

## **ARTICLE 4: EAST HONOLULU**

### **Editor's note:**

Ordinance [22-20](#) amended the East Honolulu Sustainable Communities Plan.

### **Sections**

- 24-4.1 Definitions
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### **§ 24-4.1 Definitions.**

Unless the context otherwise requires, the definitions contained in this section govern the construction of this article and the East Honolulu development plan.

**Department.** The department of planning and permitting of the city.

**Development.** Any public improvement project, or any public or private project requiring a zoning map amendment.

**Development Plan** or **Sustainable Communities Plan**. A plan document for a given geographic area that consists of conceptual schemes for implementing and accomplishing the development objectives and policies of the general plan for the several parts of the city.

**Director.** The director of planning and permitting.

**East Honolulu SCP.** The revised East Honolulu Sustainable Communities Plan attached to Ordinance 21-11 as Exhibit A and made a part hereof.

**Environmental Assessment** and **EA**. A written evaluation prepared in compliance with the environmental council's procedural rules and regulations implementing HRS Chapter 343 to determine whether an action may have a significant environmental effect.

**Environmental Impact Statement** and **EIS**. An informational document prepared in compliance with the procedural rules and regulations of the environmental council established in HRS § 341-3(c) for the implementation of HRS Chapter 343; and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

**Finding of No Significant Impact** and **FONSI**. A determination, based on an environmental assessment that the subject action will not have a significant effect and, therefore, will not require the preparation of an environmental impact statement.

**Functional Plan.** The public facility and infrastructure plans prepared by public agencies to further implement the vision, policies, and guidelines set forth in the East Honolulu SCP.

**General Plan.** The general plan of the city as defined by Charter § 6-1508.

**Planning Commission.** The planning commission of the city.

**Project Master Plan.** A conceptual plan that covers all phases of a development project. The project master plan consists of that portion of an environmental assessment or environmental impact statement that illustrates and describes how the project conforms to the vision for East Honolulu, and the relevant policies and guidelines for the site, the surrounding lands, and the region.

**Significant Zone Change.** A zone change that involves at least one of the following:

- (1) Changes in zoning of ten or more acres of land to any zoning district or combination of zoning districts, excluding preservation or agricultural zoning districts;
- (2) Any change in zoning of more than five acres to a residential or country zoning district;
- (3) Any change in zoning of more than five acres to an apartment, resort, commercial, industrial, or mixed use zoning district; or
- (4) Any development that may have a major social, environmental, or policy impact, or major cumulative impacts due to a series of applications in the same area.

**Special Area.** A designated area within the East Honolulu SCP area that requires more detailed planning efforts beyond what is contained in the East Honolulu Sustainable Communities Plan.

**Special Area Plan.** A plan for a special area.

**Unilateral Agreement.** A conditional zoning agreement made pursuant to § 21-2.80 ROH or any predecessor or successor provision that imposes conditions on a landowner or developer's use of the property at the time of the enactment of an ordinance for a zoning change.

**Vision.** The future outlook for the East Honolulu region extending out to the year 2040 and beyond that entails the creation of a community growth boundary, an open space network for preserving natural features, scenery, and shoreline areas for recreational use by the public, protection of historic and community resources, and provision of adequate infrastructure and community facilities to address the anticipated impacts of climate change and to meet East Honolulu's future needs.

(1990 Code, Ch. 24, Art. 4, § 24-4.1) (Added by Ord. [21-11](#))

#### **§ 24-4.2 Applicability and intent.**

- (a) The East Honolulu SCP encompasses the entire area from the mountains to the southern shoreline of Oahu stretching from Makapuu Point on the eastern sector, along the ridgeline of Koolau Mountain Range in a westerly direction to the Waialae Nui Gulch Stream.
- (b) It is the intent of the East Honolulu SCP to provide a guide for orderly and coordinated public and private sector development in a manner that is consistent with applicable general plan provisions, recognizing this urban fringe area as one of the principal stable areas in the county for low-density residential development.
- (c) The provisions of this article and the East Honolulu SCP are not regulatory. Rather, they are established with the explicit intent of providing a coherent vision to guide all new public and private sector development within East Honolulu. This article shall guide any development for East Honolulu, public investment in infrastructure, zoning and other regulatory procedures, and the preparation of the city's annual capital improvement program budget.

(1990 Code, Ch. 24, Art. 4, § 24-4.2) (Added by Ord. [21-11](#))

#### **§ 24-4.3 Adoption of the East Honolulu SCP.**

- (a) This article is enacted pursuant to Charter § 6-1509 and provides a self-contained development plan document for East Honolulu. Upon enactment of this article, all proposed developments will be evaluated against how well they fulfill the vision for East Honolulu enunciated in the East Honolulu SCP and how closely they meet the East Honolulu SCP policies and guidelines set forth to implement that vision.
- (b) The plan entitled, "East Honolulu Sustainable Communities Plan," attached to this ordinance as an exhibit to Ordinance 21-11, is hereby adopted by reference and made a part of this article.
- (c) Chapter 24, Article 1, entitled "Development Plan Common Provisions," in its entirety, is no longer applicable to the East Honolulu SCP area. This article and the East Honolulu SCP, as adopted by reference in this article, supersedes any and all common provisions previously applicable to the East Honolulu SCP.

(1990 Code, Ch. 24, Art. 4, § 24-4.3) (Added by Ord. [21-11](#))

#### **§ 24-4.4 Existing zoning and subdivision ordinances, approvals, and applications.**

- (a) All existing subdivisions and zoning approved prior to April 21, 2021 for projects, including but not limited to those subject to unilateral agreements, continue to remain in effect following the enactment of this ordinance.
- (b) Subdivision and zoning ordinances applicable to the East Honolulu SCP area enacted prior to April 21, 2021 continue to regulate the use of land within demarcated zones of the East Honolulu SCP area until such time as the subdivision and zoning ordinances may be amended to be consistent with the revised East Honolulu SCP.
- (c) Notwithstanding adoption of the East Honolulu SCP, applications for subdivision actions and land use permits accepted by the department for processing prior to April 21, 2021 continue to be subject only to applicable ordinances and rules and regulations in effect at the time the application is accepted for processing.

(1990 Code, Ch. 24, Art. 4, § 24-4.4) (Added by Ord. [21-11](#))

#### **§ 24-4.5 Consistency.**

- (a) In the performance of their prescribed powers, duties, and functions, all city agencies shall conform to and implement the policies and provisions of this article and the East Honolulu SCP. Pursuant to Charter § 6-1511.3, public improvement projects and subdivision and zoning ordinances must be consistent with the East Honolulu SCP.
- (b) Any questions of interpretation regarding the consistency of a proposed development with the provisions of the East Honolulu SCP and the objectives and policies of the general plan will ultimately be resolved by the council.
- (c) In determining whether a proposed development is consistent with the East Honolulu SCP, the responsible agency shall primarily take into consideration the extent to which the development is consistent with the vision, policies, and guidelines set forth in the East Honolulu SCP.
- (d) Whenever there is a question regarding consistency between existing subdivision or zoning ordinances, including any unilateral agreement, and the East Honolulu SCP, the existing subdivision or zoning ordinances prevail until such time as they may be amended to be consistent with the East Honolulu SCP.

(1990 Code, Ch. 24, Art. 4, § 24-4.5) (Added by Ord. [21-11](#))

#### **§ 24-4.6 Review of development and other applications.**

The review of applications for zone changes and other development approvals will be guided by the vision of the East Honolulu SCP. Decisions on all proposed developments must be based on the extent to which the project, enabled by the development approval, supports the policies and guidelines of the East Honolulu SCP.

The director may review other applications for improvements to land, to help the responsible agency determine whether a proposed improvement supports the policies and guidelines of the East Honolulu SCP.

(1990 Code, Ch. 24, Art. 4, § 24-4.8) (Added by Ord. [21-11](#))

## **§ 24-4.7 Zone change applications.**

(a) All zone change applications relating to land in the East Honolulu SCP area will be reviewed by the department for consistency with the general plan, the East Honolulu SCP, and any applicable special area plan.

(1) The director shall recommend either approval, approval with amendments, or denial. The director's written review of the application shall become part of the zone change report, which will be sent to the planning commission and the city council.

(2) A project master plan must be part of an EA or EIS for any project involving 25 acres or more of land. The director shall review the project master plan for its consistency with the East Honolulu SCP.

(3) Any development or phase of development already covered by a project master plan that has been fully reviewed under the provisions of this article does not require a new project master plan; provided that the director determines the proposed zone change is generally consistent with the existing project master plan for the affected area.

(4) If a final EIS has already been accepted for a development, including one accepted prior to April 21, 2021, then a subsequent project master plan is not required for the development.

(b) Projects that involve a significant zone change will be required to submit an EA to the department prior to an application for a zone change being accepted. Any development or phase of a development that has already been assessed under the National Environmental Policy Act ("NEPA"), HRS Chapter 343 (the Hawaii Environmental Policy Act or "HEPA"), Chapter 25, or the provisions of this article, and for which a FONSI has been filed or a required EIS has been accepted, is not subject to further EA or EIS requirements under this article, unless otherwise required by NEPA or HEPA.

(c) The department shall review the EA, and based on the review of the EA, the director shall determine whether an EIS will be required or whether a FONSI will be issued.

(d) If an EIS is required, the EIS must be accepted by the director prior to the acceptance of a zone change application.

(e) Zone changes are to be processed in accordance with this section; Section 5.5 of the East Honolulu SCP Chapter 2, Article 24, Part A; and all applicable requirements under Chapter 21.

(1990 Code, Ch. 24, Art. 4, § 24-4.7) (Added by Ord. [21-11](#))

## **§ 24-4.8 Annual capital improvement program review.**

Annually, the director shall work jointly with the director of budget and fiscal services and other city agencies to review all projects in the city's capital improvement program and budget for compliance and consistency with the general plan, the East Honolulu SCP and other development plans, any applicable special area plan provisions, and the appropriate functional plans. The director shall prepare a written report of findings to be submitted to the council in accordance with Charter § 6-1503.

(1990 Code, Ch. 24, Art. 4, § 24-4.9) (Added by Ord. [21-11](#))

## **§ 24-4.9 Ten-year review.**

(a) The department shall conduct a comprehensive review of the East Honolulu SCP, adopted by reference in § 24-4.3(b), every ten years subsequent to April 21, 2021, and shall report its findings and recommended revisions, if any, to the council.

(b) The East Honolulu SCP will be evaluated to assess the appropriateness of the plan's regional vision, policies, guidelines, and implementing actions, as well as its consistency with the general plan.

(c) Nothing in this section should be construed as prohibiting the processing a revision to the East Honolulu SCP at any time in the event the director or the council recommends consideration of such a revision, pursuant to the Charter.

(1990 Code, Ch. 24, Art. 4, § 24-4.10) (Added by Ord. [21-11](#))

## **§ 24-4.10 Authority.**

Nothing in this article shall be construed as an abridgement or delegation of the responsibility of the director, or of the inherent legislative power of the council, to review or revise the East Honolulu SCP pursuant to the Revised Charter and the above procedures.

(1990 Code, Ch. 24, Art. 4, § 24-4.12) (Added by Ord. [21-11](#))

## **§ 24-4.11 Severability.**

If any provision of this article or the application thereof to any person or property or circumstances is held invalid, such invalidity does not affect the validity of the other provisions or applications of this article that may be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(1990 Code, Ch. 24, Art. 4, § 24-4.13) (Added by Ord. [21-11](#))

## **§ 24-4.12 Conflicting provisions.**

Any provision contained in this article as it pertains to land within the East Honolulu SCP area, prevails should there be any conflict with the common provisions or any other provisions under Chapter 24.

(1990 Code, Ch. 24, Art. 4, § 24-4.14) (Added by Ord. [21-11](#))

# **EAST HONOLULU SUSTAINABLE COMMUNITIES PLAN**



# EAST HONOLULU SUSTAINABLE COMMUNITIES PLAN



City and County of Honolulu | Department of Planning and Permitting | April 2021 (Amended 2022)

## PREFACE & EXECUTIVE SUMMARY

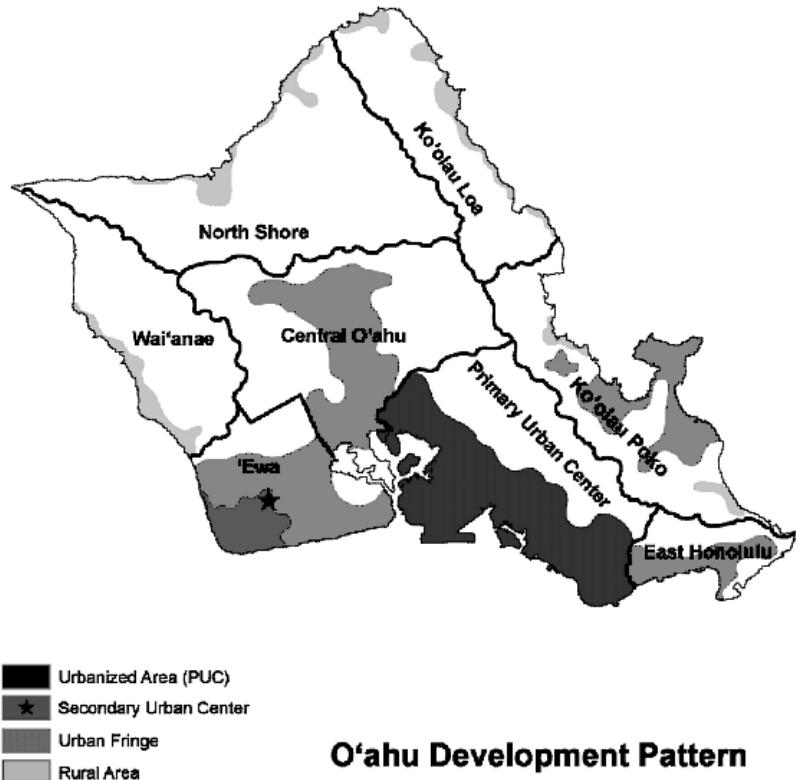
The **East Honolulu Sustainable Communities Plan** (the “**Plan**”) has been prepared in accordance with the **City Charter** prescribed requirements for development plans and is to be accorded force and effect as such for all Charter and Ordinance-prescribed purposes. It is one of a set of eight community-oriented plans intended to help guide public policy, investment, and decision-making over the next 25 years. Each of the plans addresses one of eight geographic planning regions on O’ahu, responding to specific conditions and community values of each region. Exhibit ES-1 on the following page illustrates these planning regions.

Of the eight documents, the plans for ‘Ewa and the Primary Urban Center (PUC) are the areas to which the **General Plan** says population growth and development activity are to be directed over the next 25 years and beyond. The plans for these regions will continue to be titled “Development Plans” and will serve as the policy guides for the development decisions and actions required to support that growth.

Plans for the remaining six areas, including East Honolulu, which are envisioned as relatively stable regions for which public actions will focus on supporting existing populations, have been entitled “Sustainable Communities Plans” in order to properly indicate their intent.

The vision statement and implementing policies for the **Plan** are intended to sustain East Honolulu’s character, lifestyle, and economic opportunities while stabilizing East Honolulu’s share of O’ahu’s population at approximately five percent, or 50,000 (in 2010, East Honolulu had 5.2 percent of O’ahu’s population).

**Exhibit ES-1: Development Plan and Sustainable Communities Plan Areas for O’ahu**



## P.1 THE SUSTAINABLE COMMUNITIES PLAN REVIEW PROCESS

This Plan is a revision of the Plan adopted by the City Council in 1999. The 1999 Plan was the second of the eight plans revised in response to a 1992 City Charter amendment which changed the nature of the Development Plans from relatively detailed, parcel-specific plans to conceptual, visionary plans.

As required by the adopting ordinance, the Plan is to be reviewed starting ten years after adoption to assess if the Plan vision, land use and infrastructure policies and guidelines, and implementation methods are still appropriate and consistent with the General Plan.

This document is the culmination of a community-based planning effort led by the Department of Planning and Permitting (DPP) which involved public meetings and workshops, interviews, focus groups, and numerous meetings since 2005.

In its final form, the Plan incorporates and responds to comments received from the public. The DPP performed numerous outreach events with community leaders and organizations, business and labor representatives, landowners, developers, and public and private agency staff through a variety of formats including: public workshops, workgroup meetings, and presentations and meetings with trade groups, companies, and Non-Governmental Organizations (NGOs). The DPP also conducted phone interviews and in-person meetings with community leaders, researchers, and residents.

The East Honolulu Sustainable Communities Plan Technical Report (the “Technical Report”) provides relatively detailed documentation of the review process, comments and suggestions received, and research on significant land use and infrastructure issues. The Technical Report also includes proposed revisions to the Plan and improvements to its implementation. Like this Plan, the Technical Report is available on the DPP website.

## P.2 A SUSTAINABLE FUTURE FOR O'AHU

There has been a recent surge in widespread community discussions, actions and laws adopted to address sustainability. In 2005, the State Legislature convened a statewide group to draft a Hawai'i 2050 Sustainability Plan, whose primary purpose is to provide policy recommendations for creating a sustainable Hawai'i. In 2007, greenhouse gas emissions goals for 2020 were enacted by Act 234 (2007). There was a mandate in 2015 that 100 percent of Hawai'i's energy generated by 2045 must come from renewable resources (Act 97). In 2016, the City and County conducted a review of its building codes to ensure that new structures would be able to meet the new challenges presented by climate change and sea level rise. In 2017, the Hawai'i Climate Change Mitigation and Adaptation Commission published its findings and recommendations to the State Legislature in the Sea Level Rise Vulnerability and Adaptation Report.

Public service announcements dealing with conserving water and electricity abound. The concept of buildings that are designed, built and occupied with environmental considerations at the forefront largely did not exist when the Development Plans and Sustainable Communities Plans were first adopted. This setting raises the question of the role of the Development Plans and Sustainable Communities Plans. Are they the City's version of a sustainability plan?

The answer is that they are the land development portion of a larger blueprint for sustainability. As discussed below, the General Plan sets long-term goals for the City and County of Honolulu, across 11 major elements. Perhaps its most substantive chapter deals with population, and hence land development distribution. The General Plan sets the growth management strategy for O'ahu. The Development Plans and Sustainable Communities Plans provide more detail on this land management strategy, assuring that how we use the land now, and in the future, responds to the three major elements of a Sustainable Place: economic health, social equity, and environmental protection.

Since 1977, the City's policy, as adopted by the City Council in the O'ahu General Plan, has been to reduce development pressures within the rural areas of O'ahu by fully developing downtown Honolulu from Pearl City to Kahala, by building O'ahu's Second City in 'Ewa, and by

developing surrounding suburban “urban fringe” areas in ‘Ewa and Central O’ahu. There has been substantial investment in roadways, schools, sewers, water systems, and other infrastructure to support this pattern of development.

The most recent projections show that O’ahu will need 77,700 new housing units to meet expected population growth between 2010 and 2040. The General Plan, and the Development Plans and Sustainable Communities Plans adopted by the City Council to implement the General Plan, provide capacity for most new homes to be built either in the Primary Urban Center, ‘Ewa, or Central O’ahu.

The issues addressed either directly or indirectly by these regional plans certainly overlap with other planning responsibilities of other departments, such as water delivery and consumption, wastewater services, community resilience and hazard mitigation, crime reduction, increasing public health, developing responsive transportation systems, and recreation facilities. Collectively, these efforts comprise the strategy of developing a sustainable future for O’ahu.

### P.3 INTEGRATING PRINCIPLES OF SUSTAINABILITY INTO DECISION-MAKING PROCESSES

A community that can successfully manage change will flourish and prosper in the future. For this Plan, this means ensuring that planned growth and development respects and adheres to the following principles of sustainability that are intended to promote the long-term health of the land and its people, and its community resources for current and future generations:

- Adopt the concept of ahupua’a in land use and natural resource management;
- Protect lands designated for recreation, agriculture, physical and environmental resources, and where appropriate, open spaces and view planes;
- Use resources so they are not depleted, permanently damaged or destroyed;
- Plan, develop, and utilize construction technologies that minimize negative environmental impacts and promote restoration of natural processes;
- Adapt infrastructure and programs to be more accessible and age-friendly based on the recommendations in the Honolulu Age-Friendly City Action Plan;
- Respect the cultural, social and physical resources that shape and reinforce residents’ sense of community and quality of life;
- Guide the process of change. Strive to make decisions based on an understanding of the cumulative effects such decisions will have on the land and community resources;
- Improve community resilience to natural and man-made hazards, including climate change and sea level rise, in accordance with the O’ahu Resilience Strategy;
- Balance economic prosperity, social and community well-being, and environmental stewardship; and
- Encourage greater collaboration across agencies and with the community to manage and protect resources.

### P.4 THE HONOLULU LAND USE PLANNING AND MANAGEMENT SYSTEM

The City and County of Honolulu guides and directs O’ahu land use and development through a three-tier system of objectives, policies and guidelines, and regulations.

• The General Plan forms the first tier of this system. First adopted by resolution in 1977, the General Plan is a relatively brief document, consisting primarily of one-sentence statements of objectives and policies. It has been amended several times, but the basic objectives and policies set forth in the 1977 plan remain intact.

• The second tier of the system is formed by the Development Plans and Sustainable Communities Plans, which are adopted and revised by ordinance. These plans address eight geographic regions of the island, including the Primary Urban Center, ‘Ewa, Central O’ahu, Wai’anae, North Shore, Ko’olau Loa, Ko’olau Poko, and East Honolulu.

• The third tier of the system is composed of implementing ordinances and regulations, including the Land Use Ordinance (Honolulu’s zoning code), the Subdivision Rules and Regulations, and the City’s Capital Improvement Program. Mandated by the City Charter, these ordinances and regulations constitute the principal means for implementing the City’s plans. These ordinances and regulations are required to be consistent with the General Plan, the Development Plans and Sustainable Communities Plans, and each other.

In addition, the Development Plans and Sustainable Communities Plans are supplemented by two planning mechanisms:

- Functional plans, like the O’ahu Regional Transportation Plan or the O’ahu Water Management Plan, or City departmental plans, which are required by City Charter for solid waste or parks and recreation, some of which are mandated by state or federal regulations, provide long-range guidance for the development of public facilities and infrastructure; and
- Special Area Plans give specific guidance for neighborhoods, communities or specialized resource areas. There are currently no Special Area Plans in East Honolulu.

### P.5 AUTHORITY OF THE DEVELOPMENT AND SUSTAINABLE COMMUNITIES PLANS

The authority of the Development Plans and Sustainable Communities Plans is derived from the City Charter, which mandates preparation of a General Plan, Development Plans, and Sustainable Communities Plans to guide the development and improvement of the City. The City Charter states the purpose of these plans are:

“to recognize and anticipate the major problems and opportunities concerning the social, economic and environmental needs and future development of the city and to set forth a desired direction and patterns of future growth and development.” (Section 6-1507)

Together, Development Plans and Sustainable Communities Plans provide policies to guide land use and budgetary actions of the City and to evaluate progress toward the goals and objectives put forth in the General Plan.

The City Charter provides that “public improvement projects and subdivision and zoning ordinances should be consistent with the development plan for that area.” Although the Development Plans and Sustainable Communities Plans are not themselves regulatory, they provide guidance that decision makers and administrators should follow in approving project development and in revising rules and regulations and standard policies. The plans are policy tools and are to be used, in conjunction with the programs and budgets of the City,

to accomplish the objectives of the City as guides for decisions.

Consistent with the **City Charter**'s description of Development Plans and Sustainable Communities Plans conceptual schemes and policy guides, the language, maps, and illustrations of the plans shall serve as a policy guide for regulations which will implement the plans.

The Development Plans and Sustainable Communities Plans are also intended to aid decisions made in the public and private sector by clearly indicating what the City's development priorities are, where development is appropriate, and what kinds of development are appropriate in each location.

The 1992 **City Charter** amendments established that the purpose of the Development Plans and Sustainable Community Plans is to be conceptual plans whose purposes are to provide:

- "priorities ... (for the) coordination of major development activities;" and
- sufficient description of the "desired urban character and the significant natural, scenic and cultural resources ... to serve as a policy guide for more detailed zoning maps and regulations and public and private sector investment decisions."

The revised **Plan** presented in this document conforms to that mandate.

## P.6 EXECUTIVE SUMMARY OF THE EAST HONOLULU SUSTAINABLE COMMUNITIES PLAN

This **Plan** is organized in five chapters and an appendix, as follows:

- Chapter 1: East Honolulu's Role in O'ahu's Development Pattern defines the region's role and identity within the overall framework of islandwide planning and land use management;
- Chapter 2: The Vision for East Honolulu's Future summarizes the community-based vision for the future of the region, discusses key elements of that vision, and presents illustrative maps and tables;
- Chapter 3: Land Use Policies and Guidelines provides the land use policies needed to implement the vision for East Honolulu described in Chapter 2;
- Chapter 4: Public Facilities and Infrastructure Policies and Guidelines provides the infrastructure policies needed to implement the vision for East Honolulu described in Chapter 2 and Chapter 3;
- Chapter 5: Implementation identifies the means through which the policies will be applied, including zone changes, and infrastructure budgeting and development outlined by the Plan; and
- Appendix A includes:
  - Three conceptual maps (Open Space, Urban Land Use, and Public Facilities) which illustrate the vision and policies of the Plan; and
  - A glossary of terms used in the**Plan** and on those maps.

The following summary provides an overview of the vision, land use and infrastructure policies of the**Plan** and the means of implementation.

## P.7 EAST HONOLULU'S ROLE IN O'AHU'S DEVELOPMENT PATTERN

- Limited development and population growth so that East Honolulu's share of O'ahu's population remains stable at approximately five percent, or 50,000;
- Maintenance as a predominantly residential area characterized by generally low-rise, low-density development; and,
- Moderate growth of business centers, retail and service commercial uses, and satellite institutional and public uses geared to serving the needs of households.

## P.8 THE VISION TO 2040

East Honolulu is a safe, clean community with unique landscapes and natural and cultural resources. Each residential neighborhood has its own special quality and sense of place. The suburban development patterns of the 20th century have been modified to provide for more walkable streets and local convenience stores. There is a full range of commercial, medical and legal services to meet the needs of the elderly community members. Agricultural areas have been preserved and are producing food for the East Honolulu community. Community organizations partner with government agencies and develop plans and strategies to adapt and respond to the challenges of climate change, sea level rise, flooding, severe coastal storms, inundation of coastal areas and Kalaniana'ole Highway, and wildfires. Best management practices have been implemented to retain stormwater runoff, replenish valuable ground water reserves and improve the quality of nearshore ocean waters.

- Population remains stable at approximately 50,000, or five percent of O'ahu's population, through 2035 and 2040;
- An estimated 24 percent of O'ahu residents will be 65 years and older by 2040 with approximately 37 percent of East Honolulu residents that will be 65 years and older, the highest on O'ahu; and,
- Job stabilization and slight growth from 10,240 civilian jobs in 2010 to 10,400 jobs.

## P.9 ELEMENTS OF THE VISION

- Protect Community Resources by:
  - Protecting scenic views, particularly the Kaiwi Scenic Shoreline;
  - Providing and improving access to shoreline and mountain recreational areas;
  - Creating more complete streets that are walkable, facilitate ease of use for pedestrians, cyclists, and other alternative mode uses that adhere to the following key principles:

Safety;

- Consistency of design;
- Context sensitive solutions;
- Energy efficiency;
- Accessibility and mobility for all;
- Use and comfort of all users;
- Health; and
- Green infrastructure.
- Promoting stewardship of natural and cultural resources;
- Implementing the goals and actions of the **O‘ahu Resilience Strategy**.
- Preserving significant historic, cultural, and archaeological features;
- Protecting and preserving existing agricultural areas; and
- Containing all urban development within the existing Community Growth Boundary.
- Adapt to Changing Community Needs by:
  - Improving and replacing the region’s aging infrastructure, as needed;
  - Preparing the community and infrastructure for anticipated impacts from natural disasters and climate change by providing community-based training, and creating or strengthening existing shelters capable of withstanding Category 3 hurricanes;
  - Adapting the housing supply, public spaces, and street orientation to meet the expected aging of the population; and
  - Focusing commercial centers on serving the region’s neighborhoods.

## P.10 IMPLEMENTING POLICIES AND GUIDELINES

Chapter 5 discusses the various measures that support implementation of this **Plan**, including the regulatory mechanisms, physical improvements, and other actions that are needed to realize the **Plan**’s vision. Section 5.7 presents an Implementation Matrix to help organize and facilitate plan implementation. The Implementation Matrix, which is based on the policies and guidelines presented in Chapters 3 and 4, identifies the specific actions, corresponding plans and/or codes, and public and private entities responsible for implementation.

Land use development policies and implementing guidelines are provided for:

- Open space preservation, natural resources, and scenic views;
- Recreational access to shoreline and mountain areas;
- Island-based and community-based parks and recreation;
- Historic and cultural resources;
- Residential communities and commercial redevelopment; and
- Disaster Preparedness.

Infrastructure policies and implementing guidelines are provided for:

- Transportation systems;
- Water allocation and systems development;
- Wastewater treatment;
- Electrical and communications systems;
- Solid waste handling and disposal;
- Drainage systems;
- School facilities; and
- Civic and public safety facilities.

The means for implementing the Plan are provided through:

- Focusing residential and nonresidential development to areas within the Community Growth Boundary;
- Guiding development within areas of critical concern with Special Area Plans, as needed;
- Incorporating the Plan vision and policies in the review of zone changes and other land use approvals and in establishing conditions for these land use approvals which will help ensure the vision and policies are implemented;
- Incorporating the Plan vision and policies in the review of projects to be added to the Public Infrastructure Map and funded through the Capital Improvement Program budget; and
- Conducting a periodic evaluative review of the Plan vision, policies and implementation.

## 1. EAST HONOLULU’S ROLE IN O‘AHU’S DEVELOPMENT PATTERN

The East Honolulu region spans from Makapu‘u Point in the east to Wai‘alae Nui stream and gulch in the west and is further defined by the

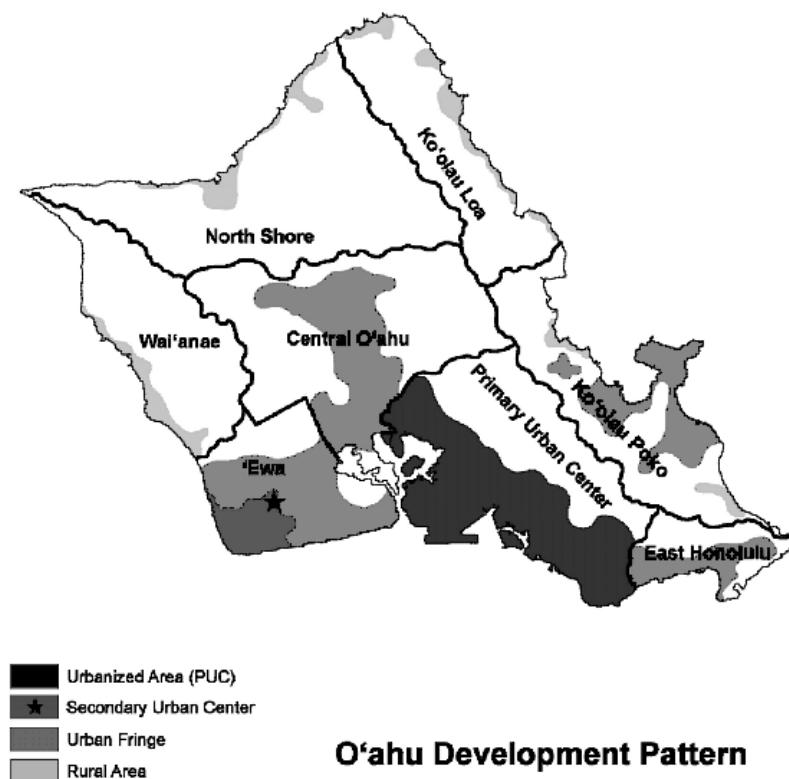
peaks of the Ko'olau Range, the shoreline, and Maunalua Bay. The **General Plan** of the City and County of Honolulu designates the **East Honolulu Sustainable Communities Plan** (the “**Plan**”) area, shown in Exhibit 1-1, as an urban fringe area which is to remain predominantly residential communities characterized by generally low-rise, low-density development. **General Plan** policies call for sustaining those development and environmental characteristics which make East Honolulu a desirable place to live, and maintaining East Honolulu’s existing population at around 50,000, which is within the **General Plan**’s allotment of five percent of O’ahu’s projected population in 2040.

The present land use pattern and suburban character of East Honolulu began to take shape with the inauguration of the master planned community of Hawai‘i Kai (Maunalua) in 1961. Prior to that time, most of the region was regarded as too far removed from Honolulu to be suitable for large-scale residential development.

Building on the momentum that development in Hawai‘i Kai (Maunalua) was creating in the 1960s and 1970s, residential development spread quickly to the valleys of Kamilo Iki and Kalama and to Mariners Ridge. With the development of newer communities at Kamehame Ridge, Hawai‘i Loa Ridge, and portions of Wai‘alae Iki, most of the ridges and valleys in East Honolulu from Kahala to Kalama Valley have been developed for residential use.

In the past three decades, however, the rate of urban growth in East Honolulu has slowed as the availability of suitable development sites has diminished.

#### **Exhibit 1-1: Development Plan and Sustainable Communities Plan Areas for O‘ahu**



This update reaffirms East Honolulu’s role in O‘ahu’s development pattern as intended in the **General Plan** policies by establishing the following guidelines for future land use and development in the **Plan**:

- Limit the potential for substantial new housing in the region so that significant residential growth is directed instead to the Primary Urban Center, the 'Ewa Development Plan area, and the Central O‘ahu Sustainable Communities Plan area;
- Revitalize existing commercial centers while limiting the expansion of commercial and other economic activities in the region to promote the development and growth of employment in the Primary Urban Center, Central O‘ahu, and 'Ewa while reorienting existing commercial centers to better serve their neighborhood community needs;
- Maintain the predominantly low-rise, low-density form of residential development in the neighborhoods;
- Redesign and repurpose infrastructure and programs to become a more age-friendly community with a focus on senior housing and complete streets;
- Avoid flood damage, slippage and other problems associated with development of steep slopes and sites with expansive soils;
- Create resilient, disaster-ready communities that are strategically and physically prepared for disasters and environmental stressors;
  - Improve evacuation area designations and procedures;
  - Increase cooperation with neighborhood emergency preparedness groups;
  - Create a City-community liaison to leverage non-profit and volunteer assets;
  - Seek to harden emergency shelters to be capable to minimally withstand winds from a Category 3 hurricane;
- Address, minimize risks from, and adapt to the impacts of climate change and sea level rise;
  - Integrate climate change adaptation into the planning, design, and construction of all significant improvements to and development

of the built environment;

- Prepare for the anticipated impacts of sea level rise on existing communities and facilities through remediation, adaptation, and other measures;
- Utilize the design capacity of Kalaniana'ole Highway, the region's key component of transportation, as a means to manage urban growth;
- Preserve scenic views of ridges, upper valley slopes, and shoreline areas along Kalaniana'ole Highway, popular hiking trails, and the Kaiwi Scenic Shoreline;
- Promote access to mountain and shoreline resources for recreational purposes and traditional hunting, fishing, gathering, hiking, religious, and cultural practices; and
- Adopt and implement the ahupua'a concept to improve downstream water quality through improved upland management and the implementation of low-impact development (LID) standards when properties or infrastructure are redeveloped.

## 2. THE VISION FOR EAST HONOLULU'S FUTURE

This chapter presents the vision for East Honolulu's future, discusses the key elements of the vision, and presents illustrative maps and tables.

This vision for East Honolulu has two horizons. The first horizon extends from the present to the year 2040. The 2040 horizon is used to project likely socio-economic change in East Honolulu and to assess the infrastructure and public facility needs that will have to be met over that period. The second horizon is used for the purposes of illustrating long-term, gradual trends and extends to 2050 and beyond.

### 2.1 VISION STATEMENT

East Honolulu is a safe, clean community with unique landscapes and natural and cultural resources. Each residential neighborhood has its own special quality and sense of place. The suburban development patterns of the 20th century have been modified to provide for more walkable streets and local convenience stores. There is a full range of commercial, medical and legal services to meet the needs of the elderly community members. Agricultural areas have been preserved and are producing food for the East Honolulu community. Community organizations partner with government agencies and develop plans and strategies to adapt and respond to the challenges of climate change, sea level rise, flooding, severe coastal storms, inundation of coastal areas and Kalaniana'ole Highway, and wildfires. Best management practices have been implemented to conserve and recover natural and cultural areas, retain stormwater runoff, replenish valuable ground water reserves, and improve the quality of nearshore ocean waters.

**The Vision to 2040** – Through 2035 and 2040, East Honolulu is projected to experience population stabilization. According to projections by the Department of Planning and Permitting (DPP), East Honolulu's population is expected to remain stable at approximately 50,000, or roughly five percent of O'ahu's total population, which is consistent with the General Plan. The region is expected to experience a growing elderly population and an associated decrease in average household size.

Due to the expected population stabilization, there is not anticipated to be significant demand for additional commercial development or major investments in infrastructure and public facility capacity in East Honolulu. As a consequence, job growth in East Honolulu is expected to be minimal, remaining close to 2010 levels at approximately 10,400 jobs.

To forestall anticipated impacts of climate change, East Honolulu must begin taking active steps to improve resiliency to hurricanes, coastal and inland erosion, inundation, and flooding.

**Beyond 2040** – There will be little residential development capacity available in East Honolulu beyond 2040. Capacity will be limited to infill and redevelopment opportunities. After 2040, the impacts of climate change will become more evident, requiring East Honolulu to actively manage adaptation and improve resiliency to hurricane winds, coastal and inland erosion, inundation, flooding, and impacts to watersheds.

As discussed below, the vision for East Honolulu focuses on the long-term protection of community resources and adapting to changing community needs.

#### 2.1.1 PROTECT COMMUNITY RESOURCES

The Plan provides a vision for preservation, conservation, and enhancement of community resources.

- **Protect Natural and Scenic Resources** – Significant scenic views of ridges, upper valley slopes, and shoreline areas along Kalaniana'ole Highway, popular hiking trails, and the Kaiwi Scenic Shoreline, mauka to makai, are protected from residential and commercial development and degradation by vehicle operations. Furthermore, access to shoreline areas and mountainous regions are improved and provided for all to use responsibly. Urban uses are contained within the Community Growth Boundary protecting agricultural lands in Hawai'i Kai (Maunalua), undeveloped ridges and valley walls throughout East Honolulu, and important wildlife habitat areas. Key open space areas within the Community Growth Boundary are retained to provide active and passive recreation and community gathering places. Maunalua Bay continues to serve as one of East Honolulu's primary viewsheds, recreational assets, and important habitats for various native aquatic species.
- **Preserve Cultural and Historical Resources** – Visual landmarks and significant views are retained, and significant historic, cultural, and archaeological features from East Honolulu's past are preserved.

#### 2.1.2 ADAPT TO CHANGING COMMUNITY NEEDS

The Plan provides a vision for the gradual physical transformation of East Honolulu to address changing demographics and aging of housing stock and infrastructure.

- **Address Changing Demographics** – Different housing types and services are developed to meet the needs of East Honolulu's growing elderly population, "empty nesters" who want to move out of single-family dwellings, and younger families who want to move into these dwellings. In addition, the need to provide for the increasing number of "multi-generation" households, as well as smaller, more affordable housing types, such as accessory dwelling units (ADUs) is being addressed.
- **Address Aging Housing and Infrastructure** – The region's housing stock and infrastructure systems are aging. Incrementally, existing structures and facilities are modified, expanded, or replaced due to obsolescence. As changes are made, new structures and facilities are designed to adapt to and mitigate the impacts of climate change. New structures and

facilities are also designed to respond to the needs for ecological restoration through low-impact development standards, increased energy efficiency, and potable water conservation.

## 2.2 KEY ELEMENTS OF THE VISION

The vision for East Honolulu's future will be implemented through the following key elements:

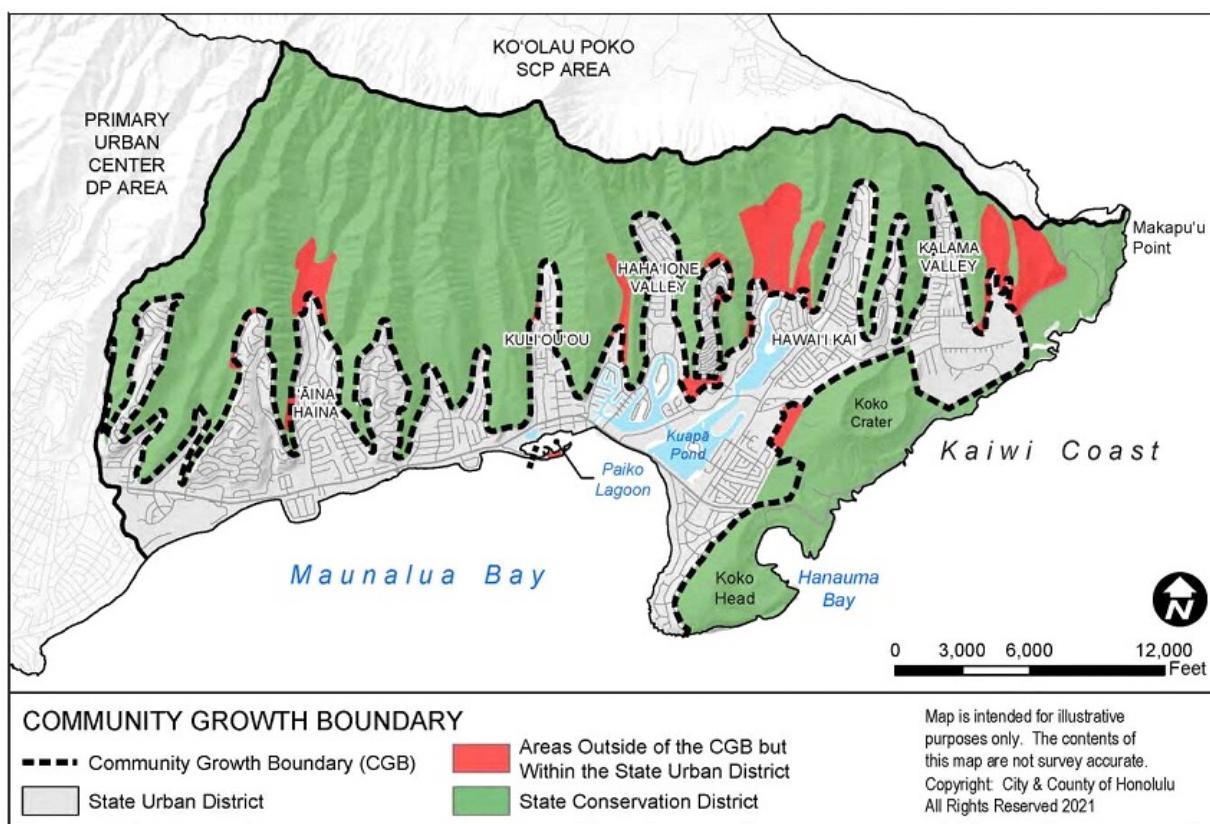
- 2.2.1 Community Growth Boundary, and Agricultural and Preservation Lands;
- 2.2.2 Adoption of the Concept of Ahupua'a in Land Use and Natural Resource Management;
- 2.2.3 Kaiwi Scenic Shoreline;
- 2.2.4 Ridge-and-Valley Neighborhoods;
- 2.2.5 Mauka-Makai Recreational Access;
- 2.2.6 Protection and Preservation of Natural Areas;
- 2.2.7 Housing Stability and Age-Friendly Communities;
- 2.2.8 Refocus Commercial Centers; and
- 2.2.9 Climate Change Adaptation.

### 2.2.1 COMMUNITY GROWTH BOUNDARY, AND AGRICULTURAL AND PRESERVATION LANDS

The Community Growth Boundary (previously Urban Community Boundary) was established to guide development and preserve open space and agricultural areas in East Honolulu. Lands outside the Community Growth Boundary are identified as either Agricultural Lands or Preservation Lands.

The Community Growth Boundary will remain fixed through the 2040 planning horizon and is intended to help guide future development, redevelopment, and resource management within existing zoning designations or future zoning designations. Other standards or guidelines may be developed in response to established entitlements, or in accordance with pertinent policy and guidelines described in this [Plan](#) (see Exhibit 2-1 and conceptual maps in Appendix A).

**Exhibit 2-1: Community Growth Boundary**



Areas within the Community Growth Boundary characteristically include extensive tracts of residential or commercial development clearly distinguishable from undeveloped or more natural portions of the region's environment. The Community Growth Boundary may include areas designated park or preservation, or areas with development-related hazards such as steep slopes or unstable soils. These areas, while inside the boundary, will not be developed with uses unsuitable to their designations or in ways that may tend to exacerbate hazards.

The Community Growth Boundary is intended to confine most new development to infill sites that are within or adjacent to existing urbanized areas. Existing homes and property adjacent to new development on infill sites should be protected from adverse effects of the new development. A more compact form of development will result in relatively lower site development costs, more efficient utilization of existing urban infrastructure systems, and reduced reliance on the automobile by making transit ridership, walking, and bicycling more feasible and attractive as modes of travel.

The Community Growth Boundary is generally coterminous with the State Urban District boundary, but excludes the following areas of the

State Urban District listed below and shown in Exhibit 2-1. These exclusions highlight the need for City planners and community members to guard against State decisions for its State Urban District that may negatively impact this and other Sustainable Communities Plans.

- 'Āina Haina Nature Preserve;
- Areas committed to agricultural use by long-term leases (i.e., the farm lot subdivisions in Kamilo Nui Valley and adjacent to Kaiser High School);
- Undeveloped areas in Kamilo Nui Valley which are adjacent to existing agricultural uses but zoned as preservation;
- Large tracts of undeveloped lands at higher elevations that are prominently visible from the coastal highway or other public areas and are desirable natural scenic features;
- Mauka lands along the Kaiwi coast are zoned as preservation and located outside of the Community Growth Boundary to protect open space;
- Significant undeveloped Urban District land areas identified as suspect areas for land movement by the U.S. Geological Survey; and,
- Keawāwa Marsh and Wetlands.

