

## **Chapter 14**

### **GENERAL WELFARE**

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**Chapter 14****GENERAL WELFARE****Article 1. Alcoholic Beverages.****Section 14-1. Intoxicating liquors prohibited in certain public places.**

- (a) No person shall drink, offer to drink, or display in public view in the following public areas or buildings located thereon, any intoxicating liquors, whether in a bottle, jug, container or otherwise:
- (1) Public highways and public rights-of-way, public sidewalks, public breakwaters and public seawalls, except seawalls in parks where drinking is not prohibited;
  - (2) Public school grounds and buildings;
  - (3) Public areas or buildings contiguous to all public school grounds and buildings, except as provided herein;
  - (4) Public parks, except parks enumerated in section 14-2, on which children's playground equipment, such as slides, jungle gyms, seesaws and swings are located;
  - (5) That certain portion of parcel 24 consisting of some twenty-seven thousand ninety-nine square feet, more or less, being a portion of the property designated upon the tax maps of the Third Taxation Division as Tax Map Key No. (3)1-5-2-24, and located in Pāhoa, District of Puna, County and State of Hawai'i;
  - (6) South Hilo:
    - (A) Ainaola Park;
    - (B) Clem Akina Park;
    - (C) Ahualani Park;
    - (D) All public areas, except Coconut Island, located on the Waiākea Peninsula, makai of Kamehameha Avenue-Kalaniana'ole Avenue from the Wailoa River estuary to the site of the former Reeds Bay Restaurant (TMK Nos. 2-1-06:11, 12, 19, and 20);
    - (E) Drag Strip, Hilo;
    - (F) Kalākaua Park;
    - (G) Kaūmana Caves;
    - (H) Keikiland;
    - (I) Lanakila Center;
    - (J) Lincoln Park;
    - (K) Lōkahi Park;
    - (L) Mo'oheau Park;
    - (M) Pana'ewa Park;
    - (N) Honoli'i Beach Park;
    - (O) Richardson Park and Center;
    - (P) Skeet and Trap Range;
    - (Q) Waiākea Recreation Center;
    - (R) Waiākea-Waena Playground;
    - (S) Waiolama Canal Archery/Jogging Area;
    - (T) Zoo, Pana'ewa Rainforest;
    - (U) All cemeteries;
    - (V) All swimming pools;
    - (W) All tennis courts (except Edith Kanakaole);

- (X) Bakers Beach;
- (Y) Hualani Park;
- (Z) Mohouli Park;
- (AA) Wai'olena and Wai'uli Beach Parks, portion located between the pavilions and the west end of the seawall beginning at a point four-tenths of a mile west of Leleiwi Street and extending three hundred twelve feet in the westerly direction.
- (7) North/South Kona:
  - (A) Kailua Playground;
  - (B) Ku'emanu Heiau;
  - (C) Kailua Park, except as provided in section 14-2(a)(2)(F);
  - (D) All swimming pools;
  - (E) All tennis courts;
  - (F) Higashihara Park;
  - (G) Hillcrest Park;
  - (H) Kona Scenic Park.
- (8) Ka'u:
  - (A) Pāhala School Ground;
  - (B) All swimming pools;
  - (C) All tennis courts.
- (9) Puna:
  - (A) Glenwood Park;
  - (B) Kalapana Playground;
  - (C) All swimming pools;
  - (D) All tennis courts.
- (10) North Hilo/Hāmākua:
  - (A) Laupāhoehoe Playground;
  - (B) All swimming pools;
  - (C) All tennis courts;
  - (D) Waipi'o Lookout.
- (11) North/South Kohala:
  - (A) Church Row;
  - (B) All swimming pools;
  - (C) All tennis courts;
  - (D) Waikoloa Highway Park;
  - (E) Spencer Beach Park.

(1975 C.C., c. 3, art. 2, sec. 6.02; Am. 1982, Ord. No. 810, sec. 1; Am. 1987, Ord. No. 87-70, sec. 1; Am. 1990, Ord. No. 90-104, sec. 1; Am. 1993, Ord. No. 93-7, sec. 1; Am. 1996, Ord. No. 96-54, sec. 1; Am. 2008, Ord. No. 08-7, sec. 3.)

**Section 14-2. Areas requiring permits for intoxicating liquors between the hours of 10:00 a.m. and 10:00 p.m.**

- (a) Permits shall allow drinking of intoxicating liquors only between the hours of 10:00 a.m. and 10:00 p.m.
  - (1) South Hilo:
    - (A) Bayfront Beach;
    - (B) Coconut Island;
    - (C) Hilo Armory;
    - (D) Ho'olulu Complex;

- (E) Pōmaika‘i Senior Center;
  - (F) Wainaku Gym;
  - (G) Equestrian Center, Pana‘ewa;
  - (H) Hakalau Park;
  - (I) Honomū Park;
  - (J) Carvalho Park;
  - (K) Pepe‘ekeo Community Center;
  - (L) University Heights Park.
- (2) North/South Kona:
- (A) Hale Hālāwai;
  - (B) Hōnaunau Arena;
  - (C) Imin Center;
  - (D) Yano Hall;
  - (E) Greenwell Park;
  - (F) That area in the terminal at Kailua Park specifically designated by the director of parks and recreation.
  - (G) Old Kona Airport Park picnic pavilions and Events Pavilion excluding the runway and areas surrounding the runway, Pawai Bay, and the park area at the end of the runway.
- (3) Ka‘ū:
- (A) Nā‘ālehu Park;
  - (B) Pahala Community Center.
- (4) Puna:
- (A) Pāhoa Neighborhood Facility;
  - (B) Volcano Community Center;
  - (C) Kurtistown Park;
  - (D) Mt. View Park;
  - (E) Shipman Park.
- (5) North Hilo/Hāmākua:
- (A) Honoka‘a Rodeo Arena;
  - (B) Haina Park;
  - (C) Honoka‘a Park.
- (6) North/South Kohala:
- (A) Kamehameha Park;
  - (B) Kohala Senior Center;
  - (C) Waimea Park;
  - (D) Waimea Senior Center.

(1975 C.C., c. 3, art. 2, sec. 6.03; Am. 1982, Ord. No. 810, sec. 2; Am. 1987, Ord. No. 87-70, sec. 1; Am. 1990, Ord. No. 90-122, sec. 2; Am. 2008, Ord. No. 08-121, sec. 1.)

**Section 14-2.1. Intoxicating liquors allowed between the hours of 6:00 p.m. and 10:00 p.m.**

- (a) No person shall drink, offer to drink, or display in public view in the following public areas or buildings located thereon, any intoxicating liquors, whether in a bottle, jug, container or otherwise, except between the hours of 6:00 p.m. and 10:00 p.m.
- (1) South Hilo:
- (A) Ainako Park;
  - (B) Kaiwiki Park;
  - (C) Kaūmana Park and Playground;
  - (D) Kaūmana Lani Park;
  - (E) Kula‘imano Park;

- (F) Malama Park;
  - (G) Pāpa‘ikou Park;
  - (H) Waiākea-Uka Park;
  - (I) Wainaku Playground.
  - (2) North/South Kona:
    - (A) Reserved.
  - (3) Ka‘ū:
    - (A) Hawaiian Ocean View Park;
    - (B) Wai‘ōhinu Park.
  - (4) Puna:
    - (A) Hawaiian Beaches Park.
  - (5) North Hilo/Hāmākua:
    - (A) Āhualoa Park;
    - (B) Laupāhoehoe Senior Center;
    - (C) Pa‘auilo Park;
    - (D) Pāpa‘aloa Park.
  - (6) North/South Kohala:
    - (A) Waikoloa Village Park.
- (1987, Ord. No. 87-70, sec. 1.)

**Section 14-2.2. Intoxicating liquors allowed between the hours of 10:00 a.m. and 10:00 p.m.**

- (a) Persons may drink intoxicating liquors in the following public areas or buildings located thereon between the hours of 10:00 a.m. and 10:00 p.m.:
- (1) South Hilo:
    - (A) Carlsmith Park;
    - (B) Hilo Senior Center;
    - (C) James Kealoha Beach Park;
    - (D) Kolekole Beach Park;
    - (E) Wai‘olena and Wai‘uli Beach Parks, except a portion located between the pavilions and the west end of the seawall beginning at a point four-tenths of a mile west of Leleiwi Street and extending three hundred twelve feet in the westerly direction;
    - (F) Onekahakaha Beach Park.
  - (2) North/South Kona:
    - (A) Hōnaunau Boat Ramp;
    - (B) Ho‘okena Beach Park;
    - (C) Kahalu‘u Beach Park;
    - (D) Magic Sands Beach Park;
    - (E) Manini Point;
    - (F) Miloli‘i Beach Park;
    - (G) Nāpō‘opo‘o Beach Park;
    - (H) Pāhoehoe Beach Park;
    - (I) Oneo Park.
  - (3) Ka‘ū:
    - (A) Punalu‘u Beach Park;
    - (B) Whittington Beach Park.
  - (4) Puna:
    - (A) Harry K. Brown Park;

- (B) Isaac Hale Beach Park;
- (C) Kaimū Beach Park.
- (5) North Hilo/Hamakua:
  - (A) Kukuihaele Social Hall;
  - (B) Laupāhoehoe Beach Park;
  - (C) Waikaumalo Park.
- (6) North/South Kohala:
  - (A) Kapa‘a Beach Park;
  - (B) Kēōkea Beach Park;
  - (C) Māhukona Beach Park;
  - (D) Māhukona Boat Ramp.

(1987, Ord. No. 87-70, sec. 1; Am. 1990, Ord. No. 90-104, sec. 2; Am. 1990, Ord. No. 90-122, sec. 3; Am. 1996, Ord. No. 96-54, sec. 2; Am. 2008, Ord. No. 08-7, sec. 4.)

**Section 14-3. Permit application.**

- (a) Only persons twenty-one years of age or older who show satisfactory proof of their age and who comply with the requirements set forth in this section shall be entitled to a permit.
- (b) Any person desiring to obtain a permit, required by section 14-2, shall make application in writing to the chief of police or the chief’s authorized representative. The application shall be signed by the applicant and the person who will be responsible for the conduct of all persons at the gathering or occasion, and shall include:
  - (1) The full name and address of the applicant, if an individual, and, if a firm, association, corporation or club, the full names and addresses of its principal officers.
  - (2) The full name and address of the person who will be responsible for the conduct of all persons at the occasion or gathering. Such person shall be of good moral character. The chief of police or the chief’s authorized representative may, in the chief of police’s or the chief’s authorized representative’s discretion, require proof of good moral character if they have good reason to doubt the moral character of the person. The proof shall be in the form of an affidavit signed by two or more responsible persons stating the duration and nature of their knowledge and acquaintance with the person and that the person is of good moral character.
  - (3) The place for which a permit is desired.
  - (4) The date and time for which a permit is desired. In no event shall the permit extend beyond 10:00 p.m.
  - (5) The nature of the occasion or gathering.
  - (6) The approximate number of persons to be in attendance.

(1975 C.C., c. 3, art. 2, sec. 6.04; Am. 1987, Ord. No. 87-70, sec. 1; Am. 1990, Ord. No. 90-122, sec. 4.)

**Section 14-4. Permit conditions.**

- (a) Permits shall be subject to all applicable laws and ordinances and to the following conditions which shall be set forth in the permit:
  - (1) No person who is intoxicated shall be permitted to be or remain upon the premises.
  - (2) No person shall intentionally destroy, damage or injure any property.
  - (3) No person shall dispose of any refuse, except in receptacles placed on the premises for that purpose.
  - (4) The responsible person shall be present at all times.

