined in Chapter 42, to maintain a record of all waste that is deposited at each facility other than by city-operated refuse vehicles and by householders depositing their own refuse; and

(B) The record shall contain the name and address of each person depositing waste material, the license number of the vehicle transporting the waste, the approximate time of the deposit, and a brief description and the approximate volume of the waste. The record shall be made available to any enforcement officer of the city for inspection, upon reasonable request.

(b) The Honolulu police department shall arrange to patrol or conduct surveillance activities at locations that are reported to be frequent illegal dumping areas for litter.

(c) All complaints of alleged litter violations shall be investigated by the city. Enforcement officers shall, wherever practicable, inspect any litter found on any street, highway, alley, or public place, and any traceable ownership shall be subject to this article.

(d) The director of parks and recreation shall coordinate city agencies in antilitter efforts and cooperate with the State to accomplish coordination of antilitter campaigns.

(Sec. 26-11.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.3) (Am. Ord. 02-37)

§ 13-4.4 Prohibited activities.

(a) No person shall:

(1) Throw or deposit litter on any street or sidewalk and in any park or other public or private property within the city, except in public or private receptacles, and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park, street, sidewalk, or other public or private property. Where public or private receptacles are not provided, all such litter shall be carried away by the person responsible for its presence and properly disposed of;

(2) Sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway;

(3) While a driver or passenger in a vehicle, throw or deposit litter upon any street or other public place within the city, or upon private property;

(4) Drive or move any truck or other vehicle within the city, unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited from the vehicle upon any street, sidewalk, alley, or other public place. Nor shall any person drive or move any truck or other vehicle within the city, the wheels or tires of which carry onto or deposit in any street, sidewalk, alley, or other public place, litter of any kind. If litter is unavoidably dropped or tracked onto a street, sidewalk, alley, or other public place, it shall be the duty of the driver of the vehicle to have the litter removed as quickly as possible;

(5) Throw or deposit litter in any fountain, pond, lake, stream, bay, or any other body of water in a park or elsewhere within the city;

(6) Throw out, drop, or deposit within the city any litter, handbill, or any other object from an aircraft;

(7) Post, affix, or display any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, or shade tree, or upon any public structure or building, except as may be authorized by law;

(8) Throw or deposit litter on any occupied, open, or vacant private property within the city, whether or not owned by such person, except that the owner or person in control of private property may maintain authorized private receptacles for litter collection in such a manner that litter will be prevented from being

carried or deposited by the elements upon any street, sidewalk, alley, or other public place or upon any private property;

(9) Permit an animal owned by such person or while in the person's custody to excrete any solid waste in any public place or on any private premises not the property of such owner; provided that nothing herein shall affect the duty of the property owner or occupier to keep the premises free of litter, and provided further, that no violation shall occur if the owner of the offending animal promptly and voluntarily removes the animal waste; or

(10) Dump or dispose of any litter, refuse, or other solid waste upon any public or private premises, including any watercourse or drainage facility whether publicly or privately owned within the city, except upon municipal disposal sites or private disposal sites established under Chapter 21.

(b) No person shall dispose of any derelict vehicle, as defined in HRS § 290-8, on any public roadway, alley, street, trail, bridge, highway, or other public property, or on private property, without the authorization of the owner or occupant.

(c) No person shall abandon scrap iron, lumber, or similar materials upon any public street, road, highway, or other public thoroughfare, or any part thereof.

(d) Any person who, by oneself or through any agent or independent contractor, posts, affixes or displays a notice, poster, or other paper or device in violation of subsection (a)(7), or any person who knowingly causes such to be posted, affixed, or displayed, to advertise the person's products, merchandise, services, or events, by oneself or through any agent or independent contractor, shall be displaying such notice, poster, or other paper or device.

(Sec. 26-11.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.4) (Am. Ords. 96-58, 02-37)

§ 13-4.5 Cost of litter removal.

(a) Any person responsible for littering shall be liable to the city for the cost of removing such litter. The bill for the cost of removal shall be issued by the department of environmental services or the department of parks and recreation and shall state the amount to be charged by the city. The cost of removal shall be the actual cost incurred by the city, plus any administrative expenses associated with the removal; provided that the amount to be charged shall not be less than $5. Nothing in this section shall be deemed to constitute a waiver of the city's right to issue a citation pursuant to § 13-4.6(a), including in instances where the person littering refuses to remove the litter or refuses to pay the city for the city's removal of the litter.

(b) In the case of litter on open or vacant private property in the city, the director of planning and permitting is authorized to notify the owner of the property or the agent of such owner to properly dispose of the litter. Such notice shall be given by certified mail, addressed to the owner at the owner's last known address and a copy thereof shall be posted on the property. The notice shall describe the work to be done and shall state that if the work is not commenced within 30 calendar days after the notice is given and diligently prosecuted to completion without interruption, the director of planning and permitting shall so notify the director of environmental services and the director of environmental services shall enter upon the property and cause the removal of the litter thereon, and the cost thereof shall be a lien on the property. The director of environmental services shall observe the following procedures:

(1) Upon the failure, neglect, or refusal of any owner or agent so notified to properly dispose of litter within 30 days after receipt of written notice, or within 30 days after the date of such notice in the event the same is returned to the city because of an inability to make delivery thereof, provided the same is properly addressed to the last known address of such owner or agent, the director of environmental services is authorized and empowered to dispose of such litter or to order its disposal by the city. The director of environmental services and the director's authorized representatives, including any contractor with whom the director contracts under this section and assistants, employees, or agents of such contractor are authorized to enter upon the property for the purpose of removing the litter thereon. Before the director of environmental services or the director's authorized representative or contractor arrives, any property owner may remove the litter thereon at the owner's expense.

(2) When the city has effected the removal of such litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 8 percent per year, shall be charged to the owner of such property who shall be billed therefor by mail. The bill shall apprise the owner that failure to pay the bill will result in a lien being placed upon the property. Interest at the rate of 8 percent per year shall accrue on any unpaid balance from the 31st calendar day after the bill has been mailed to the owner.

(3) Where the full amount due the city is not paid by such owner within 30 calendar days after the bill has been mailed for payment, the director of environmental services shall cause to be recorded with the city director of budget and fiscal services a statement showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done, and file the same with the director of budget and fiscal services, who shall refer the collection of the unpaid balance to the corporation counsel.

(4) Any work done by the city under this subsection is deemed to be done pursuant to a quasi-contract or constructive contract between the city and the owner. Based on the foregoing contractual relationship, if the owner fails to pay the amount duly noted on the statement filed by the director of environmental services, the corporation counsel may proceed to file a mechanic's and materialman's lien pursuant to HRS Chapter 507, Part II, or any other appropriate lien procedures.

(5) The director of environmental services shall cause to be kept in the department a permanent record containing:

(A) A description of each parcel of the property for which a notice to remove litter has been given under this subsection;

(B) The name of the owner, if known;

(C) The date on which such notice was mailed and posted;

(D) The charges incurred by the city in removing the litter and all incidental expenses in connection therewith; and

(E) A brief summary of the work performed. Each such entry shall be made as soon as possible after completion of such act.

(c) All moneys collected under this section shall be deposited into the solid waste special fund.

(Sec. 26-11.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.5) (Am. Ords. 88-78, 02-37)

§ 13-4.6 Enforcement.

(a) Any person charged with violating § 13-4.4(a) shall be served with a citation and an order to appear before the district court. Any person charged with a first violation may, within seven days of the issuance of the citation, appear at the district court and post a bail bond in the amount of the minimum fine imposed for the offense charged, as determined by the court, for appearance at the next succeeding session of the court. Upon failure to appear at such succeeding session, the bail bond shall be deemed forfeited. The failure of such violator to make such appearance or payment within seven days shall render such person subject to charges and to the penalties prescribed in § 13-4.7.

(b) Any person violating § 13-4.3(a)(1) or (a)(2) or violating § 13-4.4(a)(7), shall be issued a notice of violation by the director of planning and permitting or the director's designee mandating the removal of the litter or posted, affixed, or displayed material. Failure to remove such litter or material will subject the owners or persons in control of private property to the penalties prescribed in § 13-4.7. A notice of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the director or the director's designee in the exercise of reasonable diligence and the director or the director's designee provides an affidavit to that effect, then a notice of violation may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS § 1-28.5.

(Sec. 26-11.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.7) (Am. Ords. 02-37, 15-20)

§ 13-4.7 Violation—Penalty.

(a) Except as otherwise provided in this article, any person found guilty of violating this article or any rule adopted pursuant to this article shall be guilty of a violation. The person shall be ordered to pay the city for the cost of litter removal and shall pay a criminal fine of not more than $500 for each offense, or ordered to pick up and remove litter from a public place, as provided by HRS § 339-8, or both.

(b) For violations of § 13-4.3(a)(1) or (2) and violations of § 13-4.4(a)(7), in lieu of or in addition to the penalties prescribed in subsection (a), if the director of planning and permitting determines that any person, firm, or corporation is not complying with a notice of violation, the director of planning and permitting may have the party responsible for the violation served, by certified mail or delivery, with an order pursuant to this subsection.

(1) *Contents of the order.*

(A) The order may require the party responsible for the violation to do any or all of the following:

(i) Correct the violation within the time specified in the order;

(ii) Pay a civil fine not to exceed $500 in the manner, at the place and before the date specified in the order; and

(iii) 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.

(B) The order shall advise the party responsible for the violation that the civil fine, if unpaid within the prescribed time period, can be added to specified fees, taxes, or charges collected by the city.

(C) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery. The order shall also advise the party responsible for the violation that the order may be appealed to the building board of appeals.

(2) *Service of notice of order.* A notice of order must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the director of planning and permitting in the exercise of reasonable diligence, and the director of planning and permitting provides an affidavit to that effect, then a notice of order may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS § 1-28.5.

(3) *Effect of order—right to appeal.* The order issued by the director of planning and permitting under this subsection shall become final 30 calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the building board of appeals. The appeal must be received in writing by the building board of appeals on or before the date the order becomes final. However, an appeal to the building board of appeals shall not stay any provision of the order except the imposition of a civil fine. No civil fine shall be imposed once an order has been appealed until a hearing has been held pursuant to HRS Chapter 91, and a decision upholding the fine has been rendered.

(4) *Judicial enforcement of order.* The director of planning and permitting 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 the order, the director of planning and permitting 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.

(c) Any person violating § 13-4.4(b) or (c) shall be guilty of a petty misdemeanor and shall be ordered to pay the city for the cost of litter removal.

(Sec. 26-11.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 4, § 29-4.8) (Am. Ords. 97-13, 02-37, 15-20)

ARTICLE 5: USE OF STREETS AND SIDEWALKS BY SOLICITORS AND CANVASSERS

Sections

§ 13-5.1 Use unlawful for certain business purposes.

(a) It is unlawful for any solicitor or canvasser to engage in business on any public street, sidewalk, or mall where such person's operation tends to, or does impede or inconvenience the public or any person in the lawful use of such street, sidewalk, or mall.

(b) "Solicitor or canvasser," as used in this article, means any person, traveling by foot, or any other type of conveyance, or by wagon, automobile, motor truck, taking or attempting to take orders for the sale of goods, wares, merchandise, or other personal property for future delivery, or for services to be furnished or performed in the future, whether or not such person carries or exhibits any samples or collects advance payments on sales. The term shall also include any person who, for oneself or for another, hires, leases, uses, or occupies any building, structure, tent, room, shop, vehicle, or any other place for the sole purpose of exhibiting samples and taking orders for future delivery.

(Sec. 26-5.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 5, § 29-5.1)

§ 13-5.2 Violation—Penalty.

Any person violating this article shall upon conviction be punished by a fine not exceeding $100 or by imprisonment not exceeding 30 days, or by both.

(Sec. 26-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 5, § 29-5.2)

ARTICLE 6: PEDDLER'S LICENSE

Sections

§ 13-6.1 Annual fee.

The annual fee for a peddler's license shall be $27.50, provided that the fee is waived for all peddlers of newspapers of general circulation, and no license shall be required of the following:

(1) Any person peddling fresh fish, fresh fruit, fresh lei, fresh flowers, or fresh vegetables;

(2) Any merchant of a store allowed to peddle on a portion of a sidewalk or mall under Article 6A; or

(3) Any person who has reached the age of 60 years.

(Sec. 26-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 6, § 29-6.1) (Am. Ords. 92-73, 03-26)

§ 13-6.2 Regulation affecting peddling.

(a) It is unlawful for any person to peddle on a public place without a peddler's license issued by the city, except as otherwise provided by § 13-6.1.

(b) It is unlawful for any person, whether exempt or licensed under § 13-6.1, to peddle on a public place, unless such person is also duly licensed under HRS § 237-9 to engage in and conduct such business as required by HRS § 237-9.

(c) Notwithstanding subsections (a) and (b) or any other ordinance to the contrary, and except as specifically provided in this section, it is unlawful for any person to peddle on a public place in the following areas, even if such person is exempt or licensed under § 13-6.1:

(1) On the Pali Highway from the intersection of Nuuanu Pali Drive to Castle Junction, including the Pali Lookout (improved observation area at the summit) and access road thereto;

(2) Makapuu Lookout (parking area overlooking Makapuu Beach) on Kalanianaole Highway;

(3) On Diamond Head Road from Poni Moi Road to Kulamanu Place;

(4) Tantalus Drive from Aaliamanu Place to Ualakaa Park;

(5) Waimea Bay beginning at Maunawai to the Kupupolo Heiau on Kamehameha Highway;

(6) Within 300 feet of the easterly end of Naupaka Street on Laie Point;

(7) Waikiki Peninsula upon the public streets, alleys, sidewalks, malls, parks, beaches, and other public places in Waikiki commencing at the entrance to the Ala Wai Canal, thence along the Ala Wai Canal to Kapahulu Avenue, thence along the Diamond Head property line of Kapahulu Avenue to the ocean, thence along the ocean back to the entrance of the Ala Wai Canal;

(8) Fort Street and Union Street Malls—the length and width of those areas in downtown Honolulu designated as the Fort Street Mall and the Union Street Mall;

(9) Chinatown and the length and width of College Walk Mall and Sun Yat Sen Mall; except as allowed under Article 6A or Article 10;

(10) In any school zone as defined in § 15-2.21 while school is in session; provided that this subdivision shall not apply to any authorized participant in a city-sponsored market program, or in any school-sponsored function, or to home door-to-door salespersons, solicitors, or canvassers, as defined in § 13-5.1(b). For the purpose of this subdivision, the following definitions apply unless the context clearly indicates or requires a different meaning.

School. Any public or private elementary, intermediate, or high school; and

School Is in Session. One hour before the start of classes and up until one hour after the last scheduled class ends;

(11) Halona Scenic Lookout (parking area overlooking the Blowhole) on Kalanianaole Highway;

(12) The grounds of City Hall and the Honolulu Municipal Building, as defined in § 38-11.1 and including the public sidewalks abutting King Street, Alapai Street, Beretania Street, and Punchbowl Street. This subdivision shall not preclude use of the grounds by any concessionaire, licensee, lessee, or permittee of the city, or by any peddler participating in the city-sponsored people's open market program; and

(13) Within any public park or beach owned and operated by the city, except pursuant to a concession, permit or license issued by the city.

This subsection shall not apply to the sale or offer for sale of newspapers of general circulation and to duly authorized concessions in public places. For purposes of this section, "newspaper of general circulation" means a publication published at regular intervals, primarily for the dissemination of news, intelligence, and opinions on recent events or newsworthy items of a general character, and reaching all classes of the public.

(d) Subsection (c) shall not be construed as prohibiting the sale or offer for sale, rent, or offer for rent, or display for sale or rent on the public streets, sidewalks, malls, or public places of goods, wares, merchandise, foodstuffs, refreshments, or other kinds of property or services within the area authorized by a parade or street usage permit within the time specified in the permit and subject to the terms and conditions of the permit, as authorized by the holders of the permit.

(Sec. 26-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 29, Art. 6, § 29-6.2) (Am. Ords. 88-36, 88-91, 92-73, 96-53, 96-58, 99-05, 03-26)

§ 13-6.3 Deceptive sales and commercial schemes prohibited.

It is unlawful for any person to engage in an unfair, deceptive, fraudulent, or misleading act, practice, or representation while promoting any goods, products, services, or property of any kind, upon streets, alleys, sidewalks, parks, beaches, and other public places.
(Sec. 26-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 6, § 29-6.3)

§ 13-6.4 Violation—Penalty—Summons or citation—Arrest.

(a) *Penalty.* Any person violating this article shall upon conviction be punished as follows:

(1) By a fine of $100 if the violation did not occur within two years of the occurrence of a previous violation of this article;

(2) By a fine of $250 if the violation occurred within two years of the occurrence of one previous violation of this article; or

(3) By a fine of not less than $500 nor more than $1,000, imprisonment not exceeding 30 days, or both if the violation occurred within two years of the occurrence of two or more previous violations of this article.

(b) *Summons or citation.* An authorized police officer shall issue to an alleged violator a summons or citation in accordance with Article 9; provided that the police officer may physically arrest an alleged violator in lieu of issuing a summons or citation.
(Sec. 26-6.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 6, § 29-6.4) (Am. Ords. 01-45, 03-26)

ARTICLE 6A: PEDDLING BY MERCHANT OF A STORE ON A CHINATOWN SIDEWALK OR MALL, COLLEGE WALK MALL, SUN YAT SEN MALL, AND HISTORIC MOILIILI SIDEWALK

Sections

§ 13-6A.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Chinatown Mall. Any of the following:

(1) The Kekaulike Mall, designated for this article as the area of Kekaulike Street, including the abutting sidewalks, between Hotel Street and King Street; or

(2) Any other mall that may be established or designated by ordinance within Chinatown.

Historic Moiliili. The area along both sides of South King Street between Old Stadium Park and Church Lane.

Mall. When used generally in this article, means the College Walk Mall, Sun Yat Sen Mall, or a Chinatown mall.

Merchant of a Store. The person actually operating a store, whether or not the person is the owner of the store or real property housing or underlying the store.

Portion of a Sidewalk or Mall Usable by a Merchant for Peddling. The portion of a Chinatown sidewalk or mall, the College Walk Mall, the Sun Yat Sen Mall, or Historic Moiliili sidewalk upon which a merchant may peddle in accordance with § 13-6A.2. If the portion is limited by the designated city department pursuant to that section, the phrase means only the limited portion.
(1990 Code, Ch. 29, Art. 6A, § 29-6A.1) (Added by Ord. 03-26; Am. Ord. 12-33)

§ 13-6A.2 Peddling by merchant of a store on a portion of a Chinatown sidewalk or mall, the College Walk Mall, the Sun Yat Sen Mall, or Historic Moiliili Sidewalk.

(a) Except when prohibited under subsection (b):

(1) A merchant of a store at ground level in Chinatown may peddle on a portion of the sidewalk or mall abutting the store as provided by this article;

(2) A merchant of a store that abuts College Walk Mall or Sun Yat Sen Mall at ground level may peddle on a portion of the mall abutting the store as provided by this article; and

(3) A merchant of a store that abuts a Historic Moiliili sidewalk at ground level may peddle on the portion of the sidewalk abutting the store as provided by this article.

Except when limited to a lesser area pursuant to subsection (b), a merchant may peddle:

(A) On any portion of the sidewalk within 18 inches perpendicular from the merchant's storefront wall; or

(B) On any portion of the mall within 48 inches perpendicular from the merchant's storefront wall.

Notwithstanding the foregoing, a merchant of a store that abuts a Historic Moiliili sidewalk may peddle on any portion of the sidewalk within 48 inches perpendicular from the merchant's storefront wall except when limited to a lesser area pursuant to subsection (b). In no instance, however, shall the merchant peddle on any portion of a sidewalk or mall that extends laterally past the length of the merchant's storefront.

(b) (1) The city executive department designated by the mayor shall prohibit a merchant from peddling on any portion of a sidewalk or mall if the department determines that the peddling will result in any of the following:

(A) The material impedance or obstruction of pedestrian traffic on the sidewalk or mall;

(B) A violation of the federal Americans with Disabilities Act;

(C) The jeopardy of the public safety;

(D) An inconsistency with the objectives of the Chinatown special district as set forth under § 21-9.60 et seq.; or

(E) The obstruction of a mailbox, fire hydrant, curbside teller, freight chute, freight elevator, newsstand, public telephone enclosure, or other structure permitted under Article 8.

(2) Alternatively, the designated city department may limit a merchant to peddling on a portion of a sidewalk or mall less than the 18 inches or 48 inches specified under subsection (a) if the department determines that the limitation is necessary to prevent any of the occurrences listed under subsection (b)(1)(A) through (E). If imposing the limitation, the designated city department shall notify the merchant of the limited portion of the sidewalk or mall upon which the merchant may peddle.

(c) No merchant of a store or other person shall violate a prohibition or limitation set by this section or the designated city department concerning the portion of a sidewalk or mall usable or not for peddling.

(1990 Code, Ch. 29, Art. 6A, § 29-6A.2) (Added by Ord. 03-26; Am. Ord. 12-33)

§ 13-6A.3 Other restrictions and conditions for peddling on a portion of a sidewalk or mall.

(a) A merchant of a store may peddle on a portion of an abutting sidewalk or mall only goods, wares, merchandise, foodstuffs, refreshments, or other kinds of property or services of the same or a similar character as available in the merchant's store; provided that a merchant shall not peddle any liquor as defined in HRS § 281-1 on a sidewalk or mall.

(b) (1) A merchant of a store shall not place any empty box, trash can, or debris on the portion of a sidewalk usable by the merchant for peddling. This prohibition shall not apply to the portion of a mall usable by a merchant for peddling.

(2) A merchant of a store shall be subject to Article 4 with respect to littering on the portion of a sidewalk or mall usable by the merchant for peddling.

(c) A merchant of a store shall not install any permanent structure on the portion of a sidewalk or mall usable by the merchant for peddling.

(d) A merchant of a store or other person on behalf of such a merchant may stand beyond the portion of a sidewalk usable by the merchant for peddling when the merchant or person peddles goods, wares, merchandise, foodstuffs, or other kinds of property that are displayed on the sidewalk by the merchant.

This subsection shall not apply:

(1) When a merchant is prohibited under § 13-6A.2(b)(1) from peddling on any portion of a sidewalk abutting the merchant's store; or

(2) To a merchant of a store abutting a mall or a person peddling on the mall on behalf of the merchant. Such a merchant or person shall stand and peddle only on the portion of the mall usable by the merchant for peddling.

(e) A merchant of a store shall not cook, cut, trim, or otherwise prepare food for sale or consumption on the portion of a sidewalk or mall usable by the merchant for peddling.

A merchant who uses a portion of a sidewalk or mall to peddle food shall comply with all relevant State laws and rules relating to food preparation, sale, and sanitation.

(1990 Code, Ch. 29, Art. 6A, § 29-6A.3) (Added by Ord. 03-26)

§ 13-6A.4 Adoption of rules.

The city executive department designated by the mayor may adopt rules to implement this article, including rules relating to the hours during which peddling on a sidewalk or mall is allowed. The rules shall be adopted in accordance with HRS Chapter 91.
(1990 Code, Ch. 29, Art. 6A, § 29-6A.4) (Added by Ord. 03-26)

§ 13-6A.5 Violation—Summons or citation—Arrest.

(a) No person shall violate this article or any rule adopted pursuant to this article.

(b) An authorized police officer shall issue to an alleged violator a summons or citation in accordance with Article 9; provided that the police officer may physically arrest an alleged violator in lieu of issuing a summons or citation.
(1990 Code, Ch. 29, Art. 6A, § 29-6A.5) (Added by Ord. 03-26)

§ 13-6A.6 Penalty.

Any person violating this article or rule adopted pursuant to this article shall upon conviction be punished as follows:

(1) By a fine of $100 if the violation did not occur within two years of the occurrence of a previous violation of this article;

(2) By a fine of $250 if the violation occurred within two years of the occurrence of one previous violation of this article; or

(3) By a fine of not less than $500 nor more than $1,000, imprisonment not exceeding 30 days, or both if the violation occurred within two years of the occurrence of two or more previous violations of this article.

For the purposes of this section, a "violation of this article" includes a violation of a rule adopted pursuant to this article.
(1990 Code, Ch. 29, Art. 6A, § 29-6A.6) (Added by Ord. 03-26)

§ 13-6A.7 Article additional to Articles 8 and 10 with respect to use of mall.

The use of a mall as authorized by this article shall be additional to the uses of a mall authorized under Article 8 and Article 10.
(1990 Code, Ch. 29, Art. 6A, § 29-6A.7) (Added by Ord. 03-26)

ARTICLE 7: HANDBILLING IN THE WAIKIKI SPECIAL DESIGN DISTRICT

Sections

§ 13-7.1 Purpose and intent.

(a) The council finds that reasonable regulation of handbilling activities upon certain public streets, sidewalks, alleys, and other public places within Waikiki is a matter of compelling interest to the city. The council finds a compelling need in this district to ensure the safety and welfare of both motorists and pedestrians.

(b) The Waikiki district is the heart of the city's tourist industry and a major business, entertainment, and recreation area for visitors and residents alike. In 1986, there were approximately 5.6 million visitors to the State. The visitor industry is an essential component of the economic vitality of the area and the State. On an average, there were approximately 66,000 visitors in the Waikiki district each day. In addition to this, the resident population of the Waikiki district is approximately 23,000 people. As a result, travel through the district is hindered by heavy pedestrian and vehicular traffic and congestion at all times of the day. Pedestrian traffic counts on the sidewalk at critical spots along Kalakaua Avenue alone during peak hours reach over 3,900 pedestrians per hour, an extraordinarily high volume. Daily pedestrian traffic on the mauka side of the street at the International Market Place in both directions during peak tourist season is estimated at 39,600. Peak season daily pedestrian traffic on both sides of the street exceeds 65,000. Similar extraordinarily high pedestrian traffic is also found on the sidewalks along Kuhio Avenue and sections of Lewers Street. The city's interest in open and attractive sidewalks extends throughout the Waikiki special district.

(c) Handbilling activities conducted at or close to intersections, crosswalks, bus stops, and driveways impede the flow of pedestrian and vehicular traffic, leading to erratic, evasive maneuvers and posing the hazard of diverting the attentions of and endangering drivers, pedestrians, and those alighting from buses. Further, handbillers who obstruct the paths of pedestrians or who, without the consent of the pedestrians, thrust handbills in their faces or touch their persons or property, create hazardous situations, such as pedestrians stepping into busy streets or colliding with other pedestrians to avoid unwanted contacts with handbillers. This danger is minimized when handbillers are prohibited from engaging in handbilling in or in close proximity to such safety sensitive areas as driveways, crosswalks, bus stops, and intersections. Accordingly, this article is designed to protect the safety of the public and to restrict handbilling activities in only those areas creating the greatest hazards to pedestrian and motorist safety.

(d) The provisions of this article are declared to be necessary for the accomplishment of the following purposes:

(1) To ensure that persons desiring to engage in handbilling activities in Waikiki are given a reasonable opportunity to do so;

(2) To ensure the safe, unrestricted, free and orderly flow of vehicular and pedestrian traffic on the most hazardous portions of sidewalks in Waikiki; and

(3) To protect the visitor industry in the State, the heart of which is the Waikiki peninsula, by protecting the safety of our visitors.

(e) The provisions of this article are not intended to cover the dispensing of written materials by newsracks or peddling activities covered by Article 6.

(1990 Code, Ch. 29, Art. 7, § 29-7.1) (Added by Ord. 88-83; Am. Ord. 98-12)

§ 13-7.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Department. The department of budget and fiscal services of the City and County of Honolulu.

Director. The director of budget and fiscal services of the City and County of Honolulu.

Handbilling. The distribution by an individual of any printed or written matter or other informative material. The term handbilling shall not include distribution of any printed or written matter by means of a "dispensing rack," as defined in § 13-11.2(a), any other structure or enclosure constructed by or under the direction of the city for purposes of dispensing printed or written material, or a newsstand permitted under § 13-8.2, and shall not include the sale or offer for sale or rent or offer for rent of any printed or written material or any other informative material.

Informative Material. Any photograph, map, diagram, rendering, drawing, painting, graph, photocopy, print, relief, engraving, embossed material, punch card, audio tape, video tape, computer tape, record, compact or laser disc, computer diskette, or any other material intended to convey information audibly, visually, or by touch, whether in language, code or otherwise, which has no purpose apart from the conveyance of the information, depiction, or sound conveyed, but does not include money or any negotiable instrument.

(1990 Code, Ch. 29, Art. 7, § 29-7.2) (Added by Ord. 88-83; Am. Ords. 98-12, 00-02)

§ 13-7.3 Application.

This article applies to Kalakaua and Kuhio Avenues between Kalaimoku Street and Kapahulu Avenue, and Lewers Street between Kalakaua Avenue and Kalia Road, and the sidewalks thereof.

This article also applies to the appropriate public sidewalk areas of streets intersecting the portions of Kalakaua Avenue, Kuhio Avenue, and Lewers Street listed above.

(1990 Code, Ch. 29, Art. 7, § 29-7.3) (Added by Ord. 88-83; Am. Ord. 00-02)

§ 13-7.4 Areas in which handbilling is permitted.

(a) Handbilling is permitted on all public sidewalks to which this article applies, except:

(1) In any area where clear pedestrian passage on the public sidewalk is less than 4 feet wide;

(2) On the portion of a public sidewalk adjacent to any area designated as a bus stop or within 10 feet of either end of the bus stop. In areas where the length of the bus stop is not clearly identified, the front of the bus stop begins at the bus stop sign and extends 50 feet back from the bus stop sign;

(3) Within a midblock crosswalk area;

(4) On the portion of a public sidewalk crossed by a public or private driveway or within 10 feet of either side of the driveway; or

(5) Within any street corner area.

(b) For the purposes of this section:

(1) ***Midblock Crosswalk Area.*** The sidewalk area that falls between the two lines 15 feet beyond each side of a marked midblock crosswalk (as defined by the crosswalk lines delineated on the street pavement) and perpendicular to the curb. (See examples of midblock crosswalk areas in Attachment "A," Figures 13-7A.1, 13-7A.5, and 13-7A.7.)

(2) *Street corner areas.*

(A) At street corners other than those subject to paragraph (B) or (C), "street corner area" means the sidewalk area at the intersection of two streets, circumscribed by the curbs, the property lines abutting the sidewalk area, and the following lines:

(i) The line including the point along the curb of one street either: 10 feet beyond the far side of a marked corner crosswalk and perpendicular to the curb; or, where there is no marked corner crosswalk, 25 feet from the curb line of the intersecting street and parallel to the curb line; and

(ii) The line including the point along the curb of the intersecting street either: 10 feet beyond the far side of a marked corner crosswalk and perpendicular to the curb; or, where there is no marked crosswalk, 25 feet from the curb line of the first street and parallel to the curb line.

(See street corner areas marked diagonally on Attachment "A," Figures 13-7A.2, 13-7A.3, and 13-7A.4.)

(B) Except as provided in paragraph (C), for street corners at a "T" intersection, at the two corners created on the stem street side of the crossbar street, the street corner area provision of this subdivision shall apply, and on the side of the crossbar street opposite the stem street, the midblock crosswalk area provisions of subdivision (1) shall apply. (See areas marked diagonally on Attachment "A," Figures 13-7A.5, 13-7A.6, and 13-7A.7.)

For purposes of this definition, a "T" intersection is an intersection where one street, designated the "stem" street, terminates at another street, designated the "crossbar" street.

(C) At the ewa side of the crosswalk crossing Beach Walk at its intersection with Kalakaua Avenue and at the ewa side of the ewa crosswalk crossing Saratoga Road at its intersection with Kalakaua Avenue, the "street corner area" shall be determined by application of the midblock crosswalk area provision of subdivision (1). Additionally, with respect to the intersection of Kalakaua Avenue and Saratoga Road, the area where handbilling is prohibited shall include the entire traffic island at that intersection.

(3) For crosswalks that are delineated by two roughly parallel lines defining portions of the perimeter of the crosswalk, including crosswalks at intersections where pedestrians are permitted to cross in all directions at the same time ("Barnes Walks"), distances shall be measured from the point where the outer edges of the roughly parallel lines intersect the curb; provided that if they do not intersect the curb, distances shall be measured from the point where the outer edges of the roughly parallel lines would intersect the curb if they were extended to intersect the curb. (See Attachment "A," Figures 13-7A.8 and 13-7A.9.) For those crosswalks that are not delineated by roughly parallel perimeter lines, and which are defined by a series of roughly parallel rectangular blocks within the crosswalk itself, distances shall be measured from the points where the curb intersects the lines projected through the midpoints of the widths of the two full-length rectangular blocks nearest to the curb line. (See Attachment "A," Figure 13-7A.10.) For purposes of this subdivision: the "width" of a rectangular block shall be the shorter side of the block, the side roughly perpendicular to the nearest curb line; and a "full length" rectangular block is a block at least 80 percent of the length of the longest rectangular block in the crosswalk.

(4) "Corner crosswalk" means a crosswalk, any portion of which is within 25 feet of the closest street corner. The measurement rule of subdivision (3) shall not apply to this definition.

(5) "Curb line" means the line of a curb before its becoming curved at a street corner.

(6) "Far side" of a marked corner crosswalk is the side of the crosswalk further from the closest street corner.

(7) "Midblock crosswalk" means any crosswalk other than a corner crosswalk.

(c) The figures in Attachment A are intended to illustrate the application of the regulations to midblock crosswalk areas and to street corner areas; however, the figures are not intended to represent every crosswalk or street corner in the area regulated by this article.

(1990 Code, Ch. 29, Art. 7, § 29-7.4) (Added by Ord. 88-83; Am. Ords. 98-12, 00-02)

§ 13-7.5 Penalty, summons, or citation.

(a) *Penalty*. Any person conducting handbilling in violation of this article shall be subject to a fine of $25 for each offense.

(b) *Summons or citation.*

(1) There shall be provided for use by authorized police officers, or authorized special police officers, a form of summons or citation for use in citing any violation of this article that does not mandate the physical

arrest of the violator. 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 as to include all necessary information to make the same valid within the laws and regulations of the State and city. The summons or citation shall instruct such person to report to the violations bureau of the district court for the district of Honolulu. Each such violator may, within seven days after 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 court for appearance on the date as may be set out for such person to appear before the district court. Upon failure to appear on such date, the bail bond shall be deemed forfeited. Bail forfeiture by mail shall be permitted.

(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 the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.

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

(1990 Code, Ch. 29, Art. 7, § 29-7.5) (Added by Ord. 88-83)

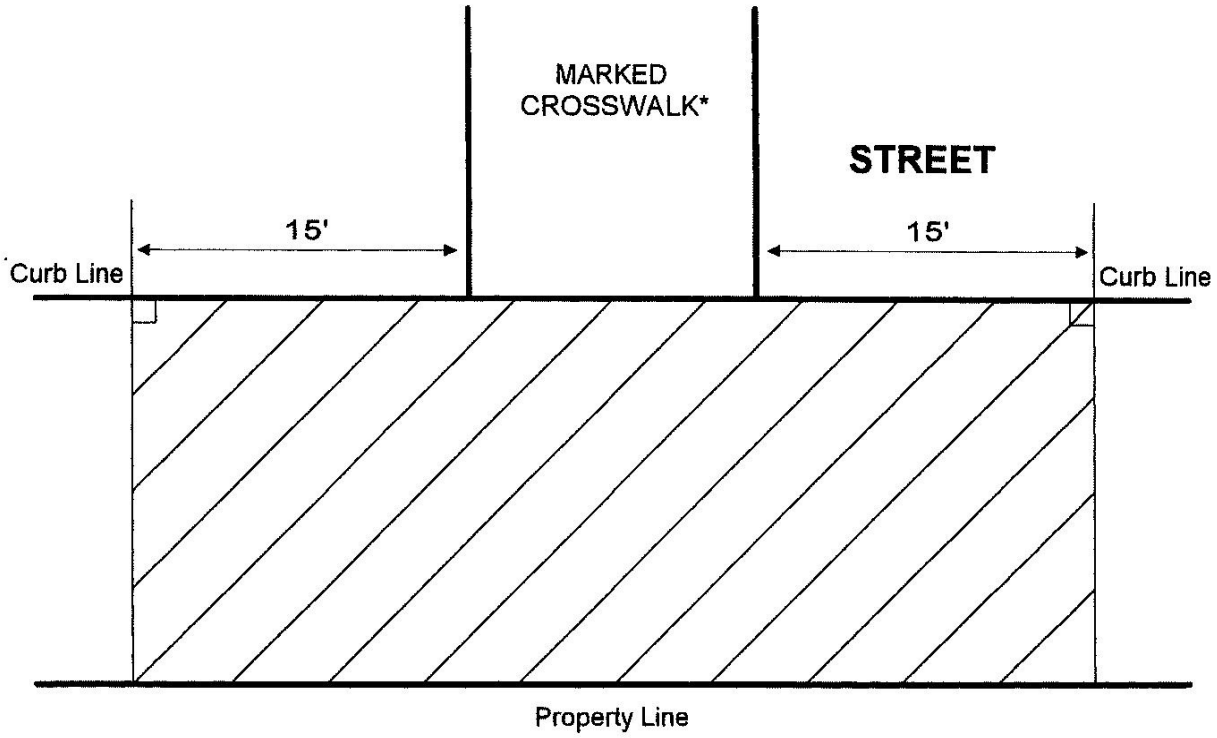
§ 13-7.6 Prohibited activity.

Individuals distributing handbills shall be prohibited from depositing any handbills upon any public place or upon any structure or landscaping on any public place at any time.

(1990 Code, Ch. 29, Art. 7, § 29-7.6) (Added by Ord. 98-12)

Attachment "A"