The six main objectives of the Community Growth Boundary are to:

- **Avoid Development of Hazardous Areas** – Undeveloped lands on the fringes of urbanized areas which are characterized by steep slopes and/or unstable soils are placed outside the Community Growth Boundary to prevent potential property damage and threats to public safety. These physical constraints also increase site development costs, which are passed on to housing consumers.
- **Support General Plan Policy** – Consistent with **General Plan** policy Housing Objective B, Policy 1, which aims to encourage the State government to coordinate its urban-area designations with the developmental policies of the City and County, the Community Growth Boundary indicates an appropriate adjustment to the State Land Use Urban District boundary.
- **Support Agricultural Use** – Two areas in Hawai'i Kai (Maunalua) are placed outside the Community Growth Boundary to protect agricultural lots with long-term leases. Preventing the encroachment of suburban residential development supports active use of these lots for agricultural purposes.
- **Provide Sufficient Capacity for Projected Population Stability** – Excluding the amount of land reserved for parks and open space, there is sufficient capacity within the Community Growth Boundary to accommodate anticipated residential and commercial development to 2040 (see Table 2-1). About 300 new housing units can be identified as probable or possible within the Community Growth Boundary under existing zoning. This translates to a total potential population in East Honolulu consistent with the DPP's projected population for 2035-2040 of about 50,000 residents (or approximately five percent of O'ahu's population) to counteract shrinking household sizes.

**TABLE 2-1: POTENTIAL HOUSING WITHIN CGB ON LANDS ZONED FOR RESIDENTIAL USE**

Project Areas	Probable Units <sup>1</sup>	Possible Units <sup>2</sup>	Description
<b>TABLE 2-1: POTENTIAL HOUSING WITHIN CGB ON LANDS ZONED FOR RESIDENTIAL USE</b>			
Project Areas	Probable Units <sup>1</sup>	Possible Units <sup>2</sup>	Description
Wai'alae Nui	14		Ord. 96-69 limits site to 14 units
Wai'alae Iki	9		Owner-build lots
'Āina Haina	8		Lower 'Āina Haina (8)
Hawai'i Loa Ridge	26		Owner-build lots
Niu Valley		30	3 large adjacent lots with 6 existing units
Kamilo Iki Valley		16	Large vacant lot
Hawai'i Kai (Maunalua)	28		Remaining units from Ord. 99-54 & Ord. 00-70
Nā Pali Hāweo (Kamehame)	16		Owner-build lots
Lower Kalama Valley	21		2015/CL-5 (14) & 499 Kealahou (7)
Infill Vacant Lots	50		Vacant standard-size lots within the Plan area
'Ohana or ADU units	50		Assumes 2-3 units per year from 2020-2040
<b>Total</b>	<b>222</b>	<b>54</b>	
<b>Cumulative Total</b>	<b>276 units</b>		

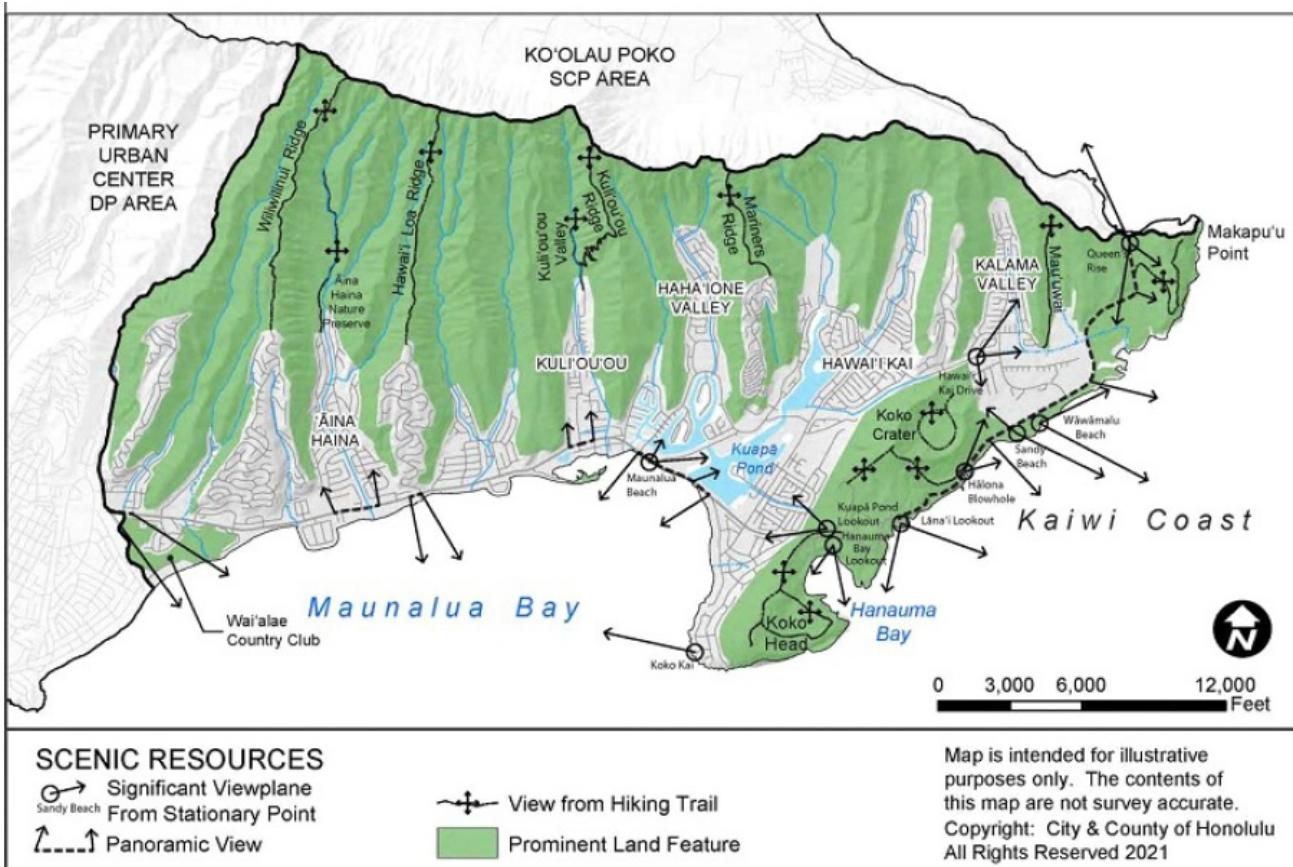
1 Includes unbuilt units with approved building permits, units approved as part of a larger development or cluster project, vacant standard-size lots within approved subdivisions, and 'Ohana/ADU units at 2-3 per year.

2 Estimates based on lot size built to underlying zoning density after accounting for steep lands and clustering of units.

**Promote an Efficient Pattern of Urban Development** – The Community Growth Boundary confines most new development to infill sites that are adjacent to existing urbanized areas on relatively level terrain. A more compact form of development on the coastal plain will result in relatively lower site development costs, more efficient utilization of existing urban infrastructure systems, and reduced reliance on the automobile by making transit ridership, walking, and bicycling more feasible and attractive as modes of travel.

**Protect Natural and Scenic Resources** – By confining the potential area for new urban development through the Community Growth Boundary, significant natural landscape features can be protected from physical changes that will permanently impair their scenic value. These scenic landscape elements include the ridges and valley walls that are visible from Kalaniana'ole Highway, particularly in the area between Koko Head and Makapu'u Head, and the unaltered shoreline (See Exhibit 2-2).

## Exhibit 2-2: Scenic Resources



### 2.2.1.1 Agricultural Lands

Agricultural lands are identified to protect the region's economic and open space values. The primary uses for all lands designated as agricultural lands are open space, agriculture uses, or uses directly supportive of agriculture and farming for food sustainability.

Two areas in Hawai'i Kai (Maunalua) are identified as agricultural lands: the farm lots in Kamilo Nui Valley and lands adjacent to Kaiser High School. See Appendix A-2. Both agricultural areas are in active use and have long-term leases. In addition, undeveloped areas in Kamilo Nui Valley that are adjacent to existing agricultural uses are placed within the Agriculture Lands. Preventing the encroachment of urban fringe residential development within the existing agricultural uses supports active use of these lots for agricultural purposes while preventing adverse impacts associated with residential development including an increase in stormwater, sediment, and toxic pollutant runoff from the addition of impermeable surfaces.

### 2.2.1.2 Preservation Lands

Preservation lands are identified to protect undeveloped lands which form an important part of the region's open space fabric but that are not valued primarily for agricultural uses. Such lands include important native (i.e., indigenous and endemic) Hawaiian plant, invertebrate and wildlife habitat, archaeological or historic sites, significant landforms or landscapes over which significant views are visible, recreational areas, agricultural areas, areas important to the health of the watershed, and areas hazardous to potential development.

Preservation lands generally include undeveloped lands that:

- Are necessary for protection of watersheds, water resources, and water supplies;
- Are necessary for the conservation, preservation, and enhancement of sites with scenic, recreational, historic, cultural, archaeological, or ecological significance;
- Are necessary for providing and preserving parklands, wilderness, and beach reserves, and for conserving natural ecosystems of indigenous and endemic plants, invertebrates, fish and wildlife, for forestry, and other activities related to these uses;
- Are located at an elevation below the maximum inland line of the zone of wave action, and marine waters, fishponds, and tide pools unless otherwise designated;
- Are generally characterized by topography, soils, climate or other related environmental factors that may not be normally adaptable or presently needed for urban or agriculture use;
- Have general slopes of 20 percent or more and which provide for open space amenities and/or scenic values;
- Are susceptible to floods and soil erosion, are undergoing major erosion damage and requiring corrective attention, or are necessary to the protection of the health, safety and welfare of the public by reason of soil instability or the land's susceptibility to landslides and/or inundation by tsunami and flooding;
- Are used for State parks outside the Community Growth Boundary or City parks within the Community Growth Boundary;
- Are suitable for growing commercial timber, grazing, hunting, and recreation uses, including facilities accessory to such uses when such facilities are compatible with the natural and physical environment;
- Have historical significance. Preserve and enhance significant historic and prehistoric features including Native Hawaiian cultural and

archaeological sites especially:

- 'Ihi'ihilauākea Preserve;
- Makani 'olu Shelter;
- Hāwea Heiau Complex; and
- Pahua Heiau.
- Retain visual landmarks and significant vistas including:
  - The Kaiwi coast;
  - Views of Maunalua Bay and other shoreline areas from Kalaniana'ole Highway; and
  - Views from ridge, valley, and shoreline hiking trails.
- Limit building heights to low-rise and mid-rise structures to protect panoramic views and the existing character of the built environment; and,
- Limit vehicle operations which could cause degradation to the dunes, vegetation, and beach at Wāwāmalu Beach.

## 2.2.2 AHUPUA'A IN LAND USE AND NATURAL RESOURCE MANAGEMENT

Prior to Western contact, Hawaiians managed the environment and organized their society through a land division system known as ahupua'a. Ahupua'a boundaries are similar to those of watersheds. Pukui and Elbert provide the following definition of ahupua'a:

*Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a).<sup>1</sup>*

The ahupua'a has also been described as follows:

*A principle very largely obtaining in these divisions of territory was that a land should run from the sea to the mountains, thus affording to the chief and his people a fishery residence at the warm seaside, together with the products of the high lands, such as fuel, canoe timber, mountain birds, and the right of way to the same, and all the varied products of the intermediate land as might be suitable to the soil and climate of the different altitudes from sea soil to mountainside or top.<sup>2</sup>*

The ahupua'a system recognizes the interconnected relationship between land-based and marine-based natural resources, focusing on streams as the connecting element between ridge and reef, especially in an island environment. The ahupua'a concept is still a useful concept for managing the natural environment and fostering desirable community development, adapted to the context of today's community needs and technology. It also serves as a logical foundation for sub-planning areas.

East Honolulu contains and is comprised of two larger ahupua'a: the Waimānalo Ahupua'a, spanning from Waimānalo to Kuli'ou'ou in the moku of Ko'olau Poko, and the Waikīkī Ahupua'a, spanning from Niu to Mānoa and Ala Moana in the moku of Kona.

East Honolulu previously contained several fishponds including Wailupe, Kānewai, and Loko I'a o Maunalua, one of the largest inland fishponds in Hawai'i. In addition to aquaculture, these fishponds, surrounding wetlands, and upland land management assisted in controlling the distribution of stormwater, sediment, and toxic pollutant runoff into Maunalua Bay. These fishponds have since been filled in, degraded, or developed for other use. Over the past few decades, the community has made efforts to ensure the revitalization of fishponds, especially in the case of Kānewai Spring, which was acquired using Clean Water and Natural Lands Fund moneys.

The filling of wetlands and fishponds has been restricted for decades. Regulatory and management practices have been improved to promote more effective maintenance of these resources and deter land-based activities which contribute to their degradation. In addition, wetlands to detain and retain stormwater have been protected to increase infiltration and reduce polluted runoff into streams, estuaries and nearshore waters.

As applied to East Honolulu's drainage system, the ahupua'a management concept involves the retention of natural stream beds and, as feasible, partial or full restoration of drainage ways that have been altered by concrete-lined channels. A streamside management zone or buffer area along natural streambeds defines where uses or activities are controlled or modified to protect water quality and aquatic resources and reefs. Revised or new public works standards have allowed the dedication of passive stormwater drainage systems and minimal channel modifications to provide flood protection for the redevelopment of properties.

Adapting and implementing the ahupua'a concept requires significant cooperation and integration of efforts among the various government agencies whose jurisdictions encompass all or part of each ahupua'a, community organizations, large landowners, and those looking to redevelop.

<sup>1</sup> Pukui, M.K. and Elbert, S.H. Hawaiian Dictionary, 1986.

<sup>2</sup> Ibid.

## 2.2.3 KAIWI SCENIC SHORELINE

The rugged coastal lands of the Kaiwi coast, also known as the Maunalua-Makapu'u State Scenic Byway, are composed of the areas between Koko Head and Makapu'u Head. The Kaiwi coastline is among O'ahu's most unique and spectacular scenic resources, offering mauka and makai views from many vantage points (see Exhibit 2-2, above). Protection of the scenic value of the Kaiwi viewshed has island wide importance because of its attraction to both residents and visitors. Preserving O'ahu's open space resources is critical to the economy since tourism is a base industry.

Nowhere else on the island, with the exception of the Ka'ena coastline, are there elements of a natural environment in one large, contiguous area of undeveloped open space. Unfortunately, like Ka'ena, the Wawamalu Beach section of Sandy Beach Park, which is the site of dunes and white-sand beaches, suffers from unconstrained vehicle incursions from Kalaniana'ole Highway, resulting in the degradation of the area's historic, cultural, or ecological resources. Overuse and misuse are pressures that threaten the integrity of this coastal area.

Historic, cultural, ecological, and recreational resources of the Kaiwi region should be protected and enhanced. The publicly-owned Koko Head Regional Park, which includes Hanauma Bay Nature Preserve and Sandy Beach Park, should continue to provide world-class educational and recreational opportunities for residents and visitors alike. At the same time the value of historic, cultural, and ecological resources are protected from overuse. This area also provides critical habitat, as designated by the U.S. Fish and Wildlife Service, for at least six endangered native or endemic plants, and potentially habitat for the endangered native yellow-faced bee, which is managed by the State Department of Land and Natural Resources (DLNR).

## 2.2.4 RIDGE-AND-VALLEY NEIGHBORHOODS

East Honolulu's residential communities, and their geographic extent, are physically defined by the topography of the region. A series of ridges and valleys serve as natural boundaries separating one community from the next. The first areas to develop, in approximate order, were the coastal plains of Wai'alaе, the Wailupe coastal plains and flatter valley floors (now known as 'Āina Haina), Kuli'ou'ou, and Niu. Over time, further subdivision into smaller lots, infill lot developments, and home expansions have intensified the use of these areas. Also, development has extended deeper into the valleys and up the lower slopes of valley walls.

Residential development of hillsides and descending ridges generally followed the development of the coastal plain and valleys. Most of the residential zoned areas of these hillsides have been fully developed, but there is some vacant land which is zoned residential remaining in upper and side slope fringes. Hawa'i Kai (Maunalua), located in the eastern portion of the region, is a large, mixed-use master-planned community containing a broad mix of housing types. It was inaugurated on a grand scale in the 1960s with the dredging of the coastal wetland for a marina, housing subdivisions, and apartment complexes. The master plan encompassed several geographic sub-areas: the Marina, Haha'ione Valley, Mariners Ridge, Kamilo Nui Valley, Kamilo Iki Valley, Kamehame Ridge, Kalama Valley, and Queen's Beach. Most of these areas have been fully developed except for Queen's Beach, which is zoned preservation but is still within the State Urban District.

Kalaniana'ole Highway is the primary linkage between these hillside and valley neighborhoods. It is a major route for joggers and bicyclists, as well as vehicles, and its attractively landscaped median helps to unify the image of East Honolulu as a distinct region.

With most of O'ahu's future population growth being directed to the Primary Urban Center, 'Ewa and Central O'ahu regions, no major developments are expected in East Honolulu. New construction that will occur in East Honolulu should be on infill properties within existing built-up areas rather than spreading development onto steep slopes, higher elevations, undeveloped mountain ridges and valley walls, or deeper recesses of the valleys.

The character of existing neighborhoods must not only be protected, but also enhanced through effective design of public and private infrastructure and other community facilities. East Honolulu's existing communities may need to adapt facilities and services to accommodate the changing composition of the region's population, particularly for the elderly (see Section 2.2.7).

## 2.2.5 MAUKA-MAKAI RECREATIONAL ACCESS

The Ko'olau Mountain Range provides a wealth of actual and potential recreational opportunities including, but not limited to, hiking, hunting, biking, bird-watching, and camping opportunities. It is important that access to the shoreline and publicly-owned trails be made as open as possible while balancing the potential ecological impacts of hikers, as well as the potential disruption to adjacent communities caused by hikers. The State, City, and communities, both open and gated, should collaborate to ensure that visitor parking and access to trails are provided to the public. If these agreements do not work, consideration should be given to purchasing or condemning land and easements.

Existing mauka-makai beach access and rights-of-way in East Honolulu should be maintained and new perpendicular and lateral shoreline access ways should be provided as the opportunities arise. Erosion and sea level rise are expected to continue to reduce lateral shoreline access, furthering the need for better mauka-makai access.

Along Portlock Road there are approximately 19 private shared driveways with access to the coastline occurring approximately every 200 feet. At least three public access points should be acquired along Portlock Road in order to meet the City's standard of public shoreline access at approximately one-quarter-mile intervals. Furthermore, access to the Kaiwi shoreline, which extends from Koko Head to Makapu'u Head, should be improved as part of the Maunalua-Makapu'u State Scenic Byway Corridor. Wawamalu Beach should be developed as a nature park with the addition of demarcated parking and installation of barriers to protect natural dunes, native vegetation, beach rock, and beach.

## 2.2.6 PROTECTION AND PRESERVATION OF NATURAL AREAS

Natural areas in East Honolulu include, but are not limited to, the following areas:

- Kānewai Spring and Fishpond
- Keawāwa Marsh and Wetlands
- Paikō Lagoon Wildlife Sanctuary
- Kuli'ou'ou and Honolulu Watershed Forest Reserves
- 'Ihi'ihilauākea and Nono'ula Preserves
- Hanauma Bay Marine Life Conservation District
- Kaiwi Scenic Shoreline
- Hanauma Bay Nature Preserve
- Kaiwi Mauka Lands
- Maunalua Bay
- Wailupe Nature Preserve

These natural areas will be protected and preserved by providing proper management and security to protect endangered species habitat, and by monitoring and regulating uses to avoid overuse and misuse of resources. Access to these areas and the provision of facilities will be provided to the public insofar as to mitigate existing impacts or not adversely impact existing habitats these areas provide to

endangered, indigenous, and endemic plants, animals, and invertebrates.

The policies in this Plan are intended to protect the aforementioned natural areas and supplement the zoning ordinance and State Land Use District through the Plan's horizons. However, to protect the land from development in perpetuity, community leaders and organizations have partnered together, and with the City, to purchase either the title to the land or a conservation easement. Mauka lands near the Kaiwi Scenic Shoreline area and in the back of Wailupe Valley were purchased as a means to protect both areas' rich recreational, scenic, and historic resources (see Section 3.2.1.2). Kanewai Spring was also purchased to protect and restore the culturally and ecologically important spring. Other areas have been examined for purchase agreements including Paikō Ridge.

Community residents and organizations will continue to serve as stewards of natural areas and nearshore waters. Environmental and community organizations have a stewardship role in engaging the larger community, applying political pressure, fundraising for the purchase of lands for preservation, and routine beach cleanup events protecting Maunalua Bay from stormwater, sediment, and toxic pollutant runoff and invasive algae.

## **2.2.7 HOUSING STABILITY AND AGE-FRIENDLY COMMUNITIES**

East Honolulu should remain a relatively stable residential area, with only modest growth in housing stock or changes in household characteristics. In 1990, the owner occupancy rate for East Honolulu was approximately 79 percent, compared to 49 percent for the island as a whole, and remained fairly constant up to 2000. Population in East Honolulu is projected to remain stable at around 50,000 until 2035 and 2040. See Table 2-2. With a minimal population change in East Honolulu, housing stability will not be affected by rapid growth and new developments.

**Table 2-2: Population and Projections by Development Plan Area**

DP Area	2000 Pop	2000 % Share	2010 Pop	2010 % Share	2035 Pop	2035 % Share	2040 Pop	2040 % Share
<b>Table 2-2: Population and Projections by Development Plan Area</b>								
DP Area	2000 Pop	2000 % Share	2010 Pop	2010 % Share	2035 Pop	2035 % Share	2040 Pop	2040 % Share
PUC	419,333	47.9%	435,118	45.6%	458,200	42.8%	467,100	43.0%
'Ewa	68,696	7.8%	101,397	10.6%	173,800	16.2%	172,700	15.9%
Central O'ahu	148,208	16.9%	168,643	17.7%	189,500	17.7%	192,400	17.7%
East Honolulu	46,735	5.3%	49,914	5.2%	48,900	4.6%	50,000	4.6%
Ko'olau Poko	117,999	13.5%	115,164	12.1%	110,800	10.3%	113,300	10.4%
Ko'olau Loa	14,546	1.7%	16,732	1.8%	18,000	1.7%	18,100	1.7%
North Shore	18,380	2.1%	17,720	1.9%	19,200	1.8%	19,600	1.8%
Wai'anae	42,259	4.8%	48,519	5.1%	52,900	4.9%	53,600	4.9%
<b>Population Total</b>	<b>876,156</b>	<b>100%</b>	<b>953,207</b>	<b>100%</b>	<b>1,071,200</b>	<b>100%</b>	<b>1,086,700</b>	<b>100%</b>

The gradually changing composition of East Honolulu's population, however, could have an impact on housing supply. O'ahu, and East Honolulu, have a significant and growing percentage of elderly residents. However, the growth rate of East Honolulu's elderly population continues to outpace that of O'ahu as a whole with an estimated 37 percent of East Honolulu's population to be 65 and older in 2040. See Table 2-3.

**Table 2-3: Percentage of Area Population 65 Years and Older**

Area	1980 <sup>1</sup>	1990 <sup>1</sup>	2000 <sup>1</sup>	2010 <sup>1</sup>	2015 <sup>1</sup>	2040
East Honolulu	9.3%	11.7%	18.2%	21.6%	23.5%	37% <sup>2</sup>
All O'ahu	7.3%	10.9%	13.4%	14.5%	16.2%	23.7% <sup>3</sup>

Sources:

1 U.S. Census & ACS 5-Year Est., 2015.

2 DPP Projections, 2018.

3 DBEDT 2045 Series, 2017.

This aging trend, however, is not consistent throughout the region. In the region around Lunalilo Home Road and Kaiser High School, approximately 24.7 percent of the population is 65 years or older (Census Tract 1.12). In comparison, 14.2 percent of Kalama Valley residents are 65 years or older (Census Tract 1.10).

The trend for the aging population in East Honolulu and the island in general is expected to continue to accelerate through 2040 and beyond, indicating an increasing need for geriatric services, including long-term and care home services, alternative transportation modes, and alternative living accommodations for seniors such as retirement communities and group homes. East Honolulu will strive to create "an inclusive and accessible urban or suburban environment that encourages active and healthy aging" in accordance with the goals and visions from Making Honolulu an Age-Friendly City: An Action Plan.

These changing demographics may require different housing types and could result in changes to mature neighborhoods through the expansion of existing dwellings or the further addition of "ohana" units, or accessory dwelling units, on a long-term basis. Zoning, infrastructure, and other community guidelines will need to ensure that neighborhood character is not adversely altered by the incremental

intensification of existing residential lots.

To meet the need for affordable housing for seniors, for those who are downsizing, for students and young families who are just starting out, and for others, residential uses should be allowed as a permitted use above the first floor of parcels zoned B-1 Neighborhood Business District or B-2 Community Business District. In most cases these areas are well-served by bus service, allowing the occupants to minimize use of personal automobiles and thereby increasing the affordability of such units.

## 2.2.8 REFOCUS COMMERCIAL CENTERS

East Honolulu's commercial areas should continue to be oriented primarily to the region's residential community **General Plan** policy discourages major new employment growth in this region. Any significant retail and office expansion in this region would countervail the **General Plan** policy to direct job growth to the Primary Urban Center and Secondary Urban Center. Furthermore, given the small amount of population growth that is forecast for East Honolulu, there is expected to be only modest growth in the demand for commercial land uses to support the communities of the East Honolulu region.

The Hawai'i Kai Towne Center, with over 200,000 square feet of gross leasable area, is East Honolulu's largest retail complex and includes "big box" stores that cater to the community and attract shoppers from outside the region. It is expected to maintain its role as the region's major commercial center. Its present floor area could be increased to accommodate more retail establishments to fulfill future demand without any expansion of land area.

The smaller Koko Marina Shopping Center serves a dual market, containing specialty stores and services oriented to both local residents and tourists, particularly visitors to Hanauma Bay.

East Honolulu's five other retail complexes, those at the community and neighborhood scale, are spaced at somewhat even intervals between 'Āina Haina and Kalama Valley. The market areas of the 'Āina Haina, Niu Valley, Haha'ione Valley, Hawai'i Kai (Maunalua), and Kalama Valley shopping centers are limited mostly to the communities for which they are named, emphasizing food, household products, and personal services. None of these retail areas should require additional land area for expansion. The Kalama Village Center continues to be under-leased, primarily because it serves a very limited market area that is not expected to grow significantly. Consequently, the land presently planned for expansion of this commercial center could be redesignated to serve as a residential or residential-mixed use project. In addition, to meet the need for affordable housing for seniors who are downsizing and for students and young families who are just starting out, residential uses above the first floor should be allowed as a permitted use.

## 2.2.9 CLIMATE CHANGE ADAPTATION

East Honolulu faces new and emerging challenges within both of the **Plan**'s horizons as a result of climate change. Some of these changes likely include: rising sea levels, increasing coastal erosion, storm surge flooding, salt water intrusion, a rising water table and groundwater inundation in low-lying areas, rainfall that may deviate from historical records including drought, and frequency and scale of flooding. To counter the increase in risk associated with these hazards, the communities of East Honolulu will mitigate and minimize the vulnerability of social and physical infrastructure while increasing community resiliency as outlined in the **O'ahu Resilience Strategy**.

The City and County of Honolulu and the State are taking steps to mitigate and adapt to the impacts of climate change, sea level rise, and increased threat of hurricanes, higher intensity rainfall, and wildfires. The City and County of Honolulu participates in the State Building Code Council which establishes the State building code through the timely adoption of national building codes, including the International Building Code.

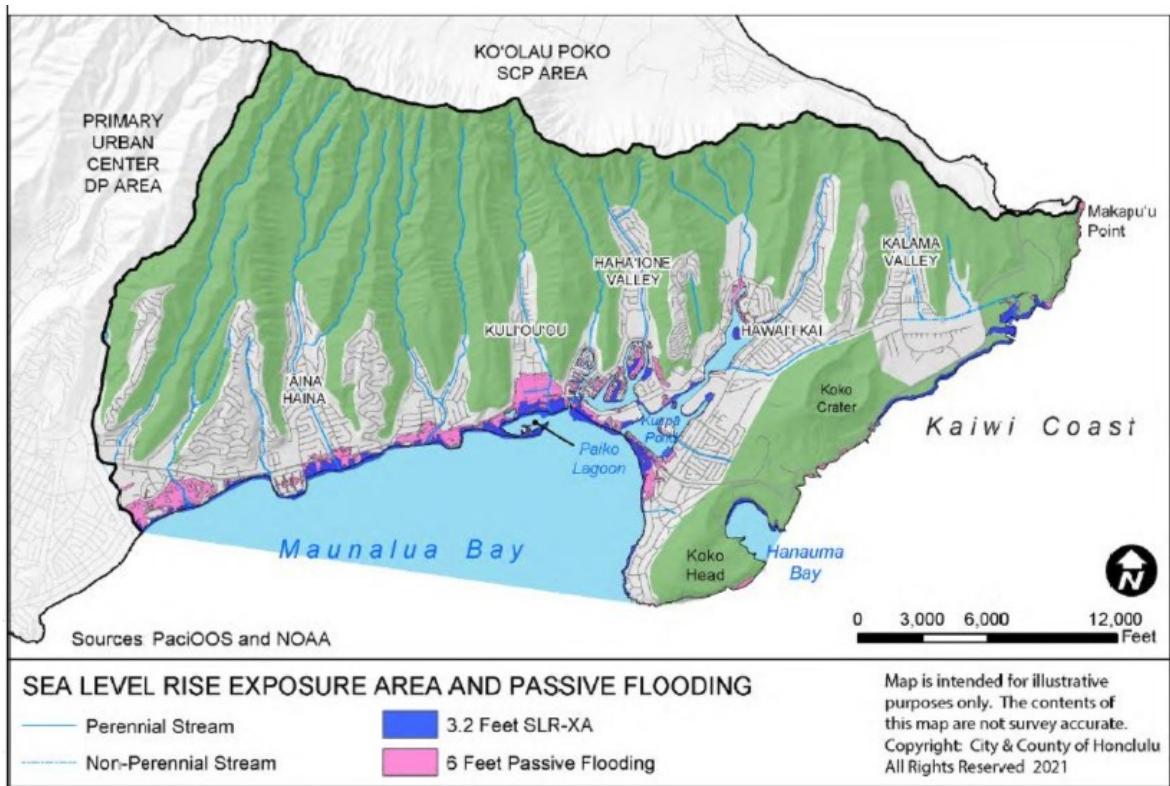
The State Office of Planning/Coastal Zone Management Program examined the building codes and development controls in effect for the City and County of Honolulu with the objective of developing a model ordinance for all the Hawai'i counties to strengthen and/or replace existing standards and regulations in order to reduce existing and future building vulnerability to coastal hazards and climate impacts. The City will work cooperatively to develop and implement land use policies, hazard mitigation actions, and design and construction standards that mitigate and adapt to the impacts of climate change and sea level rise.

The State of Hawai'i published the **Sea Level Rise Vulnerability and Adaptation Report** in December 2017. On June 5, 2018, the City Climate Change Commission published **Sea Level Rise Guidance** and an accompanying **Climate Change Brief**. The Guidance was followed by Directive No. 18-2 in which the Mayor directed that all City departments and agencies are required to use the Guidance, Brief, and Report in their plans, program, and capital improvement decisions.

The **Sea Level Rise Vulnerability and Adaptation Report** and accompanying online Hawai'i Sea Level Rise Viewer project sea level impacts from passive flooding, annual high wave flooding, coastal erosion, and groundwater inundation for an overall Sea Level Rise Exposure Area (SLR-XA) with sea level rise of 0.5 feet, 1.1 feet, 2.0 feet, and 3.2 feet. The **Sea Level Rise Guidance** recommends that the SLR-XA at 3.2 feet be adopted as a vulnerability zone (hazard overlay) for planning by the City. Further, the **Sea Level Rise Guidance** recommends that it is reasonable to set, as a planning benchmark, up to six feet of sea level rise for critical infrastructure projects with long expected lifespans and low risk tolerance. City shoreline maps and regulations will be updated based on guidance from the City Climate Change Commission. Proposed projects should reflect up-to-date data from the most current versions of the **Sea Level Rise Guidance** and **Climate Change Brief**.

Exhibit 2-3 shows the SLR-XA with 3.2 feet of sea level rise as published in the **Sea Level Rise Vulnerability and Adaptation Report** and passive flooding with 6 feet of sea level rise from the NOAA Sea Level Rise Viewer. East Honolulu communities are especially vulnerable to flooding and sea level rise if the main transportation connection, Kalaniana'ole Highway, become impassible. Access between neighborhoods needs to be maintained and restored in a timely manner after flooding to ensure the safety of residents and the efficiency in distribution of emergency resources and supplies. Additional protections should be made to Kalaniana'ole Highway, particularly in the vicinity of Kuli'ou'ou, to mitigate the anticipated impacts from sea level rise. Climate change and sea level rise increase disaster risk and the cost of disasters. In recognition of this, the City's Office of Climate Change, Sustainability and Resiliency has prepared the **O'ahu Resilience Strategy** to guide preparation and recovery from potential disasters. Redevelopment and disaster recovery in East Honolulu will "build back better and smarter" by incorporating adaptive design and resiliency strategies that consider location, structure, and operations plans.

### Exhibit 2-3: Sea Level Rise Exposure Area and Passive Flooding



### 3. LAND USE POLICIES AND GUIDELINES

The vision for East Honolulu described in the preceding chapter will be implemented through application of the following land use general policies and guidelines.

#### 3.1 OPEN SPACE PRESERVATION AND DEVELOPMENT

Open space preservation and development is a key element of the vision for East Honolulu's future. Long-term protection and preservation of scenic resources, natural areas, and recreational areas are important to maintaining the desirability and attractiveness of East Honolulu for both residents and visitors.

##### 3.1.1 GENERAL POLICIES

Open space will be used to:

- Protect scenic views;
- Provide and maintain recreational access to shoreline and mountain areas;
- Meet the need for both passive and active open space;
- Define the boundaries of communities;
- Promote and support the long-term viability of agriculture;
- Protect endangered species habitats;
- Re-establish and restore native Hawaiian plant, animal, and invertebrate species and habitats in open space areas;
- Protect aesthetic and biological values of wetlands, beaches, nearshore marine environments, natural streams, and other drainage ways;
- Provide and maintain fire safety buffers where developed areas border "wildlands" either in preservation areas within the Community Growth Boundary or in the State Conservation District;
- Create a linear system of landscaped pathways and bikeways along roadways and drainage channels to visually enhance the different communities, create more complete streets, and assist with stormwater retention;
- Slow the rate of stormwater runoff into drainageways through increasing ground absorption and reducing the amount of impermeable surfaces on both public and private lands; and
- Prevent development of areas susceptible to natural hazards such as soil movement, rock falls, coastal erosion, and sea level rise.

##### 3.1.2 PLANNING GUIDELINES

The following sections provide a description of regional open space resources in East Honolulu, followed by their respective guidelines for implementing the general policies. The open space system shall consist of areas in both active and passive uses.

###### 3.1.2.1 Mountain Areas

Access to mountain areas for passive uses and resource gathering, including parking areas, should be made available in accordance with

*"The absence of public access to Hawai'i's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal and inland recreational areas." HRS 115-1.*

Passive areas include lands in the State Conservation District, drainage and utility corridors, nature preserves, and lands undeveloped because of physical constraints or hazards.

Seventeen major trails, inventoried by the State Department of Land and Natural Resources (DLNR), provide access to the mountainous areas of East Honolulu. Four of these trails (see Exhibit 3-1) are actively managed by the State's Nā Ala Hele program and are described below. Other trails that are not actively managed by the DLNR Na Ala Hele Trail and Access Program, are included in Table 3-1. The DLNR State Parks also manages the two-mile Makapu'u Point Lighthouse Trail within the Kaiwi coast.

- **Wiliwilinui Ridge Trail** – Half of the 3-mile trail to the crest of the Ko'olau Range is comprised of a dirt access road.
- **Hawai'i Loa Ridge Trail** – This trail begins at the top of the Hawai'i Loa community and extends 2 miles to the crest of the Ko'olau Range.
- **Kuli'ou'ou Valley Trail** – Beginning at the back of Kuli'ou'ou Valley, this trail runs for 1.0 miles to approximately the 520-foot contour.
- **Kuli'ou'ou Ridge (Koko Head) Trail** – This 2.5-mile trail is an extension of the Kuli'ou'ou Valley trail, extending to the crest of the Ko'olau.

Public access to trails in East Honolulu and in other urban fringe neighborhoods is a source of controversy because community residents and large landowners are concerned about liability, security, loss of privacy, and parking congestion with the use of private roads by hikers and hunters. Consequently, hikers driving to the trails have been subjected to certain restrictions including signing of waivers of liability, parking at the base of the ridge miles away from the trailhead, having to show a driver's license, or no access at all. Landowners, however, are protected from liability in making their land and water areas available to the public for recreational purposes in accordance with HRS 520.

Mountainous areas in East Honolulu are in the State Conservation District and thus the State Board of Land and Natural Resources (BLNR) has the authority to decide what uses are allowed in these areas. Landowners and residential associations should cooperate with the BLNR to ensure that access to the trails and visitor parking are provided to the public. If a suitable mechanism for public access cannot be agreed upon, consideration should be given to acquiring fee ownership or easements for public use either by a government agency or third-party organization. Furthermore, the State and City should negotiate, in advance, provision for public access easements and visitor parking near the trailheads with the concerned property owners, with representative community associations, and with Non-Governmental Organizations (NGOs).

#### Exhibit 3-1: Public Parks, Trails, and Open Space

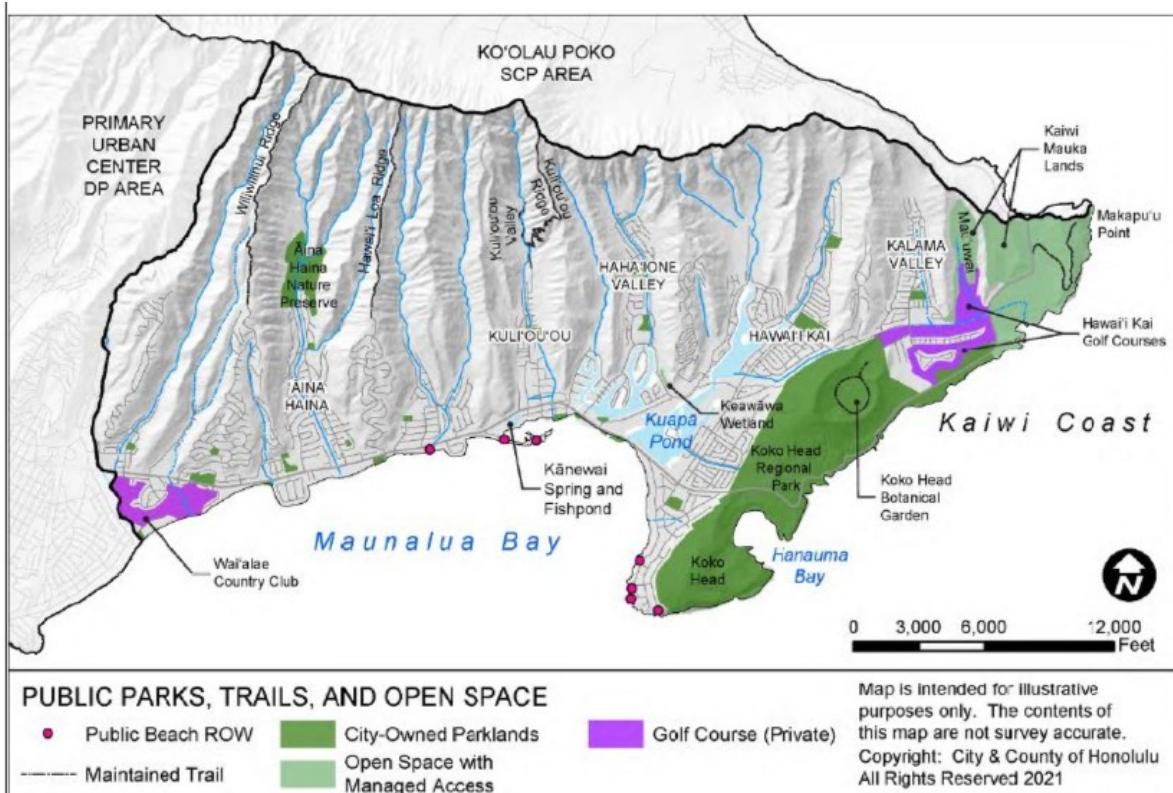


Table 3-1: East Honolulu Trails Not Actively Managed by the State DLNR

Trail Name	Miles
Table 3-1: East Honolulu Trails Not Actively Managed by the State DLNR	

Trail Name	Miles
Wai'ale Nui Ridge / Kalani Iki Ridge	3.0
Wailupe Nature Preserve	1.5
Kulu'i Ridge	2.3
Pia Valley / Niu Valley	1.0
Niu Ridge / Kūlepaimoa Ridge	3.0
Kūpaua Valley	2.0
Kuli'ou'ou Ridge - Diamond Head (Paikō Ridge)	3.0
Kuli'ou'ou Center Ridge	4.0
Ka'alākei Ridge	2.0
Mauna'ō'ahi Ridge	3.0
Haha'ione Valley (Ka'alākei Valley)	2.0
Mariners Ridge / Kaluanui Ridge	1.5
Kamilo Nui Valley	2.0
Kamilo Iki Ridge	1.8
Kamehame Ridge	1.2
Ko'olau Summit and Spine / Makapu'u to Pu'u Konahuanui	16
Tom-Tom Waimānalo	1.0
Mau'uwai (Kaiwi Mauka)	1.0
Kaiwi Shoreline Trail	1.4
Koko Crater Botanic Garden (City maintained)	2.2
Koko Crater Railway Line (Kohelepelepe)	1.0
Koko Crater Blowhole	1.5
Lāna'i Lookout to Bamboo Ridge and Hanauma Bay	1.5
Koko Head / 'Ihi'ihilauākea Preserve (within Hanauma Bay Nature Preserve)	4.0

Demand for outdoor recreational activities in maintained and unmaintained and undeveloped areas will continue to increase. Action is needed at the City and State level to:

- Protect important natural resources in the State Conservation District;
- Control the number and range of feral animals and other alien species;
- Prevent overuse and misuse of natural resources;
- Prevent the destruction of habitats of native and endangered species;
- Mitigate erosion; and
- Mitigate the social impacts of congestion.

Guidelines pertaining to mountain areas are as follows:

- **Access** – Make access to mountain areas (including provision of parking areas) readily available for passive uses and resource gathering, in accordance with HRS 115, 171, and 264.
- **Access Easements** – Acquire and maintain public access easements, or encourage the transfer of easements to the State or NGOs that preserve access to open space areas.
- **Parking** – Provide public parking for trail users near the trailhead.
- **Native Upland Forests** – Maintain, protect, and/or restore upland native forests in the State Conservation District.
- **Lowland Forests and Vegetation** – Maintain, protect, and/or restore native Hawaiian plant communities in lowland native grasslands and scrublands and dry forests.
- **Utility Impacts** – Avoid disturbances caused by utility corridors and other uses on areas with high concentrations of native species.
- **Habitat** – Identify and protect endangered species habitats and other important ecological zones from threats such as fire, alien species, feral animals, and human activity.
- **Alien Species** – Control the number and range of feral animals and other alien species which could lead to the destruction of habitats of native or endangered species and erosion. Prevent the establishment of new alien species.
- **Resource Management** – Create a City Resource Management Program to address the demands from outdoor recreational activities and the associated stresses to the natural and built environment.
- **Trail Maintenance** – Increase trail maintenance to mitigate the impacts from hikers on the natural environment and improve safety.
- **More Trails** – Balance trail demands across East Honolulu and alleviate overcrowding at residential trailheads through the opening and sanctioning of additional trails, particularly in Mariners Ridge, Niu Valley, Kamilo Nui Valley, and the Wailupe

Nature Preserve.

- **Wildfire Hazards** – Implement the findings and recommendations from the [Kamilo Nui – Mariner’s Cove Firewise Hazard Assessment](#).

### 3.1.2.2 Shoreline Areas

East Honolulu's shoreline extends for approximately 13 miles between Wai'aleae and Makapu'u Head. The shoreline provides residents and visitors with significant active and passive recreational value. Existing beach access and rights-of-way should be preserved, and new shoreline access ways should be provided as the opportunities arise. Prior to the issuance of permits that may affect public access to the ocean, the shoreline, or any coastal or inland public recreational areas, there should be assurance that a public right-of-way is available to access all public recreational areas, including beaches, the shoreline, parks, and trails.

Shoreline access is protected under HRS 115-1, referenced in Section 3.1.2.1. The absence or loss of mauka-makai access to the shoreline is largely the result of the intensity of urban development and policy decisions in maintaining remaining access routes.

Over the [Plan](#)'s long-term horizon, East Honolulu will face increased threats from coastal hazards and flooding as a result of climate change. While the causes of climate change are global, its impacts – sea level rise, ground water inundation, and increased rainfall intensity – will occur locally. Impacts from high tide flooding will be observed decades before permanent inundation by sea level rise. Tidal flooding will become more frequent and more damaging as ocean levels rise. A number of residential neighborhoods bordering Maunalua Bay and portions of Kalaniana'ole Highway will become more vulnerable to routine flooding and coastal erosion as a result of sea level rise, particularly around Paikō Drive and makai areas of Kuli'ou'ou (see Exhibit 2-3, above).

In addition to recreational and ecological value, shoreline areas in East Honolulu, particularly along the Kaiwi coastline, offer unparalleled scenic value. As such, views from Kalaniana'ole Highway to the shoreline should be preserved.

The East Honolulu shoreline is characterized into two distinct regions:

- **Wai'aleae to Koko Head** – Few areas along this shoreline are accessible to the public due to residential development along Kalaniana'ole Highway. Access points to the shoreline along this stretch include Wailupe, Kawaiku'i, Kuli'ou'ou, and Maunalua Bay Beach Parks and a few maukamakai public pedestrian easements.

Physical and visual access to the shoreline is limited because of rather continuous residential development and the erection of sound barrier walls to screen traffic noise. However, there are a few points where public pedestrian easements to the shoreline could be expanded as properties are redeveloped or subdivided.

Vertical seawalls and revetments have been constructed along many of the properties between Wai'aleae and Koko Head. Seawalls and revetments have caused beach narrowing and loss in nearby unhardened areas which disrupt natural processes. Beach loss will accelerate in the coming decades with sea level rise, especially if widespread coastal armoring is permitted.

According to research published by the University of Hawai'i School of Ocean and Earth Science and Technology, the following shorelines erode up to one foot per year: near the Kāhala Resort beach, just east of Wailupe Peninsula, Paikō Peninsula and in the Portlock area between the Hawai'i Kai Marina entrance channel and the former Henry Kaiser Estate. Additional minimum shoreline setbacks for structures have been recommended as a management strategy to protect remaining sandy beaches in these segments. With the projected rate of sea level rise by 2050 and 2100, and the compounding effects that sea level rise has on shoreline erosion, shoreline setbacks will have to be reviewed and increased routinely to mitigate further damages.