(1975 C.C., c. 3, art. 2, sec. 6.05.)

**Section 14-5. Interpretation of article.**

The provisions of this article shall not be construed to permit a person to sell intoxicating liquor by obtaining a special license or otherwise.

(1975 C.C., c. 3, art. 2, sec. 6.06.)

**Section 14-6. Penalty.**

Any person violating any provision of this article or any condition set forth in a permit issued under this article shall, upon conviction, be punished by a fine of not more than \$500.

(1975 C.C., c. 3, art. 2, sec. 6.07.)

**Article 2. Firearms and Explosives.****Section 14-7. Definitions.**

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

- (1) “Agency” means organizations, public and private, whose operations are determined by the chief of police to require the use of one or more of the devices enumerated in section 14-9 to accomplish a proper purpose.
- (2) “Chief of police” means the chief of police of the County or the chief’s authorized subordinate.
- (3) “Devices” means a shell, cartridge, bomb, gun, or aerosol capable of emitting an obnoxious substance in gas, vapor, liquid, or solid form.
- (4) “Employee” means all officers, agents, and employees of an agency whether or not such officer, agent, or employee has been issued a permit.
- (5) “Gun” means revolvers, pistols, rifles, fountain pen guns, riot guns, shot guns, and cannons, portable or fixed, except those regularly manufactured, and used with firearm ammunition.
- (6) “Obnoxious substance” means a substance enumerated in section 14-8 or its derivative.
- (7) “Shell, cartridge, or bomb” means a shell, cartridge, or bomb capable of being discharged or exploded by the use of a percussion cap, fuse, electricity, or other means to cause or permit the release or emission of an obnoxious substance.

(1975, Ord. No. 156, sec. 1.)

**Section 14-8. Possession and use of obnoxious substance prohibited.**

- (a) No person shall use a shell, cartridge, bomb, gun, or other device capable of emitting any liquid, gaseous, or solid substance or any combination thereof, which is injurious to a person or property, or which is nauseous, sickening, irritating or offensive to any of the senses; to injure, molest, discomfort, discommode, or coerce another in the use or control of their person or property or engage in a “crime of violence” as defined in Hawai‘i Revised Statutes Title 37, which involves injury or threat of injury to the person or property of another.
- (b) No person shall possess, discharge, use, transport, sell, or offer to sell any shell, cartridge, bomb, gun, or other device capable of emitting chloroacetophenone (CN), orthochlorobenzylmalononitrile (CS), or their derivatives in any form.

(1975, Ord. No. 156, sec. 1; Am. 1995, Ord. No. 95-90, sec. 2.)

**Section 14-9. Exceptions.**

- (a) The chief of police and his subordinates may purchase, possess, discharge, use, and transport shells, cartridges, bombs, guns, and obnoxious substances in carrying out their duties.
- (b) Notwithstanding the prohibitions prescribed in subsections 14-8(a) and (b), private security officers who are employees of licensed private police or security agencies may purchase, possess, discharge, use, or transport shells, cartridges, bombs, guns, and other devices in carrying out their duties, subject however, to the conditions prescribed in sections 14-11 and 14-12.

- (c) An employee of a government or private organization who, by necessity of employment, is required to go on private property to carry out a duty, may possess, discharge, use, or transport shells, cartridges, bombs, guns, and other devices subject to the conditions prescribed in section 14-12.  
(1975, Ord. No. 156, sec. 1; Am. 1995, Ord. No. 95-90, sec. 2.)

**Section 14-10. Permit required for agency.**

- (a) Any agency desiring to purchase, possess, discharge, use or transport an obnoxious substance shall first file an application for a permit on forms provided by the chief of police. The application shall include the name of the officer or employee who has been authorized to purchase the obnoxious substance from a vendor.
- (b) The agency shall submit the name of each employee who is to possess, discharge, use or transport the device together with its application for permit, so that the chief of police may issue separate permits to each of the named employees.
- (c) Each agency except for government agencies shall pay to the director of finance a sum of \$50 for its permit and a sum of \$5 for each permit issued to its employees.
- (d) Each agency is authorized to purchase only the device emitting an obnoxious substance listed on its permit. The device shall at all times remain in the exclusive ownership and control of the agency.  
(1975, Ord. No. 156, sec. 1; Am. 1995, Ord. No. 95-90, sec. 2.)

**Section 14-11. Investigation of agency; issuance of permit.**

- (a) The chief of police, upon application by an agency, shall determine that the possession, discharge, use, and transportation of a device is necessary due to the nature of the service or services performed by the agency. The chief of police shall have the sole authority to determine the specific service or services for which there is a necessity for the use of a device. The device shall be used only in connection with the performance of the authorized service or services.
- (b) The chief of police shall issue a permit to the individual employee only upon finding that the employee:
- (1) Is of good moral character;
  - (2) Is at least eighteen years of age;
  - (3) Has not been convicted in this State or elsewhere of a crime of violence or of the illegal use, possession or sale of narcotics; and
  - (4) Has not been adjudged insane.
- The agency shall cooperate in providing all such evidence as to fitness of the employee as may be required by the chief of police in making the foregoing findings. The permit furnished by the chief of police shall be carried on the employee's person whenever the employee is in possession of a device.
- (c) Upon making a determination under subsections (a) and (b) favorable to the requesting agency, the chief of police shall issue to the agency a permit authorizing it to purchase, own, and control the device or devices listed. A copy of the permit shall be retained on file at the police department.  
(1975, Ord. No. 156, sec. 1.)

**Section 14-12. Conditions; storage and transportation.**

- (a) Agencies described in subsections 14-9(b) and (c) shall be subject to the following conditions of purchase, use, storage, possession, transportation, and other requirements in connection with an obnoxious substance.
- (b) All devices emitting obnoxious substances owned by an agency except those enumerated in subsection 14-9(c), which may be secured in a locked compartment in the agency vehicle, shall be stored at a single location which is under the exclusive control of the agency and approved by the chief of

police. The issuance and reissuance of the devices shall only be to employees authorized under subsection 14-11(b) according to controls approved by the chief of police. In addition, an accurate record of the issuance and return of all devices as well as the number of devices in the possession of each employee and the number in possession of the agency shall be kept by the agency.

- (c) The possession and transportation of a device by an employee shall be, unless otherwise provided, restricted to:
  - (1) Transportation between the place of storage and the place of performance of the approved service;
  - (2) The location where the services for which the use of the device was approved are being performed; and
  - (3) Transportation from one place of performance of an approved service to another, if during the course of the employee's duties the employee is required to provide services at more than one place.
- (d) The employee shall discharge or use the device only within the scope of and when reasonably necessary to employment.
- (e) The agency will be liable for the negligent use or misuse of a device under its control whether or not the device is being used by its employee within the scope of employment; provided, the penalty provision of section 14-16 shall not apply to the agency for the unlawful act of its employee unless the act is permitted or induced by the action of the agency.
- (f) The records and procedures for the possession, use, and transportation of a device shall be subject to inspection by the chief of police from time to time.

(1975, Ord. No. 156, sec. 1.)

**Section 14-13. Vendor's license required; fee.**

- (a) Any person vending an obnoxious substance shall first obtain a license from the director of finance.
- (b) The annual fee for a license under this section shall be \$25, which shall be payable to the director of finance.

(1975, Ord. No. 156, sec. 1.)

**Section 14-14. Vendor's records; deliveries.**

- (a) The vendor shall keep an accurate record of the sale of obnoxious substances including monthly inventories showing the quantity and type of device received, inventories showing the quantity of devices on hand, accurate records of the sale of devices including the name of the purchasing agency, date of purchase, type of obnoxious substance sold and the number of each type, and such other records as the chief of police may require.
- (b) The chief of police shall have access to the vendor's books and records pertaining to the purchase and sale of obnoxious substance at reasonable times during business hours.
- (c) The sale of obnoxious substance shall be made in case sized units as packaged at the factory and unopened except that the unopened case may be placed in a container provided by the local vendor prior to the sale. Sales of obnoxious substance shall be made only to the authorized representative of the purchasing agency as provided in sections 14-10, 14-11, and 14-12 or in the case of delivery to the agency, the delivery shall be only to the location specified in the agency's permit. Deliveries as provided under this article shall be made only by the personnel of the vendor or the delivery service. No permit shall be required for the personnel of the vendor or delivery service making such deliveries.

(1975, Ord. No. 156, sec. 1.)

**Section 14-15. Renewal of licenses and permits.**

A license or permit issued under this article shall be renewed every year before July 2.

(1975, Ord. No. 156, sec. 1.)

**Section 14-16. Penalty.**

A person who violates any provision of this article shall upon conviction be punished by imprisonment not to exceed one year or by a fine not to exceed \$1,000 or both. Upon conviction, the license or permit issued to the person shall be revoked.

(1975, Ord. No. 156, sec. 1.)

**Article 3. Noise Control.****Section 14-17. Definition.**

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

- (1) "Machine or device for reproducing sound" includes any magnifying sound instrument used in the production or replication of music, spoken words, or other sounds, other sound amplification designed to enlarge the volume of sound produced by any instrument or by the human voice.

(1975 C.C., c. 6, art. 11, sec. 12; Am. 1990, Ord. No. 90-65, sec. 2.)

**Section 14-18. Use of sound reproducing devices in public areas.**

(a) It shall be a violation of law for any person or persons to play, use, operate, or permit to be played, used, or operated, any radio, tape recorder, cassette player, or other machine or device for reproducing sound, if:

- (1) Such machine or device is located in or on:
  - (A) Any public property, including any public street, highway, building, sidewalk, park, or thoroughfare; or
  - (B) Any motor vehicle on a public street, highway, or public space; and
- (2) The sound generated by such machine or device is audible at a distance of fifty feet from the machine or device producing the sound.

(b) Possession by a person or persons of any of the machines or devices enumerated in subsection (a) shall be prima facie evidence that that person, or those persons, operated the machine or device at the time in question, in violation of this section.

(1975 C.C., c. 6, art. 11, sec. 11; Am. 1990, Ord. No. 90-65, sec. 2.)

**Section 14-19. Enforcement.**

(a) Powers of arrest or citation. Any police officer shall be authorized to issue a citation for any violation under this article. An arrest under the provisions of this article may only be effected by a police officer, and only in instances where:

- (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator.
- (2) When the alleged violator refuses to cease such activity after being issued a citation.

(b) Citation.

- (1) There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this article which does not mandate physical arrest of such violators. The form and content of such citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other citations used in modern methods of arrest so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawai'i and the County of Hawai'i.
- (2) In every case when a citation is issued, a copy of the same shall be given to the violator.
- (3) Every citation shall be consecutively numbered and each carbon copy shall bear the name of its respective original.

(1975 C.C., c. 6, art. 11, sec. 12; Am. 1990, Ord. No. 90-65, sec. 2.)