Figure 13-7A.1: Midblock Crosswalk Area



*** Crosswalks are generally delineated by either two parallel lines or a series of parallel rectangular blocks.**

Figure 13-7A.2: Street Corner Area With Two Marked Crosswalks

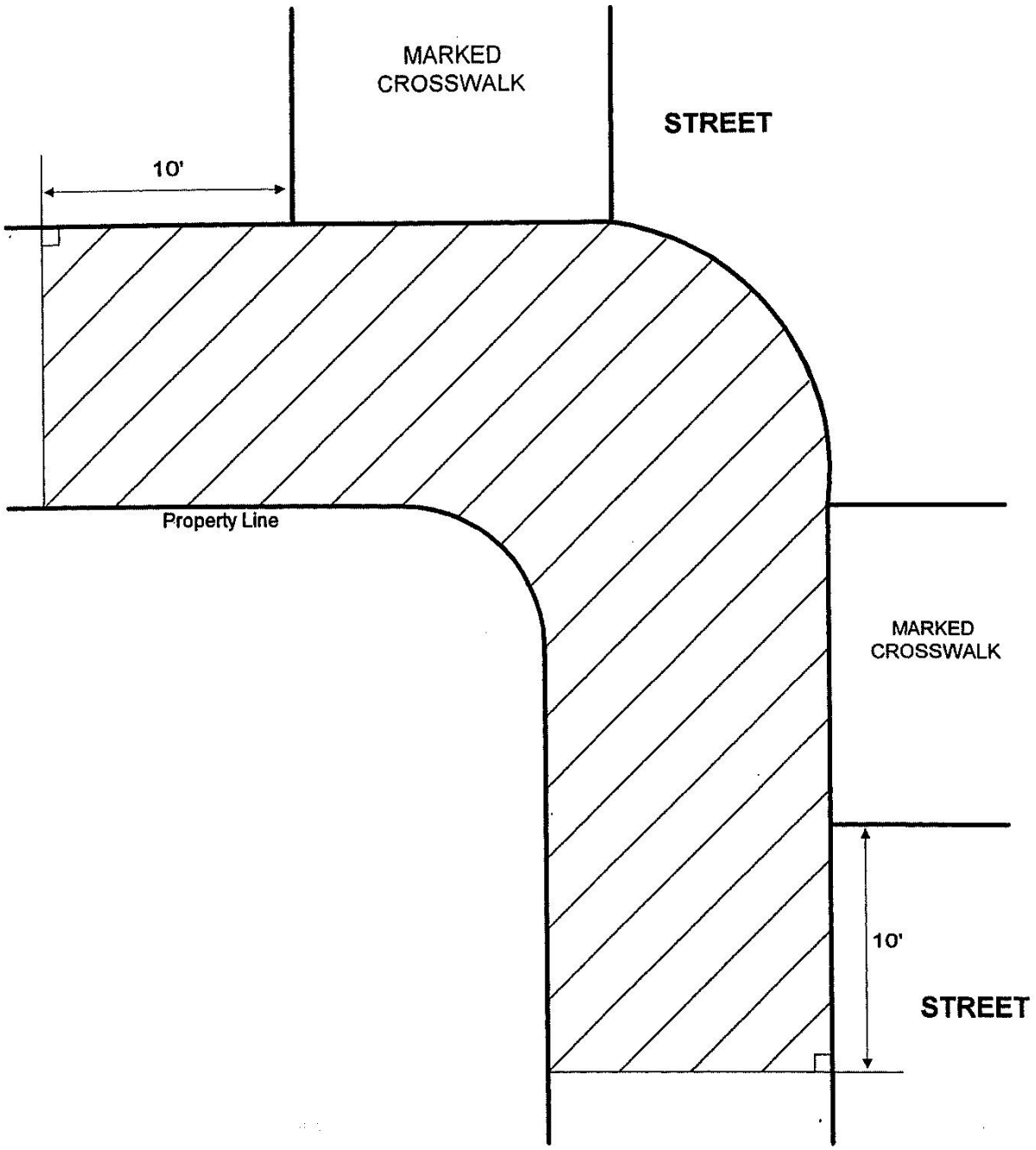


Figure 13-7A.3: Street Corner Area Without Marked Crosswalk

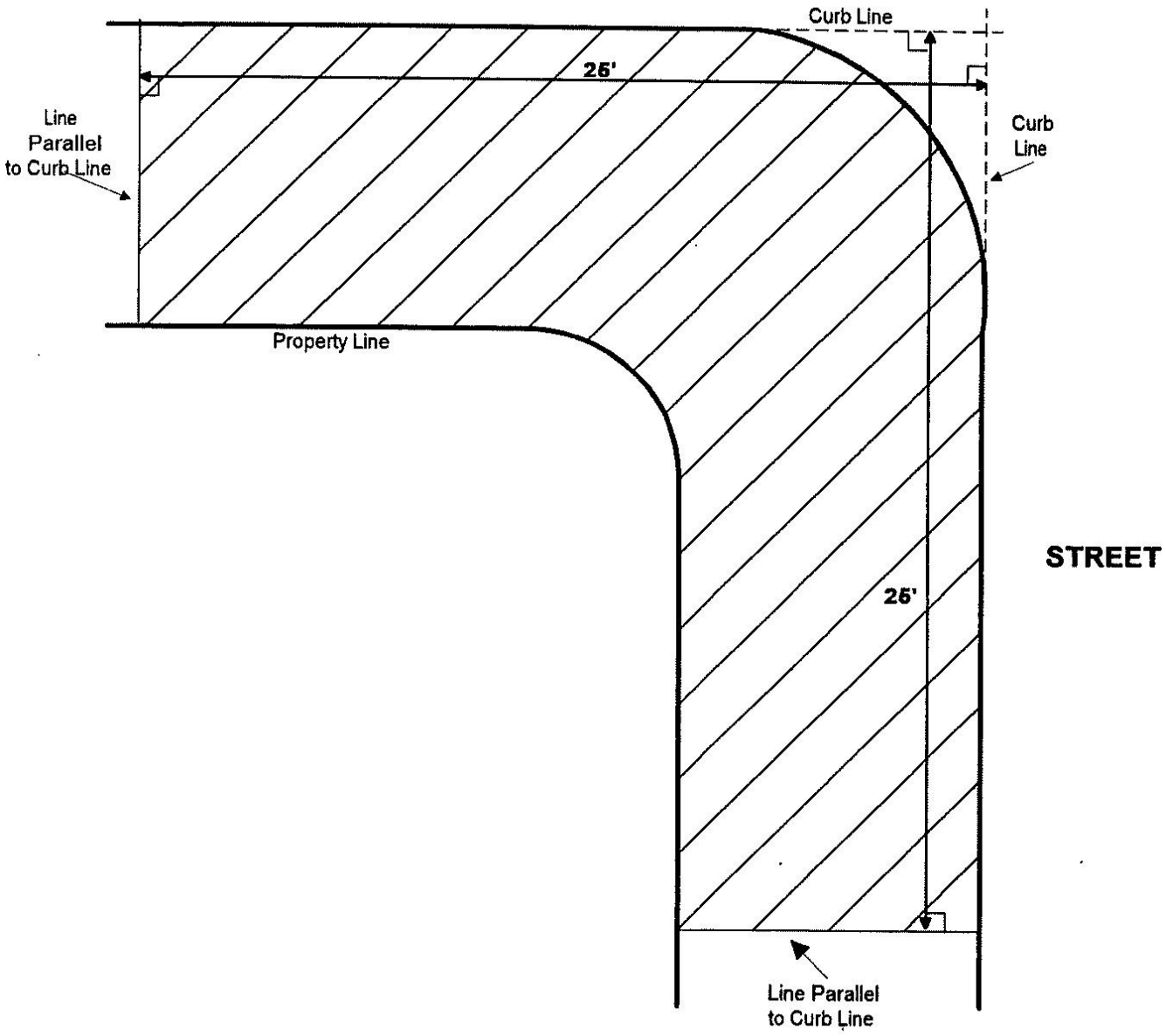


Figure 13-7A.4: Street Corner Area With One Marked Crosswalk

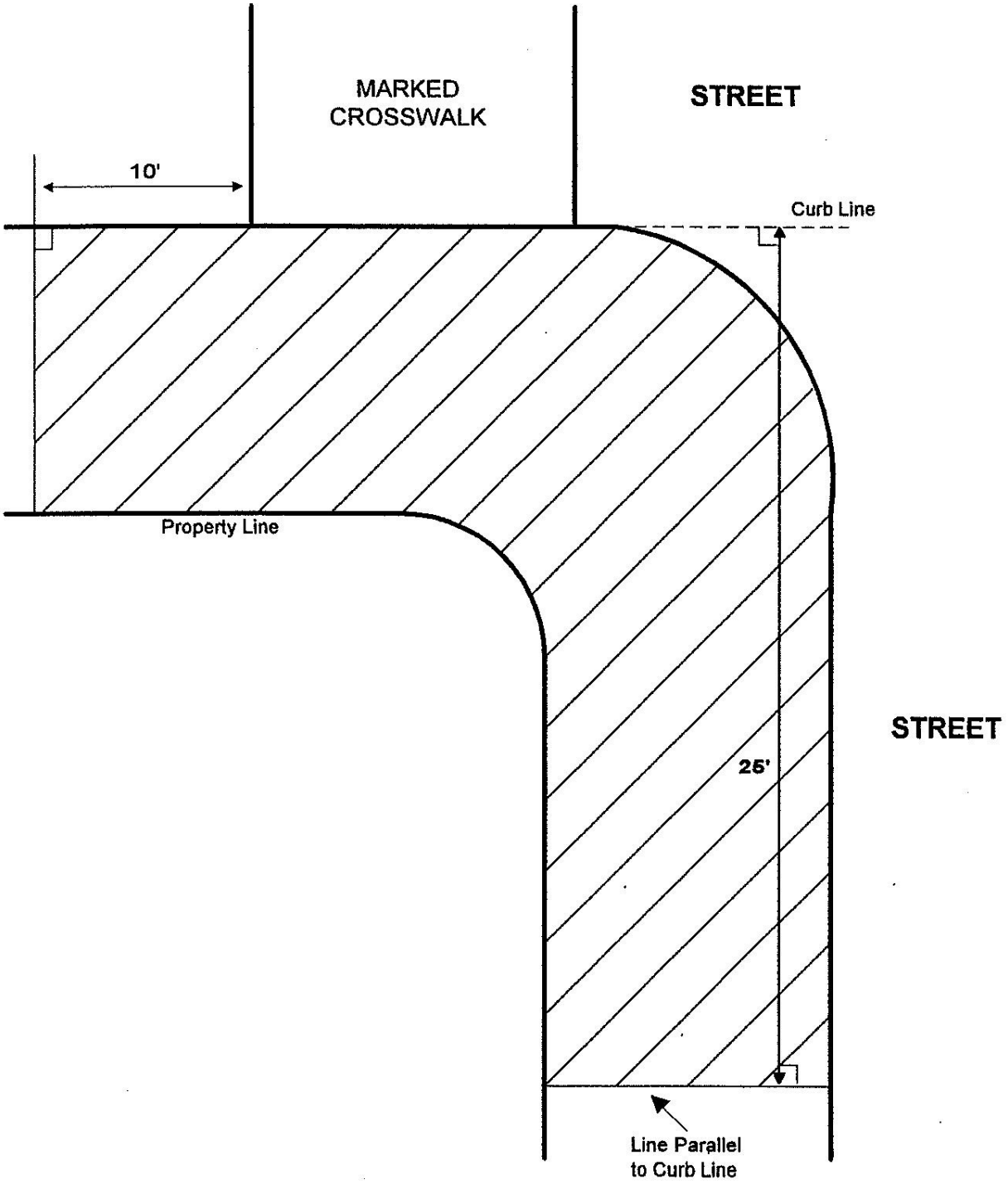


Figure 13-7A.5: "T" Intersection With Crosswalks

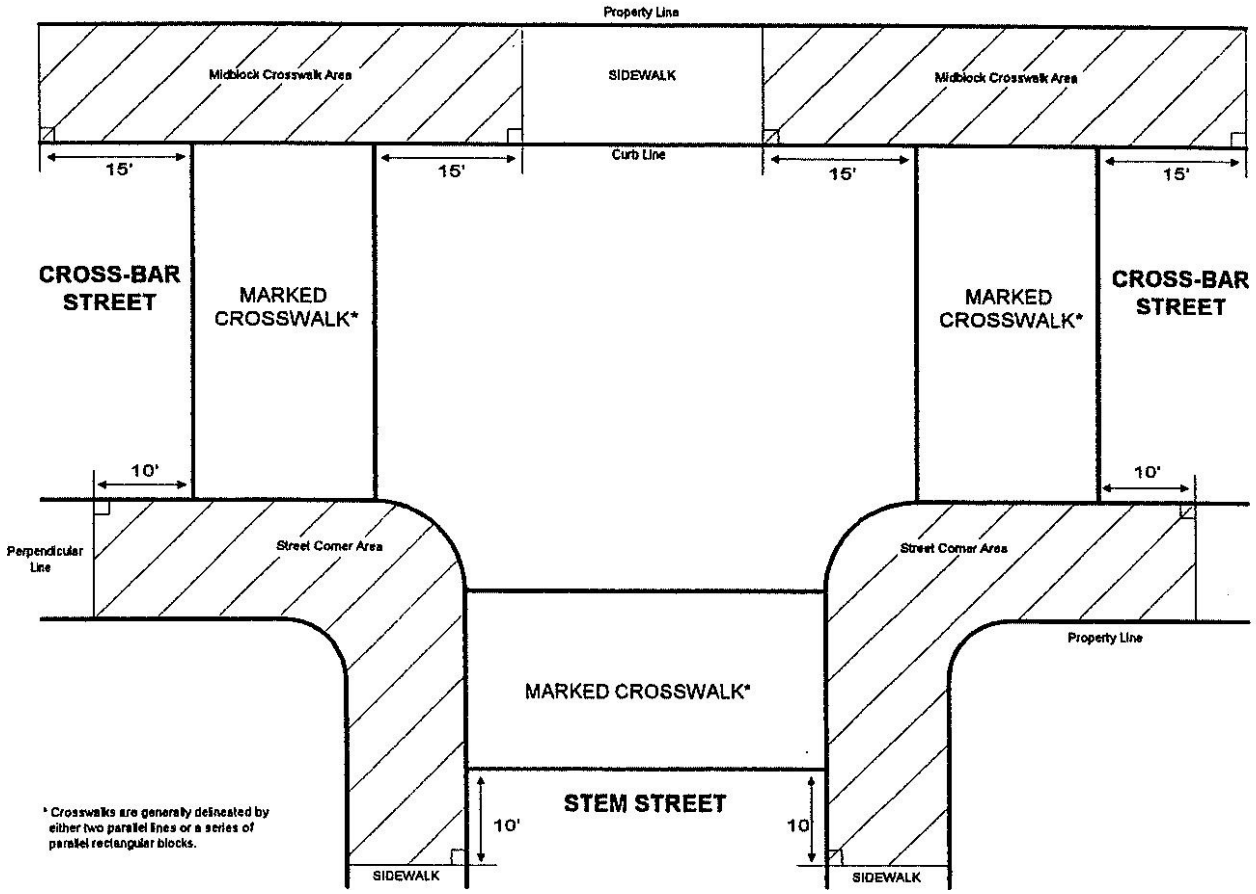


Figure 13-7A.6: "T" Intersection Without Crosswalks

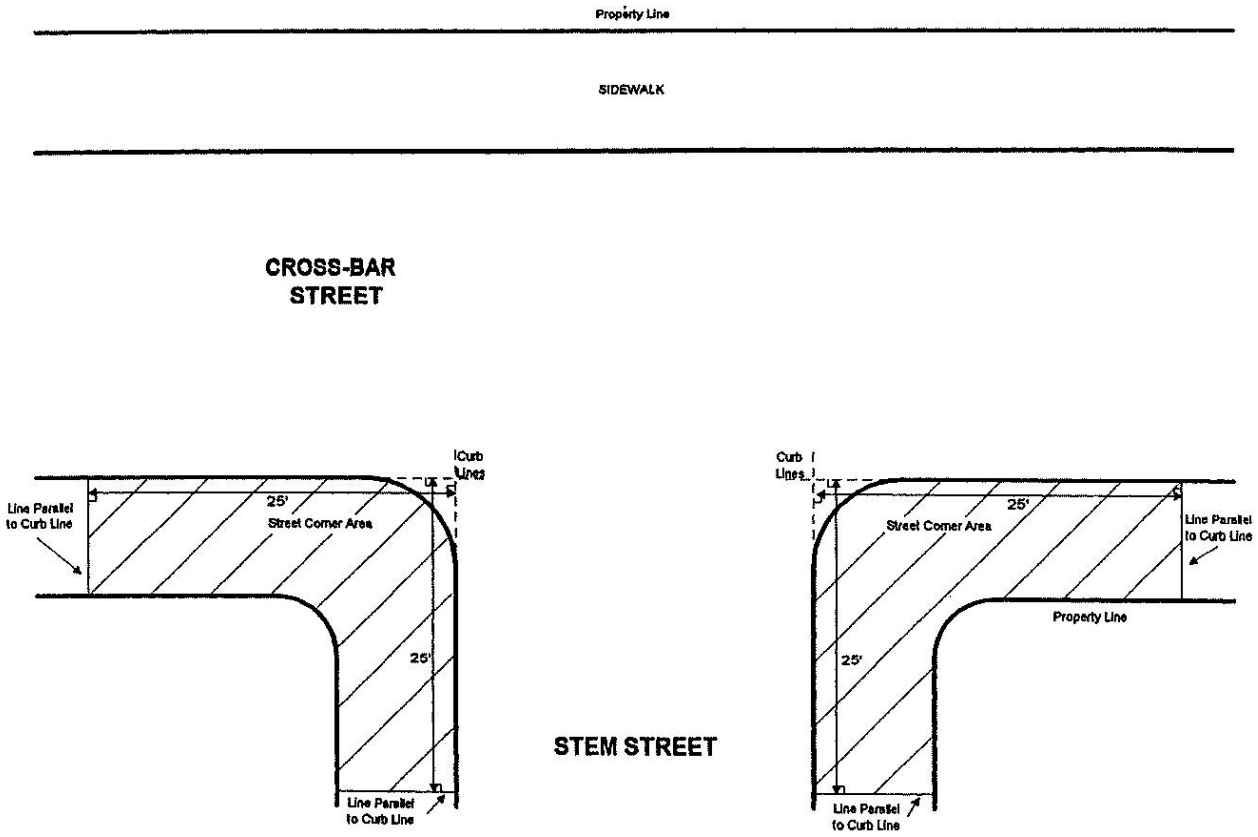


Figure 13-7A.7: Barnes Walk Crosswalk

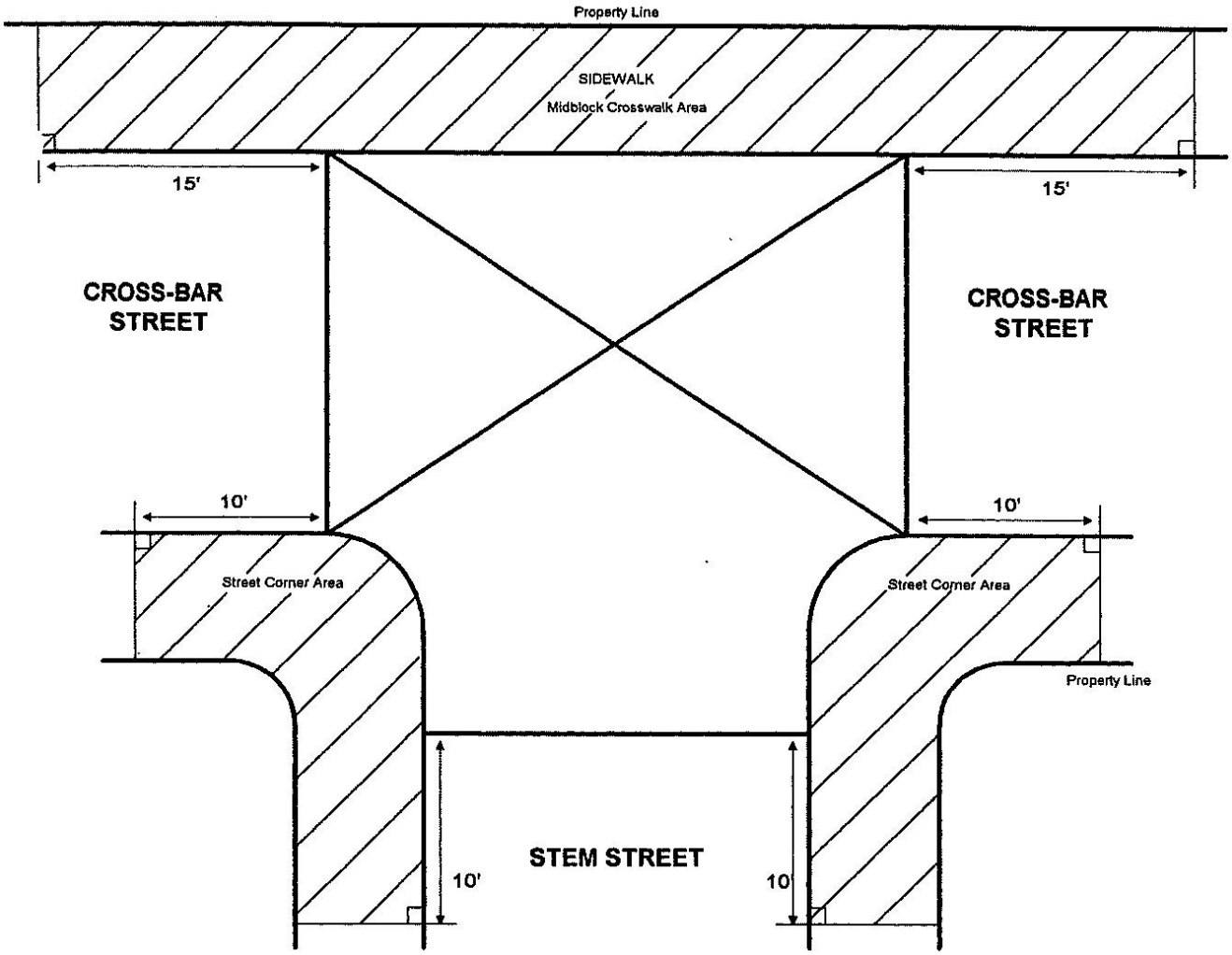
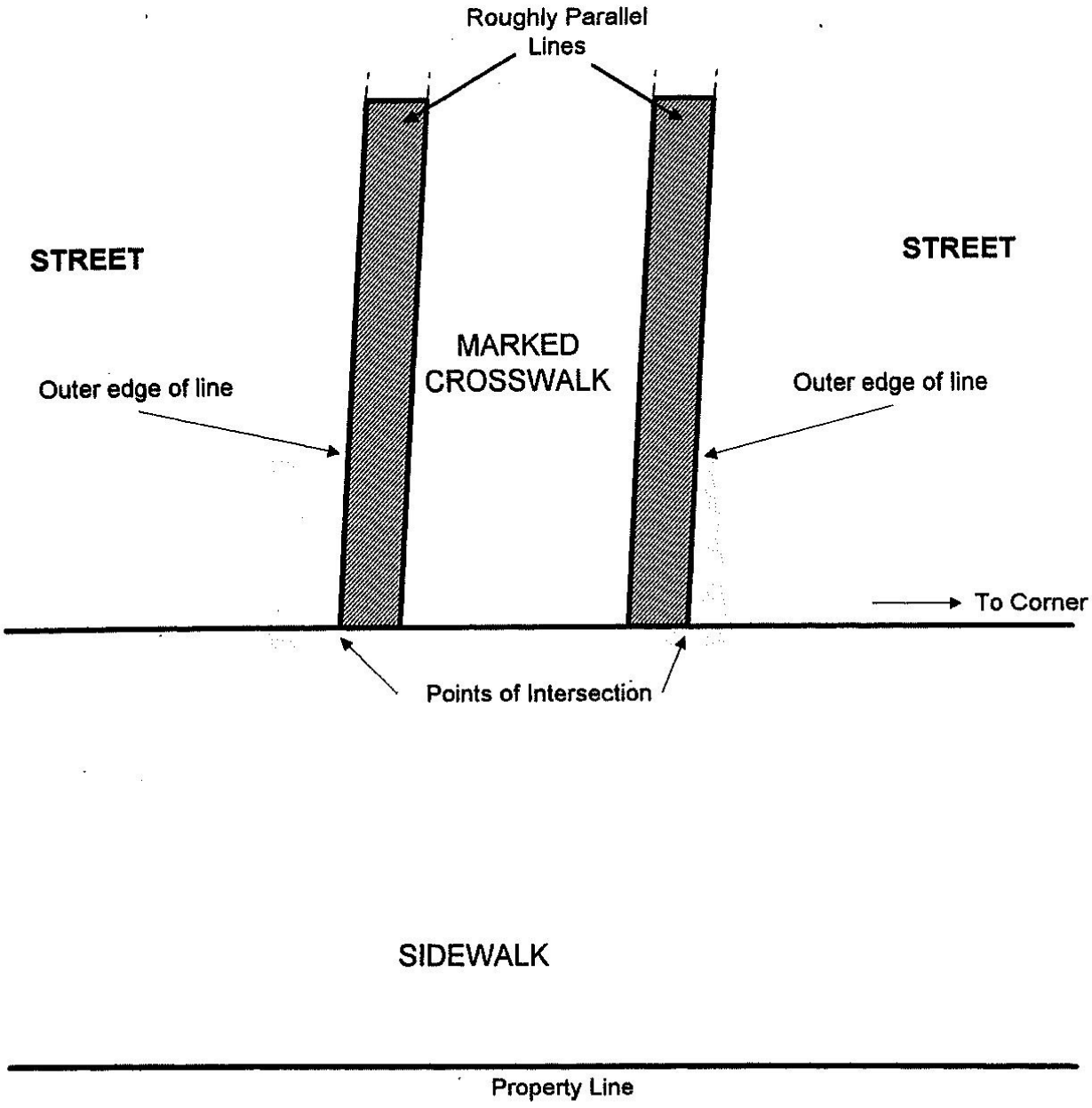
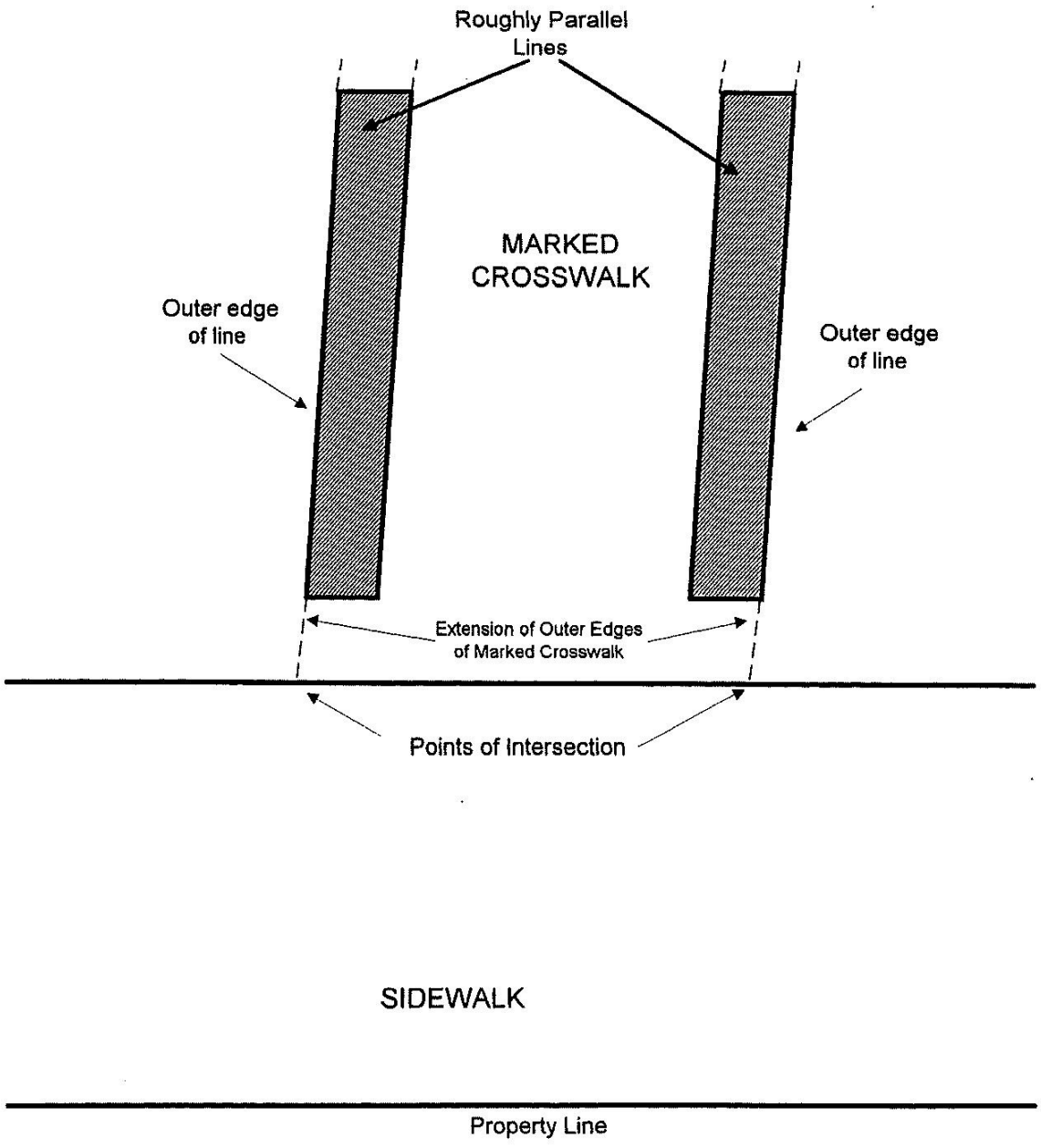


Figure 13-7A.8: Crosswalk Delineated by Roughly Parallel Lines Intersecting the Sidewalk



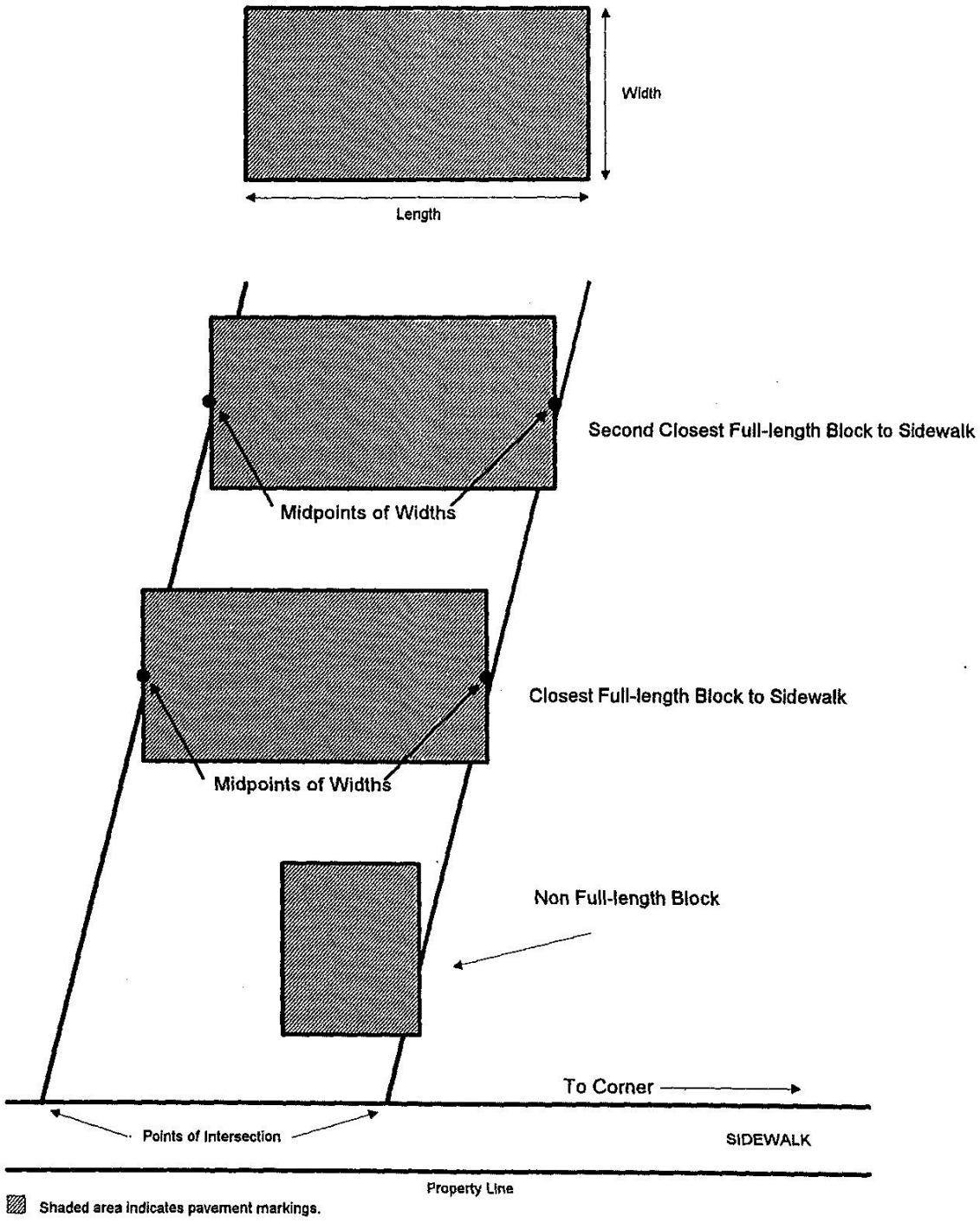
Shaded area indicates pavement markings.

Figure 13-7A.9: Crosswalk Delineated by Roughly Parallel Lines Not Intersecting the Sidewalk



Shaded area indicates pavement markings.

Figure 13-7A.10: Crosswalk Delineated by a Series of Roughly Parallel Rectangular Blocks Lines Not Intersecting the Sidewalk



ARTICLE 8: STRUCTURES ON, ABOVE, OR BELOW A PUBLIC SIDEWALK

Sections

§ 13-8.1 Permit required.

No person shall establish, construct, maintain, keep, or operate a newsstand, public telephone enclosure, curbside teller, freight elevator, freight chute, or any other structure or appliance on, above, or below a public sidewalk or mall without a permit as provided herein, or as may be provided by law.
(Sec. 26-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.1)

§ 13-8.2 Newsstands—Permit application—Fees—Conditions.

(a) The director of budget and fiscal services shall issue permits authorizing newsstands on public sidewalks in accordance with the provisions and conditions contained herein.

(b) Each permit shall be valid for the period that fees are assessed and paid.

(c) A fee of $15 per year for each newsstand covered by the permit, or added by an amendment thereto, shall be charged and collected by the director of budget and fiscal services at the time of the issuance, reissuance, or amendment of the permit. Only one permit shall be issued to each applicant listing location and size of each newsstand. Decals bearing a number and the expiration date marked thereon shall be issued for each newsstand after payment of the permit fee. After receipt of the decal, the applicant shall affix the decal in plain sight on the front of the newsstand. The use of the decal is subject to the following conditions:

(1) Upon loss, defacement, or destruction of a decal, the applicant shall submit an application for a new decal giving such information as shall be required by the director of budget and fiscal services;

(2) Upon filing of such application, the director of budget and fiscal services shall issue a new decal and charge the applicant a fee of $1 therefor; and

(3) If the director of budget and fiscal services finds that an applicant's newsstand does not have the decal affixed thereto, the director shall order the removal of such stand until such time an application for a permit is filed and a decal, issued therefor, is affixed to such stand.

(d) The permit shall be nontransferable.

(e) Upon the breach of any condition or violation of this article, the director of budget and fiscal services shall suspend the permit until the breach of condition or violation is corrected.

(f) A written application shall be filed with the director of budget and fiscal services that shall include:

(1) The name of the applicant and the name under which the business is conducted;

(2) The address and telephone number of the applicant;

(3) The total number of newsstands and location of each newsstand to be covered by the permit;

(4) An authorization for the chief of police to remove and impound any newsstand located in violation of this article and agreement to hold the city, its officers, and employees free from any claim for damages or losses resulting from the removal or impounding of such newsstand;

(5) The signature of the applicant or of a person authorized to execute instruments on behalf of the applicant; and

(6) The application shall be accompanied by a certificate of insurance or a copy of a public liability insurance policy issued by a carrier to be approved by the director of budget and fiscal services, and naming specifically the applicant, the city, the State, and such other parties designated by the applicant as assureds, and generally the owners, lessees, and occupants of property abutting the public sidewalk where each newsstand is located as assured, covering any claim or liability for damages, injuries or deaths, resulting from the placement, condition, or use of the newsstands or in any way connected with such newsstands. The policy shall also include automatic coverage for newsstands added or relocated after the application is filed. The minimum amount of coverage under such policy shall be $100,000 for injuries or death to any one person, $300,000 for injuries or deaths involving two or more persons arising from any one occurrence, and $10,000 property damage for each occurrence. The policy shall be kept in force during the entire period of the permit. Neither the applicant nor the carrier shall cancel the policy, except upon 30 days prior written notice to the director of budget and fiscal services.

(g) *Hazardous newsstands.*

(1) The chief of police shall send written notice to the permittee whenever the chief of police determines that the condition or location of a newsstand constitutes a hazard to the public.

(2) Within 24 hours of receipt of such notice, the permittee shall remove or correct the condition of the newsstand. The chief of police shall send written notice to the director of budget and fiscal services at the end of such period stating what action, if any, the permittee has taken. If the permittee has failed to take the necessary action, the chief of police shall remove and impound the newsstand and shall so notify the permittee. Any impounded newsstand may be recovered by the permittee upon the payment of $5 to

cover the cost of removal. Failure of the permittee to pay such charge and claim such newsstand within 30 days after notification of the removal shall be deemed an authorization by the permittee to destroy or otherwise dispose of such newsstand.

(3) Upon receipt of notification that the permittee has failed to remove or correct the condition of the newsstand, the director of budget and fiscal services shall suspend the permit and notify the council of such suspension.

(h) *Conditions of permit.* The permit shall be issued subject to the following conditions.

(1) The permittee shall maintain a current public liability insurance policy, required by this section, at all times during the effective period of the permit.

(2) The permittee shall not add any newsstand after the filing of the application, without amending the permit to specify the number of additional newsstands.

(3) The permittee shall not install any newsstand that exceeds the following dimensions in its normal operating position: 22 inches in width, 50 inches in height, and 24 inches in depth. The width of the unit may be increased by 5 inches to accommodate the coin box only.

(4) No newsstand shall be permanently attached or affixed to a public sidewalk or mall.

(5) The permittee shall give written notice to the director of customer services whenever a newsstand is permanently removed without replacement.

(Sec. 26-8.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.2) (Am. Ord. 05-38)

§ 13-8.3 Public telephone enclosures.

(a) The director of budget and fiscal services shall issue permits authorizing public telephone enclosures on or over public sidewalks and malls in accordance with the provisions and conditions contained herein.

(b) Each permit shall be valid for the period that fees are assessed and paid.

(c) A fee of 10 percent of the gross income from each public telephone enclosure covered by the permit, or added by amendment thereto, shall be collected by the director of budget and fiscal services each and every month. Only one permit shall be issued to each applicant.

(d) The permit shall be nontransferable, except to the mortgagee of a duly recorded mortgage or to a purchaser at a foreclosure sale conducted pursuant to the terms and conditions of the mortgage. The transferee shall have all of the rights granted by the permit and shall be subject to all of the requirements contained herein.

(e) Upon the breach of any condition or violation of this article, the director of budget and fiscal services shall suspend the permit until the breach of condition or violation is corrected.

(f) The permittee shall surrender such permit to the director of budget and fiscal services upon the removal of all public telephone enclosures authorized by the permit.

(g) A written application shall be filed with the director of budget and fiscal services that shall include:

(1) The name of the applicant and the name under which the business is conducted;

(2) The address and telephone number of the applicant;

(3) The total number of public telephone enclosures to be covered by the permit;

(4) The location of each public telephone enclosure;

(5) The name and address of any mortgagee under a duly recorded mortgage to which the public telephone enclosures would be subject;

(6) An authorization for the chief of police to remove and impound any public telephone enclosure located in violation of the ordinance and an agreement to hold the city, its officers and employees free from claim for damages or losses resulting from the removal or impounding of such enclosure; and

(7) The signature of the applicant or of a person authorized to execute instruments on behalf of the applicant.

(h) The following documents shall be filed with each application.

(1) A certificate of insurance or a copy of a public liability insurance policy, issued by a carrier, to be approved by the director of budget and fiscal services, and naming specifically the applicant, the city, and the State, and such other parties designated by the applicant as assureds, and generally the owners, lessees and occupants of property abutting the public sidewalk or mall where each public telephone enclosure is located as assureds, covering any claim or liability for damages, injuries or deaths, resulting from the placement, condition, or use of the public telephone enclosure or in any way connected with such enclosure. The policy shall also include automatic coverage for public telephone enclosures added or relocated after the application is filed. The minimum amount of coverage under such policy shall be $100,000 for injuries or death to any one person, $300,000 for injuries or deaths involving two or more persons arising from any one occurrence, and $10,000 property damage for each occurrence. The policy shall be kept in force during the entire period of the permit. Neither the applicant nor the carrier shall cancel the policy, except upon 30 days prior written notice to the director of budget and fiscal services.

(2) Written approval from the chief of police that the requested location and size of each public telephone enclosure does not constitute a hazard to or impede the traffic of pedestrians or vehicles.

(3) Written approval from the chief engineer of the department of facility maintenance that the size, design, construction, and specification of each particular type of public telephone enclosure are satisfactory for public safety.

(4) Written authorization signed by any mortgagee under a duly recorded mortgage to which the public telephone enclosures are subject.

(i) *Hazardous enclosures.*

(1) The chief of police shall send written notice to the permittee and the mortgagees mentioned herein whenever the chief determines that the condition or location of a public telephone enclosure constitutes

a hazard to the public or is impeding traffic. A copy of such notice shall be sent to the director of budget and fiscal services.

(2) Within 24 hours of receipt of such notice, the permittee or mortgagee, or both, shall remove, or correct the condition of the public telephone enclosure. The chief of police shall send written notice to the director of budget and fiscal services at the end of such period stating what action, if any, the permittee has taken. If the permittee or mortgagee, or both, has failed to take the necessary action, the chief of police shall remove and impound the enclosure. Upon the payment of a $25 charge for the removal and impounding of each of such enclosures, the permittee or mortgagee, or both, may reclaim the enclosure. Failure to pay such charge and to claim the enclosure within 30 days after notification of such impounding shall be deemed an authorization by the permittee or mortgagee, or both, to destroy or otherwise dispose of such enclosure.

(3) Upon receipt of notification that the permittee or mortgagee, or both, has failed to take the necessary action, the director of budget and fiscal services shall suspend the permit and notify the council of suspension.

(j) *Conditions of permit.* The permit shall be issued subject to the following conditions:

(1) The permittee shall maintain a current public liability insurance policy, required by this section, at all times during the effective period of the permit.

(2) The permittee shall not add or relocate any public telephone enclosure after the filing of the application, without amending the permit to specify the number and locations of additional public telephone enclosures and the new locations of relocated public telephone enclosures and without the approval of the chief of police and the chief engineer of the department of facility maintenance as provided under subsection (h) for such additional or relocated enclosures. The approval of the chief engineer of the department of facility maintenance shall not be necessary if the public telephone enclosure is of a type previously approved.

(3) The permittee shall give written notice to the director of budget and fiscal services whenever a public telephone enclosure site is permanently vacated.

(Sec. 26-8.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.3) (Am. Ord. 96-58)

§ 13-8.4 Curbside tellers.

(a) All provisions contained in § 13-8.3 shall be applicable to curbside tellers, except as obviously limited to public telephone enclosures and except as otherwise provided herein.

(b) The applicant need not be franchised; however, only applicants who are authorized to do business in Hawaii as a bank, savings and loan association, credit union, or financial services loan company shall be eligible for such permit.

(c) A fee of $120 per year for each curbside teller covered by the permit, or added by amendment thereto, shall be charged and collected by the director of budget and fiscal services at the time of issuance, reissuance, or amendment of the permit. Only one permit shall be issued to each applicant.

(d) The provisions regarding removal, impounding, and reclaiming of public telephone enclosures shall not apply to curbside tellers.

(Sec. 26-8.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.4) (Am. Ord. 96-58)

§ 13-8.5 Freight elevators and freight chutes.

(a) All provisions contained in § 13-8.3 shall be applicable to freight elevators and freight chutes, except as obviously limited to public telephone enclosures and except as otherwise provided herein.

(b) The applicant need not be franchised; however, the applicant must either own, lease, or be doing business on the property abutting the public sidewalk or mall at the location of the freight elevator or freight chute.

(c) A fee of $120 per year for each freight elevator and freight chute covered by the permit shall be charged and collected by the director of budget and fiscal services at the time of issuance, reissuance, or amendment of the permit. Only one permit shall be issued to each applicant.

(d) The provisions regarding removal, impounding, and reclaiming of public telephone enclosures shall not be applicable to freight elevators and freight chutes.

(e) The provisions contained in § 13-8.3(h) pertaining to the approval of chief engineer of the department of facility maintenance shall be applicable to freight elevators.

(f) The provisions contained in § 13-8.3(h) pertaining to automatic coverage for additional enclosures shall not be applicable to freight elevators and freight chutes.

(g) Freight chutes shall be covered by two equal size doors each hinged to the side of the chute perpendicular to length of the sidewalk or mall. The doors shall be flush to the sidewalk or mall when closed and shall be locked. The outside surface shall be of a nonskid finish and contain no openings except as necessary for the locking mechanism. The doors shall be capable of supporting 300 pounds per square foot evenly distributed. Each door shall be locked into a 9- degree position when open. Before opening, an attendant shall be stationed on the sidewalk at the side of the chute until the doors are locked into the 90-degree position. At no time shall the doors and goods completely block the flow of pedestrians on the sidewalk or mall. The doors shall not remain open nor shall goods remain on the sidewalk or mall for more than 15 minutes during any period of use.

(h) The applicant shall submit written approval of the department of facility maintenance of the city that the freight chute and doors are in compliance with this article when applying for a permit.

(i) Nothing contained in this section shall be construed to permit the installation of freight elevators and chutes other than those in existence at the effective date of this article.

(Sec. 26-8.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.5)

§ 13-8.6 Public convenience and necessity.

The permits provided herein shall be issued subject to a finding by the director of budget and fiscal services, upon evidence submitted by the applicant, that the public convenience and necessity require the issuance thereof.

(Sec. 26-8.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.6)

§ 13-8.7 Nonwaiver of other requirements.

No provision contained in this article shall be interpreted to modify any State or city law or regulation pertaining to fees, licenses, permits, standards, and specifications of the equipment and structures covered by this article.
(Sec. 26-8.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.7)

§ 13-8.8 Payment of fees.

All fees shall be paid in advance on a yearly basis computed from July 1 to June 30. The fees for any structure placed on the sidewalk or mall after July 1 shall be prorated on a monthly basis. No refund of fees shall be made.
(Sec. 26-8.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.8)

§ 13-8.9 Revocation of permits.

Notwithstanding any other provision herein to the contrary, any permit may be revoked at any time by the council.
(Sec. 26-8.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.9)

§ 13-8.10 Unlawful to erect gasoline pumps on sidewalks—Penalty.

(a) It is unlawful for any person to erect or place, or permit, or cause to be erected or placed, any gasoline pumps upon any sidewalk or mall in the city.

(b) Any person violating this provision shall, upon conviction, be punished by a fine not to exceed $5 for each day of violation.
(Sec. 26-8.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.10)

§ 13-8.11 Violation—Penalty.

Any person establishing, constructing, maintaining, keeping, or operating a newsstand, public telephone enclosure, curbside teller, freight elevator, freight chute, or any other structure or appliance on, above, or below a public sidewalk or mall without a valid permit as provided herein, shall upon conviction, be deemed guilty of a misdemeanor and punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or by both.
(Sec. 26-8.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 8, § 29-8.11)

ARTICLE 9: PROCEDURE ON ARREST

Sections

§ 13-9.1 Procedure.

Any authorized police officer, upon making an arrest for a violation of this chapter, shall take the name and address of the alleged violator and shall issue to the alleged violator in writing a summons or citation hereinafter described, notifying the alleged violator to answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation.
(Sec. 26-9.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 9, § 29-9.1)

§ 13-9.2 Summons or citation.

(a) There shall be provided for use by authorized police officers, a form of summons or citation for use in citing violators of this chapter where the circumstances do 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 and the city.

(b) 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 carbon copy of the citation and provide for the disposition of the original and any other copies.

(c) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
(Sec. 26-9.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 9, § 29-9.2)

ARTICLE 10: USE OF MALLS

Sections

§ 13-10.1 Declaration of intent.

The council finds that:

(1) Indiscriminate and uncontrolled use of malls by individuals, commercial establishments fronting malls, and other organizations and deterioration of the aesthetic aspects of malls are detrimental to the public interest;

(2) The department of parks and recreation is able to provide effective control and coordination of permittees' use of malls, and to preserve or upgrade the aesthetic aspects of malls; the council therefore delegates to the department of parks and recreation the authority to control and coordinate permittees' use of malls in accordance with the terms of this article. The department may post signs to prohibit skateboarding and other activities regulated under § 10-1.2 when necessary for the protection and preservations of malls and facilities thereon, or the health, safety, and welfare of persons or property; and

(3) The department of transportation services is able to provide effective control and coordination of vehicular traffic on malls; the council therefore delegates to the department of transportation services the authority to control and coordinate vehicular traffic on malls.

(Sec. 26-10.1, R.O. 1978 (1983 Ed)) (1990 Code, Ch. 29, Art. 10, § 29-10.1) (Am. Ord. 91-29)

§ 13-10.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Council. The city council.

Department. The department of parks and recreation, unless the context otherwise requires.

Event. The use of malls for any one or more of the following:

(1) For membership drives sponsored by any person;

(2) For organized activities sponsored by any person on any portion of malls, whether for profit or not;

(3) For meetings, which are defined to mean any gatherings on malls sponsored by any person; and

(4) For speeches or other communications made by any person and addressed to other users of the mall for the purpose of influencing their views on any subject.

Malls District. The area from a private property line to a private property line as to the width of the mall, and physical demarcation indicating the length of the mall.

Merchant. Any property owner who has been assessed for a mall improvement district, including lessees or tenants of such property.
(Sec. 26-10.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 10, § 29-10.2) (Am. Ord. 02-51)

§ 13-10.3 Powers and duties of the department.

(a) *Applications.* The department shall receive and review applications for permits for the use of malls by any person where required by subsection (b), on forms approved by the department. The filing of applications shall be pursuant to rules adopted by the department. The applications for permits shall be filed not fewer than 10 working days before the date of the proposed event. There shall be no charge for the filing of an application. The department shall inform the applicant in writing of any approval or denial of an application by delivering or mailing to the last known address of the applicant a copy of the department's decision within five working days before the proposed event.

(b) *Permits.* The department shall issue permits for the use of a particular area of a mall or malls for events, together with any activities reasonably related thereto, whenever such events promote: the safety, health, and welfare of the public; the use of the malls for which they were established; the interest of the malls district; or any other community endeavors sponsored, undertaken, or promoted by duly established organizations. The department shall determine and establish by rules as prescribed herein the number and boundaries of areas within each mall, which shall reasonably promote the safety, health, and welfare of the public; the use of the malls for which they were established; the interest of the malls district; or any other community endeavors sponsored, undertaken or promoted by duly established organizations.

All permits may be issued subject to the following restrictions:

(1) That such events do not impair the health, safety, and welfare of the users of malls and of the merchants and the property owners in malls, and do not violate any statutes, ordinances, or rules or regulations having the effect of law;

(2) No permit shall be granted for more than seven consecutive calendar days in any calendar year;

(3) No permit shall be issued for more than one event in a particular area of a mall during a given period; provided that several areas of a mall or malls may be used concurrently for such event;

(4) No permit shall be issued to any person for an event in a particular area of a particular mall more than once during a calendar year; provided that any events sponsored by merchants shall be done collectively as an association of merchants and not individually; and provided further, that any person who has the privilege of using a particular mall during a calendar year as provided herein, may submit another application, and the department may issue a permit to such person if there are no conflicts in the use of malls granted to other permittees, or no applicant has submitted a request for the use of malls for the date or period requested by such prior user of the mall; and

(5) A security deposit for each day of use for the purpose of cleaning up malls if a permittee fails so to do, or as reimbursement for any damage to plants or other property of the city or to any private property fronting or situated alongside malls. Such deposit shall be returned to the applicant if the foregoing situations have not occurred; provided that if such deposit has been held for more than a month, interest at the prevailing rate on a month-to-month basis shall be paid by the city.

The department shall establish monetary deposit schedules based on the number of people using a specific area for which a permit has been issued, the term of the permit and the type of activity; if a permittee charges admission to the permittee's functions or activities, the director shall require that the permittee obtain a public liability insurance policy that names the city as an insured party.

(c) *Advisory function of the department.* The department shall:

(1) Recommend to the merchants or the property owners, as the case may be:

(A) Appropriate renovations or repairs to facades of buildings fronting malls; and

(B) Appropriate renovations or repairs to overhanging signs and permanent marquees fronting malls; and

(2) Recommend to the appropriate city agency or merchants proposals to preserve or upgrade the aesthetic aspects of malls.

(d) *Control of repairs and traffic.*

(1) The department shall control and coordinate pedestrian traffic on, and use of, malls.

(2) The department of transportation services shall control and coordinate vehicular traffic on malls, including the timing and coordination of vehicles on malls for the purpose of repairing or removing public utility services or in connection with construction on real property abutting malls.

The control and coordination authority of this subdivision, however, shall not apply to an "authorized maintenance vehicle," as defined under § 15-2.4, when operated on the Fort Street Mall as such a vehicle.

(e) *Newsstands, public telephone enclosures, dumpsters, and so forth.* The department shall confer with the director of budget and fiscal services relative to permits and placement of newsstands, public telephone enclosures, freight elevators, freight chutes, and curbside tellers, all of which are under the jurisdiction of the director of budget and fiscal services as provided in Article 8. The department, in consultation with the department of planning and permitting, may allow the temporary placement of dumpsters on a mall during a

period of construction where the city has entered into a development agreement for construction on the mall and where the establishments abutting the mall cannot accommodate the dumpster on their property during the period of construction.

(f) *Rules.* To adopt rules, including rules of procedure for the suspension or revocation of permits and such other adjudicatory functions, all pursuant to HRS Chapter 91, as amended, that are not inconsistent with the provisions contained herein.

(g) *Hearings.*

(1) *For revocation or suspension of permit.* To conduct hearings pursuant to the provisions of HRS Chapter 91, as amended, before revoking or suspending any permit. No hearing shall be required as a prerequisite to the issuance of any permit.

(2) *Notice of determination.* If after the hearing it is determined that a permit shall be revoked or suspended, the applicant shall be informed in writing and in the form as provided in HRS Chapter 91, as amended.

(Sec. 26-10.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 10, § 29-10.3) (Am. Ords. 91-29, 02-50)

§ 13-10.4 Appeals.

An applicant whose permit for the use of malls has been denied, revoked, or suspended by the department may file within 30 days after receipt of the revocation, suspension, or denial an appeal for a hearing with the city council. (Sec. 26-10.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 10, § 29-10.4)

§ 13-10.5 Penalty—Procedure on arrest—Summons or citation.

(a) *Penalty.* Any person violating this article shall be, upon conviction, subject to a fine of $250 or 30 days in the city jail, or both.

(b) *Procedure on arrest.* Any authorized police officer, or authorized special police officer, upon making an arrest for a violation of this article, shall take the name and address of the alleged violator and shall issue to the alleged violator in writing a summons or citation hereinafter described, notifying the alleged violator to answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation.

(c) *Summons or citation.*

(1) There shall be provided for use by authorized police officers or authorized special police officers, a form of summons or citation for use in citing violators of this article that 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 and the city.

(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 by giving to the violator a carbon copy of the citation and provide for the disposition of the original and any other copies.

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

(Sec. 26-10.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 10, § 29-10.5)

§ 13-10.6 Severability.

This article is declared to be severable. In accordance therewith, if any portion of the article is held invalid for any reason, the validity of any other portion of this article shall not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application hereof to any other person, property, or circumstance shall not be affected.

(Sec. 26-10.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 29, Art. 10, § 29-10.6)

ARTICLE 11: PUBLICATION DISPENSING RACKS IN WAIKIKI

Sections

§ 13-11.1 Applicability.

This article shall apply to publication dispensing devices, publication dispensing rack enclosures, and publication dispensing rack spaces throughout the Waikiki special district.
(1990 Code, Ch. 29, Art. 11, § 29-11.1) (Added by Ord. 02-10)

§ 13-11.2 Definitions.*

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Allocation. The triennial allocation made by the director under § 13-11.6(c)(1).

City-Installed, City Shall Install, Installed by the City, or Words of Similar Import**.** Installation undertaken by, or caused to be undertaken by, the city.

Director. The director of customer services of the City and County of Honolulu or the director's duly authorized subordinate.

Insert. When used as a noun, means a publication dispensing rack insert.

Install. Includes construct, erect, fabricate, and affix.

Location. A site designated by the director for a group of the city-installed publication dispensing rack enclosures situated in the Waikiki special district pursuant to this article.

Permit. A paid publication dispensing rack space allocation or reallocation invoice issued pursuant to this article.

Permit Period. The three-year period for which spaces are allocated under § 13-11.6(c)(1).

Permittee. A person to which or to whom a publication dispensing rack permit has been issued pursuant to this article.

Publication. Any written or printed matter, including but not limited to daily or periodical newspapers, or both, and visitor information publications, but may exclude any "handbill" defined in rules adopted by the director pursuant to § 13-11.15 if such rules provide that handbills, as so defined, shall be excluded.

Publication Dispensing Device. 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 the purposes of this definition, a natural person shall not be deemed a device.

Publication Dispensing Rack Enclosure or ***Enclosure.*** A structure installed by the city in the Waikiki special district with spaces in which publication dispensing rack inserts may be inserted.

Publication Dispensing Rack Insert. A box, insert, or rack with a clear plastic face that is:

(1) Owned by a permittee;

(2) Designed to be inserted into a publication dispensing rack space; and

(3) Constructed to hold and display a publication.

Publication Dispensing Rack Space or ***Space.*** 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. An owner or authorized agent of the owner of a publication. The director of customer services may adopt rules defining the term "owner" or "authorized agent" for purposes of this definition.

Reallocation. A reallocation of unallocated, abandoned, or surrendered spaces made by the director pursuant to § 13-11.6(c)(2).

Sidewalk. 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 city for road widening purposes. The term shall also include any "mall," as that term is defined in § 13-10.2.

Twelve-Inch Publication Dispensing Rack Enclosure. A publication dispensing rack enclosure designated as such by the director under § 13-11.4.

Twelve-Inch Publication Dispensing Rack Insert. An insert designed to fit snugly within a space in a 12-inch publication dispensing rack enclosure.

Twenty-Four-Inch Publication Dispensing Rack Enclosure. A publication dispensing rack enclosure designated as such by the director under § 13-11.4.

Twenty-Four-Inch Publication Dispensing Rack Insert. An insert designed to fit snugly within a space in a 24-inch publication dispensing rack enclosure.

Unallocated Publication Dispensing Rack Space. A publication dispensing rack space that has not been allocated in the most recent allocation under § 13-11.6(c)(1) or reallocated since that time under § 13-11.6(c)(2).

Waikiki special district. The Waikiki special district identified in Chapter 21, Article 9.
(1990 Code, Ch. 29, Art. 11, § 29-11.2) (Added by Ord. 02-10)
Editor's note:
**This section may be amended pursuant to §§ 6 and 7 of Ord. 02-10.*

§ 13-11.3 Location and installation of publication dispensing rack enclosures.*

(a) Each designated location must include at least one publication dispensing rack enclosure consisting of a minimum of four 12-inch or two 24-inch spaces.

(b) The city shall install publication dispensing rack enclosures within the Waikiki special district. The director shall adjust the location of publication dispensing rack enclosures and the number of spaces in each enclosure existing on January 1, 2014 as follows.

(1) The director may remove a publication dispensing rack enclosure or replace an enclosure with an enclosure containing a lesser number of spaces (but not less than the minimum number of spaces per enclosure required in subsection (a)), if greater than 50 percent of the number of spaces in an enclosure remain unallocated after two successive allocation or reallocation of the spaces.

(2) The director may add a minimum-sized publication dispensing rack enclosure or increase the number of spaces in an existing enclosure if the director determines, upon petition and submission of evidence by an applicant, that additional spaces are warranted because there is sufficient demand to occupy at least 50 percent of the additional spaces requested. The director shall determine the evidence required to be submitted by an applicant, and the decision of the director is final.

(c) (1) The design, dimensions, placement, materials, and orientation of each publication dispensing rack enclosure shall be determined by the director or the appropriate city agency and shall be based on compliance with the Americans with Disabilities Act (ADA), Chapter 21 (the land use ordinance), and Chapter 15 (the traffic code). Standards prescribed by the director or appropriate city agency may differ for the various publication dispensing rack enclosures.

(2) Sound traffic engineering principles and pedestrian safety factors may be considered in determining the exact dimensions and placement of each enclosure. The director or appropriate city agency may also

adhere to the department of transportation services' guidelines for the placement of obstructions in sidewalk areas, and any revisions thereto, to the extent practicable.

(1990 Code, Ch. 29, Art. 11, § 29-11.3) (Added by Ord. 02-10; Am. Ord. 14-7)

Editor's note:

** This section may be amended pursuant to § 8 of Ord. 02-10.*

§ 13-11.4 Publication dispensing rack enclosures.*

(a) A publication dispensing rack enclosure in the Waikiki special 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 director.

(c) The director shall assign a designation to each space within each publication dispensing rack enclosure for the purpose of identification. The designation may, but need not be, displayed on the enclosure. The director may redesignate the spaces when the director deems the redesignation appropriate.

(d) Nothing in this article shall be construed to preclude the city from installing additional publication dispensing rack enclosures.

(e) The director shall designate each publication rack enclosure as a 12-inch publication dispensing rack enclosure or as a 24-inch dispensing rack enclosure. The designation shall take effect for the first allocation following the designation. No 12-inch publication dispensing rack insert may be placed in a 24-inch dispensing rack enclosure and no 24-inch dispensing rack insert may be placed in a 12-inch publication dispensing rack enclosure.

(1990 Code, Ch. 29, Art. 11, § 29-11.4) (Added by Ord. 02-10)

Editor's note:

**This section may be amended pursuant to § 9 of Ord. 02-10.*

§ 13-11.5 Publication dispensing rack inserts.

(a) The director shall establish, by rules adopted pursuant to § 13-11.15, standards for the size, design, color, and material of publication dispensing rack inserts that may be inserted into the city's publication dispensing rack enclosures pursuant to permit. Different standards may be established for 12-inch publication dispensing rack inserts and 24-inch publication dispensing rack inserts.

(b) No person may place anything into a space in a publication dispensing rack enclosure 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.

(1990 Code, Ch. 29, Art. 11, § 29-11.5) (Added by Ord. 02-10)

§ 13-11.6 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 director. For any one allocation or reallocation, a publisher may submit applications for more than one publication, but shall submit no more than one application per publication. For any one allocation, no more than one application may be submitted for any publication. Only those publishers submitting completed applications shall be eligible to obtain a publication dispensing rack space permit.

The director shall determine the form of, and provide to interested persons copies of, the publication dispensing rack space permit application form.

The director shall, before the earliest date established under subsection (f) on which applications may be submitted for any allocation or reallocation, send a copy of the form to each person who is a permittee as of that date, addressed to the permittee at the last address on file with the director. The failure of the director to notify a permittee, however, will not excuse the permittee from filing a timely application.

(b) The application for a publication dispensing rack space permit shall be submitted by the publisher and shall include the following:

(1) The name, mailing address, telephone number, and cellular telephone number, and, if any, the facsimile number and e-mail address of both the owner of the publication and the applicant and the names under which the owner and applicant conduct business, if any;

(2) The name, mailing address, telephone number, and cellular telephone number, and, if any, the facsimile number and e-mail address of the individual person or persons who will have supervision of and responsibility for the use and maintenance of the publication dispensing rack space and of any permitted publication dispensing rack insert placed therein;

(3) The relationship between the owner of the publication and the applicant and a statement of the applicant's authority to make the application on behalf of the owner of the publication;

(4) The name of the publication for which the space is desired, a statement verifying that the publication exists as of the date of the application, and a copy of the publication for which the permit is desired;

(5) A nonrefundable application fee of $50;

(6) Proof of liability insurance, for the term of the permit, with minimum policy limits of $500,000 for personal injury or death and $100,000 for property damage, or with such higher limits, not to exceed $1,000,000 for personal injury or death and $200,000 for property damage, as is determined appropriate by the director based on the risk experience under this article, naming the city as an additional named insured in the event of personal injury or death or property damage caused by any negligence of the permittee in the maintenance of any publication dispensing rack space or any permitted publication dispensing rack insert. For purposes of this subdivision, "negligence" also includes reckless, knowing, or intentional conduct;

(7) Such other information as is requested on the form; and

(8) A statement as to whether the applicant desires spaces for the publication in 12-inch publication dispensing rack enclosures or in 24-inch publication dispensing rack enclosures, but not both.

(c) (1) All spaces in all publication dispensing rack enclosures shall be allocated by the director in May of 2002 for the three-year period commencing July 1, 2002 and ending June 30, 2005 and shall be allocated again in May every three years thereafter for the three-year period beginning on July 1 of the year of the allocation and ending on June 30 of the third year thereafter.

(2) In November of each year in which a triennial allocation is made under subdivision (1), and in May and November of all other years, the director shall reallocate all publication dispensing rack spaces that are unallocated or have been abandoned or surrendered. The reallocation of spaces made in November shall be effective from January 1 of the year immediately following the reallocation until June 30 of the year in which the next triennial allocation is made pursuant to subdivision (1). The reallocation of spaces made in May under this subdivision shall be effective from July 1 of the year of the reallocation until June 30 of the year in which the next triennial allocation is made pursuant to subdivision (1). If, as of the latest date set in subsection (f) for the submission of applications for a reallocation, there are fewer than 25 unallocated, abandoned, or surrendered spaces available for reallocation, the director may cancel the scheduled reallocation, provided that the director may not cancel two consecutive scheduled reallocations. If cancelling a scheduled reallocation, the director shall give notice of the cancellation to all applicants that have filed applications to participate in the reallocation.

(3) The allocation or reallocation shall be recorded on permits issued by the director to the applicants for all publications for which spaces are allocated or reallocated.

(4) The procedures for the allocation or reallocation of spaces shall be in accordance with § 13-11.7.

(d) For each publication to which any publication dispensing rack spaces are allocated or reallocated, there shall be one permit issued, for each allocation or reallocation, listing the date of the allocation or reallocation, the name of the permittee, the name of the publication, the designation assigned by the director under § 13-11.4(c) to each space allocated or reallocated for the publication, the total number of spaces assigned to that publication under the allocation or reallocation, and the term of the permit.

(e) No applicant may be allocated or reallocated, or be issued a permit for, more than one publication dispensing rack space at any one location for any one publication.

(f) Applications to participate in a triennial allocation pursuant to subsection (c)(1) or in a May reallocation under subsection (c)(2) shall be submitted to the director no earlier than March 1, and no later than May 1, of the year in which the allocation or reallocation is scheduled to take place. Applications to participate in a November reallocation under subsection (c)(2) shall be submitted to the director no earlier than September 1, and no later than November 1, of the year in which the reallocation is scheduled to take place.

(g) The publication dispensing rack space permit shall not be transferable. No permit may be used to dispense a publication other than the publication named in the permit. The director may adopt rules for determining whether a publication is the same publication as that for which the permit was issued and for determining when a permit is deemed to have been transferred.

(h) The director, by rule, shall establish the fee based on the city's cost to clean, maintain, and repair the publication dispensing rack enclosures. Until such time as the director establishes a new fee, the permit fee is $444 per triennium for each publication dispensing rack space allocated for a publication. The fee is payable in equal annual amounts due no later than 30 days before the start of each new 12 month period beginning on July 1, or as otherwise adjusted by the director. Failure to submit payment by the due date will result in termination of the space permit, and the applicable space will be reallocated pursuant to subsection (c)(2).