In the residential area near Koko Head, there are numerous points of public access to the shoreline from Portlock Road, which occur approximately every 200 linear feet. These access routes occur along privately owned, shared driveways. Members of the Portlock Community Association have said the association is dedicated to ensuring the existing 19 driveways remain open to the public for shoreline access.

Lateral shoreline access along this stretch of coastline is a desirable goal but difficult to achieve because of physical constraints, land ownership patterns, the extent of urban development, and geophysical changes that are a result of beach erosion and sea level rise.

It is also important in this area to retain and, if possible, expand visual access to the shoreline from the coastal highway. Presently, the most significant makai views are from the H-1 Freeway viaduct looking across the Wai'aleae Country Club golf course and from Kalaniana'ole Highway fronting the Wailupe, Kawaiku'i, and Maunalua Bay Beach Parks.

- **Kaiwi Scenic Shoreline** – Mauka-makai and lateral shoreline access is more prevalent between Koko Head and Makapu'u Head, particularly beginning at Sandy Beach. The shoreline between Koko Head Regional Park and Makapu'u Head is frequented by residents and visitors for various recreational and educational activities. The 354-acre Kaiwi Coast area is located along the Maunalua-Makapu'u State Scenic Byway Corridor, which was nominated by the Livable Hawai'i Kai Hui in addition to the Hawai'i Kai Neighborhood Board, and designated by the State of Hawai'i Department of Transportation as a State of Hawai'i Scenic Byway in 2013. The State Scenic Byway Corridor extends from Hawai'i Kai Drive to Makai Research Pier. A Corridor Management Plan focused on preserving and protecting the resources along Kaiwi coastline was prepared in 2018 by Livable Hawai'i Kai Hui and the Ka Iwi Coalition (see Section 3.2.1.2). The Kaiwi Scenic Shoreline was established to preserve the area's natural and scenic resources and to provide educational and passive recreation opportunities. There are continuous views of the ocean and mountains from Kalaniana'ole Highway between Koko Head and Makapu'u Head as well as shoreline access. This segment of Kalaniana'ole Highway is the highlight of a continuous visual sequence of the coastline extending from Hawai'i Kai (Maunalua) to Waimānalo.

Guidelines pertaining to shoreline areas are listed below:

- **Makai Views** – Maintain makai view channels along the H-1 Freeway or Kalaniana'ole Highway between Wai'aleae and Koko Head. Avoid obstructions such as walls and landscaping, designed to screen out traffic noise.
- **Natural Landscape** – Maintain the natural landscape quality of the Kaiwi coast, mauka to makai, as a high priority viewshed. Limit recreational vehicle operations which could cause degradation to the dunes, vegetation, and beach at Wāwāmalu Beach. Any modification to this shoreline area will be done in a manner that preserves the aesthetic values of the

undeveloped xerophytic landscape (plants adapted to a dry environment). Work with the State on efforts to protect and maintain or recover distressed shoreline environments, and encourage natural dunes, native vegetation, and natural shoreline rock formations.

- **Kaiwi Scenic Shoreline** – Protect and preserve the long-term recreational and scenic value of the shoreline between Koko Head and Makapu'u Head through responsible maintenance.
- **Lateral Access** – Improve, protect, and maintain lateral shoreline access.
- **Shoreline Access** – Pursue opportunities to secure additional pedestrian rights-of-way from the nearest street or highway to the shoreline in sections that have high recreational value, but no similar public access within at least a quarter of a mile, particularly in the areas of Kai Nani, Wailupe Peninsula, and Niu Peninsula.
- **Feedback** – Encourage citizen reporting of shoreline access issues to the DLNR Office of Conservation and Coastal Lands. DLNR should report back to the communities of East Honolulu the status of oceanfront issues.
- **Vegetation** – Landowners along the shoreline shall maintain vegetation so as to not encroach into the public right-of-way, particularly as the shoreline erodes, pushing the right-of-way inland.
- **Sea Level Rise Impact on Lateral Access** – Include sea level rise and shoreline erosion projections when establishing protections for lateral shoreline access.
- **Codify Access** – Recognize and codify mauka-makai shoreline access into the Revised Ordinances of Honolulu (ROH).
- **Setbacks** – Increase minimum shoreline setbacks and implement other management strategies to account for anticipated impacts from climate change and coastal erosion. Revise and amend shoreline rules and regulations to incorporate sea level rise into the determination of shoreline setbacks and Special Management Area (SMA) use requirements.
- **Armoring** – Conserve and enhance a natural, dynamic shoreline wherever possible. Restrict shoreline hardening. Shoreline hardening should only be considered as a last resort where it supports significant public benefits and will result in insignificant negative impacts to coastal resources and natural shoreline processes.
- **Protect Infrastructure** – Mitigate impacts to critical public and private infrastructure subject to sea level rise exposure through elevation, relocation, or other adaptation measures.
- **Sea Level Rise Impact on New Projects** – Analyze the impact of sea level rise for new public and private projects in shoreline and low-lying areas. If it is likely that sea level rise will increase the risk of flooding during the lifespan of the project, incorporate, where appropriate and feasible, measures to reduce risks and increase resiliency to impacts of sea level rise.
- **Current Information** – Use the most current versions of the City Climate Change Commission's [Sea Level Rise Guidance](#), [Climate Change Brief](#), and the State of Hawai'i [Sea Level Rise Vulnerability and Adaptation Report](#) and associated Viewer for managing assets, reviewing permitting requests, and assessing project proposals.
- **Building Codes** – Work cooperatively to develop design and construction standards that mitigate and adapt to the impacts of climate change and sea level rise.
- **Hazard Assessment** – Incorporate assessments of all hazards into the land development application process.
- **Redevelopment District** – Form a community-based redevelopment district, similar to a business improvement district, that would protect, adapt, and relocate residential and commercial structures, public facilities, and natural and cultural resources vulnerable to sea level rise impacts, including coastal flooding, inundation, and erosion.
- **"Build Back Better and Smarter"** – Map repetitive loss areas and develop and implement a "build back better and smarter" strategy to mitigate future damage costs.
- **Disaster Plans** – Develop short- and long-term resiliency and recovery plans to:
  - Develop a network of Community Resilience Hubs;
  - Designate evacuation routes;
  - Increase coordination with neighborhood emergency preparedness groups and create a liaison between City agencies and NGOs;
  - Encourage residents to have their own emergency supplies and be knowledgeable about what they will do in the event of a disaster;
  - Expedite the recovery of East Honolulu; and
  - Outline the vision and methods for how East Honolulu can "build back better and smarter" following disasters.

### **3.1.2.3 Agricultural Areas**

The physical and economic conditions and suburban development pattern of East Honolulu preclude large-scale agricultural operations. There are two concentrations of small-scale diversified agricultural operations – the larger one in Kamilo Nui Valley and the other above Kaiser High School on the slopes of Koko Crater – which should be preserved as being consistent with the overall community vision underlying this [Plan](#). In both areas, individual farm lots on long-term leases are used for nursery and vegetable production and have remained commercially viable due to low lease rents and by serving a mostly East Honolulu market.

When lease terms end for the agricultural areas, their continued commercial viability will likely depend upon revision of lease rents and the leaseholders continued interest in farming. An economic feasibility study would assist in determining the continued viability of agriculture in Kamilo Nui Valley and identify potential arrangements that would be suitable and acceptable to concerned parties. Community groups are working to protect agricultural lands in perpetuity through fee purchase, easements, or land swaps.

Prior to the adoption of the 1999[Plan](#), approximately 17 acres of agricultural lands located outside the Community Growth Boundary in Kamilo Nui were rezoned from the general agricultural district to the low-density apartment district. The 1999 [Plan](#) did not reflect this

change as the project, now known as Leolani, did not receive its final approvals until June 2000, after the adoption of the [Plan](#). The 17-acre Leolani development is displayed within the Community Growth Boundary since the development was approved and is now complete. Other existing agricultural use and preservation lands in Kamilo Nui Valley will remain outside the Community Growth Boundary.

Water supply is sufficient in Kamilo Nui Valley, although short winter days are a limitation on the types of crops that can be grown. There is also the potential for conflict between farming in Kamilo Nui Valley, where agriculture existed prior to adjacent urban development, and nearby suburban residential areas. This has resulted in complaints from neighbors about nuisance dust, noise, chemical overspray, odors, and other normal impacts of farming. In turn, this can lead to operational changes that may be required by the enforcement of public health regulations and that adversely affect the feasibility of agriculture. The most effective way to avoid this conflict is to provide adequate separation between agricultural and residential uses.

Guidelines relating to agricultural areas are listed below:

- **Accessory Uses** – Design and locate buildings and other facilities that are accessory to an agricultural operation in a way that minimizes the impact on nearby urban areas and the street system.
- **Existing Uses** – Encourage continued use of small lots for agricultural uses, and promote compatibility of nearby residential areas with those uses. Maintain the existing buffer between agricultural lands and residential development.
- **Kamilo Nui Valley** – Designate undeveloped areas in Kamilo Nui Valley which are on the 'Ewa side of the existing farm lots for agricultural use.
- **Agricultural Leases** – Encourage continued long-term agricultural leases at reasonable rates consistent with feasible agricultural use by having such areas remain outside the Community Growth Boundary.
- **Community Growth Boundary** – Preserve the Community Growth Boundary through the foreseeable future to prevent further residential encroachment around the two active farm areas and to mitigate potential nuisances associated with farming from impacting new residential development.
- **Runoff** – Implement agricultural best management practices (BMPs) to mitigate stormwater, sediment, and toxic pollutant runoff from agricultural uses and stockpiling from adversely impacting downstream water quality.
- **Food Sufficiency** – The existing agricultural lots should be maintained to support State and County goals.

#### **3.1.2.4 Runoff, Natural Gulches, and Drainage Corridors**

Water springs sustain life in this low rainfall region. Springs are found at Ka'alaawai, Wai'ala, Wailupe Beach Park, Kalauha'iha'i Fishpond at Niu, Kawaiku'i Beach Park, Kanewai Spring and Elelape Spring at Kuli'ou'ou, Keawāwa Wetland, and Kawaiakane at Kawaihoa Point. Smaller seeps are located along the shoreline.

Streams in the region also play an important role in the traditional sustainability of the region. Kapakahī Stream was once rich with o'opu. Many of East Honolulu's streams have lost their essential functions when they were concreted and channelized. Nevertheless, they retain potential for restoration. Wailupe Stream is one of the only streams that has not been concreted completely.

The ridges and valleys in East Honolulu form a series of drainage ways extending across the region. All but two of the streams have been channelized as a means for conveying stormwater from valley watersheds to the sea as quickly as possible. These stream channels are capable of handling stormwater runoff from normal rainfall amounts if properly maintained. During periods of intense rainfall, however, a number of these drainage ways have experienced flooding problems (see Chapter 4).

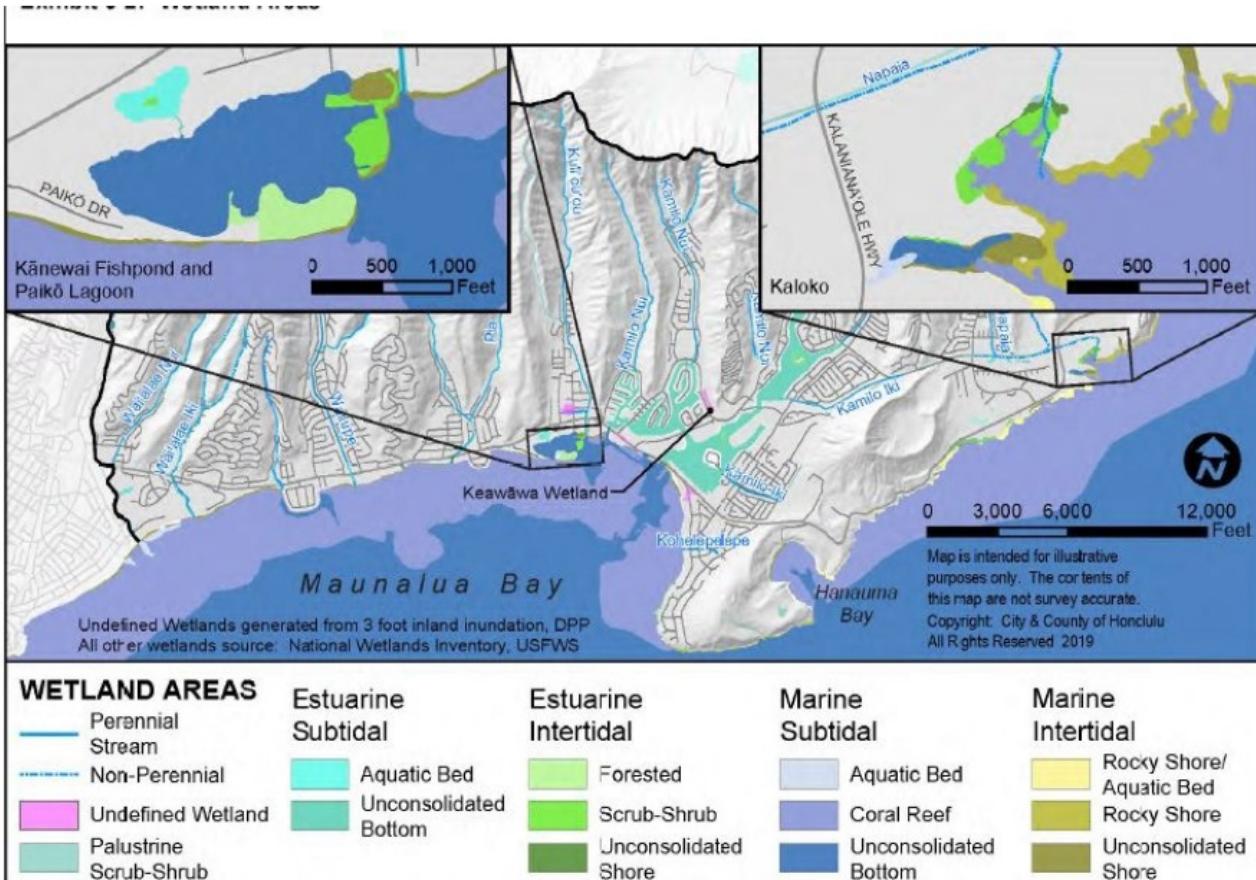
The swift conveyance of stormwater through the channelization of streams in East Honolulu impacts downstream water quality, particularly when those waters reach Maunalua Bay. If stormwater is not given time to settle, it will often carry sedimentation and other particulate matter downstream leading to the deterioration of nearshore waters and reefs. Dechannelization, or restoration of natural stream beds, can improve downstream water quality, increase groundwater recharge, and help in re-establishing habitats for native species. Restoration of upland areas and reestablishment of native vegetation can also assist in controlling and absorbing precipitation and lengthen the period of discharge potentially reducing flood rates.

Wetlands play a vital ecological role in providing habitat and holding and filtering stormwater and sediment runoff. Wetlands are difficult to replace or reconstruct in their entirety and will be preserved where possible. A map of the [National Wetlands Inventory](#) is shown in Exhibit 3-2.

Guidelines concerning natural gulches and drainage ways are as follows:

- **Drainage Ways** – Preserve and restore the aesthetic values and biological functions of significant streams, wetlands, natural gulches and other drainage ways by requiring setbacks, where appropriate and feasible, as part of the open space system. These include:
  - Perennial streams identified in the Hawai'i Stream Assessment prepared by the State Commission on Water Resource Management;
  - Wetlands identified by the Army Corps of Engineers and/or identified on the Fish and Wildlife Service's National Wetland Inventory maps;

#### **Exhibit 3-2: Wetland Areas**



- Other drainage ways identified by the Department of Design and Construction or the Department of Planning and Permitting;
- For other streams, including intermittent streams, require applicants for development to show that the open space system will not be significantly impacted and that biological values will not be significantly disturbed if setbacks are not provided; and,
- Improve drainage channels, not just to convey runoff downstream as quickly as possible, but to increase permeability and retention.
- **Low-Impact Development** – Implement low-impact development standards and other green infrastructure to restore ecological function to the area, particularly along and adjacent to stream channels, and reduce the amount of stormwater, sediment, and toxic pollutant runoff entering Maunalua Bay.
- **Green Incentives** – Provide incentives for owners of existing homes, particularly those adjacent to drainage ways, to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.
- **Preservation** – Preserve the remaining natural gulches within the Community Growth Boundary that are necessary to provide flood protection in a way which protects aesthetic values and biological functions and avoids degradation of stream, coastline and near shore water quality.
- **Remediation** – Clean up contaminated areas that pose hazards to soil and downstream water quality, particularly any properties adjacent or directly upland of a stream channel.
- **Recreation Corridors** – Incorporate landscaped pathways and bikeways adjacent to stream channels and drainage corridors, where appropriate and feasible.
- **Retention** – Retain stormwater, sediment, and toxic pollutant runoff through the installation of linear landscaping features and permeable pavement along roadways, particularly Kalaniana'ole Highway, which should be used to visually enhance the different communities.
- **Preservation Lands** – Use preservation lands, located within and outside of the Community Growth Boundary to prevent further degradation of nearshore water quality.
- **Natural Improvements** – Identify potential natural improvements to park and preservation lands within the Community Growth Boundary to improve its ecological function and retain an open, undeveloped character, particularly on lands near Hawai'i Kai Marina and Maunalua Bay, including along Keāhole Street.

### 3.1.2.5 Natural Resources and Preserves

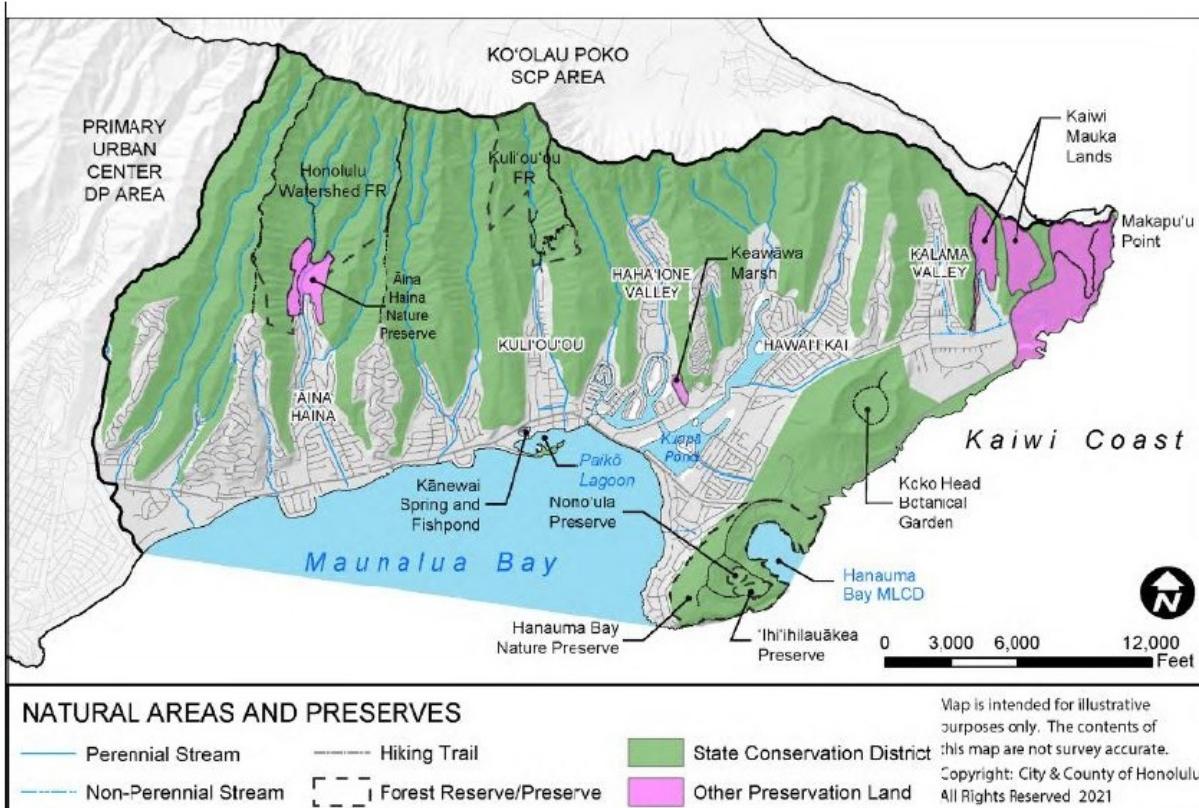
East Honolulu is home to the following recognized wildlife preserves (see Exhibit 3-3):

- **Kānewai Spring and Fishpond** – The freshwater spring is located makai of Kalaniana'ole Highway and feeds freshwater into the adjacent fishpond which flows into Paikō Lagoon and Maunalua Bay. The spring was purchased for protection with public and private funds.

- **Paikō Lagoon Wildlife Sanctuary** – Paikō Lagoon, formerly a coastal fishpond, is fed by a freshwater spring and Kuli'ou'ou Stream and is managed by the DLNR. The lagoon's water level varies with the tides and occasionally exposes the saline mudflats. This wildlife sanctuary provides habitat to the endangered Hawaiian Stilt as well as other migratory water birds. The proximity of residential uses may threaten the sanctuary due to intrusions by humans and domesticated animals.

- **'Ihi'ihihilauākea and Nono'ula Preserves** – These preserves are located on the southern rim of the Hanauma Bay ridgeline on land owned by the City and County of Honolulu, and managed by the Nature Conservancy of Hawai'i (NCH) through a cooperative agreement with the City. The preserves maintain a pool for the endangered 'Ihi'ihi (*Marsilea villosa*), an ephemeral plant appearing only during periods of rainfall. The preserves include mixed herland and shrubland, the moisture regime, and subcanopy and understory native plant species.

### Exhibit 3-3: Natural Areas and Preserves



- **Kaiwi Scenic Shoreline** – An undeveloped natural area between Koko Head and Makapu'u Head located makai of Kalaniana'ole Highway. The Kaiwi coast contains one of O'ahu's last undeveloped, rugged coastlines. These lands contain beaches, dunes, trails, rocky cliffs, historic sites, and viewpoints.

- **Kaiwi Mauka Lands** – Kaiwi mauka lands contain lands between Koko Head and Makapu'u Head located mauka of Kalaniana'ole Highway. The Kaiwi Mauka Lands were acquired with public and private funds for the purpose of preserving the undeveloped region as an open, rugged landscape.

- **Keawāwa Marsh and Wetlands** – Keawāwa Wetlands and adjacent Hawea Heiau complex are located on the mauka corner of Hawai'i Kai Drive and Keahole Street. The wetlands provide refuge for the native, endangered Hawaiian moorhen in addition to other migratory birds and insects. The Hawea Heiau complex contains ancient walls, petroglyphs, terraces, a coconut grove, and heiau. The property is preserved in perpetuity through the purchase of the land by the Livable Hawai'i Kai Hui. Keawāwa Marsh and Wetlands are located outside of the Community Growth Boundary.

- **Kuli'ou'ou and Honolulu Watershed Forest Reserves** – The upper ranges of the Kuli'ou'ou Mountains fall within two forest reserve systems, both of which are located within the State Conservation District and managed by the DLNR. The reserves are host to designated critical habitats for endangered species including the O'ahu 'Elepaio. Two public trails, the Kuli'ou'ou Ridge Trail and the Wiliwilinui Trail, traverse the Kuli'ou'ou and the Honolulu Watershed Forest Reserves, respectively.

- **Hanauma Bay Marine Life Conservation District (MLCD)** – Established in 1967 by the Department of Land and Natural Resources, the Hanauma Bay MLCD was once a popular site for fishing and throw netting. State law now protects wildlife within Hanauma Bay. The adjoining Hanauma Bay Nature Preserve is part of Koko Head Regional Park, administered by the City. In order to protect the marine resources and limit crowding of this popular visitor destination, the City restricts the daily number of visitors that have access to the bay. The City closes the Nature Preserve once per week for maintenance. The City also collects entry and parking fees used to fund maintenance and capital projects at Hanauma Bay.

- **Hanauma Bay Nature Preserve** – The nature preserve was established to protect and preserve one of Hawai'i's most spectacular natural resources. The preserve includes the Marine Education Center which opened in August 2002 where residents and visitors are welcomed to Hanauma Bay and taught how to respect and safeguard the fragile marine life found in the Hanauma Bay MLCD.

- **'Āina Haina Nature Preserve** – In 2000 the City purchased land in the back of the residential neighborhood of 'Āina Haina, below the Honolulu Watershed Forest Reserve, for the purposes of preserving the land from further suburban

development.

- **Maunalua Bay** – Although the Bay is not listed as a preserve, it serves as a defining scenic, recreational, and marine resource for East Honolulu. The bay has many users including fishermen, cultural practitioners, surfers and boaters, and supportive commercial uses for these activities. With its unique mixture of fresh and salt water, Maunalua Bay provides a unique near shore habitat for various aquatic species. Community groups conduct studies, organize community events, and develop plans in order to restore Maunalua Bay.

There are a few other areas located within the Community Growth Boundary that could be preserved other than for the sake of protecting wildlife:

- **Great Lawn** – The “Gateway to Hawai‘i Kai” is an unimproved grassy space bounded by Hawai‘i Kai Drive, Kalaniana‘ole Highway, Keahole Street, and the marina. The lawn primarily serves as open space, and, for two weeks a year, a carnival. Natural improvements could improve ecological function to the preservation area.
- **Rim Island 2** – An area previously used for dredging spoils in the upper Hawai‘i Kai Marina, comprised of approximately 3.25 acres, has become an additional established habitat for several species of endangered Hawaiian waterfowl. However, there have been studies regarding the viability of the fill lands as being unable to support the birds attracted there. Continued use of this site for dredging spoils should be further evaluated, especially if alternative spoils dumpsites are available.

Guidelines relating to wildlife preserves in East Honolulu are as follows:

- **Encroachment** – Avoid encroachment or intensification of residential or other urban uses near preservation lands.
  - Prohibit the reduction in preservation zoning in the vicinity of the Paikō Lagoon or intensification of residential use in this zone.
  - Designate any property with an existing residential use for low-density residential use and to an appropriate residential zone.
- **Management** – Implement management programs in areas where intense human activity threaten the sustainability of the resources. This could include, for example, impact monitoring studies, limits on the number of visitors, and admission fees such as at Hanauma Bay.
- **Biological Study** – Conduct a biological study to determine if Rim Island 2 is eligible for declaration as a recognized endangered species habitat.

### 3.1.2.6 Marina

The 260-acre Hawai‘i Kai Marina provides protected water for small sail and motor craft, water skiing, and fishing. Residences fronting the marina have launching ramps and mooring facilities. In addition, there are boating facilities adjacent to the Koko Marina Shopping Center that can accommodate boats up to 40 feet in length.

The Hawai‘i Kai Marina also serves as the focal point for commercial activity in Hawai‘i Kai (Maunalua). East Honolulu’s three largest commercial centers, the Hawai‘i Kai Towne Center, Hawai‘i Kai Shopping Center, and Koko Marina Shopping Center, front the marina on the east and west sides.

The Hawai‘i Kai Marina contributes to the open space system by providing recreational value and visual relief from adjacent urban uses. It also has a cooling effect and thus offers climatic benefits for commercial and residential uses that front the water.

Guidelines concerning the Hawai‘i Kai Marina are listed below:

- **Recreational Boating** – Enhance the recreational value of this open space feature by improving facilities in support of boating.
- **Pedestrian Access** – Improve access to and along the marina’s edge by way of a multi-use path for people walking and biking.
- **Waterfront** – Ensure that marina and commercial waterfront uses do not present a barrier for pedestrians desiring to visit more than one destination along the waterfront.
- **Bridge** – Link the Hawai‘i Kai Towne Center and the Hawai‘i Kai Shopping Center with a pedestrian bridge in order to provide convenient access between the two commercial centers.
- **Viewshed** – Maintain and improve views across the marina, especially from Kalaniana‘ole Highway and other major roadways.
- **Screening** – Install and maintain landscaping, where appropriate, to screen areas of the marina not intended for public views and to intercept stormwater, sediment, and toxic pollutant runoff.
- **Best Management Practices** – Utilize BMPs for marina uses to mitigate degradation of water quality to both the marina and Maunalua Bay.

### 3.1.3 RELATIONSHIP TO MAP A-1, OPEN SPACE

The following components of the regional open space system are shown on Map A-1, Open Space Map in Appendix A:

- **Mountain and Agricultural Areas** – These areas are to remain outside the Community Growth Boundary, and are not intended for development.
- **Shoreline Areas** – All beaches and shoreline areas with high scenic or wildlife value, especially areas along the Kaiwi Scenic coast and at Paikō Peninsula, are designated for preservation and are located outside the Community Growth Boundary. Construction of seawalls and rock revetments has had a severe negative impact on beaches in the Plan area, particularly between Wai‘alae and Portlock.
- **Parks** – Areas designated as island-based and district parks are shown, as well as the general location of community and

neighborhood parks. Additions to the community-based park system are determined more by community facility design considerations (see Section 3.3) than by their relationship to the regional open space network.

- **Golf Courses** – The three golf courses in East Honolulu are shown because of their recreational value and visual contribution to the open space landscape.
- **Hazard Areas** – Certain undeveloped lands within the State Urban District that have either experienced significant damage from soil movement or potential rock falls, or are highly susceptible to such problems, particularly in 'Āina Koa, 'Āina Haina, and Kuli'ou'ou; are located outside the Community Growth Boundary and designated for preservation.
- **Marina** – Hawai'i Kai Marina is located within the Community Growth Boundary.
- **Streams** – Major channelized and unchannelized stream channels which may provide habitat and convey water from upland areas.

### **3.2 ISLAND-BASED PARKS AND RECREATIONAL AREAS**

This section presents an overview of island-based parks and recreational areas in East Honolulu. This is followed by general policies and guidelines for the recreational development of these resources. The location of the region's island-based parks and recreational areas are shown in Appendix A, Maps: A-1 Open Space, A-2 Urban Land Use, and A-3 Public Facilities.

#### **3.2.1 OVERVIEW**

The City and County of Honolulu Department of Parks and Recreation (DPR) develops and maintains a system of park and recreation facilities that it classifies in a hierarchical manner. The largest and most specialized parks are classified as island-based parks since they serve the needs of all O'ahu residents. This group includes regional parks, beach/shoreline parks, beach/shoreline right-of-ways, nature parks/reserves, botanical gardens, golf courses, and zoological parks (see Table 3-2). The locations of public parks and recreation areas in East Honolulu are shown in Exhibit 3-1.

<b>Table 3-2</b>	
<b>Types of Island-Based Parks</b>	
Regional Parks	Large areas that may serve the entire island or a region of the island and may include a variety of recreation park types and facilities, natural and cultural sites.
Beach/Shoreline Parks	Areas and sites along the shoreline that may include facilities and support services for water activities, hiking, sunbathing, picnicking, and other passive activities.
Beach/Shoreline Rights-of-Way	Access lanes to beaches and the shoreline where residential or other uses prevent development of a beach/shoreline park.
Nature Parks/Reserve	Areas maintained primarily to preserve or conserve unique natural features.
Botanical Gardens	Areas to plan, develop, curate, maintain, and study documented dryland plants for the purposes of conservation, botany, horticulture, education, and passive recreation.

As shown in Table 3-3, East Honolulu contains 10 island-based parks that are maintained by the DPR. A brief description of East Honolulu's regional parks, various beach parks, and three privately operated golf courses, two of which offer public play, is provided below.

<b>Table 3-3</b>	
<b>DPR Island-Based Parks and Preserves in East Honolulu</b>	
<b>Park Type/Name</b>	<b>Acreage</b>
<b>Table 3-3</b>	
<b>DPR Island-Based Parks and Preserves in East Honolulu</b>	
<b>Park Type/Name</b>	<b>Acreage</b>
Regional Parks	
Koko Head Regional Park <sup>1</sup>	951.4
Beach/Shoreline Parks	
Maunalua Bay Beach Park	5.4
Sandy Beach Park (including Wāwāmalu Beach Park)	22.6
Kawaikū'i Beach Park	4.1
Kuli'ou'ou Beach Park	3.2
Wai'alae Beach Park	4.4
Wailupe Beach Park	1.2
Subtotal	40.9
Nature Preserve/Reserves	
'Āina Haina Nature Preserve	85.2
Hanauma Bay Nature Park	50.0

<b>Botanical Gardens</b>		
Koko Crater Botanical Garden		200.0
<b>Total</b>		<b>1,327.5</b>
1 Acreage figure excludes Sandy Beach Park, Hanauma Bay Nature Preserve, Koko Crater Botanical Garden (listed separately) and Koko Head District Park (included in Section 3.3).		

### 3.2.1.1 Koko Head Regional Park

The 1,264-acre Koko Head Regional Park encompasses the most popular recreation areas in East Honolulu, including:

- Hālona Blowhole Lookout
- Koko Crater Stables
- Koko Head Rifle Range
- Sandy Beach Park
- Hanauma Bay Nature Preserve
- Koko Crater Botanical Garden
- Old Hawai'i Job Corps Center
- Koko Head District Park

The park was established in 1928 when the City acquired the property from the Estate of Bernice Pauahi Bishop for a fee of one dollar. In exchange for the nominal charge, the City agreed to extend and maintain the municipal water system through Maunalua. Further, the deed stipulated that use of the property be restricted to public parks or rights-of-way. Other uses of the property would require approval by the Bishop Estate Trustees.

In 1992, the **Koko Head Park Master Plan** was completed. The plan contains elements regarding the preservation and enhancement of the park's recreational and educational resources that are generally consistent with the guidelines set forth in this **Plan** (discussed in Section 3.2.4).

Expansion of Koko Head Regional Park through the City's acquisition in 2002 of the 32-acre parcel known as Golf Course 5 and 6 properties, located mauka of Sandy Beach and Kalaniana'ole Highway, completes the Kaiwi Scenic Shoreline. The 38-acre park visually links the existing Koko Head Regional Park and the Kaiwi Scenic Shoreline and provides a continuous stretch of open space with recreational opportunities extending from Koko Head to Makapu'u Head totaling about 600 acres. This area is now used for active recreation with playfields and open space for kite flying and other outdoor activities. There will be no courts or paved areas.

### 3.2.1.2 Kaiwi Coast

A 354-acre scenic shoreline area has been established in the Queen's Beach/Makapu'u Head region of East Honolulu adjacent to Koko Head Regional Park. The Kaiwi Scenic Shoreline was established as a means to protect the area's rich recreational and scenic resources and natural environment. A master plan for the Kaiwi Scenic Shoreline was prepared in October 1995 by the DLNR pursuant to House Concurrent Resolution No. 261 (1988).

Hiking is a very popular form of recreation along the Kaiwi coast. Substantial improvements have been made to parking, access, and trail amenities along the Makapu'u Point Lighthouse Trail. Further implementation of the master plan has been halted due to community concerns that construction of comfort stations or a visitor's center will detract from the region's undeveloped, wilderness character.

In 2016, the region known as Queen's Rise, or Kaiwi Mauka, located mauka of Kalaniana'ole Highway between Hawai'i Kai Golf Course and Makapu'u Head, was purchased with public and private funds to set aside for preservation purposes. Although the land is zoned for preservation, it is within the State Urban District and should be redesignated for conservation. The preservation of mauka lands from development will further preserve the scenic characteristics defined by the adjacent, rugged landscape of the Kaiwi Scenic Shoreline.

### 3.2.1.3 Beach and Shoreline Parks

East Honolulu's seven existing beach parks are Maunalua Bay, Sandy Beach (including Wāwāmalu), Kawaiku'i, Kuli'ou'ou, Wai'alae, Joe Lukela Beach Park, and Wailupe. The City has acquired lands comprising the Kaiwi Scenic Shoreline at Queen's Beach/Makapu'u Head. Improvements to Wāwāmalu Beach as a nature park would help to protect the natural dunes, native vegetation, beach rock, and beach.

A mix of low- and medium-intensity recreational uses is envisioned along the Kaiwi Scenic Shoreline. The primary purpose of the park is to preserve the area's natural resources and to provide educational and passive recreation opportunities.

### 3.2.1.4 Aquatic Recreation

In addition to recreation lands under the jurisdiction of the DPR, another asset of East Honolulu is its near shore waters which help to define much of its character. Maunalua Bay extends from Kūpikipiki'ō (Black Point) to Kawaihoa Point spanning two ahupua'a (Waimanalo and Waikīki) and seven watersheds (Wai'alae Nui, Wailupe, Niu, Kuli'ou'ou, Kamilo Nui, Kamilo Iki, and Portlock). Maunalua Bay hosts a variety of users including, but not limited to, fishermen, boaters, kayakers, surfers, cultural practitioners, and stewardship organizations. These user groups comprise residents and tourists for commercial and non-commercial uses. Regulation of aquatic uses falls under State jurisdiction.

## 3.2.2 GENERAL POLICIES

The following general policies relate to island-based parks and recreational resources in East Honolulu:

- Increase the inventory of island-based parks, where feasible and supportive of open space general policies and guidelines, by expanding the boundaries of existing parks and/or creating new parks.
- Maintain and enhance, to the extent possible, existing island-based parks by utilizing land area that has not been fully

developed for recreation use. Island-based parks are part of the region's abundance of natural and scenic resources and contribute to the attractiveness of East Honolulu to residents and visitors.

- Expand access to existing park lands by improving neighborhood linkages along shared paths for people walking and biking, and blending park boundaries through the transition of park space to adjacent paths or greenways.
- Preserve the Kaiwi coast as one of O'ahu's last undeveloped, rugged coastlines.
- Prohibit alterations to the shoreline to avoid disrupting natural processes and avoid the potentially adverse impacts armoring has on adjacent areas.
- Develop additional trails and bike paths to balance trail demands across East Honolulu and alleviate potential overuse at existing trails.

### 3.2.3 PLANNING GUIDELINES

The general policies for island-based parks and recreation complexes, including golf courses, are supported and implemented by the following planning guidelines:

- **Appropriate Screening and Siting** – Carefully site active playfields and supporting facilities intended for intensive use, and use generous landscape screening to reduce the potential impacts on surrounding areas.
- **Environmental Compatibility** – Construct park facilities in a manner that avoids adverse impacts on natural resources or processes in the coastal zone or any other environmentally sensitive area. In the design of recreation areas, incorporate natural features of the site and use landscape materials that are indigenous to the area where feasible in order to retain a sense of place.
- **Community Integration** – Link recreational attractions that may be designed to have distinct identities and entries, with surrounding areas through the use of connecting roadways, bikeways, walkways, landscape features and/or architectural design.
- **Irrigation** – The Board of Water Supply (BWS) Rules and Regulations require the use of non-potable water for irrigation of large landscaped areas. For large landscaped areas, the feasibility of using non-potable water for irrigation should be investigated. If non-potable water is either unavailable or infeasible, a report of the investigation should be coordinated and submitted to the BWS prior to considering the use of potable water.

#### 3.2.3.1 Passive or Nature Parks

- **Kaiwi and Koko Crater** – Preserve and enhance the Kaiwi Scenic Shoreline's recreational and educational resources by implementing the following:
  - Convert the portion of Kalaniana'ole Highway between Lunalilo Home Road and Wāwāmalu Beach Nature Park to a 25-mile per hour scenic roadway.
  - Maintain and facilitate access to the important fishing resources.
  - Develop new walking/hiking trails within Koko Crater Botanical Garden for better viewing of plant collections.
  - Prohibit access to any trails or paths from outside of Koko Crater Botanical Garden to the garden.
  - With community input, explore the possibility of reinstating the shared use of Koko Crater Botanical Gardens and the Koko Crater Stables through a shared use agreement that includes a plan for well-marked horseback-riding trails and the prompt cleaning of horse droppings by stable employees.
  - Continue to develop Koko Crater Botanical Garden as a conservation site of global importance for rare and endangered species from Hawai'i and other tropical dryland areas.
  - Maintain Koko Crater Botanical Garden with drought-tolerant plant species.
  - Minimize adverse lighting impacts on aquatic life and avifauna, as well as adverse aesthetic impacts, particularly from stationary point lookouts and along significant view planes.
- **Preservation and Recreation** – Maintain the Kaiwi Scenic Shoreline in a manner that preserves the area's natural scenic quality and provides educational and passive recreation opportunities.
- **Management** – Protect fragile natural resources, such as the wildlife at Hanauma Bay Nature Preserve, from overuse through continued management and control of visitor numbers and impacts such as walking on the reef and sunscreen pollution.
- **Wāwāmalu Beach Nature Park** – Develop Wāwāmalu Beach as a nature park with the addition of demarcated parking and installation of barriers to protect natural dunes, native vegetation, beach rock, and beach.

#### 3.2.3.2 Active Recreation Areas

- **Expansion** – Expand the Koko Head Regional Park boundary to include the open space/preservation lands mauka of Kalanianaole Highway (previously known as Golf Courses 5 and 6), thereby increasing East Honolulu's active recreation areas.
- **Sport Venues** – Locate areas designed for sporting events that attract high numbers of people along major collector streets or accesses that are separated as much as possible from residential areas and wildlife habitats.
- **Screening and Aesthetics** – Minimize the visibility of perimeter fencing along major collector streets, large recreation buildings or structures, lighting, parking lots and other utilitarian elements through plantings or other appropriate visual screens adjacent to residential areas and major roadways, particularly to soften the view of the park from above at the roadside vista point along Kalaniana'ole Highway.
- **Transit** – Locate bus stops and loading areas at principal entries and adjacent to convenient pedestrian accesses to main

activity areas within the park.

- **Lighting** – Reduce light pollution's adverse impact on wildlife and human health, and its unnecessary consumption of energy by using, where sensible, fully shielded lighting fixtures using lower wattage.
- **Access to Recreation Facilities** – Public recreation facilities should be available to users of all skill levels and incomes, particularly Koko Crater Stables to continue horseback riding for public recreational use.

### 3.2.3.3 Golf Courses

There are three 18-hole golf courses in East Honolulu. The Hawai'i Kai Championship Golf Course and the Hawai'i Kai Executive Golf Course and a driving range are open to the public, while the Wai'aleae Country Club is a members-only course (Table 3-4). These three golf courses are important elements of East Honolulu's open space system because they provide areas for active recreation and offer visual relief from adjacent urban uses. No additional golf courses are proposed.

**Table 3-4: East Honolulu Golf Courses**

Golf Course Name	Use and Ownership	Acreage
Hawai'i Kai Championship Course	Open to Public Privately Owned	129.1
Hawai'i Kai Executive Course and Driving Range	Open to Public Privately Owned	54.9
Wai'aleae Country Club	Members Only Privately Owned	144.9
<b>Total</b>		<b>328.9</b>

Guidelines relating to golf courses in East Honolulu are listed below:

- **Viewsheds** – Maintain golf course designs to provide view amenities for adjacent urban areas, especially from well-used public rights-of-way, parks and vista points.
- **Retention** – Optimize the function of golf courses as passive drainage ways, maximizing their potential to retain or detain stormwater runoff.
- **Through Access** – Provide and maintain safe access along golf courses for regional continuity of pedestrian and bicycle systems.
- **Screening** – When necessary for safety reasons, use screening, landscaping, setbacks, and modifications to the course layout, where feasible, rather than fencing or solid barriers.
- **Irrigation** – Use of non-potable water for irrigation of large landscaped areas in accordance with the BWS Rules and Regulations. If non-potable water is either unavailable or infeasible, a report of the investigation should be coordinated and submitted to the BWS prior to considering the use of potable water.

## 3.3 COMMUNITY-BASED PARKS

The following section provides an overview and a list of general policies and guidelines pertaining to community-based parks and recreation areas.

### 3.3.1 OVERVIEW

Park areas that serve more localized populations are classified as community-based parks. There are 122.7 acres of community-based parks in East Honolulu. This includes district, community, and neighborhood parks as well as other, smaller park areas (see Table 3-5). The main purpose of community-based parks is to provide active recreation space for residents of the region in the form of playfields and gyms, among others. In addition to meeting the active recreation needs of the region, community-based parks also serve as open space elements and add aesthetic value to the region by providing visual relief from urban land uses.

<b>Table 3-5</b>			
<b>Types of DPR Community-Based Parks</b>			
<b>Park Type</b>	<b>Average Size (Acres)</b>	<b>Population Service Size</b>	<b>Typical Facilities</b>
District	20	25,000	Playfields, play courts, passive areas, gym/recreation complex, swimming pool
Community	10	10,000	Playfields, play courts, passive areas, recreation building
Neighborhood	6	5,000	Playfields, play courts, passive areas, comfort station
Mini Park	Varies	High Density Area	Benches, picnic tables, children's play area

The largest community-based park in East Honolulu is the 40-acre Koko Head District Park (see Table 3-6). Expansion of this park to 59 acres is possible by incorporating the adjacent former Job Corps site. In East Honolulu, this is the most appropriate location for sports and active recreation facilities designed for league play and other major sporting events. This complex should also include passive use areas for quiet enjoyment and nature learning activities. These areas can also serve as buffers from adjacent residential areas or from natural features, such as the slopes of Koko Crater.

**Table 3-6****DPR Community-Based Parks in East Honolulu**

<b>Park Type/Name</b>	<b>Acreage</b>
<b>Table 3-6</b>	
<b>DPR Community-Based Parks in East Honolulu</b>	
<b>Park Type/Name</b>	<b>Acreage</b>
District Parks	
Koko Head District Park	40.0
<b>Community Parks</b>	
Kalama Valley Community Park	6.0
Kamilo Iki Community Park	18.5
‘Āina Haina Community Park	6.2
Subtotal	30.7
<b>Neighborhood Parks</b>	
‘Āina Koa Neighborhood Park	2.4
Haha’ione Neighborhood Park	4.1
Haha’ione Valley Neighborhood Park	6.2
Kamilo Iki Neighborhood Park	7.2
Koko Head Neighborhood Park	6.8
Kuli’ou’ou Neighborhood Park	4.4
Nehu Neighborhood Park	1.3
Niu Valley Neighborhood Park	2.1
Wai’alae Iki Neighborhood Park	9.9
Wailupe Valley Neighborhood Park	2.5
Subtotal	46.9
Subtotal All Public Parks	122.7
<b>Dog Parks</b>	
Hawai’i Kai Dog Park	1.8
Subtotal	1.8
<b>Mini Parks</b>	
Koko Kai Park	0.6
Kamole Mini Park	2.2
Kōke’e Park	0.5
Subtotal	3.3
<b>Private Recreation Facilities (not managed by the DPR)</b>	
The O’ahu Club	7.6
The Peninsula	4.3
Wai’alae Iki V Pavilion	3.1
Hawai’i Loa Ridge Clubhouse	3.1
Nā Pali Haweo Lookout Park	1.4
Queen’s Gate Recreation Center	1.2
Kuapā Isle Clubhouse	0.8
Mariners Village III Rec. Center	0.5
Koko Isle Clubhouse	0.5
Subtotal	22.5
<b>Grand Total Public Parks and Private Recreation Facilities</b>	<b>145.2</b>

Private recreation facilities in Hawai’i Kai (Maunalua) also meet some of the demand for neighborhood parks such as at Mariner’s Cove, the Esplanade and others. While private facilities may not be accessible to the general public, they have the ability to reduce demands on nearby public recreation facilities.

