

## Chapter 26

### FIRE

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**Chapter 26****FIRE****Section 26-1. Adoption of the State model fire code.**

The State model fire code, as adopted by the Hawai'i State fire council on March 27, 1992 pursuant to section 132-3, Hawai'i Revised Statutes, which incorporated the Uniform Fire Code 1988 of the Western Fire Chiefs Association, Inc., is by reference incorporated herein and made a part hereof and is hereby adopted by reference, subject to the amendments in this chapter.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-2. Title.**

Section 1.101 is amended to read:

Sec. 1.101. This code shall be known and may be cited as the Hawai'i County fire code.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-3. Duties of fire inspector.**

Section 2.202 is amended to read:

Sec. 2.202.

(a) The fire chief shall designate a fire inspector who shall be responsible to conduct investigations on the cause, origin and circumstances of each and every fire occurring in the jurisdiction involving loss of life or injury to person or destruction or damage to property and, if it appears that such fire is of suspicious origin, the chief shall then take immediate charge of all physical evidence relating to the cause of the fire and shall pursue the investigation to its conclusion. The fire inspector shall make a report in writing to the fire chief of all facts and findings relative to each investigation and, should it appear during any investigation that a fire is of suspicious origin, the inspector shall notify the fire chief forthwith.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-4. Penalty.**

Section 2.204 is amended to read:

Sec. 2.204. Violation and penalty.

Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a petty misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, continued or permitted, and upon conviction of any such violation, such person shall be punished by a fine of not more than \$500 or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

(1989, Ord. No. 89-101, sec. 1; Am. 1990, Ord. No. 90-48, sec. 2; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-5. Procedure on arrest; summons or citation.**

Section 2.205 is amended to read:

Sec. 2.205. Procedure on arrest; summons or citation.

(a) The chief and members of the fire prevention bureau (hereinafter referred to as “authorized personnel”), may, pursuant to section 2.105, arrest without warrant alleged violators by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by warrant or such other judicial process as is permitted by statute or rule of court.

(b) Procedure on arrest. Authorized personnel, upon making an arrest for a violation of the fire code, may take the name and address of the alleged violator and shall issue to the person in writing a summons or citation hereinafter described, notifying the person to answer the complaint to be entered against the person at a place and at a time provided in said summons or citation.

(c) Summons or citation.

(1) There shall be provided for use by authorized personnel, a form of summons or citation for use in citing violators of the fire code which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summons or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawai‘i and the County of Hawai‘i.

(2) In every case when a citation is issued, the original of the same shall be given to the violator; provided that the administrative judge of the district court may prescribe by giving to the violator a carbon copy of the citation and provide for the disposition of the original and any other copies.

(3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-6. Fire board of appeals.**

Section 2.303 is amended to read:

Sec. 2.303. Board of appeals.

(a) Creation. There shall be and is created a board of appeals, consisting of five members who shall be qualified by experience and training to pass upon matters pertaining to fire safety and at least one of whom shall be by training and experience familiar with building structures and flammable materials.

The members of the appeals board shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4, Hawai‘i County Charter 1991, as amended, and the appeals board shall be governed by the provisions of that Charter provision.

(b) Procedure. The proceedings of the appeals board shall be subject to the provisions of chapter 91, Hawai'i Revised Statutes, as amended. The appeals board shall adopt rules and regulations for conducting its meetings, hearings, and investigations in conformity therewith and may impose reasonable fees to cover the costs of such proceedings.

(c) Appeals. Any appeal from the decision of the fire chief in the administration of the fire code involving any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances, or any petition for varying the application of the fire code may be submitted to the fire board of appeals for hearing and determination as specified in uniform building code section 204, as amended, under chapter 5, Hawai'i County Code, as amended.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-7. Permits required.**

Section 4.101(b) is added to read:

- (b) Permits are required under the following sections:
  - (1) Sec. 45.102 (Application of Flammable Finishes)
  - (2) Sec. 79.103 (Flammable and Combustible Liquids)
  - (3) Sec. 82.102(a) (Liquefied Petroleum Gases)
  - (4) Sec. 25.101 (Places of Assembly)
  - (5) Sec. 32.101 (Tents and Air Supported Structures)

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-8. Permit fees.**

Section 4.101(c) is added to read:

- (c) Permit fees:
  - (1) There shall be an annual fee of \$25 for a section 45.102 permit.
  - (2) There shall be a fee of \$50 for tanks up to 4,999 gallons and \$80 for tanks 5,000 gallons or larger for a section 79.103 tank installation permit.
  - (3) There shall be a fee of \$25 for tanks of 125-499 gallons and \$40 for tanks 500 gallons or larger for a section 82.101(a) tank installation permit.
  - (4) There shall be an annual fee of \$40 for a section 25.101 permit.
  - (5) There shall be a fee of \$25 for each section 32.101 permit.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-9. Definition of building code.**

Section 9.104 is amended by amending the definition of “building code” to read:

BUILDING CODE shall mean chapter 5, Hawai‘i County Code, as amended.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-10. Definition of electrical code.**

Section 9.107 is amended by amending the definition of “electrical code” to read:

ELECTRICAL CODE shall mean chapter 9, Hawai‘i County Code, as amended.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-11. Definition of fireworks.**

Section 9.108 is amended by amending the definition of “fireworks” to read:

FIREWORKS shall mean “fireworks” as defined in article 5, chapter 14, Hawai‘i County Code, as amended.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-12. Definition of plumbing code.**

Section 9.118 is amended by amending the definition of “plumbing code” to read:

PLUMBING CODE shall mean chapter 17, Hawai‘i County Code, as amended.