(1) No refund of fees will be made if the publication abandons or surrenders a space.

(2) Permit fees for spaces reallocated under subsection (c)(2) will be prorated for the remainder of the three-year permit period.

(i) 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 director 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.

(j) The director 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.

(k) No space in a 24-inch publication dispensing rack enclosure may be allocated or reallocated for a publication if any application submitted for that publication for the permit period stated that the applicant was applying for spaces in 12-inch publication dispensing rack enclosures. No space in a 12-inch publication dispensing rack enclosure may be allocated or reallocated for a publication if any application for that publication for the permit period stated that the applicant was applying for spaces in 24-inch publication dispensing rack enclosures. No space in a 24-inch publication dispensing rack enclosure may be reallocated for a publication permitted to be dispensed from any 12-inch publication dispensing rack enclosure. No space in a 12-inch publication dispensing rack enclosure may be reallocated for a publication permitted to be dispensed from any 24-inch dispensing rack enclosure.

(1990 Code, Ch. 29, Art. 11, § 29-11.6) (Added by Ord. 02-10; Am. Ord. 14-7)

Editor's note:

**This section may be amended pursuant to §§ 10 and 11 of Ord. 02-10.*

§ 13-11.7 Method of allocation and reallocation of publication dispensing rack spaces.*

(a) The director shall, by rules adopted under HRS Chapter 91, determine and provide procedures for the allocation of publication dispensing rack spaces pursuant to § 13-11.6(c)(1) by lottery or other method of random selection.

(b) The director shall, by rules adopted under HRS Chapter 91, determine and provide procedures for the reallocation pursuant to § 13-11.6(c)(2) of publication dispensing rack spaces that are unallocated, abandoned, or surrendered by lottery or other method of random selection.

(c) The methods for allocation and reallocation of publication dispensing rack spaces shall not distinguish between publications for which payment is required and publications for which no payment is required.

(d) The method for allocation of publication dispensing rack spaces established by the director under subsection (a) shall:

(1) Provide each publication for which an application is submitted for spaces in 12-inch publication dispensing rack enclosures with an equal opportunity to be allocated a publication dispensing rack space in a 12-inch publication dispensing rack enclosure; and

(2) Provide each publication applying for spaces in 24-inch publication dispensing rack enclosures with an equal opportunity to be allocated a space in a 24-inch publication dispensing rack enclosure.

This provision shall not apply to the spaces allocated after a publication has been allocated the maximum number of spaces for which it applied.

(e) The rules adopted under subsections (a) and (b) may provide for the allocation or reallocation of spaces in the 12-inch publication dispensing rack enclosures to be made at a different time or on a different date than the allocation or reallocation of spaces in the 24-inch publication dispensing rack enclosures.

(1990 Code, Ch. 29, Art. 11, § 29-11.7) (Added by Ord. 02-10)

Editor's note:

** This section may be amended pursuant to § 12 of Ord. 02-10.*

§ 13-11.8 Unallocated, abandoned, or surrendered publication dispensing rack spaces.

(a) Any person desiring to use a publication dispensing rack space that is unallocated, or that has become available through abandonment or surrender, to dispense a publication may apply for the reallocation of such publication dispensing rack spaces under § 13-11.6(c)(2).

(b) The director shall adopt rules pursuant to § 13-11.15:

(1) To determine when a publication dispensing rack space has been abandoned or surrendered; and

(2) To establish procedures relating to the abandonment or surrender of publication dispensing rack spaces.

(c) When the director makes an initial determination that a publication dispensing rack space has been abandoned or surrendered, the affected permittee shall be notified of the director's initial determination and given an opportunity to contest the initial determination. The director shall adopt rules pursuant to § 13-11.15 relating to notification of the director's determination, the permittee's opportunity to contest the initial determination, and the procedure and notification requirements for the making of a final determination. Upon the final determination, any permit purporting to be a permit for the space or spaces finally determined to be surrendered or abandoned shall be void as to the space or spaces so determined and the holder of the voided permit shall no longer be deemed a permittee as to the space or spaces so determined.

(d) A permittee may surrender a publication dispensing rack space before expiration of the permit for the space when the permittee no longer wishes to dispense the publication through the space.

(e) The director shall maintain a record of unallocated, abandoned, and surrendered spaces. Unallocated, abandoned, or surrendered spaces shall be reallocated pursuant to § 13-11.6(c)(2).

(f) No person, including the person to whom a publication dispensing rack space has been allocated or reallocated, may place an insert or any publication in the space if the space has been finally determined to have been abandoned or surrendered until such time as the space has been reallocated pursuant to § 13-11.6(c)(2), after which the permittee under the reallocation may insert its insert and publication in the space.

(1990 Code, Ch. 29, Art. 11, § 29-11.8) (Added by Ord. 02-10)

§ 13-11.9 Installation, maintenance, and repair of publication dispensing enclosures, spaces, and inserts.

(a) It shall be the responsibility of the city to install, maintain, and repair the publication dispensing rack enclosures, either directly, by contract with a private contractor or through a special improvement district. Any cost for the installation, maintenance, and repair of the enclosure shall be borne by the city.

(b) It shall be the responsibility of the permittee to maintain any publication dispensing rack space for which it holds a permit. Any cost to maintain the space shall be borne by the permittee.

(c) It shall be the responsibility of the permittee to maintain in good operating order and repair any publication dispensing rack insert inserted into a space in a publication dispensing rack enclosure.

(d) Failure of a permittee to comply with either subsection (b) or (c) constitutes grounds for the suspension or revocation of the permit.

(1990 Code, Ch. 29, Art. 11, § 29-11.9) (Added by Ord. 02-10; Am. Ord. 14-7)

§ 13-11.10 Temporary dislocations.

(a) The director 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 or to facilitate the construction work.

(b) The director 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.

(c) The director shall adopt rules pursuant to HRS Chapter 91 to provide a partial rebate for publications temporarily dislocated under this section. The director may also adopt rules relating to the temporary relocation of publications that are dislocated under subsection (a) or (b).

(1990 Code, Ch. 29, Art. 11, § 29-11.10) (Added by Ord. 02-10; Am. Ord. 14-7)

§ 13-11.11 Prohibitions.

(a) The following prohibitions shall apply to a publication dispensing device:

(1) 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 sidewalk within the Waikiki special district;

(2) Any publication dispensing device installed in violation of this article shall be subject to removal by, and forfeiture to, the director if not removed within five days of demand for removal thereof by the director; and

(3) The director, or a person or agency designated by the director, shall be responsible for the removal and forfeiture of the publication dispensing device.

(b) The following prohibitions shall apply to publication dispensing rack spaces, publication dispensing rack inserts, and publication dispensing rack enclosures:

(1) No person may move, remove, destroy, deface, or detach any publication dispensing rack enclosure unless directed to do so by the director;

(2) No advertising, signage, or lettering of any kind shall appear on the exterior of, or be otherwise visible from the exterior of, any publication dispensing rack insert, any publication dispensing rack enclosure, or any space within a publication dispensing rack enclosure. For the purposes of this section, any one of the following: the display of a copy of the publication being dispensed, the designation assigned to a space by the director, or instructions on the dispensing of the publication from the publication dispensing rack insert, shall not be deemed advertising, signage, or lettering, provided that the dispensing instructions, if any, shall not protrude beyond two rectangles with dimensions of 3.5 x 4 inches;

(3) No publication dispensing rack insert may be inserted within a space in a publication dispensing rack enclosure, except pursuant to a current and valid permit issued under this article. Any publication dispensing rack insert so inserted without a current and valid permit shall be subject to removal by and forfeiture to the director or a person or agency designated by the director;

(4) No person may place any trash, rubbish, or, without the approval of the director, any other material, other than a permitted publication dispensing rack insert and copies of the permitted publication, in a space in a publication dispensing rack enclosure;

(5) No person may move, remove, deface, or detach any publication dispensing rack insert that has been inserted into a publication dispensing rack enclosure under a current and valid permit without authorization of the permittee or the city; and

(6) No person may climb, sit, stand, or lie on top of, inside of, or under any publication dispensing rack enclosure, any space within a publication dispensing rack enclosure, or any publication dispensing rack insert without authorization of the city.

(c) The director shall adopt rules, pursuant to § 13-11.15, to establish procedures for giving notice of violations, and for the removal and forfeiture of publication dispensing devices in accordance with subsection (a), or of publication dispensing rack inserts in accordance with subsection (b).

(1990 Code, Ch. 29, Art. 11, § 29-11.11) (Added by Ord. 02-10; Am. Ord. 14-2)

§ 13-11.12 Liability.

The city shall not be held liable for the installation of any publication dispensing rack space at any of the designated locations within the Waikiki special district.
(1990 Code, Ch. 29, Art. 11, § 29-11.12) (Added by Ord. 02-10)

§ 13-11.13 Enforcement.

The director and any person or agency designated by the director may enforce and administer this article. Notwithstanding the foregoing, any authorized police officer has the authority to enforce § 13-11.11(b)(6) as follows:

(1) *Powers of arrest or citation.* Police officers and any other officer so authorized shall issue a citation for any violation of this article or of any rule adopted by the director to administer, implement, or enforce this article, except they may arrest for instances when:

(A) 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; and

(B) The alleged violator refuses to cease such person's illegal activity after being issued a citation.

(2) *Citation.*

(A) There shall be provided for use by authorized police officers, a form of citation for use in citing violators for this article for instances that do not mandate the 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 designated to include all necessary information to make the same valid within the laws and rules of the State and the city.

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

(C) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
(1990 Code, Ch. 29, Art. 11, § 29-11.13) (Added by Ord. 02-10; Am. Ord. 14-2)

§ 13-11.14 Penalty.

Any person violating § 13-11.11, any other provision of this article, or any rule adopted pursuant to § 13-11.15, shall be fined not less than $100 and not more than $500 for each violation. In addition, a permittee violating § 13-11.11, any other provision of this article, or any rule adopted under § 13-11.15 may have the permit suspended or revoked, may have some or all of the spaces allocated or reallocated to the permittee deemed abandoned or

surrendered, or may be precluded for a time from the allocation or reallocation of publication dispensing rack spaces under this article.
(1990 Code, Ch. 29, Art. 11, § 29-11.14) (Added by Ord. 02-10)

§ 13-11.15 Rules.

The director shall adopt rules pursuant to HRS Chapter 91, having the force and effect of law, for the interpretation, implementation, administration, and enforcement of this article.
(1990 Code, Ch. 29, Art. 11, § 29-11.15) (Added by Ord. 02-10)

§ 13-11.16 Severability.

If 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.
(1990 Code, Ch. 29, Art. 11, § 29-11.16) (Added by Ord. 02-10)

ARTICLE 12: RESERVED

ARTICLE 13: USE OF ANIMALS IN SOLICITATIONS IN THE WAIKIKI SPECIAL DISTRICT

Sections

§ 13-13.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Public Property. Includes any street, highway, boulevard, road, sidewalk, alley, island, lane, bridge, parking lot, park, square, space, grounds, mall, building, or other property owned by or under the jurisdiction of any governmental entity or otherwise open to the public.

Solicitation. To request or demand money or gifts.

Waikiki Special District. Has the same meaning as defined in § 21-9.80-2.
(1990 Code, Ch. 29, Art. 13, § 29-13.1) (Added by Ord. 97-66; Am. Ord. 99-52)

§ 13-13.2 Prohibition.

In the Waikiki special district, no person shall use any live animal in furtherance of any solicitation on any public property, except in compliance with all of the following conditions of this section or, if applicable, § 13-13.2A:

(1) The animal shall be held or carried by the person conducting the solicitation at all times. No animal too large to be held or carried shall be used in any solicitation. This subsection shall not apply to a service animal as defined in 49 CFR § 37.3 when such service animal is being used by an individual with a disability requiring such service animal.

(2) The person conducting the solicitation shall not place the animal on or otherwise transfer the animal to any other person.

(3) The person shall not place any cage, table, stand, or other object on public property.

(4) The person shall not use any city-owned or -maintained street furniture or structure, including any bench, planter, utility cabinet, or other street furniture or structure permanently installed on public property, for the display of anything in connection with the solicitation, or otherwise put such bench, planter, utility cabinet, street furniture, or structure to use in furtherance of such solicitation.

(5) The person conducting the solicitation shall wear at all times on that person's chest so that it is clearly visible to persons being solicited a sign of at least 8.5 x 11 inches in size, upon which the following words are legibly printed in letters or characters at least 2 inches in height in both English and Japanese:

(A) Solicitor: (Name and address of the person or organization conducting the solicitation).

(B) Purpose: (The reason the solicitation is being made.).

(C) "YOU NEED NOT PAY OR CONTRIBUTE ANY MONEY TO THIS PERSON, ANY PAYMENT OR CONTRIBUTION IS COMPLETELY VOLUNTARY."; and

(D) The Japanese translation for the disclaimer set forth in (C).

The statements required in (C) and (D) shall be in capital letters and bold type.
(1990 Code, Ch. 29, Art. 13, § 29-13.2) (Added by Ord. 97-66; Am. Ord. 99-52)

§ 13-13.2A Exception.

(a) Section 13-13.2(1) through (5) shall not apply to a person using a live animal to solicit on privately owned public property in the Waikiki special district when the person has the express written authorization of the property owner to conduct such solicitation on the property. For the purposes of this section, "privately owned public property" means public property under the possession of a private person through fee title, lease, easement grant, or other conveyance instrument and "property owner" means the private person in possession of the property or the person's agent.

A person with such authorization from the property owner shall conduct the solicitation in compliance with subsection (b).

(b) When conducting the solicitation:

(1) Neither the person conducting the solicitation or any cage, table, stand, or other object owned or used by the person shall be on government-owned public property; and

(2) The person, upon the request of a police officer, shall immediately display to the officer the written authorization from the property owner.

(c) A person using a live animal to solicit on privately owned public property in the Waikiki special district, but without the express written authorization of subsection (a), shall be subject to § 13-13.2(1) through (5).
(1990 Code, Ch. 29, Art. 13, § 29-13.2A) (Added by Ord. 99-52)

§ 13-13.3 Violation—Penalty.

Any person who is required to comply with § 13-13.2(1) through (5), who violates any of those subsections shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663.

Any person who is required to comply with § 13-13.2A(b), who violates any of its provisions shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663.
(1990 Code, Ch. 29, Art. 13, § 29-13.3) (Added by Ord. 97-66; Am. Ord. 99-52)

§ 13-13.4 Other laws not affected.

Nothing in this article shall be deemed to limit or affect the application of any other law, including but not limited to any trespass law, animal cruelty law, or Article 6 of this chapter, regulating peddling in public places.
(1990 Code, Ch. 29, Art. 13, § 29-13.4) (Added by Ord. 97-66; Am. Ord. 99-52)

ARTICLE 14: UNLAWFUL SIGNS WITHIN STREET RIGHTS-OF-WAY AND PUBLIC MALLS

Sections

§ 13-14.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Portable Sign. Has the same meaning as defined under § 21-7.20.

Sign. Has the same meaning as defined under § 21-7.20.

Sign Area. Has the same meaning as defined under § 21-7.20.

Unlawful Sign. Any sign erected, established, constructed, maintained, kept, or operated in violation of this article.
(1990 Code, Ch. 29, Art. 14, § 29-14.1) (Added by Ord. 98-42)

§ 13-14.2 Council finding and declaration of nuisance.

The council finds and declares unlawful signs to be public nuisances, hazardous to the health, safety, and welfare of the residents of the city and, therefore, such signs shall be subject to summary removal pursuant to this article.
(1990 Code, Ch. 29, Art. 14, § 29-14.2) (Added by Ord. 98-42)

§ 13-14.3 Summary removal of unlawful signs.

(a) No person shall erect, establish, construct, maintain, keep, or operate a sign, including but not limited to a portable sign, on, above or below:

(1) Any street right-of-way, including any sidewalk area or medial strip; or

(2) Any public mall;

except as may be permitted under §§ 21-7.10 to 21-7.80-1, or other applicable law.

Any sign in violation of this subsection shall be considered an unlawful sign and shall be subject to summary removal under this section.

(b) The director of planning and permitting may immediately and summarily remove or cause the immediate and summary removal of an unlawful sign. The director of planning and permitting may request and shall receive the full cooperation and assistance of the chief of police, and of the directors of the departments of facility maintenance and transportation services, as may be appropriate, to carry out such removal.

(1) The director of planning and permitting shall store or cause to be stored any sign removed pursuant to this section until the director of planning and permitting is authorized to destroy, sell, or otherwise dispose of the sign pursuant to this section, but in no event, less than 30 calendar days from the date of removal.

(2) *Notification.*

(A) If a sign removed pursuant to this section has a sign area greater than 324 square inches, and the name or address of the owner of the sign appears on the face or reverse side of the sign, then the director of planning and permitting shall issue a written notice to the owner of the sign before, or within 10 working days following the date of the sign's removal; provided that no notice shall be required if only the name appears and the director of planning and permitting is unable after a good faith effort to determine the address of the named person.

(B) The written notice shall explain the violation and removal of the sign, where the sign is being stored, that the owner may reclaim the sign within 30 calendar days from the date of issuance of the written notice, the place and time that the sign may be reclaimed by the owner, that the owner has the right to appeal the removal of the sign in accordance with subsection (e), and that, if not timely reclaimed or the subject of a timely appeal, the sign shall be subject to disposal.

(C) If a sign has a sign area of 324 square inches or less, or no name or address of the owner appears on the face or reverse side of the sign, then the sign shall be deemed to have no value and to be abandoned, and the notification requirements of this subdivision shall not apply.

(3) The director of planning and permitting may destroy, sell, or otherwise dispose of a sign removed under this section after the following time periods:

(A) For signs for which no notification is required by this subsection, after a period of 30 calendar days from the date of removal of the sign; and

(B) For signs for which notification is required by this subsection, after a period of 30 calendar days from the date of issuance of the written notice under subdivision (2), unless a timely appeal has been duly filed under subsection (e).

(c) A sign removed pursuant to this section may be reclaimed by the owner within the applicable 30-day period specified in subsection (b)(3). To reclaim a sign, an owner or the owner's authorized representative shall make arrangements with the director of planning and permitting for the time and place to reclaim the sign, shall

appear in person within the applicable 30-day period at the time and place designated by the director of planning and permitting, shall provide adequate proof of identity and ownership and shall pay to the city a $200 fee, per sign, for the city's costs of removal, storage, and handling of the sign, whereupon the director of planning and permitting shall release the sign to the owner, as is.

(d) The city shall not be responsible for any losses, liabilities, damages, costs, claims, demands, suits, actions, payments, or judgments arising from the removal, storage, or handling of a sign properly removed under this article.

(e) An owner of a sign removed pursuant to this section may appeal the removal to the building board of appeals as provided by § 16-1.1. The appeal shall be limited to a determination of whether the sign was properly removed pursuant to this section. The director of planning and permitting shall continue to store or have stored the sign until the appeal has been decided. If the decision of the board of appeals is in favor of the owner, then the sign shall be returned to the owner and no fee for the removal, storage, and handling of the sign shall be charged. If the decision of the board of appeals is in favor of the director of planning and permitting, then the sign may be returned to the owner upon payment of the removal, storage, and handling fee of $200 or, if the owner fails to pay the fee within seven days of issuance of notice of the decision, the sign may be destroyed, sold or otherwise disposed of by the director of planning and permitting.

(1990 Code, Ch. 29, Art. 14, § 29-14.3) (Added by Ord. 98-42)

§ 13-14.4 Rules.

The director of planning and permitting may adopt rules pursuant to HRS Chapter 91 for the implementation of this article.

(1990 Code, Ch. 29, Art. 14, § 29-14.4) (Added by Ord. 98-42)

§ 13-14.5 Application.

(a) This article applies only to unlawful signs erected on, above or below street rights-of-way and public malls. Unlawful signs erected in other locations shall not be subject to summary removal as provided herein, but shall be subject to any other applicable provision of State or city law, ordinance, or rule, including but not limited to the abatement and removal procedure set forth in § 21-7.70.

(b) This article shall be in addition to and shall not limit any other applicable provision of State or city law, ordinance, or rule.

(1990 Code, Ch. 29, Art. 14, § 29-14.5) (Added by Ord. 98-42)

§ 13-14.6 Severability.

This article is declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion shall not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance shall not be affected.

(1990 Code, Ch. 29, Art. 14, § 29-14.6) (Added by Ord. 98-42)

ARTICLE 15: SITTING OR LYING ON PUBLIC SIDEWALKS IN THE WAIKIKI SPECIAL DISTRICT

Sections

§ 13-15.1 Prohibition—Exceptions—Citations.

(a) No person shall sit or lie on a public sidewalk, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk in the Waikiki special district.

(b) The prohibitions in subsection (a) shall not apply to:

(1) Any person sitting or lying on a sidewalk due to a medical emergency;

(2) Any person who, as a result of a disability, is using a wheelchair or other similar device to move about the public sidewalk;

(3) Any person sitting or lying on a sidewalk for the purpose of engaging in an expressive activity;

(4) Any person sitting on a sidewalk while attending or viewing any parade, festival, performance, rally, demonstration, or similar event conducted on the street pursuant to a permit issued by the city;

(5) Any person engaged in a maintenance, repair, or construction activity on behalf of a governmental entity or a public utility;

(6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public sidewalk;

(7) Any person sitting on a chair or bench located on the public sidewalk that is placed there by a public agency; or

(8) Any person sitting in line for goods or services, unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk.

(c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this article after having been notified by a law enforcement officer that the conduct violates this section.

(d) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Expressive Activity. 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 participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

Public Sidewalk. A publicly owned or maintained "sidewalk," as defined in § 13-1.1, and includes a "replacement sidewalk" as defined in that section.

Waikiki Special District. The area described in § 21-9.80-2.
(1990 Code, Ch. 29, Art. 15, § 29-15.1) (Added by Ord. 14-26)

§ 13-15.2 Penalty.

Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.
(1990 Code, Ch. 29, Art. 15, § 29-15.2) (Added by Ord. 14-26)

ARTICLE 15A: SITTING OR LYING ON PUBLIC SIDEWALKS OUTSIDE OF THE WAIKIKI SPECIAL DISTRICT

Sections

§ 13-15A.1 Declaration of legislative intent—Purpose.

The purpose of this article is to prohibit, subject to exceptions, persons from sitting or lying on public sidewalks in areas zoned for commercial and business activities.

The council finds:

(1) Public sidewalks in areas zoned for commercial and business activities are created and maintained for the primary purposes of enabling pedestrians to safely and effectively move about from place to place, facilitating deliveries of goods and services, and providing convenient access to entertainment, goods, and services;

(2) Sitting or lying down is not the customary use of the public sidewalks. Persons who sit or lie down on public sidewalks impede and deter others from using the sidewalks; thus, they discourage residents and visitors from walking to get from place to place and accessing local shops, restaurants, and businesses, and interfere with the delivery of goods and services;

(3) The need to maintain pedestrian and commercial traffic is greatest during the hours of operation of businesses, shops, restaurants, and other commercial enterprises when public sidewalks are congested. Persons who sit or lie down on public sidewalks during business hours threaten their own safety and the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children, who are put at increased risk when they must avoid and navigate around persons unexpectedly sitting or lying upon the public sidewalk;

(4) The prohibition against sitting or lying on public sidewalks set forth in this article leaves intact the individual's right to speak, protest, or engage in other lawful activity on any sidewalk consistent with the individual's free speech rights. In addition, the prohibition contains exceptions for medical emergencies, and expressive activities, among others;

(5) There are a number of places where the restrictions of this article do not apply, including private property, plazas, public parks, and other common areas open to the public, that do not unduly interfere with the safe flow of pedestrian traffic, impair commercial activity, or threaten public safety;

(6) The council acknowledges that there are reasons why one might sit or lie on a public sidewalk. The city has offered and continues to offer services to those engaged in sitting or lying on the sidewalk who appear

to be in need, or to those who request service assistance. However, in many cases, these persons refuse such services or continue the conduct despite the accessibility of these services. The city will continue to invest in services for those in need and to make efforts to maintain and improve safety on public sidewalks for everyone. A law enforcement officer may not issue a citation to a person for a violation of this article without first warning the person that sitting or lying down on a public sidewalk is unlawful;

(7) Present laws that prohibit the obstruction of sidewalks do not adequately address the safety hazards, disruption and deterrence to pedestrian traffic or impairment of commercial activity caused by persons sitting or lying on the public sidewalks in areas zoned for commercial and business activities; and

(8) Pedestrians are discouraged from using public sidewalks if persons are sitting or lying down on the unpaved public property immediately abutting the public sidewalk, and pedestrians often use this expanded sidewalk area as an extension of the sidewalk, to walk and move from place to place. Pedestrian traffic is impeded when persons sit or lie down on these expanded sidewalk areas, deterring persons from accessing and using the sidewalks, and discouraging persons from walking as a means of transportation.

(1990 Code, Ch. 29, Art. 15A, § 29-15A.1) (Added by Ord. 14-35; Am. Ord. 15-14)

§ 13-15A.2 Prohibition—Exceptions—Citations.

(a) No person shall sit or lie on a public sidewalk, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk located within or immediately abutting the following described zones, or upon the public sidewalks on both sides of the following described street segments, or where specified in this section, on the expanded sidewalk area, during the hours from 5:00 a.m. to 11:00 p.m.:

(1) *Chinatown.* The Chinatown zone is the area of the city bounded by the following streets as illustrated in Exhibit 1, set forth at the end of this article:

(A) Starting at the intersection of Nimitz Highway/River Street;

(B) River Street to the intersection of River Street/Vineyard Boulevard;

(C) Vineyard Boulevard to the intersection of Vineyard Boulevard/Nuuanu Avenue;

(D) Nuuanu Avenue to Nimitz Highway; and

(E) Nimitz Highway to the intersection of Nimitz Highway/River Street;

(2) *Downtown.* The Downtown zone is the area of the city bounded by the following streets as illustrated in Exhibit 2, set forth at the end of this article:

(A) Starting at the intersection of Nimitz Highway/Nuuanu Avenue;

(B) Nuuanu Avenue to the intersection of Nuuanu Avenue/South Vineyard Boulevard,

(C) South Vineyard Boulevard to the intersection of South Vineyard Boulevard/Punchbowl Street;

(D) Punchbowl Street to the intersection of Punchbowl Street/South Beretania Street;

(E) South Beretania Street to the intersection of South Beretania Street/Richards Street;

(F) Richards Street to the intersection of Richards Street/Halekauwila Street;

(G) Halekauwila Street to the intersection of Halekauwila Street/Nimitz Highway/Ala Moana Boulevard, and

(H) Nimitz Highway/Ala Moana Boulevard to the intersection of Nimitz Highway/Nuuanu Avenue;

(3) *McCully-Moiliili.* The McCully-Moiliili zone is the area of the city bounded by the following streets as illustrated in Exhibit 3, set forth at the end of this article:

(A) Starting at the intersection of South Beretania Street/McCully Street;

(B) McCully Street to the intersection of McCully Street/Algaroba Street;

(C) Algaroba Street to the intersection of Algaroba Street/Makahiki Way;

(D) Makahiki Way to the intersection of Makahiki Way/South King Street;

(E) South King Street to the intersection of South King Street/Isenberg Street;

(F) Isenberg Street to the intersection of Isenberg Street/South Beretania Street; and

(G) South Beretania Street to the intersection of South Beretania Street/McCully Street;

The McCully-Moiliili zone also includes the sidewalks abutting the following street segments:

(A) University Avenue beginning at the intersection of University Avenue/South Beretania Street/South King Street and ending at University Avenue/Varsity Place;

(B) South Beretania Street beginning at the intersection of South Beretania Street/McCully Street and ending at the intersection of South Beretania Street/University Avenue;

(C) South King Street beginning at the intersection of South King Street/Makahiki Way and ending at the intersection of South King Street/University Avenue;

(D) McCully Street beginning at the intersection of South Beretania Street/McCully Street and ending at the intersection of McCully Street/Algaroba Street; and

(E) Makahiki Way beginning at the intersection of Algaroba Street/Makahiki Way and ending at the intersection of Makahiki Way/South King Street;

(4) *Kailua.* The Kailua zone is the area of the city bounded by the following streets as illustrated in Exhibit 4, set forth at the end of this article:

(A) Starting at the intersection of Kainehe Street/Kihapai Street;

(B) Kihapai Street to the intersection of Kihapai Street/Oneawa Street;

(C) Oneawa Street to the intersection of Oneawa Street/Uluniu Street;

(D) Uluniu Street to the intersection of Uluniu Street/Maluniu Avenue;

(E) Maluniu Avenue to the intersection of Maluniu Avenue/Kuulei Road;

(F) Kuulei Road to the intersection of Kuulei Road/Oneawa Street/Kailua Road;

(G) Oneawa Street/Kailua Road to the intersection of Kailua Road/Hahani Street;

(H) Hahani Street to the intersection of Hahani Street/Hekili Street;

(I) Hekili Street to the intersection of Hekili Street/Hamakua Drive/Kainehe Street; and

(J) Hamakua Drive/Kainehe Street to the intersection of Kainehe Street/Kihapai Street;

The Kailua zone also includes the sidewalks abutting the following street segments:

(A) Oneawa Street beginning at the intersection of Oneawa Street/Kawainui Street and ending at the intersection of Oneawa Street/Ulunui Street; and

(B) Hamakua Drive beginning at the intersection of Hamakua Drive/Hahani Street and ending at the intersection of Hamakua Drive/Aoloa Street;

(5) *Wahiawa.* The Wahiawa zone is the area of the city bounded by the following streets as illustrated in Exhibit 5, set forth at the end of this article:

(A) Starting at the intersection of Kilani Avenue/Kukui Street;

(B) Kukui Street to the intersection of Kukui Street/California Avenue;

(C) California Avenue to the intersection of California Avenue/Ohai Street;

(D) Ohai Street to the intersection of Ohai Street/Olive Avenue;

(E) Olive Avenue to the intersection of Olive Avenue/Walker Avenue;

(F) Walker Avenue to the intersection of Walker Avenue/California Avenue;

(G) California Avenue to the intersection of California Avenue/Lehua Street;

(H) Lehua Street to the intersection of Lehua Street/Center Street;

(I) Center Street to the intersection of Center Street/North Cane Street;

(J) North Cane Street to the intersection of North Cane Street/Kilani Avenue; and

(K) Kilani Avenue to the intersection of Kilani Avenue/Kukui Street;

The Wahiawa zone also includes the sidewalks abutting the following street segments:

(A) North Cane Street at the intersection of Center Street/North Cane Street to the intersection of North Cane Street/California Avenue; and

(B) California Avenue at the intersection of California Avenue/North Cane Street to the entrance to Wahiawa District Park parking lot;

(6) *Ala Moana-Sheridan.* The Ala Moana-Sheridan zone is composed of two zones, Zone A and Zone B.

Ala Moana-Sheridan Zone A. Ala-Moana Sheridan Zone A is the area of the city bounded by the following streets as illustrated in Exhibit 6-A, set forth at the end of this article:

(A) Starting at the intersection of South Beretania Street/Victoria Street;

(B) Victoria Street to the intersection of Victoria Street/South King Street;

(C) South King Street to the intersection of South King Street/Hauoli Street;

(D) Hauoli Street to the intersection of Hauoli Street/Algaroba Street;

(E) Algaroba Street to the intersection of Algaroba Street/McCully Street;

(F) McCully Street to the intersection of McCully Street/South Beretania Street;

(G) South Beretania Street to the intersection of South Beretania Street/Artesian Street;

(H) Artesian Street to the intersection of Artesian Street/South King Street;

(I) South King Street to the intersection of South King Street/Kalakaua Avenue;

(J) Kalakaua Avenue to the intersection of Kalakaua Avenue/South Beretania Street, and

(K) South Beretania Street to the intersection of South Beretania Street/Victoria Street;

Ala Moana-Sheridan Zone B. Ala Moana-Sheridan Zone B is the area of the city bounded by the following streets as illustrated in Exhibit 6-B, set forth at the end of this article:

(A) Starting at the intersection of South King Street/Cedar Street;

(B) South King Street to the intersection of South King Street/Kaheka Street;

(C) Kaheka Street to the intersection of Kaheka Street/Liona Street;

(D) Liona Street to the intersection of Liona Street/Keeaumoku Street;

(E) Keeaumoku Street to the intersection of Keeaumoku Street/Makaloa Street;

(F) Makaloa Street to the intersection of Makaloa Street/Kaheka Street;

(G) Kaheka Street to the intersection of Kaheka Street/Kanunu Street;

(H) Kanunu Street to the intersection of Kanunu Street/Kalakaua Avenue;

(I) Kalakaua Avenue to the intersection of Kalakaua Avenue/Kapiolani Boulevard;

(J) Kapiolani Boulevard to the intersection of Kapiolani Boulevard/Piikoi Street;

(K) Piikoi Street to the intersection of Piikoi Street/Makaloa Street;

(L) Makaloa Street to the intersection of Makaloa Street/Sheridan Street;

(M) Sheridan Street to the intersection of Sheridan Street/Rycroft Street;

(N) Rycroft Street to the intersection of Rycroft Street/Cedar Street; and

(O) Cedar Street to the intersection of Cedar Street/South King Street;

The Ala Moana-Sheridan Zone B also includes the sidewalks abutting the following street segment:

(A) Keeaumoku Street beginning at the intersection of Keeaumoku Street/Liona Street and ending at the intersection of Keeaumoku Street/Makaloa Street;

(7) *Kaneohe.* The Kaneohe zone is composed of two zones, Zone A and Zone B.

Kaneohe Zone A. Kaneohe Zone A is the area of the city bounded by the following streets as illustrated in Exhibit 7-A, set forth at the end of this article:

(A) Starting at the intersection of Kamehameha Highway/Kahuhipa Street;

(B) Kamehameha Highway to the intersection of Kamehameha Highway/Haiku Road;

(C) Haiku Road to the intersection of Haiku Road/Alaloa Street;

(D) Alaloa Street to the intersection of Alaloa Street/Kahuhipa Street; and

(E) Kahuhipa Street to the intersection of Kahuhipa Street/Kamehameha Highway;

The Kaneohe Zone A also includes the sidewalks abutting the following street segments:

(A) Kamehameha Highway beginning at the intersection of Kamehameha Highway/Kahuhipa Street/Lilipuna Road and ending at the intersection of Kamehameha Highway/Paleka Road/Waikalua Road; and

(B) Lilipuna Road beginning at the intersection of Lilipuna Road/Kahuhipa Street/Kamehameha Highway and ending at the intersection of Lilipuna Road/Cobb Adams Road;

Kaneohe Zone B. Kaneohe Zone B is the area of the city bounded by the following streets as illustrated in Exhibit 7-B, set forth at the end of this article:

(A) Starting at the intersection of Kamehameha Highway/Likelike Highway/Kaneohe Bay Drive;

(B) Kamehameha Highway to the intersection of Kamehameha Highway/Koa Kahiko Street;

(C) Koa Kahiko Street to the intersection of Koa Kahiko Street/Aumoku Street;

(D) Aumoku Street to the intersection of Aumoku Street/Kaneohe Bay Drive; and

(E) Kaneohe Bay Drive to the intersection of Kaneohe Bay Drive/Kamehameha Highway/Likelike Highway;

(8) *Waimanalo.* The Waimanalo zone is the area of the city bounded by the following streets as illustrated in Exhibit 8, set forth at the end of this article:

(A) Starting at the intersection of Kalanianaole Highway/Mekia Street;

(B) Mekia Street to the intersection of Mekia Street/Lukanela Street;

(C) Lukanela Street to the intersection of Lukanela Street/Poalima Street;

(D) Poalima Street to the intersection of Poalima Street/Kalanianaole Highway; and

(E) Kalanianaole Highway to the intersection of Kalanianaole Highway/Mekia Street;

(9) *Kapahulu.* The Kapahulu street segments include the following streets as illustrated in Exhibit 9, set forth at the end of this article:

(A) The eastern side of Kapahulu Avenue beginning at the intersection of Kapahulu Avenue/Leahi Avenue and ending 200 feet to the north of the intersection of Kapahulu Avenue/Herbert Street;

(B) Kapahulu Avenue beginning 200 feet to the north of the intersection of Kapahulu Avenue/Herbert Street and ending at the intersection of Kapahulu Avenue/Olu Street;

(C) The eastern side of Kapahulu Avenue beginning at the intersection of Kapahulu Avenue/Olu Street and ending at the intersection of Kapahulu Avenue/Charles Street;

(D) Kapahulu Avenue beginning at the intersection of Kapahulu Avenue/Charles Street and ending 100 feet north of the intersection of Kapahulu Avenue/Charles Street;

(E) The eastern side of Kapahulu Avenue beginning 100 feet to the north of the intersection of Kapahulu Avenue/Charles Street and ending at the intersection of Kapahulu Avenue/Kaimuki Avenue;

(F) Kapahulu Avenue beginning at the intersection of Kapahulu Avenue/Kaimuki Avenue and ending at the intersection of Kapahulu Avenue/Waialae Avenue;

(G) Campbell Avenue beginning at the intersection of Campbell Avenue/Kapahulu Avenue and ending at the intersection of Campbell Avenue/Brokaw Street;

(H) Kanaina Avenue beginning at the intersection of Kanaina Avenue/Kapahulu Avenue and ending at the intersection of Kanaina Avenue/Brokaw Street;

(I) Herbert Street beginning at the intersection of Herbert Street/Kapahulu Avenue and ending at the intersection of Herbert Street/Campbell Avenue;

(J) Castle Street beginning at the intersection of Castle Street/Kapahulu Avenue and ending at the intersection of Castle Street/Campbell Avenue; and

(K) Brokaw Street beginning at the intersection of Brokaw Street/Kanaina Avenue and ending at the intersection of Brokaw Street/Campbell Avenue;

(10) *Kaimuki.* The Kaimuki street segments include the following streets as illustrated in Exhibit 10, set forth at the end of this article:

(A) Kapiolani Boulevard beginning at the intersection of Kapiolani Boulevard/Kaimuki Avenue and ending at the intersection of Kapiolani Boulevard/Waialae Avenue;

(B) Waialae Avenue beginning at the intersection of Waialae Avenue/Kapiolani Boulevard and ending at the intersection of Waialae Avenue/Palolo Avenue;

(C) The northern side of Waialae Avenue beginning at the intersection of Waialae Avenue/Palolo Avenue and ending at the intersection of Waialae Avenue/6th Avenue;

(D) Waialae Avenue, beginning at the intersection of Waialae Avenue/7th Avenue and ending at the intersection of Waialae Avenue/10th Avenue;

(E) The northern side of Waialae Avenue beginning at the intersection of Waialae Avenue/10th Avenue and ending at the intersection of Waialae Avenue/11th Avenue;

(F) Waialae Avenue beginning at the intersection of Waialae Avenue/11th Avenue and ending at the intersection of Waialae Avenue/Koko Head Avenue;

(G) The northern side of Waialae Avenue beginning at the intersection of Waialae Avenue/Koko Head Avenue and ending 200 feet east of the intersection of Waialae Avenue/Wilhelmina Rise;

(H) The eastern side of 11th Avenue beginning at the intersection of 11th Avenue/Waialae Avenue and ending at the intersection of 11th Avenue/Harding Avenue;

(I) 12th Avenue beginning at the intersection of 12th Avenue/Waialae Avenue and ending at the intersection of 12th Avenue/Harding Avenue;

(J) Harding Avenue from the intersection of Harding Avenue/11th Avenue to the intersection of Harding Avenue/Koko Head Avenue; and

(K) The western side of Koko Head Avenue beginning at the intersection of Koko Head Avenue/Harding Avenue and ending at the intersection of Koko Head Avenue/Waialae Avenue;

(11) *Kahala.* The Kahala street segments include the following streets as illustrated in Exhibit 11, set forth at the end of this article:

(A) The southern side of Waialae Avenue beginning at the intersection of Waialae Avenue/21st Avenue and ending at the intersection of Waialae Avenue/Hunakai Street;

(B) Waialae Avenue beginning at the intersection of Waialae Avenue/Hunakai Street and ending 650 feet to the east of the intersection of Waialae Avenue/Hunakai Street;

(C) The southern side of Waialae Avenue beginning 650 feet to the east of the intersection of Waialae Avenue/Hunakai Street and ending at the intersection of Waialae Avenue/Kealaolu Avenue;

(D) The northern side of Waialae Avenue beginning at the intersection of Waialae Avenue/Kilauea Avenue and ending at the Waialaenui Gulch Stream Bridge crossing;

(E) The eastern side of Hunakai Street beginning at the intersection of Hunakai Street/Waialae Avenue and ending at the Kahala Mall parking lot entrance via Hunakai Street; and

(F) The western side of Kilauea Avenue beginning at the intersection of Kilauea Avenue/Waialae Avenue and ending at the intersection of Kilauea Avenue/Pahoa Avenue;

(12) *Aina Haina-Niu Valley.* The Aina Haina-Niu Valley street segments include the following streets as illustrated in Exhibit 12, set forth at the end of this article:

(A) The northern side of Kalanianaole Highway from 400 feet west of the intersection of Kalanianaole Highway/West Hind Drive to 600 feet east of the intersection of Kalanianaole Highway/West Hind Drive; and

(B) The northern side of Kalanianaole Highway from the intersection of Kalanianaole Highway/Niuiki Circle to the intersection of Kalanianaole Highway/Halemaumau Street;

(13) *Hawaii Kai.* The Hawaii Kai street segments include the following streets as illustrated in Exhibit 13, set forth at the end of this article:

(A) The northern side of Kalanianaole Highway from the intersection of Kalanianaole Highway/Keahole Street to the Hawaii Kai Marina Bridge;

(B) The southeastern side of Keahole Street from the intersection of Keahole Street/Kalanianaole Highway to the northernmost entrance to the Hawaii Kai Towne Center parking lot via Keahole Street;

(C) The northern side of Kalanianaole Highway from the intersection of Kalanianaole Highway/Lunalilo Home Road to the westernmost entrance to the Koko Marina Center parking lot via Kalanianaole Highway;

(D) The western side of Lunalilo Home Road from the intersection of Lunalilo Home Road/Kalanianaole Highway to 200 feet north of the intersection of Lunalilo Home Road/Kaumakani Street; and

(E) The northern side of Hawaii Kai Drive from the intersection of Hawaii Kai Drive/Pepeekeo Street to the Hahaione Valley Stream Bridge;

(14) *Aala.* The Aala zone is the area of the city bounded by the following streets as illustrated in Exhibit 14, set forth at the end of this article:

(A) Starting at the intersection of Aala Street and North Beretania Street;

(B) Aala Street to the intersection of Aala Street/North Vineyard Boulevard;

(C) North Vineyard Boulevard to the intersection of North Vineyard Boulevard/River Street;

(D) River Street to the intersection of River Street/North Beretania Street; and

(E) North Beretania Street to the intersection of North Beretania Street/Aala Street;

The Aala zone also includes the sidewalks abutting the following street segments:

(A) North Beretania Street beginning at the intersection of North Beretania Street/North King Street and ending at the intersection of North Beretania Street/River Street;

(B) River Street beginning at the intersection of River Street/North Beretania Street and ending at the intersection of River Street/North King Street;

(C) North King Street beginning at the intersection of North King Street/River Street and ending at the intersection of North King Street/North Beretania Street;

(D) North Hotel Street beginning at the intersection of North Hotel Street/North King Street and ending at the intersection of North Hotel Street/River Street; and

(E) The entire length of Aala Place;

(15) *Kapalama.* The Kapalama street segments include the following streets as illustrated in Exhibit 15, set forth at the end of this article, and the expanded sidewalk areas along those streets:

(A) Kohou Street beginning at the intersection of Kohou Street/Olomea Street and ending at the intersection of Kohou Street/Kalani Street;

(B) Kokea Street beginning at the intersection of Kokea Street/Olomea Street and ending at the southern terminus of Kokea Street; and

(C) The portion of Pacific Street as illustrated in Exhibit 15;

(16) *Kalihi.* The Kalihi zone is the area of the city bounded by the following streets as illustrated in Exhibit 16, set forth at the end of this article:

(A) Starting at the intersection of Waiakamilo Road/North King Street;

(B) North King Street to the intersection of North King Street/Kohou Street;

(C) Kohou Street to the intersection of Kohou Street/Dillingham Boulevard;

(D) Dillingham Boulevard to the intersection of Dillingham Boulevard/Waiakamilo Road; and

(E) Waiakamilo Road to the intersection of Waiakamilo Road/North King Street;

(17) *Iwilei.* The Iwilei street segments include the following streets as illustrated in Exhibit 17, set forth at the end of this article:

(A) Iwilei Road beginning at the intersection of Iwilei Road/Pacific Street and ending at the intersection of Iwilei Road/North King Street;

(B) The entire length of the segment of roadway connecting the Ewa- bound lanes of North Nimitz Highway to Iwilei Road, as illustrated in Exhibit 17;

(C) Sumner Street beginning at the intersection of Sumner Street/Pine Street and ending at the intersection of Sumner Street/North Nimitz Highway;

(D) The entire length of Pine Street;

(E) The entire length of Kuwili Street;

(F) The entire length of Kaaahi Street;

(G) The entire length of Kaamahu Place; and

(H) The entire length of Kaaahi Place; and

(18) *Dillingham.* The Dillingham street segments includes the following portions and sides of Dillingham Boulevard as illustrated in Exhibit 18, set forth at the end of this article:

(A) The southern side of Dillingham Boulevard beginning at the intersection of Dillingham Boulevard/Puuhale Road and ending at the intersection of Dillingham Boulevard/North King Street;

(B) The northern side of Dillingham Boulevard beginning at the intersection of Dillingham Boulevard/Puuhale Road and ending at the intersection of Dillingham Boulevard/Mokauea Street; and

(C) The northern side of Dillingham Boulevard beginning 275 feet west of the intersection of Dillingham Boulevard/Waiakamilo Road and ending at the intersection of Dillingham Boulevard/North King Street.

(b) The prohibitions in subsection (a) shall not apply to:

(1) Any person sitting or lying on a sidewalk due to a medical emergency;

(2) Any person who, as a result of a disability, is using a wheelchair or other similar wheeled chair device to move about the public sidewalk;

(3) Any person sitting or lying on a sidewalk for the purpose of engaging in an expressive activity;

(4) Any person sitting on a sidewalk while attending or viewing any parade, festival, performance, rally, demonstration, or similar event conducted on the street pursuant to a permit issued by the city;

(5) Any person engaged in a maintenance, repair, or construction activity on behalf of a governmental entity or a public utility;

(6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public sidewalk;

(7) Any person sitting on a chair or bench located on the public sidewalk that is placed there by a public agency;

(8) Any person sitting in line for goods or services, unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk; or

(9) Sitting or lying on a public sidewalk in a designated geographic area regulated by separate ordinance enactment.

(c) No person shall be cited for a violation of this section, unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

(d) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Expanded Sidewalk Area. The unpaved public property immediately abutting a public sidewalk that extends 10 feet away from the sidewalk from the edge of the sidewalk farthest from the roadway.

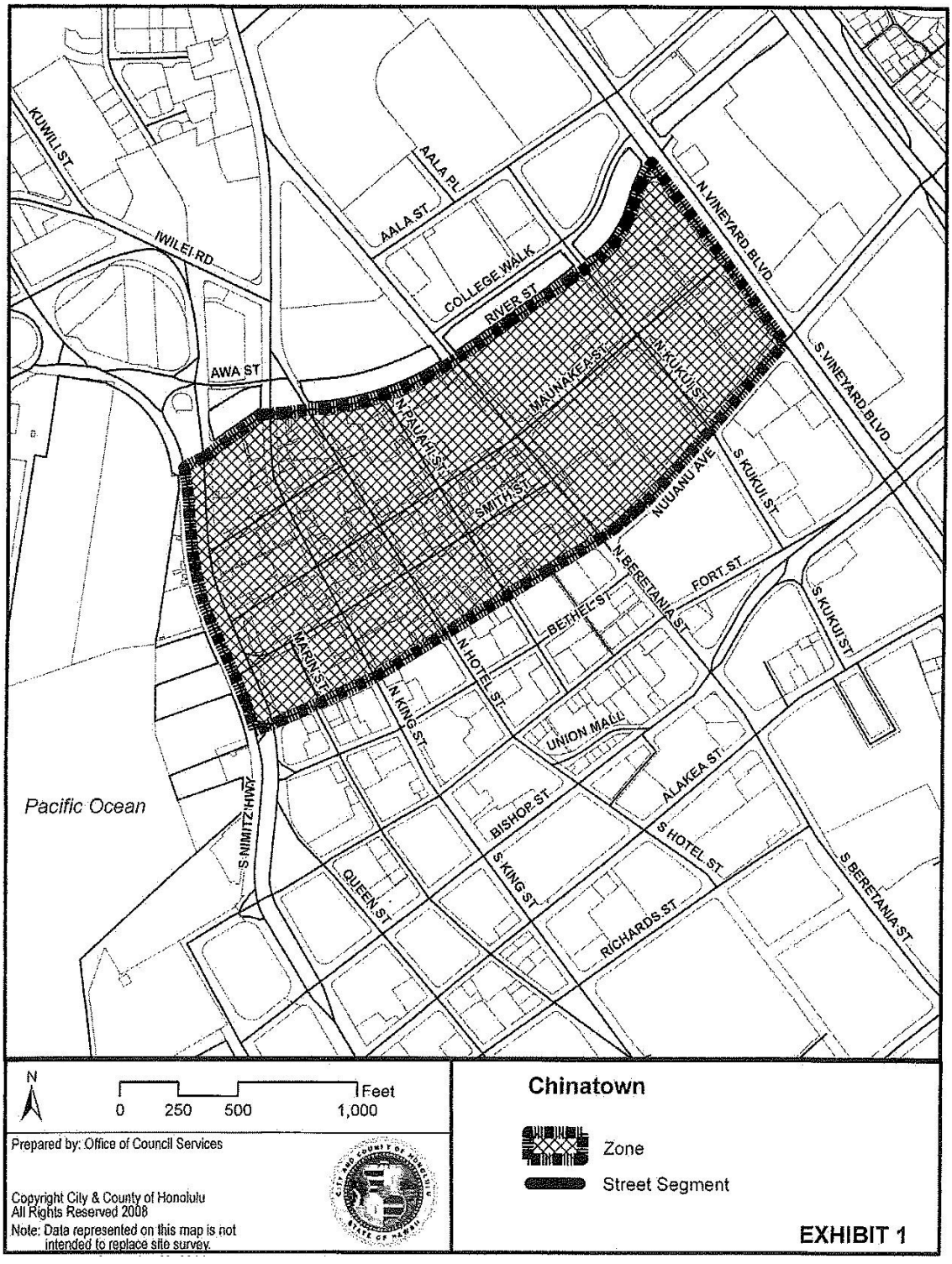
Expressive Activity. Speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance

at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

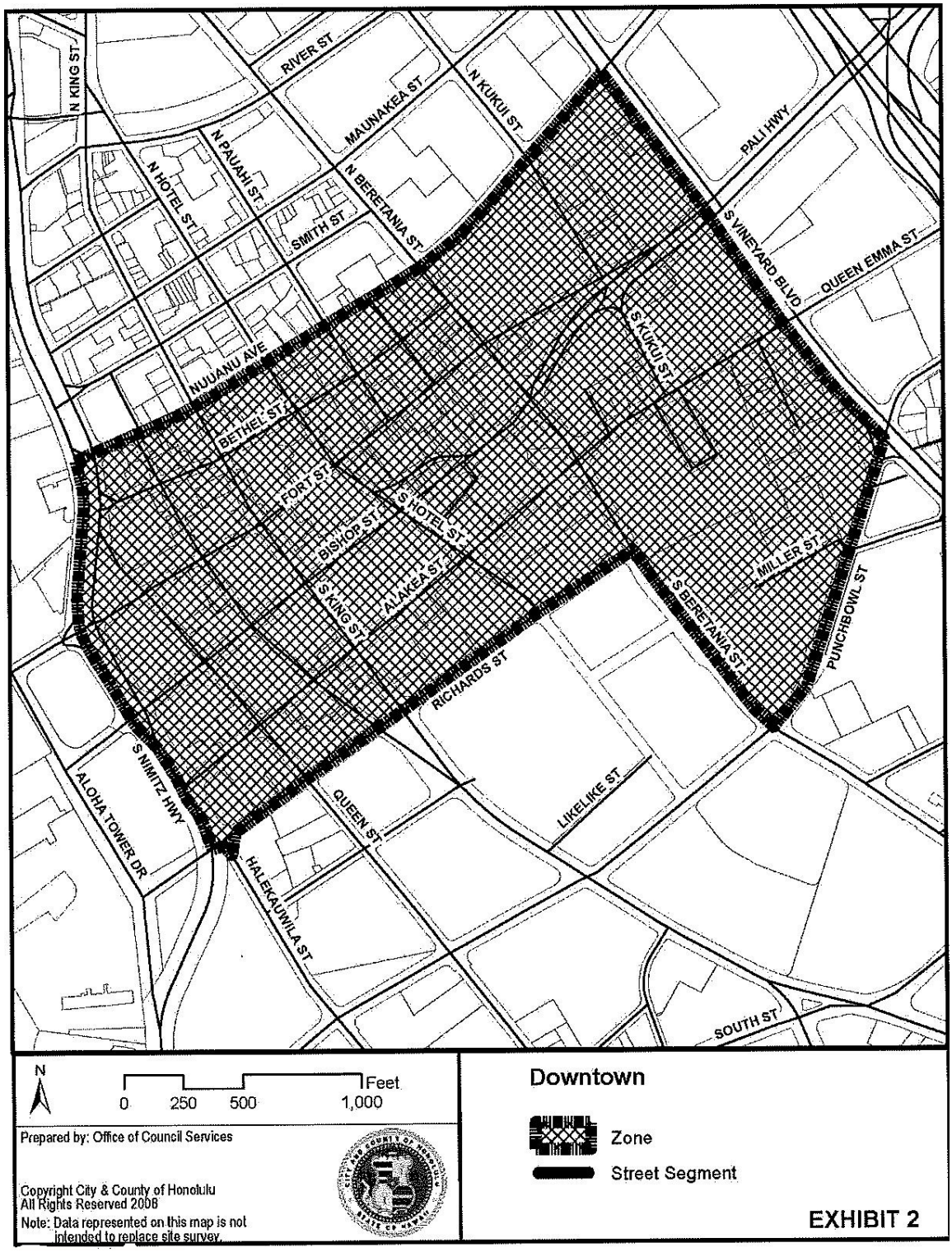
Public Sidewalk. A publicly owned or maintained "sidewalk," defined in § 13-1.1, and includes a "replacement sidewalk" as defined in that section. Where the property line adjacent to a public sidewalk is not clearly established, then for the purposes of this article, the sidewalk is deemed to extend 10 feet away from the roadway from the curb line or pavement of the roadway.
(1990 Code, Ch. 29, Art. 15A, § 29-15A.2) (Added by Ord. 14-35; Am. Ords. 15-14, 17-15, 17-41, 20-15)

§ 13-15A.3 Penalty.