**Section 14-19.1. Permits.**

- (a) A permit for a temporary exemption from the provisions of subsection 14-18(a) of this article may be issued by the chief of police to commercial, religious, political, civic, charitable, athletic, and other organizations, or individuals, for activities such as carnivals, parades, fund raisers, fairs, bazaars, public speeches and meetings.
  - (b) The chief of police shall prescribe a form of application for such a permit which shall be completed by the applicant and which, when completed, shall state the date, time of day, duration, and nature of the proposed activity, the reason for the proposed activity, the name of the person who shall be in charge of the proposed activity, and such other pertinent information as the chief shall deem necessary.
  - (c) In determining whether to grant or deny an application for a permit hereunder, the chief shall consider the information provided in the application together with the impact of the proposed noise on the health, safety and welfare of the residents of and visitors to the surrounding area. If more information is needed in order for the chief to make a determination on the application, the chief may request further information from the applicant by means of a supplemental application.
  - (d) The applicant shall submit the completed form to the chief not later than five days prior to the proposed activity; thereafter, the chief shall notify the applicant of the decision to grant or deny the permit within three days of the submission of the completed application and any required supplemental application.
  - (e) The permit shall state the date, place, time, duration, and nature of the proposed activity, shall be in the possession of the person in charge of the activity, and shall be produced for inspection upon the request of any law enforcement officer.
  - (f) The chief may issue a permit subject to conditions which shall be stated upon the permit; including limitations upon the sound level, duration, or time of day of the activity, or the requirement that breaks be taken in the activity.
  - (g) The chief may adopt rules not inconsistent herewith for the implementation of the permit system established in this section. Such rules may include provisions for the granting of a permit when an application is received less than five days prior to the proposed activity.
- (1990, Ord. No. 90-65, sec. 2.)

**Section 14-19.2. Exemptions.**

The following shall be exempt from the prohibitions set forth in section 14-18:

- (1) Activities of the County of Hawai'i, State of Hawai'i, or the United States;
  - (2) Activities of private persons or entities acting within the permitted uses of a permit issued by the County of Hawai'i, State of Hawai'i, or the United States;
  - (3) Amplifying devices within sight-seeing cars, buses, motor coaches, or other similar vehicles, designed primarily to address passengers within the vehicles; and
  - (4) Amplifying devices on or within ambulances or authorized emergency vehicles.
- (1990, Ord. No. 90-65, sec. 2.)

**Section 14-19.3. Penalty.**

- (a) Any person convicted of a violation of the provisions of this article shall be punished by a fine of:
  - (1) Up to \$100 for the first offense; or
  - (2) Up to \$500 for the second offense, if such offense is committed within six months of the first offense; or
  - (3) Up to \$1,000, or forfeiture of the sound system or components of the sound system up to \$1,000 in value, or a combination of a fine and forfeiture, up to a total of \$1,000, for conviction of the third or more offense, if such offense is committed within one year of the first offense.

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

#### **Article 4. Prohibition of Smoking in Certain Places.**

##### **Section 14-20. Definitions.**

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

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

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

- (13) Smoking is prohibited, pursuant to HRS 328J-6, within a presumptively reasonable minimum distance of twenty feet from any entrance to, exit from, or any fresh air intake of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.
  - (14) Areas within private residences, during hours of operation, that are used for the care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.
- (b) Except as otherwise provided in this article, smoking of cigarettes or tobacco products, or use of any tobacco products shall be prohibited at all County parks and recreational facilities listed in section 15-68.1.
- (1977, Ord. No. 279, sec. 2; Am. 1977, Ord. No. 302, sec. 1; Am. 1982, Ord. No. 812, sec. 1; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec. 2; Am. 2008, Ord. No. 08-56, sec. 1.)

**Section 14-22. Exceptions.**

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

**Section 14-23. Posting of signs.**

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

**Section 14-24. Violations and penalties.**

- (a) It is unlawful for any person to smoke in a place within the County where smoking is prohibited.
  - (b) Any person violating any of the provisions of subsection 14 21(a) shall be fined not less than \$25 and not more than \$50. Any person violating subsection 14-21(b) shall be fined \$100 for each separate offense.
  - (c) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:
    - (1) A fine not exceeding \$100 for a first violation;
    - (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
    - (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.
- (1977, Ord. No. 279, sec. 2; Am. 1987, Ord. No. 87-1, sec. 2; Am. 2003, Ord. No. 03-112, sec. 2; Am. 2007, Ord. No. 07-4, sec 3.)

**Section 14-24.1. Enforcement and administration.**

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

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

**Section 14-24.2. Fire code.**

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

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

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

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

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

**Section 14-26. Definitions.**

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

- (3) “County fire code” means the “Uniform Fire Code, 1988 Edition” (UFC), and the “1989 and 1990 Uniform Fire Code Supplements,” as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials.
- (4) “County safety code” means the “Uniform Building Code, 1991 Edition” as copyrighted and published by the International Conference of Building Officials.
- (5) “Cultural” means relating to the arts, customs, traditions, mores, and history of all of the various ethnic groups of Hawai‘i.
- (6) “Department” means the fire department, of the County of Hawai‘i.
- (7) “Fireworks” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term “fireworks” shall not include automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its or other devices which contain twenty-five hundredths of a grain or less of explosive substance. The term “fireworks” also shall include any explosives and pyrotechnics regulated under chapter 396, Hawai‘i Revised Statutes.
- (8) “Import” (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in these rules) means to bring or attempt to bring fireworks into the State or to cause fireworks to be brought into the State.
- (9) “License” means a nontransferable, formal authorization, valid for a period not to exceed one year from the date of issuance to March 31 of the following year and which the department is hereby authorized to issue under chapter 132D, Hawai‘i Revised Statutes, to engage in the act or acts specifically designated therein.
- (10) “Nonaerial common fireworks” means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to remain on or near the ground and which, while stationary or spinning rapidly on or near the ground, emits smoke, a shower of colored sparks, whistling effects, flitter sparks or balls of colored sparks and combination items which contain one or more of these effects. “Nonaerial common fireworks” includes firework items commonly known as firecrackers which are single paper cylinders not exceeding one and one-half inches in diameter containing a charge of not more than fifty milligrams of pyrotechnic composition, snakes, sparklers, fountains, and cylindrical or cone fountains which emit effects up to a height not greater than twelve feet above the ground, illuminating torches, bamboo cannons, whistles, toy smoke devices, wheels, and ground spinners which when ignited remain within a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, novelty or trick items, combination items, and other fireworks of like construction which are designed to produce the same or similar effects.
- (11) “Permit” means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which a county is authorized to issue under chapter 132D, Hawai‘i Revised Statutes, to engage in the act or acts specifically designated herein.
- (12) “Public display” means a public exhibition and the use of fireworks for commercial activities (including such activities as movie or television production).

- (13) “Pyrotechnic composition” or “pyrotechnic contents” means the combustible or explosive component of fireworks.
  - (14) “Special fireworks” means any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a display permit issued by the County.
  - (15) “State Fire Code” means the State Model Fire Code as adopted by the State of Hawai‘i on March 27, 1992, pursuant to chapter 132, Hawai‘i Revised Statutes, which model code adopts, with modifications, the “Uniform Fire Code, 1988 Edition” (UFC), and the “1989 and 1990 Uniform Fire Code Supplements,” as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials.
  - (16) “Unit” means one individual firecracker.
- (2000, Ord. No. 00-137, sec. 2.)

**Section 14-27. General license provisions.**

- (a) Any person desiring to import, store, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or nonaerial common fireworks, or any person desiring to possess aerial common fireworks or special fireworks within the County of Hawai‘i shall obtain a license issued by the department.
  - (b) A license may only be issued to a person eighteen years of age or older.
  - (c) Licenses are nontransferable.
  - (d) Licenses are valid only from the date of issuance or effect to March 31 of each year.
  - (e) Licenses shall be prominently displayed in public view and secured at the location for which the license has been issued.
  - (f) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks to a licensed retailer, to sell or offer to sell any fireworks at any time to any person who does not present a permit duly issued as required by section 14-29.
    - (1) The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks, and the seller or transferor shall indicate on the permit the amount and type of fireworks sold or transferred;
    - (2) No fireworks shall be sold or delivered to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit previously to have been purchased; and
    - (3) No fireworks shall be sold to a permittee holding a permit issued for purposes of section 14-29, more than five calendar days prior to the designated periods for use as set forth in section 14-29.
  - (g) Persons to whom licenses are issued shall comply with the applicable provisions of section 14-29 and with all applicable Federal, State, and County laws.
  - (h) If a licensee fails to comply with the requirements of chapter 132D, Hawai‘i Revised Statutes, or applicable County laws, or if the department determines that the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard the department may immediately revoke the license.
  - (i) If the department discovers at a later date that a licensee has been convicted of a felony under chapter 132D, Hawai‘i Revised Statutes, the department shall revoke the licensee’s license and no new license shall be issued to the licensee for a period of two years from the date of the license revocation.
- (2000, Ord. No. 00-137, sec. 2.)

**Section 14-28. Applications for licenses.**

- (a) Applications for licenses to import, store, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or nonaerial common fireworks, or applications for licenses to possess aerial common fireworks or special fireworks within the County of Hawai'i may be obtained at the department or at those locations so designated by the department.
- (b) Applications for all licenses shall be submitted to the department at least twenty working days from the date on which importing, storage, wholesaling or retailing activities would begin.
- (c) The fee for each license is payable to the County director of finance and must be submitted to the department with the application. The fee is nonrefundable. The fee for each license required under this section shall be for each year, fraction of a year, or event in which the licensee plans to conduct business in the County of Hawai'i where the permitted activity is to occur. The fee schedules are as follows:
  - (1) \$3,000 for each importer;
  - (2) \$2,000 for each wholesaler's site;
  - (3) \$1,000 for each storage site; and
  - (4) \$500 for each retailer's site.
- (d) The department shall provide an exemption from the fees to nonprofit community groups for importation and storage of fireworks for displays once a year.
- (e) Completed applications for licenses may be delivered in person during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department, or to those locations so designated by the department. The application must include a self-addressed envelope of adequate size and sufficient postage.
- (f) The department shall determine whether or not to issue the license. Licenses or denials of licenses will be mailed to the applicant by the department.
- (g) Applications for all licenses shall state the following:
  - (1) The date of the application and the name, address, telephone number, and age of the applicant:
    - (A) If the applicant is a sole proprietor, the name of the proprietor;
    - (B) If the applicant is a partnership, the name of the partnership and the names of all partners; or
    - (C) If the applicant is a corporation, the name of the corporation and the names and titles of its officers.
  - (2) If the license is to import fireworks, the application shall also include the following:
    - (A) The address of the location of the importer;
    - (B) The date upon which importation will begin; and
    - (C) Class and estimated quantity of fireworks to be imported.
  - (3) If the license is to store, offer to sell, or to sell fireworks, the application shall also include the following:
    - (A) The date upon which the storage, sale, or offers for sale will begin;
    - (B) The address of the location of the licensee;
    - (C) The address where the fireworks will be stored, and the address where the sales or offers to sell will occur;
    - (D) The name of the proprietor; or
    - (E) If a partnership, the name of the partnership and the names of all partners; or
    - (F) If a corporation, the name of the corporation and the names of its officers.
- (h) Anytime prior to or following the issuance of a license the department may at its discretion, inspect the proposed location where the fireworks will be stored or sold, at wholesale or retail to ensure that the applicant is in compliance with the State Fire Code, County Fire Code and County Safety Code.
- (i) The department may deny a license if the applicant is not in compliance with the requirements of these rules or chapter 132D, Hawai'i Revised Statutes.

- (j) If the department discovers at a later date that a licensee has been convicted of a felony under chapter 132D, Hawaii Revised Statutes, the licensee's license shall be revoked and no new license shall be issued to the licensee for a period of two years from the date of the license revocation.  
(2000, Ord. No. 00-137, sec. 2.)