In evaluating community-based recreational park needs, the DPR uses a general standard of two acres per 1,000 persons, with one acre per thousand needed for district parks and one acre needed for community parks, neighborhood parks, and mini-parks. Even if these standards are met, there may still be unmet park needs due to demographic, topographic, or other community conditions. Based on this general park area-to-population standard and East Honolulu’s 2010 population of 49,900, the community-based park area of 122.7 acres is approximately 22.9 acres above the minimum requirement. Based on population stabilization anticipated by 2040, there is not a need for new community-based parks in East Honolulu.

There is only one District Park in the region, while DPR's population service ratio (seeTable 3-5) would suggest the need for two such parks in East Honolulu. However, the land area for Koko Head District Park is twice as large as DPR's standard for District Parks. Moreover, as noted previously, this park can be expanded to 59 acres by incorporating the adjacent Job Corps site.

As suggested in the discussion of Koko Head District Park, the distribution of community-based parks within East Honolulu is slightly uneven. The Hawai'i Kai Neighborhood Board area has approximately 36 acres above the minimum requirement for community-based parks, while the Kuli'ou'ou-Kalani Iki Neighborhood Board area has a deficit of approximately 10 acres according to DPR's population ratios.

However, as mentioned previously, population is not the only factor to consider when evaluating community-based park needs. Other factors, such as the demographic composition and maturity of a neighborhood, should also be taken into account. In East Honolulu, the Kuli'ou'ou-Kalani Iki Neighborhood Board area has a higher share of residents over the age of 65, an older housing stock, and fewer households with related children compared to the Hawai'i Kai Neighborhood Board area. As such, the Kuli'ou'ou-Kalani Iki community does not currently have a strong demand for park facilities such as children's play areas, but conversely, may develop a need for more facilities supporting passive recreation.

There is the potential for an increase in "multi-generation" households (i.e., aging parents living with adult children and pre-school or school-age grandchildren), particularly in the Kuli'ou'ou-Kalani Iki community, as children of elderly residents either move in to care for their aging parents or are unable to live on their own due to economic pressures and high housing costs. These trends may play an important role in the life cycle of the Kuli'ou'ou-Kalani Iki community and may increase the requirements, by amount and type, and mixture of active and passive recreation facilities over time. (Also see related discussion on housing in Section 3.5)

DPR has no current plans to acquire additional land for community-based park development in the region. Expansion of community-based parklands is possible in Hawai'i Kai (Maunalua), but is limited in the Kuli'ou'ou-Kalani Iki Neighborhood Board area by the lack of available land. However, there are opportunities to expand the availability of recreational facilities oriented to a younger population in the Kuli'ou'ou-Kalani Iki area by jointly, with the Department of Education (DOE), using and improving elementary and intermediate school recreational facilities as community-based parks to overcome the current shortfall.

### 3.3.2 GENERAL POLICIES

General policies pertaining to community-based parks are as follows:

- Provide adequate parks to meet the recreational needs of the neighborhood residents, particularly community gardens.
- Observe the DPR standard for community-based parks of a minimum of two acres of community-based parks per 1,000 residents, with one acre for district parks and a total of one acre for community parks, neighborhood parks, and mini-parks.
- Expand active recreational facilities at Koko Head District Park by incorporating and developing the adjacent Job Corps Center site.
- Modify recreational facilities in existing parks and increase access to public school facilities in areas where there is limited opportunity to expand park space to respond to changing demographic profiles or recreational needs.
- Expand access to existing park lands by improving neighborhood linkages for non-motorized transportation modes and disguising park boundaries through the transition of park space to paths or greenways.
- Continue efforts to co-locate Neighborhood or Community Parks with elementary or intermediate schools and coordinate the design of facilities when efficiencies in the development and use of athletic, recreation, meeting, and parking facilities can be achieved.
- Develop additional trails and bike paths to balance trail demands across East Honolulu and alleviate potential overuse at existing trails.

### 3.3.3 PLANNING GUIDELINES

The following guidelines implement the general policies for community-based parks:

- **Connectivity** – Provide and improve linkages with bikeways and walking paths off-site with the redevelopment of existing parks.
- **Residents' Needs** – Modify community-based parks in areas where recreational needs of residents are not being adequately met.
- **Aesthetic Improvements** – Design and site structural improvements and landscaping in community-based parks to create or add to the aesthetic value of these open space elements.

## 3.4 HISTORIC AND CULTURAL RESOURCES

The following sections provide an overview and a listing of policies and guidelines for the preservation of historic and cultural resources in East Honolulu.

### 3.4.1 OVERVIEW

Much of East Honolulu is defined by the old Maunalua Fishpond. Maunalua Fishpond, referred to traditionally as Loko I'a o Maunalua or Keahupua o Maunalua, was 523 acres and the largest ancient fishpond of the Hawaiian Islands. The Maunalua Fishpond was reportedly connected via a tunnel to Ka'ele'pulu Pond, now known as Enchanted Lake, in Kailua. In the 1960s, Kamehameha Schools leased much of what is now Hawai'i Kai (Maunalua) to Henry J. Kaiser who dredged and filled the fishpond to create a subdivision and the private marina.

While many of the ancient fishponds have been filled, wall remnants of large fishponds remain visible. At Wailupe is the 41-acre Loko Nui o Wailupe with its 2,500-foot-long wall. Niu Peninsula is the former Kupapa Fishpond with its 2,000-foot-long wall.

Cultural and natural resources were carefully conserved by Hawaiian konohiki, or land managers. An advanced system of land and ocean management once fed the regional population sustainably. 'Uala (sweet potato), ama'ama (mullet) and limu (seaweed) were among the foods cultivated in East Honolulu. Feral pigs are another traditional food source. Community subsistence hunters continue to hunt the large population in the valleys and mauka areas.

Fish catches were historically shared with kupuna from the Lunalilo Home for elderly Hawaiians. The Home is a historic landmark that has been in the Maunalua region since the 1920s. Fish and limu were also sold and bartered within the community. Kapu or rest periods for fishing were instituted during fish spawning and managed by the konohiki. In Maunalua Bay konohiki used a flag system to alert boaters when fish were spawning. Muliwai (stream estuaries that meet the ocean), umu (nearshore fish houses) and ko'a (ocean fish gathering areas) were part of the sustainable aquacultural production system.

While unmarked today, these historic fish gathering sites remain high value areas for community sustainability. Named ko'a were Keahupua o Maunalua located near the bridge at Kuli'ou'ou Beach Park. Pali'alaea and Huanui were shrines where mullet gathered, while Hina was for akule. These now destroyed sites were located along the Portlock shoreline. Traditional muliwai sites are located at Kapakahi Stream in Kāhala, near Wailupe Beach Park, Niu Stream, Kuli'ou'ou Stream, Kamilonui Valley and Kaloko at Wāwāmalu. Hanauma Bay also was favored greatly by the ali'i for its fishing grounds.

Today, Native Hawaiians and the community at large are working to access, perpetuate, and steward East Honolulu's resources. Invasive species currently envelop large acreages and active management is necessary. Historic trails and mauka to makai pathways should be restored and maintained. Well known examples of these can be found in the ahupua'a trail in the back of Wailupe Valley, recently purchased by the City as the Wailupe Nature Preserve, and the Kealaikapapa paved roadway near Makapu'u. Access to traditional resource gathering should also be preserved. In particular, the former salt making area at the bridge mauka of Joe Lukela Beach Park should be restored and maintained.

Access for surfing, fishing, hunting and diving should be maintained and improved to reopen more customary paths to resources. Buffer and kapu areas also play a role in managing sensitive resources within the landscape.

Large scale ranching and numerous dairies were active in the 19th and first half of the 20th centuries. Piggeries and poultry operations were also part of the agricultural production. The latter part of the 20th century saw a shift away from agricultural sustainability with rapid urbanization. The farms at Kamilonui Valley and Koko Head as well as the Koko Head Stables retain the historic legacy of the area and should be perpetuated. The Koko Crater Stables has been a community resource since its inception in 1962, after the City and County of Honolulu closed a municipal stable located at Kapiolani Park. The Koko Head Regional Park, which encompasses the Koko Crater Stables, was deeded to the City by the Estate of Bernice Pauahi Bishop for one dollar in exchange for the City's agreement to extend and maintain the municipal water system through Maunalua. The deed further stipulated that use of the property be restricted to public parks or rights-of-way unless otherwise approved by the Bishop Estate Trustees. The Koko Crater Stables has contributed to the community for decades by providing equestrian education and recreation for riders of all ages and levels, and perpetuating East Honolulu's paniolo history. Efforts should be made to preserve the Koko Crater Stables for public recreational use.

In 1930, an archaeological survey of O'ahu documented approximately 60 sites in the area now defined as East Honolulu. Many of these sites, however, have since been destroyed by land-altering activities such as ranching, development, and construction, as well as by erosion and the 1946 tsunami. Numerous archaeological sites do remain though they have not been formally recorded, and lie in undeveloped areas.

Pohaku markers and stone boundary walls distinguish resource districts. Many remain today on hillsides and play a part in water management in addition to their historic value. Exceptional dry stack walls can still be found along the slopes above Kahala, Wailupe, and Niu as well as scattered eastward.

Coconut groves that were planted in traditional times remain today. Near Wai'alae Beach Park are the remnants of what was once the second largest grove on O'ahu. The shoreline retains groves near Kahala, Kawaiku'i Beach Park and Kanewai Spring in Kuli'ou'ou.

Traditional burials remain throughout the region. Cliff sides and caves in each valley as well as sand dunes are known burial grounds. Many of these sites have been looted or had the iwi removed to the Bishop Museum. Burial sites retain cultural significance for the descendants and community and should be preserved without disturbance. Lava tubes often contain burials as well as act as conduits for freshwater. They are of great age and care should be taken to maintain their integrity whenever possible. One noted lava tube was said to be a fish passage between Ka'ele'pulu Fishpond in Kailua and the Maunalua Fishpond.

Within the Koko Head Regional Park, a survey conducted in 1988 located one of five sites identified in the 1930 archaeological study. This site, the Koko Head Petroglyphs, was discovered in 1899 and is situated near the Lanai Lookout. The petroglyphs have been extensively altered by erosion and vandals since the 1930 survey, but nevertheless remain significant examples of petroglyph art.

Similarly, in the Queen's Beach area, approximately 20 sites were documented in the 1930 survey. The features included fishing shrines, house platforms, and a habitation cave. Although survey work done in 1984 found none of these sites, the large quantity of sites recorded earlier make it likely that subsurface cultural deposits and scattered human burials remain in the areas within and surrounding Koko Head Regional Park.

West of Koko Head, archaeological sites consist of shelters, shrines, heiau, burial caves, and burial cliffs. A system of heiau were once found often at ridge elevations overlooking Maunalua Bay. While many have been destroyed, these sites remain worthy of preservation and restoration when appropriate. Many of the sites require a line of sight view plane to the next heiau as well as to the ocean. Often elevations were used as kilo or fish spotting points where a spotter would find fish schools and signal to the fisherman out in the ocean. Kilo points include Kawaihoa Point and Hawai'i Loa Ridge.

The Hāwea Heiau complex contains ancient walls, petroglyphs, terraces, a coconut grove, and heiau and is located near the intersection of Hawai'i Kai Drive and Keahole Street. Pahua Heiau, located at the end of Makahū'ena Place, underwent restoration work during the 1980s. Besides its significance as a fourteenth to eighteenth century heiau, Pahua Heiau is also noted as the Office of Hawaiian Affairs' first landholding.

Makani'olu Shelter in Kuli'ou'ou is on the Hawai'i Register of Historic Places and is one of two such registered sites in East Honolulu. Makani'olu is a pre-contact cave in good condition and is a good representative of its class. Makani'olu is where the first radiocarbon dating in the Pacific was done. The U.S. Coast Guard Makapu'u Point Lighthouse is also on the National Register of Historic Places.

There are also archaeological sites on undeveloped parcels located along cliff faces and deep within the region's valleys. These areas have not been impacted by the tsunami of 1946 or by previous development activity. Some of these areas, however, have been subject to intensive agricultural use in the past.

For example, a privately initiated pedestrian survey of surface and possible subsurface material remains was conducted on a parcel located in Kamilo Nui Valley. Three archaeological sites were identified: a single, isolated rock pile feature; a small bedrock cavity containing a human molar; and a historic wall which was probably a remnant of a larger complex. Of these sites, only the bedrock cavity

was recommended for in-situ preservation.

### 3.4.2 GENERAL POLICIES

General policies pertaining to historic and cultural resources are as follows:

- Emphasize physical references to East Honolulu's history and cultural roots.
- Protect existing visual landmarks and support the creation of new, culturally appropriate landmarks.
- Preserve and actively maintain significant historic features from earlier periods.
- Retain, whenever possible, significant vistas associated with archaeological features.

### 3.4.3 PLANNING GUIDELINES

The treatment of a particular historic or cultural site should depend upon its characteristics and preservation value. The following planning guidelines should be used to implement the general policies and determine appropriate treatment:

- **Preservation and Protection** – Determine the appropriate preservation methods on a site-by-site basis in consultation with the State Historic Preservation Officer and cultural practitioners of the area.
  - Require preservation in-situ only for those features for which the State Historic Preservation Officer has recommended such treatment.
  - Recommend in-situ preservation and appropriate protection measures for sites that have high preservation value because of their good condition or unique features.
- **Compatible Setting** – Determine the appropriate treatment for a historic site by the particular qualities of the site and its relationship to its physical surroundings in consultation with the State Historic Preservation Officer. The context of a historic site is usually a significant part of its value and care should be taken in the planning and design of adjacent uses to avoid conflicts or abrupt contrasts that detract from or destroy the physical integrity and historic or cultural value of the site. Include sight lines that are significant to the original purpose and value of the site in criteria for adjacent use restrictions.
- **Accessibility** – Determine the degree of access that would best promote the preservation of the historic, cultural and educational value of the site in consultation with the State Historic Preservation Officer, Hawaiian cultural organizations, and the landowner, recognizing that economic use is sometimes the only feasible way to preserve a site. Public access to a historic site can take many forms, from direct physical contact and use to limited visual contact. In some cases, however, it may be highly advisable to restrict access to sites to protect their physical integrity or sacred value.

## 3.5 RESIDENTIAL USE

An overview of residential development in East Honolulu is presented below. This is followed by a description of general policies and guidelines that are to be applied to existing and planned residential developments.

### 3.5.1 OVERVIEW

With the establishment of the Community Growth Boundary to contain the spread of development, housing capacity in East Honolulu should only be increased through infill development. This will occur through development of the few remaining scattered vacant parcels on the relatively level valley floors and on previously developed ridges; through minor subdivisions of some larger residential lots at scattered locations throughout the region; and expansions of existing homes.

The development of 'ohana units, or accessory dwelling units (ADUs), represents a significant opportunity to provide smaller, affordable units as part of the planned infill development. However, out of the approximately 1,800 eligible parcels in East Honolulu, at the current rate of construction, there will be approximately only 50 'ohana units or ADUs built in East Honolulu by 2040. Increasing the number of 'ohana units or accessory dwelling units has the potential to:

- Enable long-term rental housing opportunities affordable to low- and moderate-income, gap group, elderly, and single person households; and
- Assist in making more housing affordable by providing the potential for a built-in (rental) income stream that could partially offset housing and mortgage costs.

This would be particularly advantageous for ADUs within a convenient walking distance (1/4 mile) of shopping centers served by city bus lines. This would increase transit accessibility and reduce reliance on automobiles for households in the 'ohana units.

While the development of large vacant parcels through the normal development process is readily identified and their effects are more immediately apparent, the physical changes wrought by incremental intensification of residential use in existing built-up neighborhoods through minor subdivisions and home expansions will be slower and more dispersed.

Effective residential lot design standards that limit building height, coverage, paving, and removal of landscaping are implemented through the Land Use Ordinance (LUO). These should be reviewed and if necessary modified to minimize the long-term cumulative impact of this gradual transformation, which could otherwise adversely affect the character of existing neighborhoods.

### 3.5.2 GENERAL POLICIES

The following general policies may be applied to existing and planned residential developments to preserve and enhance the quiet bedroom communities of East Honolulu:

- Accommodate a slight increase of housing capacity in East Honolulu by:
  - Development of new homes on the few remaining vacant lots designated for low-density residential use.
  - Expansion of existing homes (especially 'ohana units on eligible parcels) in built-up residential neighborhoods.
- Respond to the special needs of an aging population by providing future housing opportunities for a variety of living accommodations which are affordable to low- and moderate-income, gap group, and other elderly households. These

accommodations could include several forms; such as houses that can accommodate multi-generation households, 'ohana units, home expansions, group living facilities, adult residential care homes, assisted living units, and continuing care retirement communities such as the Kāhala Nui assisted living units and the Hawai'i Kai retirement community.

- Encourage the development of medical care facilities, including, but not limited to, facilities that provide palliative and hospice care.
- Modify residential neighborhood street design to provide greater emphasis on safe, accessible, convenient and comfortable pedestrian routes, bus stops, bike routes, and landscaping with shade trees. Methods include, but are not limited to: slowing travel speeds, less direct routes, adding and improving crosswalks, and converting on-street automobile parking spaces into seating areas and shaded landscaping. Revision of City street standards, subdivision regulations, and use of traffic calming measures may be required in order to support these policies and the policies identified in the [\*\*Complete Streets Design Manual\*\*](#) (2016). Policies that emphasize Complete Streets adhere to the following key principles:
  - Safety;
  - Consistency of design;
  - Context sensitive solutions;
  - Energy efficiency;
  - Accessibility and mobility for all;
  - Health;
  - Use and comfort of all users; and
  - Green infrastructure.
- Create an inclusive and accessible urban or suburban environment that encourages active and healthy aging, specifically age-in-place principles and the Universal Design Standards that address or include the following:
  - Equitable, flexibility, simple and intuitive, perception information, tolerance for error, low physical effort, and size and space.
- Suggest the formation of a community-based redevelopment district that would protect, adapt, and relocate residential and commercial structures, public facilities, and natural and cultural resources vulnerable to sea level rise impacts, including coastal flooding, inundation, and erosion.
- Adopt maps and regulations to incorporate the guidance from the [\*\*City Climate Commission\*\*](#) and the [\*\*Hawai'i Sea Level Rise Vulnerability and Adaptation Report\*\*](#) on vulnerability to coastal erosion and flooding and other science based projections of climate change impacts into land use regulations and permit processes.
- Encourage new structures to be designed to withstand the anticipated impacts of sea level rise over the building's lifespan.
- Enforce regulations relating to the operation of transient vacation units in residential neighborhoods.

### **3.5.3 PLANNING GUIDELINES**

A summary of the guidelines to implement the general policies are provided below with additional discussion in the following sections:

- **Physical Character and Definition of Neighborhoods** – Establish design guidelines to minimize long-term adverse impacts of new infill development on surrounding neighborhoods. Encourage use of sloped roof forms with wide overhangs. Enhance the boundaries of existing neighborhoods through the use of landscaping, natural features, and building form and siting. Focus neighborhood activity on the local street, common pedestrian rights-of-way, or recreation areas.
- **Transit, Bicycle and Pedestrian-Oriented Residential Streets** – Encourage bus, pedestrian, and bicycle travel, particularly to reach neighborhood destinations such as schools, parks, and convenience stores, by seeking to reduce the number of vehicle miles traveled per person and recognizing the need for accessible design and safe travel conditions for elderly and disabled people. Implement passive and active automobile traffic calming measures on residential neighborhood streets and add street trees to provide shading for sidewalks and bus stops. Implement the policies and guidelines in the [\*\*O'ahu Bike Plan\*\*](#), [\*\*Bike Plan Hawai'i\*\*](#), the [\*\*Statewide Pedestrian Master Plan\*\*](#), and, when completed, the [\*\*O'ahu Pedestrian Plan\*\*](#).
- **Environmental Compatibility** – Encourage energy-efficient features, such as the use of solar panels for generating electricity and heating water, and passive solar design, such as the use of window recesses and overhangs and orientation of openings to allow natural cross-ventilation.
- **Low-Impact Development and Stormwater Retention** – Follow low impact development standards as properties are redeveloped to encourage the capture of stormwater, sediment, and toxic pollutant runoff on-site and reduce pollutant loads into downstream water bodies. Provide incentives for owners of existing homes to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.

#### **3.5.3.1 Residential Development**

Three categories of urban residential development are recognized by this [\*\*Plan\*\*](#): Single-Family Residential, Low-Density Apartment and Medium-Density Apartment. All of these categories are found only within the Community Growth Boundary.

- **Residential** – Dwellings in this category consist of single-family detached and attached homes or townhouses with individual entries. Density of development may range from 5-12 dwelling units per acre. Building heights generally do not exceed two stories.
- **Low-Density Apartment** – This category consists of predominantly two and three-story townhouse complexes, stacked flats, or low-rise apartment buildings; parking provision may comprise a separate story. Overall building height should not exceed 40 feet. Buildings may have elevators and common entries for multiple dwellings. Density of development may range

from 10-30 dwelling units per acre. The Low-Density Apartment designation will be applied only to sites that have already been developed in a manner that is consistent with the density and building height guidelines for this category, and to undeveloped areas zoned for the Apartment District as of the effective date of this Plan.

- **Medium-Density Apartment** – This category of residential development takes the form of multi-story apartment buildings with densities in the range of 25-90 dwelling units per acre. Medium-Density Apartment designation is applied only to sites that have already been developed in a manner that is generally consistent with the density and building height guidelines for Medium-Density Apartment use, or are collocated on a site designated for commercial use and proposed mixed-use development.

For all existing developments in the Medium-Density Apartment category:

- Maintain building height setbacks and landscaping to reduce the direct visibility of taller buildings from lower density residential areas and from the street front. Possibly add low-rise accessory buildings within the height setback areas to provide a visual transition from the high-rise apartment building to adjacent areas. Building height should not exceed 90 feet.
- Consider mixed-use zoning to permit limited commercial uses, primarily to serve residents of an apartment complex and the immediate neighborhood, depending on site characteristics and adequate justification for the need for such commercial uses based on demand and convenience to residents.

### 3.5.3.2 Special Needs Housing and Senior Housing

Special Needs Housing comprises facilities designed for certain segments of the population, such as elderly and disabled persons. Often such housing includes special features, such as: congregate dining and social rooms; laundry, housekeeping and personal assistance services; shuttle bus services for residents; skilled nursing beds, and physical therapy clinics.

Group living facilities are allowed in all residential areas. Special needs housing for the elderly can be located in apartment, apartment mixed use, and business mixed use districts. Both types of facilities require a Conditional Use Permit Major (CUP-Major), which requires a public hearing.

The guidelines for special needs housing and senior housing are as follows:

- **Proximity to Transit** – Locate special needs housing near transit services and commercial centers.
- **Universal Design** – Apply the seven principles of Universal Design to projects to support the seniors who wish to age-in-place, as articulated in the Making Honolulu an Age-Friendly City: An Action Plan.
  - The seven principles of universal design, intended to make products or environments accessible to everyone in society, incorporate or address the following: equitable, flexibility, simple and intuitive, perception information, tolerance for error, low physical effort, and size and space.
- **Density** – Accommodate an allowable building density of 10-40 units per acre, not including beds in skilled nursing facilities. Allow designated affordable housing projects of up to 40 units per acre.
- **Design** – Utilize building and roof form, orientation, location of entries, landscape screening, and height to maintain compatibility with the existing residential uses and scale.
- **Map** – This land use is not specifically designated on Map A-2, Urban Land Use as it is an allowable use inclusive in residential areas.

### 3.5.4 Other Uses in Residential Areas

The following uses are not specifically designated on Map A-2, Urban Land Use, but are allowed in all residential areas: elementary schools, parks, churches, community centers, child care centers, and public facilities and utilities serving the area.

## 3.6 NONRESIDENTIAL DEVELOPMENT

This section provides an overview of nonresidential development in East Honolulu followed by general policies and planning guidelines for the location, expansion or renovation of such uses. Nonresidential use includes retail commercial, office, service-oriented industrial, visitor accommodations, and institutional uses.

### 3.6.1 OVERVIEW

East Honolulu has seven commercial centers. Hawai'i Kai Towne Center, the largest retail complex in East Honolulu, provides parking for approximately 1,010 vehicles and attracts shoppers from outside the region with big box stores as anchor tenants.

Koko Marina Shopping Center, the second largest complex, includes ocean recreation related services such as boating equipment and repair and dive tour headquarters; restaurants and entertainment attractions; and retail shops that serve the needs of both visitors and residents in the area. The other commercial centers located in the Plan area include the Hawai'i Kai Shopping Center, Niu Valley Shopping Center, 'Āina Haina Shopping Center, Haha'ione Valley Center, and Kalama Village Center.

The market areas for other commercial centers listed above are limited mostly to the communities for which they are named, emphasizing food, household products and personal services. In all of these smaller centers, additional floor area could be developed within their existing land areas with more efficient site design. However, demand for expansion has not been strong, and given the minimal anticipated population growth, there is little prospect for commercial expansion.

Only the first phase of Kalama Village, occupying less than a third of the land area that had been designated for this project, has been developed, and it has struggled to lease the developed floor area.

Some commercial activities in the Niu Valley Center are anticipated to be displaced and their functions moved to nearby neighborhood commercial centers. A religious community, which has moved into the shopping center, is diminishing the original commercial function.

Expansion of Costco and the addition of a storage facility has increased the commercial square footage in Hawai'i Kai (Maunalua). Commercial zones in East Honolulu appear sufficient in view of the projected population stabilization. However, an opportunity still exists

for additional commercial space within existing commercial-zoned parcels.

There is approximately 468,000 square feet of office space supply in the Plan area, a majority of which is located in Hawai'i Kai (Maunalua). Historically, East Honolulu's vacancy rate for office space has been one of the lowest on O'ahu, with some of the highest asking base rent.

With the exception of the Japan-America Institute of Management Science (JAIMS), which is a private institute, most of East Honolulu's office inventory is located within and adjacent to the Koko Marina Shopping Center in two buildings, Hawai'i Kai Corporate Plaza and Hawai'i Kai Executive Plaza, that are located along Kalaniana'ole Highway makai of the Hawai'i Kai Towne Center. These areas provide a combined total of nearly 200,000 square feet of office floor area. Table 3-7 lists the locations and gross leasable area.

**Table 3-7**

**Office Inventory in East Honolulu**

<b>Office Building</b>	<b>Year Opened</b>	<b>Gross Leasable Area (Approximate)</b>
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**Table 3-7**

**Office Inventory in East Honolulu**

<b>Office Building</b>	<b>Year Opened</b>	<b>Gross Leasable Area (Approximate)</b>
Japan-America Institute of Management Science (JAIMS)	1972	257,000
Koko Marina Office Space	1963	47,760
Hawai'i Kai Executive Plaza	1990	41,582
Hawai'i Kai Corporate Plaza	1987	39,355
'Āina Haina Professional Building	1982	22,550
Koko Head Plaza	1975	21,226
Hawai'i Kai Medical/Office Center	1987	16,598

There is a probable demand for certain light industrial uses that are oriented to the East Honolulu communities. Such uses could include, among others, small warehousing facilities, and appliance and automobile repair shops. However, the anticipated demand for space in this region is not sizable and the type and scale of such uses that may be needed could be conveniently located in a large commercial center with appropriate environmental and aesthetic controls to promote compatibility with adjacent uses. Many of these types of uses are in fact already located within some of East Honolulu's commercial centers.

East Honolulu has only one resort hotel – the Kahala Hotel and Resort – which was developed in the 1970s, and continues to serve visitors and residents.

### 3.6.2 GENERAL POLICIES

For purposes of this Plan, the various types of nonresidential uses are defined and designated in four categories: Neighborhood Commercial Center, Regional Town Center, Resort and Institutional. The policies pertaining to each of these categories are as follows:

- **Neighborhood Commercial Center** – The existing centers in 'Āina Haina, Niu Valley, Kalama Village, and Haha'ione Valley will continue to function as Neighborhood Commercial Centers. There is no need to designate additional land for expansion of the Neighborhood Commercial Centers. In fact, market response suggests that land that was originally designated for expansion of the site area of Kalama Village Center should be redesignated for residential or mixed-use (residential and commercial/office). Modest additions of floor area and parking could be made to these centers through redesign of the sites they presently occupy, if needed. These centers should be oriented to serve the local community.
- **Regional Town Center** – Create a "Regional Town Center" in the Hawai'i Kai Marina area by strengthening the relationship between the existing commercial uses in this area, increasing the mix of uses and types of services and activities in this commercial zone, and providing more convenient transportation access and improved amenities and connections for people who walk and bike.
- **Resort and Institutional** – Prohibit new or expanded land areas for resorts and institutional campuses. A new or expanded resort destination in East Honolulu would be contrary to General Plan policy. The population forecast for 2040 in East Honolulu does not warrant major new schools, hospitals, or similar institutions to serve these communities, and establishment of a large institution in East Honolulu for the purposes of creating additional employment in the region would be contrary to the General Plan policy to direct job growth to the Primary Urban Center, 'Ewa, and Central O'ahu.
- **Mixed Uses in Business Districts** – Allow low-rise, multi-family residential use as a permitted accessory use above the first floor in the B-1 Neighborhood Business District and the B-2 Community Business District.

In addition to the policies pertaining to the specific uses above, the following general policy may be applied to existing and planned nonresidential development:

- **Sea Level Rise** – Protect, adapt, or relocate commercial structures, public facilities, and natural and cultural resources vulnerable to sea level rise impacts, including coastal flooding, inundation, and erosion as feasible.

### 3.6.3 PLANNING GUIDELINES

The following planning guidelines apply to neighborhood and community commercial centers. They should apply to the expansion or

renovation of existing commercial centers, as well as to the development of new neighborhood commercial centers.

• **Scale and Purpose of Neighborhood Commercial Centers** – Neighborhood Commercial Centers are located on 5 to 10 acres or less, within or adjacent to a residential area, and whose primary access and frontage is from a collector street. The center may have up to 100,000 square feet of floor area. These centers emphasize retail stores, personal services, and public facilities designed to serve the needs of the surrounding community; i.e., typically residents within a one- to two-mile radius. If redeveloped, Neighborhood Commercial Centers should take into account the potential impacts of climate change and sea level rise over the life of the center. Building heights must conform to development standards of the underlying zoning district.

• **Mix of Uses in the Regional Town Center** – The Regional Town Center serves as the regional hub for commercial activity serving both neighborhood residents and visitors. This center comprises four components:

- The Hawai'i Kai Towne Center, given its size and location relative to principal travel routes in the region, is the de facto focal point for regional shopping and services. Enhance the Hawai'i Kai Towne Center as a focus of activity by offering a greater diversity of uses potentially including: long-term apartment uses, public uses, and indoor small- to medium-size "service-industrial" establishments.
- The Koko Marina Shopping Center, while physically separated from the Hawai'i Kai Towne Center, plays a complementary role with a focus on marina and ocean recreation services, specialty shops and entertainment attractions. Enhance the Koko Marina Shopping Center as a recreation/entertainment oriented commercial complex with the addition of more services for ocean recreation, restaurants, and similar attractions.
- The two office buildings are the third component of the Regional Town Center. Convert excess ground or second-floor space in office buildings to retail or other commercial uses if there is a demand for other uses.
- The fourth component of the Regional Town Center is the Hawai'i Kai Shopping Center. Its size and tenant mix is similar to that of a Neighborhood Commercial Center. The Hawai'i Kai Shopping Center continues to play a supporting role in the Regional Town Center through improvements in physical linkages.

• **Resorts and Institutional** – If redeveloped, the resort area in Kāhala needs to take into account the projected impacts of climate change and sea level rise over the length of the building's lifespan.

- Limit building heights generally to not exceed 60 feet for Institutional use and 70 feet for Resort use. Height setback transitions will be provided from street frontages, the shoreline, and adjacent residential areas.
- Signage will be non-illuminated or indirectly illuminated. Appropriately shield high-intensity lighting downward to minimize impact on adjoining or affected uses and wildlife.

• **Physical Linkages and Accessibility** – Incorporate site design and facilities to promote pedestrian, bicycle, and transit access in Neighborhood Commercial Centers and the Regional Town Center.

- Provide at least one pedestrian access way from the public sidewalk or other off-site pedestrian pathway to the entrance of establishments in the commercial center that does not require crossing a traffic lane or parking lot aisle or driveway.
- Place parking and service areas behind the buildings or otherwise visually screened from streets and residential areas.
- Prioritize pedestrian and bicycle access as more important for the Neighborhood Commercial Centers, while transit access is more significant for the Regional Town Center.
- Achieve efficiencies and other improvements in traffic and parking conditions by redesigning or re-siting parking lots, driveways and walkways and providing shuttle bus services between the components of the regional Town Center.
- Develop a pedestrian route along the marina and bridges to link the adjacent components to provide convenient access between the two commercial centers and enhance the recreational value of the marina.
- Encourage businesses to develop evacuation plans and guidelines in the event of a disaster.

• **Appropriate Scale and Architectural Style** – Maintain consistency between the building mass of a commercial center and its urban and natural setting.

- Strive to have Neighborhood Commercial Centers reflect a residential architectural character.
- Allow the Regional Town Center to reflect a more varied, urban architectural character. Future additions or renovations to the Hawai'i Kai Towne Center, in particular, will reflect a more positive orientation to its Marina frontage.
- Provide a landscaped screen of trees and hedges for parking areas in setbacks with shade trees throughout the parking lot for aesthetics and stormwater retention.
- Use only low-level or indirect lighting, appropriately shielded and pointed downward, which meets safety and security requirements in parking lots.
- Ensure compatibility between the type, size, design, placement, and color of signage and the context of adjacent facilities and uses.
- Avoid blank facades on portions of buildings visible from a street or the Hawai'i Kai Marina by using texture, articulation, color, and fenestration to create visual interest.

• **Environmental Compatibility** – Encourage energy-efficiency features, such as the use of solar panels for generating electricity and heating water, and passive solar design, such as the use of window recesses and overhangs and orientation of openings to allow natural cross-ventilation.

- Incorporate resource conservation measures, such as water constrictors and facilities for the sorting of waste materials for recycling, in the design of new development.
- Require the use of low-impact development standards for any significant new construction or redevelopment, particularly in areas that may have large impervious surfaces, in order to hold stormwater on-site instead of discharging it into storm drains or stream channels.
- Provide incentives for owners to develop rain gardens, permeable parking lots and driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.
- Projects shall comply with the Clean Water Act.

### **3.6.4 OTHER USES IN NONRESIDENTIAL AREAS**

Other uses in nonresidential areas are shown on Map A-2, Urban Land Use in Appendix A as follows:

Elementary schools, churches, child care centers, fire stations, and other public facility and utility uses serving the area are not specifically designated on the Urban Land Use Map, but are allowed in all residential and commercial areas, subject to appropriate zoning controls to assure compatibility with surrounding uses. The general locations of existing larger institutions, such as high schools, are indicated by special symbols.

## **4. PUBLIC FACILITIES AND INFRASTRUCTURE POLICIES AND GUIDELINES**

The vision for East Honolulu will be implemented in part through application of the general policies and guidelines for public facilities and infrastructure that are presented in the following sections.

### **4.1 TRANSPORTATION SYSTEMS**

This section describes the existing road, transit, and bikeway network in East Honolulu as well as plans for future improvements. These elements are shown in the Public Facilities Map in Appendix A. The section concludes with general planning policies and guidelines to direct future transportation system development in East Honolulu.

#### **4.1.1 EXISTING AND PLANNED ROADWAY NETWORK**

##### **4.1.1.1 Existing Roadways**

The only major roadway arterial in East Honolulu is Kalaniana'ole Highway (State Highway 72), which links the Primary Urban Center to the communities of East Honolulu and is also a scenic, secondary route between Kailua/Waimānalo and Honolulu.

Kalaniana'ole Highway consists of six lanes (three lanes in each direction). One of the lanes is designated as a High Occupancy Vehicle (HOV) contra-flow lane, thus providing four Honolulu-bound lanes during the morning peak between West Halema'uma'u Street and 'Āinakoa Avenue. This HOV lane is restricted to buses, vanpools, motorcycles, and carpools. Other improvements made to this section of the highway include left turn lanes, bus turnouts, improved traffic control systems, and improved lighting.

Major roadway collectors in East Honolulu are those leading from Kalaniana'ole Highway into the ridge and valley neighborhoods. Important intersections include, but are not limited to, 'Āinakoa Avenue, Kalani Iki Street, West Hind Drive, Hawai'i Kai Drive, Keahole Street, and Lunalilo Home Road. Hawai'i Kai Drive runs parallel to Kalaniana'ole Highway through parts of Hawai'i Kai (Maunalua).

American commuting habits, and therefore their parking needs, are changing. People are increasingly leaving their cars behind in favor of riding transit, ridesharing, walking, biking, and even scootering. Additionally, as the population of East Honolulu continues to age, there will be fewer commuters resulting in potentially less congestion during peak hours.

##### **4.1.1.2 Planned Roadways**

Planning and development of roadways are the responsibility of the State Department of Transportation and the City Department of Transportation Services. Roadway projects using federal transportation funds also involve the O'ahu Metropolitan Planning Organization (OMPO), a joint City-State agency.

In April 2016, OMPO published the [\*\*2040 O'ahu Regional Transportation Plan \(ORTP\)\*\*](#). The **2040 RTP** recognizes the impact of the transportation and land use cycle which has resulted in the urban fringe development pattern found in East Honolulu. According to the **2040 RTP**, no major projects are planned for East Honolulu's roads. Therefore, it is not anticipated that there will be an increase in pressure for development.

### **4.1.2 TRANSIT SYSTEM**

East Honolulu is served by 11 bus routes. Bus service in Hawai'i Kai (Maunalua) is complemented by the Hawai'i Kai park and ride facility on Keahole Street across from the Hawai'i Kai Towne Center. Park and ride facilities, which serve as a central access point for buses and autos, are ideal for lower-density areas such as Hawai'i Kai (Maunalua).

There are no plans to extend or expand the number of routes, but the frequency and capacity of transit service may be increased by switching to a hub-and-spoke system, potentially freeing up existing buses. Additional service enhancements are also possible by adding more bus stops, shifting to smaller vehicles for upper valley neighborhoods, and making highway and street improvements designed to make bus travel more efficient, convenient, and comfortable.

### **4.1.3 BIKEWAY SYSTEM**

As of 2013, O'ahu had at least 134 miles of bikeways, including at least 40 miles of new bikeways since 1994. [\*\*Bike Plan Hawai'i \(2013\)\*\*](#), the current State master plan for bikeways, proposes another 13 miles for East O'ahu. In addition to the State's **Bike Plan Hawai'i**, the City and County of Honolulu Department of Transportation Services also publishes the [\*\*O'ahu Bike Plan\*\*](#), published in August 2012, and updated in 2019. Both plans contain timetables for development dependent upon construction feasibility (including right-of-way acquisition) and funding. The [\*\*O'ahu Bike Plan\*\*](#) defines the various types of bikeways as follows:

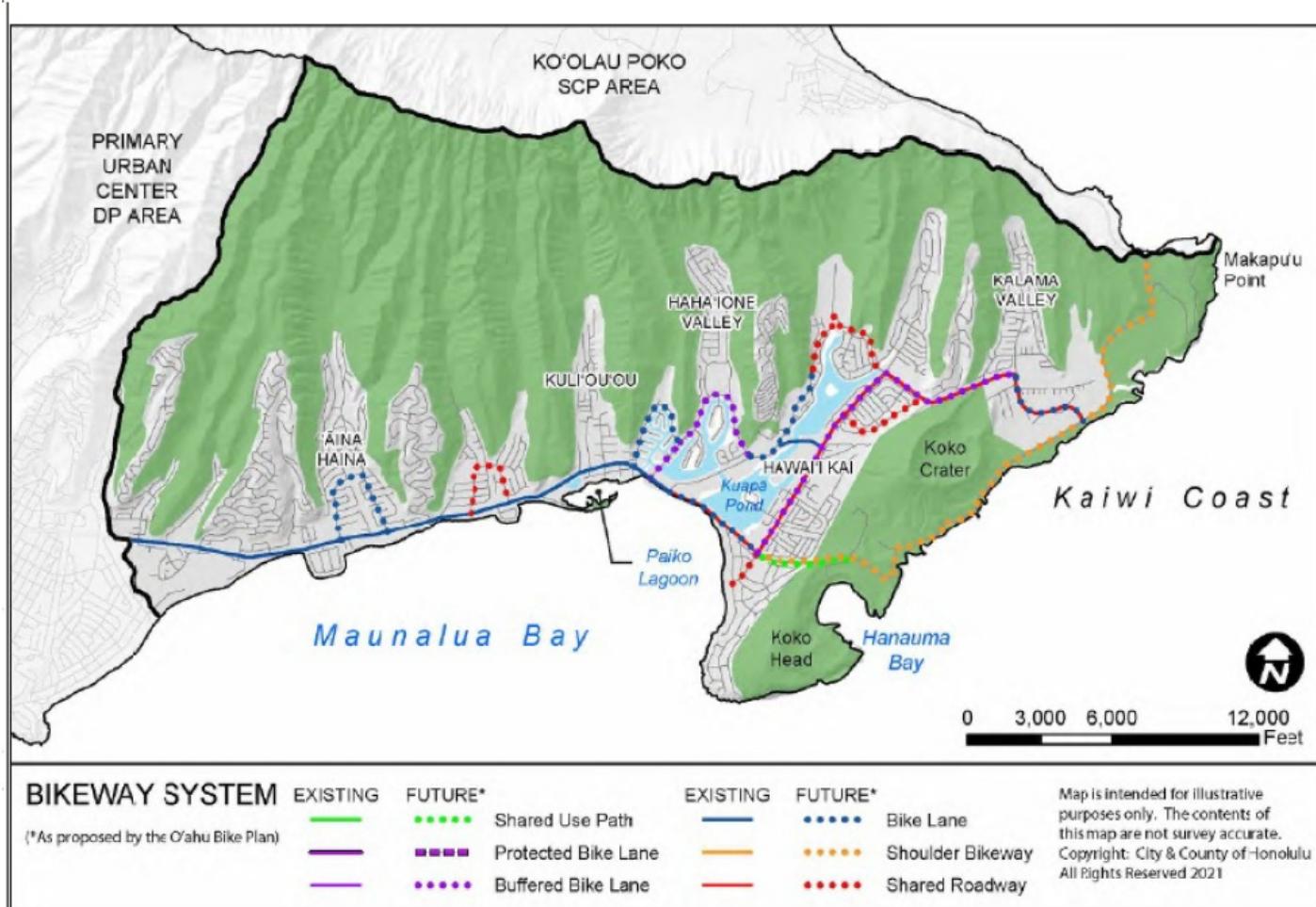
- **Shared Use Paths** – Shared use paths are two-way facilities that are physically separated from motor vehicle traffic and used by bicyclists, pedestrians, and other non-motorized users. Shared use paths are often located in an independent alignment, such as a greenbelt or abandoned railroad right-of-way, and are used for recreation, leisure, and commuting.

- **Protected Bike Lanes** – Protected bike lanes (also known as separated bike lanes or cycletracks) are an exclusive bikeway facility that combines the user experience of a shared use path with the on-street infrastructure of a conventional bike lane. They are physically separated from motor vehicle traffic and distinct from the sidewalk.
- **Buffered Bike Lanes** – Buffered bike lanes are created by painting a flush buffer zone between a bike lane and the adjacent travel lane. While buffers are typically used between bike lanes and motor vehicle travel lanes to increase bicyclists' comfort, they may also be provided between bike lanes and parking lanes to discourage bicyclists from riding too close to parked vehicles.
- **Bike Lanes** – Bike lanes provide an exclusive space for bicyclists in the roadway through the use of lines and symbols. Bike lanes are for one-way travel and are normally provided in both directions on two-way streets, and on one side of a one-way street. When roadway width is limited and the road is sloped, a bike lane may be provided in only the uphill direction. This is referred to as a climbing lane.
- **Shoulder Bikeways** – Shoulder bikeways are typically reserved for rural road cross-sections. Paved shoulders provide a range of benefits: they reduce motor vehicle crashes; reduce long-term roadway maintenance; ease short-term maintenance, such as debris clearing; and provide space for bicyclists and pedestrians.
- **Shared Roadways** – Shared roadways are bikeways where bicyclists and motor vehicles are expected to share the same travel lane. They are denoted by pavement marking (sharrows) and/or signage. They are typically used in locations with low traffic speeds and volumes or as a temporary solution on constrained higher-traffic streets.

In East Honolulu, the existing bikeway system consists of a bike lane along Kalaniana'ole Highway from Kāhala ('Āinakoa Street) to Hawai'i Kai (Keāhole Street); a signed shared roadway along Kalaniana'ole Highway from Keāhole Street to Lunalilo Home Road; a signed roadway along Lunalilo Home Road to Hawai'i Kai Drive; and a bike lane along Wailua Street between Hawai'i Kai Drive and Lunalilo Home Road. (see Exhibit 4-1).

The State's **Bike Plan Hawai'i** proposes substantial additions to East Honolulu's bikeway system. Proposed signed shared roadways would be included on various roadways extending into 'Āina Haina, Niu Valley, Haha'ione Valley, and Hawai'i Kai (Maunalua). A signed shared roadway is proposed along the Hawai'i Kai Drive-Kealahou Street corridor and along 'Anali'i Street and Po'olā Street. Kalaniana'ole Highway from Lunalilo Home Road, past Hanauma Bay and Sandy Beach, to Makapu'u is recognized as a candidate for a shared-road shoulder bikeway. Such a bikeway would take advantage of the State's scenic Maunalua-Makapu'u Scenic Byway.