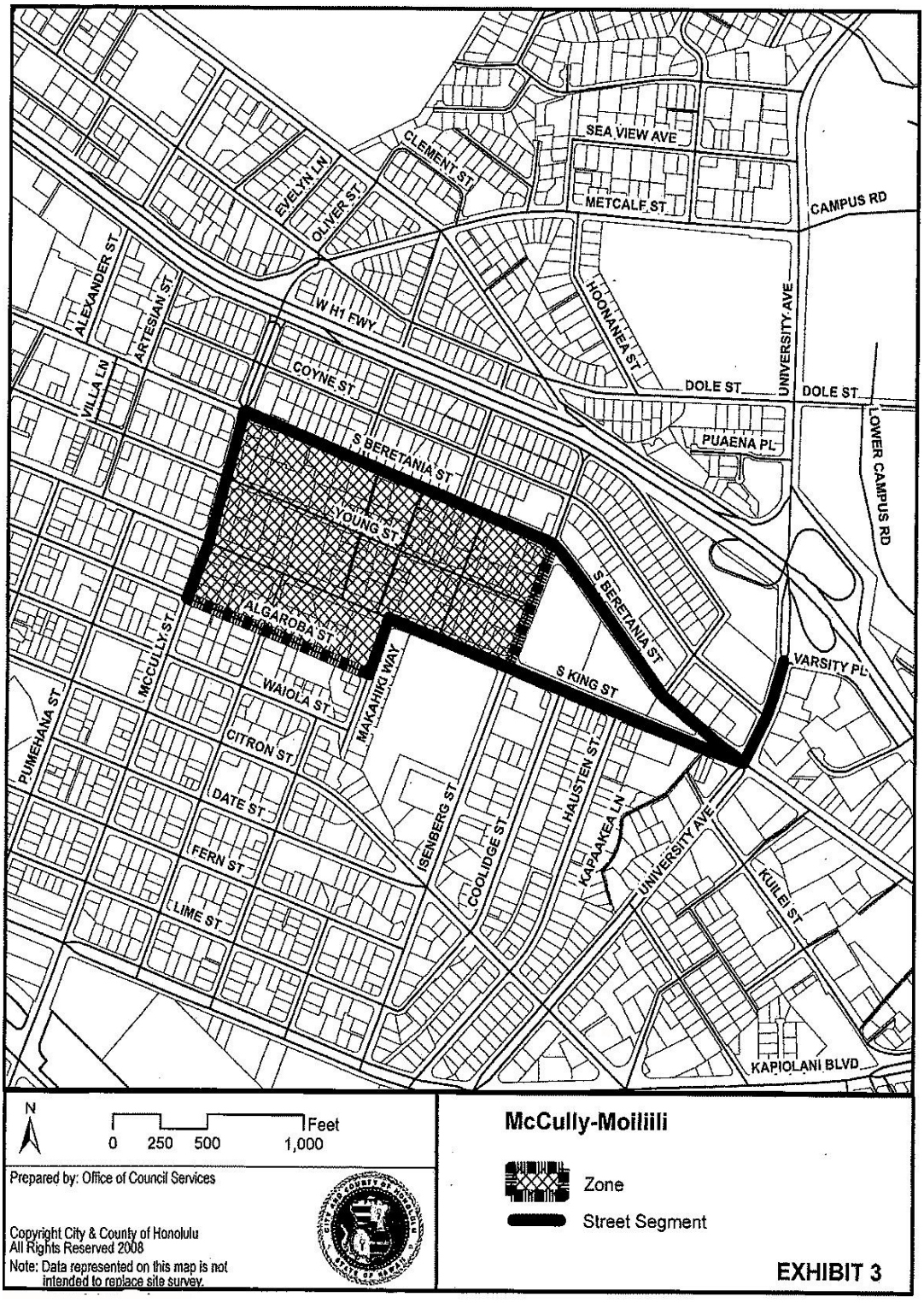
Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.
(1990 Code, Ch. 29, Art. 15A, § 29-15A.3) (Added by Ord. 14-35)



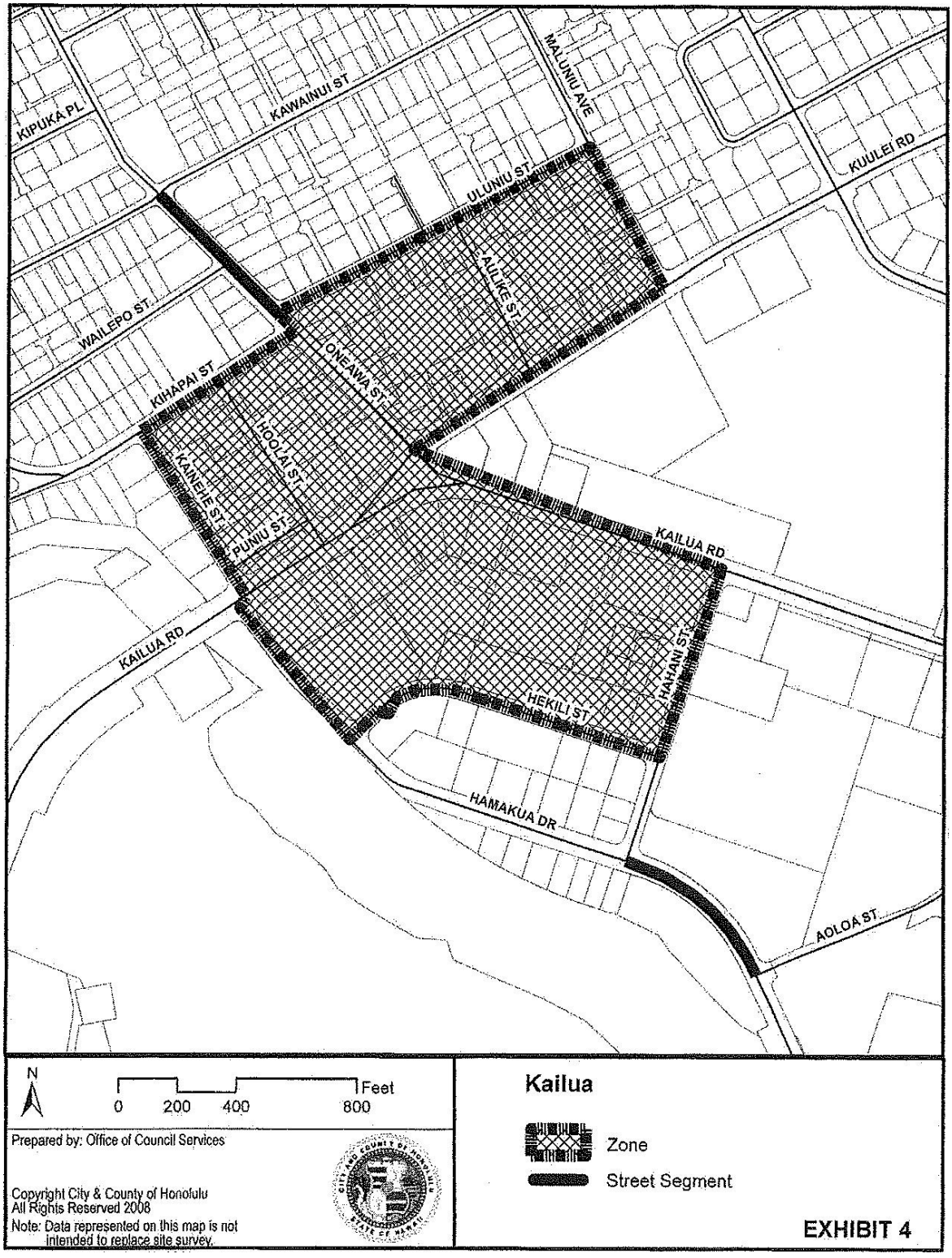
Date prepared: September 29, 2014
(Added by Ord. 14-35)



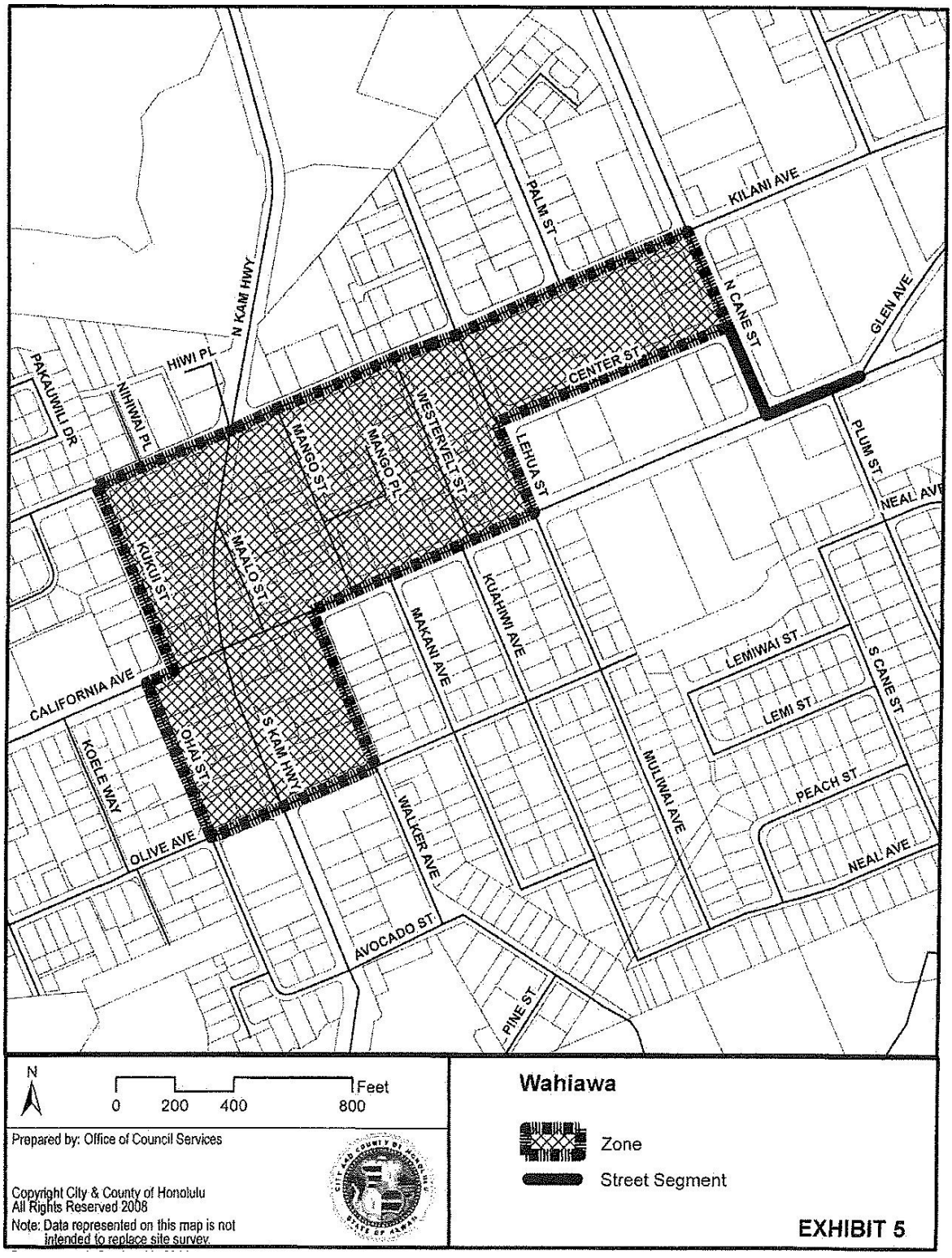
Date prepared: April 13, 2015
(Added by Ord. 14-35; Am. Ord. 15-14)



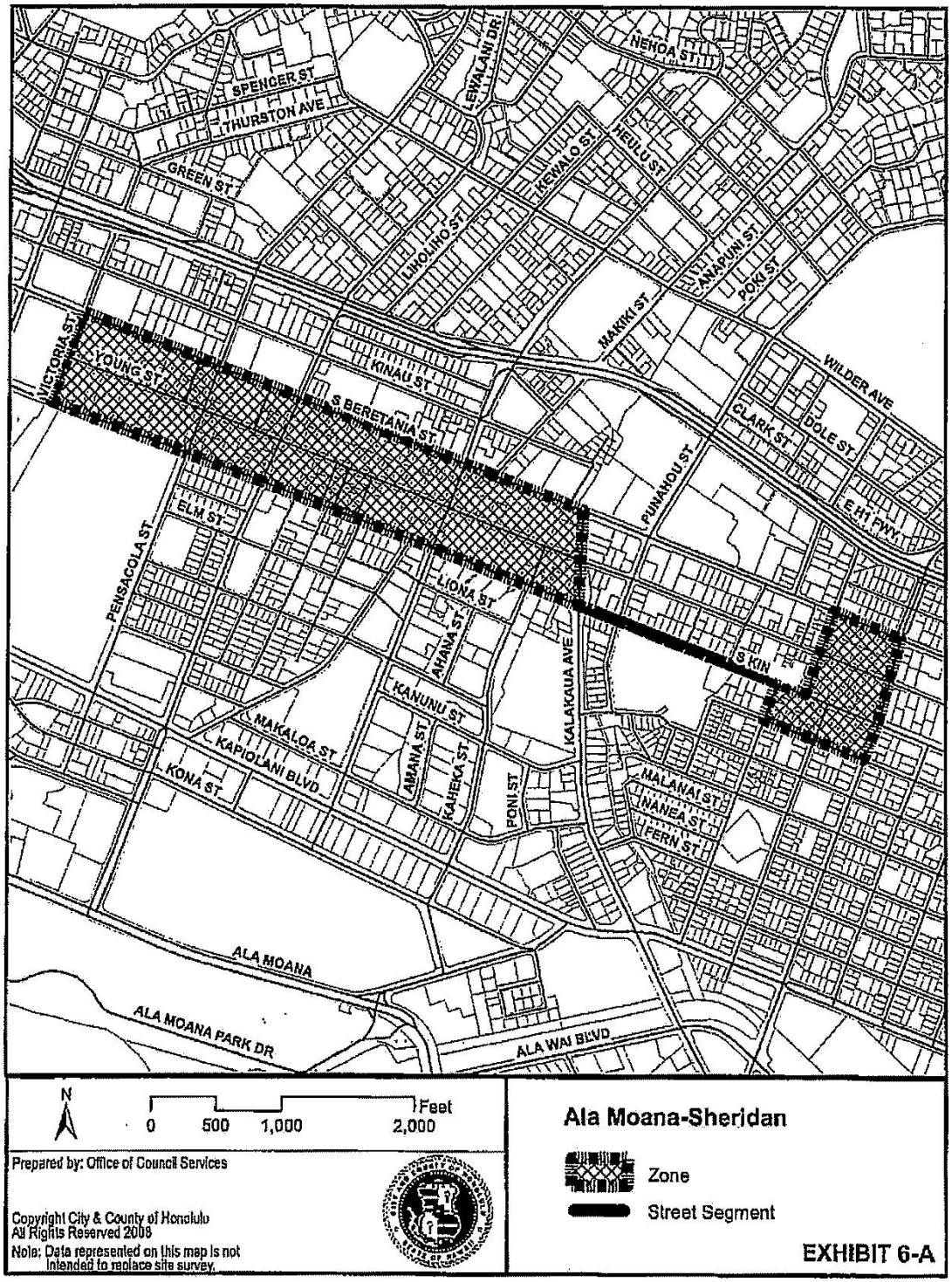
Date prepared: January 30, 2015
(Added by Ord. 14-35; Am. Ord. 15-14)



Date prepared: October 13, 2014
(Added by Ord. 14-35)



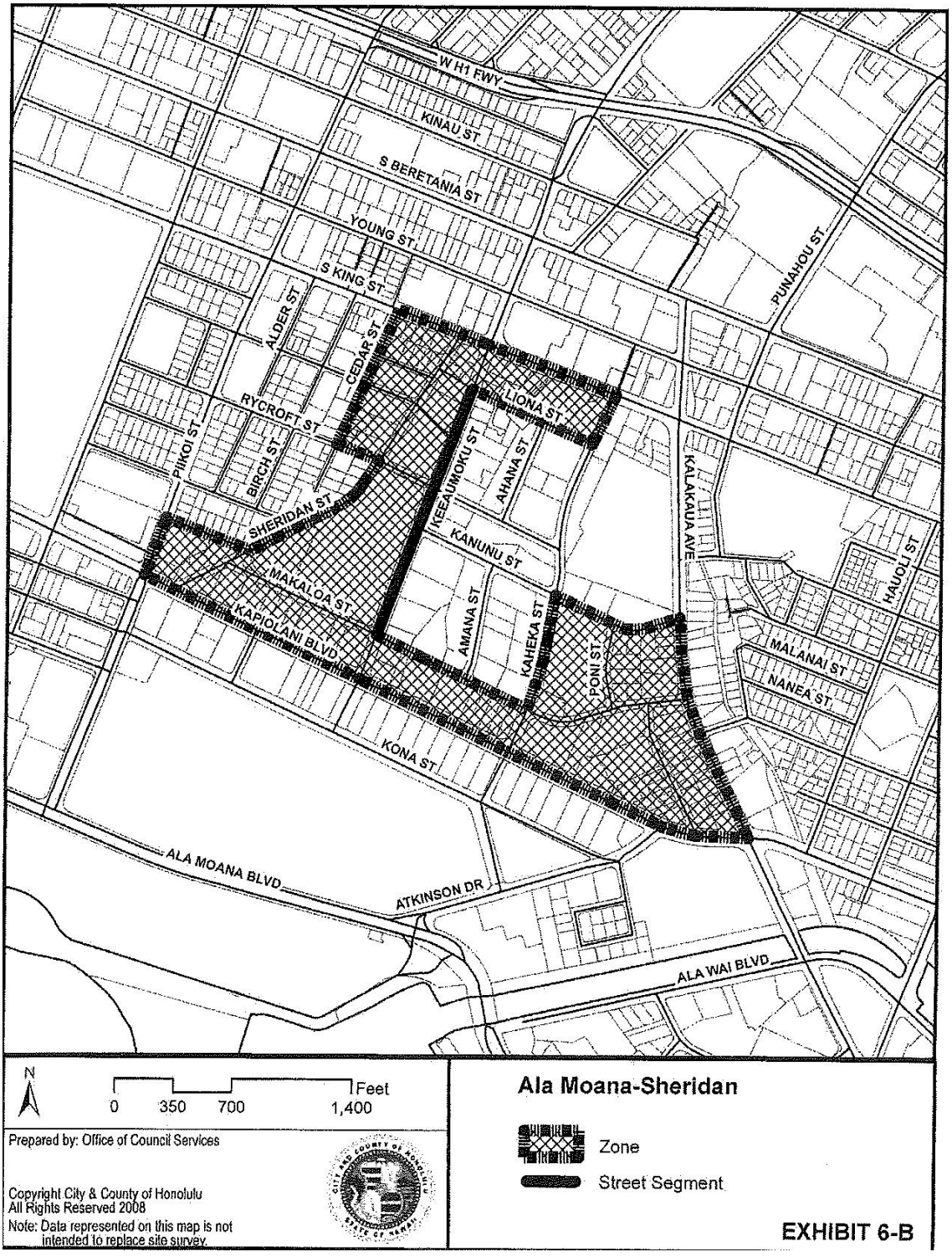
Date prepared: October 13, 2014
(Added by Ord. 14-35)



Date prepared: March 29, 2017
(Added by Ord. 17-41)

Editor's note:

** Exhibit 6-A, "Ala Moana-Sheridan," as added by Ord. 14-35, was repealed by Ord. 17-41.*



Date prepared: October 13, 2014
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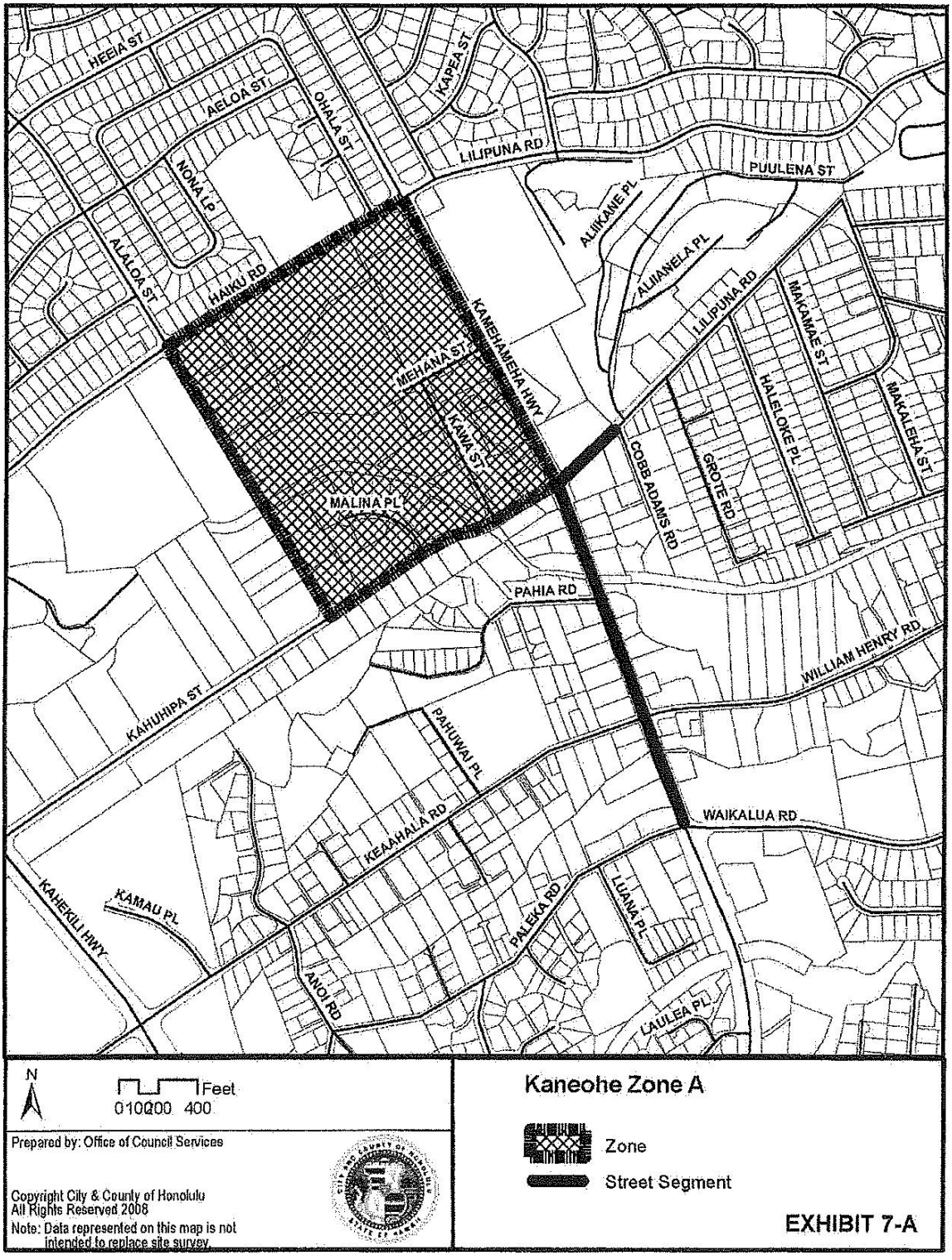
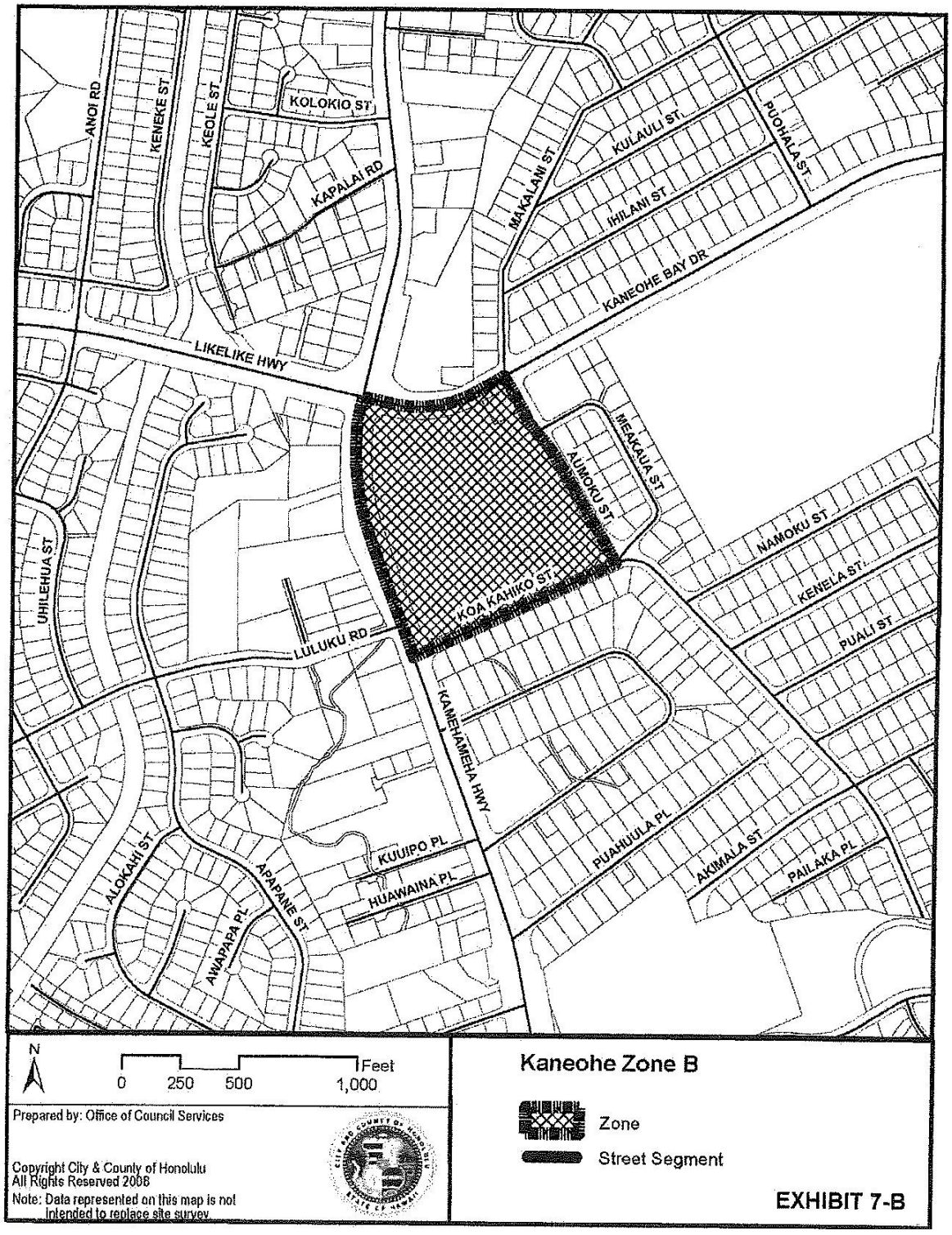


Date prepared: October 1, 2014
(Added by Ord. 14-35)



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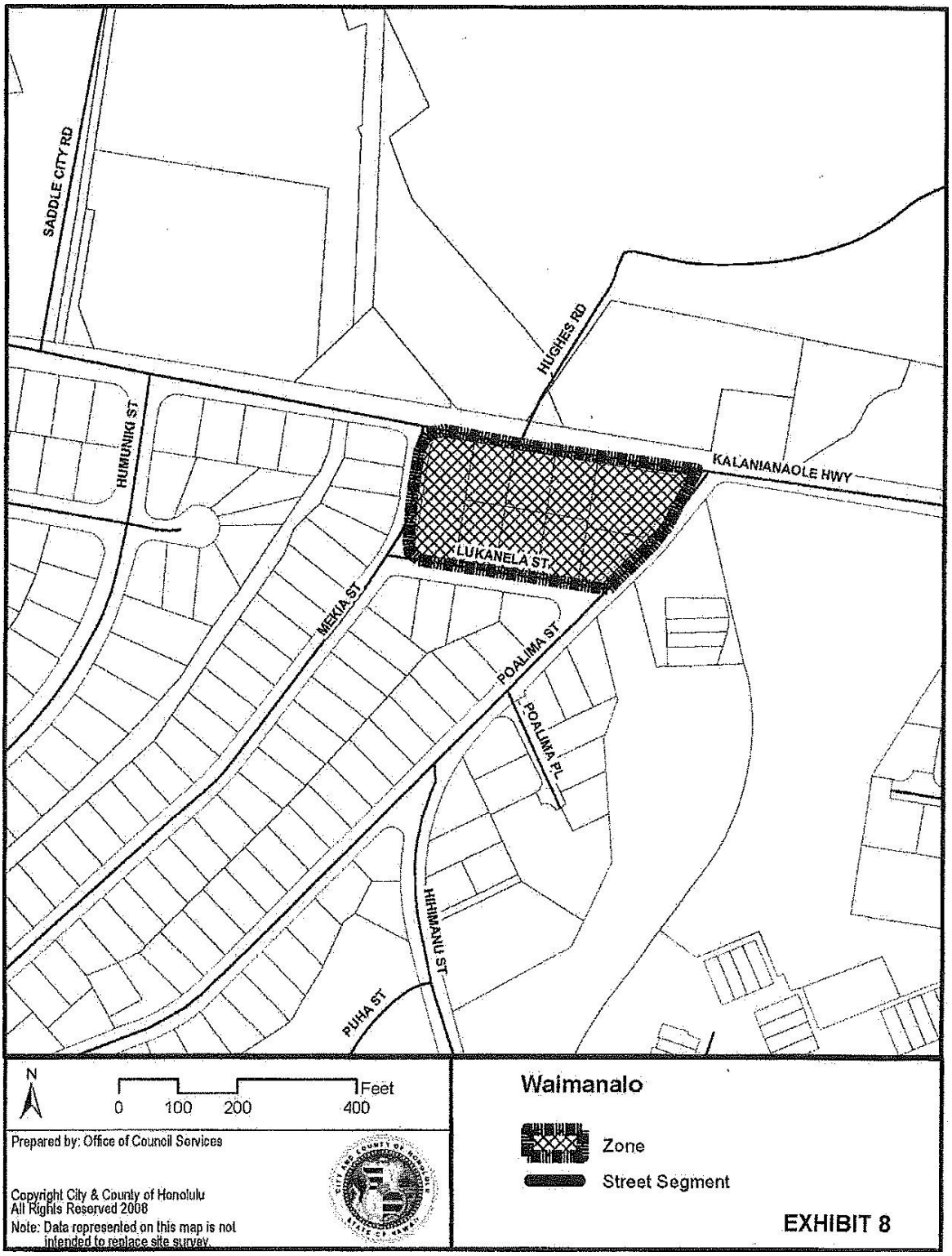
(Added by Ord. 14-35)



Date prepared: October 1, 2014
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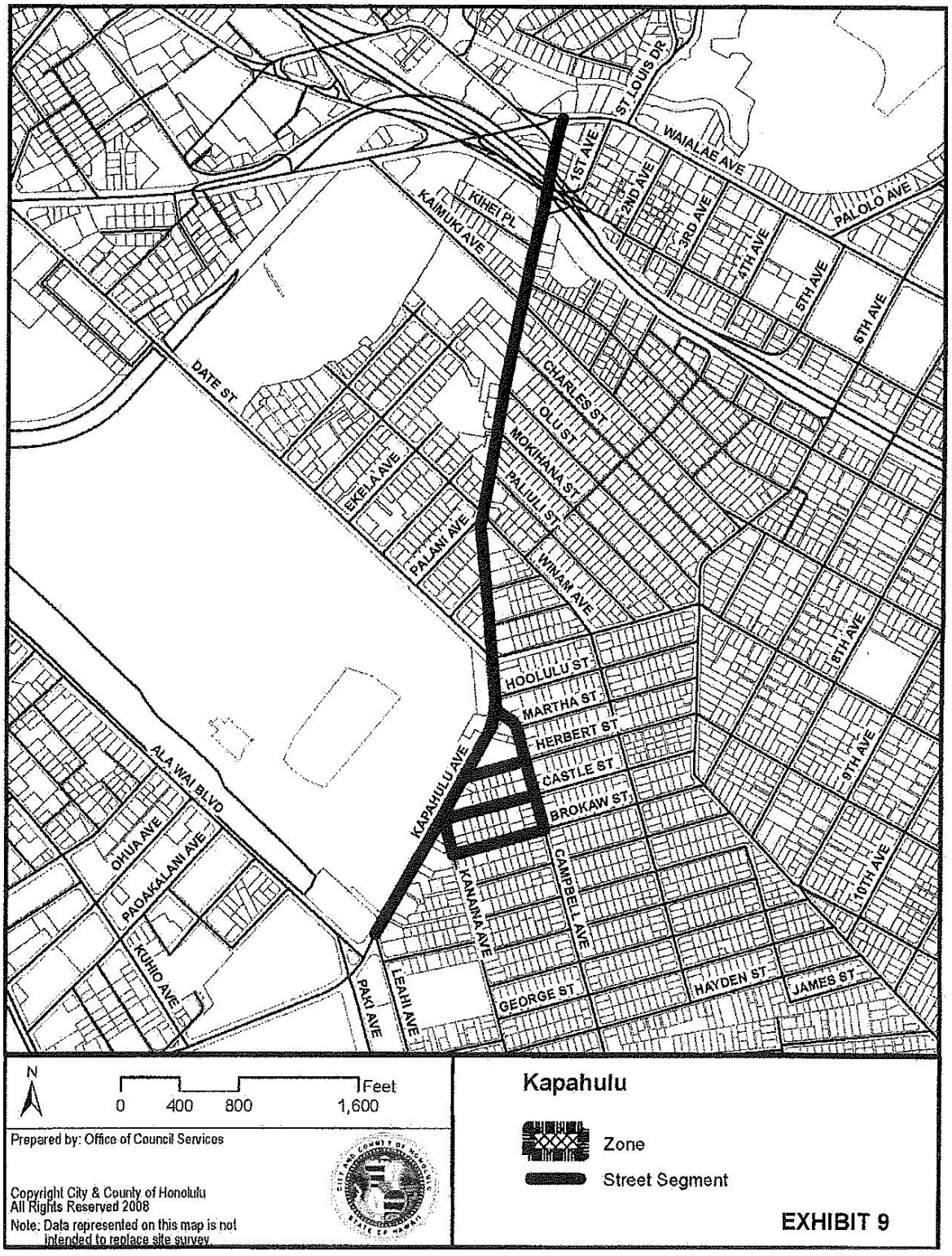
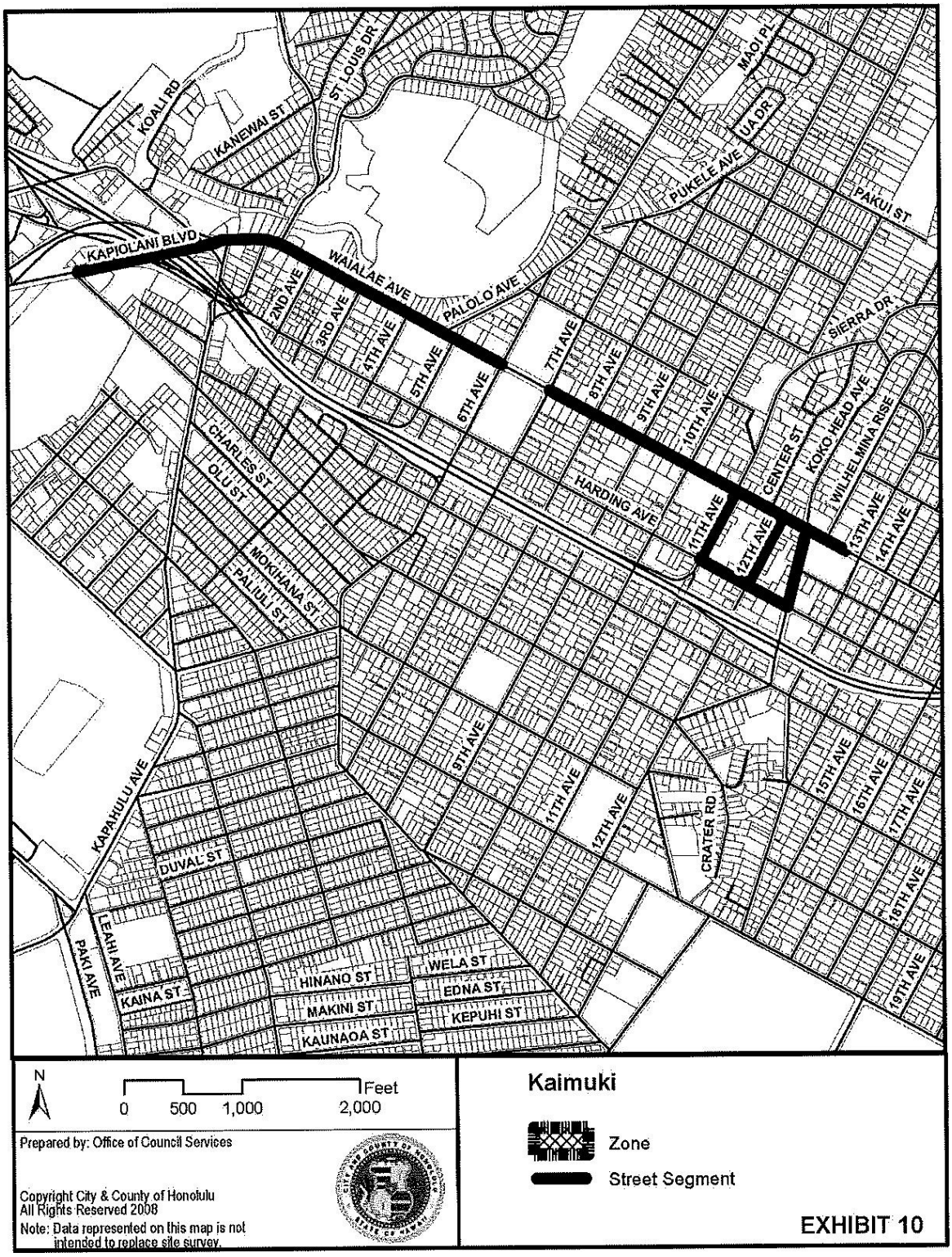
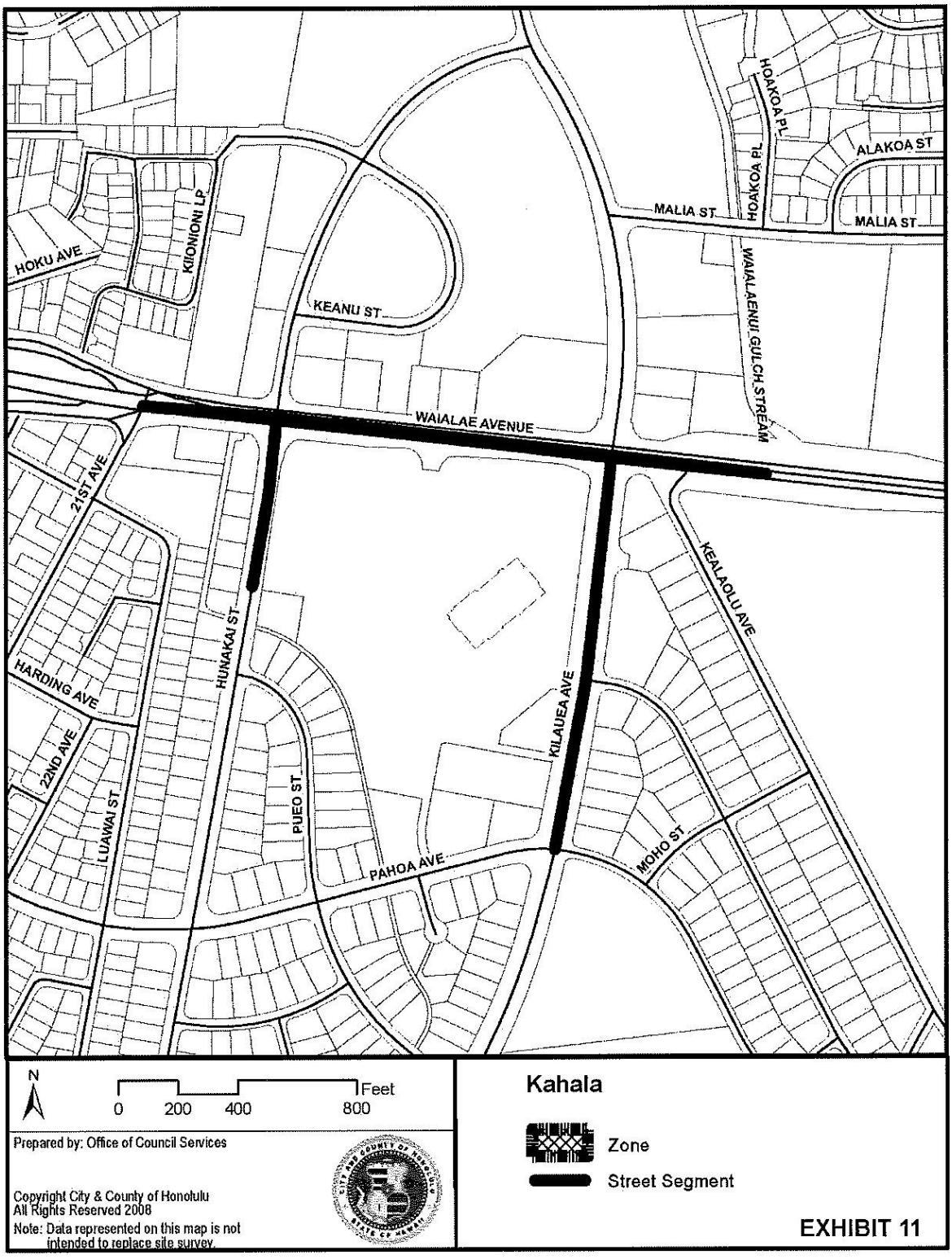


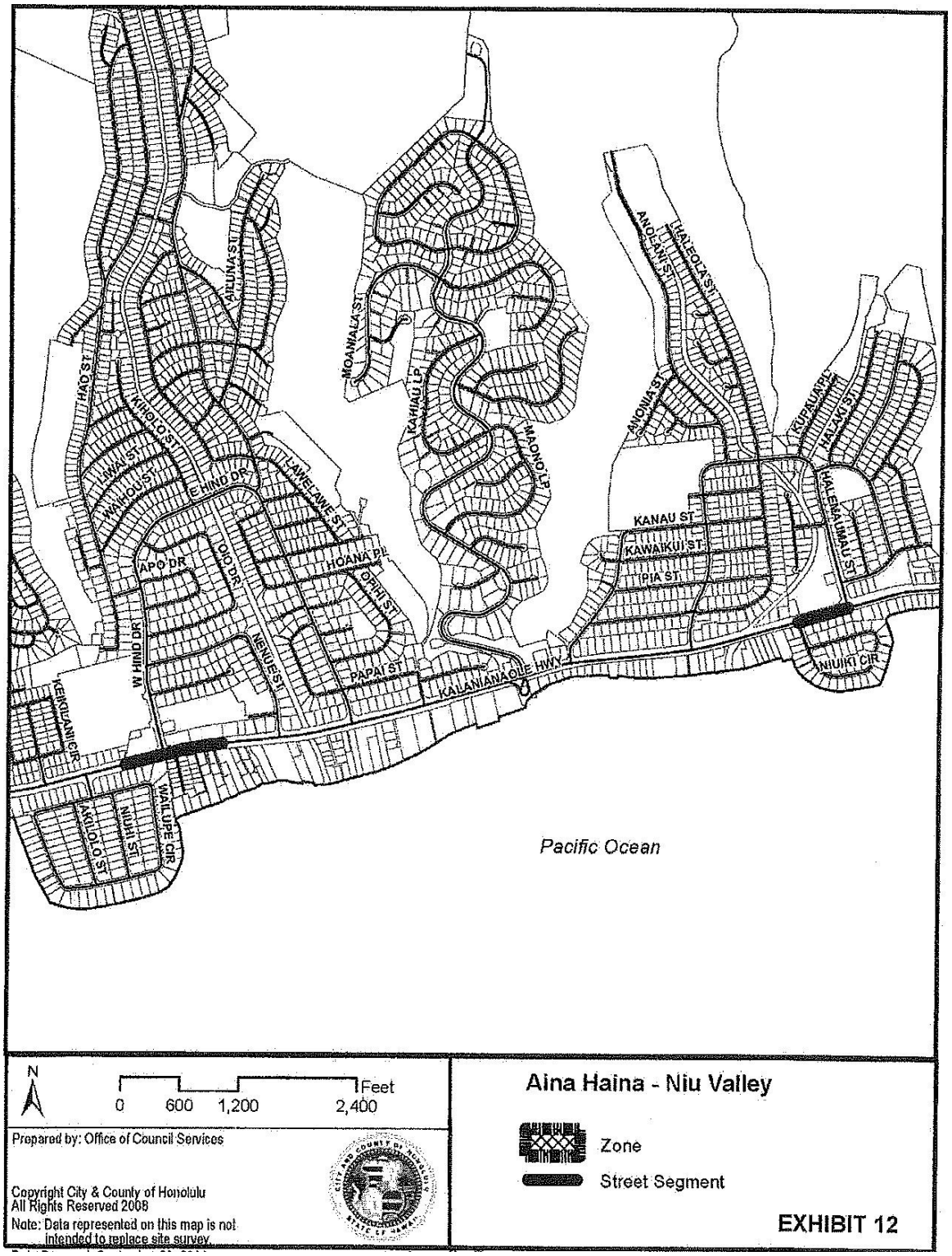
Date prepared: October 6, 2014
(Added by Ord. 14-35)



Date prepared: April 6, 2015
(Added by Ord. 14-35, Am. Ord. 15-14)



Date prepared: April 16, 2015
(Added by Ord. 14-35; Am. Ord. 15-14)



Date prepared: September 29, 2014
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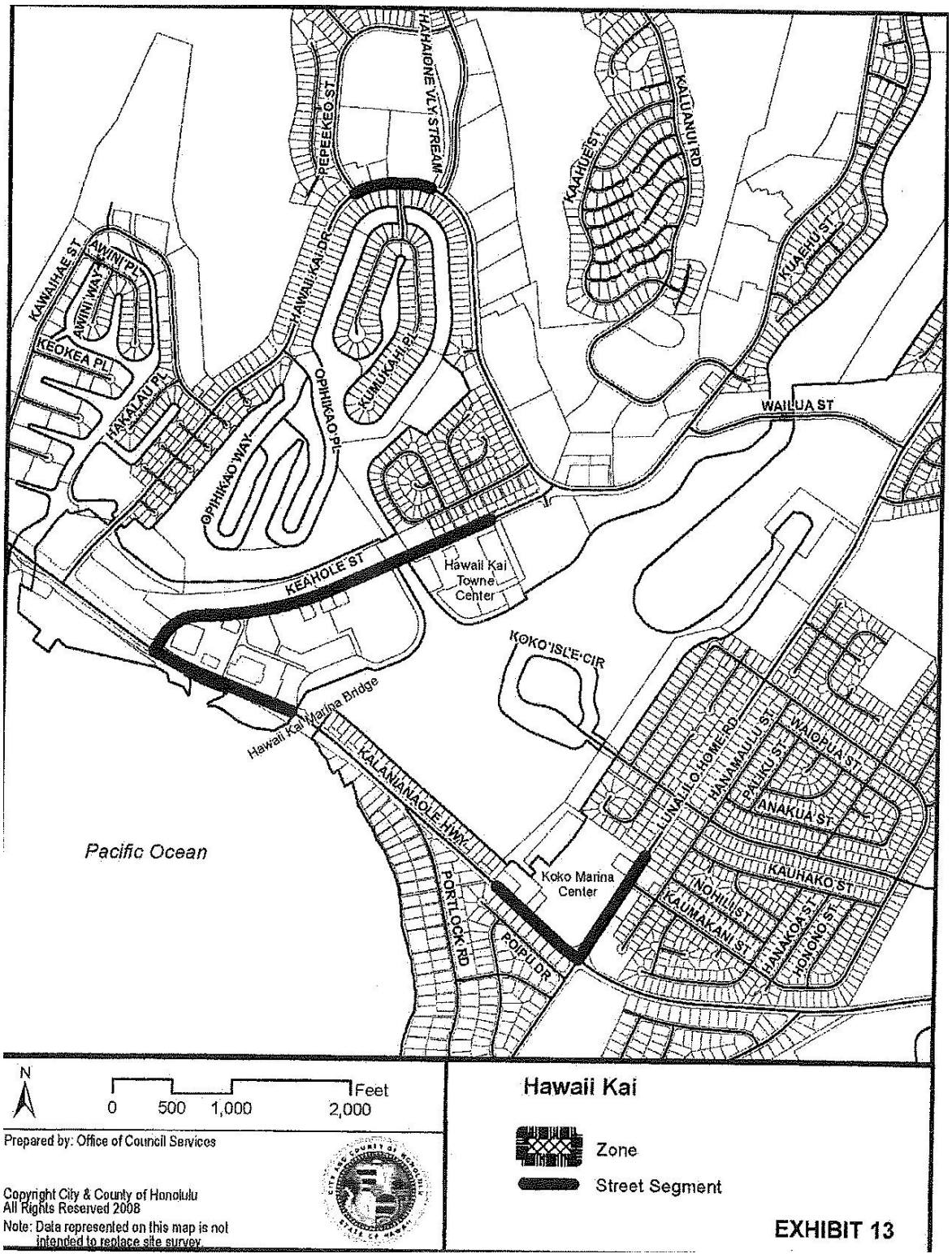