**Section 14-29. Fireworks permit.**

- (a) Types of permits.
- (1) The following types of fireworks permits are available to the public:
    - (A) Permits for the purchase of any nonaerial common fireworks may be issued for events set forth in section 14-29(b);
    - (B) Permits for the purchase and use of any nonaerial common fireworks may be issued for cultural purposes or events as set forth in section 14-29(b);
    - (C) Permits for the purchase and use of aerial common fireworks, special fireworks, or both, may be issued when the aerial common fireworks, special fireworks, or both, are to be set off, ignited or discharged for public displays.
- (b) Use of nonaerial common fireworks; when permit required.
- (1) Nonaerial common fireworks, other than firecrackers, may be used within the County of Hawaii during the following periods without a permit:
    - (A) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day;
    - (B) From 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and
    - (C) From 1:00 p.m. to 9:00 p.m. on the Fourth of July.
  - (2) A permit is required for the purchase and use of not more than five thousand individual firecrackers when such use occurs during the time specified above in paragraph (1).
  - (3) A permit is required if the proposed cultural use of nonaerial common fireworks, including firecrackers, is to occur at any time not specified above in paragraph (1).
  - (4) A permit issued pursuant to this section shall authorize purchase and the use of nonaerial common fireworks from 9:00 a.m. to 9:00 p.m. on the date for which the permit is issued; provided that not more than five thousand individual nonaerial fireworks shall be allowed under each permit.
- (c) Permits for the permissible uses of aerial common fireworks and special fireworks. Aerial common fireworks and special fireworks may be purchased, set off, ignited, or otherwise caused to explode within the County of Hawaii only if for public display and permitted in writing pursuant to section 14-30(d).
- (d) General permit provisions. Any person desiring a permit as described in section 14-29(a) shall obtain a permit issued by the department. The following provisions shall apply to all permits:
- (1) A permit may only be issued to a person eighteen years of age or older.
  - (2) An application for a permit may be issued to any person for cultural purposes.
  - (3) Permits are nontransferable.
  - (4) Permits are valid only when the fireworks are used at the site, time, and date so indicated on the permit.
  - (5) Permits shall be prominently displayed in public view at the site on the day at the time of the firing.
  - (6) A permit may be denied if the proposed use of fireworks presents a substantial inconvenience to the public or presents an unreasonable fire or safety hazard.
  - (7) If the permittee fails to remain in compliance with the requirements as set forth in these rules or in chapter 132D, Hawaii Revised Statutes, the department may immediately revoke the permit.
  - (8) The date of issuance or effect and the date of expiration shall be noted on the permit, but in no case shall the expiration date exceed the period of one year from the date of issuance or effect of the permit.

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

**Section 14-30. Application for permits.**

- (a) The following provisions shall apply to all permit applications:
- (1) Applications for permits shall be obtained at the department or at those locations so designated by the department.
  - (2) Completed applications for permits may be delivered in person during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department or at those locations so designated by the department. The application must include a self-addressed envelope of adequate size and sufficient postage.
  - (3) The department shall determine whether or not to issue the permit. Permits or denials of permit applications will be mailed to the applicant by the department.
- (b) Permits for the purchase of nonaerial common fireworks for designated periods prescribed in section 14-29 relating to New Year's, Chinese New Year and the Fourth of July.
- (1) Applications for permits to purchase nonaerial common fireworks for use during the designated periods prescribed in section 14-29(b) shall be in writing, signed by the applicant and shall include:
    - (A) Name, age, telephone number, and address of the person and permittee, if different;
    - (B) Name(s) of the organization's, corporation's, club's, establishment's, or other entity's proprietor(s), partner(s), or officer(s) and verification that the person making the application is the authorized agent of the entity;
    - (C) Date of the permitted activity;
    - (D) Location where the permitted activity is to occur; and
    - (E) Estimated quantity of nonaerial common fireworks to be used under the permit, but not exceeding five thousand units.
  - (2) The fee for this permit is \$25, payable to the County director of finance, is nonrefundable and must be submitted at the time of the application.
  - (3) Any purchase of nonaerial common fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated periods for use as set forth in section 14-29(b).
  - (4) A permit issued pursuant to this section shall not allow purchase of nonaerial common fireworks for more than one event as set forth in section 14-29(b).
- (c) Permits for the purchase of nonaerial common fireworks for proposed cultural use during time periods other than designated time periods prescribed in section 14-29(b).
- (1) The application shall be in writing, signed by the applicant and shall include the following:
    - (A) Name, age, telephone number, and address of the person and permittee, if different;
    - (B) Name(s) of the organization's, corporation's, club's, establishment's, or other entity's proprietor(s), partner(s) or officer(s) and verification that the person making the application is the authorized agent of the entity;
    - (C) Name, address, telephone number and age of the person who will supervise the use of the nonaerial common fireworks;
    - (D) Estimated quantity of nonaerial common fireworks to be used under the permit, but not exceeding five thousand units; and
    - (E) Date, time period and proposed cultural use of the nonaerial common fireworks.
  - (2) A person, including the proprietor, partner, corporate officer or duly authorized agent of any temple, cemetery, or any cultural association, lion dance club, or other similar organization desiring to purchase, discharge, fire, or explode nonaerial common fireworks for cultural purposes or occasions, or desiring to provide for the discharging, firing, or exploding of nonaerial common fireworks by members of their organizations, clients, patrons or customers, for cultural purposes or occasions may obtain a permit pursuant to this subsection.
    - (A) The fee for this permit is \$25, payable to the County director of finance, is nonrefundable and must be submitted at the time of the application.

- (B) A permit issued pursuant to paragraph 2 of this subsection shall not allow purchase of nonaerial common fireworks for more than one event.
- (3) A permit may be issued to an establishment for the use of nonaerial common fireworks at the establishment during the period of the permit. Such permit may allow the establishment to purchase nonaerial common fireworks for cultural purposes specified in the permit.
  - (A) The fee for this permit is \$25, payable to the County director of finance, is nonrefundable, and must be submitted at the time of the application.
  - (B) The time period of the permit for the establishment shall not exceed six months.
- (4) Any purchase of nonaerial common fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated periods for use as set forth in section 14-29(b), and as stated on the permit.
- (d) Permits for aerial common fireworks and for special fireworks, known as public display permits.
  - (1) A permit may be issued to purchase and set off, ignite, or discharge aerial common fireworks, special fireworks, or both, for a public display.
  - (2) The application shall be in writing, signed by the applicant and state the following:
    - (A) The name, age, and address of the applicant;
    - (B) The name, age, and address of the person who will operate the display, and verification that the person is a licensed pyrotechnic operator as duly authorized by the State of Hawai'i;
    - (C) The time, date, and plot plan of the place for the display;
    - (D) The type and quantity of aerial common fireworks, special fireworks, or both, to be displayed; and
    - (E) The purpose or occasion for which the display is to be presented.
  - (3) An application for a public display permit shall be submitted to the department not less than twenty working days before the proposed date of the public display.
  - (4) The fee for this permit is \$110 for each year or fraction of a year in which the permittee plans to conduct business, payable to the County director of finance, is nonrefundable, and must be submitted with the application.
  - (5) No public display permit shall be issued unless the applicant presents, at the applicant's option, either:
    - (A) A written certificate of an insurance carrier or a policy providing for the payment of damages in the amount of not less than \$5,000 for injury to, or death of, any person, and subject to the foregoing limitation for one person; in the amount of not less than \$10,000 for injury to, or death of, two or more persons; and in the amount of not less than \$5,000 for damage to property, caused by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the public display; or
    - (B) The bond of a surety company duly authorized to transact business within the State, or a bond with not less than two individual sureties who together have assets in the State equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than \$10,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect for not less than ten days after the date of the public display.
  - (6) The department may require coverage in amounts greater than the minimum amounts set forth in paragraph 5 of this subsection if deemed necessary or desirable in consideration of such factors as:
    - (A) Location and scale of the display;

- (B) Type of aerial common fireworks, special fireworks, or both, to be used; and
  - (C) Number of spectators expected.
  - (7) Prior to the issuance of a public display permit and at the discretion of the department, an inspection of the proposed firing area may be required. Inspections, when conducted, shall ascertain compliance with National Fire Protection Association Standards 1123 entitled “Outdoor Display of Fireworks” or 1126 entitled, “Pyrotechnics Before A Proximate Audience,” 1995 Edition, which are incorporated herein by reference.
  - (8) A public display permit may be denied by the department if the requirements imposed by this article or chapter 132D, Hawai‘i Revised Statutes are not met.
  - (9) Notwithstanding the foregoing, any public display permit issued by the department may be revoked or suspended immediately by the department for the following reasons:
    - (A) The climatic, atmospheric, or other conditions on the day of the proposed firing may reasonably be believed to make the use of aerial common fireworks, special fireworks, or both, hazardous to persons or property; or
    - (B) Any requirement imposed by this article or chapter 132D, Hawai‘i Revised Statutes, or any condition of the permit necessary to minimize the danger to persons or property is not met.
- (2000, Ord. No. 00-137, sec. 2.)

**Section 14-31. Importation, bill of lading, notification and storage.**

- (a) Licensee’s duty of notification.
  - (1) Any person who has obtained a license pursuant to section 132D-7, Hawai‘i Revised Statutes, and ships fireworks into the County of Hawai‘i shall:
    - (A) Clearly designate the types of fireworks in each shipment on the bill of lading or shipping manifest.
    - (B) Declare on the bill of lading or shipping manifest the gross weight of aerial common fireworks, nonaerial common fireworks, and special fireworks to be imported in each shipment.
    - (C) Declare on the bill of lading or shipping manifest, the location of the storage facility, if applicable, in which the fireworks are to be stored.
    - (D) Prior to shipment, notify the fire chief of the department regarding whether the shipment will be distributed from:
      - (i) Pier to pier;
      - (ii) Pier to warehouse or storage facility; or
      - (iii) Pier to redistribution.
    - (E) At the time shipping is booked, the importer or consignee shall notify the fire chief of the department in writing of the expected shipment’s landing date.
- (b) Discretionary inspection of shipment of fireworks. The department shall be allowed to inspect, if it chooses, any shipment declared on the shipping manifest as fireworks when a shipment of fireworks has landed and becomes subject to the jurisdiction of the department.
- (c) Approval to store fireworks.
  - (1) The facility in which fireworks are to be stored must:
    - (A) Obtain the approval of the department fifteen days prior to the shipment’s arrival; and
    - (B) Satisfy the requirements of the State Fire Code, County Fire Code and County Safety Code.
- (d) Importation of aerial common fireworks, special fireworks, or both, for public display. Aerial common fireworks, special fireworks, or both, shall only be imported and stored, if necessary, in an amount sufficient for an anticipated three-month inventory; except that if a licensee under section 14-28 provides aerial common fireworks, special fireworks, or both, for public displays as allowed under section 14-30(d) more than once a month, the licensee may import or store, if necessary, sufficient aerial common fireworks, special fireworks, or both for a six-month inventory.

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

**Section 14-32. Public information.**

- (a) The public may obtain information about matters within the jurisdiction of the department by inquiring at:
  - (1) The office of the county clerk, where there are on file all rules of the department; or at
  - (2) The office of the Hawai‘i County fire department.
- (b) Department files which are subject to inspection by the public pursuant to chapter 91, Hawai‘i Revised Statutes, may be examined upon request.
- (c) Inquiry may be made in person at the department’s office during regular business hours, or by submitting a request for information in writing to the fire chief.
- (d) Copies of the department’s proposed and final rules and all public records of the department are available upon payment of the fees established by statute or county ordinance.  
(2000, Ord. No. 00-137, sec. 2.)