#### Exhibit 4-1: Bikeway System



#### 4.1.4 GENERAL POLICIES

The following general policies support the vision for complete streets, age-friendly communities, and a multi-modal transportation system in East Honolulu:

- Maintain East Honolulu's role as a predominantly residential urban fringe area with limited future growth by designing a

transportation system that provides:

- Adequate and comfortable access between communities, shopping, and recreation centers in East Honolulu.
- Improved access to adjacent areas.
- Adequate person-carrying capacity for peak-period commuting to and from work in the Primary Urban Center for all modes of travel.
- Reduce reliance on the private passenger vehicle through the implementation of the findings and recommendations found in the Statewide Pedestrian Master Plan, the Honolulu Complete Streets Design Manual, the Bike Plan Hawai'i, the O'ahu Bike Plan, the O'ahu Pedestrian Plan, and the Honolulu Age-Friendly City Action Plan.

#### 4.1.5 PLANNING GUIDELINES

- **Commuter Travel** – For commuter trips the objective is to minimize the impact of population growth on travel times and improve safety of all commuters.
  - Provide improved services and facilities for express buses, such as more frequent and more comfortable vehicles.
  - Expand improved park-and-ride facilities, including possible relocation and provision of compatible accessory uses.
  - Promote ridesharing and vanpooling.
  - Increase person-carrying capacity on Kalaniana'ole Highway for commuter travel without expanding automobile rights-of-way by constructing facilities to increase the safety and comfort of users of active modes of travel.
  - Decrease the use of single-occupant, or even zero-occupant, automobile trips during commute times by:
    - Converting regular automobile lanes into additional HOV lanes during regular or rush hour times.
    - Increasing the vehicle occupancy requirement of the use of the HOV lane.
  - Improve pedestrian and bicycle conditions along Kalaniana'ole Highway to improve safety and mobility, consistent with the Statewide Pedestrian Master Plan.
- **Local Trips** – For local trips, the objective is to promote alternative modes of travel and less automobile travel.
  - Modify rights-of-way design in selected areas, particularly along designated bike lanes and routes, principal pedestrian routes and street crossings, and near bus stops. Change travel way widths or curb radii, pavement texture, introduce appropriate signage, and provide generous landscaping for both aesthetics and stormwater retention. Implement lane striping during repaving projects.
  - Design on-street and off-street parking facilities more efficiently to encourage joint use of parking in ways that ensure public safety and better manage stormwater, sediment, and toxic pollutant runoff.
- **Streetscape** – Roadway design should be altered to encourage greater bicycle and pedestrian use and support users of all ages.
  - Provide more convenient pedestrian paths within commercial centers, transit stops, parks, beaches, schools, senior living facilities, and other high-activity areas to encourage people to walk short distances for multi-purpose trips instead of moving the vehicle to another parking facility.
  - Ensure street furniture is comfortable and does not impede sidewalk movement. See the Complete Streets Design Manual.
  - Ensure all lighting is shielded and pointed downward to protect the night sky, reduce light pollution, and protect wildlife, particularly in key areas such as along the Kaiwi coastline. Any additional lighting or changes to existing lighting should maintain or improve night sky visibility while also creating places that feel safe and secure.
  - Discourage the use of gated communities and encourage existing gated communities to improve adjacent streetscape and disguise the public-private boundary.
  - Support the Safe Routes to School program and projects to improve pedestrian and bicycle links around schools.
  - Preserve and enhance existing crosswalks. Install additional enhanced crosswalks, especially near open spaces, parks, shopping centers, and other public gathering places.
  - Include more landscaping along roadways to improve aesthetics, to manage stormwater, sediment, and toxic pollutant runoff, and to filter oils and sediment from the roadway improving downstream water quality.
  - Implement a pedestrian system around the Hawai'i Kai Marina to improve accessibility to various waterfront locations (see Section 3.1.2.6).
  - Implement traffic-calming measures in appropriate residential areas to reduce average motor vehicle speeds and make vehicular routes less direct, thereby increasing safety and enjoyment for pedestrians and bicyclists.
  - Design on-street and off-street parking facilities more efficiently to encourage joint use of parking in ways that ensure public safety and better manage stormwater, sediment, and toxic pollutant runoff.
- **Resiliency** – Roadway design, particularly along Kalaniana'ole Highway in the vicinity of Kuli'ou'ou, should take into account the anticipated impacts of sea level rise to ensure safe and efficient access between neighborhoods is maintained.

#### 4.2 WATER ALLOCATION AND SYSTEMS DEVELOPMENT

##### 4.2.1 OVERVIEW

In 1987, the State enacted the Water Code (HRS Chapter 174C) in order to protect, control, and regulate the use of the State's water

resources. This Code is implemented through the **Hawai'i Water Plan**, which addresses water conservation and supply issues on a statewide level by incorporating county water plans and water-related project plans.

The **O'ahu Water Management Plan** (OWMP), last published in 2008, is the City and County of Honolulu's component of the **Hawai'i Water Plan**. The OWMP sets forth strategies to guide the State Commission on Water Resource Management (CWRM) in planning and managing O'ahu's water resources. The BWS's **Water Master Plan** was adopted by the Board in October 2018. The Water Master Plan is a comprehensive "living" document that will guide future water system improvements.

Another component of the **Hawai'i Water Plan** is the **Water Resource Protection Plan** (2019). According to the CWRM, "the objective of the **Water Resource Protection Plan** is to protect and sustain ground and surface water resources, watersheds, and natural stream environments statewide. Such protection requires a comprehensive study of occurrence, sustainability, conservation, augmentation, and other resource management measures."

The BWS has begun the development of the **East Honolulu Watershed Management Plan**, one of eight district water management plans that comprises the **O'ahu Water Management Plan**. The **East Honolulu Watershed Management Plan** will detail any new water source development or redistribution changes that would impact East Honolulu's water importation from Primary Urban Center or Windward water sources.

In East Honolulu, potable water is primarily supplied by the BWS. Between 2013 and 2017, East Honolulu consumed about 6 percent of the island wide potable water, a total 8.4 mgd, down from 9.3 in 2010. According to the BWS, by 2040 East Honolulu will continue to experience a similar average demand for potable water of approximately 8.6 mgd due to continued conservation efforts and little to no anticipated population growth.

Previously, BWS identified several potential well sites in the Wai'alea East and West aquifers that could provide sufficient water supply for East Honolulu. The Wai'alea West aquifer has a sustainable yield of 2.5 mgd, of which 2.797 mgd is permitted and 1.75 mgd is used. The Wai'alea East aquifer has a sustainable yield of 2 mgd, of which 0.79 mgd is permitted and 0.16 mgd is used. The balance of available supply consists of low-yield, very expensive wells.

For the near term, BWS does not have plans to develop any groundwater sites in East Honolulu due to decreasing demand and economic feasibility. Other management strategies identified in the OWMP include water conservation, groundwater development in outlying areas, surface water development, desalination, and water recycling. Although the BWS would be responsible for the development of any new wells, the State CWRM has final authority in all matters regarding administration of the State Water Code.

Projected decreases in rainfall due to climate change will also encourage adaptations and redevelopments which conserve potable water and develop alternative non-potable water sources.

#### **4.2.2 GENERAL POLICIES**

General policies pertaining to East Honolulu's potable and non-potable water systems are as follows:

- Integrate management of all potable and non-potable water sources, including groundwater, stream water, stormwater, and effluent, following State and City legislative mandates.
- Adopt and implement water conservation and stormwater management practices, in the design of redevelopment projects and the modification of existing uses, including landscaped areas.
- Research and prepare for the potential impacts of sea level rise on ground water aquifers and water supply infrastructure.

#### **4.2.3 PLANNING GUIDELINES**

- **Development and Allocation of Potable Water**– BWS will coordinate development of potable water sources and allocation of all potable water intended for urban use on O'ahu.
- **Certification of Capacity** – BWS will certify that adequate potable and non-potable water is available in order for a new residential or commercial development to be approved.
- **Water Conservation Measures** – Conserve potable water by implementing the following measures, as feasible and appropriate:
  - Encourage the use of low-flush toilets, flow constrictors, and other water-conserving devices in commercial and residential redevelopments.
  - Encourage the use of indigenous, drought-tolerant plants and drip irrigation systems in landscaped areas and promote stormwater retention and infiltration on-site.
  - Encourage timely leak repair for distribution systems.
  - Encourage the use of tertiary-treated recycled water for the irrigation of golf courses and other landscaped areas where this would not adversely affect potable groundwater supply.
  - Expand use of reclaimed water in State and County Facilities in accordance with HRS 174C-31.
  - Encourage use of reclaimed water in redevelopment projects.
  - Require the use of low-impact development standards for any significant new construction or redevelopment in order to hold stormwater on-site instead of discharging it into storm drains or stream channels.
  - Provide incentives for owners of existing homes to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.

#### **4.3 WASTEWATER TREATMENT**

East Honolulu is divided into two wastewater service areas:

- The western portion of the region, from Kāhala to Niu Valley, is part of the East Māmala Bay service area. Wastewater from this service area is pumped to the Sand Island Wastewater Treatment Plant (WWTP) via the Ala Moana wastewater

pump station.

- From Kuli'ou'ou eastward, sewage is pumped to the privately operated East Honolulu Wastewater Treatment Plant.

#### 4.3.1 SAND ISLAND WASTEWATER TREATMENT PLANT

The Sand Island WWTP had an original design capacity of 82 mgd average flow. In 2000, expansion projects were begun that will increase the daily average plant capacity from 82 mgd to 90 mgd and will increase wet weather capacity from 210 mgd to 270 mgd. Some components of the collection system, including sewer lines and pump stations, are at or close to 100 percent capacity. Between 2016 and 2040, the Department of Environmental Services (ENV) projects that nearly all of the increase in wastewater flows at the Sand Island WWTP will be from the Sand Island sewer shed.

Wastewater flow generated in East Honolulu, specifically from the Kāhala-Niu Valley sewer shed, is only a very small portion of the total flow to Sand Island and is projected to increase by less than 3 percent between 1995 and 2020. Therefore, the projected increase from East Honolulu flows will have a negligible impact on capacity demand at the Sand Island WWTP. In order to meet future demand throughout the area served by the Sand Island WWTP, the **East Māmala Bay Final Wastewater Facilities Plan** (1993) recommends a combination of increasing capacity and reducing flows via water conservation and rehabilitation projects.

During resurfacing of Kalaniana'ole Highway, a temporary emergency sewer line was placed above ground within the median. This temporary line has been replaced with a new permanent underground line.

#### 4.3.2 EAST HONOLULU WASTEWATER TREATMENT PLANT

The privately owned East Honolulu WWTP opened in 1965 and is located on the mauka side of Kalaniana'ole Highway near Sandy Beach. The State Public Utilities Commission requires that the plant accept wastewater from public or private sources in the service area.

The plant primarily collects wastewater from homes in the Hawai'i Kai (Maunalua), Kuli'ou'ou, Paikō, and Portlock communities. Some wastewater is also received from commercial users around Koko Marina. The plant serves about 37,000 people, or 74 percent of East Honolulu's 2010 population.

The East Honolulu WWTP is a partial-tertiary treatment facility. The plant's design capacity is 5.2 mgd with average flows at approximately 4.5 mgd. The plant processes about 80 gallons per capita per day and removes up to 97 percent of biological oxygen demand effluents. Pipes along Lunalilo Home Road have been relined and the treated effluent is discharged via a 36-inch outfall, 1,400 feet off Sandy Beach at depths between 29 and 45 feet. The receiving waters are classified as "Class A" (generally dry, open coastal water) and "Class II" (marine bottom type) by the State Department of Health (DOH). Biosolids from the plant are dried and taken to the Waimānalo Gulch landfill.

Flows from Kuli'ou'ou Valley are pumped via the Kuli'ou'ou Wastewater Pump Station (WWPS) to the Hawai'i Kai system under an existing agreement between the City and East Honolulu Community Services, the private company that owns and operates the Hawai'i Kai system and the East Honolulu WWTP. The average daily flow from the Kuli'ou'ou WWPS is about 0.50 mgd and is not projected to increase over the next 25 years. An engineering study prepared by ENV in 1999 recommended that the current system for disposal of Kuli'ou'ou sewage flows should continue with the wastewater pumped to the Hawai'i Kai disposal system. Some tributary collection pipes have been rehabilitated. A primary objective is to prevent wastewater spills and provide adequate collection and transmission capacity to accommodate projected high rainfall/peak flow conditions.

Under the State of Hawai'i's rules and guidelines for wastewater systems and the treatment and use of reclaimed water, recycled water from the wastewater facility can be used for irrigation purposes. A 2 mgd filtration and disinfection facility has been built to produce tertiary treated R-1 rated recycled water, which can be used without restriction for irrigation purposes. The State authorized the Hawai'i Kai Golf Course to use this recycled water from the East Honolulu WWTP for irrigation. However, recycled water is not currently being used for golf course irrigation due to its high salinity, but this problem may be mitigated in the future, thereby enabling the use of recycled water.

#### 4.3.3 CESSPOOLS

In addition to the majority of homes that are connected to the two sewer systems, there are many homes in East Honolulu which are served by cesspools or septic tanks with leaching fields. Many locations that host cesspools in East Honolulu feature critically narrow depths to groundwater and/or are located within 200 feet of a shoreline.

Cesspools do not treat sewage effluent and inject raw sewage into groundwater, which has the potential to spread disease and contaminate recreational waters. The DOH has identified limited vertical and horizontal distances to water as being one of the main factors that increase the potential of contamination. This is because unsaturated soil provides the primary method of filtering cesspool effluent. Further, as sea level continues to rise, this method of effluent filtration will be progressively hindered as vertical and horizontal distances to water decrease or are lost altogether.

State rules implemented in 2015 incentivize the upgrade of cesspools to sewer or septic systems. However, in areas that feature narrow depths to groundwater, septic tanks are known to buoy, which causes structural damage to the septic system and mixing of effluent with surrounding waters.

#### 4.3.4 GENERAL POLICIES

The following general policies apply to wastewater treatment in East Honolulu:

- Connect all wastewater produced by urban uses in East Honolulu to a publicly regulated or municipal sewer service system.
- Implement, where feasible, water recycling as a water conservation measure.
- Provide buffer zones and landscape elements between the East Honolulu WWTP and adjacent residential designated areas in order to mitigate possible visual, noise, and odor impacts.
- Connect homes to one of the two existing sewer systems. Support conversion efforts and upgrades to individual wastewater systems where connections are not feasible.

#### 4.3.5 PLANNING GUIDELINES

- **Water Recycling** – Encourage or require, as feasible and appropriate, the use of recycled water from the East Honolulu

WWTP as a source for irrigating golf courses and other uses compatible with the Board of Water Supply's rules and guidelines for the treatment and use of recycled water.

- **Private Operation of the East Honolulu WWTP** – Unless there is a compelling reason and a mutually satisfactory agreement between the City and the private operator to incorporate this treatment plant within the municipal wastewater treatment system, keep the East Honolulu WWTP under private operation and under the regulatory supervision of the State Public Utilities Commission and the State Department of Health.
- **Buffer Zones and Landscape Elements** – Provide adequate horizontal separations and landscape elements (e.g. berms and windrows) between the East Honolulu WWTP and adjacent residential designated areas. Site-specific studies should be conducted to determine the width of the buffer zone and specific types of landscaping elements to use.
- **Water Quality** – Reduce groundwater contamination that may be exacerbated by climate change and sea level rise through cesspool conversion and wastewater system improvements in East Honolulu.

#### 4.4 ELECTRICAL AND COMMUNICATIONS SYSTEMS

Hawaiian Electric Company forecasts that increased demand will create a need for additional island wide power generation capacity by 2020. Growth policies in the [General Plan](#) direct significant residential growth to the Primary Urban Center DP, 'Ewa DP, and Central O'ahu Sustainable Communities Plan Areas. East Honolulu is designated as an urban fringe area and is projected to have limited future population growth. As such, East Honolulu will not be a major source of island wide future power demand.

In 2014 Hawai'i became the first state in the nation to commit to having a 100 percent renewable portfolio standard by the year 2045. Part of this goal will be achieved by reducing electric energy consumption statewide by 4,300 gigawatt-hours by 2030. Petroleum use accounts for two-thirds of the state's overall energy usage. Strategies shall focus on redevelopment projects that increase residential densities in and around town centers which will help minimize automobile use and thereby support people who choose to walk, bike, and use public transit.

Antennas have been around as long as we have had radio and television services. Antennas associated with communication purposes have grown tremendously, especially since the U.S. introduction of mobile communication devices in the early 1980s. While the telecommunications industry has provided more convenient communication capabilities for individuals, it has also increased public agencies' ability to provide faster and more efficient response to those in need, particularly on an emergency basis.

While the benefits of the telecommunications industry cannot be disputed, communities have opposed the antennas due to aesthetic impacts, particularly on public views and on the neighborhood character. Their visibility has increased, especially where antennas are mounted on free-standing towers.

The public has also raised concerns about the environmental effects of electromagnetic field exposure associated with radio transmissions, as evidenced by the presence of antennas. However, the Federal Communications Commission (FCC) is responsible for evaluating the human environmental effects of radio frequency (RF) emissions from FCC-regulated transmitters. The federal guidelines specifically preclude local decisions affecting environmental effects of radio frequency emissions, assuming that the provider is in compliance with the Commission's RF rules.

##### 4.4.1 GENERAL POLICIES

The following general policies pertain to electrical and communications systems:

- Design system elements such as sub-stations and transmission lines to avoid or mitigate any potential adverse impacts on scenic and natural resource values.
- Encourage co-location of antennas; towers should host the facilities of more than one service provider to minimize their proliferation and reduce visual impacts.
- Mount antennas onto existing buildings or structures so that public scenic views and open spaces will not be negatively affected. However, except for the occupant's personal use, antennas on single-family dwelling roofs in residential districts are not appropriate.
- Use stealth technology (i.e. towers disguised as trees), especially on freestanding antenna towers to blend in with surroundings.
- Relocation of electrical and other overhead utility lines underground wherever feasible.
  - The design in undergrounding utilities must account for the potential adverse impacts of sea level rise impacting increases in the elevation of the water table and other groundwater inundation.

##### 4.4.2 PLANNING GUIDELINES

- **Facility Routing and Siting Analysis** – If any new or relocated substations or transmission lines are necessary, site such routes or facilities to avoid or mitigate potential adverse impacts on scenic and natural resources. (Although these facilities are not shown on the Public Facilities Map, their routes and sites are reviewed and permitted by administrative agencies of the City.) Utility lines should be located underground wherever feasible.

#### 4.5 SOLID WASTE HANDLING AND DISPOSAL

Solid waste collection, transport and disposal operations on the island are provided by the City Department of Environmental Services, Refuse Collection and Disposal Division (primarily single-family curbside pickup) and private haulers (primarily commercial and multi-family pickup). In addition, individuals can haul their own trash to one of six convenience centers around O'ahu. The collected refuse is ultimately disposed of either in a waste-to-energy incineration facility or sanitary landfill. Incineration, accounting for approximately 50 percent of the island's waste disposal, is done at the H-POWER plant, located in 'Ewa. The City has instituted recycling and other waste diversion programs in an effort to extend the useful life of this landfill.

The City is in the process of determining the site of a new landfill to supplement or replace the Waimānalo Gulch Sanitary Landfill in 'Ewa, O'ahu's only landfill for municipal solid waste. A Landfill Site Advisory Committee identified and ranked 11 potential landfill sites in 2012, including Upland Hawai'i Kai, ranked 10th. Since the publication of the 2012 report, the Upland Hawai'i Kai area was purchased to be used for preservation and protection in contribution to the Kaiwi Scenic Shoreline.

East Honolulu has no convenience centers where residents may dispose of large bulky items, although curbside pickup of bulk items is available. The Ke'ehi Transfer Station will accept household rubbish and yard waste. For East Honolulu residents, the closest facilities for the disposal of bulky items are at Kapa'a and the Waimānalo Convenience Center. There are no plans to locate a convenience center, another transfer station, or a landfill operation in East Honolulu. There is currently a recycling service station that accepts HI-5 beverage containers and other non-HI-5 material near the Hawai'i Kai Park and Ride.

#### 4.5.1 GENERAL POLICIES

The following general policy applies to solid waste handling and disposal in East Honolulu:

- Promote East Honolulu's role in the City's long-term efforts to establish more efficient waste diversion and collection systems as waste management and technological innovations occur. However, the region is not expected to contribute significantly to future increases in O'ahu's solid waste management demands and the only site in East Honolulu deemed suitable for the processing or disposal of solid waste on an island wide scale has been purchased for the purpose of preservation.

#### 4.5.2 PLANNING GUIDELINES

Planning guidelines related to solid waste handling and disposal are as follows:

- **Recycling Programs and Facilities** – Promote the recycling of waste materials by providing expanded collection facilities and services, and public outreach and education programs.
- **Efficient Solid Waste Collection** – Expand the use of automated refuse collection in residential areas to ensure provision of adequate solid waste collection. Have residents pay their fair share of all costs needed to ensure provision of adequate solid waste collection facilities.

### 4.6 DRAINAGE SYSTEMS

The streams that drain the valleys of East Honolulu include Wai'alaе Iki Stream, Wiliwilinui Stream, Wailupe Stream, Niu Stream, and Kuli'ou'ou Stream. These streams begin in the Ko'olau Range and discharge into Maunalua Bay. The drainage basins are long and narrow and range from 0.3 to 3.2 square miles in area. The upper reaches of the basins are very steep, while the lower reaches are almost flat.

Several drainage ways have been prone to flooding during more intense rainstorms. Niu Valley, Kuli'ou'ou Valley, and Haha'ione Valley, in particular, experienced severe flooding during the New Year's Eve flood of 1987. Heavy rainfall at the head of the valleys, combined with falling rocks and debris, overwhelmed the capacities of the concrete-lined stream channels. Flooding has been exacerbated by residents dumping items into drainageways as well as overgrown vegetation. Along the Niu and Haha'ione drainage ways, debris-clogged bridges and culverts contributed significantly to the flooding problems.

A federal reconnaissance study found that the Wailupe Stream faces similar drainage problems. According to the study, the Wailupe drainage basin's existing flood control system is unable to accommodate debris flows. Furthermore, the existing stream channel is incapable of handling clear water flood discharges greater than about a 20- year recurrence interval. Among the preliminary improvement alternatives under consideration are channeling 8,900 feet of Wailupe Stream from the mouth to the existing boulder basin, enlarging the existing boulder basin, and constructing a new debris basin in Kulu'i Gulch.

In 2003, the U.S. Senate appropriated \$300,000 for a Wailupe Stream Flood Control Study to be undertaken by the Army Corps of Engineers. In 2004, the State House of Representatives approved \$200,000 for flood control Preconstruction Engineering and Design for Wailupe Stream. In 2005, the U.S. House of Representatives approved \$400,000 to support a study into reducing the size of the Wailupe Stream flood plain. The Congressional Appropriations Committee recommended \$860,000 in 2006 for investigative planning of flood problems related to Wailupe Valley Stream.

In the area between Kamehame Ridge and the Hawai'i Kai Golf Course, a 40-foot-wide concrete channel alters the natural drainage pattern. Water collected from this area is carried along the drainage way that passes under Kalaniana'ole Highway and into Ka'ili'ili Inlet.

#### 4.6.1 GENERAL POLICIES

General policies pertaining to East Honolulu's drainage system are as follows:

- Complete the proposed study of local flooding and drainage problems as soon as possible. The study should include the potential impacts to drainage systems from climate change and sea level rise.
- Include a phased plan and implementation program for drainage system improvements.
- Promote drainage system design that emphasizes control and minimization of non-point source pollution.
- Keep drainage ways clear of debris to avoid the flooding problems.
- Join with Federal, State, and City agencies and local landowners and stakeholder organizations to create a Watershed Partnership to effectively manage the East Honolulu ahupua'a to retain stormwater and keep sediment and pollutants from entering streams and being transported to the ocean.
- Improve downstream water quality, particularly in sources leading to Maunalua Bay, through the restoration of channelized streams and wetlands, the installation of upland detention basins, implementation of low-impact development standards, and the encouragement of planting and maintenance of vegetation along drainage ways. Where possible, drainage ways should also provide passive recreation benefits.
- Identify repetitive loss areas from flooding and implement greater restrictions to rebuilding in these areas.

#### 4.6.2 PLANNING GUIDELINES

Guidelines to direct the maintenance and improvement of East Honolulu's drainage systems include:

- **Debris Basins** – Conduct maintenance of boulder and debris basins at least twice a year and after major storms to prevent the blocking of downstream channels during major storm events.
- **Recreational Areas** – Integrate planned improvements to the drainage system into the regional open space network by

emphasizing the creation of passive recreational areas, and recreational access for pedestrians and bicycles without jeopardizing public safety.

- **Drainage Improvements** – Design and execute drainage improvements in a manner which protects natural resource and aesthetic values of the stream to the greatest extent possible, consistent with the guidelines expressed in Section 3.1.2.4.
- **Drainage Management** – Keep drainage corridors clear of debris to avoid the flooding problems that have occurred in the past.

#### 4.7 SCHOOL FACILITIES

Public schools in East Honolulu are part of the Department of Education's (DOE) Honolulu District. There are four public elementary schools in East Honolulu, one intermediate school (Niu Valley Intermediate), and two high schools (Kalani High School and Kaiser High School). 2015-2016 enrollment figures for these schools show that they are operating under capacity (see Table 4-1). Wailupe Valley Elementary School has closed while enrollment at other elementary schools in East Honolulu has remained constant or declined. For this reason, the DOE does not have plans for new school construction in East Honolulu. Additional demand generated by future residential developments can be absorbed by the existing facilities. If necessary, school boundaries could be adjusted to allocate additional demand to schools that have the most available capacity.

Although new public school construction is not anticipated for East Honolulu, new demand will still create associated expenses. At some schools, such as Koko Head Elementary, excess space is utilized for DOE offices. Reclaiming this space for classroom use would involve renovation expenses in addition to expenses related to relocating the DOE office personnel to other facilities.

Table 4-1		
Public School Enrollment, 2018-2019		
Facility	Enrollment	Capacity (2017)
<b>Table 4-1</b>		
<b>Public School Enrollment, 2018-2019</b>		
<b>Elementary</b>		
‘Āina Haina	465	664
Haha‘ione	523	448
Koko Head	281	442
Kamilo Iki	385	404
<b>Intermediate</b>		
Niu Valley	858	682
<b>High School</b>		
Kalani	1,422	1,015
Kaiser	1,161	1,057
<b>Total</b>	<b>5,095</b>	<b>4,712</b>
Source: DOE, Facilities Development Branch (2019)		

While the demand for classroom space has been declining in some sections of East Honolulu, needs could change significantly, even with a relatively slow rate of population growth if there is a future shift in household characteristics as younger adults with school-age children replace or move in with elderly residents in single family dwellings. To make more efficient use of these facilities, as well as DOE fiscal resources, some of the unneeded classroom space could be converted for temporary use as administrative office space for DOE personnel. This largely reflects a strategy that DOE has already adopted. The DOE can collect school impact fees from new residential development to mitigate expenses related to a change of facilities.

There are also several independent schools in East Honolulu, listed in Table 4-2, which are either religious-affiliated or based on a particular educational philosophy. While such schools will probably continue their presence in East Honolulu, they are not expected to increase significantly in number or size. Holy Trinity School and Koko Head Prep and Technical Academy have closed. The scale and location of existing campuses are generally compatible with the residential character of the region.

Table 4-2			
Private School Enrollment, 2019-2020			
Facility	pre-K	K-8	9-12
<b>Table 4-2</b>			
<b>Private School Enrollment, 2019-2020</b>			
Facility	pre-K	K-8	9-12
Holy Nativity School	-	135	-
Honolulu Waldorf School	39	92	4

Star of the Sea Early Learning Center and Elementary School	190	159	-
Subtotal	229	386	4
Grand Total		619	

Source: DPP Phone survey in October 2019 to the respective schools.

#### 4.7.1 GENERAL POLICIES

General policies relating to school facilities are listed below:

- Approve new residential developments only after the DOE provides assurance that adequate school facilities, either at existing schools or at new school sites, will be available when the development is completed.
- Encourage more efficient use of DOE facilities with year-round scheduling.
- Require developers to comply with DOE school impact fee requirements and pay their fair share of all costs needed to ensure provision of adequate school facilities for the children living in their developments.

#### 4.7.2 PLANNING GUIDELINES

The following guidelines should be followed in planning and operating schools in East Honolulu.

- **Adaptive Reuse** – Encourage the DOE to continue its strategy of converting unneeded classroom space to temporary use as administrative office space for its personnel. This would make more efficient use of these facilities, while maintaining classroom space if there is a future shift in household characteristics as younger adults with school-age children replace, or move in with, elderly residents in single-family dwellings.
- **Shared Facilities** – Encourage the Department of Parks and Recreation to coordinate with the DOE on the development and use of athletic facilities such as playgrounds, play fields and courts, swimming pools, and gymnasiums where the joint use of such facilities would maximize use and reduce duplication of function without compromising the schools' athletic programs (see also Section 3.3.3). The DOE should coordinate structural design of school buildings with the Hawai'i Emergency Management Agency and the Department of Emergency Management so that these facilities may also be used as public hurricane shelters capable to minimally withstand winds from a Category 3 hurricane.
- **New Facilities** – Apply the guidelines for institutions in Section 3.6.3 if a new public or private school campus or a significant increase in enrollment capacity at one of the existing campuses is proposed.

### 4.8 CIVIC AND PUBLIC SAFETY FACILITIES

The City and County of Honolulu operates 10 Satellite City Halls island wide. These facilities offer many basic services for residents, including bus pass sales, bicycle and auto registration, and driver's license renewals. A Satellite City Hall to serve East Honolulu was established in the Hawai'i Kai Corporate Plaza in 2002.

The Honolulu Police Department (HPD) services East Honolulu out of the Main station on Beretania Street. Police protection for East Honolulu is provided largely through regular police patrols as required and is not directly related to the proximity of a police station. A new substation will not necessarily translate into an increased level of police presence or a more rapid response to calls; therefore, no new substation is recommended.

The Honolulu Fire Department (HFD) operates fire stations in Hawai'i Kai (Maunalua) and Wailupe. The Hawai'i Kai station is equipped with five-person engine and ladder trucks and a rescue boat. The Wailupe station also has a five-person engine. In addition, the Kaimuki station also serves parts of the Kāhala area. HFD has no immediate plans to establish any additional new stations in East Honolulu. As land use changes occur through development or redevelopment of older areas, as the demographic profile of the region changes, and as aquatic recreational activities increase, the facilities and staff needed by the HFD to serve East Honolulu may warrant reassessment.

Ambulance service, staffed by the City's Emergency Medical Services Division, is currently provided from each of the fire stations. As regional recreational activities along this eastern corridor of O'ahu increase, emergency medical services may need to be re-evaluated.

There are 12 emergency shelters and refuge centers located in East Honolulu which double as public buildings and parks when an evacuation is not in effect. East Honolulu residents are encouraged to shelter in place unless they are located within an evacuation zone, in an area that does not feel safe, or as otherwise instructed. Many emergency shelters are not rated to withstand the effects of intense windstorms and hurricanes and require upgrades. Public refuges also are not rated to withstand the effects of storms as they are merely designated areas setup to gather people temporarily displaced by an emergency situation.

Climate change and sea level rise are two threats to existing infrastructure which can cause disruption in a variety of services. Sea level rise can bring increased storm surges and consequent coastal erosion. Thus the impact of sea level rise will be felt well above the new mean sea level. It is prudent to analyze the possible impact of sea level rise and design projects and buildings that account for risk of sea level rise and its associated threats over their lifespan.

#### 4.8.1 GENERAL POLICIES

The following general policy pertains to public safety facilities:

- Provide adequate staffing and facilities to ensure effective and efficient delivery of basic governmental services and protection of public safety. Analyze the possible impact of sea level rise for new public and private projects in shoreline and low-lying areas and require, where appropriate and feasible, measures to reduce vulnerability and increase resiliency.
- Identify critical public and private infrastructure and important cultural and natural resources vulnerable to historic coastal hazards and impacts of climate change, and, working with local landowners, stakeholders, and State and Federal agencies, begin the work of protecting, adapting, or relocating the highest priority projects.
- Coordination between community organizations, businesses, residents, homeowners, and City, State and Federal agencies determine how to:

- Mitigate the anticipated threats from sea level rise;
- Plan for future infrastructure improvements; and
- Maintain existing connections, especially along Kalaniana'ole Highway where future flooding is anticipated to occur.
- The DPR coordinates with the DOE on the development and use of athletic facilities such as playgrounds, play fields and courts, swimming pools, and gymnasiums where the joint use of such facilities would maximize use and reduce duplication of function without compromising the schools' athletic programs (see also Section 3.3.3).
- Provide funding to support the structural design of school buildings, such as the cafeteria, gym, or music rooms, so that these facilities may also be used as public hurricane shelters capable of withstanding Category 3 hurricanes.
- Supplement the public emergency shelters by identifying private structures that could be used as public shelters, like churches, meeting the Federal Emergency Management Agency (FEMA) standards.
- Ensure accessibility for senior populations to public shelters, or to prioritize the restoration of services to where seniors and other vulnerable populations are sheltering-in-place.
- Develop a Community Resilience Hub in East Honolulu that will serve critical roles during and immediately following an emergency as well as enhance social resilience ahead of a disaster.

#### **4.8.2 PLANNING GUIDELINES**

These guidelines are intended to carry out the above public safety policies:

- **Staffing Capacity** – Approve new development only if adequate staffing and facilities for fire, ambulance and police protection will be provided. If the development of any new substation is warranted, potentially near an entry to Hawai'i Kai (Maunalua), there is a preference that it be co-located with other emergency medical and transportation services.
- **Community Resilience Hub** – Establish and operate a center in East Honolulu in accordance with the recommendations of the O'ahu Resilience Strategy. In addition to post-disaster response and recovery operations, the centers will provide year-round community services.

### **5. IMPLEMENTATION**

Implementation of this Plan will be accomplished by:

- Limiting residential and nonresidential development to areas within the Community Growth Boundary to support the vision for East Honolulu, and protect agricultural and preservation lands in East Honolulu;
- Initiating zoning map and development code amendments to achieve consistency with the Plan's vision, and provide the means to implement the general policies and guidelines;
- Guiding public investment in infrastructure through functional plans that support the vision and policies of the Plan;
- Recommending approval, approval with modifications, or denial of developments seeking zoning, boundary and/or other development approvals based on how well they support the vision and policies of the Plan;
- Implementing the Plan priorities through the Public Infrastructure Map and the City's annual budget process;
- Evaluating progress in fulfilling the vision of the Plan every two years and presenting the results of the evaluation in the Biennial Report;
- Developing a network of Community Resilience Hubs; and
- Conducting a review of the vision, general policies, guidelines, and Capital Improvement Program (CIP) priority investments of the Plan every ten years and recommending revisions as necessary.

#### **5.1 PUBLIC FACILITY INVESTMENT PRIORITIES**

The vision for East Honolulu requires the cooperation of both public and private agencies in planning, financing, and improving infrastructure. The City must take an active role in planning infrastructure improvements, such as land acquisition and site improvements for parks in the Kaiwi coast, increase public access to the shoreline and mountain areas, provide for pedestrian, bicycle, and other transportation options, as well as improvements to wastewater and stormwater management systems.

#### **5.2 DEVELOPMENT PRIORITIES**

Projects to receive priority in the approval process are those which:

- Involve land acquisition and improvements for public projects that are consistent with the Plan vision, general policies, and planning guidelines;
- Respect the intent and purposes of the agriculture uses as described in Section 2.2.1 and delineated in this Plan;
- Have adequate required infrastructure in place before or upon completion of the project;
- Analyze the possible impact of sea level rise for new public and private projects near shoreline and low-lying areas and incorporate, where appropriate and feasible, measures to reduce risks and increase resiliency to impacts of sea level rise and coastal hazards;
- Involve applications for zoning and other regulatory approvals that are consistent with the Plan vision, general policies, and planning guidelines;
- Are located on vacant usable parcels and are consistent with the vision of this Plan as illustrated on Map A-2: Urban Land Use.

#### **5.3 SPECIAL AREA PLANS**

Special Area Plans provide more detailed policies and guidelines than the Sustainable Communities Plan for areas requiring particular attention. The form and content of Special Area Plans depend on what characteristics and issues need to be addressed in greater detail in planning and guiding development or use within the Special Area.

Special Area Plans can be used to guide land use development and infrastructure investment in Special Districts, Redevelopment Districts or Resource Areas. Plans for Special Districts would provide guidance for development and infrastructure investment in areas with distinct historic or design character or significant public views. Plans for Redevelopment Districts would provide strategies for the revitalization or redevelopment of an area. Plans for Resource Areas would provide resource management strategies for areas with particular natural or cultural resource values.

While there are no existing or proposed Special Area Plans within the [Plan](#) area, the State Department of Land and Natural Resources published a Master Plan for the 354-acre Kaiwi Scenic Shoreline. These parks, shown in light green on Map A-3: Public Facilities in Appendix A, will be designated as a Resource Area, given their rich recreational, educational and scenic resources.

The formation of a community-based redevelopment district would assist in preparing East Honolulu's infrastructure for the anticipated impacts of sea level rise and disasters and pay for implementing services and infrastructure similar to the way the Waikiki Business Improvement District formulates plans specific for the residents, visitors, and businesses in Waikiki. A community-based redevelopment district would develop special area plans to: direct development prior to and after a disaster, mitigate future adaptation costs and damages anticipated from climate change and disasters, and provide a mechanism for payment for needed services and infrastructure.

#### 5.4 FUNCTIONAL PLANNING

Functional planning is the process through which various City agencies determine needs, assign priorities, phase projects, and propose project financing to further implement the vision articulated in the [Plan](#). This process may take a variety of forms, depending upon the missions of the various agencies involved, as well as upon requirements imposed from outside the City structure, such as federal requirements for wastewater management planning. Typically, functional planning occurs as a continuous or iterative activity within each agency.

Through the functional planning process, City agencies responsible for providing, developing and maintaining infrastructure and public facilities, or for providing City services, review existing functional planning documents and programs. As a result of these reviews, the agencies then update, if required, existing plans or prepare new long-range functional planning documents that address facilities and service system needs. Updates of functional planning documents are also conducted to assure that agency plans will serve to further implement the [Plan](#), as well as to provide adequate opportunity for coordination of plans and programs among the various agencies.

Agencies with functional planning responsibilities (and representative plans) include:

- Board of Water Supply ([East Honolulu Watershed Management Plan and O'ahu Water Management Plan](#))
- Department of Budget and Fiscal Services (Consolidated Plan for Housing and Community Development Needs)
- Department of Community Services
- Department of Design and Construction
- Department of Environmental Services ([Solid Waste Management Plan and East Maunalua Bay Facilities Plan](#))
- Department of Parks and Recreation
- Department of Planning and Permitting
- Department of Transportation Services
- Honolulu Authority for Rapid Transportation
- Honolulu Emergency Services Department
- Honolulu Fire Department
- Honolulu Police Department
- O'ahu Metropolitan Planning Organization ([ORTP](#))

The number and types of functional planning documents will vary from agency to agency, as will the emphases and contents of those documents. A typical agency may develop a set of core documents such as:

- A resource-constrained long-range capital improvement program with priorities. A "resource-constrained" program is one that identifies the fiscal resources that can be reasonably expected to be available to finance the improvements.
- A long-range financing plan, with identification of necessary new revenue measures or opportunities.
- A development schedule with priorities for areas designated for earliest development.
- Service and facility design standards, including level of service guidelines for determining infrastructure adequacy.

Other documents may also be developed as part of an agency's functional planning activities, such as master plans for provision of services to a specific region of the island. In some cases, functional planning activities will be undertaken in cooperation with agencies outside the City structure, such as the transportation planning activities that are conducted in association with the O'ahu Metropolitan Planning Organization (OMPO).

Functional planning is intended to be a proactive public involvement process that provides public access to information about infrastructure and public facility needs assessments, alternatives evaluations, and financing. Outreach activities should involve Neighborhood Boards, community organizations, landowners, and others who may be significantly affected by the public facilities and infrastructure projects or programs to be developed to further implement the policies of the [Plan](#).

The functional planning process should be characterized by opportunities for early and continuing involvement, timely public notice, public access to information used in the evaluation of priorities, and the opportunity to suggest alternatives and to express preferences. The functional planning process provides the technical background for CIP and public policy proposals that are subject to review and approval

by the City Council.

## 5.5 REVIEW OF ZONING AND OTHER DEVELOPMENT APPLICATIONS

A primary way in which the vision of the Plan will guide land use will be through the review of applications for zone changes and other development approvals. Approval for all development projects should be based on the extent to which the project supports, conforms to and carries out the purposes of the respective policies and guidelines of the Plan.

Projects involving significant zone changes will require an Environmental Assessment (EA) or Environmental Impact Statement (EIS), which must include a Project Master Plan when 25 acres or more are involved. This is submitted to the Department of Planning and Permitting (DPP) for review and acceptance prior to initiation of the first zone change application for the project.

Zone change applications for zoning to permit urban uses on parcels outside the Community Growth Boundary or on parcels identified as part of the Open Space Network and zoned as Preservation Areas or Agriculture Areas, and indicated on Map A-1: Open Space, are not likely to be supported by the Director since development of such areas is not consistent with the Plan's vision and policies to retain these areas in non-urban uses.

A project will be considered to involve a significant zone change if:

- The application involves a zone change of 25 acres or more to any zoning district or combination of zoning districts, excluding Preservation and Agricultural zoning districts; or
- The project is more than 10 acres and involves a change from one zoning district to a Residential or Country zoning district; or
- The project is more than 5 acres and involves a change from one zoning district to an Apartment, Resort, Commercial, Industrial, or Mixed Use zoning district; or
- The project would have major social, environmental, or policy impacts, or cumulative impacts due to a series of applications in the same area.

The Director of the DPP will determine, based on review of the EA, whether an EIS (prepared in compliance with procedures for Chapter 343, Hawai'i Revised Statutes) will be required or whether a Finding of No Significant Impact (FONSI) should be issued. In applying for a zone change, the applicant must either:

- Receive a determination from the Director of the DPP that the project does not involve a significant zone change, or
- Submit an EA or EIS with the zone change application.

Before an application for a significant zone change can be accepted for processing by the DPP, the Applicant must either:

- Receive a FONSI from the Director of the DPP for a Final EA, or
- Receive an acceptance of a Final EIS for the project from the Director of the DPP.

All EA/EIS required for a significant zone change should include a Project Master Plan. The scope of the EA/EIS must cover, at a minimum, the specific development associated with a particular zone change application, but at the option of the applicant, may cover subsequent phases of a larger project.

Zone change applications for a project already assessed under the National Environmental Policy Act, Hawai'i Revised Statutes Chapter 343, Revised Ordinances of Honolulu Chapter 25 (Shoreline Management), or a preceding zone change application, will not require a new EA when the Director of the DPP determines that the desired zoning and land use generally conform to that described in the existing EA/EIS provided it meets the visions of the Plan.

### 5.5.1 ADEQUATE FACILITIES REQUIREMENT

All projects requesting zone changes shall be reviewed to determine if adequate public facilities and infrastructure will be available to meet the needs created as a result of the development. Level of Service Guidelines to define adequate public facilities and infrastructure requirements will be established during the Capital Improvement Program.

In order to guide development and growth in an orderly manner as required by the City's General Plan, zoning and other development approvals for new developments should be approved only if the responsible City and State agencies indicate that adequate public facilities and utilities will be available at the time of occupancy or if conditions the functional agency indicates are necessary to assure adequacy are otherwise sufficiently addressed.

The Department of Planning and Permitting, as part of its report on the consistency of a project with the Plan vision, general policies and guidelines, will review and summarize any individual agency's findings regarding public facilities and utilities adequacy which are raised as part of the EA/EIS process. The Department of Planning and Permitting will address these findings and any additional agency comments submitted as part of the agency review of the zone change application and recommend conditions that the Council may consider for inclusion that should be included in any Unilateral Agreement or Development Agreement to ensure adequacy of facilities.

## 5.6 TEN-YEAR SUSTAINABLE COMMUNITIES PLAN REVIEW

The Department of Planning and Permitting should begin a comprehensive review of the Plan ten years after adoption and should report its findings and recommended revisions to the Planning Commission and the City Council. It is intended the Community Growth Boundary will remain fixed through the 2040 planning horizon.

In the Ten-Year review, the Plan will be evaluated to determine if the regional vision, general policies, guidelines and implementing actions are still appropriate.

### 5.6.1 DEVELOPMENT PLAN COMMON PROVISIONS AND EXISTING LAND USE APPROVALS

This Plan will go into effect upon adoption by ordinance. At that time, the revised Plan will become a self-contained document. Land use approvals granted under existing zoning, Unilateral Agreements, and approved Urban Design Plans will remain in force and guide zoning decisions unless requests for amendments are submitted. At that time, the request will be reviewed against the vision and policies of the Plan. Otherwise, development can proceed in accordance with existing zoning, Unilateral Agreements, and approved Urban Design Plans.

Projects will be evaluated against how well they fulfill the vision of this amended [Plan](#) and how closely they meet the policies and guidelines established to implement that vision.

## 5.6.2 RELATION TO GENERAL PLAN POPULATION GUIDELINES

As required by Section 6-1508 of the [City Charter](#), the [Plan](#) implements the [General Plan](#) population distribution policies of the proposed [General Plan](#) (Population Objective C) as follows:

- **Policy 4:** Total population in the [East Honolulu Sustainable Communities Plan](#) area will account for approximately 5 percent of O'ahu's total population in 2040. This relatively small share of the island wide population is consistent with Population Objective C, Policy 1 and Policy 2, which is to facilitate the full development of the Primary Urban Center and direct development toward 'Ewa and Central O'ahu regions.
- East Honolulu's projected share of island wide population in 2040 implements Population Objective C, Policy 3, which is to manage physical growth and development in the urban-fringe and rural areas so that an undesirable spreading of development is prevented and that the suburban and country character of these outlying areas can be maintained.

The [General Plan](#) population distribution policies will continue to be used as a guide to direct the pattern of growth and development in the [Plan](#) area. Assessments of this performance will be reported in both the [Annual Report on the Status of Land use on O'ahu](#) and in the Ten-Year Review of the [Plan](#).

## 5.6.3 REVIEW AND REVISION OF DEVELOPMENT CODES

Current regulatory codes and standards should be reviewed and revised, as necessary, to maintain their consistency and effectiveness as standards to guide attainment of the objectives and policies envisioned for all Development Plan and Sustainable Communities Plan areas.