Date prepared: September 29, 2014
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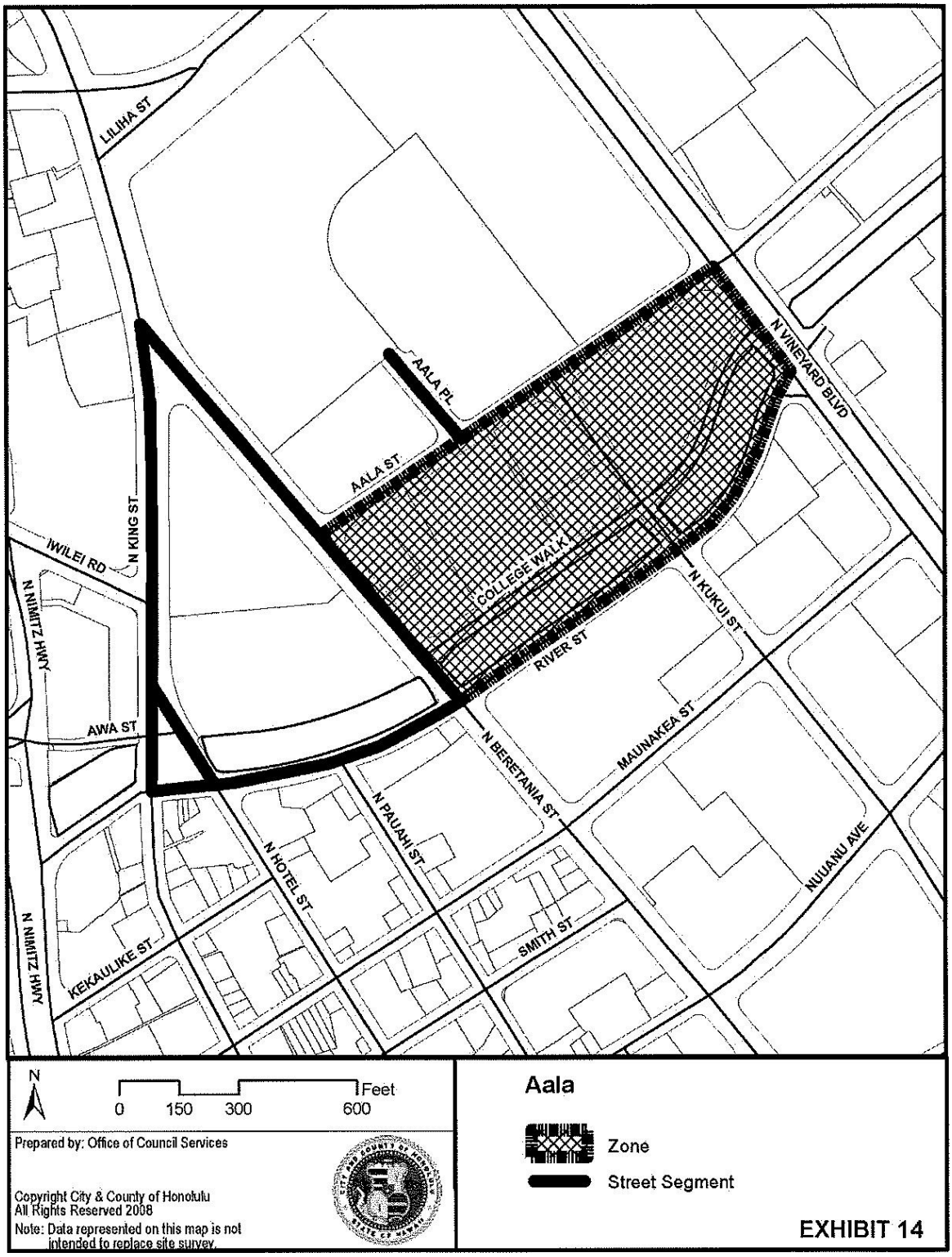
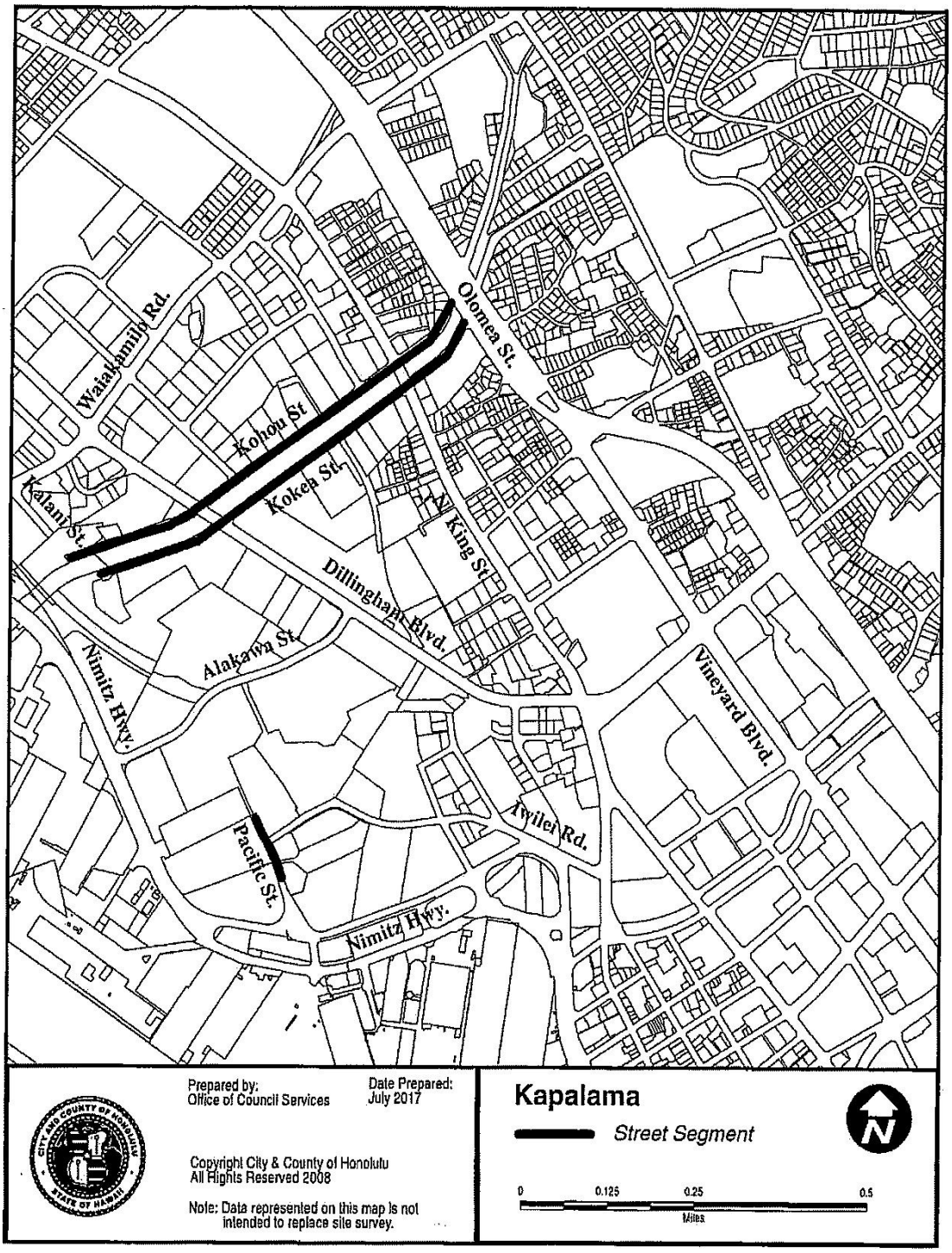


Date prepared: April 6, 2015
(Added by Ord. 15-14)

Exhibit 15

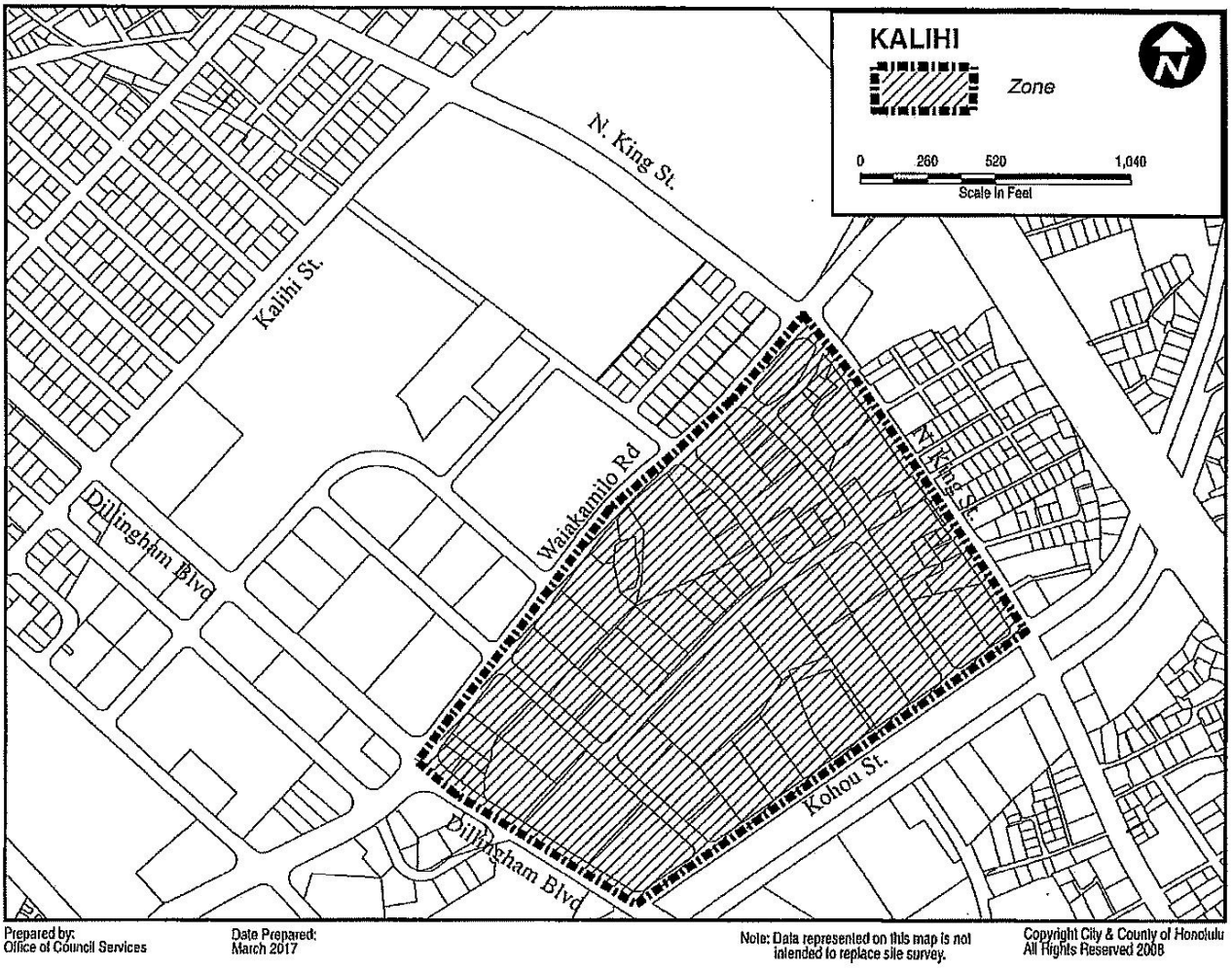


(Added by Ord. 17-41)

Editor's note:

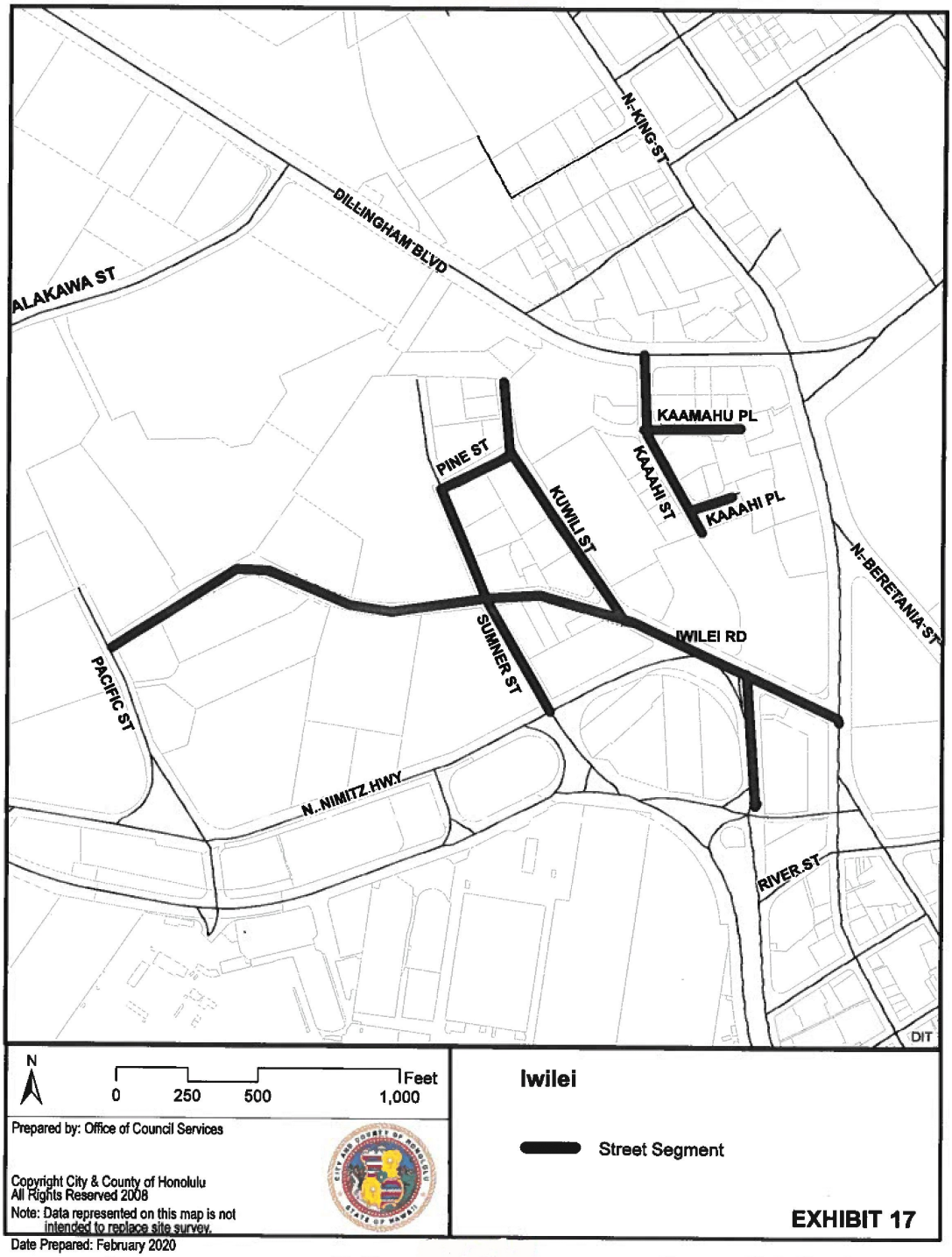
** Exhibit 15, "Kapalama," as added by Ord. 15-14, was repealed by Ord. 17-41.*

Exhibit 16



(Added by Ord. 17-15)

Exhibit 17



(Added by Ord. 17-15; Am. Ord. 20-15)

Exhibit 18

(Added by Ord. 20-15)

ARTICLE 15B: SITTING OR LYING ON PUBLIC MALLS IN THE DOWNTOWN AND CHINATOWN AREAS

Sections

§ 13-15B.1 Prohibition—Exceptions—Citations.

(a) No person shall sit or lie on a public mall, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public mall during the following hours:

(1) College Walk Mall: Sunday through Saturday, all hours;

(2) Fort Street Mall: Sunday through Saturday from 5:00 a.m. to 10:00 p.m.;

(3) Kekaulike Mall: Sunday through Saturday from 5:00 a.m. to 7:00 p.m.;

(4) Kila Kalikimaka Mall: Sunday through Saturday, all hours;

(5) Sun Yat Sen Mall: Monday through Friday from 5:00 a.m. to 7:00 p.m.; and

(6) Union Mall: Sunday through Saturday, all hours.

(b) The prohibitions in subsection (a) shall not apply to:

(1) Any person sitting or lying on a public mall due to a medical emergency;

(2) Any person who, as a result of a disability, is using a wheelchair or other similar wheeled chair device to move about the public mall;

(3) Any person sitting or lying on the public mall for the purpose of engaging in an expressive activity;

(4) Any person sitting on the public mall while attending or viewing any festival, performance, rally, demonstration, or similar event conducted on the public mall pursuant to a permit issued by the city;

(5) Any person engaged in a maintenance, repair, or construction activity on behalf of a governmental entity or a public utility;

(6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public mall;

(7) Any person sitting on a chair or bench located on the public mall that is placed there by a public agency or pursuant to permit issued by the city;

(8) Any person sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the mall or enter a doorway or other entrance alongside the mall; and

(9) Any person engaging in an authorized activity on the mall pursuant to a permit issued by the director of parks and recreation in accordance with department of parks and recreation rules.

(c) No person shall be cited for a violation of this section, unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

(d) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

College Walk Mall. Has the same meaning as "College Walk Mall" in § 13-1.1.

Expressive Activity. 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 participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

Fort Street Mall. The portion of Fort Street established as a pedestrian mall under § 15-25.1(b).

Kekaulike Mall. The area of Kekaulike Street, between Hotel Street and King Street.

Kila Kalikimaka Mall. The area immediately adjacent to the parcel designated by TMK 1-7-026:010, from College Walk Mall to Aala Street.

Mall. When used generally in this article, means collectively the College Walk Mall, Fort Street Mall, Kekaulike Mall, Kila Kalikimaka Mall, Sun Yat Sen Mall, and Union Mall.

Sun Yat Sen Mall. Has the same meaning as "Sun Yat Sen Mall" in § 13-1.1.

Union Mall. The portion of Union Street established as a pedestrian mall under § 15-25.1(a).
(1990 Code, Ch. 29, Art. 15B, § 29-15B.1) (Added by Ord. 15-1; Am. Ord. 15-40)

§ 13-15B.2 Penalty.

Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.
(1990 Code, Ch. 29, Art. 15B, § 29-15B.2) (Added by Ord. 15-1)

ARTICLE 16: NUISANCES ON PUBLIC SIDEWALKS

Sections

§ 13-16.1 Council finding and declaration of nuisance.

The council finds and declares that objects erected, established, placed, constructed, maintained, kept, or operated on sidewalks to be public nuisances, hazardous to the health, safety, and welfare of the residents of the city, and therefore, shall be subject to summary removal pursuant to this article. Nuisances on public sidewalks are inconsistent with and frustrate the purposes, functions, and activities for which the sidewalk is intended. The purpose of this article is to promote traffic and pedestrian health, safety, and welfare; prevent visual blight; and ensure that the sidewalk is free of obstacles and available for use and enjoyment of members of the public.
(1990 Code, Ch. 29, Art. 16, § 29-16.1) (Added by Ord. 13-8)

§ 13-16.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Director. The director and chief engineer of facility maintenance or the director's authorized representative.

Expressive Activity. 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 participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

Roadway. That portion of a street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Sidewalk. Includes sidewalks and replacement sidewalks.

Sidewalk-Nuisance. Any object or collection of objects constructed, erected, installed, maintained, kept, or operated on or over any sidewalk, including but not limited to structures, stalls, stands, tents, furniture, and containers, and any of their contents or attachments.
(1990 Code, Ch. 29, Art. 16, § 29-16.2) (Added by Ord. 13-8)

§ 13-16.3 Summary removal of sidewalk-nuisances.

(a) No person shall erect, establish, place, construct, maintain, keep, or operate any sidewalk-nuisance on any sidewalk, except as provided in § 13-16.6 or as otherwise authorized by law. Any sidewalk-nuisance in violation of this subsection shall be subject to summary removal.

(b) The director may immediately and summarily remove, or cause the immediate and summary removal, of a sidewalk-nuisance. A sidewalk-nuisance may be disassembled for removal.

(1) The director shall store or cause to be stored any sidewalk-nuisance removed pursuant to this subsection until the director is authorized to destroy, sell, or otherwise dispose of the sidewalk-nuisance pursuant to this section, but in no event, less than 30 calendar days from the date of removal.

(2) *Notification.*

(A) Written notice of the city's removal of the sidewalk-nuisance shall be posted for three consecutive days following removal of the sidewalk-nuisance on the public property where the sidewalk-nuisance was removed. If notice cannot be posted as provided, then it shall be posted on the internet website for the city for three consecutive days following removal of the sidewalk-nuisance.

(B) The written notice shall state:

(i) The date, violation, and removal of the sidewalk-nuisance;

(ii) That the owner may reclaim the sidewalk-nuisance within 30 calendar days from the date of the removal of the sidewalk-nuisance;

(iii) Contact information and instructions on how the owner may reclaim the sidewalk-nuisance;

(iv) That the owner has the right to appeal the removal of the sidewalk-nuisance in accordance with subsection (d); and

(v) That, if not timely reclaimed or the subject of timely appeal, the sidewalk-nuisance shall be subject to disposal.

(C) If a name and mailing address has been legibly and conspicuously provided on a sidewalk-nuisance removed pursuant to this subsection, then the director also shall issue a written notice, by certified mail, to the person named on the sidewalk-nuisance within seven calendar days following the date of the removal of the sidewalk-nuisance; provided that if only an address is provided on a sidewalk-nuisance, the director shall issue a written notice, by certified mail, addressed to the

"occupant" of that address, within seven calendar days following the date of the removal of the sidewalk-nuisance. No such notice shall be required if only the name is provided and the director is unable after a good faith effort to determine the address of the named person.

(D) *Shopping carts.* If a shopping cart is removed and impounded pursuant to this subsection, the city shall notify the Retail Merchants Association or its successor organization of the location where the shopping cart may be claimed. The Retail Merchants Association or its successor organization shall notify the owner of the shopping cart or owner's agent of the location where the shopping cart may be claimed. The owner or owner's agent shall have three business days from the date the city notifies the Retail Merchants Association or its successor organization to retrieve the shopping cart without charge. If the owner or owner's agent fails to retrieve the shopping cart within three business days, the shopping cart shall be treated as a removed sidewalk-nuisance pursuant to this subsection, and written notice shall be provided as in subsection (b)(2), and the owner shall be subject to a fee pursuant to subsection (c), unless the owner successfully contests the removal as provided in subsection (d).

(3) The director may destroy, sell, or otherwise dispose of a sidewalk-nuisance removed under this subsection after a period of 30 calendar days from the date of removal of the sidewalk-nuisance, unless a timely appeal has been filed under subsection (d).

(c) A sidewalk-nuisance removed pursuant to this section may be reclaimed by the owner within the applicable 30-day period specified in subsection (b). To reclaim a sidewalk-nuisance, an owner or the owner's authorized representative shall make arrangements with the director to reclaim the sidewalk-nuisance; shall appear in person within the applicable 30-day period at the time and place designated by the director; shall provide satisfactory proof of identity and entitlement; and shall pay to the city a $200 fee for the city's cost of removal, storage and handling of the sidewalk-nuisance, whereupon the city shall release the sidewalk-nuisance to the owner or the owner's authorized representative, as is.

(d) An owner of a sidewalk-nuisance removed pursuant to this section may contest the removal by written request for a hearing to the director received no later than 25 calendar days after removal of the sidewalk-nuisance. The owner shall provide a current mailing address to receive the notice of the decision of the director regarding the appeal. The hearing shall be conducted by the director in accordance with HRS Chapter 91. The appeal shall be limited to a determination of whether the sidewalk-nuisance was properly removed and a fee properly assessed pursuant to this section. The director shall continue to store or have stored the sidewalk- nuisance until the appeal has been decided. If the decision of the director is in favor of the owner, then the owner may arrange to reclaim the sidewalk-nuisance without paying the fee for the removal, storage, and handling of the sidewalk-nuisance. If the decision of the director is in favor of the city, then the sidewalk-nuisance may be returned to the owner or the owner's authorized representative upon payment of the removal, storage, and handling fee of $200. If the owner or the owner's authorized representative fails to reclaim the sidewalk-nuisance within seven calendar days of the postmark for the notice of the decision, the sidewalk-nuisance may be destroyed, sold, or otherwise disposed of by the director.

(1990 Code, Ch. 29, Art. 16, § 29-16.3) (Added by Ord. 13-8)

§ 13-16.4 Rules.

The director may adopt rules pursuant to HRS Chapter 91 for the implementation of this article.

(1990 Code, Ch. 29, Art. 16, § 29-16.4) (Added by Ord. 13-8)

§ 13-16.5 Miscellaneous provisions.

(a) This article shall be in addition to and shall not limit any other applicable provisions of federal, State, or city law, ordinance, or rule.

(b) This article shall not create a duty on the part of the city regarding sidewalk accessibility other than is already required by law.

(1990 Code, Ch. 29, Art. 16, § 29-16.5) (Added by Ord. 13-8)

§ 13-16.6 Exceptions.

This article shall not apply to the following:

(1) An object or collection of objects smaller than 42 inches in length, 25 inches in width, and 43 inches in height, provided that:

(A) The object or collection of objects is attended to by an individual at all times;

(B) The object or collection of objects, or any portion thereof, does not extend into the roadway;

(C) The object or collection of objects does not obstruct the use of 36 inches in width of the sidewalk and does not obstruct the free movement of pedestrians;

(D) The object or collection of objects does not obstruct individuals from access to, or egress from, legally parked vehicles;

(E) The object or collection of objects does not interfere with other lawful activities taking place on the sidewalk, and its placement complies with other provisions of this chapter; and

(F) The object or collection of objects does not otherwise threaten public health and safety;

(2) An object or collection of objects used in the performance of a government-approved public safety, maintenance, or construction function; or

(3) Tables or other portable outdoor furniture or items used for the purpose of displaying literature or other expressive material or otherwise directly facilitating expressive activities; provided that the tables, furniture, or items:

(A) Are attended to by an individual at all times;

(B) Do not extend into the roadway;

(C) Do not obstruct the use of 36 inches in width of the sidewalk and do not obstruct the free movement of pedestrians;

(D) Do not obstruct individuals from access to, or egress from, legally parked vehicles;

(E) Do not interfere with other lawful activities taking place on the sidewalk and comply with other provisions of this chapter;

(F) Do not otherwise threaten public health and safety; and

(G) Are not larger than 5 x 2 feet or 10 square feet for each individual engaging in the expressive activity.
(1990 Code, Ch. 29, Art. 16, § 29-16.6) (Added by Ord. 13-8)

§ 13-16.7 City not liable.

The owner of a removed sidewalk-nuisance shall bear the responsibility for any loss or damage to the sidewalk-nuisance. The city, its officers, employees, and agents shall not be liable to any person entitled to a removed sidewalk-nuisance because of any disposal or other disposition of the property made pursuant to this article.

The remedies available to a person entitled to a removed sidewalk-nuisance are limited to those provided in this article.
(1990 Code, Ch. 29, Art. 16, § 29-16.7) (Added by Ord. 13-8)

§ 13-16.8 Severability.

This article is declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion shall not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance shall not be affected.
(1990 Code, Ch. 29, Art. 16, § 29-16.8) (Added by Ord. 13-8)

ARTICLE 17: AGGRESSIVE PANHANDLING

Sections

§ 13-17.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Automated Teller Machine. A device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Automated Teller Machine Facility. The area comprised of one or more automatic teller machines and any adjacent space that is made available to banking customers after regular banking hours.

Aggressive Panhandling. Engaging in the following behavior in the course of a solicitation of another person:

(1) Persisting in soliciting money from, following, or approaching a person after the person has given a negative response by either words or conduct to a solicitation for money;

(2) Intentionally touching or causing physical contact with a person being solicited without that person's consent;

(3) Intentionally blocking or interfering with the safe or free passage of a person exiting or entering a vehicle near an automated teller machine;

(4) Using violent or threatening gestures toward a person being solicited;

(5) Using profane or abusive language that is likely to provoke an immediate violent reaction from the person being solicited; or

(6) Approaching or following a person being solicited in a group of two or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to, or loss of, property or otherwise to be intimidated into giving money or other thing of value.

Check. Any check, draft, money order, or other instrument for the transmission or payment of money. Check does not include a traveler's check, foreign denomination, or foreign drawn payment instrument.

Check Cashing Business. Any business engaged in the cashing of checks. This article shall not apply to:

(1) Any person who is principally engaged in the bona fide retail sale of goods or services, and who, either as incident to, or independent of, the retail sale or service, from time to time, cashes items for a fee or other consideration, where not more than $2, or 2 percent of the amount of the check, whichever is greater, is charged for the service; or

(2) Any person authorized to engage in business as a bank, trust company, savings bank, savings and loan association, financial services loan company, or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia.

Donation. Any item of value, monetary or otherwise, accepted by a panhandler.

Panhandling or ***Soliciting.*** Any solicitation made in person upon any street or public place in the city in which a person requests an immediate donation from another person. The term does not include passively standing or sitting nor does it include performing music, singing, or conducting other street performances with a sign or other indication that money is being sought without any spoken request other than in response to an inquiry by another person.

Public Place. Any area to which the public is invited or permitted, including a public sidewalk or way.
(1990 Code, Ch. 29, Art. 17, § 29-17.1) (Added by Ord. 8-02)

§ 13-17.2 Aggressive panhandling; where prohibited.

No person shall engage in aggressive panhandling within 10 feet in any direction of any automated teller machine, automated teller machine facility, or check cashing business. The distance to a check cashing business or automatic teller machine facility shall be measured from the entrance or exit of the facility.
(1990 Code, Ch. 29, Art. 17, § 29-17.2) (Added by Ord. 8-02)

§ 13-17.3 Penalty, summons, or citation.

(a) *Penalty.* Any person violating this article shall be subject to a fine of $25 for each offense.

(b) *Summons or citation.*

(1) There shall be provided for use by authorized police officers, or authorized special police officers, a form of summons or citation for use in citing any violation of this article that does not mandate the physical arrest of the violator. 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 as to include all necessary information to make the same valid within the laws and regulations of the State and city. The summons or citation shall instruct such person to report to the violations bureau of the district court for the district of Honolulu. Each such violator may, within seven days after 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 court for appearance on the date as may be set out for such person to appear before the district court. Upon failure to appear on such date, the bail bond shall be deemed forfeited. Bail forfeiture by mail shall be permitted.

(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 the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.

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

(1990 Code, Ch. 29, Art. 17, § 29-17.3) (Added by Ord. 8-02)

§ 13-17.4 Severability.

This article is severable, and if any part of this article should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the article and the remainder of this article shall stay in full force and effect.

(1990 Code, Ch. 29, Art. 17, § 29-17.4) (Added by Ord. 8-02)

ARTICLE 18: USE OF SIDEWALK FOR PEDESTRIAN USE

Sections

§ 13-18.1 Limitation.

(a) Except as otherwise provided in § 13-18.3, only a pedestrian may use the pedestrian use zone in accordance with this article.

(b) It is an affirmative defense to prosecution under this article that the behavior occurred within 1 foot of the curbside boundary of the pedestrian use zone, that the boundary of the zone was not marked, and the person believed in good faith that the person was not in the pedestrian use zone.

(1990 Code, Ch. 29, Art. 18, § 29-18.1) (Added by Ord. 10-26)

§ 13-18.2 Applicability.

(a) The requirements and restrictions of this article shall apply only to the urban zone between the hours of 5:00 a.m. to 10:00 p.m., except that in the Waikiki district, the requirements and restrictions of this article shall apply between the hours of 6:00 a.m. on any one day until 2:00 a.m. of the succeeding day. The city may extend these hours in one or more of the areas described in subsection (b) when the requirements and restrictions of this article shall apply, during an emergency, or for special security reasons. For the purposes of this subsection, an emergency means a natural disaster, such as a fire, flood, tsunami, earthquake, or other natural calamity, or a man-made disaster, including those caused by sabotage or other hostile action.

(b) For the purposes of this article, the Ala Moana/Kakaako district is the area whose boundaries are shown in Exhibit A, the Downtown district is the area whose boundaries are shown in Exhibit B, the Kalihi district is the area whose boundaries are shown in Exhibit C, the McCully/Moiliili/Makiki district is the area whose boundaries are shown in Exhibit D, and the Waikiki district is the area whose boundaries are shown in Exhibit E.

(1990 Code, Ch. 29, Art. 18, § 29-18.3) (Added by Ord. 10-26)

§ 13-18.3 Exceptions.

The prohibitions in this article shall not apply to persons:

(1) Unable to comply due to suffering a medical emergency;

(2) Acting as authorized or allowed by any article under this chapter or any other ordinance, permit, regulation, or statute;

(3) Performing a government-approved public safety, maintenance, or construction function;

(4) Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to, and in compliance with, an applicable permit;

(5) Sitting on a chair or bench supplied or permitted by a public agency;

(6) Waiting in line for goods or services, unless the person refuses to comply with a lawful order of a police officer to form the line in a way that moderates impact on passage along the sidewalk;

(7) Waiting at a bus stop or taxi stand for a bus or a taxi;

(8) Moving freight or merchandise for commercial purposes; or

(9) Engaged in expressive activities or who are using tables or other portable outdoor furniture or items for the purpose of displaying literature or other expressive material or otherwise directly facilitating expressive activities; provided that the tables, furniture, or items do not obstruct the free movement of pedestrians through the pedestrian use zone, do not interfere with other lawful activities taking place on the sidewalk and comply with other provisions of this chapter; and provided further, that no table, item of furniture, or other item shall be larger than 5 x 2 feet or 10 square feet for each person engaging in the expressive activity.

(1990 Code, Ch. 29, Art. 18, § 29-18.4) (Added by Ord. 10-26)

§ 13-18.4 Penalty.

Any person violating this article shall, upon conviction, be subject to a maximum penalty of $50. In lieu of this penalty, a judge may sentence a person found to have violated this article to community service for such period as determined by the judge.

(1990 Code, Ch. 29, Art. 18, § 29-18.5) (Added by Ord. 10-26)

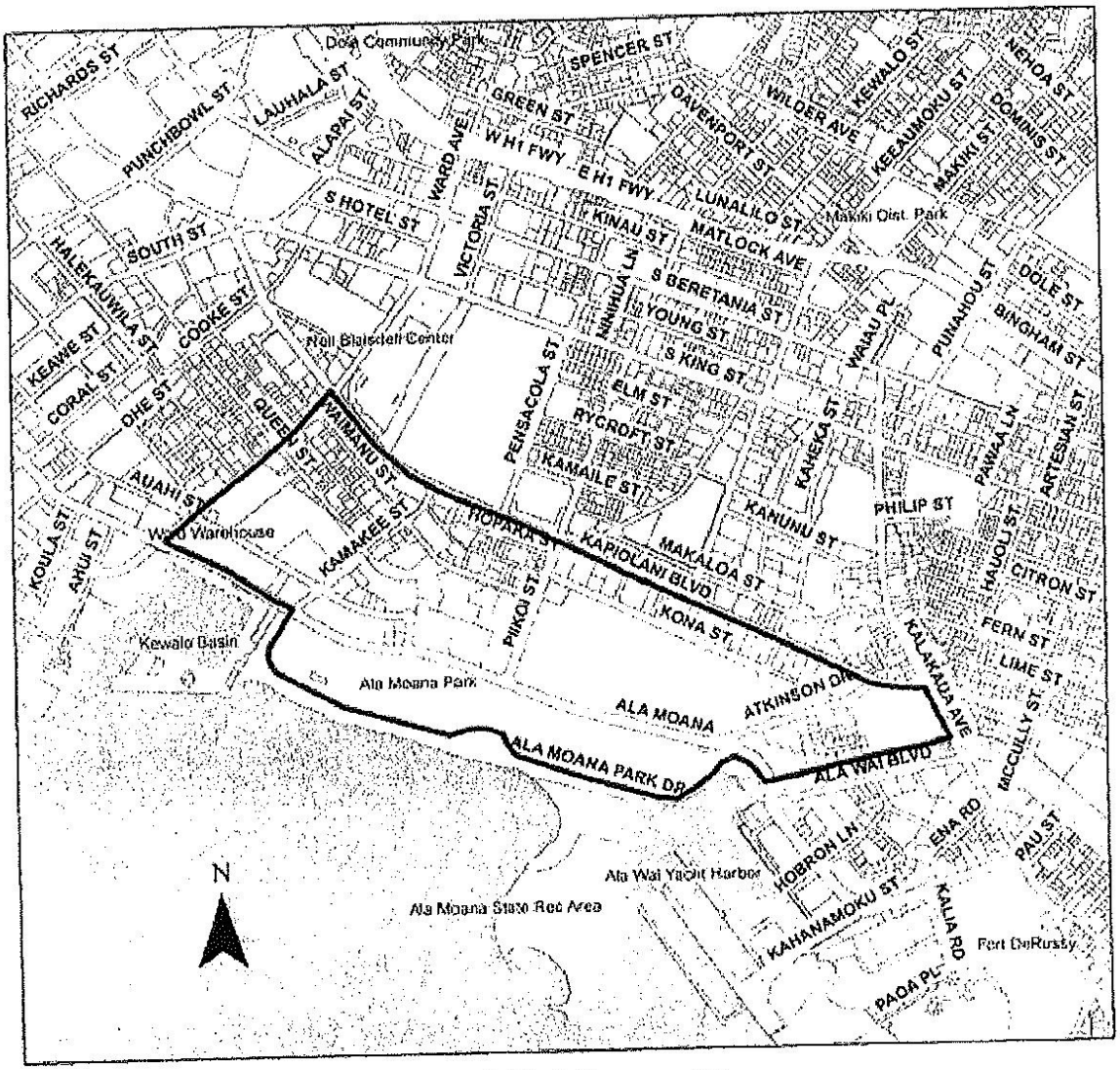
§ 13-18.5 Marking of boundaries of pedestrian use zone.

The city may mark the boundary or boundaries of the pedestrian use zone.

(1990 Code, Ch. 29, Art. 18, § 29-18.6) (Added by Ord. 10-26)

§ 13-18.6 Rules.

In accordance with HRS Chapter 91, the department of facility maintenance or a department designated by the mayor may adopt rules having the force and effect of law for the implementation, administration, and enforcement of this article.
(1990 Code, Ch. 29, Art. 18, § 29-18.8) (Added by Ord. 10-26)



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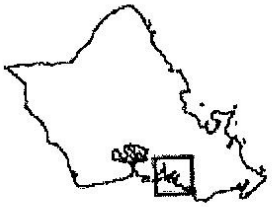
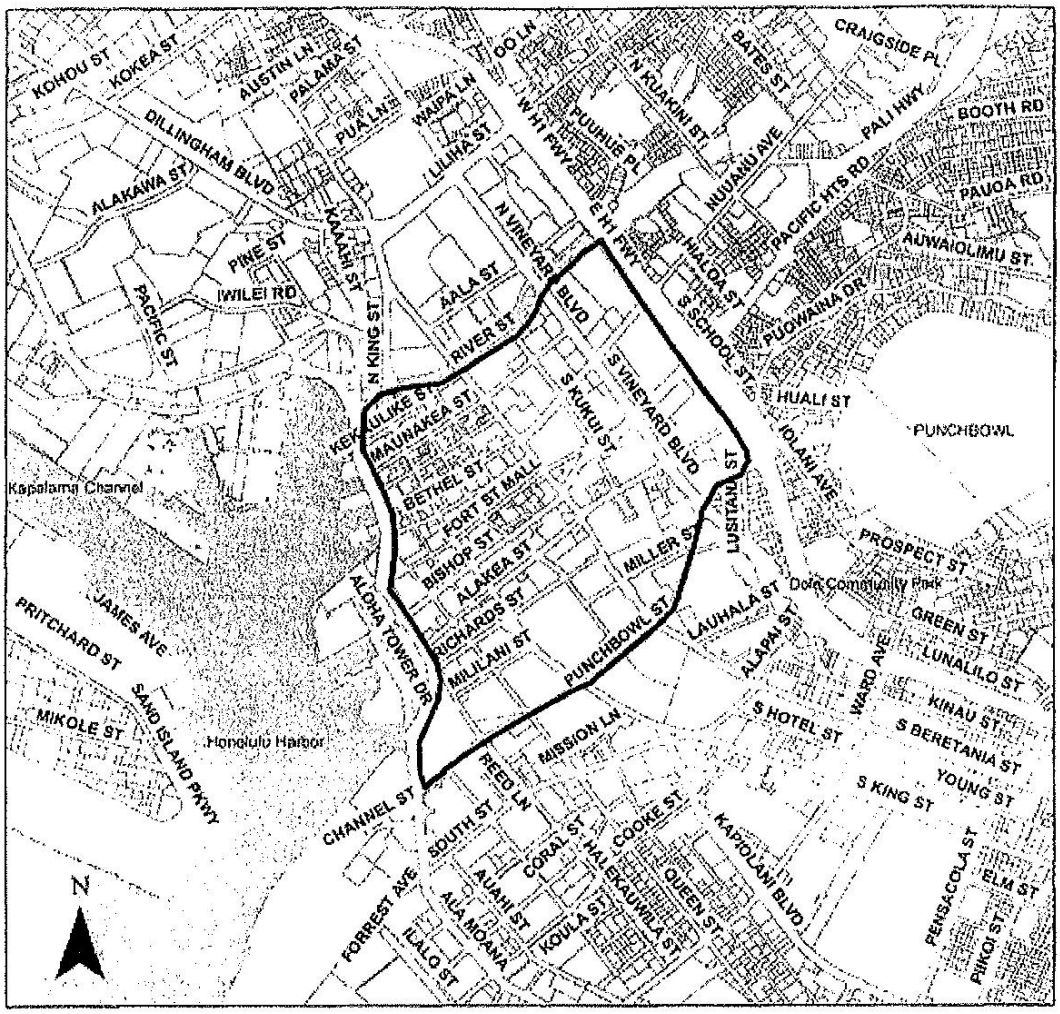
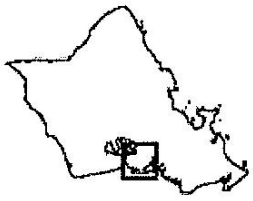


LOCATION MAP: ALA MOANA/KAKAAKO DISTRICT

Exhibit A

Office of Council Services
City and County of Honolulu
October 2010

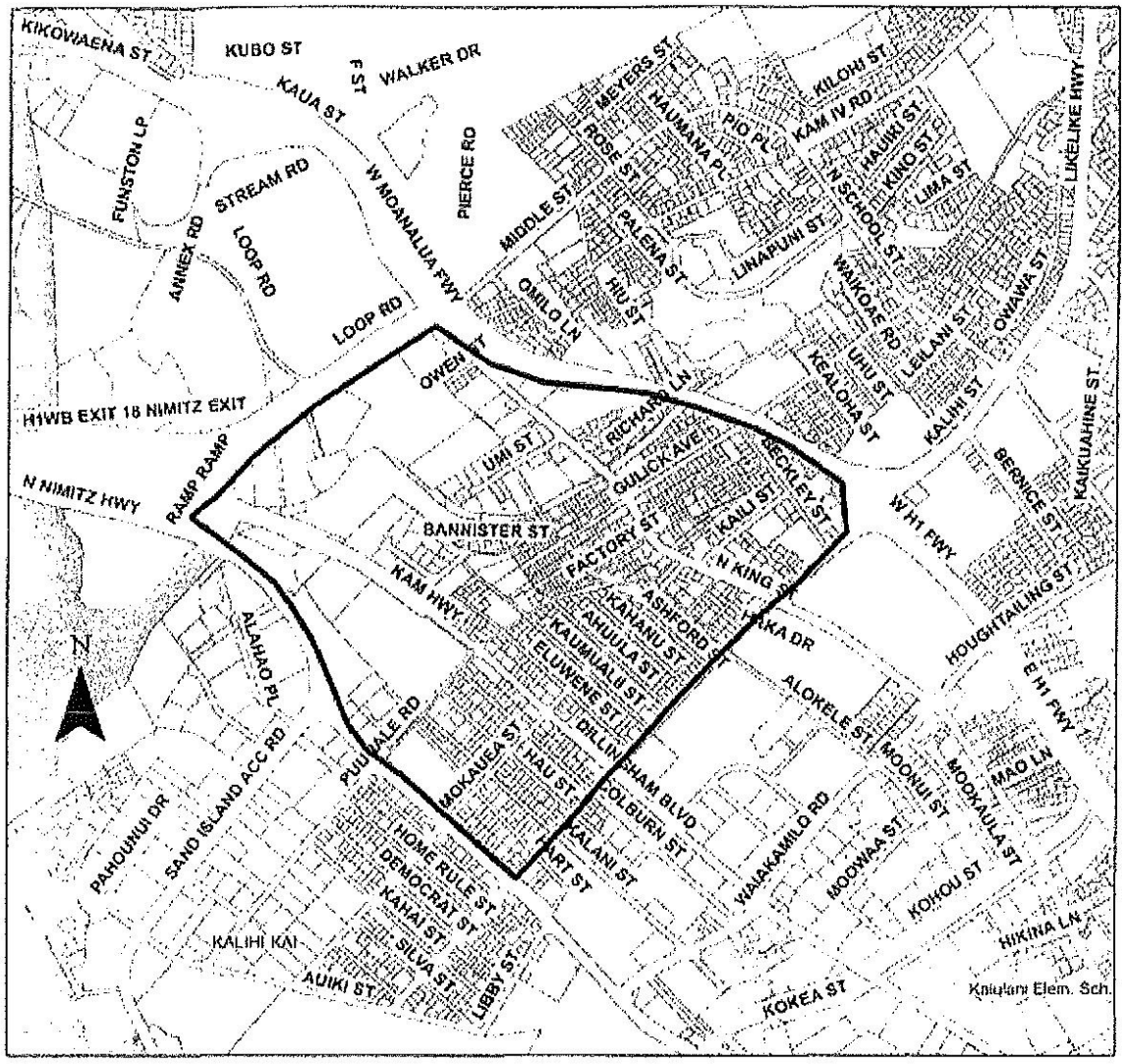


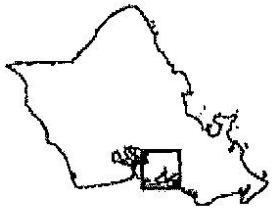


LOCATION MAP: DOWNTOWN DISTRICT

Exhibit B

Office of Council Services
City and County of Honolulu
October 2010

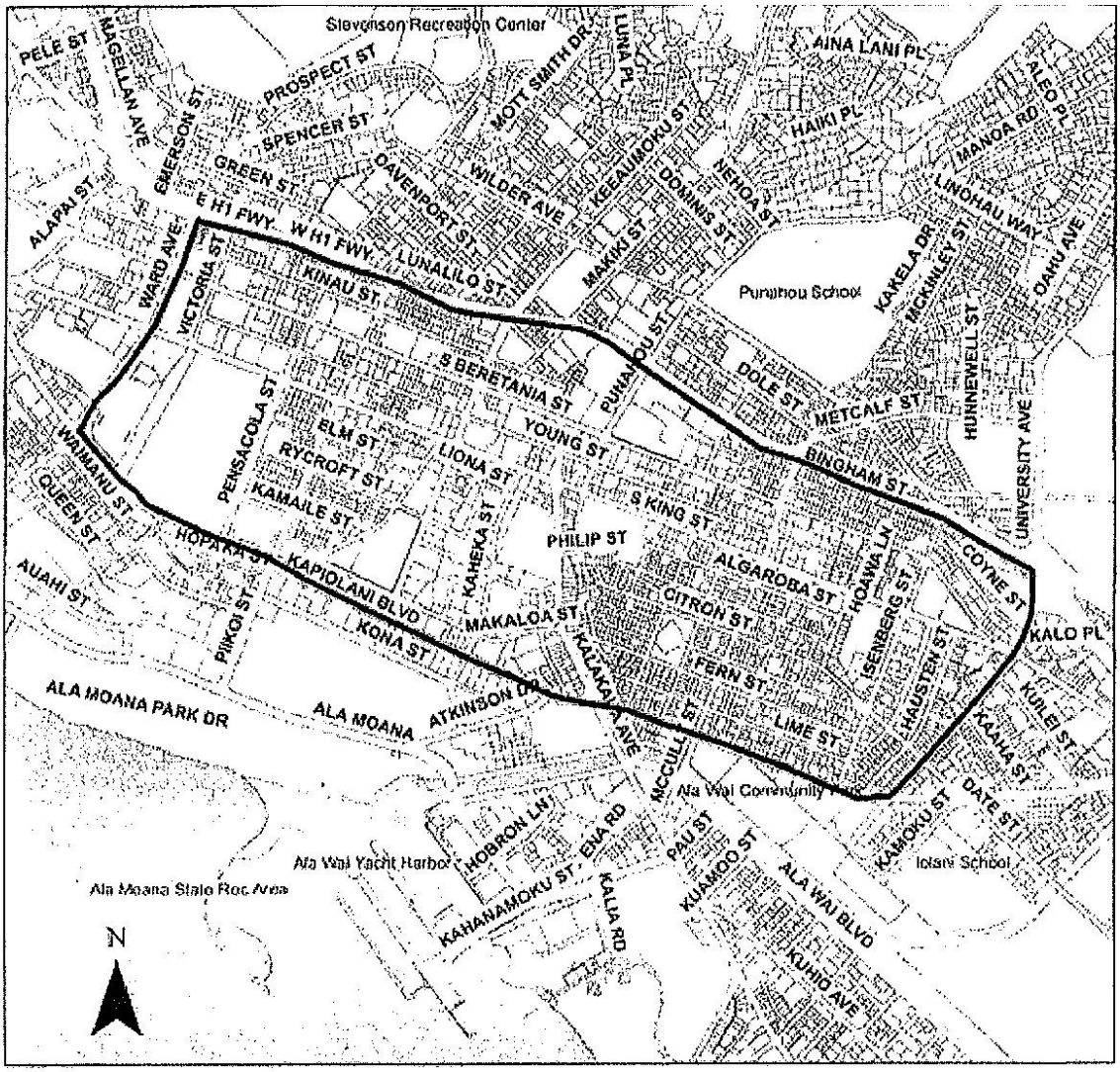


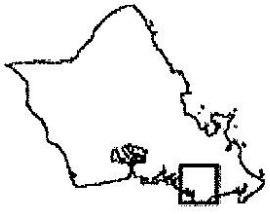


LOCATION MAP: KALIHI DISTRICT

Exhibit C

Office of Council Services
City and County of Honolulu
October 2010

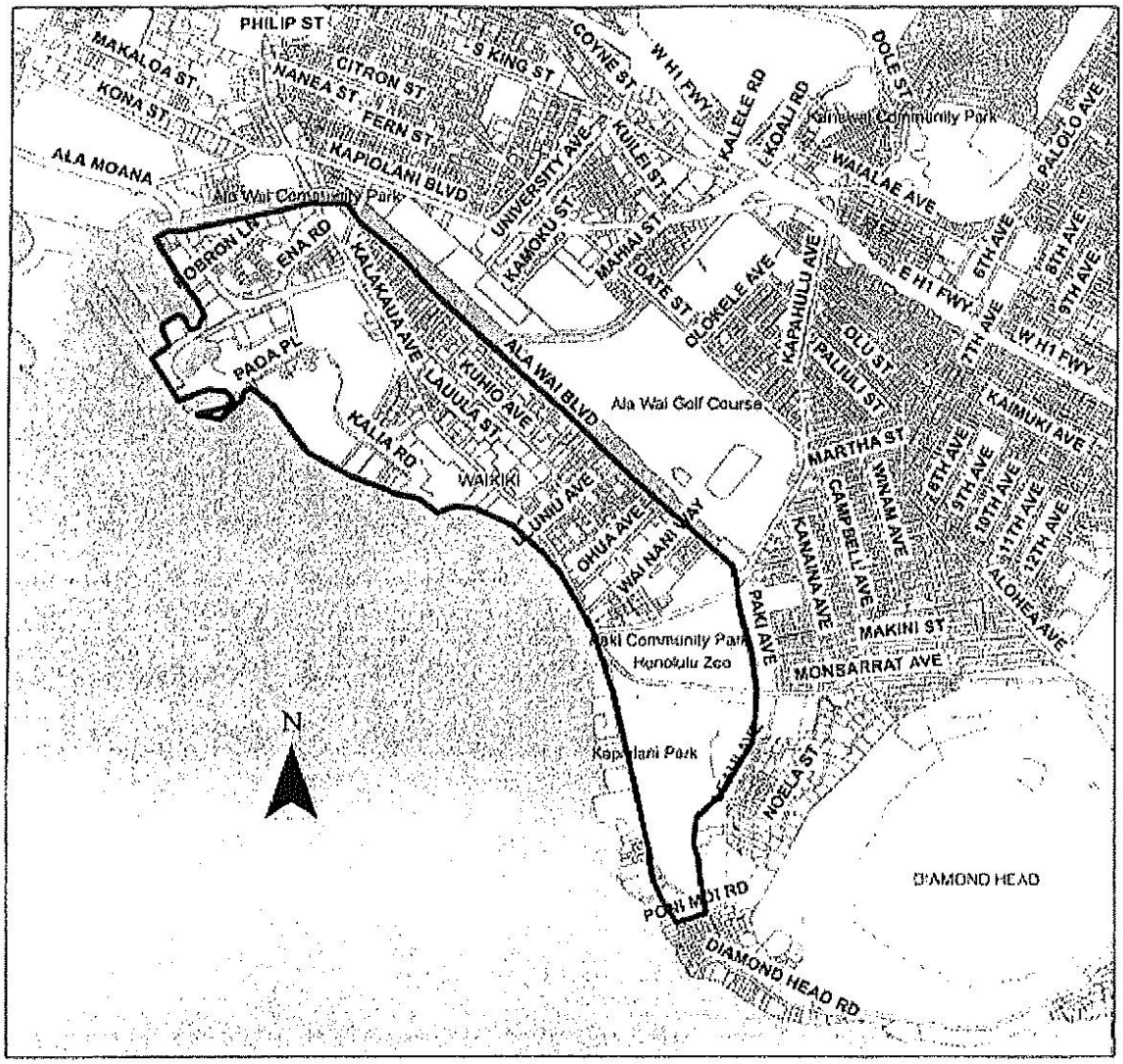


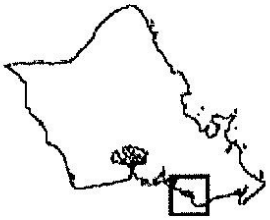


LOCATION MAP: McCULLY/MOILILI/MAKIKI DISTRICT

Exhibit D

Office of Council Services
City and County of Honolulu
October 2010





LOCATION MAP: WAIKIKI DISTRICT

Exhibit E

Office of Council Services
City and County of Honolulu
October 2010

ARTICLE 19: STORED PROPERTY

Sections

§ 13-19.1 Declaration of legislative intent—Purpose.