(1981, Ord. No. 677, sec. 2; Am. 1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-13. Tampering with fire alarm; sending false alarm.**

Section 10.201 is amended to read:

Section 10.201.

(a) No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the fire department without authority from the chief or his authorized representative to do so.

(b) Unlawful to tamper with fire alarms or send any false alarm of fire. It shall be unlawful for any person wilfully or maliciously to tamper with, molest, injure or break any public fire alarm apparatus, wire, or signal, or wilfully or maliciously to send, give, transmit, sound or cause to be sent, given, transmitted or sounded any false alarm of fire by telephone, fire alarm system or signal, or any other means.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-14. Tampering with hydrant.**

Section 10.203 is amended to read:

Sec. 10.203. No person shall use or operate any hydrant or other valves installed on any water system intended for use by the chief for fire suppression purposes and which is accessible to any public highway, alley or private way open to or generally used by the public, unless such person first secures a permit for use from the board of water supply as to hydrants supplied with water by said board.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-15. Access to hydrant.**

Section 10.206 is amended to read:

Sec. 10.206.

(a) No person shall place or keep any post, fence, vehicle, growth, trash, storage or other materials or thing near any fire hydrant, fire department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the fire department from gaining immediate access to said equipment or hydrant. A minimum three-foot clear space shall be maintained around the circumference of the fire hydrant, except as otherwise required or approved by the fire chief.

(b) The police department may remove any vehicle left unattended upon any street within ten feet of any fire hydrant to the nearest garage or other place of safety. The registered owner shall be liable for all reasonable expenses incurred in the removal and storage of such vehicle.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-16. Licenses required.**

Section 10.302(h) is added to read:

(h) Licenses are required under the following sections:

- (1) Section 10.302(d) (Inspection and Testing of Fire Extinguishing Systems).
- (2) Section 10.302(g) (Inspection and Testing Portable Fire Extinguishers).

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-17. License fees.**

Section 10.302(i) is added to read:

(i) License fees:

- (1) There shall be a \$25 license fee for three years for a section 10.302(d) license.
- (2) There shall be a \$25 license fee for three years for a section 10.302(g) license.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-17.1. Bonfires and outdoor rubbish fires.**

Section 11.101 is amended to read:

Bonfires and outdoor rubbish fires.

Sec. 11.101.

(a) Except as provided by section 11.117, all bonfires, rubbish fires, and incinerator fires are prohibited when the State of Hawai‘i director of health declares a "no burn" day.

(b) Location Restricted. No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on any private land unless the fire is located more than 500 feet from any neighboring residence and (1) the location is more than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire is contained in an approved waste burner located safely more than 15 feet from any structure.

(c) Attendance of Open Fires. Bonfires and rubbish fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire-extinguishing equipment readily available for use.

(d) Chief May Prohibit. The chief may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

(e) Chief May Issue Permit. Notwithstanding any provision to the contrary, the chief may issue a permit to kindle or maintain any bonfire or rubbish fire upon a determination by the chief or the chief’s authorized representative that such burning will not create an unreasonable hazard to public safety or health. In determining whether to approve an application for such a permit, the chief or the chief’s authorized representative shall consider the following factors:

- (1) The weather and local conditions prevailing at the time the application is submitted;
- (2) The proximity of any buildings, pasture, forest, or brush lands to the location of the fire and the hazards which may be posed to such property by the fire;
- (3) The safeguards which the applicant can provide to control the fire or prevent its spread;
- (4) Whether other reasonable alternatives to the burning of waste material at the location exist; and
- (5) The proximity and availability of water and firefighting equipment to the location of the fire.

(1990, Ord. No. 90-48, sec. 3; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-17.2. Incinerators.**

Section 11.106 is amended to read:

Location of Incinerators.

Sec. 11.106.

(a) Every incinerator constructed after August 5, 1993 shall be located more than 500 feet from any neighboring residence. No person shall kindle or maintain any incinerator fire or authorize any such fire to be kindled or maintained on any private land unless the incinerator fire is located more than 500 feet from any neighboring residence.

(b) Any residential incinerator used in connection with a single-family dwelling shall be located more than 5 feet from any wood-frame building or structure, or other combustible material, or more than 3 feet from a masonry, stucco, or similar fire-resistive building or structure with no openings within 5 feet. Any residential incinerator used in connection with any occupancy other than a single-family dwelling shall be located more than 10 feet from any building or property line, provided, further, that the stack of any such incinerator shall be constructed in accordance with the mechanical code and shall terminate at least 5 feet from any combustible roof, overhang or eave construction.

This restriction shall not apply to barbecue pits and outdoor fireplaces built in accordance with the building code.