At the time such reviews are conducted, the following regulatory codes and standards may warrant further review and revision to ensure achievement of the vision for the East Honolulu region, as identified in this [Plan](#), as well as consistency with the [Plan](#):

- **Land Use Ordinance** – (Department of Planning and Permitting, pursuant to Chapter 21, Revised Ordinances of Honolulu). Zoning code standards and the zoning map for East Honolulu may need to be revised to further implement the policies and guidelines in the [Plan](#).
- **Subdivision Rules and Regulations** – (Department of Planning and Permitting, pursuant to Chapter 22, Revised Ordinances of Honolulu). Public right-of-way standards used for subdivision and consolidation of land need to be updated to reflect transportation policies and guidelines in the [Plan](#).
- **Traffic Standard Manual** – (Department of Transportation Services, July 1976, revised April 1979). Standards which are applied to local and most collector/connector streets need to be revised to reflect transportation policies and guidelines in the [Plan](#).
- **State Highways Division Procedures Manual** – (State Department of Transportation, Vol. 8, Chapter 5, Section 4) These State highway standards need to be reviewed to identify provisions which may conflict with the transportation policies and guidelines in the [Plan](#).
- **Complete Streets Design Manual** – (Department of Transportation Services, September 2016) These State and City standards summarize design treatments and application for streets and intersections and identify what areas need to be improved to implement the transportation policies and guidelines in the [Plan](#).
- **Standard Details for Public Works Construction** – (Honolulu Department of Public Works with Kaua'i, Maui, and Hawai'i County Departments of Public Works, September 1984) Engineering standards for the dedication of public works construction need to be revised to reflect policies and guidelines in the [Plan](#).
- **Storm Drainage Standards** – (Rules Relating to Water Quality of the Administrative Rules, Title 20, Chapter 3, and Department of Planning and Permitting Storm Drainage Standards, August 2017) Standards to incorporate grassed swales, detention and retention basins, and streamside vegetation need to be created to further implement the policies and guidelines for open space in the [Plan](#).
- **Park Dedication Rules and Regulations** – (Department of Land Utilization, pursuant to Chapter 22, Article 7, Revised Ordinances of Honolulu) Regulations need to be reviewed to determine if passive drainage systems which are designed for recreation use should count toward park dedication requirements, especially in cases where the area would exceed the amount of land that would be required under current rules and regulations.
- **Wastewater System Design Standards** – (Department of Environmental Services, Volumes I: July 2017, and Department of Wastewater Management, Volume II: 1984; Department of Environmental Services, Wastewater System Standard Details: July 2017; pursuant to Chapter 14, Revised Ordinances of Honolulu) These standards and ordinances may require review to further implement policies and guidelines in the [Plan](#).

In June 2006 the Department of Planning and Permitting initiated a study, the [Development Plans Implementation Program](#), to comprehensively review the rules, regulations and development standards of the City and State that directly affect land development. The purposes of this study were to:

- Review the pertinent sections of the City's Development Plan and Sustainable Communities Plan (DP/SCP) policies and guidelines that imply regulatory change to rules or regulations affecting land development and how they relate to the DP/SCP visions.
- Identify the specific elements of the rules and regulations that may require change in order to enable implementation of the various DP/SCP policies and guidelines.
- Prepare recommendations for revisions to specific rules, regulations and development standards that will support DP/SCP implementation.
- For DP/SCP policies and guidelines that are not addressed by existing City and State rules, regulations or development standards, make recommendations for the type of regulatory mechanisms that could address these discrepancies.

- Identify alternative regulatory approaches used by other comparable municipalities.
- Prepare regulatory alternatives and an approach to facilitate a transition from existing regulations to new or revised regulations.

The DPP has been updating the 2006 study with a new **Streamlining the DP/SCP Update Process** that will be finalized in 2020. Recommendations from that study may not be detailed in this **Plan** but will help to implement some of the findings and recommendations. Recommendations of that study will be incorporated in future **Plan** updates.

Revision and updating of the implementation tools was previously a part of the 1999 **Plan**, as well as several other DPs/SCPs. This revision and updating will now take place within the study noted above and, when enacted, will provide an improved regulatory framework to support the plans in fulfilling their respective vision.

## 5.7 IMPLEMENTATION MATRIX

This section provides a summary of the **Plan**'s policies and guidelines from Chapters 3 and 4 to help understand how the **Plan** will be implemented.

This implementation matrix presents the policies and guidelines as generalized and consolidated statements, and is not meant to be used as a complete summary of the vision, policies, and guidelines to be found in the body of the **Plan**. Chapter 2 should be consulted for the specific language of the vision elements. Chapters 3 and 4 should be consulted for the specific language of each policy or guideline.

The focus of the matrix is on showing how the vision, policies, and guidelines in the **Plan** relate to existing Federal, State, and City and County programs, who has responsibility for those programs, and what the agency's role is in implementing the **Plan**.

For each policy and guideline statement, the matrix identifies:

- The regulatory code or program for effecting implementation,
- Agencies with responsibility for implementation, and
- The role of each agency.

Implementation of the policies and guidelines will depend on each agency's priorities and availability of resources.

The DPP is either a regulator or an implementer for many **Plan** components, while simultaneously acting as the advocate for implementation of all the **Plan** vision elements and policies.

KEYS TO ABBREVIATIONS		
Programs	Agencies	Roles
<ul style="list-style-type: none"> <li>• AHF: Affordable Housing Fund Program</li> <li>• BC: Building Code, Ch. 16, Revised Ordinances of Honolulu (ROH)</li> <li>• BID: Business Improvement District, Ch. 34, ROH</li> <li>• CDBG: Community Development Block Grant, HUD</li> <li>• CFD: Community Facilities Districts, Ch. 34, ROH</li> <li>• CIP: Capital Improvement Program (State or City)</li> <li>• Conserv. Dist.: State Conservation District, Ch. 205, HRS</li> <li>• Conserv Plan: Soil and Water Conservation District Conservation Plan</li> <li>• CRMP: City Resource Management Program</li> <li>• CZM: Coastal Zone Management, Ch. 205A, HRS</li> <li>• Drain MP: Drainage Master Plan</li> <li>• EA/EIS: Environmental Assessment/Environmental Impact Statement, Ch. 343, HRS</li> <li>• ESA: Endangered Species Act</li> <li>• Flood Plan: Hawai'i General Flood Control Plan, DLNR</li> <li>• HOME: Home Investment Partnerships Act Program, HUD</li> <li>• Hist. Pres.: Historic Preservation, Ch. 6E, HRS</li> <li>• INRMP: Integrated Natural Resource Master Plan</li> <li>• LID: Low Impact Development Standards</li> <li>• LUO: Land Use Ordinance, Ch. 21, ROH</li> <li>• MBTA: Migratory Bird Treaty Act</li> <li>• NHTF: National Housing Trust Fund</li> <li>• NPDES: National Pollutant Discharge Elimination System</li> <li>• Ops: City Operating Budget</li> <li>• ORTP: O'ahu Regional Transportation Plan</li> </ul>	<ul style="list-style-type: none"> <li>• BFS: Department of Budget and Fiscal Services</li> <li>• BWS: Board of Water Supply</li> <li>• CWB: Clean Water Branch, DOH</li> <li>• CWRM: State Commission on Water Resource Management</li> <li>• BID Assoc.: Business Improvement district Association</li> <li>• DCS: Department of Community Services</li> <li>• DDC: Department of Design and Construction</li> <li>• DEM: Department of Emergency Management</li> <li>• DES: Department of Enterprise Services</li> <li>• DFM: Department of Facility Maintenance</li> <li>• DLM: Department of Land Management</li> <li>• DLNR: Department of Land and Natural Resources</li> <li>• DOA: State Department of Agriculture</li> <li>• DOD: U. S. Department of Defense</li> <li>• DOE: State Department of Education</li> <li>• DOH: State Department of Health</li> <li>• DOT: State Department of Transportation</li> <li>• DPP: Department of Planning and Permitting</li> <li>• DPR: Department of Parks and Recreation</li> <li>• DTS: Department of Transportation Services</li> <li>• ENV: Department of Environmental Services</li> <li>• EPA: Environmental Protection Agency</li> <li>• HEKO: Hawaiian Electric Company</li> <li>• HFD: Honolulu Fire Department</li> </ul>	<ul style="list-style-type: none"> <li>• Implementer: Manages programs and projects to implement policies and guidelines</li> <li>• Advocate: Analyzes policies, programs, and projects. Issues recommendations to decision makers based on how well the policies, programs, and projects implement the <b>Plan</b></li> <li>• Regulator: Reviews permit applications and activities and issues permits, notices, violations, and penalties based on adopted regulations, rules, and standards</li> </ul>

<ul style="list-style-type: none"> <li>• OWMP: O'ahu Water Management Plan</li> <li>• Park MP: Park Master Plan</li> <li>• Ped. Plan: O'ahu Pedestrian Plan</li> <li>• Proj. Review: Project Review</li> <li>• PRU: Plan Review Use</li> <li>• PUC: Public Utilities Commission, Ch. 269, HRS</li> <li>• ROH: Revised Ordinances of Honolulu</li> <li>• Sewer CP: Sewer Connection Permit</li> <li>• Shore Stbk: Shoreline Setback, Ch. 23, ROH</li> <li>• SLUBDA: State Land Use District Boundary Amendment</li> <li>• SMA: Special Management Area, Ch. 25, ROH</li> <li>• SRTS: Safe Routes to School</li> <li>• SWQ: Storm Water Quality</li> <li>• State Parks: DLNR State Parks, Division of Forestry and Wildlife Camping Permits</li> <li>• State Trails: DLNR Nā Ala Hele State Trails and Access Program</li> <li>• SUB: Subdivision</li> <li>• SUP: Special Use Permit</li> <li>• SWIMP: Solid Waste Integrated Management Plan</li> <li>• TIP: Transportation Improvement Plan</li> <li>• State Water: State Water Code, Ch. 174C, HRS</li> <li>• Water MP: Water Master Plan</li> <li>• Water PTP: Watershed Partnerships Program</li> <li>• WPFPA: Watershed Protection and Flood Prevention Act</li> <li>• WUP: Water Use Permit/Well Permit, CWRM</li> <li>• WQP: State Water Quality Plan</li> <li>• WQ Rules: Water Quality Rules</li> <li>• ZC: Zone Change</li> </ul>	<ul style="list-style-type: none"> <li>• HHFDC: Hawai'i Housing Finance Development Corporation</li> <li>• HI-EMA: Hawai'i Emergency Management Agency</li> <li>• HPHA: Hawai'i Public Housing Authority</li> <li>• HUD: U. S. Department of Housing and Urban Development</li> <li>• LUC: State Land Use Commission</li> <li>• NGO: Non-Governmental Organization</li> <li>• NOAA: National Oceanic and Atmospheric Administration</li> <li>• NRCS: U. S. Department of Agriculture Natural Resources Conservation Service</li> <li>• OCCSR: Office of Climate Change, Sustainability, and Resiliency</li> <li>• OHA: Office of Hawaiian Affairs</li> <li>• OMPO: O'ahu Metropolitan Planning Organization</li> <li>• OP: State Office of Planning</li> <li>• PUC: State Public Utilities Commission</li> <li>• SHPD: State Historic Preservation Division, DLNR</li> <li>• SOEST: School of Ocean and Earth Science and Technology, UH</li> <li>• SLC: Sea Level Center, UH</li> <li>• SWCD: Soil and Water Conservation District</li> <li>• UH: University of Hawai'i</li> <li>• USACE: U. S. Army Corps of Engineers</li> <li>• USFS: United States Forest Service</li> <li>• USFWS: U. S. Fish and Wildlife Services</li> </ul>
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Policies and Guidelines	Programs	Agencies	Roles
Policies and Guidelines	Programs	Agencies	Roles
<b>SEC. 3.1 OPEN SPACE PRESERVATION AND DEVELOPMENT</b>			
	SLUBDA	LUC	Regulator
Provide both passive and active open space to meet demand. Prevent development of areas susceptible to natural hazards such as soil movement, rock falls, coastal erosion, and sea level rise.	ZC LUO BC	DPP	Regulator
	Cons. Dist.	DLNR	Regulator Implementer
<b>3.1.2.1 Mountain Areas</b>			
Make access to mountain areas readily available, including parking areas, while balancing trail demands and alleviating congestion through additional trails, particularly in Mariners Ridge, Niu Valley, and Kamilo Nui Valley.	State Trails State Parks	DLNR	Implementer Advocate
	Subdivision	DPP	Regulator
Encourage the ownership or transfer and maintenance of public access easements to trailheads to conservation groups or the State DLNR.	State Trails	DLNR NGOs	Implementer Advocate
Create a City Resource Management Program (CRMP) to address the demands from outdoor recreational activities and the associated stresses to the natural and built environment.	CRMP	DPR DLM	Implementer
Re-establish and restore native Hawaiian plant, animal, and invertebrate species and habitats in open space areas. Protect and identify endangered species, their habitats, and other important ecological zones from threats such as fire, weeds, feral animals, and human activity. Control the number and range of feral animals and other alien species. Plan utility corridors and other uses to avoid disturbances to areas with high concentrations of native species.	ESA/MBTA Project Review	DLNR USFWS USACE PUC	Implementer Regulator
<b>3.1.2.2 Shoreline Areas</b>			
Maintain Makai view channels along Kalaniana'ole Highway between Wai'aleae and Makapu'u.	CZM	OP	Regulator
	SMA LUO	DPP	Regulator
	Scenic Byways	DOT	Implementer
Avoid obstructions to access such as walls and landscaping. Landowners along the shoreline maintain any vegetation so as to not encroach into the public right-of-way, particularly as the shoreline erodes pushing the right-of-way inland. Increase minimum setbacks for structures near the shoreline and implement other management strategies to account for anticipated impacts from climate change and coastal erosion. Improve, protect, and maintain lateral shoreline access along reaches of the beach from Maunalua Bay to Wai'aleae Beach Park with consideration given to the	LUO SMA Shore Setback	DPP	Regulator Implementer
	Conserv. Dist.	DLNR	Implementer Advocate

anticipated impacts from sea level rise and coastal erosion. Encourage citizen reporting of shoreline access issues to the DLNR Office of Conservation and Coastal Lands. Conserve and enhance a natural, dynamic shoreline wherever possible.	CZM	OP	Regulator
	Scenic Byways	DOT	Advocate Implementer
Pursue opportunities to secure additional pedestrian rights-of-way from the nearest street or highway to the shoreline in sections that have high recreational value, but no similar public access within at least a quarter-mile.	Ops	DDC	Implementer
	Parks MP	DPR	Advocate
Recognize and codify mauka-makai shoreline access into the ROH.	ROH	DPR	Advocate
Analyze the potential impact of sea level rise for new public and private projects in shoreline areas and low-lying areas. If it is likely that sea level rise will increase the risk of flooding during the lifespan of the project, incorporate, where appropriate and feasible, measures to reduce risks and increase resiliency to impacts of sea level rise. Incorporate assessments of all hazards into the land development application process.	EA/EIS Project Review CZM	DDC DFM DPP OCCSR OP	Implementer Regulator Advocate
<b>3.1.2.2 Shoreline Areas</b>			
Identify critical public and private infrastructure subject to sea level rise exposure and to mitigate these impacts through elevation, relocation, or other adaptation measures. Consider forming a community-based redevelopment district, similar to a business improvement district, that would protect, adapt, and relocate residential and commercial structures, public facilities, and natural and cultural resources from impacts from sea level rise and coastal erosion.	SOEST	UH	Advocate
	CZM	OP	Regulator
		OCCSR	Implementer Advocate
	Redev. Dist. (CFD, TIP, BIPD, etc.)	BID Assoc. DDC DFM	Implementer Regulator Advocate
Use the most current versions of the City Climate Change Commission's <a href="#">Sea Level Rise Guidance</a> , <a href="#">Climate Change Brief</a> , and the State of Hawai'i <a href="#">Sea Level Rise Vulnerability and Adaptation Report</a> and associated Viewer for managing assets, reviewing permitting requests, and assessing project proposals. Map repetitive loss areas, develop short and long-term resiliency and recovery plans, and develop and implement a "build back better and smarter" strategy to mitigate future damage costs.	Resiliency and Recovery Plans	OCCSR DPP	Implementer Regulator Advocate
Develop design and construction standards that mitigate and adapt to the impacts of climate change and sea level rise.	BC Project Review	DPP	Regulator Implementer
Implement the recommendations of the O'ahu Resilience Strategy, particularly the development of a community resilience hub in East Honolulu, increase coordination with neighborhood emergency preparedness groups, and create a liaison between City agencies and NGOs.	Disaster Plans	OCCSR NGOs Various	Implementer Advocate
Clean up contaminated areas, particularly properties adjacent or directly upland of a stream channel.	CIP	DFM DDC DOH- CWB	Advocate Implementer
Retain stormwater, sediment, and toxic pollutant runoff through the installation of linear landscaping features and permeable pavement along roadways and highways. Incorporate landscaped pathways and bikeways along stream channels and drainage corridors where appropriate and feasible. Increase ground absorption and reduce the amount of permeable surfaces. Implement low-impact development standards to capture stormwater, sediment, and toxic pollutant runoff on-site and reduce pollutant loads into downstream water bodies. Provide incentives for owners of existing homes to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.	CWRM Conserv. Dist.	DLNR	Implementer
	NPDES	DOH- CWB	Regulator Implementer
	LUO BC	DPP	Regulator Implementer
	Bike Plans	DTS	Advocate
	Ops CIP	DFM DDC BWS	Implementer
Incorporate potential natural drainage improvements in park and preservation lands.	CIP Park MP	DPR DFM DDC	Implementer Advocate
<b>3.1.2.5 Natural Resources and Preserves</b>			
Implement management programs in areas where intense human activity threatens the sustainability of the resources.	Monitoring Visitor Limits Admin. Fees	DLNR DPR NGOs	Implementer Advocate
Conduct a biological study to determine if Rim Island 2 is eligible for declaration as a recognized endangered species habitat.	Bio Study	NGOs USFWs	Advocate Implementer
Implement the findings and recommendations from the <a href="#">Kamilo Nui – Mariner's Cove Firewise Hazard Assessment</a> .	Hazard Assessment Conserv. Dist.	NGOs USFS DLNR	Advocate Implementer
<b>3.1.2.6 Marina</b>			
Improve facilities in support of boating. Encourage Best Management Practices (BMPs) for marina uses to mitigate degradation of water quality to both the marina and Maunalua Bay.	Conserv. Dist.	DLNR	Regulator
	BMPs	USACE	Implementer
	Grading Permits NPDES	DPP DOH	Regulator

Maintain or improve views across the marina, especially from Kalaniana'ole Highway and other major roadways. Install and maintain landscaping, where appropriate, to screen areas of the marina not intended for public views and to intercept stormwater, sediment, and toxic pollutant runoff from entering into marina waters.	Scenic Byways	DOT	Implementer
Improve pedestrian access to and along the marina's edge by way of a path for pedestrians and bikes. Construct a pedestrian bridge between the Hawai'i Kai Towne Center and the Hawai'i Kai Shopping Center.	CIP	DTS	Implementer
<b>SEC. 3.2 ISLAND-BASED PARKS AND RECREATIONAL AREAS</b>			
Maintain and enhance, to the extent possible, existing island-based parks by utilizing land area that has not been fully developed for recreation use.	Park MP	DPR	Implementer Advocate
Expand access to existing park lands by improving neighborhood linkages along shared paths for pedestrians and bicyclists.	Park MP	DPR	Implementer
	Bike Plan	DTS	Implementer
	CIP	DDC	Implementer
<b>3.2.3.1 Passive or Nature Parks</b>			
Maintain and facilitate access to the area's important fishing resources.	Conserv. Dist.	DLNR	Regulator Implementer
Provide educational and passive recreation opportunities to preserve the Kaiwi coast.	Conserv. Dist.	DLNR	Regulator Implementer
	Byway Plan	NGOs DTS DOT	Implementer Advocate
	Park MP	DPR	Implementer
Expand Sandy Beach Park to include Golf Course 5 and 6 properties, thereby increasing East Honolulu's active recreation areas.	Park MP	DPR	Implementer
Minimize adverse lighting impacts on aquatic life and avifauna, as well as adverse aesthetic impacts, particularly from stationary point lookouts and along significant view planes.	CIP	DOT DDC	Implementer
	LUO	DPR	Regulator
Develop new walking/hiking trails within Koko Crater Botanical Garden for better viewing of plant collections, but prohibit access to/from trails or paths outside the garden leading from/to the garden. With community input, explore the possibility of reinstating the shared use of the Koko Crater Botanical Gardens and the Koko Crater Stables through a shared use agreement that includes a plan for well-marked horseback-riding trails and the prompt cleaning of horse droppings by stable employees. Continue to develop Koko Crater Botanical Garden as a conservation site of global importance for rare and endangered species from Hawai'i and other tropical dryland areas.	Park MP	DPR	Implementer
	OPS	DES	Implementer
Protect fragile natural resources, such as Hanauma Bay Nature Preserve, from overuse through continued management and control of visitor numbers and impacts such as walking on the reef and sunscreen pollution.	Park MP Conserv. Dist. Bio Study	DPR DLNR NGOs	Implementer Advocate
Develop Wāwāmalu Beach as a nature park with the addition of demarcated parking and installation of barriers to protect natural dunes, native vegetation, beach rock, and beach.	Park MP	DPR DTS DDC	Implementer
Use non-potable water for irrigation of large landscaped areas in compliance with the BWS Rules and Regulations. If non-potable water is either unavailable or infeasible, a report of the investigation should be coordinated and submitted to the Board of Water Supply prior to considering the use of potable water.	CIP Park MP	DPR BWS	Implementer
<b>3.2.3.2 Active Recreation Areas</b>			
Locate areas designed for sporting events that attract high numbers of people along major collector streets or accesses that are separated as much as possible from residential areas and wildlife habitats. Locate bus stops and loading areas at principal entries and adjacent to convenient pedestrian accesses to main activity areas within the park. Provide amenities and service facilities to accommodate "tailgate" picnics in parking areas for sporting events, including shading canopy trees within the parking lot as well as nearby picnic tables and outdoor grills.	Park MMP	DPR	Implementer
	CIP Ops	DPP DDC	Implementer
Minimize the visibility of perimeter fencing along major collector streets, large recreation buildings or structures, lighting, parking lots and other utilitarian elements through plantings or other appropriate visual screens adjacent to residential areas and major roadways, particularly to soften the view of the park from above at the roadside vista point along Kalaniana'ole Highway.	Park MP	DPR	Implementer
	LUO	DPP	Regulator
Reduce light pollution by minimizing the number of lighting facilities installed and ensuring that lights are shielded and pointed downward.	LUO CIP	DPP DDC	Regulator Implementer
Public recreation facilities should be available to users of all skill levels and incomes, particularly Koko Crater Stables.	Park MP	DPR DES	Implementer
<b>3.2.3.3 Golf Courses</b>			
Optimize the function of golf courses as passive drainage ways, maximizing their potential to retain or detain stormwater runoff.	LUO	DPP	Implementer

Provide view amenities for adjacent urban areas, especially from well-used public rights-of-way, parks and vista points. Use screening, landscaping, setbacks, and modifications to the course layout, where feasible, rather than fencing or solid barriers.	SUP LUO	DPP	Implementer
Provide and maintain safe access through these golf courses, as necessary, for regional continuity of pedestrian and bicycle systems.	Bike Plans	DTS	Advocate Implementer
Use of non-potable water for irrigation of large landscaped areas in accordance with the BWS Rules and Regulations. If non-potable water is either unavailable or infeasible, a report of the investigation should be coordinated and submitted to the BWS prior to considering the use of potable water.	Rules and Regulations	BWS	Regulator Implementer
<b>SEC. 3.3 COMMUNITY-BASED PARKS</b>			
Modify recreation facilities in existing parks to respond to changing demographic profiles or recreational needs.	CIP	DPR DDC	Implementer
Co-locate parks with elementary or intermediate schools. Coordinate design, development and use of athletic, recreation, meeting, and parking facilities with DOE where efficient and effective.	Park MP CIP	DPR DDC DOE	Implementer
Incorporate and develop the Job Corps Center site for active recreational facilities.	Park MP CIP	DPR	Implementer
Design and site structural improvements and landscaping in community-based parks to create or add to the aesthetic value of these open space elements. Blend park boundaries through the transition of park space to paths or greenways.	Park MP CIP	DPR DDC	Implementer
Improve neighborhood linkages for non-motorized transportation modes.	Bike Plans Ped. Plan	DTS DPR DDC	Implementer Advocate
Develop additional trails and bike paths to balance trail demands across East Honolulu and alleviate potential overuse at existing trails.	State Trails Conserv. Dist.	DLNR	Implementer
	Park MP CRMP	DPR DLM	Implementer
<b>SEC. 3.4 HISTORIC AND CULTURAL RESOURCES</b>			
Emphasize physical references to East Honolulu's history and cultural roots. Preserve significant historic features from earlier periods. Retain significant vistas whenever possible.	ZC LUO Project Review	DPP	Regulator
	Hist. Pres.	SHPD OHA	Regulator Implementer
Determine the appropriate preservation methods on a site-by-site basis in consultation with the State Historic Preservation Officer and cultural practitioner. Require preservation in-situ only for those features for which the State Historic Preservation Officer has recommended such treatment. Recommend in-situ preservation and appropriate protection measures for sites that have high preservation value because of their good condition or unique features.	Hist. Pres.	SHPD OHA Cultural Practitioners	Regulator Implementer Advocate
Determine the degree of access that would best promote the preservation of the historic, cultural and educational value of the site in consultation with the State Historic Preservation Officer, Hawaiian cultural organizations, and the landowner, recognizing that economic use is sometimes the only feasible way to preserve a site.	LUO	DPP	Advocate Regulator
	Hist. Pres.	SHPD	Implementer
Protect existing visual landmarks and support the creation of new, culturally appropriate landmarks.	CIP	DDC DFM	Implementer
<b>SEC. 3.5 RESIDENTIAL USE</b>			
Establish design guidelines to minimize long-term adverse impacts of new infill development on surrounding neighborhoods; encourage use of sloped roof forms with wide overhangs; enhance the boundaries of existing neighborhoods through the use of landscaping, natural features, building form and siting; focus neighborhood activity on the local street, common pedestrian rights-of-way, or recreation areas; and encourage energy efficient features, such as solar panels, and design, such as window recesses, overhangs, and orientation of openings to allow natural shade and cross-ventilation.	LUO BC	DPP NGOs (e.g. AIA)	Regulator Implementer Advocate
	Complete Streets	DTS DDC DFM DPP	Implementer
	Ped. Plan	DTS DOT	Implementer
Encourage bus, pedestrian, and bicycle travel, particularly to reach neighborhood destinations such as schools, parks, and convenience stores. Recognize the need for accessible design and safe travel conditions for elderly and/or disabled people. Implement traffic calming measures on residential neighborhood streets and add street trees to provide shading for sidewalks and bus stops. Modify residential neighborhood street design, where appropriate and feasible, to provide greater emphasis on safe, accessible, convenient and comfortable pedestrian routes, bus stops, bike routes, and landscaping, even if this requires somewhat slower travel speeds, less direct routes and fewer on-street parking spaces for automobiles. Revise	Age Friendly Action Plan	NGOs UH Various	Advocate
	Bike Plan	DTS DOT	Implementer

City street standards, subdivision regulations, and use of traffic calming measures to support these policies and the policies identified in the Complete Streets Design Manual. Implement the policies and guidelines in the [O‘ahu Bike Plan](#), [Bike Plan Hawai‘i](#), the [O‘ahu Pedestrian Plan](#), and the [Statewide Pedestrian Master Plan](#).

	Ops	DDC DTS	Implementer
Allow designated affordable housing projects up to 40 units per acre if designed in a manner compatible with the character of the surrounding residential community.	LUO	DPP	Regulator
Improve management and enforcement of regulations relating to the operation of transient vacation units (TVUs) in residential neighborhoods.	LUO	DPP	Regulator
Provide housing opportunities for a variety of living accommodations which are affordable to low and moderate-income, gap group, and other elderly households such as multi-generation households, ‘ohana units, home expansions, group homes, assisted living units, and continuing care retirement communities such as the Kāhala Nui assisted living units and the Hawai‘i Kai retirement community.	AHF CDBG HOME Section 8 LUO	HPHA HHFDC HUD DPP	Regulator Implementer Advocate
	Storm Drainage WQ Rules LUO	DPP DFM OCCSR	Regulator Advocate
Implement LID practices as properties are redeveloped to encourage the capture of stormwater, sediment, and toxic pollutant runoff on-site and reduce pollutant loads into downstream water bodies. Provide incentives for owners of existing homes to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.	NPDES Water PTP	DOH-CWB	Regulator Advocate
Allow designated affordable housing projects up to 40 units per acre if designed in a manner compatible with the character of the surrounding residential community	LUO	DPP	Regulator
<b>3.5.3.2 Special Needs Housing and Senior Housing</b>			
Locate special needs housing within close proximity to transit services and commercial centers. Apply the seven principles of Universal Design to redevelopment projects to support the seniors who wish to age-in-place. Accommodate an allowable building density of 10 to 40 units per acre, not including beds in skilled nursing facilities.	ZC LUO CDBG	DPP	Implementer
Utilize building and roof form, orientation, location of entries, landscape screening, and height to maintain compatibility with the existing residential uses and scale.	LUO	DPP	Regulator
Encourage the development of medical care facilities, including, but not limited to, facilities that provide palliative and hospice care.		DOH	Regulator Implementer
	LUO	DPP	Implementer
		NGO	Advocate
Adhere to the key principles of Complete Streets: safety, consistency of design, context sensitive solutions, energy efficiency, accessibility and mobility for all, health, use and comfort of all users, and green infrastructure.	LUO Setbacks	DPP	Regulator Implementer
	Bike Plans Ped. Plan	DTS DDC	Implementer
Create an inclusive and accessible urban or suburban environment that encourages active and healthy aging, specifically age-in-place principles and the Universal Design Standards that address or include the following: equitable, flexibility, simple and intuitive, perception information, tolerance for error, low physical effort, and size and space.	BC	DOT DPP	
	Park Plan	DPR	Implementer
		NGOs	Advocate
<b>SEC. 3.6 NON-RESIDENTIAL DEVELOPMENT</b>			
Allow low-rise multi-family residential use above the first floor in B-1 and B-2 zoned districts.	LUO	DPP	Implementer Advocate
Prohibit new or expanded land areas for resorts and institutional campuses including major new schools, hospitals, or similar institutions.	LUO ZC	DPP	Implementer
Incorporate site design and facilities to promote pedestrian and bicycle access to Neighborhood Commercial Centers and transit access to the Regional Town Center.	Project Review Complete Streets Bike Plan Ped. Plan	DPP DTS DDC Various	Advocate Implementer
Maintain consistency between the building mass of a commercial center and its urban and natural setting.	Project Review LUO	DPP	Implementer
Include at least one pedestrian access way from the public sidewalk or other off-site pedestrian pathway to the entrance of establishments in the commercial center that does not require crossing a traffic lane or parking lot aisle or driveway. Improve efficiencies in traffic and parking conditions by redesigning or re-siting parking lots, driveways, and walkways and by providing shuttle services between components of the Regional Town Center.	Project Review LUO Complete Streets Ped. Plan	DPP DTS DDC Various	Advocate Implementer

Strive to have Neighborhood Commercial Centers reflect a residential architectural character.	Project Review LUO	DPP	Implementer
Allow the Regional Town Center to reflect a more varied urban architectural character.	Project Review LUO	DPP	Implementer
Create a Regional Town Center in the Hawai'i Kai Marina area by strengthening the relationship between the existing commercial uses, increasing the mix of uses, and providing more convenient access.	Project Review LUO	DPP	Advocate Implementer
Parking areas should include a landscape screen of trees and hedges in setbacks with shade trees throughout the parking lot for aesthetics and stormwater retention. Place parking and service areas behind buildings or visually screen from streets and residential areas.	LUO	DPP	Regulator
Use only low-level or indirect lighting, appropriately shielded and pointed downward, which meets safety and security requirements in parking lots.	Project Review LUO	DPP	Implementer Regulator
Ensure compatibility between the type, size, design, placement, and color of signage and the context of adjacent facilities and uses. Avoid blank facades on portions of buildings visible from a street or the Hawai'i Kai Marina by using texture, articulation, color, and fenestration to create visual interest.	LUO ZC	DPP	Implementer Regulator
Designate land around Kalama Village Center for residential or mixed-use (residential, and commercial/office).	ZC	DPP	Regulator
Incorporate resource conservation measures in new development. Require the use of low-impact development standards for any significant new construction or redevelopment in order to hold stormwater on-site instead of discharging it into storm drains or stream channels. Provide incentives for owners to develop rain gardens, permeable parking lots and driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.	LID LUO ZC WQ Rules	DPP OCCSR	Implementer Regulator Advocate
NPDES	DOH-CWB	Regulator	
Strengthen the relationship between the existing commercial uses in the Hawai'i Kai Marina area.	Project Review LUO	DPP	Regulator Advocate
Increase the mix of uses and types of services and activities in the commercial zone. Offer a greater diversity of uses including apartment uses, public uses, and indoor small to medium-sized "service-industrial" establishments in the Hawai'i Kai Towne Center. Enhance the Koko Marina Shopping Center as a recreation/entertainment oriented commercial complex with the addition of more services for ocean recreation, restaurants, and similar attractions. Reorient Hawai'i Kai Towne Center as a focus of activity by diversifying uses such as apartment, public, and indoor small to medium sized service industrial uses. Convert some additional ground or second floor space to retail or other commercial uses if there is a demand for additional office space.	ZC LUO	DPP	Regulator Implementer Advocate
CIP	DTS	Implementer	
Provide more convenient transportation access for alternative modes of transportation including improved pedestrian amenities and connections.	Project Review LUO Subdivision	DPP	Advocate
Allow low-rise, multi-family residential use as a permitted accessory use above the first floor in the B-1 Neighborhood Business District and the B-2 Community Business District.	LUO ZC	DPP	Advocate Implementer
Building heights should generally not exceed 60 feet for Institutional use and 70 feet for Resort use. Height setback transitions should be provided from street frontages, the shoreline, and adjacent residential areas. Signage should be non-illuminated or indirectly illuminated. High intensity lighting should be appropriately shielded downward to minimize impact on adjoining or affected uses and wildlife.	LUO Project Review	DPP	Regulator
Account for the projected impacts of climate change and sea level rise over the length of the building's lifespan.	SMA Shoreline Setback LUO	DPP OCCSR	Implementer Advocate
Implement low-impact development, particularly in areas that may have large impervious surfaces. Provide incentives for owners to develop rain gardens, permeable parking lots and driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams.	LUO	DPP OCCSR	Regulator Implementer Advocate
CZM	OP	Regulator Implementer	
<b>SEC. 4.1 TRANSPORTATION SYSTEMS</b>			
Implement the <a href="#">Statewide Pedestrian Master Plan</a> , the <a href="#">Honolulu Complete Streets Design Manual</a> , the <a href="#">Bike Plan Hawai'i</a> , the <a href="#">O'ahu Bike Plan</a> , the <a href="#">O'ahu Pedestrian Plan</a> , and the <a href="#">Honolulu Age-Friendly City Action Plan</a> .	Various Plans	See plans	See plans
	Project Review	DTS DPP	Regulator Implementer
	ORTP TIP	OMPO	Implementer

Provide improved services and facilities for express buses, such as more frequent and more comfortable vehicles. Expand and improve park-and-ride facilities, including possible relocation and provision of compatible accessory uses.	CIP Ops LUO	DTS DDC DPP	Implementer Regulator
Promote ridesharing and vanpooling.	Ops	DTS	Implementer
Increase person-carrying capacity on Kalaniana'ole Highway for commuter travel without expanding automobile rights-of-way by constructing facilities to increase safety and comfort for alternative modes of travel. Decrease the use of single-occupant, or even zero-occupant, automobile trips during commute times by: converting regular automobile lanes into additional HOV lanes during regular or rush hour times, and/or increasing the vehicle occupancy requirement of the use of the HOV lane.	CIP Ops	DTS DOT DDC	Implementer Regulator
Ensure street furniture is comfortable and does not impede sidewalk movement. See the <b>Complete Streets Design Manual</b> .	Ped. Plan	DTS DDC	Regulator Implementer
Preserve and enhance existing crosswalks. Install additional crosswalks, especially near open spaces, parks, shopping centers, and other public gathering places.	Ped. Plan	DTS DDC	Implementer
Roadway design, particularly along Kalaniana'ole Highway in the vicinity of Kuli'ou'ou, should take into account the anticipated impacts of sea level rise to ensure safe and efficient access between neighborhoods is maintained.	CIP Ops	DOT OCCSR	Implementer Advocate
Modify rights-of-way design in selected areas, particularly along designated bike lanes and routes, principal pedestrian routes and street crossings, and near bus stops.	CIP Ops	DTS DOT DDC	Implementer
Implement lane restriping during repaving projects.	CIP Ops	DOT DTS DDC	Implementer
Change travel way widths or curb radii, pavement texture, introduce appropriate signage, and provide generous landscaping for safety, aesthetics, and stormwater retention. Design on-street and off-street parking facilities more efficiently to encourage joint use of parking in ways that ensure public safety and better manage stormwater, sediment, and toxic pollutant runoff with improved BMPs. Include more landscaping along roadways to improve aesthetics, to manage stormwater, sediment, and toxic pollutant runoff, and to filter oils and sediment from the roadway improving downstream water quality.	Project Review  NPDES WQ Rules  CIP Ops	DPP  DOH-CWB  DOT DTS DDC	Regulator  Regulator  Implementer
Provide more convenient pedestrian paths within commercial centers, transit stops, parks, beaches, schools, senior living facilities, and other high-activity areas to encourage people to walk short distances for multi-purpose trips instead of moving the vehicle to another parking facility. Ensure street furniture is comfortable and does not impede sidewalk movement. Support the Safe Routes to School program and projects to improve pedestrian and bicycle links around schools.	LUO SRTS CIP Ops Complete Streets	DPP DOT DTS DDC	Regulator Implementer Advocate
Reduce light pollution's adverse impact on wildlife and human health and its unnecessary consumption of energy by using, where sensible, fully shielded lighting fixtures using lower wattage.	LUO	DPP DDC DOT	Regulator Implementer
Discourage the use of gated communities and encourage existing gated communities to improve adjacent streetscape and disguise the public-private boundary.	LUO Project Review Subdivision	DPP	Advocate Implementer
Implement traffic calming measures in appropriate residential areas to reduce average motor vehicle speeds and make vehicular routes less direct.	CIP Complete Streets Ops	DOT DTS DDC DPP	Implementer
<b>SEC. 4.2 WATER ALLOCATION AND SYSTEM DEVELOPMENT</b>			
Integrate management of all potable and non-potable water sources, including groundwater, stream water, stormwater, and effluent, following State and City legislative mandates.	WUP OWMP	CWRM BWS	Regulator Advocate
Adopt and implement water conservation and stormwater management practices, in the design of redevelopment projects and the modification of existing uses, including landscaped areas. Have the BWS certify that adequate potable and non-potable water is available in order for a new residential or commercial development to be approved. Encourage the use of low flush toilets, flow constrictors, and other water conserving devices in commercial and residential redevelopments. Encourage the use of indigenous, drought-tolerant plant material and drip irrigation systems in landscaped areas and promote stormwater retention and infiltration. Encourage timely leak repair for distribution systems. Provide incentives for owners of existing homes to develop rain gardens, permeable driveways, and other strategies that hold stormwater on-site instead of discharging it into storm drains or streams. Require the use of Low-Impact Development standards for any significant new construction or redevelopment in order to hold stormwater on-site instead of discharging it into storm drains or stream channels.	LID NPDES WQ Rules  Water PTP  Project Review  BC	DPP DFM DOH-CWB  NGOs  BWS ENV  DPP	Implementer Advocate  Advocate  Regulator Implementer  Regulator
Encourage the use of tertiary-treated recycled water for the irrigation of golf courses and other landscaped areas where this would not adversely affect potable groundwater supply.	WQP  Project Review	DOH  BWS ENV	Regulator  Implementer

Research and prepare for the potential impacts of sea level rise on ground water aquifers and water supply infrastructure.		BWS OCCSR OP DDC	Implementer
Expand use of reclaimed water in State and County Facilities in accordance with HRS 174C-31. Encourage use of reclaimed water in redevelopment projects.	CIP BC LUO	DDC DPP	Implementer Regulator
<b>SEC. 4.3 WASTEWATER TREATMENT</b>			
Connect all wastewater produced by urban uses to a publicly regulated or municipal sewer service system.	Sewer CP CIP LUO	ENV DDC DPP	Regulator Implementer
Keep the East Honolulu WWTP under private operation and regulatory supervision of the State PUC and the State DOH.	PUC	PUC DOH	Regulator
Implement, where feasible, water recycling as a water conservation measure. Use recycled water from the East Honolulu WWTP as a source for irrigating golf courses and other uses compatible with the Board of Water Supply's rules and guidelines for the treatment and use of recycled water.	WQ Plan	DOH	Regulator
	Project Review	BWS	Implementer
Provide buffer zones and landscape elements between the East Honolulu WWTP and adjacent residential designated areas in order to mitigate possible visual, noise, and odor impacts.	WP WQ Plan	DOH	Regulator
	Ops CIP	ENV	Implementer
	Clean Air Noise Regs.		
Connect homes to one of the two existing sewer systems. Support conversion efforts and upgrades to individual wastewater systems where connections are not feasible.	Wastewater	DOH	Implementer Regulator
<b>SEC. 4.4 ELECTRIC POWER DEVELOPMENT</b>			
Design system elements such as sub-stations and transmission lines to avoid or mitigate any potential adverse impacts on scenic and natural resource values and the potential impacts of sea level rise and associated impacts of the rising water table and groundwater inundation.	CIP LUO Conserv. Dist.	HECO DPP DLNR OCCSR	Implementer Regulator
<b>SEC. 4.5 SOLID WASTE HANDLING AND DISPOSAL</b>			
Provide expanded collection facilities and services including automated refuse collection in residential areas.  Establish public outreach and education programs.  Have residents pay their fair share of all costs needed to ensure provision of adequate solid waste collection facilities.	Ops	ENV	Implementer
	SWIMP	ENV	Implementer
<b>SEC. 4.6 DRAINAGE SYSTEMS</b>			
Complete the proposed study of local flooding and drainage problems as soon as possible.	Flooding Study Water PTP	NGOs DLNR	Advocate Implementer
Include a phased plan and implementation program for drainage system improvements. Promote drainage system design that emphasizes control and minimization of non-point source pollution.	Ops	DFM	Implementer
	NPDES	DOH-CWB	Implementer
Restore channelized streams and wetlands.	CIP Ops	DDC DFM	Implementer
Install upland detention basins in upper valleys above urbanized areas and properly maintain them in order to prevent the blocking of downstream channels during major storm events. Keep drainage ways clear of debris to avoid the flooding problems that have occurred in the past.	CIP Ops	DDC DFM DLNR	Implementer
Implement Low-Impact Development (LID) standards.	Project Review	DPP	Implementer
	Subdivision		Regulator Implementer
Encourage planting and maintenance of vegetation along drainage ways.	LUO Project Review	DPP OCCSR DFM	Regulator Implementer
Improve and protect natural resources and aesthetic values of the stream.		DLNR	Advocate
Identify repetitive loss areas from flooding and implement greater restrictions to rebuilding in these areas.	Flood Plan	OCCSR DEM	Implementer Advocate
Integrate planned improvements to the drainage system into the regional open space network by emphasizing the creation of passive recreational areas, and recreational access for pedestrians and bicycles without jeopardizing public safety.	Project Review	DDC DPP	Implementer Regulator
	Bike Plan	DTS DOT	Implementer Advocate
	Park MP Project Review	DPR	Implementer Regulator
<b>SEC. 4.7 SCHOOL FACILITIES</b>			

Approve new residential developments only after the DOE provides assurance that adequate school facilities will be available when the development is completed.	Project Review	DPP DOE	Implementer
Require developers to comply with DOE school impact fee requirements and pay their fair share of all costs needed to ensure provision of adequate school facilities for the children living in their developments.	Impact Fees	DOE	Implementer
	LUO ZC BC	DPP	Regulator Implementer
Encourage DPR and DOE to coordinate joint development and use of athletic facilities such as playgrounds, play fields and courts, swimming pools, and gymnasiums to maximize use and reduce duplication of function without compromising school athletic programs.	Park MP	DPR	Implementer
	Ops	DOE	Implementer
Encourage the DOE to make more efficient use of their facilities with year-round scheduling.	Ops	DOE	Implementer
Design school buildings and coordinate with the Department of Emergency Management so that these facilities may also be used as public shelters capable of withstanding Category 3 hurricanes.	CIP	DOE DEM HI-EMA	Implementer
<b>SEC. 4.8 CIVIC AND PUBLIC SAFETY FACILITIES</b>			
Approve new development only if adequate staffing and facilities for fire, ambulance and police protection will be provided. If the development of any new substation is warranted, potentially near an entry to Hawai'i Kai (Maunalua), co-locate it with other emergency medical and transportation services.	CIP Ops Project Review Subdivision	DEM HFD HPD EMS DPP	Implementer
Ensure accessibility for senior populations to public shelters, or to prioritize the restoration of services to where seniors and other vulnerable populations are sheltering-in-place.	Disaster Plan	DEM NGOs	Implementer Advocate
Develop a Community Resilience Hub in East Honolulu that will serve critical roles during and immediately following an emergency as well as enhance social resilience ahead of a disaster.	Disaster Plan Ops	OCCSR DEM DPR DLM	Implementer Advocate
Analyze the possible impact of sea level rise for new public and private projects in shoreline areas and low-lying areas and require measures to reduce vulnerability and increase resiliency. Identify critical public and private infrastructure and important cultural and natural resources vulnerable to historic coastal hazards and impacts of climate change, and, working with local landowners, stakeholders, and State and Federal agencies, begin the work of protecting, adapting, or relocating the highest priority projects.	Disaster Plan LUO SMA Hist. Pres. Ops	DPP DDC DEM DLM DLNR DOT ENV DTS DOE PUC HFD HPD EMS OCCSR	Implementer Advocate

## APPENDIX A: CONCEPTUAL MAPS

This appendix includes the three primary conceptual maps used to illustrate the vision for East Honolulu's future development. The maps include:

Map A-1: Open Space A-13

Map A-2: Urban Land Use A-15

Map A-3: Public Facilities A-17

These maps illustrate the long-range vision of the future of the Plan area and the major land use, open space, and public facility policies that are articulated in the Plan. In using these maps, the reader should keep in mind that:

1. These maps are general and conceptual, and are not intended to be used to determine specific land use boundaries. Such boundaries are to be determined during the review of specific land use or public facilities investment decisions, and their exact locations are to be guided by the vision and policies of this Plan.
2. These maps illustrate the Plan's vision, policies and guidelines that are presented in Chapters 2, 3, and 4. These policy statements and guidelines are considered the most important elements of the Plan.