Public property may be accessible and available to residents and the public at large for its intended uses. The unauthorized use of public property for the storage of personal property interferes with the rights of other members of the public to use public property for its intended purposes and can create a public health and safety hazard that adversely affects residential and commercial areas. The purpose of this article is to maintain public areas in clean, sanitary, and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of public property for personal use, and to promote the public health, safety, and general welfare by ensuring that public property remains readily accessible for its intended uses.
(1990 Code, Ch. 29, Art. 19, § 29-19.1) (Added by Ord. 11-29)

§ 13-19.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Medial Strip. Has the same meaning as defined in § 15-2.23.

Personal Property. Any and all tangible property, and includes but is not limited to items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, and household items. The term shall not include any vehicle as defined in HRS § 291C-1, any vessel as defined in HRS § 200-23, or any property subject to HRS Chapter 523A.

Public Property. All property that is owned, managed, or maintained by the city, and shall include but not be limited to any street, sidewalk, replacement sidewalk, medial strip, space, ground, mall, building, structure, public park, and any other property of the city.

Sidewalk. Has the same meaning as defined in HRS § 291C-1.
(1990 Code, Ch. 29, Art. 19, § 29-19.2) (Added by Ord. 11-29)

§ 13-19.3 Stored property—Impoundment.

(a) No person shall store personal property on public property. All stored personal property may be impounded by the city. In the event personal property placed on public property interferes with the safe or orderly management of the premises or poses a threat to the health, safety, or welfare of the public, it may be impounded at any time by the city.

(b) Personal property placed on public property shall be stored personal property if it has not been removed from public property within 24 hours of service of the written notice required by § 13-19.4, which requires such removal, and the city may cause the removal and impoundment of such stored personal property; provided that moving the personal property to another location on public property shall not be considered to be removing the personal property from public property; and provided further, that this section shall not apply to personal property that, pursuant to statute, ordinance, permit, regulation, or other authorization by the city or State, is placed on property that is owned or controlled by the city.

(1990 Code, Ch. 29, Art. 19, § 29-19.3) (Added by Ord. 11-29)

§ 13-19.4 Notice.

(a) The written notice required to be served by subsection (b) of § 13-19.3 shall be deemed to have been served if a copy of the written notice is served on the person storing the personal property or is posted prominently and conspicuously on the stored personal property. The written notice shall contain the following:

(1) A description of the personal property to be removed (such description may refer to an attached photograph);

(2) The location of the personal property;

(3) The date and time the notice was posted;

(4) The section of the ROH that is being violated;

(5) A statement that the personal property will be impounded if not removed within 24 hours;

(6) The location where the removed property will be stored;

(7) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days after impoundment; and

(8) A statement that the property owner shall be responsible for all costs of removal, storage, and disposal.

(b) *Shopping carts.* If a shopping cart is removed and impounded pursuant to § 13-19.3, the city shall notify the Retail Merchants Association or its successor organization of the location where the shopping cart may be claimed. The Retail Merchants Association or its successor organization shall notify the owner of the shopping cart or owner's agent of the location where the shopping cart may be claimed. The owner or owner's agent shall have three business days from the date the city notifies the Retail Merchants Association or its successor

organization to retrieve the shopping cart without charge. If the owner or owner's agent fails to retrieve the shopping cart within three business days, the shopping cart shall become impounded property as provided in § 13-19.5(a), written notice shall be provided as in § 13-19.5(b), and the owner shall be subject to any applicable fees and costs imposed pursuant to § 13-19.5(a). Any shopping cart not reclaimed by the owner or owner's agent within 30 days after the date of written notice may be disposed of as personal property valued at less than $1,000.

(1990 Code, Ch. 29, Art. 19, § 29-19.4) (Added by Ord. 11-29)

§ 13-19.5 Storage and disposal.

(a) Impounded personal property shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related fees and costs. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.

(b) At least 30 days before disposal of impounded personal property, the city shall serve notice in writing apprising the owner of the personal property of the description and location of the impounded personal property and of the intent of the city to sell, donate, or otherwise dispose of the impounded property. Service of written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known or can be determined. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted for three consecutive days on the public property where the property was stored or seized. If notice cannot be posted as provided heretofore, then it shall be posted on the internet website of the city for three consecutive days.

(c) If any item of impounded personal property has an estimated value of $1,000 or more, the city shall also give public notice of its disposal, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was impounded; provided that the disposal shall not take place less than five days after public notice has been given. Following proper notices as provided in subsections (b) and (c), any item of impounded personal property having an estimated value of $1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the impounded personal property may be sold by negotiation, disposed of or sold as junk, kept by the city, or donated to any other government agency or charitable organization.

(d) The requirement for public notice and public auction shall not apply when the estimated value of the impounded personal property is less than $1,000. In that event, the impounded personal property may be sold by negotiation, disposed of or sold as junk, kept by the city, or donated to any other government agency or charitable organization.

(e) Any impounded property of a perishable nature may be disposed of immediately in any manner without notice after impoundment by the city.

(f) The city shall maintain a record of the date and method of disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking

possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.
(1990 Code, Ch. 29, Art. 19, § 29-19.5) (Added by Ord. 11-29)

§ 13-19.6 Proceeds of sale.

All fees and unpaid rent, debts, and charges owing, and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the city shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the general fund.
(1990 Code, Ch. 29, Art. 19, § 29-19.6) (Added by Ord. 11-29)

§ 13-19.7 Repossession.

The owner or any other person entitled to the impounded personal property may repossess the property before its disposal upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the city in connection with the proposed disposal of the impounded property.
(1990 Code, Ch. 29, Art. 19, § 29-19.7) (Added by Ord. 11-29)

§ 13-19.8 City not liable.

The City and County of Honolulu, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this article. The remedies available to the owner of impounded property are limited to those provided in this article.
(1990 Code, Ch. 29, Art. 19, § 29-19.8) (Added by Ord. 11-29)

ARTICLE 20: CREATING, CAUSING, OR MAINTAINING OBSTRUCTIONS ON PUBLIC SIDEWALKS PROHIBITED

Sections

§ 13-20.1 Prohibition—Exceptions—Citations.

(a) No person shall create, cause, or maintain an obstruction on a public sidewalk that interferes, impedes, and/or prevents the full, free, and unobstructed passage of pedestrians upon public sidewalks or interferes with the normal flow of pedestrian traffic upon a public sidewalk during the hours from 6:00 a.m. to 10:00 p.m.

(b) The prohibitions in subsection (a) do not apply to a person:

(1) Unable to comply due to suffering a medical emergency;

(2) Unable to comply due to physical or mental incapacitation;

(3) Engaging in protected expressive activity;

(4) Participating in or attending a parade, festival, performance, rally, demonstration, or similar event conducted on the street pursuant to a permit issued by the city;

(5) Acting as authorized or allowed by ordinance, permit, or regulation issued by the city and county of Honolulu;

(6) Engaged in a maintenance, repair, or construction activity on behalf of a governmental entity or a public utility; and

(7) In line for goods or services, unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk.

(c) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this section against any person unless:

(1) The law enforcement officer visually observes the interference with, impediment to, or prevention of the full, free, and unobstructed passage of pedestrians; and

(2) The officer orally requests or orders the person to refrain from the alleged violation of this section and the person fails to comply after receiving the oral request or order.

(d) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Expressive Activity. 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 participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons, fundraising events, beauty contests, commercial events, cultural celebrations, or other events the principal purpose of which is entertainment.

Obstruct. To block up, stop up, or close up, or place an obstacle in or fill with obstacles or impediments that interfere with the passing of a pedestrian or to be or come in the way of a pedestrian's free use of the sidewalk.

Obstruction. The act or condition of being obstructed, or a condition of being clogged or blocked.

Public Sidewalk. A publicly owned or maintained "sidewalk," as defined in § 13-1.1, and includes a "replacement sidewalk" as defined in that section. Where the property line adjacent to a public sidewalk is not clearly established, then for purposes of this article, the sidewalk is deemed to extend 10 feet away from the roadway from the curb line or pavement of the roadway.
(Added by Ord. 18-34)

§ 13-20.2 Penalty.

Any person violating this article shall be subject to a $100 fine. In lieu of a $100 fine, a judge may sentence a person found in violation of this section to provide community service.
(Added by Ord. 18-34)

ARTICLE 21: ILLEGAL LODGING ON A PUBLIC SIDEWALK OR OTHER PUBLIC PLACE

Sections

§ 13-21.1 Prohibition–-Exceptions—Citations.

(a) No person shall lodge on a public sidewalk or other public place.

(b) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this section against any person unless:

(1) Shelter space is readily available;

(2) An offer has been made to transport the person to the available shelter; and

(3) The officer requests or orders the person to refrain from the alleged violation of this section.

(c) A person may be cited or arrested for a violation of this section if the person fails to comply after receiving the oral request or order and refuses to go to or to be transported to the available shelter after being given one hour to relocate from the sidewalk or other public place.

(d) As used in this section:

Lodge or ***Lodging.*** To sleep; to come to rest and refuse to vacate the area when requested pursuant to subsection (b) above.

Public Place. Has the same meaning as defined in § 13-1.1.

Public Sidewalk. Has the same meaning as defined in § 13-15.1(d).

Shelter. A facility that provides temporary housing for individuals or families. A shelter may include an incarceration diversion program, a medical facility, or related supportive services.

(e) This article does not apply to any person engaging in an activity pursuant to a permit or license issued by the State, city, or federal government.

(Added by Ord. 18-35)

§ 13-21.2 Penalty.

Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.
(Added by Ord. 18-35)

CHAPTER 14: PUBLIC WORKS INFRASTRUCTURE

Articles

ARTICLE 1: USE OF INDIGENOUS AND POLYNESIAN INTRODUCED PLANTS IN PUBLIC LANDSCAPING

Sections

§ 14-1.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

City. The City and County of Honolulu.

Facility. Any physical improvement owned by the city or used for city purposes such as municipal buildings, police stations, fire stations, satellite city halls, and recreation centers.

Indigenous. Any land plant species growing or living naturally in Hawaii without having been brought to Hawaii by humans.

Polynesian Introduced. Any plant species brought to Hawaii by Polynesians before European contact, such as kukui, noni, and coconut.
(1990 Code, Ch. 14, Art. 11, § 14-11.1) (Added by Ord. 14-6)

§ 14-1.2 Implementation.

Wherever and whenever feasible, all plans, designs, and specifications for new or renovated landscaping of any building, complex of buildings, facility, complex of facilities, park, or housing developed by the city with public moneys shall incorporate indigenous and Polynesian introduced plant species, provided that:

(1) Suitable cultivated plants can be made available for this purpose without jeopardizing wild plants in their natural habitat; and

(2) Wherever and whenever possible, plants indigenous to Oahu shall be used.
(1990 Code, Ch. 14, Art. 11, § 14-11.2) (Added by Ord. 14-6)

ARTICLE 2: EXCAVATION AND REPAIRS OF STREETS AND SIDEWALKS

Sections

§ 14-2.1 Permit required—Application—Insurance—Bond—Permit fee.

(a) No person, including city officials and employees, shall, in any manner or for any purpose, break up, dig up, disturb, undermine, or dig under, any public highway, street, thoroughfare, alley, or sidewalk or any other public place, or cause the same to be done without having first obtained a permit therefor from the chief engineer; provided that work to accomplish emergency repairs to utilities may be started without a permit. When such emergency work is performed, the chief engineer or the chief engineer's authorized representative shall be notified of the location and type of the emergency not later than the first work day following the emergency. A written permit covering the emergency work shall be obtained from the chief engineer not later than 10 working days following the emergency. The city road division shall not be required to obtain a permit for routine street maintenance, repair, or resurfacing; provided that such work does not require excavating below the sub-base course. City departments shall not be required to obtain a permit for excavating single holes at any one location in sidewalk area for installation of pipe supported signs, markers, meters, or planting of trees.

(b) Any person desiring the permit required under this section shall make application therefor to the chief engineer on a form prescribed by the chief engineer. As a condition precedent to the issuance of any such permit, the chief engineer shall require:

(1) The securing of insurance naming the city as an additional assured, to protect it against any and all claims or action for injury and death to person or property damages due to any act or omission of the holder of the permit arising out of any work done under the permit, the insurance to be in the amount of $100,000 for property damages per occurrence and in an amount not less than $500,000 for bodily injury or death. A public utility company performing work for installation of service connections, for the location of troubles in pipes or conduits, or for making repairs thereto may furnish a certificate of insurance listing the limits of liability that shall equal or exceed the amounts specified above for each and every service connection, trouble location, or repair work accomplished by the company's own forces during the term of the policy and certifying that the insurance company will not cancel or materially alter the coverage without giving the city 15 days advance notice; and

(2) When the work of restoration is not performed by the city, a bond shall be required in favor of the city, extending for a period not to exceed one year after approval of any restored pavement, sidewalk, or other public improvement, to ensure the proper restoration thereof. The amount of the bond shall be not less than $1,000 or the estimated cost of the excavation and restoration work, whichever is higher. Utility companies shall be responsible for work and repairs in existing public streets performed by its employees, contractors, or subcontractors. In lieu of furnishing a separate bond for each permit, a utility company may furnish written guarantee to the city that the company will be responsible for the restoration work for a period not to exceed one year after satisfactory completion of the restoration work.

(c) Before issuing a permit, the chief engineer shall:

(1) Require the presentation of a plan, drawn to scale, showing the location of each proposed excavation and the dimensions thereof, including the surface area of the opening in paving, sidewalk, and other structures, the nature, size, length, and purpose of the structure to be installed therein, and such other details and information as the chief engineer may require to be shown upon the plan. In lieu of the plan, a single line sketch, drawn to scale, may be submitted to show the location of each excavation for a service connection, for location of trouble or for repair to utilities;

(2) Obtain clearance from city departments having underground installations and from the various utility companies before issuance of the permit; and

(3) Collect a permit fee based on the schedule below. The permit fee shall not be refundable even if the applicant, after issuance of the permit, decides not to proceed with the construction.

(A)

Work	***Permit Fee***
Service connection	$50
Repairs to utilities	$50
Trench for installation of pipelines, underground cables, etc. for the first 20 lineal feet, plus $10 for each additional 10 lineal feet or any fraction thereof	$195

(B) When the work is performed by or on behalf of the city, the permit fee will be waived.

All permit fees shall be deposited in the highway fund.

(d) Each permit shall be deemed to include the provision that all surplus excavated material, if desired by the chief engineer, shall be carted or hauled to and deposited upon such place as may be directed by the chief engineer at the expense of the permittee. The maximum distance such material is to be hauled shall not exceed the distance between the job site and the nearest city and county corporation yard.

(e) Every trenching permit shall expire and become void one year after the date of issuance of the permit. Upon expiration of a permit, no work shall be commenced unless a new permit is first obtained. Permit fee for a new permit shall be the fee as specified above.

(f) The permittee shall also obtain a permit from the city department of transportation services before any work on any portion of a public street may begin.

(g) Failure to obtain any permit or the violation of this section shall be deemed a misdemeanor.
(Sec. 20-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.1) (Am. Ords. 92-122, 03-12, 14-4, 17-28)

§ 14-2.2 Notice of commencement, prosecution of work, and inspection.

(a) *Notice of commencement of work.* At least three working days before the work is started, the permittee or the permittee's representative shall give notice of the time of commencement of the work to the chief engineer or the chief engineer's representative.

(b) *Prosecution of work.* After the work has begun, it shall be diligently and continuously prosecuted until completed. All work shall be completed within the time specified in the permit, unless an extension of time for good cause shown is granted by the chief engineer.

(c) *Inspection.* All work authorized under Articles 2 through 7 of this chapter shall be subject to inspection by the chief engineer or the chief engineer's authorized representative.
(Sec. 20-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.2)

§ 14-2.3 Trench excavation, backfill, and pavement restoration.

(a) Trench excavation and backfill shall be accomplished in accordance with the applicable provisions contained in the Standard Specifications for Public Works Construction dated September 1986 and Standard Details for Public Works Construction, dated September 1984, as amended, of the department of public works, City and County of Honolulu.

(b) The permittee shall provide, in connection with the work covered by the permit, all necessary traffic control devices, which shall conform to the requirements of the "Rules and Regulations Governing the Use of Traffic Control Devices at Work Sites or Adjacent to Public Streets and Public Highways" of the State highway safety coordinator. The permittee shall be responsible for all damages of every kind or nature suffered because of the work done by the permittee.

(c) In dewatering trenches, the discharge shall not be drained directly onto the street or gutter. In urban areas and areas where a storm sewer system has been installed, the discharge shall be drained to the nearest storm sewer by the use of pipes or other suitable means acceptable to the chief engineer. If necessary, the discharge shall be processed, filtered, ponded, or otherwise treated to comply with the applicable provisions of Hawaii Administrative Rules, Chapter 11-54, "Water Quality Standards" and Chapter 11-55, "Water Pollution Control" and any other applicable federal, State, and city ordinances and regulations concerning water pollution before its release into waterways or city storm sewer systems. No work shall commence unless a construction dewatering permit is first obtained from the chief engineer. The permittee is also required to obtain a NPDES permit for the discharge of any pollutant into State waters through the city-owned storm sewer system from the State department of health. The city shall receive a copy of the NPDES permit and all analysis of the discharge required under the NPDES permit whenever the city-owned storm sewer system is used for the dewatering operation. Whenever the discharge is released directly into waterways not owned by the city, only a NPDES permit is required.

(d) Concrete envelope or jacket for pipes or duct lines shall be not more than 6 inches wider than the width of the concrete envelope or jacket shown on the plan or drawings submitted by the applicant for a trenching permit. Whenever this tolerance is exceeded, the sides of the concrete envelope or jacket shall be formed to maintain the dimensions shown on the plan or drawings.

(e) The permit holder shall, upon completion of the backfilling and compaction of any excavation and after inspection and approval by the chief engineer, immediately commence the necessary work to restore the foundation and surface, including any public structure appurtenant thereto, to its original or equally good condition. The chief engineer may require compaction tests be performed to assure that the backfill has been compacted to the required density. Backfill not conforming to the specified degree of compaction shall be recompacted or removed and replaced with suitable material. Restoration shall be accomplished in accordance with the applicable provisions contained in the Standard Specifications for Public Works Construction dated September 1986 and Standard Details for Public Works Construction dated September 1984, as amended, of the department of public works, City and County of Honolulu. Pavement restoration over the trench excavation shall be similar to that existing before the excavation, i.e., concrete base course shall be replaced with concrete of the same thickness.

(f) When trenching in concrete sidewalks or concrete pavement the concrete to be removed shall first be cut with a saw to a depth of not less than one-fourth the depth of the slab. The concrete shall be cut so as to leave a 6-inch wide undisturbed surface between the cut and the side of the trench. When any portion of a sidewalk block measuring 4 feet or less in dimension is cut, trenched, or damaged during construction, the entire block shall be removed and replaced. A sidewalk block greater than 4 feet in dimension that is cut, trenched, or damaged shall be removed and replaced in such a manner that the replaced and remaining strip or block shall be not less than 4 feet wide. The replaced sidewalk block shall be scored, finished, and colored to match the finish and color of the adjacent blocks.

(g) All agencies having construction performed under a trenching permit shall submit as-built drawings to the chief engineer showing the actual construction performed.

(Sec. 20-1.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.3) (Am. Ord. 92-122)

§ 14-2.4 Repairs by city.

In the case of any excavation that has not been backfilled or restored in accordance with this article, or in the case where the excavation poses hazards or nuisances, the chief engineer shall make or cause to be made, the necessary repairs and the expenses thereof shall be charged to and collected from the permit holder or any surety where a bond has been required, or the person responsible for the excavation if no permit has been obtained. Such repairs shall include but not be limited to the restoration of the foundation and surface, reexcavation and backfilling of excavations, repairs to any public structure and replacement of any public structure not properly restored.

(Sec. 20-1.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.4) (Am. Ord. 92-122)

§ 14-2.5 Charges to be levied for work done by the city for the board of water supply—Disposition.

(a) For any work done by the city for the board of water supply under the permit required by this article, charges for restoring the foundation and surface to its original or equally good condition shall be made by the city against the board of water supply.

(b) Charges for the patching of any trench shall be at the following rates. These rates shall be escalated on a fiscal year basis by the representative consumer price index factor for the year preceding.

Asphalt concrete	$ 4.05 per square foot
Concrete	$19.54 per square foot
Asphaltic concrete on concrete	$22.05 per square foot

(c) All moneys collected from charges herein levied shall be deposited into the highway fund and made available for purposes of the highway fund.

(Sec. 20-1.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.5) (Am. Ord. 92-122)

§ 14-2.6 Indemnification of city.

(a) The holder of a permit shall indemnify and save harmless the city, the officers, and agents thereof from all claims, demands, suits, actions, or proceedings of every name, character, and description that may be brought against the city for or on account of any injuries or damages to any person or property received or sustained by any person as a consequence of any act or acts of the holder of permit on work done under the permit.

(b) The city, while making repairs, shall use every precaution required of the holder of permit as to barricades, lights, and watchpersons for the safety of the public, but such action shall not relieve the holder of the permit from responsibility for accidents, should any occur.

(Sec. 20-1.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.6)

§ 14-2.7 Violation—Penalty.

Any person who violates any provision of this article shall, upon conviction, be punished by a fine not exceeding $1,000 or by imprisonment not exceeding three months, or by both for each separate offense. Each day of violation shall constitute a separate offense. In addition, any person upon conviction shall be liable for the total cost of any restoration of the foundation and surface, reexcavation, and backfilling of excavations, repairs to any public structure, and replacement of any public structure not properly restored.

(Sec. 20-1.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 17, § 14-17.7) (Am. Ord. 92-122)

ARTICLE 3: REGULATIONS GOVERNING THE CONSTRUCTION OF SIDEWALKS, CURBS, OR DRIVEWAYS WITHIN THE RIGHT-OF-WAY OF PUBLIC STREETS

Sections

§ 14-3.1 Short title and purpose.

(a) *Short title.* This article shall be known as the "sidewalk code," may be cited as such, and is referred to herein as "this code."

(b) *Purpose.* The purpose of this article is to regulate, control, and provide uniformity in the construction, reconstruction, installation, improvement, and repairing of sidewalks, curbs, and driveways.

(Sec. 20-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.1)

§ 14-3.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Abandoned Driveway. A driveway no longer used for egress and ingress purposes by motor vehicles.

Asphalt Concrete Walkway. A temporary walkway along a street constructed of asphalt concrete and intended for use by pedestrians.

Chief Engineer. The director and chief engineer of the department of public works or such person's duly authorized representative.

Curb. The raised border of concrete, asphaltic concrete, or stone along the edge of the pavement of a street.

Director. The director of planning and permitting of the city or the director's duly authorized representative.

Driveway. A facility constructed between the pavement of a roadway and any abutting property, which is used by motor vehicles for egress or ingress to the property.

Owner. Any person, firm, corporation, partnership, or other legal entity holding title to any property adjoining any street in the city and county or any lessee thereof holding under a recorded lease.

Sidewalk. That portion of a street between a curb line or the pavement of a roadway, and the adjacent property line intended for use by pedestrians, including any street setback area acquired by the city for road widening purposes.

Street. A public highway, as defined in HRS § 264-1, unless otherwise specified.

Wheelchair Ramp. A facility constructed between the curb and concrete sidewalk to provide access from the street to the sidewalk for wheelchairs.
(Sec. 20-2.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.2)

§ 14-3.3 Sidewalks, curbs, and driveways to conform to grade, standards, and specifications.

All sidewalks, curbs, and driveways shall be constructed according to standards and specifications as herein provided and shall conform to established grades.
(Sec. 20-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.3)

§ 14-3.4 Permit required.

A permit and the payment of fees are required under Chapter 18 to perform work under this article.
(Sec. 20-2.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.4)

§ 14-3.5 Notice of reconstruction or repair of sidewalks, curbs, or driveways.

Whenever the director finds that any sidewalk, curb, or driveway is in need of reconstruction or repair in the interest of public safety or welfare, and such need is caused by action or actions attributable to the owner of land abutting such sidewalk, curb, or driveway, the director is authorized to give notice thereof to such owner and to require such owner to reconstruct or repair the sidewalk, curb, or driveway.
(Sec. 20-2.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.5)

§ 14-3.6 Notice to owner.

(a) The notices specified in § 14-3.5 shall be given by the director either by publication thereof in a daily newspaper of general circulation in the city once in each of three consecutive weeks, or by mailing a copy of such notice by certified mail to the owner.

(b) *Publication and notice by mail.* When the director has doubt that the owner received the notice by mail, such notice shall also be given by publication.

(c) *Contents of notice.* The notice shall set forth the nature of the reconstruction or repair to be made, the location thereof, and a specific direction to such owner to reconstruct or repair such sidewalk, curb, or driveway.

(Sec. 20-2.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.6)

§ 14-3.7 Failure to reconstruct or repair sidewalks, curbs, or driveways.

(a) *Time limit.* If after the expiration of 60 days after the date of publication or after the receipt of the notice thereof, an owner fails to reconstruct or repair the sidewalk, curb, or driveway, the director shall issue a work order to the chief engineer to reconstruct or repair the sidewalk, curb, or driveway as provided in subsection (b).

If both written notice and publication is given to an owner, the expiration of the 60 days shall be based on whichever form of notice was last given.

(b) *Reconstruction or repair of sidewalks, curbs, or driveways by city.* The chief engineer is authorized and empowered to pay for the reconstruction or repair of sidewalks, curbs, or driveways out of city funds or to have the work done by city employees.

(c) *Charge to owner.* When the city has reconstructed or repaired the sidewalk, curb, or driveway or has paid for such work, the cost thereof, including overhead costs, plus accrued interest at the rate of 7 percent per year shall be charged to the owner of such property and the owner shall be billed therefor by mail. The bill shall apprise the owner that failure to pay the bill will result in a lien. Interest at the rate of 7 percent per year shall accrue from the 31st calendar day after the bill has been mailed to the owner for payment if the same has not been paid prior thereto.

(d) *Statement of chief engineer.* Where the full amount due the city is not paid by such owner within 30 calendar days after the bill has been mailed for payment, the chief engineer shall cause to be recorded with the city director of budget and fiscal services a statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which the work was done and file the same with the director of budget and fiscal services who shall refer the collection thereof to the corporation counsel.

(e) *Mechanic's and materialman's lien procedure.* Any work done by the city under this section is deemed to be done pursuant to quasi-contract or constructive contract between the city and the owner. Based on the foregoing contractual relationship, if the owner fails to pay the amount duly noted on the statement filed by the chief engineer, the corporation counsel may proceed to file a mechanic's and materialman's lien pursuant to HRS Chapter 507, Part II, or any other appropriate lien procedures.

(Sec. 20-2.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.7)

§ 14-3.8 Standards and specifications for sidewalks.

(a) *Generally.* All sidewalks shall be constructed in accordance with the Standard Details, department of public works, City and County of Honolulu, dated September, 1984, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated September, 1986, as amended.

(b) *Exceptions.*

(1) *Winding sidewalks.* Any and all sidewalks shall be constructed adjacent to the property lines; provided that the chief engineer may authorize winding sidewalks; and provided further, that such sidewalks shall not cause additional hazards to the public as the chief engineer may determine.

(2) *Other surface encroachments.* The chief engineer may also authorize the placement of walls, fences, benches, and other surface encroachments in the sidewalk area; provided that application for such encroachments are made in writing to the chief engineer, and provided further, that such encroachments do not unduly interfere with the public use of such space for utilities and pedestrian traffic. Such encroachments shall be removed at the owner's expense upon notification by the director when recommended by the chief engineer that the space is needed for public use.

(3) *Notice.* The director upon such recommendation by the chief engineer shall issue a notice in writing to the owner directing the owner to remove the encroachments or improvements. The work shall be done within such reasonable time limit as shall be stated in such notice that in no case shall be less than 20 days nor more than 60 days. The notice may be given by personal service or by mailing a copy of such notice by certified mail to the owner.

(4) *Failure to remove encroachments.* Upon failure of the owner to comply with such notice within the time mentioned therein, the director shall cause such encroachments to be removed. The costs thereby incurred by the city shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the property abutting such encroachments.

(5) Whenever the chief engineer finds that in the interest of public safety or welfare an asphalt concrete walkway is necessary for pedestrians, the chief engineer is authorized to construct such a walkway.

(c) *Filing fee.* A fee of $200 shall be required for each application submitted under subsection (b)(2) dealing with other surface encroachments. All application fees collected shall not be refundable and shall be deposited into the highway fund.

(Sec. 20-2.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.8) (Am. Ords. 03-12, 14-4)

§ 14-3.9 Standard details and specifications for curbs.

All curbs shall be constructed in accordance with the Standard Details, department of public works, City and County of Honolulu, dated September, 1984, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated September, 1986, as amended.

(Sec. 20-2.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.9)

§ 14-3.10 Standards and specifications for driveways.

(a) *Standards—where found.* All driveways shall be constructed in accordance with the applicable standard driveway apron and layout details of the Standard Details, department of public works, City and County of Honolulu, dated September, 1984, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated September, 1986, as amended.

(b) *Nonstandard driveway.* The chief engineer may authorize the construction of driveways that do not conform to the foregoing standards where topographic or traffic conditions warrant a variance from the standards.

(c) *Nonconforming driveway.* Whenever a driveway is constructed in a location where the existing driveways are finished in conformance to standards adopted before approval of this section, the chief engineer may authorize the constructed driveway to be finished and scored to match the finish and scoring of the adjacent driveways.

(d) *Designation.* The chief engineer is further authorized to designate the location of a driveway in an area zoned for business, industrial, or hotel-apartment use.

(e) *Exemption.* When an existing driveway having width or location that does not conform to the width or location prescribed in the standard driveway layout is constructed, such driveway may be constructed to its existing width and location and shall be exempted from the width and location provisions in the standard driveway layout, provided that such driveway shall be constructed to conform to the standard driveway apron details.

(f) *Filing fee.* A fee of $200 shall be required for each variance application or request covered under subsections (b) and (c) above. All application fees collected shall not be refundable and shall be deposited into the highway fund.

(Sec. 20-2.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.10) (Am. Ords. 03-12, 14-4)

§ 14-3.11 Standards and specifications for wheelchair ramps.

Wheelchair ramps shall be constructed only at locations approved by the chief engineer and in accordance with the applicable standards in the Standard Details, department of public works, City and County of Honolulu, dated September, 1984, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated September, 1986, as amended.
(Sec. 20-2.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.11)

§ 14-3.12 Ramp in gutter prohibited.

The construction of a ramp in the gutter to permit vehicles to drive over the curb is prohibited.
(Sec. 20-2.12, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.12)

§ 14-3.13 Conversion of abandoned driveway to sidewalk.

(a) *Conversion.* The director may require the owner to convert an abandoned driveway to a sidewalk.

(b) *Work to be done by city.* If the owner fails to close such abandoned driveway and to convert it to a sidewalk, the director shall cause the city to perform the necessary work.

(c) *Notice.* Before commencement of any work, the director shall notify the owner that if such owner fails to obtain a permit to convert the abandoned driveway to a sidewalk within 20 days from the date of such notice or having obtained a permit, fails to convert such driveway to a sidewalk before the expiration of such permit, the city shall perform the necessary work and shall charge the costs thereof, including the amount of the permit fee required by § 14-3.4, to the owner.

(d) *Lien.* All costs shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the subject property.

(Sec. 20-2.13, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.13)

§ 14-3.14 Inspection and approval.

(a) *Notice to city.* The permittee shall notify the director, at least 24 hours before the permittee, the permittee's agent, contractor, or subcontractor begins any work. All work authorized under the permit, including formwork and placement of reinforcement, shall be subject to inspection by the director.

(b) *Illegal sidewalk construction.* Any sidewalk, curb, or driveway constructed without a permit or without prior notification as provided under subsection (a) shall be deemed a violation of this article. If the director finds that a sidewalk, curb, or driveway does not conform to the requirements prescribed in this article, the director may require that the sidewalk, curb, or driveway be removed and reconstructed, and if the owner fails to remove and reconstruct as required, the city shall cause the sidewalk, curb, or driveway to be reconstructed and all costs thereby incurred by the city shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the subject property.

(Sec. 20-2.14, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.14)

§ 14-3.15 Violation—Penalty.

Any person violating this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding $100. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance.

(Sec. 20-2.15, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 18, § 14-18.15)

ARTICLE 4: PUBLIC UTILITY RESERVED AREAS

Sections

§ 14-4.1 Area abutting street reserved for utilities.

Whenever street and curb lines are established within the city, the area of 2.5 feet immediately back of the face of the curb on both sides of the street shall be reserved for public utility pole lines and unconduited utility cables; provided that nothing shall prohibit the public utilities, the facility maintenance, the department of environmental services, or the board of water supply from constructing gas lines, conduits, or water and sewer lines across the strip, or the construction of catch basins and sewer manholes within such reserve, or the construction by the owner of the property abutting thereon of a driveway or driveways across the reserved strip; provided further, that installation of necessary cables and lines on the public utility poles and underground conduits for transmission of television signals may be allowed within the reserved area upon the terms and conditions set forth in a written approval from the city and the joint pole committee representing the public utility companies.
(Sec. 20-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 19, § 14-19.1) (Am. Ord. 93-32)

§ 14-4.2 Reserved area at intersections—Construction of driveways over same prohibited.

An area 2.5 feet wide as described in § 14-4.1, commencing at a location on the curb line tangent 15 feet before reaching the point of curb of the curb line and running thence along the curb line tangent to the point of curve of same and thence along the curb curve around to the curb line of the adjacent side of the intersecting street and ending 15 feet beyond the point of tangency, of the curb curve with the curb line, shall be reserved for the use of public utility poles and unconduited cables at intersecting streets. No driveway shall be constructed within this area notwithstanding the provisions of § 14-4.1, except as provided in § 14-3.10; provided that installation of necessary cables and lines on the public utility poles and underground conduits for transmission of television signals may be allowed within the reserved area upon the terms and conditions set forth in a written approval from the city and the joint pole committee representing the public utility companies.
(Sec. 20-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 19, § 14-19.2)

ARTICLE 5: CLEANING AND MAINTAINING SIDEWALKS

Sections

§ 14-5.1 Cleaning of sidewalks.

(a) Every property owner whose land abuts or adjoins a public street shall continually maintain, and keep clean, passable and free from weeds and noxious growths, the sidewalk and gutter area that abuts or adjoins the property owner's property; provided that this requirement shall not apply where maintenance of an abutting sidewalk and gutter may be hazardous to the owner, or where a sidewalk and gutter, although abutting the owner's residential property, are so situated that there is no reasonable access from the property to the sidewalk and gutter.

(b) The term "sidewalk" has the same meaning as that portion of a street between a curb line or the pavement of a roadway, and the adjacent property line intended for the use of pedestrians, including any setback area acquired by the city for road widening purposes. The term "gutter" has the same meaning as that paved portion of a roadway immediately adjacent to the curb or that portion of a roadway in concrete and 12 to 14 inches wide immediately adjacent to the curb.

(Sec. 20-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 20, § 14-20.1)

§ 14-5.2 Procedure on owner failing to clean.

If any such owner or such owner's agent, which shall include but not be limited to a lessee, tenant, property manager, or trustee, after receiving notice from the city, fails, within 20 days after such notice, to clean such sidewalk, or fails and neglects to keep such sidewalk clean and free from weeds and noxious growths, then and thereupon, the city may proceed to clean such sidewalk, as may be reasonably required, and the cost thereof shall be charged to and against such property owner and shall be collected from such property owner or the property owner's agent, if not immediately paid, by action in the district court.

(Sec. 20-4.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 20, § 14-20.2)

§ 14-5.3 Notice to property owners.

The notice specified in § 14-5.2 shall be sent to such property owner by mailing it to the property owner's last known address in the State of Hawaii, or to the property owner's agent at the property owner's agent's last known address.

(Sec. 20-4.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 20, § 14-20.3)

ARTICLE 6: CONSTRUCTION OF IMPROVEMENTS BY CERTAIN PROPERTY OWNERS

Sections

§ 14-6.1 Construction of improvements required.

(a) The owner of real property abutting any public street who or whose lessee with the approval in writing of the owner, is issued a building permit to construct or reconstruct a building on such property, where such property is situated in an area zoned for any use other than residential or agricultural uses, shall upon the granting of such building permit construct the necessary improvements and dedicate any general plan or development plan street setback area along the street abutting the property, pursuant to the requirements of this article. Such construction of improvements and dedication of any general plan or development plan street setback area shall be substantially completed before the issuance of the certificate of occupancy. No temporary certificate of occupancy shall be issued before the beginning of such construction of improvements.

If such building permit should be issued to a lessee, the obligation to construct the improvements shall be on both owner and lessee, but, unless otherwise agreed between owner and lessee, the obligation shall be primarily that of the lessee and, if the lessee should fail to meet the same and the obligation be met by the owner or by enforcement of the lien hereinafter provided against the property, the owner shall be entitled to recover from the lessee such expenses and damages as may be incurred or suffered by such owner in consequence of the default of the lessee.

(b) The owner of real property abutting any public street where such property is granted a zoning change from its present use classification to any use classification other than residential or agricultural uses, shall upon the granting of such zoning change, dedicate any general plan or development plan street setback area pursuant to the requirements of this article; provided that this provision shall only apply to a zoning change initiated by the owner.

(Sec. 20-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.1)

§ 14-6.2 Types of improvements.

(a) The improvements to be constructed under this article shall include all sidewalks, curbs, gutters, pavement, adjustments at the property line, and adjustment or relocation of drainage, water, street lighting, sewer, and other public utility lines on such owner or lessee's side of the centerline of the street. Such improvements shall

be in conformity with the general plan and development plans of the city, and the installation thereof shall be in compliance with the applicable requirements of this chapter and the standards and specifications of the city; provided that no improvement shall be constructed unless the plans and specifications therefor have been first approved by the director of planning and permitting or the chief engineer.

(b) Notwithstanding any provision to the contrary, no improvement shall be constructed in or along State highways without the prior approval of the director of the State department of transportation.

(Sec. 20-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.2) (Am. Ord. 93-32)

§ 14-6.3 Allocation of costs.

The property owner or lessee shall bear the entire cost of the improvements and dedicate any general plan or development plan street setback area; provided that any area dedicated under this provision may be included for computing density at any time for that parcel; and provided further, that the cost of relocating the utility lines shall be borne by the respective privately owned utilities.

(Sec. 20-5.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.3) (Am. Ord. 91-25)

§ 14-6.4 Failure to construct improvements.

If any owner or lessee neglects or refuses to begin the construction of the improvements within one year after the granting of a building permit as in this article provided, the director or the chief engineer is authorized to cause such improvements to be constructed. The costs thereby incurred by the city shall be a lien upon the property abutting such improvements from the date of certification by the director or chief engineer of completion of such construction, and the same shall be collected from the owner of such property in the name of the city.

(Sec. 20-5.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.4) (Am. Ord. 93-32)

§ 14-6.5 Exceptions.

Notwithstanding the foregoing provisions, the requirements of this article shall not be applicable:

(1) Where the property in question is situated in an agricultural district established by the State land use commission but a use other than agricultural is permitted under a special use permit granted by the zoning board of appeals and approved by the State land use commission;

(2) If the property in question is part of a subdivision tract in an industrial or noxious industrial district where all lots in the tract are 1 acre or more in area and the land and building on all of the lots are in fact used for industrial or noxious industrial uses, as distinguished from business, semi-industrial, or limited industrial uses;

(3) If the general plan or development plans show deletion of the street on which the property in question abuts;

(4) If, in the judgment of the chief engineer with respect to city-owned highways or of the director of the department of transportation with respect to State-owned highways, the construction of improvements that are required by this article would create, rather than alleviate, drainage, or traffic problems;

(5) In the case where improvements are to be installed in or along city-owned highways, if curb grades have not been established by the city or are not readily ascertainable by the chief engineer;

(6) In the case where improvements are to be installed in or along State-owned highways, if curb grades are not readily ascertainable by the director of the State department of transportation;

(7) In the case of the granting of a building permit for the installation of signs, demolition work, fencing, or building alterations with a cumulative cost of $100,000 or less, over a 12-month period, and where the alterations do not increase the floor area of the existing building; or

(8) In the case of the granting of a building permit for building alteration when the affected property abuts a street proposed to be improved under an improvement district as set forth in the city's six-year capital improvement program.

(Sec. 20-5.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.5) (Am. Ord. 91-25)

§ 14-6.6 Assessments.

The construction of improvements pursuant to this article shall not affect assessments made pursuant to Articles 2 through 7 of this chapter, except that, where sidewalks or curbs have been installed, appropriate credit therefor shall be given in the computation of the assessment against the land affected.

(Sec. 20-5.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 21, § 14-21.6)

§ 14-6.7 Deferment of improvements.

(a) If, in the determination of the director or chief engineer, it would be in the best interests of the city to defer the construction of improvements and dedication of general plan and development plan street setback areas specified in § 14-6.1, based upon the timing of improvements by adjacent property owners or lessees, then the director or chief engineer shall have the authority to enter into an agreement with the property owners/lessees deferring such construction and dedication for a period not to exceed 20 years from the date of execution of the agreement. Nothing herein shall prohibit the director or chief engineer from requiring the property owners/lessees to commence construction of the required improvements at an earlier date upon reasonable notice. The executed agreement shall be duly recorded at the bureau of conveyances of the State of Hawaii, and shall be binding on all owners/lessees and their transferees and assignees.

(b) Notwithstanding any provision to the contrary, a certificate of occupancy may be issued in cases where an agreement to defer has been executed between the city and property owners/lessees.

(1990 Code, Ch. 14, Art. 21, § 14-21.7) (Added by Ord. 91-25; Am. Ord. 93-32)

§ 14-6.8 Definitions.

For the purposes of Articles 6 through 16, the following definitions apply unless the context clearly indicates or requires a different meaning.

Chief Engineer. The director and chief engineer of facility maintenance or the chief engineer's authorized representative.

Director. The director of environmental services or the director's authorized representative; except that in Articles 8 through 15, "director" means the director of design and construction or the director of planning and permitting, as appropriate.
(1990 Code, Ch. 14, Art. 21, § 14-21.8) (Added by Ord. 93-32; Am. Ord. 00-06)

ARTICLE 7: PUBLIC UTILITY FACILITIES

Sections

§ 14-7.1 Placement of facilities underground.

The public utilities companies shall place their utility lines and related facilities underground whenever the following streets are improved pursuant to Articles 2 through 7 of this chapter: King Street, Beretania Street, Kapiolani Boulevard, Kalakaua Avenue, Ward Avenue, and Keeaumoku Street.
(Sec. 20-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 22, § 14-22.1)

§ 14-7.2 Connection by property owners to underground public utility facilities.

(a) *Required.* Whenever any public utility company has relocated its overhead utility lines and related facilities underground in compliance with § 14-7.1 or any general improvement district project, any property owner or lessee whose property abuts the street in which such underground facilities are located, and who receives services from such public utility company by means of the overhead utility lines to be replaced thereby, shall provide underground lateral connection at the owner's expense, which meets the standards of such public utility company, upon receipt of notice as hereinafter provided.

(b) *Notice to connect.* Upon completion of the relocation of utility lines and related facilities, the chief engineer or the director of community services in the case of urban renewal and rehabilitation projects, is authorized and empowered to notify the owner or lessee of such abutting property to provide lateral connection to the underground facilities at such person's own expense. Such notice shall be by certified mail, addressed to the owner or lessee at the street address of such abutting property.

(c) *Form of notice.* The notice shall describe the work to be done and shall state that if the work is not commenced within 30 calendar days after notice is given and diligently prosecuted to completion without interruption, the chief engineer or director of community services shall provide the necessary lateral connection and the cost thereof shall be a lien on the property.

(d) *Chief engineer or director of community services to keep record.* The chief engineer or director of community services shall cause to be kept in such person's office a permanent record containing:

(1) A description of each parcel of property for which notice to connect has been given;

(2) The name of the owner or lessee;

(3) The date on which such notice was mailed;

(4) The charges incurred by the city in providing the necessary lateral connection and all incidental expenses in connection therewith; and

(5) A brief summary of the work performed.

Each such entry shall be made as soon as practicable after completion of such act.

(e) *Action upon noncompliance.* Upon failure, neglect, or refusal of any owner or lessee so notified to commence work to provide the necessary lateral connection within 30 calendar days after notice has been given as hereinbefore provided, the chief engineer or director of community services is authorized and empowered to pay for providing the necessary lateral connection out of city funds or to order such work by city employees. The chief engineer or director of community services and their authorized representatives, including any contractor with whom they contract under this section, and assistants, employees, or agents of such contractor, are authorized to enter upon the property for the purpose of providing the necessary lateral connection described in the notice. Before the chief engineer or director of community services or their authorized representative or contractor arrives, any property owner or lessee may provide the necessary lateral connection at such person's own expense.

(f) *Charges*. When the city has provided the necessary lateral connection, the owner of such property shall be billed for the cost thereof. If the bill is not paid within 30 days after the mailing date of such bill, the owner shall be liable for payment of penalty at the rate of 6 percent per year for each month or fraction of a month of delinquency in payment. The chief engineer or director of community services shall furnish the director of budget and fiscal services details showing the cost and expense incurred for the work, the date of work completion, and such other information as may be deemed necessary to enable the director of budget and fiscal services to bill the property owner. The director of budget and fiscal services shall be responsible for the collection of the charges due the city.

(g) *Mechanic's and materialman's lien procedure.* Any work done by the city under this section is deemed to be done pursuant to quasi contract or constructive contract between the city and the owner. Based on the foregoing contractual relationship, if the owner fails to pay the amount duly noted on the statement filed by the director of budget and fiscal services, the corporation counsel may proceed to file a mechanic's and materialman's lien pursuant to HRS Chapter 507, Part II, or any other appropriate lien procedures.

(Sec. 20-6.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 22, § 14-22.2) (Am. Ord. 89-60)

§ 14-7.3 Violation—Penalty.

Any property owner or lessee who fails to provide lateral connection within the prescribed period shall, upon conviction thereof, be subject to a fine not exceeding $100 or imprisonment for a period not exceeding 90 days, or to both such fine and imprisonment.

(Sec. 20-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 22, § 14-22.3)

§ 14-7.4 Connection by city to underground public utility facilities.

(a) Whenever any public utility company has relocated its overhead utility lines and related facilities underground in compliance with § 14-7.1 or as part of any general improvement district project, the city may, in lieu of the procedures prescribed above, include the installation of the underground lateral connections within private properties, as part of a general improvement district project so as to assure the timely removal of utility poles as may remain as hazards to traffic movement and flow in the roadway constructed; provided that in the case of a general improvement district project, the city shall include the installation of the lateral connection within private property if so requested by the property owner.

(b) When the city undertakes the installation of the lateral connection as part of an improvement district project, the cost thereof may be added to the property owner's share of the cost of assessments and shall be payable in the same manner and at the same rate of interest, in the event where the owner elects to pay in installments, as prescribed for the payment of improvement district assessments; provided that in the case of connections to be made on properties owned by government, and eleemosynary institution or an entity exempted by law from the payment of assessments, the costs thereof shall be assumed and paid by the affected government agency, eleemosynary institution, or other entity, subject to the method and rate of payment to be established and determined by the director of budget and fiscal services and as may be modified by the council after the public hearing on the project.

(c) Whenever overhead public utilities are to be undergrounded as a part of a city or State street improvement project, the city shall notify each owner abutting the street to be improved that the city shall, upon the request of the owner, install the owner's lateral connection to the utilities to be undergrounded and charge the owner for its cost. The notice shall be by certified mail and shall inform each owner:

(1) That the owner has 30 days from the mailing of the notice to inform the city whether the owner wishes the city to install the lateral connection;

(2) That the owner may pay the city in a lump sum or in up to 10 annual installments plus interest; and

(3) That if the owner does not request the city to install the lateral connection, nothing shall prevent the owner from doing so at the owner's expense before the completion of the undergrounding by the public utilities.

(d) If the owner timely requests the city to install the lateral connection:

(1) The city shall make every effort to install the connections before the street improvements are completed, so as to avoid the cost of tearing up or removing those improvements when installing the lateral connections; and

(2) The city shall charge the owners for their respective share of the costs of the installation; provided that nothing herein shall prevent the city or the State from providing financial assistance to fund all or a portion of the cost of the lateral connections.

(e) If the owner has not requested the city to install the lateral connection, and the owner has not installed the connection as provided for in subsection (c)(3), the city shall install the lateral connection in accordance with § 14-7.2(e).

(f) The director of budget and fiscal services shall notify each owner of the respective amount that the owner shall pay the city for the cost of the lateral connection. The notice shall be sent by certified mail, with a request for a return receipt, addressed to each owner at the address of the owner's property that abuts the street improvement guide.

(g) The owner shall pay the amount charged against the owner within 30 days after the notice is sent; provided that at the election of the owner, the amount may be paid in up to 10 annual installments plus interest. Failure to pay the whole of any cost charged to the owner within the 30-day period above shall be conclusively considered and held an election on the part of the owner to pay in installments.

(h) If an owner has not paid for an installment or interest, or both, after due notice, the owner shall be penalized as provided in § 14-7.2(f). The chief engineer or the director of community services in the case of urban renewal and rehabilitation projects, shall provide the director of budget and fiscal services with the same information described in § 14-7.2(f), and the latter shall be responsible for collecting the charges due the city under this section.

(i) The installation of any lateral connection by the city on behalf of an owner shall be done pursuant to a quasi-contract or constructive contract between the city and the owner. Based on this contractual relationship, the city shall have all of the remedies set forth in § 14-7.2(g) if the owner fails to pay the amount duly noted on the statement filed by the director of budget and fiscal services.

(j) The chief engineer, or the director of community services, in the case of urban renewal or rehabilitation projects, may pay for the installation of the lateral connection out of city funds or may finance the work through the issuance of bonds.

(k) The chief engineer, or the director of community services, in the case of urban renewal or rehabilitation projects, shall keep a permanent record of that information listed in § 14-7.2(d).

(l) For the purpose of subsections (c) through (k), "owner" means any person who, as an owner or lessee, resides on property that abuts a street improvement or improvement district project; provided that the fee owner of the property shall approve the lessee's request to the city that it install the lateral connection over the fee owner's property.

(Sec. 20-6.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 22, § 14-22.4) (Am. Ord. 89-60)

§ 14-7.5 Allocation of costs for underground public utility facilities in special design districts.

(a) In areas where the utility companies elect to place their wires underground because of engineering and economic considerations and operating problems, the costs shall be allocated as follows:

(1) All costs of the underground utility facilities within the public right-of-way shall be borne by the respective utility company;

(2) No cost shall be borne by the city; and

(3) The cost of necessary changes on private property shall be borne by the respective property owners.

(b) In areas other than as provided in § 14-7.5(a) of this article, the costs shall be allocated as follows:

(1) The costs of construction of an overhead system in the removal, relocation, replacement, or reconstruction of the existing overhead utility facilities within the public right-of-way shall be borne entirely by the respective utility company.

(2) The difference of the costs of construction of an underground system and an overhead system in the removal, relocation, replacement, or reconstruction of the existing overhead utility facilities within the public right-of-way shall be borne equally by the city and the respective utility company.

(3) The cost of engineering shall be included in the above allocation. Such engineering shall be performed by, or under the direction of, the city.

(4) The cost of necessary changes on private property shall be borne by the respective property owners.

(c) This section relating to allocation of costs for underground public utility facilities in special design districts shall not apply to improvement district projects proceeding under Articles 8 through 15 of this chapter.

(Sec. 20-6.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 22, § 14-22.5)

ARTICLE 8: GENERAL PROVISIONS FOR ASSESSMENTS

Sections

§ 14-8.1 Methods.

(a) Whenever in the opinion of the council, it is desirable to:

(1) Establish, open, or construct any public highway, as defined by statute, including in connection therewith the construction of a sidewalk, sanitary sewer system, storm drainage system, water system, or street lighting system;

(2) Extend, widen, alter, grade, pave, curb, macadamize, or otherwise improve, to an extent exceeding maintenance or repair thereof, the whole or any part of any existing public highway, including in connection therewith the improvement of a sidewalk, sanitary sewer system, storm drainage system, water system, or street lighting system;

(3) Improve a sanitary sewer system, storm drainage system, street lighting system, or sidewalk independently of any other improvement; or

(4) Acquire property for or improve pedestrian malls, off-street parking facilities as provided in HRS Chapter 56, parks, playgrounds or public beaches as provided in § 14-8.3 hereof, or any other public facility or improvement, including but not limited to facilities or improvements relating to transportation, police, or fire related facilities, public restrooms, public benches, public information booths, public meeting rooms, or any other structure, facility or improvement determined by the council to be a valid public purpose;

such acquisitions or improvements, when financed by assessments to benefited properties or as otherwise provided, may be made under Articles 8 through 14 of this chapter. For such purposes, the council may create, define and establish improvement districts, all according to Articles 8 through 14 of this chapter.