**Section 14-33. General prohibitions.**

It shall be unlawful for any person to:

- (a) Remove or extract the pyrotechnic contents from any fireworks.
- (b) Throw any ignited fireworks from a moving vehicle.
- (c) Set off, ignite, discharge or otherwise cause to explode any fireworks:
  - (1) At any time not within the periods for use prescribed in section 14-29 unless permitted pursuant to section 14-30 of this article;
  - (2) Within one thousand feet of any operating hospital, convalescent home, home for the elderly or animal hospital;
  - (3) In any school building or on any school grounds and yards on any occasion; and
  - (4) On any highway, alley, street, sidewalk or other public way; in any park; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; except as may be permitted pursuant to section 14-30.
- (d) It shall be unlawful for any person to offer for sale, sell, or give any fireworks to minors, and for any minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, except that the parents or guardians may allow the minor to use fireworks while under the immediate supervision and control of an adult.  
(2000, Ord. No. 00-137, sec. 2.)

**Section 14-34. Penalties.**

- (a) Any person importing aerial common fireworks or special fireworks without having a valid license under section 132D-7, Hawai‘i Revised Statutes, shall be guilty of a class C felony.
- (b) Any person purchasing, possessing, setting off, igniting, or discharging aerial common fireworks or special fireworks without a valid permit under sections 132D-10 and 132D-16, Hawai‘i Revised Statutes, or storing, selling, or possessing aerial common fireworks or special fireworks without a valid license under section 132D-7, Hawai‘i Revised Statutes:
  - (1) If the total weight of the aerial common fireworks or special fireworks is twenty-five pounds or more, shall be guilty of a class C felony; or
  - (2) If the total weight of the aerial common fireworks or special fireworks is less than twenty-five pounds, shall be guilty of a misdemeanor.
- (c) Any person who transfers or sells aerial common fireworks or special fireworks to a person who does not have a valid permit under sections 132D-10 and 132D-16, Hawai‘i Revised Statutes, shall be guilty of a class C felony.
- (d) Any person who removes or extracts the pyrotechnic contents from any fireworks and uses the contents to construct fireworks or a fireworks related device shall be guilty of a misdemeanor.

- (e) Except as provided in subsections (a), (b), (c), and (d), or as otherwise specifically provided for in chapter 132D, Hawai'i Revised Statutes, any person violating any other provision of chapter 132D, Hawai'i Revised Statutes, shall be prosecuted pursuant to section 13-11, penalties section of the Hawai'i County Charter, as amended.  
(2000, Ord. No. 00-137, sec. 2.)

**Section 14-35. Sale to minors.**

It shall be unlawful for any person to offer for sale, sell or give any fireworks to minors, and for any minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, except as provided in section 14-36 and section 14-33(d).  
(2000, Ord. No. 00-137, sec. 2.)

**Section 14-36. Liability of parents or guardians.**

The parents, guardians, and other persons having the custody or control of any minor, who knowingly permit the minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, shall be deemed to be in violation of this article and shall be subject to the penalties thereunder, except that the parents or guardian may allow the minor to use fireworks while under the immediate supervision and control of the parent or guardian, or under the supervision and control of another adult.  
(2000, Ord. No. 00-137, sec. 2.)

**Article 6. Property Offenses.**

**Section 14-39. Duty of chief of police; cultivated grounds.**

It shall be the duty of the chief of police to protect lawns, gardens, grass plots, and other cultivated grounds belonging to the State and the County within the County, and all lawns, gardens, grass plots, and other cultivated grounds of a public nature within the County, and to place or cause to be placed on these places signs and notices warning persons to keep off these places; provided that this section shall not apply, during the period from February 1 through October 31 of each year, to the Hilo bayfront area, situated makai of the Hawai'i Belt Road, from the intersection of Kamehameha Avenue and Hawai'i Belt Road as delineated in the attached map.\*  
(1975 C.C., c. 3, art. 2, sec. 7.01; Am. 1977, Ord. No. 275, sec. 1.)

\* **Editor's Note:** No map is attached.

**Section 14-40. Trespass prohibited; penalty.**

- (a) A person who trespasses or walks on or over a lawn, garden, grass plot or other cultivated ground, on which there is a sign or notice to keep off shall be guilty of a misdemeanor. Upon conviction, the person convicted shall be fined not less than \$2.50 nor more than \$25, in the discretion of the judge having jurisdiction of the case.  
(1975 C.C., c. 3, art. 2, sec. 7.02.)

**Section 14-40.1. Property damage prohibited; penalty.**

- (a) It shall be unlawful for any person maliciously or wilfully to mar, injure, damage, destroy, or deface or aid in marring, injuring, damaging, destroying, or defacing any public building, sign, sidewalk, light pole, wall fixture, playground, structure, facility, or other property of the County without its consent.  
(b) Any person violating this provision shall be punished, upon conviction, by a fine not exceeding \$1,000 or by imprisonment not to exceed ninety days, or both. In addition to the penalties provided herein, the County may recover for damages to its property, the measure of which shall be the cost of repairing, replacing, or rebuilding the property injured or destroyed.  
(1986, Ord. No. 86-99, sec. 2.)

**Article 7. Radio Interference.****Section 14-41. Scope of article.**

This article shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any act of the Congress of the United States.

(1975 C.C., c. 3, art. 6, sec. 2.)

**Section 14-42. Operation of device causing electrical interference prohibited.**

(a) No person shall knowingly or wantonly operate or cause to be operated, any machine, device, apparatus or instrument of any kind whatsoever within the County between the hours of 6:00 a.m. and 12:00 p.m., the operation of which shall cause reasonably preventable electrical interference with radio reception within the County.

(b) X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and are not negligently operated.

(1975 C.C., c. 3, art. 6, sec. 1.)

**Section 14-43. Penalty.**

Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100. Each day shall constitute a separate offense during which such violation continues.

(1975 C.C., c. 3, art. 6, sec. 3.)

**Article 8. Nuclear Energy.****Section 14-44. Purpose.**

The purpose of this article is to maintain a clean and healthy environment for present and future generations in the County, to protect the health and safety of the residents of the County from radiation exposure resulting from dangers of accidents involving the transportation or storage of nuclear materials or the development of nuclear reactors, and to protect the general health, safety, comfort and welfare of the citizens of the County.

The purpose of article 8 shall not in any way inhibit or prohibit the military from carrying out their duties and responsibilities.

(1981, Ord. No. 665, sec. 1; Am. 1984, Ord. No. 84-39, sec. 1.)

**Section 14-45. Definitions.**

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

- (1) "Person" means any individual, firm, partnership, association, corporation, company, governmental entity or department thereof, or organization of any kind.
- (2) "Store" means to hold for any period of time.
- (3) "Transport" means the transportation by any mode, including but not limited to rail, highway, waterway or air.
- (4) "Radioactive material or substance" means any material or combination of materials which spontaneously emits ionizing radiation and includes, but is not limited to accelerator-produced isotopes and by-product materials.
- (5) The term "radioactive material or substance" shall include:

- (A) All materials which enter into or are produced as part of the nuclear fuel cycle, including milled uranium ore, fissile material, and all fission by-products.
  - (B) Any quantity of radioactive material specified as a “large quantity” by the Nuclear Regulatory Commission in 10 CFR, part 71.
  - (C) Any quantity of radioactive waste, including nonradioactive material contaminated with radioactive material, which has been produced as part of the nuclear fuel cycle.
- (6) For the purposes of this article, the term “radioactive material or substance” shall not include:
- (A) Radiation sources or materials employed in therapeutic radiology, in biomedical research, or in educational endeavors, or medical devices designed for individual application (as for example cardiac pacemakers) or commercial devices, processes, or facilities, as approved by the appropriate regulatory and licensing agencies.

(1981, Ord. No. 665, sec. 1.)

**Section 14-46. Transportation of radioactive material, unlawful.**

It shall be unlawful for any person to transport radioactive material within or through the County.

(1981, Ord. No. 665, sec. 1.)

**Section 14-47. Storage of radioactive material, unlawful.**

It shall be unlawful for any person to store radioactive material within the County.

(1981, Ord. No. 665, sec. 1.)

**Section 14-48. Nuclear energy facilities, prohibited.**

It shall be unlawful for any person to locate or build a nuclear energy facility which utilizes nuclear material for the production of energy within the County.

(1981, Ord. No. 665, sec. 1.)

**Section 14-49. Penalty.**

Any person violating any provision of this article shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, for each violation.

(1981, Ord. No. 665, sec. 1.)

**Article 9. Outdoor Lighting.**

**Section 14-50. Applicability and scope of article.**

- (a) This article shall apply to the installation of all outdoor lighting fixtures within the County.
- (b) The provisions of this article, including provisions for the imposition upon any person of the penalties by fine for any violation of this article, shall not be construed to exclude the operation of applicable State statutes or other County ordinances. In the case of conflict with other County ordinances, the stricter ordinance shall apply.

(1988, Ord. No. 88-122, sec. 3.)

**Section 14-51. Definitions.**

- (a) As used in this article, unless the context clearly indicates otherwise:
  - (1) “Outdoor lighting fixture” means any outdoor artificial lighting device, fixture, lamp, or other similar device, permanently installed or portable, which is intended to provide illumination for either visibility or decorative effects. Such device shall include, but not be limited to, search, spot, and flood lighting used for:
    - (A) Buildings and structures;
    - (B) Recreational facilities;

- (C) Parking lots;
  - (D) Landscape lighting;
  - (E) Business and advertising signs;
  - (F) Roadways;
  - (G) Walkways.
- (2) "Class I lighting" means all outdoor lighting used for, but not limited to, outdoor sales and eating areas, assembly or repair areas, advertising or business signs, recreational facilities, and other similar applications in which color rendition is important.
  - (3) "Class II lighting" means all outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor security, and other similar applications in which general illumination of the grounds is the primary concern.
  - (4) "Class III lighting" means any outdoor lighting used for decorative effects. It includes, but is not limited to, waterfall and pond lighting and architectural highlighting for buildings and landscapes.
  - (5) "Building official" means the director of public works or the director's designated representative.
  - (6) "Individual" means any private individual, governmental entity, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures, or corporations.
  - (7) "Fully shielded" means the outdoor lighting fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.
  - (8) "Partially shielded" means that the outdoor lighting fixture is constructed so that at least ninety percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

(1988, Ord. No. 88-122, sec. 3; Am. 2001, Ord. No. 01-108, sec. 1.)

**Section 14-52. General requirements.**

- (a) Standard source. Low pressure sodium lamps shall be the only light source permitted for all Class II type outdoor light fixtures. All other class types of outdoor light fixtures shall follow the requirements set forth in Table 14-A.
- (b) Shielding. All outdoor lights shall be shielded pursuant to the requirements set forth in Table 14-A.
- (c) Hours of operation. All outdoor light fixtures shall be subject to the hours of operation as required by Table 14-A.
- (d) Mercury vapor lights prohibited. Mercury vapor lamps shall not be used for any new outdoor lighting installations or for the replacement of any existing installation. All existing mercury vapor outdoor lighting fixtures shall be removed by August 17, 1998.

(1988, Ord. No. 88-122, sec. 3.)

**Section 14-53. Exemptions.**

- (a) Existing light fixtures. All outdoor light fixtures planned and approved by the County or existing and legally installed prior to September 1, 1988, are exempt from the installation and shielding requirements of this article, except that when existing outdoor light fixtures become inoperable, the outdoor light fixtures which replace them shall comply with the requirements of this article.
- (b) Fossil fuel light. All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene and gasoline, shall be exempt from the requirements of this article.
- (c) Holiday decorative lighting. Low wattage fixtures used for holiday decorations shall be exempt from the requirements of this article.
- (d) Residential incandescent illumination. Private residential incandescent light fixtures which are fully shielded or have a lumen output of less than eight thousand one hundred lumens for each acre of property that is intended to be illuminated shall be exempt from the requirements of this article.