The maps are considered illustrations of the policies and guidelines. However, the text should be consulted to determine the appropriate application of the Plan vision, policies, and guidelines for any specific project or location. In cases of disagreement, the text should prevail over the map depiction.

A brief explanation of the terms used in each of these maps follows.

## GLOSSARY OF TERMS

Descriptions of elements common to each of the three maps are presented in the following section.

Descriptions of elements specific to each map (A-1: Open Space, A-2: Urban Land Use, and A-3: Public Facilities) are presented in separate sections for each map, which follow the section on Common Elements.

## COMMON ELEMENTS

### Agriculture Areas

Agricultural lands, previously lands within the Agricultural Boundary, are established to protect the region's agricultural lands for their economic and open space values. The primary use of all lands within Agriculture areas are agriculture or directly supportive of the agriculture industry.

Two areas in Hawai'i Kai (Maunalua) are identified as agricultural lands and located outside the Community Growth Boundary to recognize active agricultural lots seeking a continuation of their use (i.e., the farm lot subdivisions in Kamilo Nui Valley and those adjacent to Kaiser High School). In addition, undeveloped areas in Kamilo Nui Valley which are adjacent to existing agricultural uses are placed within the Agriculture area. Preventing the encroachment of suburban residential development within and surrounding the existing subdivisions supports active use of these lots for agricultural purposes.

### Community Growth Boundary

The Community Growth Boundary (CGB), previously the Urban Community Boundary in the 1999[Plan](#), defines and contains the intended extent of developed or "built-up" areas of East Honolulu's urban fringe communities.

The purpose of the Community Growth Boundary is to:

- Guide future development, redevelopment, and resource management within existing zoning designations or future zoning designations;
- Provide adequate lands for facilities or other groupings of built uses needed to support established communities; and
- Protect lands outside this boundary for agriculture and other resources and open space values.

Areas within this boundary are generally characterized by extensive tracts of residential or commercial development clearly distinguishable from undeveloped or more "natural" portions of a region's environment.

Within the [Plan](#) area, the Community Growth Boundary is generally coterminous with the State Urban District boundary but excludes the following areas of the State Urban District:

- 'Āina Haina Nature Preserve;
- Areas committed to agricultural use by long-term leases (i.e., the farm lot subdivisions in Kamilo Nui Valley and adjacent to Kaiser High School);
- Undeveloped areas in Kamilo Nui Valley which are adjacent to existing agricultural uses but zoned as preservation;
- Large tracts of undeveloped lands at higher elevations that are prominently visible from the coastal highway or other public areas and are desirable natural scenic features;
- Mauka lands along the Kaiwi coast are zoned as preservation and located outside of the Community Growth Boundary to protect open space;
- Significant undeveloped Urban District land areas identified as suspect areas for land movement by the U.S. Geological Survey;
- Keawāwa Marsh and Wetlands; and
- Small inconsistencies as shown in Exhibit 2-1.

There have been no State Land Use District boundary amendments in East Honolulu since the publication of the 1999[Plan](#). There are, however, areas where the Community Growth Boundary has been expanded to reflect zone changes made prior to the publication of the 1999 [Plan](#) which were not incorporated into the 1999 Appendix Maps. The two changes include the expansion of Niu Valley, which has not been fully developed, and the Leolani development near Kamilo Nui Valley, which was completed shortly after the publication of the 1999 [Plan](#). The Community Growth Boundary has also contracted to exclude and preserve Keawāwa Marsh and Wetlands.

### Golf Courses

The locations of the three existing privately owned golf courses are shown on the maps because of their recreational value and visual contribution to the open space landscape. There are no proposed golf courses.

### Highways, Arterials, and Major Collector Streets

The maps show the locations of existing highways, arterials, and major collector streets. No new highways, arterials, or major collector streets are proposed at this time.

### Parks

The maps show locations of existing public parks and recreational facilities, including regional parks, district parks, shoreline parks, nature parks, and the Kaiwi Scenic Shoreline area. Smaller community-based parks, including community parks, neighborhood parks, and mini-parks are not shown.

### Preservation Areas

Preservation lands, previously lands within the Preservation Boundary, include those lands not valued primarily for agriculture, but which form an important part of a region's open space fabric. Such lands possess natural, cultural, or scenic resource values, and include important wildlife habitat, archaeological and historic sites, cultural sites, cemeteries, significant landforms or landscapes over which significant views are available, or development-related hazard areas.

The Preservation area includes undeveloped lands that:

- Are necessary for the protection of watersheds, water resources and water supplies;
- Are necessary for the conservation, preservation and enhancement of sites with scenic, historic, archaeological or

ecological significance;

- Are necessary for providing and preserving park lands, wilderness and beach reserves, and for conserving natural ecosystems of endemic plants, fish and wildlife, for forestry, and other activities related to these uses;
- Are located at an elevation below the maximum inland line of the zone of wave action, and marine waters, fishponds, and tide pools unless otherwise designated;
- Are generally characterized by topography, soils, climate or other related environmental factors that may not be normally adaptable or presently needed for urban or agriculture use;
- Have general slopes of 20 percent or more which provide for open space amenities and/or scenic values;
- Are susceptible to floods and soil erosion, lands undergoing major erosion damage and requiring corrective attention by the State or Federal government, and lands necessary to the protection of the health, safety and welfare of the public by reason of soil instability, rock fall hazards or the land's susceptibility to landslides and/or inundation by tsunami and flooding;
- Are used for natural, state, or city parks outside the Community Growth Boundary; or
- Are suitable for growing commercial timber, grazing, hunting, and recreation uses, including facilities accessory to such uses when said facilities are compatible with the natural and physical environment.

Preservation areas exclude such features, sites, or areas located within the Community Growth Boundary or Agriculture areas.

### **Urban Areas**

The maps show areas which have been developed or are planned for development for residential or commercial uses. Except when otherwise provided for, uses within the urban areas include residential and low-density apartment, medium-density apartment, neighborhood commercial center, regional town center, and resort uses. Changes to the urban areas from the 1999 [Plan](#) include the previously mentioned changes to the Community Growth Boundary in Niu Valley, the Leolani Development, and Keawāwa Marsh and Wetlands, as well as the construction of units in the Koko Villa neighborhood outside the entrance of Koko Crater Botanical Garden. The Koko Villas development was interpreted to be within the Community Growth Boundary. The ambiguity to the distinction between urban and preservation areas for Koko Villas is a reminder that these maps are only intended to be illustrations and where there are contradictions between the map and the text, or with other entitlements such as zoning, other regulatory tools will take precedent.

### **OPEN SPACE MAP**

This map is intended to illustrate the region's major open space patterns and resources as outlined in Chapter 3. It highlights major open space elements and resources, including agricultural and preservation lands, major recreational parks and golf courses, the Hawai'i Kai Marina, important panoramic views, natural stream corridors and drainage ways, and important boundaries.

This map also indicates the general locations of community and neighborhood parks, public access points along the shoreline, and major trails providing mountain access.

### **Landscaped Boulevard/Greenway**

Major arterials and major collector streets with landscaping, potentially including a landscaped median strip, landscaped sidewalk, and/or bikeways.

### **Natural Drainage Ways/Gulches**

Drainage ways and stream channels convey water as flood plains but also serve as open space resources. These areas are protected from development, disturbance, or channelization, except where absolutely necessary to protect existing urban development from flooding.

### **Panoramic Views**

Points or corridors within the public right-of-way where views and scenic resources are highly valued with minimal obstruction. See Exhibit 2-2 for areas that are identified as prominent land features, in addition to views of the shoreline and ocean, which many of these views are oriented to.

### **Trails**

Unsanctioned maintained trails have been removed from the map with the exception of the Mariners Ridge Trail. Mariners Ridge Trail and Koko Crater are two trails that are not maintained by the City or State, but remain on the map as both were identified in the 1999 [Plan](#) as trails offering unique and spectacular scenic resources. The Koko Head Trail was added to the map because of its contribution as a unique and spectacular scenic resource, being an access point to Nono'ula and 'Ihi'ihilauākea Preserves, and being located on City-owned property as part of the Koko Head Regional Park.

### **URBAN LAND USE MAP**

The Urban Land Use map illustrates the vision for the foreseeable future for East Honolulu's land uses within the Community Growth Boundary. This map illustrates the desired long-range land use pattern for East Honolulu which should result from implementation of the [Plan](#)'s vision and policies. The map includes the following terms:

#### **Residential and Low-Density Apartment**

These uses are depicted as a single yellow tone. "Residential" generally refers to single-family detached and attached houses or townhouses with individual exterior entries. "Low-density apartment" generally refers to low-density, low-rise multi-family residences, including townhouses, stacked flats and apartment buildings. Dwelling units in these buildings may share a common exterior entry. "Residential" housing types will generally be found in the residential zoning districts, and "low-density apartment" housing types will generally be found in the apartment zoning districts.

#### **Medium-Density Apartment**

These uses are depicted as a brown-orange tone. "Medium-density apartment" generally refers to mid- to high-rise multi-family residential projects. In East Honolulu, this designation will be applied only to areas developed consistent with this pattern as of the effective date of the

**Plan.** The map is reflective zoning within the A-2 Medium-Density Apartment District.

### **Neighborhood Commercial Center**

These centers are depicted with red dots, and generally represent clusters of commercial establishments intended for neighborhood service. Uses typically include grocery and sundry stores and other services and shops catering to common household- or neighborhood-level convenience items.

### **Regional Town Center**

The Regional Town Center for East Honolulu is comprised of the three commercial centers adjoining Hawai'i Kai Marina: Hawai'i Kai Shopping Center, Hawai'i Kai Towne Center, and Koko Marina Shopping Center. These centers are depicted as red shapes.

### **Resort**

The region's only resort use, the Kāhala Hotel and Resort, is depicted as a pink shape.

### **Elementary School**

Elementary schools have been added to the map to demonstrate the multi-purpose uses they may contain including secondary uses as recreational facilities or emergency shelters. Existing elementary schools include 'Āina Haina, Haha'ione, Koko Head, and Kamilo Iki Elementary Schools.

### **High School**

Existing high schools include Kalani High School and Kaiser High School.

### **Intermediate School**

The only existing intermediate/middle school is Niu Valley Intermediate School.

### **Marina**

The map depicts the Hawai'i Kai Marina as a series of connected light blue shapes indicating waterways and is not intended to be limited to the main docks.

### **Wastewater Treatment Plant**

The existing wastewater treatment plant is located on the mauka side of Kalaniana'ole Highway in proximity to Sandy Beach Park.

### **PUBLIC FACILITIES MAP**

The Public Facilities Map illustrates major existing and future public facilities and major privately owned facilities, including the golf course at the Wai'aleae Country Club. Its purpose is to display the locations for some of the public resources or assets available within the region.

The Public Facilities Map and corresponding text, as they appear in [thisPlan](#), are not meant to be amended between revisions of the [Plan](#) and should not be confused with amendments to the Public Infrastructure Map (PIM), which are used as part of the approval of projects in the CIP budget process.

Major public facilities which are to be funded through the City's CIP and budget appropriation are shown on the PIM. The PIM is not part of the [Plan](#) and is adopted and amended by resolution. Projects which are not listed in the [Plan](#) or are not shown on its maps can still be added to the Public Infrastructure Map by Council resolution if the Council finds them to be consistent with the vision and policies of the [Plan](#).

Terms that appear on the Public Facilities Map include the following:

#### **Bike Lane**

A bike lane provides an exclusive space for bicyclists in the roadway through the use of lines and symbols. Bike lanes are for one-way travel and are normally provided in both directions on two-way streets, and on one side of a one-way street. When roadway width is limited and the road is sloped, a bike lane may be provided in only the uphill direction. This is referred to as a climbing lane.

#### **Buffered Bike Lane**

A buffered bike lane is created by painting a flush buffer zone between a bike lane and the adjacent travel lane. While buffers are typically used between bike lanes and motor vehicle travel lanes to increase bicyclists' comfort, they may also be provided between bike lanes and parking lanes to discourage bicyclists from riding too close to parked vehicles.

#### **Elementary School**

Elementary schools have been added to the map to demonstrate the multi-purpose uses they may contain including secondary uses as recreational facilities or emergency shelters. Existing elementary schools include 'Āina Haina, Haha'ione, Koko Head, and Kamilo Iki Elementary Schools.

#### **High Occupancy Vehicle Lane**

An exclusive lane on a roadway reserved for transit and vehicles with more than one occupant, and which is developed to improve transit speed and to provide incentives for commuters to opt for mass transit or carpooling. The only HOV lane is a coned contra flow lane heading toward town along Kalaniana'ole Highway during morning rush hour.

#### **High School**

Existing high schools include Kalani High School and Kaiser High School.

#### **Intermediate School**

The only existing intermediate/middle school is Niu Valley Intermediate School.

#### **Marina**

The map depicts the Hawai'i Kai Marina as a series of connected light blue shapes indicating waterways and is not intended to be limited to the main docks.

## Park & Ride

Special parking lots where commuters park their cars and continue their commute by mass transit.

## Protected Bike Lane

A protected bike lane (also known as a separated bike lane or cycletrack) is an exclusive bikeway facility that combines the user experience of a shared use path with the on-street infrastructure of a conventional bike lane. Protected bike lanes are physically separated from motor vehicle traffic and distinct from the sidewalk.

## Shared Roadway

A shared roadway is a bikeway where bicyclists and motor vehicles are expected to share the same travel lane. Shared roadways are denoted by pavement marking (sharrows) and/or signage. They are typically used in locations with low traffic speeds and volumes or as a temporary solution on constrained higher-traffic streets.

## Shared Use Path

A shared use path is a two-way facility that is physically separated from motor vehicle traffic and used by bicyclists, pedestrians, and other non-motorized users. Shared use paths are often located in an independent alignment, such as a greenbelt or abandoned railroad right-of-way, and are used for recreation, leisure, and commuting.

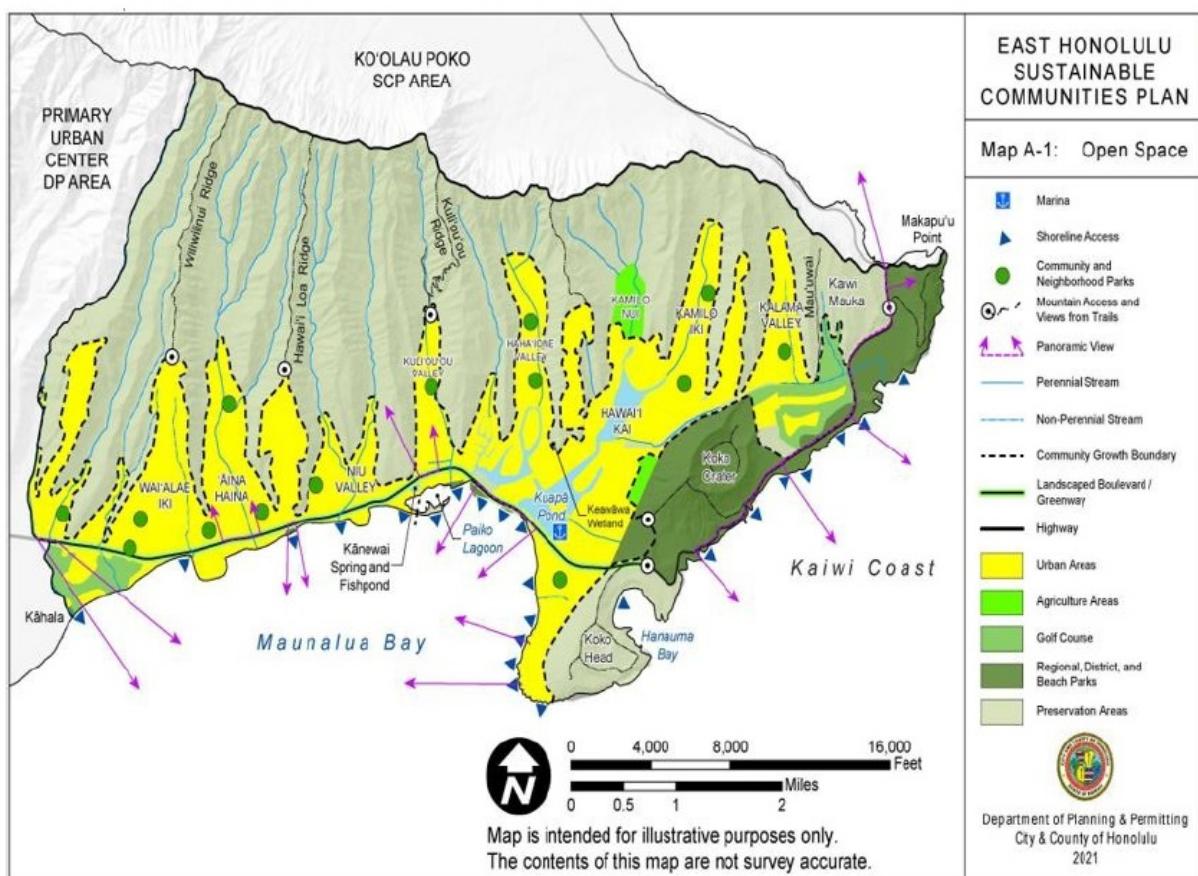
## Shoulder Bikeway

A shoulder bikeway is typically reserved for rural road cross-sections. Paved shoulders provide a range of benefits: they reduce motor vehicle crashes; reduce long-term roadway maintenance; ease short-term maintenance, such as debris clearing; and provide space for bicyclists and pedestrians.

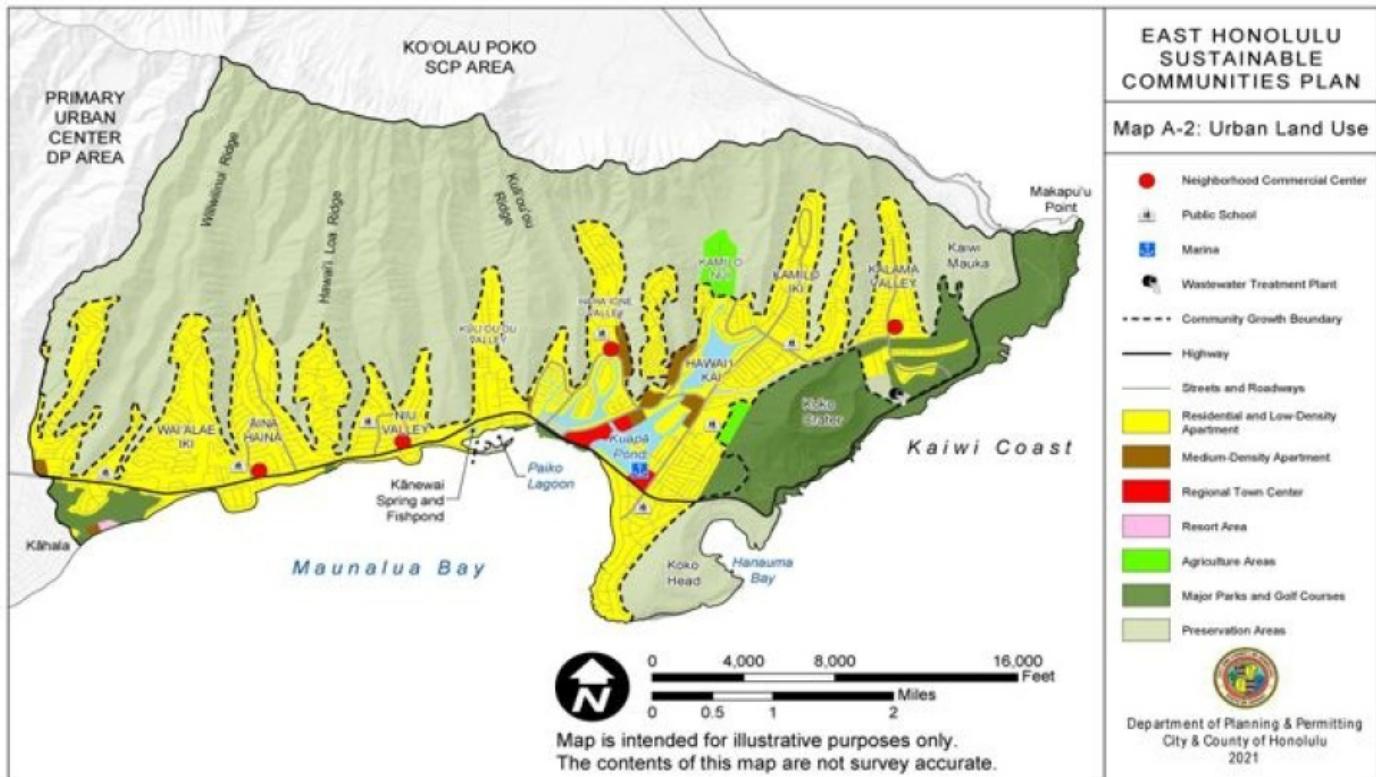
## Wastewater Treatment Plant

The existing wastewater treatment plant is located on the mauka side of Kalaniana'ole Highway in proximity to Sandy Beach Park.

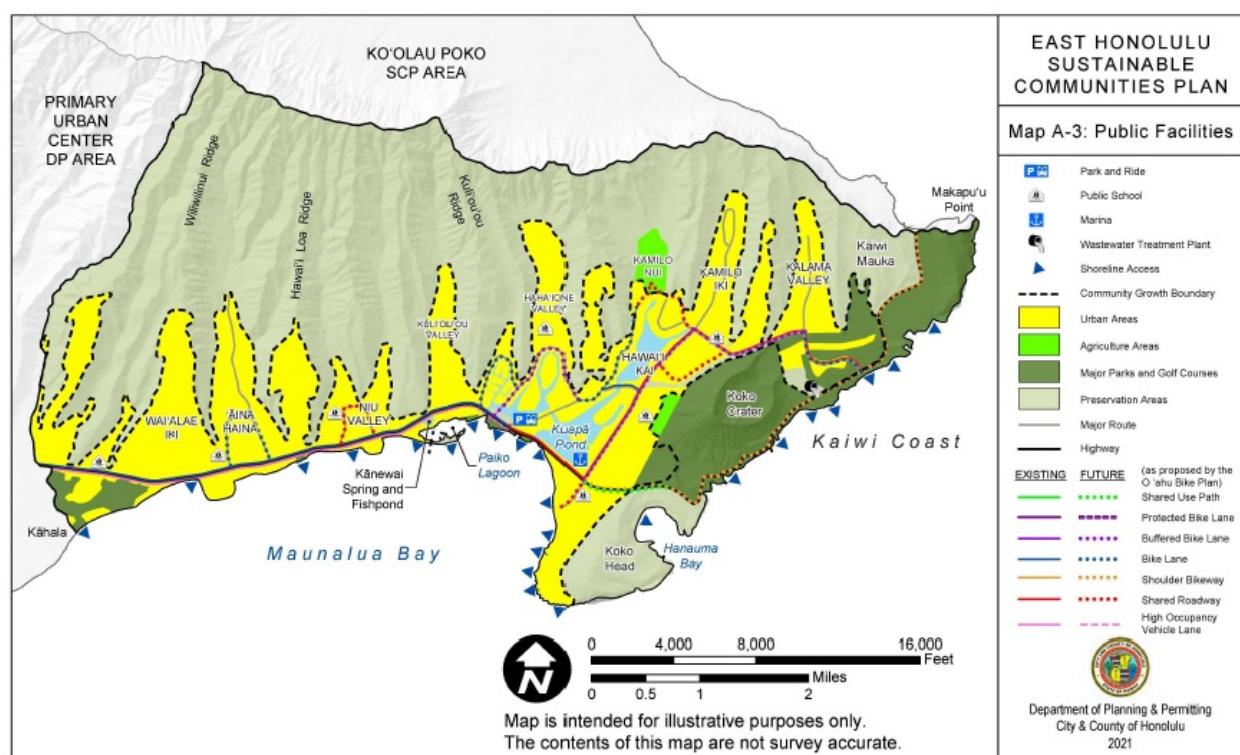
## MAP A-1: OPEN SPACE MAP



## MAP A-2: URBAN LAND USE MAP



### **MAP A-3: PUBLIC FACILITIES MAP**



## **CHAPTER 26: SHORELINE SETBACKS**

Article

## 1. Shoreline Setbacks

## **ARTICLE 1: SHORELINE SETBACKS**

## Sections

## 26-1.1 Authority

## 26-1.2 Purpose and intent

- 26-1.3 Definitions
- 26-1.4 Establishment of the shoreline setback line
- 26-1.5 Prohibitions within the shoreline setback area
- 26-1.6 Nonconforming structures
- 26-1.7 Subdivision actions
- 26-1.8 Criteria for granting a shoreline setback variance
- 26-1.9 Conditions on shoreline setback variances
- 26-1.10 Authority to act on shoreline setback variance applications
- 26-1.11 Public hearings
- 26-1.12 Application review and processing fees
- 26-1.13 Civil fines
- 26-1.14 Enforcement
- 26-1.15 Illegal shore protection structures
- 26-1.16 Rules

***Editor's note:***

*Ord. 23-3 does not affect any shoreline setback variances that have been approved prior to March 9, 2023.*

**§ 26-1.1 Authority.**

Pursuant to the authority conferred by HRS Chapter 205A, the standards and procedures contained in this chapter are hereby established and shall apply to all lands within the shoreline setback area of the city.

(1990 Code, Ch. 23, Art. 1, § 23-1.1) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

**§ 26-1.2 Purpose and intent.**

- (a) It is a primary policy of the city to:
  - (1) Reduce exposure to coastal hazards and increase the resilience of the community;
  - (2) Protect and preserve the natural shoreline, coastal zone environments, and associated ecosystems, especially sandy beaches, coastal dunes, wetlands, and reefs;
  - (3) Protect and preserve public pedestrian access laterally along the shoreline and to the sea;
  - (4) Maintain, protect, and preserve open space and coastal scenic resources; and
  - (5) Prohibit shoreline hardening unless necessary for coastal restoration or where it would result in a clear public benefit.
- (b) To carry out these policies and to comply with the mandate stated in HRS Chapter 205A, it is the specific purpose of this chapter to establish standards and authorize the department of planning and permitting to adopt rules pursuant to HRS Chapter 91 which generally prohibit within the shoreline setback area any structure or activity that may adversely affect beach processes, public access along the shoreline, or shoreline open space.
- (c) Finally, it is the purpose of this chapter to name the director of planning and permitting as the council's designee to exercise certain powers and functions granted, and duties imposed, pursuant to HRS Chapter 205A, Part III.

(1990 Code, Ch. 23, Art. 1, § 23-1.2) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

**§ 26-1.3 Definitions.**

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

**Activity.** Any action relating to construction, reconstruction, repair, improvement, grubbing, grading, or stockpiling.

**Annual Coastal Erosion Rate.** The average annual rate of coastal erosion applicable to each zoning lot as determined by historical analysis and shown on the Hawaii Shoreline Study web map as of March 9, 2023, and as thereafter updated by the director by rule to reflect updated data in the Hawaii Shoreline Study web map.

**Applicant.** Any individual, organization, partnership, firm, association, trust, estate, or corporation, and any agency of the federal, the State, or county government.

**Beach.** A coastal landform primarily composed of sand from eroded rock, coral, or shell material, or any combination thereof, established and shaped by wave action and tidal processes. A beach includes sand deposits in nearshore submerged areas, sand dunes, and upland beach deposits landward of the shoreline that provide benefits for public use and recreation, coastal ecosystems, and as a natural buffer against coastal hazards.

**Beach Processes.** Natural sand movement from wave, current, or wind action, including erosion or accretion of sand.

**Buildable Area.** That portion of a zoning lot excluding the shoreline setback area, required yards, street setbacks, stream or wetland setbacks, easements, and flag lot stems.

**Coastal Accretion.** A seaward trend in shoreline movement.

**Coastal Dune.** One of possibly several continuous or nearly continuous mounds or ridges of unconsolidated sand contiguous and parallel to the beach, situated so that it may provide some form of protection from wave run-up and be accessible to storm waves and seasonal high waves for release to the beach or offshore waters.

**Coastal Erosion.** A landward trend in shoreline movement.

**Coastal Hazards.** Natural processes that place people, property, or the environment at risk for injury or damage, including but not limited to tsunami, hurricane, wind, wave, storm surges, high tide, flooding, erosion, sea level rise, subsidence, or point and nonpoint source pollution.

**Department.** The department of planning and permitting, which agency shall act as the county planning department under applicable HRS sections.

**Director.** The director of planning and permitting.

**Dwelling Unit.** Has the same meaning as defined in § 21-10.1. For the purposes of this chapter, dwelling units include farm dwellings, ohana units, accessory dwelling units, and caretaker units.

**Earth Material.** Any sand, coral or coral rubble, rocks, soil, fill, or marine deposits.

**Excavation or Cut.** Any act by which earth material is cut into, dug, or moved, and any condition resulting therefrom.

**Fill.** Any act by which earth material is placed or deposited by artificial means, and any condition resulting therefrom.

**Grading.** Any excavation or fill, or any combination thereof.

**Grubbing.** Any act by which vegetation, including trees, shrubs, or other flora, is dislodged or uprooted from the surface of the ground.

**Hawaii Sea Level Rise Viewer.** The interactive viewer prepared by the Pacific Islands Ocean Observing System through coordination with the Hawaii Sea Grant Program and the State department of land and natural resources to support the Hawaii Sea Level Rise Vulnerability and Adaptation Report.

**Hawaii Sea Level Rise Vulnerability and Adaptation Report.** The 2017 report prepared by Tetra Tech, Inc. and the State department of land and natural resources, office of conservation and coastal lands, and adopted by the Hawaii climate change mitigation and adaptation commission.

**Hawaii Shoreline Study.** The coastal erosion data compiled by the coastal geology group in the school of ocean and earth science and technology at the University of Hawaii.

**Hawaii Shoreline Study Web Map.** The map created by the coastal geology group in the school of ocean and earth science and technology at the University of Hawaii to visualize and share data from the Hawaii Shoreline Study.

**Landscaping.** The modification of landscape or soils for an aesthetic or functional purpose, including but not limited to planting of vegetation. It does not include plants or hedges that may act as a shoreline hardening barrier.

**Makai.** Seaward or in a seaward direction toward the ocean.

**Mauka.** Landward or in a landward direction from the ocean.

**Minor Shoreline Structure.** A structure authorized to be located in the shoreline setback area through an approved minor shoreline structure permit that does not adversely affect beach processes, artificially fix the shoreline, interfere with public access or views to and along the shoreline, impede the natural processes or **movement of the shoreline or sand dunes, alter the grade of the shoreline setback area, or endanger public health, safety, or welfare.**

**Nonconforming Structure.** A structure or portion of a structure that was previously lawful but is currently located within the shoreline setback area as a result of subsequent beach erosion, or as a result of changes in the law relating to the shoreline setback area.

**Person.** Any individual, organization, partnership, firm, association, trust, estate, public or private corporation, the State or any of its political subdivisions, or any other legal entity.

**Practicable Alternative.** An alternative to the proposed project that is available and achievable, taking into consideration existing technology and logistics, which would accomplish the basic purpose of the project while avoiding or decreasing adverse impacts on the shoreline setback area.

**Public Interest.** Principally benefitting the general public by promoting natural beach processes, expanding public access to the shoreline, enhancing public views, supporting public health, safety, and welfare, and prioritizing the welfare of the public over the welfare of an individual or individual household.

**Reconstruction.** Rebuilding a lawfully established structure when a licensed professional engineer or architect has valued the cost of the reconstruction at 50 percent or more of the current replacement cost of the structure, or if significant portions of the structure are proposed for replacement, including exterior walls, support beams, floors, ceilings, and the foundation.

**Repair.** Renovating or fixing ordinary damage to a structure if a licensed professional engineer or architect values the cost of the work at less than 50 percent of the current replacement cost of the structure, except as provided in § 26-1.6(a) for the repair or alteration of nonconforming structures. Repairs do not involve enlarging, adding to, or expanding a structure; increasing the size or degree of nonconformity of a structure; or intensifying the use of a structure or its impact on coastal processes. Repairs do not involve substantial improvements to a structure, like-for-like replacement of structural materials, or reconstruction.

**Sea Level Rise Exposure Area.** The mapped zone on the Hawaii Sea Level Rise Viewer, or its successor, representing the aggregate of the following coastal hazard layers: passive flooding (still water high tide flooding), annual high wave flooding (overwash during the largest wave events of the year), and coastal erosion.

**Shoreline.** The upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

**Shoreline Hardening.** The process of fortifying the shoreline or shoreline setback area with structures or landscaping, including but not limited to seawalls, revetments, the placement of loose rocks and boulders, geotextile erosion abatement measures, and the planting, watering, and maintenance of landscaping features like naupaka where it will interfere with the natural beach processes.

**Shoreline Lot.** A zoning lot of record, any portion of which lies within the shoreline setback area, or if no certified shoreline survey exists, any portion of which lies within 130 feet of the natural vegetation line or debris line. A zoning lot may be determined to be a shoreline lot notwithstanding the existence of a second zoning lot or parcel situated between the first zoning lot and the shoreline.

**Shoreline Setback Area.** All of the land area between the shoreline and the shoreline setback line.

**Shoreline Setback Line.** That line established by this chapter that runs mauka from and parallel to the certified shoreline at the horizontal plane.

**Shoreline Survey.** A survey map rendered by a registered land surveyor for the purpose of determining the location of the shoreline, in accordance with applicable Hawaii Administrative Rules. A shoreline survey is considered a certified shoreline survey when the location of the regulatory shoreline has been determined by the State board of land and natural resources or the State surveyor in accordance with HRS § 205A-42, or its successor, and the rules adopted pursuant thereto.

**Stockpiling.** The temporary open storage of materials, including earth materials.

**Structure.** Any portion of any building, pavement, road, pipe, flume, utility line, fence, groin, wall, or revetment; or anything constructed or erected with a fixed location at or under the ground, or requiring a fixed location on or under the ground, or attached to something having or requiring a fixed location on or below the ground.

(1990 Code, Ch. 23, Art. 1, § 23-1.3) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

**Editor's note:**

*"March 9, 2023" is substituted for "the effective date of this ordinance."*

#### **§ 26-1.4 Establishment of the shoreline setback line.**

(a) Except as otherwise provided in this section, the shoreline setback line is established 40 feet mauka from the certified shoreline until July 1, 2024, after which the shoreline setback line will be established at the following distances mauka from the certified shoreline:

(1) Sixty feet plus 70 times the annual coastal erosion rate, up to a maximum setback of 130 feet, on zoning lots within all development plan and sustainable communities plan areas except the Primary Urban Center Development Plan area; provided that any property owner who believes the annual erosion rate applicable to a specific zoning lot does not accurately represent the actual erosion rate for that zoning lot may submit an application to the director requesting approval of an alternative coastal erosion rate methodology and data for the zoning lot in accordance with the procedures and informational requirements set forth in the department's rules implementing this chapter.

(2) Sixty feet on zoning lots within the Primary Urban Center Development Plan area.

(3) Sixty feet on zoning lots where historical erosion data has not been collected for the Hawaii shoreline study, or its successor, where the historical erosion data show coastal accretion, or where the historical erosion data show an annual coastal erosion rate of zero.

(b) Where the buildable area of a zoning lot is reduced to less than 1,500 square feet, the shoreline setback line may be adjusted to allow a minimum buildable area of 1,500 square feet, subject to review and confirmation by the director; provided that:

(1) The adjusted shoreline setback line may not be reduced to less than 40 feet from the certified shoreline;

(2) The shoreline setback line may only be reduced to the minimum extent required to permit construction and repair within the reduced buildable area, including the minimum necessary area for wastewater treatment structures, required parking spaces, and other accessory structures;

(3) The proposed structure or activity is positioned in the farthest mauka location on the zoning lot;

(4) The buildable area is measured as a standard polygon with no angle exceeding 120 degrees;

(5) On zoning lots that exceed 60 feet in width, the side yards may be increased so that the buildable area depth is 30 feet;

(6) The front yard may be increased if the department of health requires wastewater treatment to be located within the front yard setback area; provided that the required front yard for the underlying zoning district may not be increased by more than 10 feet;

(7) The proposal does not involve new shoreline hardening;

(8) If a proposed structure is within a special flood hazard area, as defined in Chapter 21A, structural design and construction must be resilient to existing and increasing flood hazards with a finished lowest floor elevation a minimum of 3 feet above the flood insurance rate map base flood elevation; and

(9) If a proposed structure is outside of the special flood hazard area but within the sea level rise exposure area under the scenario envisioning 3.2 feet of sea level rise by the year 2100, the lowest floor of the structure must be a minimum of 3 feet above the highest adjacent grade.

(c) Once a shoreline has been certified and a shoreline setback line has been established, no shoreline setback line may be established farther seaward as the result of a subsequent certified shoreline survey.

(d) A shoreline setback line determination approved by the director for zoning lots with erosion-rate-based setbacks may be issued at a property owner's request prior to the issuance of any land use, development, or building permits, or any subdivision actions.

(e) Prior to the commencement of grubbing, grading, or construction activities, the shoreline and shoreline setback line must be identified on the ground and posted with markers, posts, or other appropriate reference marks by a surveyor licensed in the State.

(1990 Code, Ch. 23, Art. 1, § 23-1.4) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

**Editor's note:**

*Any application for a shoreline setback variance submitted to the Director of Planning and Permitting and accepted as complete prior to July 1, 2024, is not affected by the determination of the shoreline setback line under § 26-1.4 or any successor ordinance.*

### **§ 26-1.5 Prohibitions within the shoreline setback area.**

- (a) The mining or taking of any earth material from the shoreline setback area is prohibited, with the following exceptions:
- (1) The inadvertent taking from the shoreline setback area of materials, such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;
  - (2) Where the mining or taking is authorized by a shoreline setback variance granted pursuant to this chapter;
  - (3) The clearing of materials from existing drainage pipes, canals, and the mouths of streams, including clearing for purposes allowed under HRS § 46-11.5; provided that sand removed must be placed on adjacent areas unless the placement would result in significant turbidity, or unsanitary or undesirable conditions;
  - (4) The clearing of the shoreline setback area for State or city maintenance purposes, including clearing for purposes under HRS § 46-12; provided that sand removed must be placed on adjacent areas, unless the placement would result in significant turbidity, or unsanitary or undesirable conditions;
  - (5) The taking of driftwood, shells, beach glass, glass floats, or seaweed;
  - (6) The exercise of traditional cultural practices as authorized by law or as permitted by the department pursuant to Article XII, Section 7, of the Hawaii State Constitution; or
  - (7) For the response to a public emergency or a State or local disaster.
- (b) Structures and activities are prohibited within the shoreline setback area, with the following exceptions:
- (1) Minor structures and activities permitted under rules adopted by the department that will not, within the lifetime of the structure or duration of the activity, affect beach processes or artificially fix the shoreline and will not interfere with public access, public views, or open space along the shoreline. If, due to beach erosion or other cause, the director determines that a minor structure permitted under this section may affect beach processes or public access, or has become located seaward of the shoreline, the director or other governmental agency having jurisdiction may order its removal;
  - (2) Minor structures and activities necessary for or ancillary to continuation, but not expansion, of agriculture or aquaculture in the shoreline setback area on June 16, 1989; provided that traditional Hawaiian fishpond systems may be restored or expanded as allowed under State law;
  - (3) A structure or activity that is necessary for or ancillary to a public shoreline-dependent facility or improvement, including but not limited to boating, maritime, aviation, public infrastructure, recreation-related, or lifeguard facilities; provided that the structure or activity will not interfere with beach processes or public beach access;
  - (4) Maintenance, repair, reconstruction, and minor additions to or alterations of lawfully established structures included in subdivision (3); provided that privately owned boating, maritime, or ocean sports recreational facilities are specifically not included in this exception;
  - (5) Nonconforming structures or structures that have received a shoreline setback variance;
  - (6) Construction, installation, maintenance, repair, and replacement of public warning or signal devices and sirens; or
  - (7) Beach and sand dune restoration and maintenance activities permitted by the State department of land and natural resources.

(1990 Code, Ch. 23, Art. 1, § 23-1.5) (Added by Ord. 92-34; Am. Ord. 10-32) (Am. Ord. [23-3](#))

### **§ 26-1.6 Nonconforming structures.**

- (a) A nonconforming structure may be repaired or altered; provided that the repairs or alterations do not increase or intensify the nonconformity, and the cumulative valuation of the repairs or alterations:
- (1) Does not exceed 50 percent of the replacement cost over a 10-year period of that portion of the structure that is nonconforming and located 40 feet or less from the certified shoreline; or
  - (2) Does not exceed 75 percent of the replacement cost over a 10-year period of that portion of the structure that is nonconforming and located more than 40 feet from the certified shoreline but makai of the shoreline setback line.
- (b) If a nonconforming structure is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it may not be reconstructed except in conformity with this chapter and the shoreline setback rules, as may be amended or superseded.
- (c) Reconstruction of a nonconforming structure within the shoreline setback area requires a shoreline setback variance.

(1990 Code, Ch. 23, Art. 1, § 23-1.6) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

### **§ 26-1.7 Subdivision actions.**

- (a) Except as provided in this chapter, no new subdivision action, including the subdivision or consolidation of land, involving an existing shoreline lot and the creation of new zoning lots may be approved, unless each new lot:
- (1) Can accommodate a shoreline setback line established at 60 feet mauka from the certified shoreline until July 1, 2024, after which each newly created shoreline zoning lot must accommodate a shoreline setback line established at 130 feet mauka from the certified shoreline; provided that an exception may be granted to subdivision actions involving the subdivision or consolidation of land only for the purpose of creating easements or adjusting zoning lot lines that will not result in any increase in the number of permitted dwelling units, nonresidential structures, or zoning lots; and
  - (2) Has a buildable area adequate to accommodate the proposed structures or activities, including accessory uses and structures, such as parking.

Accreted lands obtained from the State pursuant to HRS § 501-33 may not be included as part of the land area when calculating the zoning lot size available for subdivision.

- (b) Subdivision of existing shoreline lots for the purpose of widening roadways designated on the public infrastructure maps adopted pursuant to Chapter 4, Article 8, may be permitted upon the review and approval of the director.
- (c) New residential zoning lots may not be approved, unless each new lot:
- (1) Has a buildable area of at least 5,000 square feet;
  - (2) Has a buildable area outside of the shoreline setback area with a minimum depth and width of at least 50 feet;
  - (3) Is subdivided perpendicular to the shoreline to create deep lots that maximize opportunities to place structures far from the shoreline; and
  - (4) Is not a flag lot.

(1990 Code, Ch. 23, Art. 1, § 23-1.7) (Added by Ord. 92-34; Am. Ord. 10-32) (Am. Ord. [23-3](#))

**Editor's note:**

*Any application for a subdivision action submitted to the Director of Planning and Permitting and accepted as complete prior to July 1, 2024, is not affected by the determination of the shoreline setback line for subdivision actions involving an existing shoreline zoning lot and the creation of new zoning lots under § 26-1.7(a)(1) or any successor ordinance.*

**§ 26-1.8 Criteria for granting a shoreline setback variance.**

- (a) The director, as provided in §26-1.10, may grant a shoreline setback variance upon finding that, based upon the record presented, the proposed structure or activity is necessary for or ancillary to:
- (1) Cultivation of crops;
  - (2) Aquaculture;
  - (3) Landscaping; provided that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline; or
  - (4) Moving of sand from one location seaward of the shoreline to another location seaward of the shoreline; provided that the director also finds that the moving of sand will not adversely affect beach processes, will not diminish the size of a public beach and will be necessary to stabilize an eroding shoreline.
- (b) The director may also grant a shoreline setback variance upon finding that, based upon the record presented, the proposed structure or activity meets one of the following standards:
- (1) *Shoreline-dependent facility standard.* A shoreline setback variance may be granted for a structure or activity that is necessary for or ancillary to a shoreline-dependent facility or improvement, including but not limited to public infrastructure, drainage facilities, and boating, maritime, or water sport recreational facilities; provided that the proposal is the practicable alternative that best conforms to the purpose of the shoreline setback rules.
  - (2) *Public interest standard.* A shoreline setback variance may be granted for a structure or activity that is necessary for or ancillary to facilities or improvements by a public agency or public utility regulated under HRS Chapter 269, or necessary for or ancillary to private facilities or improvements that are clearly in the public interest; provided that the proposal is the practicable alternative that best conforms to the purpose of this chapter and the shoreline setback rules.
  - (3) *Hardship standard.*
    - (A) A shoreline setback variance may be granted for a structure or activity if hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline setback area.
    - (B) For the purposes of this subsection, hardship may be found only if all of the following are met:
      - (i) The structures will neither adversely affect beach processes nor artificially fix the shoreline, and the applicant and landowner would be deprived of reasonable use of the land if required to comply fully with this chapter and the shoreline setback rules;
      - (ii) The applicant's proposal is due to unique circumstances, does not draw into question the reasonableness of this chapter and the shoreline setback rules, is consistent and compatible with surrounding land uses, and is unlikely to adversely impact neighboring properties; and
      - (iii) The proposal is the practicable alternative that best conforms to the purpose of this chapter and the shoreline setback rules. The analysis of the practicable alternatives must include a thorough assessment of potential impacts and consideration of mitigation measures to avoid or minimize impacts, including but not limited to the relocation or reconfiguration of structures and the restoration of coastal resources.
    - (C) A shoreline setback variance to artificially fix the shoreline may not be granted in areas with sandy beaches or dunes, or where artificially fixing the shoreline may interfere with existing recreational and waterline activities or natural sand and sediment replenishment that occur as part of beach processes, unless the granting of the shoreline setback variance is clearly demonstrated to be in the public interest.
    - (D) Before granting a shoreline setback variance on the basis of hardship, the director must determine that the applicant's proposal is a reasonable use of the land. Because of the dynamic nature of the shoreline environment, inappropriate development may easily pose a risk to individuals or to the public health and safety. For this reason, the determination of the reasonableness of the use of land should properly consider factors such as shoreline conditions, erosion, surf and flood conditions, and the geography of the zoning lot.
    - (E) Hardship may not be determined as a result of a zone change, plan review use approval, subdivision approval, cluster housing approval, planned development housing approval, conditional use permit, or any other discretionary

land use permit granted after June 16, 1989.

(1990 Code, Ch. 23, Art. 1, § 23-1.8) (Added by Ord. 92-34; Am. Ord. 10-32) (Am. Ord. [23-3](#))

### **§ 26-1.9 Conditions on shoreline setback variances.**

(a) No shoreline setback variance may be granted unless appropriate conditions are imposed:

- (1) To maintain safe access to and along the shoreline or adequately compensate for its loss;
- (2) To minimize risk of adverse impacts to coastal, beach, and marine processes;
- (3) To minimize risk of existing legal or proposed structures falling and becoming loose rocks, sharp or otherwise dangerous debris, or rubble on public property; and
- (4) To minimize adverse impacts on public views to, from, and along the shoreline.