The cost of any improvement includes the cost (if not assumed by the city under the discretionary power contained in § 14-9.1) of acquiring any land therefor, whether before or after the commencement of the proceedings for such improvements. Such cost shall be assessed against the land specially benefited on the frontage basis, or according to the area of the land, or according to the real property tax assessment on the value of the land and improvements thereon within an improvement district, or according to any other method or basis of assessment determined by the council that correlates the benefits to the land within an improvement district to the improvements to be undertaken therein, or any combination of the methods or basis of assessment.

Wherever the frontage or area basis of assessment is mentioned in Articles 8 through 14 of this chapter, such valuation method may be used either alone or in combination with one or more of the methods of assessment.

The city may issue and sell bonds to provide the funds for such improvements. Bonds for an improvement initiated pursuant to §§ 14-10.1, 14-10.2, or 14-10.3 may, in the sole discretion of the council, be either:

(1) General obligation bonds of the city (or the funds for such improvements may be provided from the capital projects fund or from both the capital projects fund and the issuance and sale of general obligation bonds); or

(2) Bonds secured only by such assessments as a lien upon the lands assessed.

(b) Nothing in Articles 8 through 14 of this chapter will prevent the city from compelling abutting property owners at their own expense to construct, maintain, and repair sidewalks and curbs in front of the abutting property under any other statute or ordinance.

(c) Nothing in Articles 8 through 14 of this chapter will prevent the city or the board of water supply from constructing, improving, maintaining, and repairing any sanitary sewer system, storm drainage system, street lighting system, or water system, as the case may be, as empowered by any other statute or ordinance.

(d) Nothing in Articles 8 through 14 of this chapter will prevent the city from making the improvements referred to in subsection (a), if property owners and the council mutually agree to share the cost of such improvements and the estimated amount of such cost to be borne by the property owners is deposited with the city before the award of the construction contract; provided that the proportionate share of the cost to be borne by the property owners and the city shall be subject to revision upon the determination of the actual cost of the improvement.

(e) Nothing in Articles 8 through 14 of this chapter will prevent the city from constructing, solely at city expense, roadway, sidewalk, sanitary sewer system, storm drainage system, water system, street lighting system, pedestrian mall, off-street parking facility, park, playground public beach, or any other public facility or improvement for which funds have been appropriated by the council for such purpose.

(Sec. 24-1.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 23, § 14-23.1) (Am. Ords. 89-2, 90-91, 16-33)

§ 14-8.2 Sanitary sewer system.

(a) For the construction of sanitary sewer systems, the specially benefitted area of the lands within an improvement district shall be assessed, except as hereinafter provided, at the following rates: 25 cents per square foot for residential, agricultural, parks and recreation, preservation, public and military development planned areas; 31 cents per square foot for commercial and industrial development planned areas; and 37 cents per square foot for apartment and resort development planned areas. The balance of the cost shall be borne by the city.

(b) Anything herein to the contrary notwithstanding, if the construction of any such sanitary sewer system is initiated pursuant to § 14-10.2 or 14-10.3, the total cost of such system shall be assessed against the lands specially benefited.

(c) In case of a sanitary sewer system proposed to be constructed or improved independently of other improvements, such improvement district may embrace two or more geographically separate or noncontiguous areas; provided that such separate or noncontiguous areas use one common trunk line or interceptor sewer in the disposal of sewage from such areas.

(Sec. 24-1.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 23, § 14-23.2) (Am. Ords. 90-91, 95-17)

§ 14-8.3 Parks, playgrounds, and beaches.

If deemed in the interests of the public, the council may establish an improvement district for the purpose of acquiring property for or constructing or improving a park, playground, or public beach in conformity with Articles 8 through 14 of this chapter. Nothing contained herein shall be construed to limit the power of the council to provide for the acquisition of property or the improvement for the same purposes without imposing assessments.

(Sec. 24-1.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 23, § 14-23.3) (Am. Ord. 90-91)

§ 14-8.4 Definitions.

For the purposes of Articles 8 through 14 of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

Highways. Includes streets.

Improvements. Includes land acquisition, betterments, and initial construction.

Lessee. A lessee of property to be assessed who, by the express terms of the lease, must pay the kind of assessment contemplated by Articles 8 through 14 of this chapter.

(1990 Code, Ch. 14, Art. 23, § 14-23.4) (Added by Ord. 90-91)

ARTICLE 9: COSTS FOR ASSESSMENTS

Sections

§ 14-9.1 Liability of city.

(a) Except where improvements are made pursuant to §§ 14-10.2 or 14-10.3, the city may pay, out of any funds available for such purposes, any one or more of the following: the cost of engineering, incidentals, inspections, surveys, maps, plans, specifications, other engineering data, land acquisition, publication of notices of hearing, mailing notices to owners and lessees, services of bond counsel, printing of bonds, preparation and printing of an official statement relating to the bonds, publication and distribution of the notice of sale of bonds, execution and delivery of bonds, registrars' and paying agents' fees and expenses, other reimbursements to registrars and paying agents and publication and mailing of notices of redemption, rating agency fees, the cost of funding a debt service reserve fund for the payment of the principal of and interest on bonds, premiums for municipal bond insurance to ensure the timely payment of the principal of and interest on bonds or to ensure in lieu of funding a debt service reserve fund for bonds and fees for letters of credit and other credit enhancements to secure the timely payment of the principal of and interest on bonds. The city may elect to pay all or any portion of such costs or any other such preliminary costs, or both, out of available funds, or may assess all or any portion of such costs according to the benefits arising therefrom and in the manner provided for apportioning assessments for general improvements. Such costs, if advanced by the city, may be reimbursed to the city from the proceeds of the sale of general obligation bonds or improvement district bonds.

The city may also assume the following costs:

(1) In the case of an improvement district that is assessed only on a frontage basis, the cost assessable against the frontage of an adjoining or cross street;

(2) In the case of an improvement district that is assessed on an area basis or an area and frontage basis, the cost of improving the surface area common to both streets at the intersection of any cross street or one-half of the surface area opposite the intersection of any adjoining street;

(3) In improvement districts generally, 50 percent of the total cost of general improvements (which is the cost of the entire improvement, excluding such cost heretofore mentioned in the first sentence of this section as may be paid by the city and the cost for the sanitary sewer system and driveway aprons) upon or along all main or general thoroughfares, as hereinafter defined, and upon or along all other highways;

(4) In the case of an improvement district that is assessed on any other basis permitted under this section, such common costs as the council shall determine; and

(5) In the case of a main or general thoroughfare, the city may pay out of available funds the cost of all or any part of that portion of pavement in excess of 28 feet in width. A main or general thoroughfare within the

meaning hereof is any highway as is subjected to more than ordinary traffic and travel by the general public, or which serves as a generally necessary connecting thoroughfare between substantially different or naturally separate localities or sections of the district of Honolulu, or which serves as a generally necessary connecting thoroughfare between districts of the city. Notwithstanding subdivision (3), in improvement districts in which more than 50 percent of the households are low-income households, the city may assume up to 75 percent of the low-income households' share of the total cost of general improvements described in that subdivision.

For the purposes of this subsection, "low-income household" means a household that owns and occupies a residence in an improvement district and whose income (by family size) does not exceed 80 percent of the median income for the city, as determined by the United States Department of Housing and Urban Development; provided that income for this purpose refers to total income as shown on the federal tax return and all nontaxable income, including but not limited to the amount of capital gains excluded from total income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, the gross amount of any pension or annuity benefits received (including Railroad Retirement Act benefits and veterans' disability pensions), all payments received under the federal Social Security and State unemployment insurance laws, nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, nontaxable contributions to public or private pension, annuity or deferred compensation plans, and federal cost of living allowances.

(b) If the council determines that the interests of the city will be best served by protecting the city from claims for damages from surface waters, the council may provide for the collection and disposition of stormwaters by proceeding independently of any other improvement. If the city does so, it may pay the whole or any part of the cost thereof out of available funds. In the event the city pays part of the cost of the storm drainage system, it shall assess the remaining cost according to the benefits arising therefrom and in the manner provided for apportioning assessments for general improvements. In the event the storm drainage system is included as part of general improvements, the cost thereof shall be allocated in accordance with subsection (a)(3). It shall be lawful for the city to assume and pay out of such available funds all or any part of the cost of acquiring any new land required for any improvement under Articles 8 through 14 of this chapter.

(c) Notwithstanding subsection (a):

(1) The city shall not bear the costs of inspections requested to be made during any hour after the normal working hours of the city in any workday, or on a Saturday, Sunday, or legal holiday; and

(2) The costs of installing the lateral connections to utilities shall be paid by the respective owners of the properties on which the lateral connections are installed.

(Sec. 24-2.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 24, § 14-24.1) (Am. Ords. 90-91, 91-23)

§ 14-9.2 Costs of water system.

If the improvement includes the improvement of a water system, the board of water supply may assume and pay out of its funds available for such purpose the cost of engineering, incidentals and inspection, and 50 percent of the total cost of the improvement of such water system.

(Sec. 24-2.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 24, § 14-24.2) (Am. Ord. 90-91)

ARTICLE 10: PROCEDURE FOR ASSESSMENTS

Sections

§ 14-10.1 Initial procedure.

(a) The council shall, by resolution, request the mayor to direct the director to investigate and prepare a preliminary report to the council that shall include:

(1) Preliminary data concerning the highways, sanitary sewer system, storm drainage system, water system, sidewalk, street lighting system, or other public facility or improvement proposed to be opened or improved;

(2) The general character and extent of improvements proposed to be opened or improved;

(3) Whether such improvements may be assessed on a frontage or area basis, or some other method or basis of assessment;

(4) Whether it will be necessary to acquire any new land, the estimated cost of acquiring any such land and the proportion of such cost that may be borne by the city;

(5) The materials recommended to meet the conditions of the improvements;

(6) The boundaries of the improvement district to be proposed and any subdistricts or zones therein as to which different portions of the cost may be charged;

(7) The estimated cost of the improvements;

(8) The portions of the cost to be borne by the city; and

(9) The portions of the cost to be specifically assessed against the land specially benefitted, with the estimated total amount of assessment to be made against each property according to the method of assessment proposed.

Further, such resolution shall request the mayor to direct the director to prepare and furnish all necessary preliminary surveys, maps, plans, drawings and other data, details and specifications for the improvements and any other matters intended to apply thereto.

(b) The preliminary report, when so furnished and filed with the council, shall also be provided to the neighborhood board or boards, if any, in the area included within the proposed improvement district, and the director, or the director's representative, shall make a presentation to the board, or boards, on the proposed improvement district.

(c) If the work proposed to be done includes the improvement of a water system or the laying or installation of conduits, pipes, hydrants, or any appliance for supplying or distributing a water supply, the director shall obtain from the board of water supply preliminary plans and estimates for such proposed water system. The director shall then furnish the board of water supply with preliminary plans of the proposed improvements that will enable the board of water supply to make its plans and estimates for the proposed water system. The director shall incorporate such preliminary plans and estimates of the board of water supply in the director's preliminary report to the council.

(Sec. 24-3.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.1) (Am. Ords. 90-91, 93-32, 00-06)

§ 14-10.2 Petition of owners.

(a) If the owners and lessees, as specified herein, of not less than 60 percent of the frontage of a public highway to be assessed, or of not less than 60 percent of the area of land to be assessed in a proposed improvement district designated by such persons, shall file with the council a petition, duly acknowledged by such owners and lessees, requesting the improvement, through an improvement district, of a public highway, a storm drainage system, sanitary sewer system, sidewalk, water system, street lighting system, or other public facility or improvement, together with the surveys, maps, plans, and other preliminary data and estimates mentioned in § 14-10.1, the council may reject or accept the petition.

If the council accepts the petition, it shall proceed thereon in the same manner as though the plan for such improvements had been initiated on its own motion. The council shall not make any change or modification of the plans, details, or specifications for the proposed improvements without the written and duly acknowledged consent of the owners and lessees of not less than 60 percent of the frontage or area of the land to be assessed, except that the council may delete or modify any part of the plans that contemplates payment by the city for such part of the proposed improvements.

The cost of any one or more of the following: engineering, incidentals, inspection, surveys, maps, plans, specifications, other engineering data, land acquisition, publication of notices of hearing, mailing notices to owners and lessees, services of bond counsel, printing of bonds, bond discounts, preparation and printing of an official statement relating to the bonds, publication and distribution of notice of sale of bonds, execution and delivery of bonds, registrars' and paying agents' fees and expenses, other reimbursements to registrars and paying agents and publication and mailing of notices of redemption rating agency fees, the cost of funding a debt service reserve fund for the payment of the principal of and interest on bonds, premiums for municipal bond insurance to insure the timely payment of the principal of and interest on bonds or to ensure in lieu of funding a debt service reserve for bonds and fees for letters of credit and other credit enhancements to secure the timely payment of the principal of and interest on bonds, shall be included in the cost of the improvements.

A lessee must join in the petition with the lessor unless the lessor files with the petition a duly acknowledged assumption of responsibility to pay the proposed assessments and release the lessee from payment or reimbursement to the lessor of such assessment.

No sidewalks shall be constructed independently of any other improvements under any provision of Articles 8 through 14 of this chapter, unless the highway along which the construction of such sidewalk is proposed shall have existing curbing, and the right-of-way width of such highway shall be at least equal to the width, if indicated, in the general plan or development plans of the city.

(b) An improvement district under this section may be initiated by the council on its own motion as an alternative to initiation by petition of the owners and lessees as hereinabove provided. Under this alternative method the duly acknowledged written consent of such owners and lessees of not less than 60 percent of the frontage or area of land to be assessed shall be obtained before proceeding with the improvements.

(c) No such improvements shall be approved by the council if the cost of the proposed improvements exceeds the market value of the land; provided that the improvements may be approved by the council upon the petitioners paying in cash or by certified check the amount by which the cost of the proposed improvements exceeds the market value of the land. The payment shall be applied against the total cost of improvements.

(Sec. 24-3.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.2) (Am. Ord. 90-91)

§ 14-10.3 Petition by all owners.

If all the owners and lessees of 100 percent of the frontage to be assessed upon any public highway, or of 100 percent of the area of land to be assessed, such frontage or area being designated by such persons as a proposed improvement district, file a duly acknowledged petition requesting the type of improvements mentioned in § 14-10.2, the council shall proceed in the manner specified in § 14-10.2 and all the provisions therein shall be applicable. In interpreting such section, "100 percent" shall be substituted wherever "60 percent" appears. If such a petition is filed, it shall be unnecessary to give notice of the proposed improvements, provide the preliminary report and make a presentation to the neighborhood board or boards, as provided in § 14-10.1(b), or call for a public hearing as provided in § 14-10.4. If all of such owners and lessees shall file a duly acknowledged written consent to the amount and apportionment of the proposed assessments, it shall be unnecessary to give the notice or to hold the hearing specified by § 14-11.1 and the council may immediately proceed to fix the assessments in the manner provided by § 14-11.1.

(Sec. 24-3.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.3) (Am. Ords. 90-91, 00-06)

§ 14-10.4 Determination by council to create, define and establish improvement district.

(a) If the council determines to proceed with the improvement district, after receipt of the preliminary report, it shall by resolution:

(1) Create, define, and establish the improvement district;

(2) Define the extent and describe the general details of the proposed improvements, including the highways, sanitary sewer system, storm drainage system, water system, sidewalk, street lighting system, or other public facility or improvement to be opened or improved;

(3) Describe each parcel of land to be acquired, including the approximate size of the parcel, the landowners, if known, and the location of the parcel;

(4) Declare the estimated total cost of the improvements and the part or portion of the cost of improvements to be borne by the city;

(5) Declare the method or basis of assessment, and the number of installment payments;

(6) Describe the general boundaries of the district, subdistricts, and zones to be assessed, determine the land to be assessed and that such property to be assessed is specially benefited, and declare the estimated total amount of assessment and the amount of assessment against each property;

(7) Describe the materials to be used;

(8) Request the mayor to direct the director to prepare a map of the improvement district showing the exact location of the proposed improvements together with final details, plans and specifications for the work in a form to call for and encourage competitive bidding, wherever feasible; and

(9) Request that the director submit to the council the final report on the proposed improvement district upon its completion.

The description and definition herein required may be set forth expressly in such resolution or be incorporated therein by referring to the data of the director theretofore filed with the council, including any plans and estimates of the board of water supply.

If the proposed improvements include the construction or improvement of a water system, the resolution shall request the board of water supply to furnish final details, plans, and specifications for adequate and appropriate conduits, pipes, hydrants, and other appurtenances, including reservoir and booster pumps for such water system and shall also request the mayor to direct the director to furnish the board of water supply with such copies of final surveys, maps, and plans of the proposed improvements necessary for the preparation of the final plans and specifications for such water system. The board of water supply need not furnish such plans and specifications where the city has not appropriated its share of the cost. No modification in the plans and estimates furnished by the board of water supply shall be made without the board's consent. However, if the city and the board cannot agree on the board's plans and estimates, the water system, conduits, pipes, hydrants, and other appurtenances for supplying and distributing water shall be omitted from the proposed improvements.

In the final report to the council as required by the resolution, the data may expressly be set forth in the report or may be incorporated therein by referring to the data theretofore filed with the council by the director and the board of water supply. The map of the improvement district showing the exact location of the proposed improvements, and the final details, plans, and specifications of the director and the board of water supply shall be used as the basis for the calling for bids and awarding of contract.

(b) Before the council meeting at which the resolution to create, define, and establish the improvement district is to be heard, the city clerk shall cause a notice of a public hearing to be published in the manner provided by applicable State law or, if no State law applies, in a newspaper of general circulation in the city. The published notice shall provide all owners and lessees of the land proposed to be assessed or acquired, and all others interested, with the general details of the proposed improvements, either by express description or by reference to the data supplied by the director and theretofore filed with the council. The notice shall also state the time

and place of the public hearing, which shall be at the same council meeting at which the resolution herein described is first placed on the council's agenda for adoption; provided that the hearing shall occur before the adoption of the resolution. The notice shall also state that the persons so notified may object to and suggest modifications to the proposed improvements and may question the benefits of the proposed improvements to their property and the amount of any assessment thereon, and where the resolutions and any related reports and other data may be seen and examined before the hearing. Not less than 10 days before the public hearing, a notice thereof, stating the time and place of the hearing where persons may object to and suggest modifications to the proposed improvements and, where pertinent, reports and other data relating to the proposed improvement district may be obtained, shall be mailed by the city clerk to the several owners and lessees on record in the books and records of the real property tax assessment division of the department of budget and fiscal services by certified or registered mail with a request for a return receipt. Affidavits of publication and mailing shall be filed with the council at or before the hearing.

If, in a city-initiated improvement district, 100 percent of the owners and lessees of the frontage to be assessed upon any public highway, or 100 percent of the area of land to be assessed, file a duly acknowledged consent to the creating, defining, and establishing of the improvement district, the public hearing and mailed notice provided for in this subsection, shall not be required.

(c) If the improvements in the proposed improvement district require the acquisition of any new land therefor, the city shall acquire the same before final award of the contract. The acquisition shall be either by deed or other voluntary conveyance from the owners thereof, or the council may, in the name of the city, cause condemnation proceedings to be brought to acquire the same as provided by law or in like proceedings when brought by the State. 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.

(d) If:

(1) Land for improvement has been acquired by condemnation under HRS Chapter 101; and

(2) In the award made on the condemnation there has been deducted, from the compensation or damages otherwise payable to the landowners, any amount because the land of such landowner not sought to be condemned would be benefited by the improvements;

then the deducted amount shall first be credited against such land's assessment.

(Sec. 24-3.4, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 14, Art. 25, § 14-25.4) (Am. Ords. 90-91, 93-32, 00-06)

§ 14-10.5 Compliance with general plan and development plans.

(a) Notwithstanding any provisions of Articles 8 through 14 of this chapter to the contrary, the actual construction of any improvement shall not be commenced, unless the improvement shall conform to, or shall not be inconsistent with, the general plan and development plans of the city, the Standard Details, department of public works, dated September 1984, and the Standard Specifications for Public Works Construction, department of public works, dated September 1986; provided that the council may, by resolution, waive or

modify any of the standards and specifications specified in the standard details and standard specifications in cases where compliance with them would cause an undue hardship to property owners in an improvement district. The council may waive such standards and specifications only if:

(1) The waiver of or modifications from the standards and specifications are listed in the resolution waiving or modifying them;

(2) The property owners agree in writing to indemnify and hold harmless the city from any injuries or damages arising directly or indirectly from the waiver or modifications; and

(3) The property owners agree in writing to pay all remedial costs if the waiver or modifications must be remedied in the future. The foregoing executed agreement shall be duly recorded at the bureau of conveyances and shall be binding on all owners and their transferees and assignees.

For the purposes of this section, "undue hardship" shall include but not be limited to the situation where the construction of improvements in accordance with their applicable standards and specifications would necessitate the demolition of homes.

(b) Any improvement district project involving the improvement of any highway shall include the improvement:

(1) Of any portion of a highway shown on the development plans, which is situated within the proposed improvement district and which will connect two or more highways, existing or to be constructed under the proposed improvement district, situated within such improvement district; and

(2) Of any dead end street shown on the development plans that is situated wholly within the proposed improvement district.

(Sec. 24-3.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.5) (Am. Ords. 90-91, 91-23)

§ 14-10.6 Contract—Bids—Contractor's Bonds.

(a) All improvements made under Articles 8 through 14 of this chapter shall be constructed under contract let in accordance with the Hawaii Procurement Code, HRS Chapter 103D, and related provisions of the Hawaii Administrative Rules.

(b) Notwithstanding any other law to the contrary, if the completion of the contract will extend beyond the fiscal year in which the same is executed, the contract may be let without the council appropriating the total amount the city is obliged to pay towards the contract price under the following conditions.

If the contract will be completed during the next succeeding fiscal year, the city shall have available and appropriated at the time of letting the contract at least 50 percent of the amount the city is obliged to pay toward the contract price. The balance shall be a first charge on the revenues of the city for the next succeeding fiscal year.

If the contract will be completed beyond the next succeeding fiscal year, the city must have available and appropriated at the time of letting the contract at least 33-1/3 percent of the amount the city is obliged to pay toward the contract price. The balance shall be a first charge on the revenues of each of the next two

succeeding fiscal years; provided that not less than 50 percent of the balance shall be provided at the beginning of the first succeeding fiscal year and the remainder at the beginning of the second succeeding fiscal year.

The contract shall not be legal unless:

(1) Before the contract is let, the council, by resolution, provides, to the extent permitted by law, for the automatic appropriation, at the beginning of the next succeeding fiscal years, of the amounts herein made a first charge on the revenues of the city for such fiscal year; and

(2) The director of budget and fiscal services certifies the availability of the appropriations required by the resolution.

(Sec. 24-3.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.6) (Am. Ords. 90-91, 96-58, 98-64)

§ 14-10.7 Water system—Inspection and use by board of water supply.

If an improvement or work includes the construction or improvement of a water system, the board of water supply shall maintain an inspector over the work to see that the plans and specifications that 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 water system of the board of water supply and shall at all times thereafter be used, operated, and maintained by it as a part of its water system.

(Sec. 24-3.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.7) (Am. Ord. 90-91)

§ 14-10.8 Assessment map and roll.

(a) After the bid of the lowest responsive, responsible, and reliable bidder has been received for the construction of the improvements, no additional public hearing, except for the hearing provided for in § 14-11.1, shall be required if the director finds:

(1) That the frontage or area to be assessed would not be substantially changed;

(2) That the total amount of assessments against all properties within the improvement district, based on the bid, will not exceed by more than 10 percent the initial total assessment against all properties specified in the resolution creating, defining and establishing the improvement district; or

(3) That the general character or plan of improvements, as provided in such resolution, has not been materially altered.

If any one of the three conditions set forth in this subsection occurs, the council shall hold an additional public hearing and mail a notice to the owners and lessees in the manner provided in § 14-10.4(b). The public hearing notice and notice to the owners and lessees that is mailed shall inform the owners and lessees of the change in any of the conditions listed in this subsection. However, one or more areas of an independent sanitary sewer improvement district embracing two or more separate areas may be deleted without an additional public hearing.

(b) The director shall thereupon proceed to prepare:

(1) An assessment map similar to that required under § 14-10.4;

(2) An assessment roll and description of properties to be assessed, showing in detail the proportionate amount proposed to be assessed against the property in the benefitted district or in the several subdistricts or zones thereof, if any. If the assessment is to be made on a frontage basis, the roll shall show the amount per front foot and the exterior boundaries of the lands subject to the assessment. If the assessment is to be made on an area basis, the roll shall show the rate per square foot and the area of the lands subject to the assessment. If the assessment is to be made on any other basis, the roll shall contain sufficient detail such that the owners or lessees of the lands subject to the assessment may determine the proposed assessment on their respective lands; and

(3) A list of all owners and lessees on record in the books and records of the real property tax assessment division of the department of budget and fiscal services of the city of the land fronting upon such improved highways or situated within the improvement district.

(Sec. 24-3.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 25, § 14-25.8) (Am. Ords. 90-91, 93-32, 00-06)

§ 14-10.9 Informalities or mistakes in names or notices not to invalidate assessment or improvement district.

No assessment against properties in an improvement district, as fixed by ordinance in accordance with Article 11, nor the validity of any improvement district shall be invalidated:

(1) On account of a mere informality;

(2) If the notice of publication or notice that is mailed, pursuant to §§ 14-10.4 and 14-11.1, is in error because of a mistake in the name of an owner or lessee, or supposed owner or lessee, of the property assessed; or

(3) If the public hearing required by §§ 14-10.4 and 14-11.1 is not scheduled at the same council meeting that the resolution to create, define and establish the improvement district is first scheduled for adoption, or is not scheduled at the same council meeting that the bill to impose the assessment is first scheduled for second reading.

(1990 Code, Ch. 14, Art. 25, § 14-25.9) (Added by Ord. 00-06)

ARTICLE 11: ASSESSMENTS

Sections

§ 14-11.1 Hearing on assessments—Assessments fixed by ordinance.

(a) The council shall by advertisement and mailing in the same manner as that provided in § 14-10.4, give notice of the total amount of the cost of the improvements based upon the bid of the lowest responsive, responsible, and reliable bidder, the method or basis and the rate of assessment proposed to be charged to the benefitted district or subdistricts or zones, if any, and a statement that the assessment map, assessment roll and description of properties are available for examination at the office of the director during business hours at any time before and including the date fixed for hearing. The notice shall also fix a date and place for a public hearing at which the council will sit as a board of equalization to receive complaints or objections respecting the total amounts of the proposed several assessments. Except as provided herein, the hearing shall be held at the same council meeting at which the assessment bill is first placed on the council agenda for passage on second reading, and shall be held before passage of the bill on second reading.

Notwithstanding any other law to the contrary, the council may give notice and hold the assessment hearing before advertising for bids on any sanitary sewer system improvements in which the total assessment is based on a rate fixed by § 14-8.2.

If, in a city-initiated improvement district, 100 percent of the owners and lessees of the frontage to be assessed upon any public highway, or 100 percent of the area of land to be assessed, file a duly acknowledged consent to the amount and apportionment of the proposed assessments, it shall be unnecessary to give the notice or hold the public hearing required by this subsection.

(b) After the hearing required by subsection (a), the council may amend the assessments as may seem equitable or just, or shall confirm the first proposed assessments. Upon reaching a final decision, the council shall, by ordinance, fix the portions of the cost to be assessed against the benefited properties and against the owners thereof respectively, which ordinance shall incorporate by reference the assessment roll as approved by the council. After the effective date 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 property assessed.

(Sec. 24-4.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.1) (Am. Ords. 90-91, 00-06)

§ 14-11.2 Notice and collection of assessments.

The director of budget and fiscal services shall notify the several owners and lessees, on record in the books and records of the real property tax assessment division of the department of budget and fiscal services of the city, by either certified or registered mail with a request for a return receipt, of the several amounts assessed on the respective properties and of the date when such assessments are payable. Failure of any owner or lessee to receive any such notice shall not invalidate the assessment or the proceedings relating thereto, nor entitle the owner or lessee to an extension of time within which to pay the assessment. The director of budget and fiscal services shall also collect such assessment and set aside all moneys so collected in an appropriate fund or funds.

(Sec. 24-4.2, R.O. 1978 (1987 Supp. to 1983 Ed)) (1990 Code, Ch. 14, Art. 26, § 14-26.2) (Am. Ords. 90-91, 00-06)

§ 14-11.3 Assessments—Payable when.

(a) All assessments made pursuant to Articles 8 through 14 of this chapter shall be due and payable within 30 days after the date of the effective date of the ordinance fixing such assessments. Any assessment may, at the election of the owner of the land assessed, be paid in installments with interest, at such rate or rates, or in accordance with such method of determining the rate or rates, as may be established by the council. Failure to pay the whole of any assessment within the period of 30 days shall be conclusively considered an election on the part of all persons interested in such assessment, whether under disability or otherwise, to pay in installments.

(b) All persons so electing to pay in installments shall be conclusively considered to have consented to the improvement and the assessment therefor. Such election shall be conclusively considered as a waiver of any and all right to question all power or jurisdiction of the city to make the improvement, the regularity or the sufficiency of the proceedings or the validity or correctness of the assessment. However, such waiver shall not apply to any person who has properly filed an action in court, challenging the power or jurisdiction of the city to make the improvement within 30 days after the effective date of the ordinance fixing the assessments.

(Sec. 24-4.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.3) (Am. Ord. 90-91)

§ 14-11.4 Lien—New assessment.

(a) All assessments made pursuant to Articles 8 through 14 of this chapter shall be a lien until paid against each lot or parcel of land assessed from the effective date of the ordinance fixing the assessments and shall have priority over all other liens except the lien of real property taxes.

(b) If a previously assessed lot or parcel of land is subsequently subdivided or consolidated with any other lot or parcel (which need not be in the improvement district), the owners or lessees of such lots or parcels may petition the council to prorate or consolidate, as the case may be, the original assessment. Upon receiving such petition, the council may so amend the ordinance fixing the assessments. Before the introduction of the amendment to the ordinance fixing the assessments, the subdivider or consolidators shall deposit with the city legal tender or a certified check in a sufficient amount to be used to cover the cost of making such reallocation of assessments and to cover the assessment allocable to areas used or to be used for purposes that are public in nature, such as but not limited to roadways, parks, school sites, sewage treatment plant sites and reservoir sites, developed in connection with the subdivision or consolidation.

(c) The cost of making the reallocation of assessments, when determined by the director and approved by the council, shall be paid into the general fund of the city. The amount of assessment allocable to areas used or to be used for purposes that are public in nature and developed in connection with the subdivision or consolidation, as recommended by the director and approved by the council, shall be credited to the appropriate fund.

(d) The amended assessments shall be a lien upon the subdivided or consolidated lot or parcel as of the effective date of the amended ordinance. Such assessment shall be paid in installments equal in number to that remaining under the original assessment and at the same rates of assessments and interest. The subdivider shall be responsible for notifying the city of any division of the assessed property into condominium interests.

(e) No delay, mistake, error, defect, or irregularity in any act or proceeding authorized by Articles 8 through 14 of this chapter shall prejudice or invalidate any assessment; 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 date of the original act or proceeding. If in any court of competent jurisdiction any assessment made under Articles 8 through 14 of 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 Articles 8 through 14 of this chapter.

(f) Upon completion of the improvements and the payment of the cost thereof, the director shall certify to the council the actual cost of such improvements, together with the amount of the assessments therefor. If the aggregate of the assessments for improvements made pursuant to either § 14-10.2 or 14-10.3 exceeds the actual cost of the improvements by more than $5,000, the council, by amendment of the ordinance fixing the assessments, may direct the director of budget and fiscal services to proportionately refund or credit the amount in excess of $5,000. However, no refund or credit shall be made if the cost of effecting such refund or credit exceeds the amount of refund or credit available.

(g) If the assessment has been paid in full, then the refund of such excess shall be made to the owners or lessees of the property, as appropriate, at the time of the refund. If the assessment is still outstanding, then the refund shall be applied to reduce the unpaid principal of the assessment outstanding. If any amount of such excess, in the opinion of the director of budget and fiscal services, cannot be applied as a refund, then such excess shall be credited to the improvement district revolving fund of the city. In any case, any amount of excess up to

$5,000 or less shall be retained by the director of budget and fiscal services to defray the cost of effecting any refund or credit and all other costs of administering the improvement district from which such amount is generated. Any amount in excess of $5,000 shall be proportionately distributed subject, however, to the limitation relative to the cost of distribution as stated hereinbefore. Any of the excess retained to cover administrative costs shall be deposited in the general fund.

(Sec. 24-4.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.4) (Am. Ords. 90-91, 93-32, 00-06)

§ 14-11.5 Payment of installments.

(a) In case of an election to pay any assessment in installments, subject only to the limitation, if any, of the State constitution, the assessment shall be payable in substantially equal annual or semiannual installments of principal only, or of both principal or interest, as the council shall determine. The number of such installments and period of payment and the rate of interest on unpaid installments shall be as determined by the council.

(b) The owner of any land assessed may, at any time after the expiration of the first 30-day period, pay the entire unpaid principal of assessment, or any portion of the unpaid principal, together with interest on the amount so paid to the date for the payment of the next subsequent installment, plus a prepayment premium, as established by the council, which shall not be less than the premium payable on redemption of any bonds payable or reimbursable from such assessment. Such owner shall no longer be liable for the interest that would otherwise have accrued after such date on the amount of principal so prepaid. Any prepayment of the unpaid principal of an assessment shall be applied to reduce the unpaid principal of the assessment outstanding; shall be credited against the outstanding principal installments in inverse chronological order; and shall not relieve the owner of the land assessed from the payment of the amount of the installment of principal and interest next due.

(Sec. 24-4.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.5) (Am. Ords. 89-2, 90-91)

§ 14-11.6 Payment in bonds.

In payment of any assessment, installment thereof, interest, penalty, cost, expense, or any portion thereof, the director of budget and fiscal services may accept, in lieu of cash, bonds of the subject improvement district issued pursuant to § 14-12.1(a). Such bonds shall be valued in an amount equal to 100 percent of the principal amount of such bonds, plus accrued interest on such bonds to the date of acceptance of such bonds by the director of budget and fiscal services. Upon the receipt of such bonds, the director of budget and fiscal services shall forward the same to the registrar for such bonds for cancellation and credit the improvement district with the amount allowed on such bonds.

(Sec. 24-4.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.6) (Am. Ord. 90-91)

§ 14-11.7 Effect of failure to pay installment.

Failure to pay any installment or any part of an installment, whether of principal or interest or both, when due, shall cause the whole of the unpaid principal to become due and payable immediately. The delinquent installment or installments or any delinquent part or parts thereof, whether of principal or interest or both, shall thereafter bear penalty at the rate of 2 percent per month or fraction of a month from the date of delinquency until the date of sale as hereinafter provided. However, at any time before the day of sale, the owner may pay the entire amount of the delinquent installment or installments or delinquent part or parts, whether of principal or interest or both, with

penalty, and all costs and expenses accrued. Thereupon, such owner shall be restored to the right thereafter to pay in installments in the same manner as if default had not been made.
(Sec. 24-4.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.7) (Am. Ord. 90-91)

§ 14-11.8 Owner of undivided interest.

The owner of any undivided interest in any land may pay the whole assessment and may have a joint or several right of action against the other owners of any interest in such land for their proportionate share of the assessment.
(Sec. 24-4.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.8) (Am. Ord. 90-91)

§ 14-11.9 Sale in case of default.

In case of default in the payment when due of the principal of and interest on any installment of any assessment, the director of budget and fiscal services shall advertise and sell the property concerning which default is made. The sale shall be for the whole of the unpaid principal amount of the assessment thereon, interest and costs. Such sale and advertisement shall be made by the director of budget and fiscal services 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.
(Sec. 24-4.9, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.9) (Am. Ord. 90-91)

§ 14-11.10 Purchase at sale.

At any sale for default in payment of any assessment, in payment for the land so sold, the director of budget and fiscal services may accept, in lieu of cash, bonds of the subject improvement district issued pursuant to § 14-12.1(a). Such bonds shall be valued at an amount equal to 100 percent of the principal amount of such bonds, plus accrued interest on such bonds to date of sale. Upon the receipt of such bonds, the director of budget and fiscal services shall forward the same to the registrar for such bonds for cancellation and credit the improvement district with the amount allowed on such bonds.
(Sec. 24-4.10, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.10) (Am. Ord. 90-91)

§ 14-11.11 Certificate by director of budget and fiscal services.

The director of budget and fiscal services shall, on request, give a written certificate showing the balance due on any individual assessment for improvements for principal, with the date of the next installment payment, the number of the installment payments 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.
(Sec. 24-4.11, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.11) (Am. Ord. 90-91)

§ 14-11.12 Sale of land bid in by director of budget and fiscal services.

Whenever any land has been bid in by the director of budget and fiscal services at any sale for default of the owner thereof, the director of budget and fiscal services, in making such sale thereof as may by law be authorized, may sell the same upon the following terms and conditions:

(1) At the time of sale, a down payment of 20 percent of the sale price shall be provided;

(2) The balance shall be payable in monthly installments of not less than 1-1/3 percent of the total sale price, plus interest at the prevailing rate established by the council for payment of the unpaid balance of the property owner's share of the cost of assessments within an improvement created and established under § 14-10.1;

(3) Failure for 30 days to pay any installment due shall effect an entire forfeiture of the purchaser's right, title and interest in such land and in any payments previously made by the purchaser on account thereof;

(4) Such building restrictions as the director of budget and fiscal services may prescribe and shall be complied with; and

(5) Such land when sold shall be subject to real property taxes.

(Sec. 24-4.12, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.12) (Am. Ord. 90-91)

§ 14-11.13 Eligibility of property owners of record, procedure for, and termination of, deferred payment of assessments.

(a) Property owners of record shall be eligible to defer the payment of assessments if the following conditions are met:

(1) The property shall be owned jointly or severally, either in fee simple or leasehold;

(2) The owners shall be required to pay improvement district assessments on property situated within an improvement district;

(3) The property shall serve as the only residence of one of the property owners of record who has either:

(A) Attained the age of 65 years; or

(B) Is permanently and totally disabled as defined in HRS § 235-1, income tax law; and

(4) The owners' family residing on the property is subject to financial hardship by the assessments imposed as a result of the creation of the improvement district. Prima facie evidence of hardship shall be a showing that the average annual payment for all assessments levied against the subject property exceeds 1 percent of the adjusted gross income of the property owner of record residing upon the property, or that the income of the property owner of record does not exceed $20,000 per year.

(b) Any property owner of record who resides upon the property may apply for deferral of assessment payments by filing a statement with the director of budget and fiscal services on a form to be provided by the director of budget and fiscal services accompanied by sufficient documentation to establish eligibility. If an application is based upon permanent and total disability, the application shall include a certification of the permanent and total disability by the applicant's physician.

The application shall be filed within 20 days after the applicant has received a notice of assessment.

The director of budget and fiscal services shall act upon an application within 30 days of filing by notifying the applicant of either the acceptance or rejection of the application. All notifications of rejection shall state the reasons therefor.

Upon acceptance of an application, the director of budget and fiscal services shall offer to enter into a contract with the applicant. This contract shall be on a form provided by the director of budget and fiscal services and shall obligate the city to transfer from the capital projects fund to the improvement district bond and interest redemption fund the principal and any interest due on the assessment to the applicant's property. In return, the applicant will agree to pay to the city the amount of the deferred assessment, including interest chargeable at the same rate as originally established by the council, upon the termination of the deferral.

(c) A deferral shall terminate when any of the following events occur:

(1) A participant residing upon the property terminates the deferral by giving written notice to the director of budget and fiscal services;

(2) A participant residing upon the property dies and there are no other participants residing upon the property at that time, in which case the amount of deferral and interest shall be a claim against the property that is the subject of the deferral;

(3) The land that is the subject of the deferral is sold, or an agreement of sale is executed, or some person other than the participant residing upon the property becomes the owner;

(4) The land that is the subject of the deferral is no longer the only dwelling of the participant residing upon the property; or

(5) The occupation of the structure on the property in the deferred assessment program is terminated for any other reason.

(Sec. 24-4.13, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.13) (Am. Ords. 89-2, 90-91)

§ 14-11.14 Deferred assessments—Lien.

Any deferral in the payment of assessments granted under § 14-11.13 shall be a lien as provided under § 14-11.4, and shall be recorded with the bureau of conveyances, State department of land and natural resources. (Sec. 24-4.14, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 26, § 14-26.14) (Am. Ord. 90-91)

§ 14-11.15 Payment of assessments upon sale.

Any assessments made for low-income households pursuant to § 14-9.1(a)(5) that remain unpaid at the time of the sale of property owned by low-income households shall become immediately due and payable in full with any interest due upon the sale of the property. The original assessee shall agree in writing when the assessment is made to pay the outstanding assessment, plus interest due, upon the sale of the assessee's property.
(1990 Code, Ch. 14, Art. 26, § 14-26.15) (Added by Ord. 91-23)

ARTICLE 12: FINANCING FOR ASSESSMENTS

Sections

§ 14-12.1 Improvement district bonds—General obligation bonds—Capital projects funds—Advances from available funds.

(a) *Improvement district bonds.*

(1) In the event of an election to pay all or any part of any assessment imposed pursuant to Articles 8 through 14 of this chapter in installments, subject to subsection (b), the unpaid amount of such assessment, including without limitation the cost of land acquisition and the costs specified in §§ 14-9.1(a) and 14-10.2(a) and the cost of funding a debt service reserve fund for the payment of the principal of and interest on improvement district bonds, shall be obtained by the issuance of sufficient improvement district bonds of the city. However, if the aggregate of the assessment installments for all property owners in the improvement district is less than $1,000 in each year, then improvement district bonds need not be issued.

(2) The improvement district bonds shall be authorized by resolution of the council. The improvement district bonds shall:

(A) Either be in coupon or registered form;

(B) Bear the name of the benefited improvement district;

(C) Be dated;

(D) Be numbered;

(E) Be in the appropriate denomination;

(F) Bear interest at such rate or rates per year, but not more than 15 percent per year, payable at such time or times and at such place or places;

(G) Mature at such time or times so as to cover the outstanding installment payments determined upon, pursuant to Articles 8 through 14 of this chapter; and

(H) Be subject to call at such price or prices and upon such terms and conditions, and may be subject to tender by the holders thereof upon such terms and conditions;

all as determined by resolution by the council.

The improvement district bonds shall bear the facsimile signature of the director of budget and fiscal services of the city and the seal of the city or a facsimile thereof, shall be attested by the facsimile signature of the mayor of the city, and shall bear a certificate of the authentication manually executed by the registrar for the improvement district bonds. No improvement district bond shall be valid or obligatory unless authenticated by the registrar. Interest coupons, if any, shall bear a facsimile signature of the director of budget and fiscal services of the city.

The director of budget and fiscal services of the city shall designate the registrar, if any, for the improvement district bonds and the place of registration and transfer of such improvement district bonds. The registrar shall maintain such books of registry as shall be required by the resolution of the council. The director of budget and fiscal services may serve as registrar.

(3) The improvement district bonds shall be payable only out of the moneys collected on account of assessments made for the improvements for which they are issued and the city shall not otherwise guarantee payment of such bonds. Interest payments may be advanced by the director of budget and fiscal services out of moneys available in the improvement district revolving fund.

(b) *General obligation bonds—capital projects fund.*

(1) The council, in lieu of the issuance of improvement district bonds as permitted by subsection (a), may in its sole discretion, issue general obligation bonds of the city, or authorize payment of the required amount from the capital projects fund of the city, or both, to pay the unpaid amount of any assessment required to pay the contract price of the related improvement and any other cost involved in the improvement, including without limitation the cost of land acquisition and the costs specified in §§ 14-9.1(a) and 14-10.2(a) and the cost of funding a debt service reserve fund for the payment of the principal of and interest on general obligation bonds. The council shall have power to issue general obligation bonds of the city for the purpose of establishing, maintaining or replenishing the capital projects fund. All such general obligation bonds shall be authorized, issued, and sold in accordance with HRS Chapter 47, as amended.

(2) Without limiting the generality 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 such chapter. 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. 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 improvement or any assessments for such improvements.

(3) If general obligation bonds are issued as provided in this subsection, except as otherwise provided herein, the council may subsequently direct all moneys collected on account of assessments and interest to be applied to the reimbursement of the general fund of the city for interest on and principal of such general obligation bonds. Any amounts collected that are not so directed by the council to be applied to such

reimbursement, are in excess of the amounts required for such reimbursement, or are collected on account of assessments and interest for any improvement financed from the capital projects fund, shall be appropriated to and become a part of the capital projects fund.

Sections 14-12.2(a) and §§ 14-12.3, 14-12.4, and 14-12.5 shall not apply to such general obligation bonds and shall be restricted in their application to improvement district bonds. Article 13 shall not apply to such general obligation bonds, unless the council, in its sole discretion, shall consent to the application of Article 13 to such bonds. The refunding of any such general obligation bonds shall not in any way affect the payment of assessment installments 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 17 of this chapter.

(c) *Advances from available funds.* In the event of an election to pay all or any part of any such assessment in installments, the amount required for immediate use during the period before the issuance of improvement district or general obligation bonds or the provision of funds from the capital projects fund, to pay the contract price of the improvements or the installments of the assessment therefor, from time to time as they fall due, may be advanced out of any available funds. In connection with any improvements financed with the proceeds of general obligation bonds of the city, proceedings for establishment of an improvement district or districts or zones therein and imposition of assessments may be undertaken at any time before or while such general obligation bonds are outstanding to reimburse the city for the cost of such improvements (and such related financing and administrative costs as the council shall determine).

In the event of an election to pay all or any part of such assessments in installments, improvement district bonds or general obligation bonds may be issued in accordance with Articles 8 through 14 of this chapter for the purpose of making such reimbursement, including the payment of any reasonable administrative fee or expense of the city associated with the improvements, proceedings taken under Articles 8 through 14 of this chapter or the issuance or carrying of bonds, and any reasonable fee that the city may impose for financing or refinancing the improvements from the proceeds of general obligation bonds.

(d) *Term of bonds.* Except as shall be limited by the State constitution, the council may fix, or authorize the director of budget and fiscal services to fix, the maturity or maturities of improvement district bonds and general obligation bonds issued to budget and fiscal services improvements under Articles 8 through 14 of this chapter.

(Sec. 24-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 27, § 14-27.1) (Am. Ords. 89-2, 90-91)

§ 14-12.2 Special funds—Payment of improvement district and certain general obligation bonds.

(a) All moneys collected on account of assessments and interest for any improvements after the issuance of any improvement district bonds shall be kept by the director of budget and fiscal services in the improvement district bond and interest redemption fund and applied solely to the payment of interest and principal of such improvement district bonds until such bonds have been paid.

If general obligation bonds are issued pursuant to § 14-12.1(b) to pay the cost of any improvements, or any surplus remains in the improvement district bond and interest redemption fund after the payment of improvement district bonds chargeable against such fund, or any premium is received on the sale of such improvement district bonds, all such moneys collected on account of assessments and interest for any improvements or any such surplus or premium shall be credited to and become a part of a fund to be known

as the "improvement district revolving fund." However, any portion of the assessment charged as the administrative fees or expenses of the city associated with the improvements, including any fee that the city may impose for financing the improvements from the proceeds of general obligation bonds, shall be paid into the general fund.

Moneys in the improvement district revolving fund shall be available to:

(1) Make up deficiencies in the proceeds of improvement district bonds sold below par;

(2) Cover deficiencies in interest and principal realized on account of diminishing balances of installments outstanding;

(3) Advance interest and principal due on improvement district bonds outstanding before collection of annual assessments;

(4) Reimburse the general fund for principal and interest on general obligation bonds issued for assessable public improvements or issued to establish, maintain, or replenish the capital projects fund in the event the payment of assessments is late or insufficient;

(5) Reimburse the general fund for administrative cost and expenses relating to improvement district bonds;

(6) Pay all expenses in connection with the sale of delinquent improvement district lots; and

(7) Pay the prices of such delinquent lots as are bid for and purchased for the city by the director of budget and fiscal services. The director of budget and fiscal services is authorized upon such purchase to transfer the proper amounts so bid to the proper special funds for the respective improvement district concerned.

(b) Upon recommendation of the director of budget and fiscal services, the council may by resolution, authorize the director of budget and fiscal services to advance moneys in the improvement district revolving fund for:

(1) Unpaid assessments for any improvements in lieu of the issuance of bonds where the aggregate of the assessment installments for all property owners in the improvement district is less than $1,000 for each year;

(2) Any unpaid amount of the first installment of the assessments where elections have been made to pay the assessments in installments; and

(3) Any payment in connection with any improvements for which the issuance and sale of improvement district bonds or general obligation bonds or disbursement from the capital projects fund has been duly authorized.

After adoption by the council of the resolution creating, defining, and establishing an improvement district pursuant to § 14-10.4, the council, upon recommendation of the director of budget and fiscal services, may by resolution, authorize the director of budget and fiscal services to advance moneys in the improvement district revolving fund for the cost of land acquisition for improvements pursuant to § 14-10.4.

(Sec. 24-5.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 27, § 14-27.2) (Am. Ord. 89-2, 90-91, 96-58)

§ 14-12.3 Payment of principal, premium and interest on improvement district bonds.

The principal of and premium, if any, and interest on the improvement district bonds shall be payable at such places as may be determined by resolution of the council. Interest may be payable by check or draft mailed, or wire sent, by the paying agent or paying agents for the improvement district bonds to the registered owners thereof. In all cases, the improvement district bonds and coupons, if any, shall recite the places of payment. If any improvement district bonds are made payable elsewhere than in the city, the director of budget and fiscal services shall remit the funds necessary to pay the interest and principal and premium thereon when due of any such improvement district bonds, with exchange, to the institution so designated after verifying that such institution is then solvent. The director of budget and fiscal services may serve as paying agent for improvement district bonds. (Sec. 24-5.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 27, § 14-27.3) (Am. Ord. 90-91)

§ 14-12.4 Sale of improvement district bonds—Use of proceeds.

(a) Improvement district bonds may be sold at public or private sale, and for a price or prices as may be determined by resolution of the council to be in the best interest of the city.

(b) If the improvement district bonds are to be sold at public sale, the director of budget and fiscal services shall publish and distribute a notice of sale of such improvement district bonds on an all-or-nothing basis, in accordance with the provisions hereof and the resolution authorizing the issuance and sale of such bonds.

(Sec. 24-5.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 27, § 14-27.4) (Am. Ord. 90-91)

§ 14-12.5 Improvement district bonds not chargeable against general revenues.

(a) No improvement district bonds issued under Articles 8 through 14 shall be considered to be general obligation bonds of the city for purposes of and within the meaning of HRS Chapter 47, as amended, nor shall the payment of the same be a charge against the general revenues of the city.

(b) Any improvement district bonds issued under Articles 8 through 14 of this chapter shall be special obligations of the city and shall be payable solely from the moneys received by the city from the payment of assessments made under this section, the moneys attributable to the proceeds of the improvement district bonds, and from the other sources specified in Articles 8 through 14, and shall not be payable from any other fund or source. Unless the council shall otherwise determine, the income and earnings derived from the temporary investment of the proceeds of improvement district bonds, including from any debt service reserve funds, shall be paid into the improvement district revolving fund.

(c) The improvement district bonds shall not constitute a general or moral obligation of the city and the full faith and credit of the city shall not be pledged to the payment of the principal of and premium, if any, and interest on the improvement district bonds. The improvement district bonds shall not be secured directly or indirectly by the general credit of the city or by any moneys of the city other than the moneys specified in Articles 8 through 14. No owner of any improvement district bond issued under Articles 8 through 14 shall have the right to compel any exercise of the taxing power of such city to pay debt service on the improvement district bond.

(Sec. 24-5.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 27, § 14-27.5) (Am. Ord. 90-91)

ARTICLE 13: REFUNDING

Sections

§ 14-13.1 Authorized.

The council may provide for the refunding of the outstanding indebtedness of improvement districts located within the city, which were created according to law after December 31, 1925, in the manner hereinafter provided. Unless specified to be otherwise, as referred to in this article, outstanding indebtedness may be in the form of outstanding improvement district bonds or general obligation bonds.
(Sec. 24-6.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.1) (Am. Ord. 90-91)

§ 14-13.2 Initiation of refunding.

(a) (1) Subject to § 14-12.1(b), the owners or lessees of real property in any improvement district, whose property represents 75 percent or more of the outstanding improvement assessments at the time of the filing of the petition, may file with the council a petition setting forth the indebtedness of the improvement district requesting that the indebtedness be refunded, and stating the proposed method of refunding the outstanding indebtedness.