- (e) Business signs. Outdoor advertising signs, if constructed of translucent material, and illuminated totally from within and colored with an opaque background using translucent letters or symbols, shall be exempt from the requirements of this article, except that the hours of operation shall be the same as those for Class I outdoor lighting.
  - (f) Searchlights. Searchlights used for advertising purposes shall be exempt from the requirements of this article, except that the operation of such lights is limited to the hours of 6:00 p.m. to 10:00 p.m.
  - (g) Emergency lighting. Emergency lighting required for public safety is exempt from the requirements of this article.
- (1988, Ord. No. 88-122, sec. 3.)

**Section 14-54. Submission of plans.**

- (a) All outdoor lighting fixtures shall be installed in conformance with the provisions of this article and those of the electrical code of the County as applicable and subject to the appropriate permit and inspection requirements thereof. The applicant for any permit required by the County for work involving nonexempt outdoor light fixtures shall submit to the building official proof that the proposed work will comply with the article requirements. The submission shall contain, but not be limited to, the following:
  - (1) The location of the site where the outdoor light fixtures will be installed;
  - (2) Plans indicating the type(s) of outdoor light fixtures to be used and their location on the premises;
  - (3) A description of the outdoor light fixtures including, but not limited to, manufacturer’s catalog cuts and drawings.
- (b) The plans and descriptions required by subsection (a) sufficiently complete to enable the building official to readily determine whether compliance with the requirements of this article will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices or fixtures proposed, the applicant shall be required to submit further proof of compliance. Furthermore, any design, material, or method of installation not specifically forbidden by this article may be used, provided any such alternate has first been approved by the building official. The building official may approve any such proposed alternate provided:
  - (1) It is at least approximately equivalent to the applicable specific requirements of this article; and
  - (2) It is otherwise satisfactory and complies with the intent of this article.

(1988, Ord. No. 88-122, sec. 3.)

**Section 14-55. Tables.**

**TABLE 14-A**

<b>Lamp Type</b>	<b>Shielding Requirement</b>	<b>Operation Restrictions</b>
<b>Class I</b>		
Low pressure sodium	Partially shielded	None
Others above 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Others below 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
<b>Class II</b>		
Low pressure sodium		
90 watts or less	None	None
greater than 90 watts	Partially shielded	None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens		Prohibited

**Class III**

Low pressure sodium	Fully shielded	None
Others above 4,050 lumens		Prohibited
Others below 4,050 lumens	Fully shielded	Off from 11:00 p.m. to sunrise*
Neon	None	Off from 11:00 p.m. to sunrise*

\*These lights may remain on after 11:00 p.m. if bona fide business or recreational activities are taking place. (1988, Ord. No. 88-122, sec. 3.)

**Section 14-55.1. Penalty.**

Any person violating any provision of this article shall, upon conviction, be punished by a fine not to exceed \$500. Such person shall be deemed guilty of a separate offense for each and every day any violation of this article is committed. Furthermore, payment of such a fine shall not relieve the individual from the responsibility of correcting the violative condition, nor shall it preclude the County from instituting any action for its removal. (1988, Ord. No. 88-122, sec. 3.)

**Article 10. Exceptional Trees.**

**Section 14-56. Intent.**

In accordance with section 58-2, Hawai‘i Revised Statutes, to safeguard exceptional trees from destruction due to land development, the County desires to enact protective regulations to preserve exceptional trees within the County. (1984, Ord. No. 84-22, sec. 1.)

**Section 14-57. Definitions.**

For purposes of this article, “exceptional trees” means a tree or grove of trees with historic or cultural value, or which by reason of its age, rarity, location, size, aesthetic quality, or endemic status has been designated by the council as worthy of preservation. The term exceptional trees does not apply to trees planted for commercial forestry operations. Exceptional trees may be designated generally by biotaxy or individually by location or class. (1984, Ord. No. 84-22, sec. 1.)

**Section 14-58. Arborist advisory committee.**

There shall be an arborist advisory committee consisting of six members who shall be appointed by the mayor. The committee shall include the following: the planning director, or the director’s designee; one member who shall be actively employed in the practice of landscape architecture; and four other members selected on the basis of active participation in programs of community beautification, or research or organization in the ecological sciences, including ethnobotany, or Hawaiiiana. (1984, Ord. No. 84-22, sec. 1; Am. 1992, Ord. No. 92-12, sec. 1.)

**Section 14-59. Powers and duties.**

The arborist advisory committee shall have the following powers and duties:

- (a) To research, prepare and recommend to the council exceptional trees to be protected by County ordinance or regulation.
- (b) To advise property owners relative to the preservation and enhancement of exceptional trees.

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

**Section 14-60. Procedures.**

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

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

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

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

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

**Section 14-62. Enforcing authority.**

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

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

**Section 14-63. Violation and penalty.**

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

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

**Section 14-64. Injunctive relief.**

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

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

**Section 14-65. Designated exceptional trees.**

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

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

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

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

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

### **Article 11. Neighborhood Watch Signs.**

#### **Section 14-66. Purpose.**

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

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

**Section 14-67. Definitions.**

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

**Section 14-68. Powers and duties.**

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

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

**Section 14-69. Application for approval.**

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

**Section 14-70. Rules.**

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

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

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

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

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

**Section 14-72. Official bulletin board location.**

The official bulletin board of the Hawai'i County building at Aupuni Center, 101 Pauahi Street, Hilo, Hawai'i shall be located immediately adjacent to its main entrance and shall be conspicuously displayed and identified by the words "public notices" appearing thereon.

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

**Section 14-73. Official bulletin board custodian.**

Each agency and department of the County of Hawai'i shall be responsible for the posting and removal of their agendas and notices on the official bulletin board.

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

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HAWAII COUNTY CODE

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**Article 13. Soliciting for Money or Objects of Value.**

**Section 14-74. Definitions.**

(a) As used in this article, unless otherwise specified:

“Aggressive manner” means:

- (1) Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
- (2) Continuing to solicit from a person after the person has given a negative response to such soliciting;
- (3) Intentionally or knowingly touching or causing physical contact with another person without that person’s consent in the course of soliciting;
- (4) Intentionally or knowingly blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to stop or to take evasive action to avoid physical contact;
- (5) Using violent or threatening gestures toward a person solicited;
- (6) Following the person being solicited, with the intent of asking that person for money or other things of value;
- (7) Soliciting money from anyone who is waiting in line for entry to a building or who is waiting in line for any other purpose.

“Automated teller machine” means 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” means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

“Financial institution” means any Hawai‘i financial institution as defined in chapter 412, Hawai‘i Revised Statutes.

“Intentionally” shall be as defined in section 702-206, Hawai‘i Revised Statutes.

“Knowingly” shall be as defined in section 702-206, Hawai‘i Revised Statutes.

“Public place” means a place to which the public or a substantial group of persons has access including, but not limited to, any street, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

“Restaurant” means any retail eating establishment where meals or food are served or provided for on-site consumption by seated patrons that is licensed by the department of health to operate as a food service establishment.

“Soliciting” means asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

(1999, Ord. No. 99-1, sec. 1; Am. 1999, Ord. No. 99-153, sec. 4; Am. 2008, Ord. 08-21, sec. 1.)

**Section 14-75. Prohibited acts.**

- (a) The following acts are prohibited within the areas described in subsection (b) of this section.
- (1) No person shall solicit in an aggressive manner in any public place.
  - (2) No person shall solicit while under the influence of alcohol or a controlled substance.
  - (3) No person shall solicit by stating that funds are needed to meet a specific need, when the solicitor has the funds to meet that need, does not intend to use funds to meet that need, or does not have that need.
  - (4) No person shall solicit on private or residential property without permission from the owner or other person lawfully in possession of such property.
  - (5) No person shall solicit within twenty feet of public toilets.
  - (6) No person shall solicit within twenty feet of any entrance or exit of any financial institution or within twenty feet of any automated teller machine without the consent of the owner of the property or another person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
  - (7) No person shall solicit within twenty feet of any entrance or exit of any restaurant without the consent of the owner of the property or another person legally in possession of such facility.
  - (8) No person shall solicit within ten feet of any entrance or exit to a building without the consent of the owner of the property or another person legally in possession of such facility, with the exception of public toilets, financial institutions, or restaurants from which soliciting shall be prohibited within twenty feet of the entrance or exit.
  - (9) No person shall solicit within ten feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.
  - (10) No person shall solicit an operator or other occupant of a motor vehicle while such vehicle is located on any street, for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services. Provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.
  - (11) No person shall solicit in any public transportation vehicle; at any bus station or stop; or in any public parking lot or public parking structure.
  - (12) No person shall solicit from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying, or reserving a public parking space, or directing the operator or occupant to a public parking space.
- (b) Designated areas.
- (1) In a public place islandwide.
- (1999, Ord. No. 99-1, sec. 1; Am. 1999, Ord. No. 99-153, sec. 4; Am. 2008, Ord. 08-21, sec. 1.)

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**Section 14-76. Enforcement.**

It shall be the duty of the officers of the police department and such officers as are assigned by the chief of police to enforce the provisions of this article.

(1999, Ord. No. 99-1, sec. 1; Am. 1999, Ord. No. 99-153, sec. 4.)

**Section 14-77. Form of summons or citations.**

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

(1999, Ord. No. 99-1, sec. 1; Am. 1999, Ord. No. 99-153, sec. 4.)

**Section 14-78. Penalties.**

Any violation of this article shall constitute a petty misdemeanor punishable by imprisonment for not more than thirty days or by a fine not to exceed \$100, or by both.

(1999, Ord. No. 99-1, sec. 1; Am. 1999, Ord. No. 99-153, sec. 4.)

**Article 14. Street Addressing And Naming.****Division 1. General Provisions.****Section 14-79. Purpose and applicability.**

- (a) The establishment of a uniform and systematic procedure for the assignment of addresses is vital for the health, safety and welfare of the community to provide an effective means of emergency location through the E911 system; expedite postal, utility service, and commercial delivery services; and reduce confusion for people trying to find a residence or business.
- (b) An address shall be assigned to all buildings, as defined in this article, and units within buildings which will be occupied for work or residence uses.
- (c) All streets shall be named, whether public or private, in accordance with this article.
- (d) No application for a building permit or subdivision shall be approved that does not conform to the requirements in this article.

(2004, Ord. No. 04-82, sec. 2.)

**Section 14-80. Definitions.**

- (a) "Address" shall mean that combination of street name, building number, and when necessary, a unit number that is assigned to a parcel, building, or unit within a building, and is unique to it, to indicate its location.
- (b) "Building" shall mean any structure that is designed for human occupation for working or living purposes. Structures which provide accessory uses to a business or residence, such as accessory storage, animal shelters, barns, housing of mechanical or scientific equipment, power generation, greenhouses, or other accessory uses located on the same parcel of land are not required to have an address.
- (c) "Director" means the planning director or designated representative.
- (d) "Private street" shall mean any street which is not under the control or ownership of any governmental agency.
- (e) "Street" means a vehicular way providing access to three or more lots or units, or with the potential to serve three or more lots or units; a vehicular way that is not a street shall be considered a driveway. The address for a building along a driveway shall use the name of the street which the driveway intersects.