(1990, Ord. No. 90-48, sec. 3; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-17.3. Exempt fires.**

Section 11.117 is amended to read:

Exempt Fires.

Sec. 11.117.

(a) The following types of open fires are not prohibited by Article 11, Division 1, of the Uniform Fire Code 1988:

- (1) Fires for the cooking of food, unless prohibited by the chief when atmospheric conditions or local circumstances make such fires hazardous.
- (2) Fires for recreational, decorative, or ceremonial purposes as approved by the State of Hawai'i director of health;
- (3) Fires set by firefighters or other authorized personnel to abate a fire hazard providing the hazard is so declared by the fire department or the district forester having jurisdiction;
- (4) Fires for the prevention or control of disease or pests as approved by the State of Hawai'i director of health;
- (5) Fires for the training of fire fighting personnel;

- (6) Fires for the disposal of dangerous material where there is no alternate method of disposal and burning is approved in advance by the State of Hawai‘i director of health;
- (7) Fires for residential bathing purposes;
- (8) Fires for any agricultural operation authorized by an agricultural burning permit issued by the State of Hawai‘i director of health.

(b) Clearance by the State health department for and notification of all agricultural fires either by telephone or written notice shall be on file with the fire alarm bureau before these fires are permitted.

(1990, Ord. No. 90-48, sec. 3; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-18. Compressed gases; hazardous materials disclosure form required.**

Article 74 is amended by adding section 74.103 to read as follows:

Sec. 74.103. Registration.

- (a) When required by the fire chief, any person, firm, or corporation storing, handling, or using any cable or nonflammable compressed gas that is corrosive, toxic, or oxidizing in nature shall file a Hazardous Materials Disclosure Form with the fire department.
- (b) A material safety data sheet or equivalent information provided by the manufacturer shall be submitted with the Hazardous Materials Disclosure Form when requested by the fire chief for a specific product.
- (c) Any change in or addition to the compressed gases stored, handled, or used by any person, firm, or corporation, including the receipt of a new or different compressed gas, shall be reported to the fire department by submission of an amendment to the Hazardous Materials Disclosure Form.
- (d) The fire chief may exempt certain compressed gases from the provision of this section where it has been demonstrated that the product does not present a potential danger to the public health, safety, or welfare.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-19. Special dispensing systems.**

Section 79.903(f) is amended to read:

- (f) Special-type dispensers. Approved special dispensing systems such as, but not limited to, coin-operated and remote preset types are permitted at service stations, provided there is at least one qualified attendant on duty while the station is open to the public.
  - (1) The attendant or supervisor on duty shall be capable of performing the functions and assuming the responsibilities covered in section 79.903(b).
  - (2) Emergency controls shall be installed at a location acceptable to the chief, but controls shall be not more than 100 feet from dispensers.

- (3) Instructions for the operation of dispensers shall be conspicuously posted.
- (4) Remote preset-type devices are to be in the "off" position while not in use so that the dispenser cannot be activated without the knowledge of the attendant.
- (5) The dispensing device shall be in clear view of the attendant at all times and no obstacle shall be placed between the dispensing devices and the attendant.
- (6) A public address system shall be provided and approved by the fire chief to permit the attendant to communicate with persons in the dispensing area at all times.
- (7) No person under the age of fifteen shall be permitted to operate a special dispensing system and this prohibition shall be prominently posted either in conjunction with the instructions required by paragraph (3) or otherwise.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-20. Hazardous materials; disclosure form required.**

Article 80 is amended by adding section 80.102 to read as follows:

Sec. 80.102. Registration.

- (a) When required by the fire chief, any person, firm, or corporation storing, handling, or using any hazardous material governed by this article shall file a Hazardous Materials Disclosure Form with the fire department.
- (b) A materials safety data sheet or equivalent information provided by the manufacturer shall be submitted with the Hazardous Materials Disclosure Form when requested by the fire chief for a specific product.
- (c) Any change in or addition to the hazardous materials stored, handled, or used by any person, firm or corporation, including the receipt of new or different hazardous materials, shall be reported to the fire department by submission of an amendment to the Hazardous Materials Disclosure Form.
- (d) In the event that some or all of the information required on the Hazardous Materials Disclosure Form is determined to constitute a trade secret, the fire chief may waive or modify the requirement for that information to be submitted in such form.
- (e) This section does not apply to hazardous materials contained solely in consumer products packaged for distribution to, or use by, the general public, or to commercial products used at an establishment solely for janitorial or minor maintenance purposes; provided, that such products shall be stored in such a manner and in such quantity as permitted by the fire code.
- (f) The fire chief may waive for a specific product the registration requirements of this section in instances where the product has been satisfactorily demonstrated to present no potential danger to the public health, safety, or welfare.

(1989, Ord. No. 89-101, sec. 1; Am. 1993, Ord. No. 93-73, sec. 1.)

**Section 26-21. Repeal of section 12-45-19.01 of the State model fire code.**

Section 12-45-19.01 of the State model fire code which amends section 10.207(c) of the Uniform Fire Code is repealed.

(1993, Ord. No. 93-73, sec. 2.)