The council shall thereupon by resolution request the mayor to direct the director to investigate and report to the council:

(A) The amount of unpaid assessments and the property subject to the same in the improvement district;

(B) The detail of any delinquent assessments and of any unpaid penalties;

(C) Whether the petitioners own real estate representing 75 percent or more of the unpaid assessments in the district;

(D) The proposed method of reassessment of the lands subject to existing assessments;

(E) A new assessment roll showing the proposed new assessments;

(F) The cost of the proposed refunding; and

(G) Other details that may be necessary to carry into effect the proposed refunding.

Such report of the director shall be filed with the council.

Within seven days after the filing of the director's report, the petitioners shall deposit with the director of budget and fiscal services a sum sufficient to meet the cost of preparing the proposed refunding plan.

(2) Thereafter, the council shall, by resolution, propose the adoption of the suggested refunding plan specifying the outstanding indebtedness of the improvement district, that the owners and lessees of land representing not less than 75 percent of the unpaid improvement assessments have petitioned that the outstanding indebtedness of the improvement district be refunded, the proposed refunding plan in detail, and the proposed method of reassessment, including the number of installment payments to be proposed, and the amount of assessment that may include all costs of refunding. The resolution shall refer to and incorporate by reference the assessment roll and such other data reported by the director as shall be approved by the council. The resolution shall also fix the date of a public hearing upon such plan, which date shall not be less than 15 days after the first publication of notice thereof in the manner provided by applicable State law or, if no State law applies, in a newspaper of general circulation in the city.

After the adoption of the resolution, the city clerk shall cause a notice to be published and mailed as provided for in § 14-10.4 stating the time and place of the public hearing and where the resolution, assessment roll, and other data may be seen and examined before the hearing. Affidavits of publication and mailing shall be filed with the council at or before the hearing.

(b) The refunding of outstanding indebtedness under this article may be initiated by the council on its own motion as an alternative to initiation by petition of the owners and lessees as provided in subsection (a) and without obtaining the prior approval of such owners and lessees. Notwithstanding that a proposed refunding of outstanding indebtedness is initiated by the council on its own motion, the report of the director required by subsection (a)(1) shall be prepared, and the public hearing required by subsection (a)(2) shall be held, in accordance with subsection (a).

In the event a proposed refunding is initiated by the council on its motion pursuant to this subsection, the new assessments approved by the council pursuant to § 14-13.4 shall not be greater in any year than the assessments for such year in effect before the approval of such new assessments.

(Sec. 24-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.2) (Am. Ords. 90-91, 93-32, 00-06)

§ 14-13.3 Protest against refunding.

(a) Any owner of property, the assessments on which to pay the outstanding indebtedness have not been fully discharged, may, at any time before 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 real property representing 30 percent or more of the outstanding improvement assessments at the hearing, or prior thereto, file with the council written protests duly acknowledged by such owners against the proposed refunding plan or against any part of the plan therefor, the same shall not be made contrary to such protest. If the protest is against the adoption

of any refunding plan, the same 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 owner's protest.

(b) Any lessee of any property to be assessed under Articles 8 through 14 shall be subrogated to all the rights of such owner to protest by filing with the council before or at the hearing a certified copy of the lessee's lease, together with a citation of the book and page of the public record of the same if it be recorded. Any lessor of such lessee, or any owner of property to be assessed may, at any time before the closing of the public hearing, make void the protest or the right of protest of any lessee of the property on consideration of filing with the council a duly acknowledged waiver of the stipulation in the lease that requires the lessee to pay the special assessment, and a written agreement by the lessor or owner to pay the special assessment to be made under the proposed improvement.

(c) At the public hearing, the council shall sit as a board of equalization to receive complaints or objections respecting the total amounts of the proposed assessments.

(Sec. 24-6.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.3) (Am. Ord. 90-91)

§ 14-13.4 Determination by council.

(a) After the hearing, the council shall consider any protests or suggestions that 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 still has jurisdiction to continue, it shall then proceed to determine whether the refunding plan shall be adopted as proposed, or adopted with modifications. In the latter event, the city clerk shall be directed to give notice again of the hearing as provided in § 14-13.2(a)(2). If after such initial and further advertisement and hearing, the council determines to proceed with the refunding measure, it shall by ordinance adopt the refunding measure.

(b) Should the refunding plan provide for the issuance of new improvement district bonds or general obligation bonds, the ordinance shall approve of the assessment roll and incorporate the same by reference, which assessment roll as provided in § 14-10.8, shall contain only the names of the property owners who have not fully paid the assessments originally provided for the payment of the outstanding improvement bonds and shall provide for the imposition of new assessments in amounts sufficient to retire the improvement district refunding bonds or the general obligation refunding bonds to be issued.

(c) On the effective date of the ordinance, the amounts of the several assessments so 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 improvements. On the effective date 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 § 14-11.4. However, in no case shall this new assessment constitute a lien on property that has been discharged from the payment of the original assessment.

(Sec. 24-6.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.4) (Am. Ord. 90-91)

§ 14-13.5 Improvement district refunding bonds.

(a) Improvement district refunding bonds issued for the refunding of the outstanding improvement district bonds of any improvement district shall bear the name of the improvement district for which they are issued, shall

be in the form and issued and sold and subject to call and under all the other conditions and terms as prescribed by §§ 14-12.1 to 14-12.5, except as otherwise prescribed in Articles 8 through 14.

(b) A lower rate of interest than that authorized in the original issue of improvement district bonds may be prescribed and the improvement district refunding bonds may be authorized to run for a term not to exceed 30 years after the final stated maturity of the improvement district bonds being refunded.

(c) General obligation refunding bonds issued for the refunding of outstanding general obligation bonds issued to finance improvements within an improvement district shall be authorized, issued and sold in accordance with HRS Chapter 47, as amended. Such general obligation refunding bonds may be authorized to run for a term not to exceed 25 years after the final stated maturity of the general obligation bonds being refunded.

(Sec. 24-6.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.5) (Am. Ord. 90-91)

§ 14-13.6 Installments.

The provisions of §§ 14-11.5 to 14-11.7, relating respectively to the payment of the assessments in installments and the effect of failure to pay installments, are incorporated in §§ 14-13.1 to 14-13.9 by reference. The maximum number of installments in which the assessment as provided for in §§ 14-13.1 to 14-13.9 may be paid shall be dependent upon the term of the improvement district refunding bonds or the general obligation refunding bonds.

(Sec. 24-6.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.6) (Am. Ord. 90-91)

§ 14-13.7 Petition by all owners.

(a) If the petition requesting refunding of outstanding indebtedness is filed and acknowledged by the owners of land representing 100 percent of the unpaid assessments in any improvement district, and by all lessees of any property to be assessed (unless the lessor of such lease files with the petition a duly acknowledged waiver of the stipulation in the lease that requires the lessee to pay such special assessments, and also a written agreement by the lessor or owner to pay the assessments to be made under the proposed refunding plan), then the council, upon the payment by the petitioners to the director of budget and fiscal services of the cost of preparing the proposed refunding plan, as estimated by the director or chief engineer, shall proceed as provided above to have a hearing on the proposed new method of assessment and the assessment roll.

(b) If the owners of 100 percent of land, 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.

(Sec. 24-6.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.7) (Am. Ords. 90-91, 93-32)

§ 14-13.8 Refunded improvement district bonds—Cancellation.

Upon payment and retirement of the outstanding bonds of the improvement district, the refunded improvement district bonds shall be forwarded to the registrar for cancellation.

(Sec. 24-6.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.8) (Am. Ord. 90-91)

§ 14-13.9 Obligations unimpaired.

Nothing in §§ 14-13.1 to 14-13.8 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. (Sec. 24-6.9, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 28, § 14-28.9) (Am. Ord. 90-91)

ARTICLE 14: LIMITATION ON TIME TO SUE

Section

§ 14-14.1 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 or the issue or payment of any improvement district bonds, or the imposition or collection of any assessments authorized by Articles 8 through 14, or for any other relief against any acts or proceedings, done or had under Articles 8 through 14, whether based upon irregularities or jurisdictional defects or otherwise, shall be maintained unless begun within 30 days after the performance of the act or the passage of the resolution or ordinance challenged.
(Sec. 24-7.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 29, § 14-29.1) (Am. Ord. 90-91)

ARTICLE 15: SEVERABILITY

Section

§ 14-15.1 Severability.

If any provision of Articles 8 through 14 or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, Articles 8 through 14 are declared to be severable. (Sec. 24-8.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 30, § 14-30.1) (Am. Ord. 90-91)

ARTICLE 16: GENERAL PROVISIONS FOR MAINTENANCE BY ASSESSMENTS

Sections

§ 14-16.1 Method.

(a) Upon request by the council, administration, or owners of property to be benefited that a special maintenance district be created, the chief engineer shall fully consider such a proposal.

(b) Whenever the chief engineer finds that the cleaning and maintenance of specially improved sidewalks and streets, as defined in § 13-1.1, and malls, as defined in § 13-10.2, or any public open space, require effort exceeding such that which the normal city services can provide, the cost of such maintenance shall be assessed against the land specially benefited, either on the frontage basis or according to area of land or building floor area or real property tax assessment on the value of the land and improvements thereon within a maintenance district or any combination of the methods of assessment; provided that whenever assessment basis is mentioned in sections and provisions contained in this article, the same valuation method shall be used.

(c) The owners of the lands specially benefited by any proposed assessments for the maintenance of a sidewalk, street, or mall or such open space may establish a committee to represent the landowners that, if so established, shall constitute an advisory committee to the city with respect to all matters relating to the proposed assessments for that district, including but not limited to matters relating to the estimated cost of maintenance for the assessment year, the scope and the specifications for and performance standards contained in any maintenance contract to be let by the city for the district, and the renewal of any maintenance contracts for the district.

(d) The maintenance contract for a district may include the maintenance and management of operations of the district when the council, in consultation with the advisory committee, finds that it is to the benefit of the district to so contract.

(e) Nothing in this article shall prevent the city from accepting a proposal from the owners that such maintenance shall be achieved under a private agreement. Such proposal shall meet the maintenance standard to be adopted for the maintenance district.

(f) Notwithstanding Articles 12 through 20, Article 5 shall apply to property that may be affected by this chapter to the extent that the responsibility for cleaning and maintaining of sidewalks has not been assumed by the maintenance district.

(1990 Code, Ch. 14, Art. 31, § 14-31.1) (Added by Ord. 88-97; Am. Ord. 96-58)

§ 14-16.2 Procedure.

(a) The chief engineer shall prepare a resolution, requiring one reading for its adoption, defining the boundaries of the maintenance district, scope of work to be performed concerning such maintenance, which may include but not be limited to:

(1) The repair, removal, or replacement of any part of the improvement;

(2) The estimated cost of maintenance for the assessment year that shall be for a period of 12 months commencing on the date when the assessment is due;

(3) The method of assessment;

(4) The portions of cost to be specifically benefited, with the estimated total amount of assessment to be made against each property according to the method of assessment proposed; the necessary surveys, maps, plans, drawings, and other data;

(5) Details for the maintenance;

(6) The comments and recommendations of the advisory committee with respect to such report; and

(7) Any other matters or details intended to apply thereto.

The resolution shall also fix the date for a public hearing upon the proposed maintenance district. Such resolution shall be submitted to the council for action.

(b) The city clerk shall cause a notice of the public hearing to be published twice a week for two consecutive weeks (four publications in all) in a newspaper of general circulation in the city, giving notice generally to all owners and lessees of land proposed to be assessed and to all others interested in the general details of the proposed maintenance district as adopted by the council, either by expressed description or by reference to data supplied by the chief engineer and stating the time and place of the public hearing wherein such persons may object to and suggest modifications to the proposed maintenance district and may question the benefits of the proposed maintenance district to their property and the amount of any assessment thereon, and where the resolution and other data may be seen and examined before the hearing. Not less than 10 days before the public hearing, a notice thereof, stating the time and place of the hearing where persons may object to and suggest modifications to the proposed maintenance district and where pertinent data relating to the proposed maintenance district may be obtained, shall be mailed to the several owners and lessees on record at the department of budget and fiscal services, to their addresses on record at the department, by certified or

registered mail with a request for a return receipt. Affidavits of publication and mailing shall be filed with the council at or before the hearing.
(1990 Code, Ch. 14, Art. 31, § 14-31.2) (Added by Ord. 88-97)

§ 14-16.3 Protests—Objections—Suggestions.

Any owner of property proposed to be assessed may at any time before or at the public hearing file in writing with the council any protest, objection, or suggestion as to the proposed maintenance district, stating briefly the reason therefor, or present the same in person, orally, at the public hearing. If owners representing 55 percent of the total assessment value, at the hearing or prior thereto, file with the council written protests, duly acknowledged by such owners, against the proposed maintenance district, the same shall not be made, unless by a two-thirds vote of all members of the council. If the protest against the proposed maintenance district is sustained, the same shall not be made, and the proceedings shall not be renewed within six months from the date of closing of the public hearing, unless each and every owner protesting shall sooner withdraw the protest.
(1990 Code, Ch. 14, Art. 31, § 14-31.3) (Added by Ord. 88-97)

§ 14-16.4 Determination by council.

After the hearing provided in § 14-16.2, the council shall determine whether the proposed maintenance district shall be created and whether it shall be created with or without modification. No modification shall be made without public hearing as provided for in § 14-16.2, which would substantially reduce the properties to be assessed or increase the proposed assessment beyond 10 percent of the estimated total amount of assessment against all properties as specified in the resolution proposing the maintenance district, or materially alter the general character or plan of maintenance advertised. If, after such initial or further hearing, the council determines to proceed with the maintenance district, it shall adopt the resolution creating, defining, and establishing the maintenance district, approving the method of assessment and confirming the amount of assessment.
(1990 Code, Ch. 14, Art. 31, § 14-31.4) (Added by Ord. 88-97)

§ 14-16.5 Assessment—Lien against property.

Each assessment shall be a lien upon the land against which it is made, paramount to all other liens, except liens for prior assessments and property taxes, including late charges, if any, or by redemption of the land after sale for delinquency.
(1990 Code, Ch. 14, Art. 31, § 14-31.5) (Added by Ord. 88-97)

§ 14-16.6 Collection of assessments.

After the enactment of the assessment resolution, the director of budget and fiscal services shall promptly mail out notices of assessment to the owners of the assessed properties. All assessments so made shall be due and payable within 30 days after the date of the notice; provided that any assessment may, at the election of the owner of the land assessed, be paid in semiannual installments with interest, as hereinafter provided. Failure to pay the

amount assessed when due shall thereafter bear penalty at the rate of 2 percent per month or fraction of a month from the date of delinquency until such time when the assessment, together with penalty, has been paid in full.
(1990 Code, Ch. 14, Art. 31, § 14-31.6) (Added by Ord. 88-97)

§ 14-16.7 Payment of installment.

In case of an election to pay an assessment in installments made pursuant to § 14-16.6, payment shall be made within 30 days of the date of notice of payment. Interest shall be paid on the unpaid principal at a rate not exceeding 10 percent per year. The rate of interest shall be determined by the council.
(1990 Code, Ch. 14, Art. 31, § 14-31.7) (Added by Ord. 88-97)

§ 14-16.8 Financing.

(a) Upon receipt of moneys representing assessments collected for the maintenance district, the director of budget and fiscal services shall deposit the moneys in a special fund for the maintenance district for which they were collected, and the moneys shall be expended only for the maintenance authorized for such district.

(b) If there is a surplus or a deficit in the special fund of a maintenance district at the end of any assessment year, the surplus or deficit shall be carried forward to the next annual assessment to be levied within such district and applied as a credit or a debit, as the case may be, against such assessment.

(c) If there is a deficit in the special fund of a maintenance district during any assessment year, the council, by resolution requiring not more than one reading for its adoption, from any available and unencumbered funds, may provide for:

(1) A contribution to the special fund; and

(2) A temporary advance to the special fund and direct that the advance be repaid from the next annual assessment levied and collected within the maintenance district.

(1990 Code, Ch. 14, Art. 31, § 14-31.8) (Added by Ord. 88-97)

§ 14-16.9 Levy of annual assessments.

(a) At least 90 days before the end of the preceding assessment year, the chief engineer shall prepare and submit a report to the council for the next assessment year. The report shall include the anticipated surplus or deficit from the preceding assessment year as well as the proposed new rate of assessment.

(b) If the proposed assessment does not exceed 10 percent of the preceding year's total amount of assessment against all properties in the district, the new assessment shall take effect upon the new assessment year.

(c) If the proposed assessment exceeds 10 percent of the preceding year's total amount of assessment against all properties in the district, the council shall review comments and recommendations of the advisory committee

and conduct a public hearing as provided for in § 14-16.4 on the issue of the assessment only. Thereafter, the council shall adopt by resolution the new rate of assessment as determined from the outcome of the public hearing.

(1990 Code, Ch. 14, Art. 31, § 14-31.9) (Added by Ord. 88-97)

§ 14-16.10 Exemption.

Exemption from improvement assessments as provided in HRS § 46-74.1 shall apply to maintenance assessment.

(1990 Code, Ch. 14, Art. 31, § 14-31.10) (Added by Ord. 88-97)

§ 14-16.11 Termination of maintenance district.

(a) Owners representing 55 percent of the total assessment value may petition the council for termination of a maintenance district at the end of the term of a maintenance contract for the maintenance of such district.

(b) When such a petition is before the council, the continuation of the maintenance district shall require two-thirds vote of all members of the council to reject the petition.

(1990 Code, Ch. 14, Art. 31, § 14-31.11) (Added by Ord. 88-97)

§ 14-16.12 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 or the levy or collection of any assessments authorized by this article, or for any other relief against any acts or proceedings done or had under this article, whether based upon irregularities or jurisdictional defects or otherwise, shall be maintained, unless begun within 30 days after performance of the act or the passage of the resolution or ordinance complained of.

(1990 Code, Ch. 14, Art. 31, § 14-31.12) (Added by Ord. 88-97)

§ 14-16.13 Severability.

If this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end, the provisions of the article are declared to be severable.

(1990 Code, Ch. 14, Art. 31, § 14-31.13) (Added by Ord. 88-97)

ARTICLE 17: MAINTENANCE OF PRIVATE STREETS AND ROADS

Sections

§ 14-17.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Director and Chief Engineer. The director and chief engineer of facility maintenance.

Persons Having the Right to Control the Use. The person or persons having the legal right to make decisions as to the use, improvement, and repair and maintenance of a street, road, or other property, sign agreements with respect thereto, and bind all other persons having rights in or to such street, road, or other property, whether such other persons are owners of the fee title to the street, road, or other property, are holders of roadway easements, or have some other interest in the street, road, or other property.

Private, Nondedicated, and Nonsurrendered Streets and Roads. Streets, roads, highways, ways, or lanes used for purposes of vehicular traffic that are owned, in whole or in part, by persons other than governmental entities and which have not been dedicated or surrendered to the city in accordance with HRS § 264-1(c)(1) and (2). The term private, nondedicated and nonsurrendered streets and roads includes any associated bridges and bicycle lanes as the latter term is defined in HRS § 291C-1, but does not include any trail or other nonvehicular right-of-way or any alley or bicycle path as those terms are defined in HRS § 291C-1.
(1990 Code, Ch. 14, Art. 32, § 14-32.1) (Added by Ord. 96-73)

§ 14-17.2 Surface maintenance.

(a) Subject to the availability of appropriations, the department of facility maintenance may maintain by either remedial patching, resurfacing, or paving those portions of private, nondedicated, and nonsurrendered streets and roads that have been determined by the chief engineer, with the approval of the director of transportation services and the director of planning and permitting, to meet the following criteria:

(1) The street or road has not been dedicated or surrendered to the city or any other governmental entity, and is not otherwise owned by the city or any other governmental entity;

(2) The street or road is not maintained by any governmental entity other than the city pursuant to this article;

(3) The street or road is open to, serves, and benefits the general public;

(4) The street or road is not signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude access by the general public, in whole or in part, which may be through such means as signs indicating that the street or road is a "private" street or road, or any restrictions on parking that are not applicable to all persons except as otherwise provided by law;

(5) The street or road directly serves:

(A) Six or more parcels;

(B) Six or more residential structures; or

(C) A parcel of land which has one or more condominium buildings or apartment buildings that contain six or more condominium or apartment units;

(6) The street or road is not part of a cluster housing development, planned development, or similar type of development;

(7) Maintenance of the street or road by the city will be practicable and safe;

(8) The street or road is not a private street or road within the meaning of Chapter 22 or the rules adopted pursuant thereto;

(9) The developer or subdivider of the street or road has not agreed to maintain the street or road in perpetuity;

(10) An association of apartment owners or homeowners association does not maintain the street or road;

(11) Maintenance of the street or road surface is necessary to protect the safety of motorists, bicyclists, and pedestrians, or is otherwise in the public interest; and

(12) The street or road does not suffer such design defects as to make use of the street or road hazardous to the general public.

(b) (1) If they wish a private street or road to be maintained by the city, the persons collectively owning a 60 percent or greater interest in the fee title or an appropriate roadway easement in the street or road may initiate and submit a written request to the chief engineer for the maintenance of the street or road. If the chief engineer determines that the private street or road satisfies the criteria set forth in this subsection, the chief engineer may, subject to the availability of appropriations, proceed to maintain the street or road; provided that the persons having the right to control the use of the street or road submit their written approval of the maintenance work.

(2) The persons having the right to control the use of the street or road must agree to such terms, conditions, and covenants as may be determined by the chief engineer to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that two of the conditions the

persons having the right to control the use of the street or road must agree to are that they shall, for as long as the city maintains the street or road surface or for the period of time specified in the agreement, whichever is longer.

(A) Keep the street or road open to the general public; and

(B) Keep the street or road, and any adjacent sidewalk areas, free of obstructions and clear of debris that would prevent the safe passage of motorists, bicyclists, and pedestrians.

(3) The requirement for a written request, approval and agreement will not apply, however, to:

(A) A street or road over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to December 19, 1996; or

(B) A street or road which the chief engineer, with the approval of the director of transportation services and the director of planning and permitting, determines has been dedicated by implication to public use for roadway purposes.

(4) Nothing contained herein will be construed as prohibiting the chief engineer from requiring a written approval and agreement for new maintenance work on streets or roads over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to December 19, 1996 if the chief engineer determines that such an agreement is in the best interests of the city.

(c) (1) Paved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example:

(A) Asphalt concrete shall be used for asphalt concrete paved roads; and

(B) Portland cement concrete or asphalt concrete, as determined by the director and chief engineer, shall be used for Portland cement concrete paved roads.

(2) If the director and chief engineer determines that the pavement is in such poor condition that remedial patching is impractical and not cost effective, resurfacing may be provided.

(3) Unpaved roads shall be maintained by remedial patching. Remedial patching shall be with like materials, for example: coral for coral; and crushed rock for crushed rock. If the director and chief engineer determines that the street or road surface is in such poor condition that remedial patching is not cost effective and does not serve the best interests of motorists, bicyclists, and pedestrians, paving with asphalt concrete material may be provided.

(4) The decks of bridges associated with private, nondedicated, and nonsurrendered streets and roads may be maintained by remedial repairs. Remedial repairs shall be with like materials, for example, deteriorated wood planks shall be replaced with wood planks. If the director and chief engineer determines that the deck is in such poor condition that remedial repairs are impractical and not cost effective, the deck may be replaced with like material. The director and chief engineer may also provide for the maintenance, repair, or replacement of railings.

(5) Maintenance work to be performed by the city pursuant to this section shall not include installation or maintenance of curbs, shoulders, gutters, drainage facilities, or similar infrastructure; provided that antispeed bumps that are removed as part of the city's maintenance of private streets and roads may be reinstalled by the city if the department of transportation services determines that the conditions for installation in § 15-24.18 have been met. Prior to the removal of anti-speed bumps as part of the city's maintenance of private streets and roads, the director and chief engineer must notify persons residing within the immediate vicinity and persons having the right to control the use of the portion of the private street or road on which the anti-speed bumps are located of the removal of the anti-speed bumps and explain in writing to such persons conditions under which the city may reinstall the anti-speed bumps. For the purposes of this section only, "anti-speed bump" means a convex mound, approximately 3 feet wide at the base and approximately 4 inches in height at the apex, placed across the width of a private, nondedicated, and nonsurrendered street or road for the purpose of controlling the speed of vehicular traffic.

(d) The director and chief engineer, with the approval of the director of transportation services, shall discontinue maintenance of specific private, nondedicated and nonsurrendered streets and roads, when the director and chief engineer determines that such streets and roads no longer meet all criteria set forth in subdivisions (1) through (12) of subsection (a), or when requested in writing by the persons having the right to control the use of the street or road. Prior to discontinuing maintenance of any private, nondedicated and nonsurrendered street or road, the director and chief engineer shall provide each owner and roadway easement holder of record of the street or road with 30 days' written notice of such proposed action. Where maintenance is discontinued because the street or road is signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed, or operated to exclude the general public, in whole or in part, the director and chief engineer is authorized, in the director and chief engineer's discretion and to the extent legally and economically feasible, to:

(1) Recover removable fixtures or materials, if any, installed by the city, and to recover from the owners or roadway easement holders of the street or road, as may be appropriate, the value of the fixtures or materials left in place; and

(2) Recover from the owners or roadway easement holders the total cost incurred by the city for paving or other maintenance work done pursuant to this section within the five-year period preceding the closure of the street or road to the public. The owners or roadway easement holders of the street or road may avoid liability for the costs by making signage, design, construction, operational, or other changes, or any necessary combination thereof, to again open the street or road to the general public and meet all criteria set forth in subdivisions (1) through (12) of subsection (a).

(e) Nothing contained in this section and no action undertaken pursuant to this section shall be construed as adoption, acceptance, or approval of a private, nondedicated and nonsurrendered street or road as a public highway.

(1990 Code, Ch. 14, Art. 32, § 14-32.2) (Added by Ord. 96-73; Am. Ords. 14-37, 16-24, 17-8, 18-45)

§ 14-17.3 Street lighting.

(a) Subject to the availability of appropriations, the department of transportation services may install and maintain new street lights or maintain existing street lights on those portions of private, nondedicated, and nonsurrendered streets and roads that have been determined by the director of transportation services, with the approval of the director and chief engineer and the director of planning and permitting, to meet the criteria set

forth in subdivisions (1) through (11) of § 14-17.2(a) and, with respect to existing street lighting systems, to meet the city's then current standards for design, construction, installation, equipment, and materials.

Before the city undertaking any street lighting work or assuming any energy costs, all the persons having the right to control the use of the portion of the street or road and any other property on which the street lights are or will be located, shall initiate and submit a written request to the director of the department of transportation services for the installation or maintenance of street lights, or both, agreeing to such terms, conditions, and covenants as may be determined by the director of transportation services to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the portion of the street or road and any other property shall agree to is the condition that they keep the street or road open to the general public for as long as the city maintains the street lights on the street or road or for the period of time specified in the agreement, whichever is longer. The requirement for a written request and agreement shall not apply, however, to a:

(1) Street or road over which the department of transportation services exercises street lighting maintenance responsibilities on the day before December 19, 1996*; or

(2) A street or road that the director of transportation services, with the approval of the director and chief engineer and the director of planning and permitting, determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein shall be construed as prohibiting the director of transportation services from requiring a written agreement for new maintenance work on streets or roads over which the department of transportation services exercises street lighting maintenance responsibilities on the day before December 19, 1996* if the director of transportation services determines that such an agreement is in the best interests of the city.

(b) Maintenance work to be performed by the city pursuant to this section shall include but not be limited to replacing and upgrading street light fixtures, photoelectric cells, and bulbs as necessary and paying energy costs applicable to such street lights.

(c) The director of transportation services, with the approval of the director and chief engineer, shall discontinue maintenance of street lighting systems for specific private, nondedicated, and nonsurrendered streets and roads, including the payment of energy costs, when the director of transportation services determines that such streets and roads no longer meet the criteria referred to in subsection (a), or when requested in writing by the persons having the right to control the use of the portion of the street or road or of the other property on which the street lights are located. Before discontinuing maintenance of street lighting systems or payment of energy costs for any private, nondedicated, and nonsurrendered street or road, the director of transportation services shall provide each owner and roadway easement holder of record of the street, road, or property with 30 days' written notice of such proposed action. Where maintenance is discontinued because the street or road is signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed, or operated to exclude the general public, in whole or in part, the director of transportation services is authorized, in the director's discretion and to the extent legally and economically feasible, to recover any removable standards, fixtures, photoelectric cells, or bulbs installed by the city, or to recover from the owners or roadway easement holders of the street, road, or other property, as may be appropriate, the value of the standards, fixtures, photoelectric cells, or bulbs left in place.

(d) Nothing contained in this section and no action undertaken pursuant to this section shall be construed as adoption, acceptance, or approval of a private, nondedicated, and nonsurrendered street or road as a public highway.

(1990 Code, Ch. 14, Art. 32, § 14-32.3) (Added by Ord. 96-73)

Editor's note:

** "December 19, 1996" is substituted for "the effective date of this article."*

§ 14-17.4 Rule-making authority.

In accordance with HRS Chapter 91, the director and chief engineer and director of transportation services may adopt rules having the force and effect of law for the implementation, administration, and enforcement of §§ 14-17.2 and 14-17.3, respectively.

(1990 Code, Ch. 14, Art. 32, § 14-32.4) (Added by Ord. 96-73)

ARTICLE 18: COMPLETE STREETS

Sections

§ 14-18.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Accessibility. The ability to reach desired destinations for all transportation system users.

Complete Streets Features. Include but are not limited to sidewalks, crosswalks, accessible curb ramps, curb extensions, raised medians, refuge islands, roundabouts or mini-circles, traffic signals and accessible pedestrian signals such as audible and vibrotactile indications and pedestrian countdown signals, shared-use paths, bicycle lanes, paved shoulders, street trees, planting strips, signs, pavement markings, including multi-modal pavement striping, street furniture, bicycle parking facilities, public transportation stops, and facilities, including streetscapes, dedicated transit lanes, and transit priority signalization.

Context Sensitive Solution. A process in which a full range of stakeholders are involved in developing complete streets transportation solutions that identify and incorporate appropriate complete streets features designed to fit into, enhance, and support the surrounding environment and context, including land use.

Directors. The directors of transportation services, design and construction, planning and permitting, and facility maintenance.

Multi-Modal. The movement of people and goods by more than one method of transportation. A street that accommodates walking, bicycling, mobility devices, transit, and driving is multi-modal.

National Industry Best Practices. Guidelines established by national industry groups on complete streets best policy and implementation practices, including but not limited to reports by the American Planning Association and the National Complete Streets Coalition.

Transportation Facility or Project. The planning, design, construction, reconstruction, maintenance, or improvement of public highways, roadways, streets, sidewalks, traffic control devices and signage, and all facilities or improvements related to public transit.

Users. Motorists, bicyclists, individuals dependent on mobility devices, transit riders, pedestrians, and others who depend on the transportation system to move people and goods.
(1990 Code, Ch. 14, Art. 33, § 14-33.1) (Added by Ord. 12-15)

§ 14-18.2 Complete streets policy; principles.

(a) There is established a complete streets policy and principles for the city to guide and direct more comprehensive and balanced planning, design, and construction of city transportation systems. Under this policy, the city expresses its commitment to encourage the development of transportation facilities or projects that are planned, designed, operated, and maintained to provide safe mobility for all users. Every transportation facility or project, whether new construction, reconstruction, or maintenance, provides the opportunity to implement complete streets policy and principles. This policy provides that a context sensitive solution process and multi-modal approach be considered in all planning documents and for the development of all city transportation facilities and projects.

(b) Complete streets principles consist of the following objectives:

(1) Improve safety;

(2) Apply a context sensitive solution process that integrates community context and the surrounding environment, including land use;

(3) Protect and promote accessibility and mobility for all;

(4) Balance the needs and comfort of all modes and users;

(5) Encourage consistent use of national industry best practice guidelines to select complete streets design elements;

(6) Improve energy efficiency in travel and mitigate vehicle emissions by providing nonmotorized transportation options;

(7) Encourage opportunities for physical activity and recognize the health benefits of an active lifestyle;

(8) Recognize complete streets as a long-term investment that can save money over time;

(9) Build partnerships with stakeholders and organizations statewide; and

(10) Incorporate trees and landscaping as integral components of complete streets.
(1990 Code, Ch. 14, Art. 33, § 14-33.2) (Added by Ord. 12-15)

§ 14-18.3 Administration; implementation.

(a) The directors shall, based on a context sensitive solution process, employ a multi-modal approach and incorporate complete streets features in the planning, design, construction, maintenance, and operation of

transportation facilities and projects, including but not limited to the reconstruction, rehabilitation, or resurfacing of any transportation facility under the jurisdiction of the directors.

(b) Within six months of the enactment of this ordinance, the directors shall jointly create, adopt, and publish a single complete streets checklist and associated procedures to be used by the directors and their staffs when performing any one or more of the following: initiating, planning, designing, revising, implementing, or reviewing any transportation facility or project. The complete streets checklist shall be jointly updated from time to time by the directors as necessary to facilitate the implementation of complete streets.

(c) As used in this section, "complete streets checklist" means a tool to collect data and information about the status of the roadway and the surrounding area, as well as the details of the transportation facility or project, with a goal of identifying specific elements that can be incorporated to support and balance the needs of all users. Such specific elements shall be part of an implementation procedure to be prepared in conjunction with compilation of a checklist. Data and information complied in the checklist include but are not limited to traffic volume, street classification, and type; an inventory of sidewalk condition, transit facilities, and parking restrictions; and recommendations from any existing neighborhood, bicycle, pedestrian, transit, or other plan.

(d) Complete streets features shall be incorporated into transportation plans, projects, and programs following implementation procedures established by the complete streets checklist.

(e) Within one year of the enactment of this ordinance, the directors shall evaluate and initiate updates of existing ordinances, codes, subdivision standards, rules, policies, plans, and design guidelines to ensure their consistency with the complete streets policy and principles. Design standards, guidelines, and manuals shall incorporate national industry best practice guidelines, and shall be updated from time to time by the directors as necessary to reflect current best practices.

(1990 Code, Ch. 14, Art. 33, § 14-33.3) (Added by Ord. 12-15)

§ 14-18.4 Exceptions.

(a) A multi-modal approach and complete streets features are not required if a director of an affected department determines, in writing with appropriate documentation, before or during the design process, that:

(1) Use of a street or highway by nonmotorized users is prohibited by law;

(2) The cost would be excessively disproportionate to the need or probable future use over the long term;

(3) There is an absence of current or future need; or

(4) The safety of pedestrian, bicycle, or vehicular traffic may be placed at unacceptable risk.

(b) Each written exception with accompanying documentation shall become a public record and shall be published electronically or online on the official website of the city, and shall be on file and available for public inspection at the office of the city clerk and at the office of the department making the determination.

(1990 Code, Ch. 14, Art. 33, § 14-33.4) (Added by Ord. 12-15)

§ 14-18.5 Annual report; performance standards.

(a) Before December 31 of each year following the enactment of this ordinance, the directors shall submit to the council a report detailing their compliance with the complete streets policy and principles during the prior fiscal year, and listing the transportation facilities and projects initiated during that year and the complete streets features incorporated therein. The report shall include a list of exceptions made pursuant to § 14-18.4 for that year.

(b) Within two years of the enactment of this ordinance, the directors shall establish and publish performance standards with measurable benchmarks reflecting the capacity for all users to travel with appropriate safety and convenience along roadways under the jurisdiction of the city. Annual reports for the year in which measurable performance standards are established, and all years thereafter, shall include a report of each agency's performance under such measures, and where appropriate, shall identify problem areas and suggested solutions, and provide recommendations to improve the process.

(c) The annual reports required in this section may be part of the agency's annual reports required by Charter.
(1990 Code, Ch. 14, Art. 33, § 14-33.5) (Added by Ord. 12-15)

§ 14-18.6 Training.

The directors shall require and provide training for their staffs in complete streets policies, principles, and implementation procedures that may be applicable to the performance of their duties.
(1990 Code, Ch. 14, Art. 33, § 14-33.6) (Added by Ord. 12-15)

ARTICLE 19: GLASPHALT PAVING

Sections

§ 14-19.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Asphalt. A solid or semisolid mixture of bitumens (hydrocarbons from coal or petroleum) used in paving, roofing, or waterproofing. It can be mixed with sand or crushed stone gravel and used for paving.

Cullet. Crushed glass.

Glasphalt. Asphaltic concrete for street paving made from crushed glass as a partial substitute for the aggregate (sand or crushed stone) in the mix.
(1990 Code, Ch. 9, Art. 8, § 9-8.1) (Added by Ord. 92-39)

§ 14-19.2 Glasphalt specifications and use.

(a) Notwithstanding the Standard Specifications For Public Works Construction dated September1986, glasphalt, if available, shall be used in city road construction and paving projects in accordance with the following requirements:

(1) Glasphalt may be used in the surface mix on roads with a 40 mph speed limit or less; provided that such glasphalt shall have a maximum 10 percent cullet;

(2) Glasphalt shall be used in the subsurface mix on all roads, irrespective of the speed limit for those roads; provided that such glasphalt shall have a maximum 10 percent cullet;

(3) The cullet may be fine to coarse; provided that no piece shall be greater than 0.375 inch sieve size;

(4) Cullet may consist of clean or contaminated mixed color glass, but shall not contain any biodegradable material such as paper; and

(5) Glasphalt may contain recycled asphalt.

(b) All bid specifications for city road construction and paving projects shall require that the glasphalt and cullet, if available, be used in the roads that meet the requirements set forth in subsection (a).

(1990 Code, Ch. 9, Art. 8, § 9-8.2) (Added by Ord. 92-39)

§ 14-19.3 Administration.

This article shall be administered by the department of environmental services.

(1990 Code, Ch. 9, Art. 8, § 9-8.3) (Added by Ord. 92-39; Am. Ord. 99-32)

ARTICLE 20: BANNERS DISPLAYED FROM LAMPPOSTS

Sections

§ 14-20.1 Declaration of legislative intent.

(a) While it is in the public interest to foster sightliness and physical good order within the city, it is also in the public interest to promote public festivals that can bring the residents of the city and their visitors together and promote ethnic traditions, customs, historical or cultural events, or athletic competition, and foster the development of tourism.

(b) The attractive decoration of public places and festivals complement one another. Organizers of festivals such as Aloha Week may be allowed to apply to the city requesting that attractive banners be displayed from public lampposts on authorized streets at the expense of the community organization to promote the public interest.

(Sec. 13-43.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.1)

§ 14-20.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Authorized Street. Within the City and County of Honolulu, so much of Kalakaua Avenue between its intersection with Ala Moana Boulevard and its intersection with Kapahulu Avenue; so much of Ala Moana Boulevard between its intersection with Atkinson Drive and its intersection with Kalakaua Avenue; so much of King Street between its intersection with Bethel Street and its intersection with Kapiolani Boulevard; and so much of Bishop Street between its intersection with Queen Street and its intersection with Hotel Street.

Commission on Culture and the Arts. Has the same meaning as defined in Chapter 3, Article 2.

Community Organization. A nonprofit corporation organized under HRS Chapter 414D.

Convention Center Zone Streets. The following portions of the following streets within the City and County of Honolulu: the portion of Atkinson Drive between its intersection with Kapiolani Boulevard and its intersection

with Kahakai Drive; the portion of Kapiolani Boulevard between its intersection with Kalakaua Avenue and its intersection with Atkinson Drive; and the portion of Kalakaua Avenue between its intersection with Kapiolani Boulevard and its intersection with Ala Wai Boulevard.

Director. The director of transportation services or the director's designated deputy.

Festival. A series of at least five public events sponsored by a community organization, held within the city during a period of at least 10 consecutive days.

Lamppost. Any pole erected solely for street lighting purposes on which there are no externally attached overhead electric, telephone and communications conductors, wires, and cables mounted thereon.

Public Event. An event that promotes ethnic, historical, or cultural values, or athletic competition, or is intended to be a general public gathering or assembly in a public place, or an event that is held at the Hawaii Convention Center.
(Sec. 13-43.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.2) (Am. Ords. 96-58, 98-53, 09-7)

§ 14-20.3 Powers and duties.

(a) (1) The director is authorized to approve or deny an application from any community organization requesting the display of banners from public lampposts situated on authorized streets during any festival in accordance with this article. The director is further authorized to revoke any such approval for noncompliance in accordance with this article.

(2) The director is authorized to approve or deny an application from the Hawaii Convention Center or the Hawaii Visitors Convention Bureau requesting the display of banners from public lampposts on convention center zone streets for a public event in accordance with this article or to revoke any such approval for noncompliance in accordance with this article.

(3) If the director approves:

(A) An application from a community organization requesting the display of banners during a festival that promotes a public interest by fostering ethnic traditions, customs, historical or cultural events, or athletic competition, and the development of tourism; or

(B) An application from the Hawaii Convention Center or the Hawaii Visitors Convention Bureau requesting the display of banners for a public event to be held at the Hawaii Convention Center;

it shall be a public duty for the director of facility maintenance to then fasten the banners to the designated public lampposts to promote the public interest.

(b) The commission on culture and the arts shall have, in addition to the powers and duties set forth in Chapter 3, Article 2, the power and duty to recommend to the director banners of a design, manufacture, and aesthetic quality appropriate to be displayed from lampposts situated on any authorized street or on a convention center zone street in accordance with this article.
(Sec. 13-43.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.3) (Am. Ord. 98-53)

§ 14-20.4 Application required—Compliance.

(a) No banner shall be displayed from a lamppost situated on an authorized street or on a convention center zone street unless an application has been submitted and approved by the director in accordance with this article and in no event, shall the display of banners exceed a duration of 14 days.

(b) The fastening, display, and removal of any banner shall be performed by the department of facility maintenance and only after the application for the banner has been approved by the director.

(Sec. 13-43.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.4) (Am. Ord. 98-53)

§ 14-20.5 Application process and fees.

(a) A verified application by a community organization for approval to display banners on lampposts situated upon authorized streets shall be executed by the chief executive of the community organization and shall include but not be limited to the following information:

(1) The name and address of the applicant;

(2) The names and addresses of all officers and directors of the applicant;

(3) A copy of the charter of incorporation of the applicant;

(4) A description of the festival, including the places, dates, and times of each public event sponsored by the applicant;

(5) A description of the number of banners to be displayed and the streets on which and lampposts from which it is proposed that the banners will be displayed;

(6) The duration of the banner display;

(7) The public purpose to be served by the banner display; and

(8) Any other information required by the director and necessary to fully evaluate the application.

(b) A verified application from the Hawaii Convention Center or the Hawaii Visitors Convention Bureau for approval to display banners on lampposts situated upon convention center zone streets shall provide the information required under subsection (a)(1) and subsections (a)(5) through (a)(8) only.

(c) There shall also be submitted as part of the application, the following:

(1) A specimen of the banner to be displayed, incorporating the identical material, fasteners, and artwork to be used in all the banners to be displayed;

(2) An agreement by the applicant that it shall bear the full expense of producing the banners; and

(3) An agreement by the applicant to assume the defense of and indemnify and save harmless the city, its officers and employees from all suits, actions, damages, or claims to which the city may be subjected

resulting from the display, maintenance, and removal of the banners from lampposts situated on authorized streets or convention center zone streets. The city shall not be held responsible for returning the banners to the community organization or the Hawaii Convention Center or the Hawaii Visitors Convention Bureau in their original condition.

(d) *Fees.* Every applicant shall pay to the director of budget and fiscal services a fee of $65 for each and every banner to be displayed. No banner shall be displayed from any lamppost by the department of facility maintenance, unless and until the full fee required has been paid in advance.

(Sec. 13-43.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.5) (Am. Ords. 98-53, 09-7)

§ 14-20.6 Submittal to commission on culture and the arts.

The director shall, within five days of the receipt of the application, submit a copy of the application to the commission on culture and the arts. The commission on culture and the arts shall, within 30 days of the receipt of the application, submit its findings or recommendations regarding the banner design, manufacture, and aesthetic quality to the director.

(Sec. 13-43.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.6)

§ 14-20.7 Denial of banner application.

(a) No application shall be approved by the director:

(1) Except upon a finding by the director that the banner display during the festival will promote the public interest by fostering ethnic traditions, customs, historical or cultural events, athletic competition or the development of tourism; provided that such a finding shall not be required of a banner display on convention center zone streets for a public event at the Hawaii Convention Center;

(2) If the director believes that the public health, safety, or welfare will be impaired at any time during the banner display; or

(3) If the community organization or the Hawaii Convention Center or the Hawaii Visitors Convention Bureau fails or refuses to comply with this article or any other applicable statute, ordinance, or rule.

(b) Written notice of the approval or denial of an application shall be provided to the applicant as soon as practicable. If the application is denied, the written notice shall state the reasons for denial.

(c) Any person aggrieved by the decision of the director to grant or deny an application may appeal the decision of the director, and the appeal shall be set for hearing in accordance with rules adopted by the director for such hearings. Notice of the hearing and the conduct of the hearing shall comply with HRS Chapter 91 (Administrative Procedure Act).

(Sec. 13-43.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.7) (Am. Ord. 98-53)

§ 14-20.8 Revocation of approval.

(a) The director may revoke any approval of an application made under this article at any time for but not limited to any of the following reasons:

(1) Failure or refusal by the community organization or the Hawaii Convention Center or the Hawaii Visitors Convention Bureau to comply with this article or any other applicable statute, ordinance or rule;

(2) Failure by the community organization or the Hawaii Convention Center or the Hawaii Visitors Convention Bureau to promptly provide replacement of any banner deemed by the director to be damaged, soiled, or in disrepair;

(3) The public health, safety, or welfare is jeopardized; or

(4) When any banner that 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.

(b) Whenever the director revokes approval of the banner application under the conditions set forth in subsection (a), the applicant may appeal the revocation in accordance with the rules authorized.

(Sec. 13-43.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.8) (Am. Ord. 98-53)

§ 14-20.9 Rules.

The director is authorized to adopt rules, pursuant to the procedures set forth in HRS Chapter 91, as are necessary to implement, administer, and enforce this article.

(Sec. 13-43.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 22, § 41-22.9)

ARTICLE 21: NEIGHBORHOOD WATCH SIGNS

Sections

§ 14-21.1 Purpose.

The purpose of this article is to provide assistance to communities that have organized a neighborhood watch program aimed at crime prevention and to encourage the formation of neighborhood watch programs by other communities by authorizing the department of transportation services to construct and install neighborhood watch signs at appropriate locations on public property at the county's expense.
(Sec. 13-44.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 23, § 41-23.1)

§ 14-21.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Director. The director of transportation services.

Neighborhood Watch Program. A neighborhood program established in accordance with the Honolulu neighborhood security watch program sponsored by the Honolulu police department.

Neighborhood Watch Sign. A sign designed, constructed, and placed on public property by the department of transportation services pursuant to this article.

Public Property. Any curbstone, lamppost, pole, parking meter, bridge, street sign, or traffic light located on public property.
(Sec. 13-44.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 23, § 41-23.2)

§ 14-21.3 Powers and duties.

(a) Pursuant to this article, the director is authorized to:

(1) Design, construct, and place on public property signs indicating that the area is protected by a neighborhood watch;

(2) Grant or deny a request for the placement of neighborhood watch sign or signs;

(3) In consultation with the neighborhood watch program and a duly authorized representative of the Honolulu police department, determine the number and location of all neighborhood watch signs; and

(4) Remove neighborhood watch signs located in neighborhoods where the neighborhood watch program has terminated upon prior written notice to the affected neighborhood.

(b) If a request for the placement of neighborhood watch signs is approved by the director, it shall be the duty of the director, within 60 days of the approval date, to place or cause to be placed on public property neighborhood watch signs at designated locations.

(c) It shall be the duty of the director to comply with the applicable sign provisions contained in the land use ordinance, Chapter 21, Article 7.

(Sec. 13-44.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 23, § 41-23.3) (Am. Ord. 96-58)

§ 14-21.4 Request for approval.

(a) Any neighborhood watch program wishing to have a neighborhood watch sign or signs placed in the neighborhood shall submit a written request to the director. The request shall include:

(1) The geographical boundaries of the neighborhood for which the request is being made;

(2) The number of signs being requested; and

(3) The approximate location of each sign.

(b) Each request shall be signed by an authorized representative of the neighborhood watch program for which the request is being made and by a duly authorized police officer of the Honolulu police department.

(c) No request for the placement of signs shall be approved by the director, unless 60 percent of the homes within the boundaries of the designated neighborhood participate in the neighborhood watch program.

(Sec. 13-44.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 23, § 41-23.4)

§ 14-21.5 Rules.

The director is authorized to adopt rules pursuant to HRS Chapter 91, as are necessary to implement, administer, and enforce this article.

(Sec. 13-44.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 41, Art. 23, § 41-23.5)

APPENDIX 14-A: IMPROVEMENT DISTRICT ORDINANCES

Ord. No.	*Approval Date*	
88-82	6-19-1988	Provides for cost of improvements in Improvement District No. 263, Nuuanu Valley Sewers, Section 3, Nuuanu, Honolulu, Oahu, Hawaii, Job No. W12-87
88-99	8-10-1988	Provides for cost of improvements in Improvement District No. 260, Kaneohe Sewers, Section 8, Kaneohe, Koolaupoko, Oahu, Hawaii, Job No. W10-85
89-96	7-3-1989	Provides for cost of improvements in Improvement District No. 264, Nanakuli Sewers, Section 2, Nanakuli, Waianae, Oahu, Hawaii, Job No. W17-88
90-29	3-29-1990	Amending Ord. 86-96, provides for cost of improvements in Improvement District No. 264, Nanakuli Sewers, Section 2, Nanakuli, Waianae, Oahu, HI, Job No. W17-88
90-44	5-22-1990	Provides for cost of improvements in Improvement District No. 262, Ewa Beach Sewers, Section 3, Honouliuli, Ewa, Oahu, Hawaii, Job No. W13-87
90-67	7-25-1990	Provides for cost of improvements in Improvement District No. 265, Makaha Sewers, Section 3, Makaha, Waianae, Oahu, Hawaii, Job No. W18-89
91-63	8-21-1991	Provides for cost of improvements in Improvement District No. 267, Kahaluu Sewers, Section 2, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. W17-90
91-64	8-21-1991	Provides for cost of improvements in Improvement District No. 266, Kahaluu Sewers, Section 1, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. 16-90
92-15	3-10-1992	Provides for cost of improvements in Improvement District No. 268, Leilehua Lane Sewers, Oahu, Hawaii, Job No. W23-89
92-36	4-27-1992	Provides for cost of improvements in Improvement District No. 266, Kahaluu Sewers, Section 1, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. W16-90
92-37	4-27-1992	Provides for cost of improvements in Improvement District No. 267, Kahaluu Sewers, Section 2, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. W17-90
94-69	10-5-1994	Provides for cost of improvements in Improvement District No. 270, Kaneohe Sewers, Section 9, Kaneohe, Koolaupoko, Oahu, Hawaii, Job No. W3-93
94-85	12-1-1994	Authorizing refunding of improvement district bonds issued pursuant to Ord. 87-88 to finance the cost of improvements in Improvement District No. 261, Halawa Business Park, Halawa, Ewa, Oahu, Hawaii, and the issuance of refunding bonds therefor
95-60	10-4-1995	Provides for cost of improvements in Improvement District No. 272, Kahaluu Sewers, Section 4, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. W9-91 (Section 3 of this ordinance was amended by Ord. 98-37)

Ord. No.	*Approval Date*	
97-48	7-1-1997	Provides for cost of improvements in Improvement District No. 274, Makaha Sewers, Section 4, Waianae, Oahu, Hawaii, Job No. W16-95 (Section 3 of this ordinance was amended by Ord. 98-05)
98-05	2-12-1998	Amends Ord. 97-48 relating to providing for the cost of improvements in Improvement District No. 274, Makaha Sewers, Section 4, Waianae, Oahu, Hawaii, Job No. W16-95, by amending Section 3 relating to the cost of authorized improvements (Section 3 was amended by Ord. 98-51)
98-37	6-9-1998	Amends Ord. 95-60 relating to providing for the cost of improvements in Improvement District No. 272, Kahaluu Sewers, Section 4, Kahaluu, Koolaupoko, Oahu, Hawaii, Job No. W9-91, by amending Section 3 relating to the cost of authorized improvements
98-51	8-18-1998	Amends Ord. 98-05 relating to providing for the cost of improvements in Improvement District No. 274, Makaha Sewers, Section 4, Waianae, Oahu, Hawaii, Job No. W16-95, by amending Section 3 relating to the cost of authorized improvements
00-42	7-27-2000	Provides for cost of improvements in Improvement District No. 273, Waimano Sewers, Pearl City, Oahu, Hawaii, Job No. W17-93
01-59	11-26-2001	Provides for cost of improvements in Improvement District No. 275, Kaneohe Bay Sewers, Kaneohe, Koolaupoko, Oahu, Hawaii, Job No. W2-00
06-46	11-13-2006	Provides for cost of improvements in Improvement District No. 276, Kailua Road Sewers, Kailua, Koolaupoko, Oahu, Hawaii, Job No. W01-05

(1990 Code, Ch. 14, App. 14-A)

Editor's note:

Ordinances before 1988 may be found in Appendix E to the Revised Ordinances 1978 (1983 Edition) and in Appendix E to the Revised Ordinances, 1987 Supplement to 1983 Edition.