(2004, Ord. No. 04-82, sec. 2.)

**Section 14-81. Administration.**

- (a) The director shall assign street names and building numbers within the County of Hawai‘i pursuant to this article.
- (b) The director shall maintain official maps and databases of street names and addresses in a system that enables efficient searches or listing by property owner, address, and tax map key.
- (c) The director may grant reasonable exceptions to the requirements in this article upon consultation as appropriate with the director of public works, fire chief, and/or police chief to accommodate existing conditions or unusual street or land use patterns.
- (d) The director may adopt rules to implement this article.  
(2004, Ord. No. 04-82, sec. 2.)

**Division 2. Address Numbers.****Section 14-82. Procedures for assigning and changing addresses.**

- (a) Assignment of new address. The director is authorized to assign an appropriate number to each building upon application for a building permit or upon request by the property owner, lessee, tenant, renter or government agency. If circumstances indicate a reasonable need for consultation and consent by the property owner to any new or change of address application by a nonowner, the director may require such consultation and consent before issuing a new or change of address.
  - (1) For existing buildings without an address, the following information shall be provided to the director when applying for an address:
    - (A) Tax map key number of the property.
    - (B) Name of the property owner, and name of the applicant (if not the owner).
    - (C) Plot plan of the parcel showing all driveways and buildings.
    - (D) The director may request additional information as needed to determine the assignment of the correct number.
  - (2) Prior to the assignment of an address, the street that is to be part of the address shall have an official name. If the street does not have an official name, the applicant shall work with the planning department to name the street in accordance with the procedures and requirements set forth in Street Names, division 3 of the article.
  - (3) Provided the street has an official name, within fourteen calendar days of the filing of the application with the director, the director shall assign a building number and notify the applicant in writing of the assigned building number and any special requirements as to posting location, number size or other requirements.
  - (4) For new buildings, the director will assign building numbers as part of the building permit process. If the location of the driveway to the property should change after the issuance of the building permit, the applicant or the applicant’s builder must notify the planning department prior to occupancy to determine whether a change in the building number is necessary.

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- (b) Changing an address.
    - (1) The director may change an address when it is out of sequence, does not conform to the numbering standards established in this article, is confusing, or might delay emergency response. If an address is changed, the director must notify the owner in writing at least thirty days before the effective date.
    - (2) A property owner may apply for an address change for personal reasons by submitting an application for number change and paying a fee of \$50. The director may deny the application if the proposed address does not meet the requirements of this article.
- (2004, Ord. No. 04-82, sec. 2.)

**Section 14-83. Address numbering standards.**

- (a) Numbering convention. Building numbers shall consist of whole numbers (no fractions) and shall be assigned based on an equal interval system. Under this system, the address is derived by measuring the distance along a street and dividing that distance by some equal interval to determine the address for a building. The number assigned shall be the numbered interval closest to the driveway or front entrance. The interval unit shall be small enough to provide an address to each potential building permitted in the zoning district. The director shall determine the appropriate interval unit for urban and rural areas.
- (b) Point of origin; odd and even numbering. For numbers assigned after the effective date of this ordinance, numbers shall increase from the point of origin with even numbers on the right-hand side. In determining the point of origin, the director may consider any of the following: the existing pattern of surrounding streets; numbering pattern relative to mauka/makai directions; entrance to a cul-de-sac; and/or numbering pattern relative to east/west or north/south direction of the street.
- (c) Prefixes and suffixes. On parcels with multiple buildings, or in situations approved by the director, the assigned number may be followed by an alphabet letter to distinguish each building or units within a building. The director may add a prefix to any number, such as the tax map key zone.
- (d) Corner lots. The address for corner lots shall be the street where the main driveway intersects or where the main entry faces. If there is no driveway or the structure does not directly face either street, the number should be determined based on the predominate street frontage.

(2004, Ord. No. 04-82, sec. 2)

**Section 14-84. Display of address numbers.**

- (a) Display requirement.
  - (1) Each property owner shall post building numbers in accordance with the provisions of this article.
  - (2) During construction of new buildings, assigned address numbers shall be posted temporarily at the driveway location to facilitate inspections and assist emergency responders prior to occupancy.
  - (3) Upon written notice from the director that a posted number is erroneous or changed, the property owner shall remove or erase any wrong building number and shall post the correct building numbers in compliance with this article.
  - (4) All buildings required to be numbered shall be numbered at the expense of the owner.
  - (5) The property owner shall be responsible to maintain all posted numbers such that they are visible and readable at all times.
- (b) Display standards.
  - (1) Single-family residences.
    - (A) For parcels with single mailboxes, numbers shall be posted on the mailbox to be visible from either direction. Where the entrance of a residence is more than fifty feet from the street travelway edge or when the residence is not clearly visible from the street, a second set of numbers shall be placed on, above, or at the side of the main entrance to the building.

- (B) In areas without mailboxes, or when multiple mailboxes are located in one location, numbers shall be placed on a post, fence, wall, or some structure within the property line near the intersection of the driveway and the street so that the number is distinguishable and legible from the street. Where the main entrance of the building is clearly visible and within fifty feet of the street travelway edge, the address may instead be conspicuously placed on, above, or at the side of the main entrance so that the number is distinguishable and legible from the street. Where the entrance of a residence is more than fifty feet from the street travelway edge or when the residence is not clearly visible from the street, a second set of numbers shall be placed on, above, or at the side of the main entrance to the building.
  - (C) When owners share a common driveway, a sign not exceeding two square feet in area and showing the range of addresses shall be attached to a permanent structure or post with the top of the sign not exceeding six feet in height, and located within the property line near the intersection of the driveway and the street. Each building along the driveway shall be numbered in accordance with this article.
  - (D) Address numbers for residences shall be Arabic numerals not less than three inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.
- (2) Duplexes, apartments, townhouses, shopping centers.
- (A) Duplexes, apartments, townhouses, shopping centers, or other similar groupings where only one number is assigned shall display such number at the main driveway from the street.
  - (B) Numbers for individual units or establishments within the complex shall be displayed on, above, or to the side of the main doorway of each unit or establishment.
  - (C) Address numbers, including unit numbers, shall be Arabic numerals not less than three inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.
- (3) Commercial and industrial buildings.
- (A) For buildings within fifty feet of the street, the number may be displayed over the main entrance to the structure or at the driveway entrance upon a wall, ground, or marquee sign. For buildings located more than fifty feet from the street, the number shall be displayed at the driveway entrance. If there are more than one building on the property, the address shall also be displayed over the main entrance to each building.
  - (B) Address numbers for commercial and industrial buildings shall be Arabic numerals not less than four inches in height and shall be made of a durable and clearly visible material or paint (preferably reflective) in a color distinguishable from its background.
  - (C) To avoid confusion, there shall be no other wording or numbers within two feet of the address number.
- (4) Directories.
- For multiple-address developments, the director may require a directory board with a map to be posted at the driveway entrance and/or main entrance walkway. Directories must clearly show the location of all addresses that can be reached via that driveway or walkway. Directories must be easily seen from the street or sidewalk, as appropriate, but placed so that a vehicle or pedestrian pausing to read them can be out of the street and not block the sidewalk or driveway. Additional interior directories may be required where necessary to locate an address.
- (c) The director shall have final approval authority over any aspect of building numbering reasonably related to the legibility, durability and location of the building numbering, and the building owner shall comply with all lawful orders of the director regarding such matters.
- (2004, Ord. No. 04-82, sec. 2.)

**Division 3. Street Names.****Section 14-85. Procedures for naming and renaming streets.**

- (a) New streets. Streets to be created by land division, whether public or private, serving or with the potential to serve three or more lots or units shall be named by the subdivider and approved by the director during the review and approval of the subdivision.
- (b) Naming or renaming existing streets. The County council, director, street owner, or property owner along the street may initiate the naming or renaming of an existing street. When naming or renaming is initiated by the street owner or property owner, the petition must be signed by owners representing at least two-thirds of the parcels, dwelling units or businesses located along the affected street or portion of the street. When initiated by the County council, the council may direct the director by resolution. The director will name or rename a street in accordance with the criteria set forth in this article.
- (c) Notification. After a street is named, the director must notify all appropriate public agencies and the property owners along the affected street.

(2004, Ord. No. 04-82, sec. 2.)

**Section 14-86. Street name criteria.**

Street names shall meet the following criteria:

- (a) No duplication. To eliminate potential confusion, duplication of street names within the same judicial district or zip code zone shall not be permitted. Streets with the same name but different street type designations shall be considered duplicate street names.
- (b) Continuity. Streets continuing through an intersection or are segments of a planned alignment shall keep the same name.
- (c) Directionals. The director may add directional indicators, such as north and west, to street name proposals as deemed appropriate.
- (d) Other Criteria. The director may specify other street naming criteria in rules.

(2004, Ord. No. 04-82, sec. 2.)

**Section 14-87. Street name signs.**

- (a) Requirement. Every intersection must have signs naming all the intersecting streets.
- (b) Standards. The design and installation of street name signs, whether public or private street, must meet the minimum standards of the department of public works.
- (c) Responsibility. For new streets created by land division, the subdivider shall be responsible to provide and install the street name signs prior to final subdivision approval. For existing public streets, the State or County as appropriate shall install and maintain the street name signs. For private streets, the street owner is responsible to install and maintain the street name signs. At the request of the majority of the owners of a private street, and upon receipt of a fee sufficient to cover the cost of materials and labor as determined by the County, the County may fabricate, erect, and thereafter maintain the street name signs.

(2004, Ord. No. 04-82, sec. 2.)

**Division 4. Violations.****Section 14-88. Enforcement of numbering or street name requirements.**

- (a) Notice and order. Whenever there is reason to believe there has been a violation of the requirements of this article, the director shall give notice to the owner to comply and order corrective action within thirty days from the date of notification. Such notice and order shall be sent via certified mail, with return receipt requested, to the owner. The date shown on the return receipt shall be the date from which the thirty-day period shall commence for compliance.

- (b) Appeal. Any person adversely affected by any order issued under this section, may within thirty days after the service of the order, appeal the order to the board of appeals as provided by section 5-6.3, County Charter. An appeal to the board of appeals shall stay the provisions of the director’s order pending the final decision of the board of appeals.
- (c) Penalty. If the owner fails to comply within the thirty-day period, the owner will be subject to a fine of \$25, and a further penalty of a like sum for every thirty days thereafter that such person shall neglect or refuse to correct the violation. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, and provided that administrative appeals have been exhausted or the time for filing such appeals has elapsed without appeal, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(2004, Ord. No. 04-82, sec. 2.)

**Section 14-89. Enforcement of street name sign or address tampering or defacement.**

- (a) Violation. Except for repair, replacement, or relocation within twenty-four hours, no person may alter, deface, or remove any address number or street sign.
- (b) Criminal prosecution.
  - (1) Any person violating or causing or permitting the violation in the preceding paragraph, shall be guilty of a violation, and upon conviction thereof shall be sentenced as follows:
    - (A) For a first offense, by a fine not exceeding \$500.
    - (B) For a subsequent conviction which occurs within five years of any prior conviction for violation of this chapter, by a fine of not less than \$500 but not exceeding \$1,000.
  - (2) After a conviction for a first violation under this chapter, each further day of violation shall constitute a separate offense if the violation is a continuance of the subject of the first conviction.
  - (3) The imposition of a fine under this section shall be controlled by the provisions of the Hawai‘i Penal Code relating to fines, sections 706-641 through 706-645, Hawai‘i Revised Statutes.

(2004, Ord. No. 04-82, sec. 2.)

**Article 15. Genetically Engineered (Transgenic) Taro (kalo) and Coffee.**

**Section 14-90. Purpose.**

The purpose of this article is to protect the taro (kalo) and coffee industry from genetic engineering and preserve agriculturally-based practices and cultural traditions associated with taro (kalo) and coffee within the County of Hawai‘i.

(2008, Ord. No. 08-154, sec. 1.)

**Section 14-91. Definitions.**

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

“Genetic engineering” means a process or technology employed whereby the hereditary apparatus of a living cell is altered, modified, or changed so that the cell can produce more or different chemicals or perform completely new functions.

“Person” includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, in any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.

“Recombinant DNA” means the transfer of genes, regulatory sequences, or nucleic acid between hosts by the use of vectors or laboratory manipulations and includes the insertion, excision, duplication, inactivation, or relocation of specific genes, regulatory sequences, or sections of nucleic acid. This term does not apply to a material or an organism developed exclusively through traditional methods of breeding, hybridization, or nondirected mutagenesis.

“Release” means a discharge, emission or liberation of any genetically engineered organisms, or the product of a genetically engineered organism, into the open environment.

(2008, Ord. No. 08-154, sec. 1.)

**Section 14-92. Genetically engineered (transgenic) taro (kalo), unlawful.**

It shall be unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA taro (kalo).

(2008, Ord. No. 08-154, sec. 1.)

**Section 14-93. Genetically engineered (transgenic) coffee, unlawful.**

It shall be unlawful to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA coffee.

(2008, Ord. No. 08-154, sec. 1.)

**Section 14-94. Penalty.**

Any person violating any provision of this article shall be guilty of a violation, and upon conviction thereof, shall be sentenced by a fine not exceeding \$1,000.

(2008, Ord. No. 08-154, sec. 1.)

**Section 14-95. Injunctive relief.**

Proceedings for injunctive relief in a court of competent jurisdiction may be heard for potential violations of this article.

(2008, Ord. No. 08-154, sec. 1.)

**Article 16. Lowest Law Enforcement Priority of Cannabis Ordinance.**

**Section 14-96. Purpose.**

The purpose of this article is to:

- (1) Provide law enforcement more time and resources to focus on serious crimes;
- (2) Allow our court systems to run more efficiently;
- (3) Create space in our prisons to hold serious criminals;
- (4) Save taxpayers money and provide more funding for necessities such as education and health care; and
- (5) Reduce the fear of prosecution and the stigma of criminality from non-violent citizens who harmlessly cultivate and/or use cannabis for personal, medicinal, religious, and recreational purposes.

(2008, Ord. No. 08-181, sec. 2.)

**Section 14-97. Findings.**

- (a) The Institute of Medicine has found that cannabis (marijuana) has medicinal value and is not a gateway drug.
- (b) According to the U.S. Centers for Disease Control, the use of cannabis (marijuana) directly results in zero deaths per year.

- (c) According to the National Institute of Drug Abuse (NIDA), the marijuana eradication program has not stopped cannabis cultivation in the county, rather the program has only decreased the availability of the plant, which increases its “street” value, resulting in more crime.
  - (d) The National Institute of Drug Abuse (NIDA) also reported that a large increase of the use of methamphetamine, crack cocaine, and other hard drugs was related to the marijuana eradication program’s implementation.
  - (e) According to public record, the ‘mandatory program review’ for the marijuana eradication program, required by section 3-16 of the County Charter to be performed at least once every four years, has never been performed in the thirty years that the program has existed.
  - (f) Law abiding adults are being arrested and imprisoned for nonviolent cannabis offenses, clogging our court dockets, overcrowding our prisons, tying up valuable law enforcement resources and costing taxpayers hundreds of thousands of dollars in Hawai‘i County alone each year.
  - (g) The citizens of the Cities of Hailey, Idaho; Denver, Colorado; Seattle, Washington; Columbia, Missouri; Eureka Springs, Arkansas and Santa Barbara, Oakland, Santa Monica and Santa Cruz, in California, and the citizens of Missoula County, Montana, all voted for cannabis (marijuana) to be placed as law enforcement’s lowest priority within the past five years.
- (2008, Ord. No. 08-181, sec. 3.)

**Section 14-98. Definitions.**

“Adult” means any individual who is twenty one years of age or older.

“Adult personal use” means the use of cannabis on private property by adults. It does not include:

- (1) Distribution or sale of cannabis;
- (2) Distribution, sale, cultivation, or use of cannabis on public property;
- (3) Driving under the influence; or
- (4) The commercial trafficking of cannabis, or the possession of amounts of cannabis in excess of the amounts defined as being appropriate for adult personal use.

“Marijuana”, (as defined in the Hawai‘i Revised Statutes of Chapter 712-1240) means cannabis.

“Cannabis” means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the cannabis plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

“Lowest Law Enforcement Priority” means a priority such that all law enforcement activities related to all offenses other than the possession or cultivation of cannabis for adult personal use shall be a higher priority than all law enforcement activities related to the adult personal use of cannabis. The Lowest Law Enforcement Priority regarding possession or cultivation of cannabis shall apply to any single case involving twenty four or fewer cannabis plants at any stage of maturity or the equivalent in dried cannabis, where the cannabis was intended for adult personal use.

The “dried equivalent” of twenty four or fewer cannabis plants shall be presumed to be twenty four or fewer ounces of usable cannabis, excluding stems and other non active parts. A greater amount may also fall under the Lowest Law Enforcement Priority provisions described herein if such amount is shown by competent evidence to be no more than the dried equivalent of twenty four plants.

(2008, Ord. No. 08-181, sec. 4.)

**Section 14-99. Lowest law enforcement priority policy relating to the adult personal use of cannabis.**

- (a) The cultivation, possession and use for adult personal use of cannabis shall be the Lowest Law Enforcement Priority for law enforcement agencies in the county.
- (b) The council, the police commissioner, the chief of police and all associated law enforcement staff, deputies, officers and any attorney prosecuting on behalf of the county shall make law enforcement activity relating to cannabis offenses, where the cannabis was intended for adult personal use, their Lowest Law Enforcement Priority. Law enforcement activities relating to cannabis offenses include but are not limited to the prosecution of cannabis offenses involving only the adult personal use of cannabis.

- (c) Neither the chief of police, the police commissioner, nor any attorney prosecuting on behalf of the county, nor any associated law enforcement staff, deputies, nor officers shall seek, accept or renew any formal or informal deputization or commissioning by a federal law enforcement agency for the purpose of investigating, citing, or arresting adults, nor for searching or seizing property from adults for cannabis offenses subject to the Lowest Law Enforcement Priority of cannabis where such activities would be in violation of that policy, nor shall such authorities exercise such powers that may be ancillary to deputization or commissioning for another purpose.
  - (d) The council shall not authorize the acceptance or the issuing of any funding that is intended be used to investigate, cite, arrest, prosecute, search or seize property from adults for cannabis offenses in a manner inconsistent with the county's Lowest Law Enforcement Priority policy.
- (2008, Ord. No. 08-181, sec. 5.)

**Section 14-100. County prosecuting attorneys.**

To the full extent allowed by the Constitution of the State of Hawai'i, the people, through their county government, request that neither the county prosecuting attorney nor any attorney prosecuting on behalf of the county shall prosecute any violations of the sections of chapter 712-1240 of the Hawai'i Revised Statutes regarding possession or cultivation of cannabis in a manner inconsistent with the Lowest Law Enforcement Priority, as described in section 14-98 and 14-99 of this article; in cases where the amount possessed or grown is less than twenty four plants or the dried equivalent, possession for adult personal use shall be presumed.

(2008, Ord. No. 08-181, sec. 6.)

**Section 14-101. Expenditure of funds for cannabis enforcement.**

- (a) Neither the council, nor the police commissioner, nor the chief of police, nor any attorneys prosecuting on behalf of the county, nor any associated law enforcement staff, deputies, or officers shall spend or authorize the expenditure of any public funds for the investigation, arrest, or prosecution of any person, nor for the search or seizure of any property in a manner inconsistent with the Lowest Law Enforcement Priority as defined in section 14-98 and 14-99 of this article.
  - (b) The council shall not support the acceptance of any funds for the marijuana eradication program.
- (2008, Ord. No. 08-181, sec. 7.)

**Section 14-102. Community oversight.**

The council shall ensure the timely implementation of this chapter by working with the chief of police and/or the police commissioner to:

- (1) Provide for procedures to receive grievances from individuals who believe that they were subjected to law enforcement activity contrary to the Lowest Law Enforcement Priority of cannabis, which is described in section 14-98 and 14-99 of this article; and
- (2) Publish a report semi-annually on the implementation of this chapter every first day of June and every first day of December, from this day forward, with the first report being issued June 1, 2009. These reports shall include but not be limited to: the number of all arrests, citations, property seizures, and prosecutions for all cannabis offenses in the county, the number of complaints regarding marijuana eradication over-flights; the breakdown of all cannabis arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony, the estimated time and money spent by the county on law enforcement and punishment for adult cannabis offenses, and any instances of officers or deputies assisting in state or federal enforcement of adult cannabis offenses. These reports shall be published with the cooperation of the county prosecuting attorney, the chief of police, and all associated law enforcement staff in providing needed data.

(2008, Ord. No. 08-181, sec. 8.)

**Section 14-103. Notification of local, state, and federal officials.**

- (a) After the enactment of this article, the county clerk shall send letters on an annual basis (every June 1<sup>st</sup> of each year) to the mayor of the county, the county of Hawai‘i voters’ Congressional Delegation, Hawai‘i’s U.S. senators, the county of Hawai‘i voters’ representatives in the Hawai‘i State Legislature, the Governor of Hawai‘i, and the President of the United States. This letter shall state; “The citizens of the County of Hawai‘i have passed an initiative to make Cannabis offenses the Lowest Law Enforcement Priority, where the Cannabis is intended for adult personal use, and request that the federal and state branches of government remove criminal penalties for the cultivation, possession and use of Cannabis for adult personal use; the citizens also request that Cannabis policies here within the county of Hawai‘i be dealt with from our local law enforcement only.” The letters may also state, be it the will of the county council; that according to the three year study performed by the National Institute on Drug Abuse, more people used methamphetamine as a result of the marijuana eradication program; they may also express that methamphetamine is a growing problem in our community and more help would be appreciated in that area, and that the first action that would help in that area would be to end the marijuana eradication program.
- (b) This duty shall be carried out until state and federal laws are changed accordingly.  
(2008, Ord. No. 08-181, sec. 9.)

**Section 14-104. Statutory and constitutional interpretation.**

All provisions in this article shall only be implemented to the full extent that the Constitution of the State of Hawai‘i and the Hawai‘i Revised Statutes allows, and in the event, and only in the event, that a court of competent jurisdiction determines that any provision in any section of this article may not be directed by voter initiative or by action of the council, then that specific mandatory provision only shall be deemed advisory and expression of the will of the people that the provision shall be implemented into law by whichever government branch or official who has the power to implement it, and that the council shall take all actions within their power to work with those branches of government to express the will of the people and encourage, support, and request the implementation of those provisions.  
(2008, Ord. No. 08-181, sec. 10.)

**Section 14-105. Severability.**

In the event, and only in the event, that a court of competent jurisdiction should find one or more of the sections, or parts of the sections of this article illegal, or any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the article and the application of such provisions to other persons or circumstances shall not be affected thereby.  
(2008, Ord. No. 08-181, sec. 11.)