(b) The director may condition the approval of a shoreline setback variance for structures, activities, and uses within the shoreline setback area on the property being ineligible for subsequent shoreline setback variances to construct shoreline hardening within the shoreline setback area, and stipulate that hardship may not be determined as a result of the prior shoreline setback variance approval.

(c) The city is not liable for any losses, liabilities, claims, or demands arising out of or resulting from damages to structures or property within the shoreline setback area approved by a shoreline setback variance.

(1990 Code, Ch. 23, Art. 1, § 23-1.9) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

### **§ 26-1.10 Authority to act on shoreline setback variance applications.**

(a) The director shall act upon all shoreline setback variance applications according to the criteria set forth in this chapter.

(b) The applicant shall give reasonable notice of an application for a shoreline setback variance under this chapter to abutting property owners, affected neighborhood boards and community associations, and persons that have requested receipt of a notice.

(1990 Code, Ch. 23, Art. 1, § 23-1.10) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

### **§ 26-1.11 Public hearings.**

(a) The director shall hold a public hearing on each shoreline setback variance application that has been accepted as complete.

(b) The director shall give reasonable notice of the public hearing for a shoreline setback variance application to the applicant, affected neighborhood boards and community associations, and persons that have requested notice of the public hearing. The applicant must mail notices to neighboring property owners within 300 feet of the zoning lot, and persons that have requested receipt of a notice; provided that if a neighboring property is a condominium project, notice to the association of apartment owners of the condominium project will serve as notice to the owners of the units in the project.

(1990 Code, Ch. 23, Art. 1, § 23-1.11) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

### **§ 26-1.12 Application review and processing fees.**

(a) The following table sets forth application review and processing fees, which are not refundable. The review fees cover the costs of determining whether an application is complete or incomplete.

Application Type	Review Fee	Processing Fee	TOTAL FEE
Shoreline Setback Variance	\$400	\$2,000	\$2,400
Environmental Assessment	\$200	\$1,000	\$1,200
Environmental Impact Statement	\$400	\$2,000	\$2,400
Minor Shoreline Structure Permit	\$100	\$500	\$600
Shoreline Setback Line Determination	No fee	\$600 per tax map key	\$600 per tax map key
Confirmation of Shoreline Structure Nonconforming Status	No fee	\$600 per tax map key	\$600 per tax map key

(b) When an application is submitted, it must include all required fees. The nonrefundable application review fee will immediately be applied to the review of the application. If the application is accepted for processing, the processing fee will be applied to the application. If the application is determined to be incomplete, the processing fee will be returned.

(c) Review fees and processing fees will be doubled for permits and environmental disclosure documents submitted:

- (1) After a notice of violation has been issued for the activity or construction; or
- (2) After the proposed work is completed.

(d) Fees may be waived for city projects.

(1990 Code, Ch. 23, Art. 1, § 23-1.12) (Added by Ord. 92-34; Am. Ords. 03-12, 13-16, 14-4, 20-18, [23-3](#))

### **§ 26-1.13 Civil fines.**

(a) Any person violating this chapter, any rule adopted pursuant thereto, any permit issued pursuant thereto, or any condition of a shoreline setback variance will, upon notice issued pursuant to § 26-1.14, be deemed to have committed a civil violation and will be subject to an initial civil fine not to exceed \$100,000 per violation and a maximum daily fine of \$10,000 until the violation is corrected or a shoreline setback variance is granted.

(b) Any order to pay civil fines will not be stayed by the submittal of a shoreline setback variance application after the applicant has initiated, completed, or been cited for the activity.

(1990 Code, Ch. 23, Art. 1, § 23-1.13) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

## § 26-1.14 Enforcement.

(a) *Issuance of notice of violation and order.* If the director determines that any person is violating this chapter, any rule adopted thereunder, any permit issued pursuant thereto, or any condition of a shoreline setback variance, the director may have the person served with a written notice of violation and order in compliance with the agency's administrative rules.

(1) *Contents of the notice of violation.* The notice must include at least the following information:

- (A) Date of notice;
  - (B) The name and address of the person given notice;
  - (C) The section number of the ordinance or rule that has been violated;
  - (D) The nature of the violation; and
  - (E) The location of the violation and the date and time that the violation was discovered.
- (2) *Contents of the order.* The order may require the person to do any or all of the following:
- (A) Cease and desist from the violation;
  - (B) Correct the violation at the person's own expense, which may include removal of any structure and restoration of land to previous conditions;
  - (C) Pay a civil fine not to exceed \$100,000 in the manner, at the place, and before the date specified in the order;
  - (D) Pay a civil fine not to exceed \$10,000 per day for each day in which the violation persists, in the manner, at the place, and before the date specified in the order; and
  - (E) Appear before the director at a time and place specified in the order and answer the charges specified in the notice of violation.

The order must advise the person that the order will become final 30 days after the date of its service unless written request for a hearing is mailed or delivered to the director prior to expiration of the 30-day period.

(b) *Effect of order-right to hearing.* The order issued by the director under this section will become final 30 days after the date of the service of the order. The person in receipt of the notice may request a hearing before the director. A request for a hearing will not stay any provision of the order.

The request for a hearing will be considered timely if a written request is delivered or mailed and postmark dated to the director within the 30-day period.

Upon receipt of a request for a hearing, the director shall specify a time and place for the person subject to the order to appear and be heard. The hearing will be conducted by the director or the director's designee in accordance with HRS Chapter 91. Following the hearing, the director or the director's designee may affirm, modify, or rescind the order, as the director or the director's designee deems appropriate.

(c) *Judicial enforcement of order.* 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 an order, the director need only show that a notice of violation and order was served, a hearing was held or the 30-day period during which a hearing may be requested had expired without such a request, a civil fine was imposed, and the fine imposed has not been paid.

The director may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of this chapter, any rule adopted thereunder, any permit issued pursuant thereto, or any condition of any shoreline setback variance in addition to any other remedy provided for under this chapter.

(d) *Nonexclusiveness of remedies.* The remedies provided in this chapter for enforcement of this chapter, any rule adopted thereunder, any permit issued pursuant thereto, or any condition of any shoreline setback variance will be in addition to any other remedy as may be provided by law.

(e) *Appeal in accordance with statute.* If any person is aggrieved by the order issued by the director pursuant to this section, the person may appeal the order in the manner provided in HRS Chapter 91; provided that no provision of an order will be stayed on appeal, unless specifically ordered by a court of competent jurisdiction.

(1990 Code, Ch. 23, Art. 1, § 23-1.14) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

## § 26-1.15 Illegal shore protection structures.

Where the shoreline is affected by a structure that has not been authorized pursuant to governmental agency permits required by law:

- (1) If any part of the structure is located within the current tax map boundaries of a privately-owned parcel, then for purposes of enforcement of this chapter, the structure will be construed as being located entirely within the shoreline setback area; and
- (2) No building permit or grading permit will be granted on a shoreline lot unless and until the illegal structure is removed or corrected.

(1990 Code, Ch. 23, Art. 1, § 23-1.15) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

## § 26-1.16 Rules.

The director shall adopt rules pursuant to HRS Chapter 91 to implement this chapter and HRS Chapter 205A, Part III. The rules:

- (1) May identify high-quality sandy beaches that should be preserved;
- (2) May include guidelines or prohibitions relating to the types of shore protection structures that may or may not be permitted on

high-quality beaches and other beaches;

(3) May, after the initial determination of the average annual rate of coastal erosion on March 9, 2023\*, update the determination of the average annual rate of coastal erosion as necessary to reflect updated data in the Hawaii Shoreline Study web map; and

(4) Must set forth the procedures and informational requirements by which a property owner may submit an application requesting approval of an alternative coastal erosion rate methodology and data if the property owner believes the annual erosion rate applicable to the zoning lot does accurately represent the actual erosion rate for that zoning lot.

(1990 Code, Ch. 23, Art. 1, § 23-1.16) (Added by Ord. 92-34) (Am. Ord. [23-3](#))

**Editor's note:**

\*"March 9, 2023" is substituted for "the effective date of this ordinance."

## **CHAPTER 30: WATER MANAGEMENT**

### Articles

1. General Provisions
2. Oahu Water Management Policies and Strategies
- 2A. Waianae Watershed Management Plan
- 2B. Koolau Loa Watershed Management Plan
- 2C. Koolau Poko Watershed Management Plan
- 2D. North Shore Watershed Management Plan
- 2E. East Honolulu Watershed Management Plan
3. Severability
4. Water Conservation Measures
5. Medication in Drinking Water

### **ARTICLE 1: GENERAL PROVISIONS**

#### Sections

- 30-1.1 Purpose
- 30-1.2 Definitions
- 30-1.3 Consistency requirements
- 30-1.4 Preparation and adoption of regional watershed management plans
- 30-1.5 Interim plan in areas not yet subject to a regional watershed management plan
- 30-1.6 Revisions

#### **§ 30-1.1 Purpose.**

(a) The State water code (HRS Chapter 174C) mandates the preparation and adoption of a water use and development plan by each county as part of the Hawaii water plan. In adopting the plan, the City and County of Honolulu recognizes that water is a limited resource, the development and use of which must be carefully planned.

(b) The water use and development plan for the City and County of Honolulu, which is called the Oahu water management plan (OWMP), is intended to fulfill the requirements set forth by the State water code.

(c) The OWMP consists of overall policies and strategies and regional watershed management plans, which guide the activities of the City and County of Honolulu and advises the State commission on water resource management in the areas of planning, management, water development, and use and allocation of Oahu's limited water resources.

(1990 Code, Ch. 30, Art. 1, § 30-1.1) (Added by Ord. 90-62; Am. Ord. 10-17)

#### **§ 30-1.2 Definitions.**

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

**Board.** The board of water supply of the City and County of Honolulu.

**Commission.** The commission on water resource management.

**Department.** The department of planning and permitting of the City and County of Honolulu.

**Development Plans.** The development plans of the City and County of Honolulu as defined by Charter § 6-1509.

**Domestic Use.** Any use of water for individual personal needs and for household purposes such as drinking, bathing, heating, cooking, noncommercial gardening, and sanitation.

**General Plan.** The general plan of the City and County of Honolulu as defined by Charter § 6-1508.

**Groundwater.** Any water found beneath the surface of the earth, whether in perched, dike-confined, or basal supply; in underground channels or streams; in standing, percolating, or flowing condition; or under artesian pressure.

**Hawaii Water Plan.** The integrated program of the commission for the protection, conservation, and management of the waters of the State, with such amendments, supplements, and additions as may be necessary, mandated by the State water code.

**Municipal Use.** The domestic, industrial, and commercial use of water through public services available to persons of a county for the promotion and protection of their health, comfort, and safety, for the protection of property from fire, and for domestic use.

**Oahu Water Management Plan (OWMP).** The water use and development plan mandated by the State water code and collectively reflected in islandwide water management policies and strategies in Article 2, and regional watershed management plans in Article 2A and thereafter.

**State Water Code.** HRS Chapter 174C.

(1990 Code, Ch. 30, Art. 1, § 30-1.2) (Added by Ord. 90-62; Am. Ords. 96-58, 10-17)

**§ 30-1.3 Consistency requirements.**

The Oahu water management plan shall be consistent with:

- (1) The water resource protection and water quality plans of the Hawaii water plan;
- (2) City land use plans and policies including the general plan, development plans, and zoning; and
- (3) State land use classification and policies.

(1990 Code, Ch. 30, Art. 1, § 30-1.3) (Added by Ord. 90-62; Am. Ord. 10-17)

**§ 30-1.4 Preparation and adoption of regional watershed management plans.**

In conjunction with the board, the department shall be responsible for the preparation of the regional watershed management plans for the Oahu water management plan. The regional watershed management plans shall be adopted by ordinance.

(1990 Code, Ch. 30, Art. 1, § 30-1.4) (Added by Ord. 90-62; Am. Ord. 10-17)

**§ 30-1.5 Interim plan in areas not yet subject to a regional watershed management plan.**

In areas where a regional watershed plan has not been adopted, Articles 1, 2, and 3 of this chapter and the Technical Reference Document for the Oahu Water Management Plan, dated March 1990, shall serve as the water use and development plan.

(1990 Code, Ch. 30, Art. 1, § 30-1.5) (Added by Ord. 90-62; Am. Ord. 10-17)

**§ 30-1.6 Revisions.**

The department, working in conjunction with the board, shall be responsible for the preparation of updates to the regional watershed management plans. Each regional watershed management plan shall be updated, at a minimum, in tandem with the respective development plan/sustainable communities plan. Updates shall be adopted by ordinance.

(1990 Code, Ch. 30, Art. 1, § 30-1.6) (Added by Ord. 90-62; Am. Ords. 91-61, 10-17)

## **ARTICLE 2: OAHU WATER MANAGEMENT POLICIES AND STRATEGIES**

**Sections**

- 30-2.1 Intent
- 30-2.2 Water management policies
- 30-2.3 Water management strategies

**§ 30-2.1 Intent.**

The Oahu water management plan is intended to ensure:

- (1) The optimum utilization of the existing water supply to minimize the need for the development of additional potable groundwater sources;
- (2) The preservation of the aquifers for the benefit of future generations, in perpetuity, by proper management of Oahu's groundwater sources;
- (3) The timely development of additional potable groundwater sources and alternative sources to provide for additional consumer demand; and
- (4) That growth in consumer demand will be compatible with available water supply.

(1990 Code, Ch. 30, Art. 2, § 30-2.1) (Added by Ord. 90-62)

**§ 30-2.2 Water management policies.**

(a) This section sets forth the policies for water use and development within each development plan area. These are established in recognition of the vital role of water in supporting land use activities on the island of Oahu. Potable groundwater is the premium water resource on Oahu because over the long term, it is the most economical to develop and requires no treatment, but this resource is finite in nature and the limit of feasibly developed potable water sources is rapidly being approached.

(b) These policies shall apply to all city agencies in the performance of their powers, duties, and functions as related to both public and private development.

(c) In addition, all city actions in regard to the use and commitment of water resources to meet existing or projected demands on the public water system on the island of Oahu shall be guided by the board of water supply's Oahu water plan.

- (1) *Policy one.* Facilities for the provision of water shall be based on the general plan population projections and the land use policies contained in the development plans and depicted on the development plan land use maps.
- (2) *Policy two.* System flexibility shall be maintained to facilitate the provision of an adequate supply of water consistent with

planned land uses. The municipal water system shall be developed and operated substantially as an integrated islandwide water system.

(3) *Policy three.* Close coordination shall be maintained between federal, State, and county agencies which are involved in the provision or management of water to ensure optimal distribution of the available water supply.

(4) *Policy four.* The quality and integrity of the water supply shall be maintained by providing for the monitoring and protection of the water supply in accordance with the requirements of the State water code.

(5) *Policy five.* The development and use of nonpotable water sources shall be maximized in a manner consistent with the protection of the groundwater quality.

(6) *Policy six.* Water conservation shall be strongly encouraged.

(7) *Policy seven.* Alternative water sources shall be developed wherever feasible to ensure an adequate supply of water for planned uses on Oahu.

(1990 Code, Ch. 30, Art. 2, § 30-2.2) (Added by Ord. 90-62)

### **§ 30-2.3 Water management strategies.**

(a) Based on the findings and projections in the Oahu water management plan, provisions for an adequate supply of water to meet islandwide needs for at least 20 years shall be addressed. This shall be determined after evaluating the anticipated demand for water use from municipal, agricultural, military, and private users; the available remaining groundwater which can be safely developed; the planned and proposed water source development projects; and alternative water development projects underway.

(b) Based on these findings, the plan or strategy for water management shall be to continue to develop available groundwater sources but to preserve as much of the groundwater supply as possible, through the more efficient use of the existing water supply, an ongoing water conservation program, and by the continued development of alternative sources of water.

(c) The following strategies shall be applied in the development and use of water resources on Oahu:

(1) *Strategy one.* Develop water resources in consonance with the general plan population projections and the land use policies contained in the development plans and depicted on the development plan land use maps. Priority shall be given to affordable housing projects shown on the development plan land use maps or processed under HRS Chapter 201H;

(2) *Strategy two.* Continue to safely develop the remaining available groundwater in accordance with the requirements of the State water code.

(A) *Substrategy A.* The commission may continue to refine the accuracy of the sustainable yields in the water resources protection plan at the aquifer level to better guide decisions regarding future exploration and development of water sources.

(B) *Substrategy B.* The commission, in consultation with the board, may formulate a plan for the future exploration, monitoring, and development of groundwater resources based on the identified sustainable yields.

(3) *Strategy three.* Use surface water more effectively and efficiently.

(A) *Substrategy A.* The commission may compile an inventory of surface water use on Oahu for the purpose of determining existing use and projecting future use, given the present lack of information.

(B) *Substrategy B.* The commission may certify the unreported and undetermined quantities of surface water use in windward Oahu as part of its water registration program.

(4) *Strategy four.* Continue to refine the near and long-term projections of agriculture on the island to more accurately project the future net release of water currently committed to agricultural use.

(A) *Substrategy A.* The State department of agriculture may inventory and project diversified agriculture including the irrigated acreage, method of irrigation, source of water, and the quantity and quality of water use.

(B) *Substrategy B.* The commission may seek to establish the necessary commission procedures to more readily transfer water allocations from agricultural to municipal use, especially where urban or other agricultural uses replace sugarcane lands.

(5) *Strategy five.* Maintain an ongoing water conservation program through the board, using such approaches as pricing, public information, educational programs, water-saving devices, and use restrictions and allocations;

(6) *Strategy six.* Develop and use nonpotable water sources, wherever feasible, for the irrigation of agricultural crops, parks and golf courses, landscaping, and for certain industrial uses.

(A) *Substrategy A.* Support the exchange of nonpotable water, wherever feasible, for potable water, which is being used for irrigation to preserve more of Oahu's potable supply for domestic use.

(B) *Substrategy B.* Pursue opportunities to blend brackish water with potable water to produce a greater supply of potable water.

(C) *Substrategy C.* Support and pursue the reuse of treated wastewater effluent for irrigation or groundwater recharge wherever feasible.

(7) *Strategy seven.* Continue efforts to develop economical methods of demineralizing brackish water and desalting seawater.

(A) *Substrategy A.* Support the demonstration and expansion of the State's desalinization pilot project.

(B) *Substrategy B.* Continue research to develop more economical methods for desalting seawater for municipal purposes (e.g., an open cycle method of ocean thermal energy conversion or OTEC).

(1990 Code, Ch. 30, Art. 2, § 30-2.3) (Added by Ord. 90-62; Am. Ord. 10-17)

## **ARTICLE 2A: WAIANAE WATERSHED MANAGEMENT PLAN**

Sections

30-2A.1 Applicability

30-2A.2 Adoption of the Waianae watershed management plan

30-2A.3 Conflicting provisions

### **§ 30-2A.1 Applicability.**

This article applies to the Waianae district, which is described in the Waianae watershed management plan. This article supplements Article 2 with respect to the Waianae district.

(1990 Code, Ch. 30, Art. 2A, § 30-2A.1) (Added by Ord. 10-17)

### **§ 30-2A.2 Adoption of the Waianae watershed management plan.**

Pursuant to HRS Chapter 174C, the plan entitled "Waianae Watershed Management Plan," dated August 2009, attached to Ordinance 10-17 as Exhibit A-1, is adopted and by reference is incorporated herein as a regional watershed management plan for Oahu. Exhibit A-1 need not be included in this code.

(1990 Code, Ch. 30, Art. 2A, § 30-2A.2) (Added by Ord. 10-17)

### **§ 30-2A.3 Conflicting provisions.**

This article shall, with respect to the Waianae district, prevail should there be any conflict with Articles 1 or 2.

(1990 Code, Ch. 30, Art. 2A, § 30-2A.3) (Added by Ord. 10-17)

## **ARTICLE 2B: KOOLAU LOA WATERSHED MANAGEMENT PLAN**

Sections

30-2B.1 Applicability

30-2B.2 Adoption of the Koolau Loa watershed management plan

30-2B.3 Conflicting provisions

### **§ 30-2B.1 Applicability.**

This article applies to the Koolau Loa district, which is described in the Koolau Loa watershed management plan. This article supplements Article 2 with respect to the Koolau Loa district.

(1990 Code, Ch. 30, Art. 2B, § 30-2B.1) (Added by Ord. 10-18)

### **§ 30-2B.2 Adoption of the Koolau Loa watershed management plan.**

Pursuant to HRS Chapter 174C, the plan entitled "Koolau Loa Watershed Management Plan," dated August 2009, attached to Ordinance 10-18 as Exhibit A-1, is adopted and by reference is incorporated herein as a regional watershed management plan for Oahu. Exhibit A-1 need not be included in this code.

(1990 Code, Ch. 30, Art. 2B, § 30-2B.2) (Added by Ord. 10-18)

### **§ 30-2B.3 Conflicting provisions.**

This article shall, with respect to the Koolau Loa district, prevail should there be any conflict with Articles 1 or 2.

(1990 Code, Ch. 30, Art. 2B, § 30-2B.3) (Added by Ord. 10-18)

## **ARTICLE 2C: KOOLAU POKO WATERSHED MANAGEMENT PLAN**

Sections

30-2C.1 Applicability

30-2C.2 Adoption of the Koolau Poko watershed management plan

30-2C.3 Conflicting provisions

### **§ 30-2C.1 Applicability.**

This article applies to the Koolau Poko district, which is described in the Koolau Poko watershed management plan. This article supplements Article 2 with respect to the Koolau Poko district.

(1990 Code, Ch. 30, Art. 2C, § 30-2C.1) (Added by Ord. 12-30)

### **§ 30-2C.2 Adoption of the Koolau Poko watershed management plan.**

Pursuant to HRS Chapter 174C, the plan entitled "Koolau Poko Watershed Management Plan," dated February 2012, attached to Ordinance 12-30 as Exhibit A, is adopted and by reference is incorporated herein as a regional watershed management plan for Oahu. Exhibit A need not be included in this code.

(1990 Code, Ch. 30, Art. 2C, § 30-2C.2) (Added by Ord. 12-30)

### **§ 30-2C.3 Conflicting provisions.**

This article shall, with respect to the Koolau Poko district, prevail should there be any conflict with Articles 1 or 2.

(1990 Code, Ch. 30, Art. 2C, § 30-2C.3) (Added by Ord. 12-30)

## **ARTICLE 2D: NORTH SHORE WATERSHED MANAGEMENT PLAN**

### Sections

- 30-2D.1 Applicability
- 30-2D.2 Adoption of the North Shore watershed management plan
- 30-2D.3 Conflicting provisions

### **§ 30-2D.1 Applicability.**

This article applies to the North Shore District, which is described in the North Shore Watershed Management Plan. This article supplements Article 2 with respect to the North Shore District.

(1990 Code, Ch. 30, Art. 2D, § 30-2D.1) (Added by Ord. 16-31)

### **§ 30-2D.2 Adoption of the North Shore watershed management plan.**

Pursuant to HRS Chapter 174C, the plan entitled "North Shore Watershed Management Plan," dated June 2016, attached to Ordinance 16-31 as Exhibit A, is adopted and by reference is incorporated herein as a regional watershed management plan for Oahu. Exhibit A need not be included in this code.

(1990 Code, Ch. 30, Art. 2D, § 30-2D.2) (Added by Ord. 16-31)

### **§ 30-2D.3 Conflicting provisions.**

This article shall, with respect to the North Shore District, prevail should there be any conflict with Articles 1 or 2.

(1990 Code, Ch. 30, Art. 2D, § 30-2D.3) (Added by Ord. 16-31)

## **ARTICLE 2E: EAST HONOLULU WATERSHED MANAGEMENT PLAN**

### Sections

- 30-2E.1 Applicability
- 30-2E.2 Adoption of the East Honolulu watershed management plan
- 30-2E.3 Conflicting provisions

### **§ 30-2E.1 Applicability.**

This article applies to the East Honolulu District, which is described in the East Honolulu Watershed Management Plan. This article supplements Article 2 with respect to the East Honolulu District.

(Added by Ord. [24-29](#))

### **§ 30-2E.2 Adoption of the East Honolulu watershed management plan.**

Pursuant to HRS Chapter 174C, the plan entitled "East Honolulu Watershed Management Plan," dated May 2024, attached to Ordinance [24-29](#) as Exhibit A, is adopted and by reference is incorporated herein as a regional watershed management plan for Oahu. Exhibit A need not be included in this code.

(Added by Ord. [24-29](#))

#### ***Editor's note:***

\*"Ordinance [24-29](#)" is substituted for "this ordinance."

### **§ 30-2E.3 Conflicting provisions.**

With respect to the East Honolulu District, the provisions of this article and the East Honolulu Watershed Management Plan shall prevail should there be any conflict with any other provisions of Article 1 or Article 2.

(Added by Ord. [24-29](#))

## **ARTICLE 3: SEVERABILITY**

### Section

- 30-3.1 Severability

### **§ 30-3.1 Severability.**

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(1990 Code, Ch. 30, Art. 3, § 30-3.1) (Added by Ord. 90-62)

## **ARTICLE 4: WATER CONSERVATION MEASURES**

### Sections

- 30-4.1 Definitions
- 30-4.2 Water closets and showerhead requirements
- 30-4.3 Exception
- 30-4.4 Enforcement
- 30-4.5 Rules

**§ 30-4.1 Definitions.**

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

**Administrative Authority.** Has the same meaning as defined in § 19-2.1.

**Authorized Agent.** A person who is authorized to act on behalf of the owner of residential property.

**Director.** The director of budget and fiscal services.

**Hotel.** Has the same meaning as defined in § 21-10.1.

**Low-Flow Kitchen Faucet, Lavatory Faucet, and Showerhead.** A kitchen faucet or showerhead with flow control devices that limit the faucet's or showerhead's maximum flow rate to 2.5 gallons per minute and a lavatory faucet with flow control devices that limit the lavatory faucet's maximum flow rate to 2.0 gallons per minute.

**Low-Flush Urinal.** A urinal with volume limiting devices or methods which limit the discharge to 1.0 gallon per flush.

**Nonresidential Property or Nonresidential Properties.** Property improved with hotels or with industrial or commercial buildings.

**Residential Property or Residential Properties.** Property other than nonresidential property or nonresidential properties.

**Ultra-Low Flush Toilet.** A tank-type water closet or a flushometer valve toilet with volume-limiting devices or methods that limit the discharge to 1.6 gallons per flush.

**Water-Saving Toilets.** Ultra-low flush toilets and low-flush urinals.

(1990 Code, Ch. 30, Art. 4, § 30-4.1) (Added by Ord. 92-01; Am. Ords. 92-109, 94-32, 00-05, [25-2](#))

**§ 30-4.2 Water closets and showerhead requirements.**

(a) All nonresidential properties shall be equipped with low-flow kitchen faucets, lavatory faucets, and showerheads within one year of January 16, 1992.\*

(b) Except as provided in § 30-4.3, and unless granted an extension of time by the building board of appeals pursuant to subsection (d), all nonresidential properties shall be equipped with ultra-low flush toilets by January 1, 1998, and low-flush urinals within two years of January 16, 1992;\* provided that if a nonresidential property is equipped with wall-mounted flushometer toilets with blowout action, such toilets need not be replaced with ultra-low flush toilets; and provided further, that nonresidential properties shall be exempt from the requirement to be equipped with ultra-low flush toilets if they qualify for an exemption under § 30-4.6.

(c) The administrative authority shall allow extensions of time for good cause shown. A nonresidential property may be granted an extension of time to install low-flow kitchen faucets, lavatory faucets, and showerheads of up to six months after the deadline specified in subsection (a), and may be granted an extension to install ultra-low flush toilets and low-flush urinals of up to six months after the deadline specified in subsection (b).

(d) The owner or operator of a nonresidential property may appeal a decision of the administrative authority:

- (1) Denying any extension of time for the installation of low-flow kitchen faucets, lavatory faucets, and showerheads or ultra-low flush toilets and low-flush urinals; or
- (2) Granting an extension that is less than what the owner or operator had requested.

Appeals by an owner or operator shall be to the building board of appeals. The board may grant an extension of time if it finds that the time period appealed from poses an undue hardship; provided that the total time of compliance shall not exceed two years for low-flow kitchen faucets, lavatory faucets, and showerheads and three years for low-flush urinals; and provided further, that for ultra-low flush toilets, the total time for compliance shall not extend beyond January 1, 1999.

(e) Owners or operators of nonresidential properties which, before January 16, 1992,\* have already installed low-flow kitchen faucets, lavatory faucets, and showerheads and ultra-low flush toilets and low-flush urinals which meet the water flow standards of this article, and dual-flush mechanisms for toilets which accomplish the purpose and objective of this article, as determined by the board of water supply, shall be exempt from the application of this article. The board of water supply shall adopt rules governing such exemptions in accordance with HRS Chapter 91.

(1990 Code, Ch. 30, Art. 4, § 30-4.2) (Added by Ord. 92-01; Am. Ords. 92-109, 94-28)

**Editor's note:**

\* "January 16, 1992" is substituted for "the effective date of this article" and "the effective date of this section." (Ord. 92-01)

**§ 30-4.3 Exception.**

(a) A nonresidential property shall not be required to comply with the requirements of § 30-4.2(b) if the administrative authority determines, upon application of the property owner or operator, that the age, condition, or type of plumbing system of such nonresidential property would prevent the proper functioning of water-saving toilets. Should the administrative authority determine that the applicant's plumbing system does not prevent the proper functioning of water-saving toilets, the applicant may appeal that decision in accordance with subsection (c). In the event the owner or operator does not appeal the decision, water-saving toilets shall be installed on such owner's or operator's nonresidential property within the time period provided in § 30-4.2(b) or within six months of the administrative authority's decision, whichever is later.

(b) If the administrative authority determines that the applicant's plumbing system does prevent the proper functioning of water-saving toilets, the nonresidential property owner or operator shall prepare a water conservation plan within six months of the date of that determination. That plan shall provide for the conservation of water by the nonresidential property in an amount not less than the amount of water that would be conserved, over an equal period of time, through the installation of water-saving toilets on such nonresidential property. The plan shall be submitted to the administrative authority for approval. The administrative authority, in consultation with the board of water supply, shall either approve or deny the water conservation plan. If the administrative authority approves the plan, the plan shall be in lieu of compliance with § 30-4.2(b) and the nonresidential property owner or operator shall

implement the plan within the time period provided in § 30-4.2(b), or within six months of the administrative authority's decision, whichever is later. If the administrative authority denies the water conservation plan, the nonresidential property owner or operator may appeal the decision in accordance with subsection (c). In the event the owner or operator does not appeal the administrative authority's decision, water-saving toilets shall be installed on such owner's or operator's property within the time period provided in § 30-4.2(b) or within six months of the administrative authority's decision, whichever is later.

(c) Any appeal from the decision of the administrative authority shall be made to the building board of appeals within 30 days of the date of the administrative authority's decision. The building board of appeals shall render a decision within 120 days of the date of the appeal. If the building board of appeals does not render a decision on an appeal made pursuant to subsection (a) or (b) within 120 days, the nonresidential property owner or operator shall prepare and implement a water conservation plan in lieu of installing water-saving toilets, or, if a plan has already been prepared, the owner or operator shall implement such plan. The nonresidential property owner or operator shall prepare or implement, or both, the plan within six months after the end of such 120-day period, or, if the board decides in favor of such owner or operator, within the time period specified in § 30-4.2(b) or within six months after the date of the board of appeal's decision, whichever is later.

If the building board of appeals denies the appeal, the owner or operator shall install water-saving toilets on the owner's or operator's nonresidential property within the time period specified in § 30-4.2(b) or within six months of the board's decision, whichever is later.

(1990 Code, Ch. 30, Art. 4, § 30-4.3) (Added by Ord. 92-01)

#### **§ 30-4.4 Enforcement.**

- (a) The administrative authority shall have the same right of entry as provided in §19-2.3 to enforce the requirements of this article.
- (b) All violations of this article shall constitute violations under Chapter 19, Article 6, and shall be enforced in the same manner as provided therein.

(1990 Code, Ch. 30, Art. 4, § 30-4.4) (Added by Ord. 92-01)

#### **§ 30-4.5 Rules.**

Subject to HRS Chapter 91, the administrative authority may adopt rules having the force and effect of law for the implementation, administration, and enforcement of this article.

(1990 Code, Ch. 30, Art. 4, § 30-4.5) (Added by Ord. 92-01)

#### **§ 30-4.6 Exemption for low-consumption properties.**

- (a) Nonresidential properties that consume an average of 15,000 gallons of water per month or less in calendar year 1996 shall be exempted from the requirement to be equipped with ultra-low flush toilets under § 30-4.2(b).
- (b) If a nonresidential property with an exemption under subsection (a) consumes more than 15,000 gallons of water per month, on the average, during any calendar year after 1996, that nonresidential property shall be equipped with ultra-low flush toilets within the calendar year following the year in which the property's water consumption exceeded 15,000 gallons per month.
- (c) The building department shall annually determine if nonresidential properties granted an exemption under subsection (a) still qualify for that exemption.

(1990 Code, Ch. 30, Art. 4, § 30-4.6) (Added by Ord. 94-28; Am. Ord. 94-67)

#### ***Editor's note:***

*Reference to the rebate program was removed because the program terminated on July 1, 2008.*

### **ARTICLE 5: MEDICATION IN DRINKING WATER**

#### **Sections**

- 30-5.1 Prohibition
- 30-5.2 Product safety

#### **§ 30-5.1 Prohibition.**

No person shall add any product, substance, or chemical to the public water supply, except federally owned and operated water systems, such as military facilities, for the purpose of treating or affecting the physical or mental functions of the body of any person, rather than to make the water safe or potable. This prohibition shall not apply to water treatment chemicals used to make the water potable and safe to drink, such as chlorination and anticorrosion chemical to reduce lead.

(1990 Code, Ch. 30, Art. 5, § 30-5.1) (Added by Ord. 04-01)

#### **§ 30-5.2 Product safety.**

Should any State law mandate using the drinking water system to dispense medication for treating the physical or mental function of a person's body, the chemical additive used shall meet the following quality control and safety requirements.

- (a) All chemical additives purchased shall be pharmaceutical grade or equivalent; industrial grade chemical additives shall not be used.
- (b) The chemical additive shall not contain any contaminants which would exceed the maximum contaminant level goals established by:
  - (1) The U.S. Environmental Protection Agency; or
  - (2) The State department of health, whichever is lower.
- (c) The chemical additive shall not increase corrosion of the water piping system material components or increase leaching of heavy metals such that another chemical additive will be required to minimize corrosion.

(d) The chemical additive shall have been tested and approved for safety and effectiveness by the U.S. Food and Drug Administration.

(e) The chemical additive shall have been tested using the following additional safety tests if not already done by the U.S. Food and Drug Administration.

(1) The chemical additive shall have been tested for safety using worst-case conditions for any contaminants allowed by specifications with a safety factor to cover all ranges of unrestricted consumption.

(2) If the chemical additive, in combination with body minerals, becomes a thermoluminescent phosphor material, which is known to become electrically charged when exposed to radiation and X-rays, testing shall have been done to determine any adverse effects. Thermoluminescent phosphor material examples are calcium fluoride, lithium fluoride, lithium bromide, and calcium sulphate.

(1990 Code, Ch. 30, Art. 5, § 30-5.2) (Added by Ord. 04-01)

## TITLE IX: PUBLIC HEALTH, SAFETY, AND SANITATION

### Chapters

#### 41. PUBLIC HEALTH AND SAFETY

#### 42. COLLECTION AND DISPOSAL OF REFUSE

#### 43. SEWERS, DRAINAGE, AND CESSPOOLS

## CHAPTER 41: PUBLIC HEALTH AND SAFETY

### **Editor's note:**

\*In accordance with Ordinance [23-28](#): Chapter 41, Article 32 takes effect 42 days after the day on which the State of Hawaii preemption of county ordinances on the sale of tobacco products is officially repealed or suspended. If the 42nd day after the day of the repeal or suspension of the preemption occurs on a weekend or holiday, then this article takes effect on the next business day following the 42nd day. Upon the effective date of this article, the Corporation Counsel is directed to notify the City Council, the Mayor, and the Managing Director. Once such notification is received, the City Clerk is directed to post the effective date of Ordinance [23-28](#) on the City and County of Honolulu's official website and other public notice platforms.

### Articles

1. Use of Intoxicating Liquors in Certain Public Places
2. Advertisement of Intoxicating Liquor and Liquor Products
3. The Sale to, Possession of, or Use by Minors of Chemical Substances Containing Volatile Organic Solvents
4. Ephedrine-containing Products
5. Products Containing Gamma Hydroxybutyrate
6. Noise Control
7. Noises in Vicinity of Hospitals
8. Sound Levels for the Tom Moffatt Waikiki Shell
9. Use of Sound Amplifying Device in Public Buildings
10. Air Guns
11. Replica Guns
12. Obnoxious Substances
13. Advertisement and Distribution of Cigarettes and Tobacco Products
14. Smoking
15. Bidi Cigarette Prohibitions
16. Herbal Cigarettes
17. Prostitution-Related Public Nuisance Abatement
18. Additional Areas of Significant Prostitution-Related Activity
19. Laser Pointers and Harassment with Laser Beams
20. Urinating or Defecating in Public Prohibited in the Waikiki Special District
21. Urinating or Defecating in Public Prohibited Outside of the Waikiki Special District
22. Iceboxes and Refrigerators
23. Unofficial Age Identification Card
24. Wearing of Masks or Disguises
25. Loitering on Public School Premises

26. Regulated Use of Uniforms by Private Security Personnel
27. Possession, Use, and Sale of Pepper Sprays for Self-Defense
28. Aerial Advertising
29. Vehicular Advertising
30. Domestic Violence Program
31. Public Carry of Firearms
32. Prohibition of Flavored Tobacco Products
33. Gambling-Related Public Nuisances
34. Agent's Inspection of Private Real Property

## **ARTICLE 1: USE OF INTOXICATING LIQUORS IN CERTAIN PUBLIC PLACES**

### Sections

- 41-1.1 Declaration of legislative intent—Definitions
- 41-1.2 Prohibition in public areas—Exceptions
- 41-1.3 Criminal Penalties—Enforcement

### **§ 41-1.1 Declaration of legislative intent—Definitions.**

(a) It is declared to be the legislative intent of the council to prohibit the open and unrestricted use or consumption of intoxicating liquors on or within certain municipally owned or controlled public areas and buildings and on streets and sidewalks open to the public.

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

**Intoxicating Liquor.** Has the same meaning as defined in HRS § 281-1;

**Sidewalk.** Has the same meaning as defined in HRS § 291C-1; and

**Street.** Has the same meaning as "street or highway" as defined in § 15-2.23.

(Sec. 13-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 1, § 40-1.1) (Am. Ord. 03-31)

### **§ 41-1.2 Prohibition in public areas—Exceptions.**

(a) No person shall possess, other than in a container in the manufacturer's sealed condition, intoxicating liquor on any street or sidewalk, or in any public park, public playground, public school ground, public off-street parking area, or any building located thereon.

(b) The prohibitions contained in subsection (a) shall not apply to:

(1) Intoxicating liquor procured from a vendor dispensing intoxicating liquor pursuant to a permit or license issued by the city when the intoxicating liquor is possessed or consumed in a manner and in a place consistent with the terms and conditions of such permit or license;

(2) The consumption or possession of an intoxicating liquor in a motor vehicle upon any public street, road, or highway; or

(3) The possession of a container of wine authorized to be removed from liquor-licensed premises pursuant to HRS § 281-31(q); provided that the container has been corked or resealed.

(c) Subject to HRS Chapter 281, as amended, and if the sale and consumption of intoxicating liquor is permitted by concession agreement, the prohibitions contained in subsection (a) shall not apply within the licensed premises (as described in a liquor license) of concessionaires of the city located:

(1) On any public golf course;

(2) At those facilities and properties under the jurisdiction and supervision of the director of enterprise services; and

(3) In public parks where private donations were used to construct a memorial pavilion wherein restaurant operation is feasible.

(d) Notwithstanding subsection (a), any director of an outdoor theater which is enclosed by a fence and which is located within a public park may permit the consumption of intoxicating liquor within the confines of such outdoor theater, if so requested by a tenant of such outdoor theater for the term or period of such tenancy and under such restrictions and conditions as may be imposed by the director.

(e) Notwithstanding subsection (a), the director of parks and recreation may permit nonprofit organizations which sponsor and conduct festivals that promote ethnic traditions, customs, and culture and foster the development of tourism, to sell intoxicating liquors within Kapiolani Park by designating one day during Aloha Week during which the sale of beer and wine is permitted between the hours of 3:00 p.m. to 9:00 p.m.; provided that such nonprofit organizations have properly obtained the appropriate park permits and temporary licenses for the sale of intoxicating liquor.

(Sec. 13-4.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 40, Art. 1, § 40-1.2) (Am. Ord. 03-31)

### **§ 41-1.3 Criminal penalties—Enforcement.**

(a) The penalties provided in this article are criminal penalties and the article shall be enforced by the Honolulu police department as provided by law.

(b) A police officer may arrest an alleged violator of this article or may issue a citation in lieu of arrest as provided in HRS § 803-6.

(c) *Penalty.* Any person convicted of a violation of this article shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 30 days, or both such fine and imprisonment.

(Sec. 13-4.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 1, § 40-1.3) (Am. Ord. 00-43)

## **ARTICLE 2: ADVERTISEMENT OF INTOXICATING LIQUOR AND LIQUOR PRODUCTS**

### Sections

- 41-2.1 Definitions
- 41-2.2 Prohibition
- 41-2.3 Exceptions
- 41-2.4 Citation—Penalties

### **§ 41-2.1 Definitions.**

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

**Advertisement.** Any poster, banner, sticker, emblem, placard, graphic illustration, or sign, including any neon, electronically charged, or portable freestanding sign, used to publicize any intoxicating liquor or liquor product to the general public or promote the sale of any intoxicating liquor or liquor product to the general public.

**Business.** Any person or entity engaged in a retail operation that offers liquor or any liquor product for sale to any member of the general public for consumption or use.

**Enforcement Officer.** Any officer of the Honolulu police department or deputized by the Honolulu police department to enforce this article.

**Intoxicating Liquor.** Has the same meaning as "liquor."

**Liquor.** Has the same meaning as defined in HRS § 281-1, but does not include those articles excepted under HRS § 281-2.

**Liquor Product.** A food product, including a confection, that contains alcohol in excess of 5 percent by weight.

**Public Property.** Includes any street, sidewalk, public mall, any public or private park, any public or private school ground, and any property that is owned or controlled by the federal, State, or city government or any agency thereof.

**Publicly Visible Location.** A place inside or outside of a commercial building, including the exterior walls of the building and the exterior and interior of a display window of the building that is visible to the general public from public property.

**School Zone.** Every street and all other property within 500 feet of the boundaries of any public or private primary or secondary school and any preschool licensed by the State department of human services.

**Street.** Has the same meaning as defined in § 13-1.1.

(1990 Code, Ch. 40, Art. 19, § 40-19.1) (Added by Ord. 00-50)

### **§ 41-2.2 Prohibition.**

Except as provided in §41-2.3, it is unlawful for any person to display a liquor or liquor product advertisement in a publicly visible location within a school zone.

(1990 Code, Ch. 40, Art. 19, § 40-19.2) (Added by Ord. 00-50)

### **§ 41-2.3 Exceptions.**

The following shall be exceptions to §41-2.2:

- (1) The placement of an advertisement for liquor or a liquor product inside of a retail business establishment where the product is offered for sale to the general public; provided that the advertisement is not in a publicly visible location;
- (2) The operation or legal parking within a school zone of a vehicle that has permanently painted on or affixed to the vehicle any sign, graphics, or lettering relating to the name, trade insignia, or trademark of a liquor or liquor product, to the extent permitted in § 41-29.3;
- (3) The placement of any advertisement for liquor or liquor product in or upon a federal or State building or facility located within a school zone;
- (4) The placement of any advertisement in or on the premises of a licensed liquor establishment to the extent expressly permitted pursuant to duly adopted rules of the liquor commission or expressly stated under a license issued by the liquor commission; and
- (5) The placement of any material in a newspaper or magazine of general circulation.

(1990 Code, Ch. 40, Art. 19, § 40-19.3) (Added by Ord. 00-50; Am. Ord. 01-08)

### **§ 41-2.4 Citation—Penalties.**

(a) Upon finding probable cause to believe that there has been a violation of this article, an enforcement officer may either arrest the person believed to be in violation or may issue to that person a summons and citation for the violation. The citation shall be consistent with the requirements of HRS § 803-6(b).

(b) Any person who violates this article shall be fined not more than \$500. Following a person's conviction of a violation of this article, each day an advertisement is displayed in violation of this article shall be deemed a separate violation.

(1990 Code, Ch. 40, Art. 19, § 40-19.4) (Added by Ord. 00-50)

## **ARTICLE 3: THE SALE TO, POSSESSION OF, OR USE BY MINORS OF CHEMICAL SUBSTANCES**

# CONTAINING VOLATILE ORGANIC SOLVENTS

Sections

- 41-3.1 Definitions
- 41-3.2 Use as an inhalant prohibited
- 41-3.3 Possession or transfer for unlawful purpose prohibited
- 41-3.4 Use by minors—Regulated
- 41-3.5 Record of sales required
- 41-3.6 Violation—Penalty

## § 41-3.1 Definitions.

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

**Minor.** Any person below the age of 18 years.

**Spray Paint.** Has the same meaning as defined in § 40-5.1.

**Toxic Chemical Substance.** Any substance, not a “food” as defined in HRS § 328-1(3), which substance includes in its composition volatile organic solvents including amyl acetate, trichlorethylene, or acetone, or any other chemical substance, capable of producing upon inhalation any degree of intoxication. The term “toxic chemical substance” shall not, however, include any spray paint or wide-tipped marker regulated pursuant to Chapter 40, Article 5.

(Sec. 13-25.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.1) (Am. Ord. 95-46)

## § 41-3.2 Use as an inhalant prohibited.

No person shall use any toxic chemical substance or any spray paint as an inhalant at any time; provided that this section shall not apply to any person using as an inhalant any such toxic chemical substance pursuant to the direction of a physician.

(Sec. 13-25.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.2) (Am. Ord. 95-46)

## § 41-3.3 Possession or transfer for unlawful purpose prohibited.

No person shall for the purpose of violating or aiding another to violate any provision of this article, intentionally possess, buy, sell, transfer possession, or receive possession of any toxic chemical substance.

(Sec. 13-25.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.3)

## § 41-3.4 Use by minors—Regulated.

(a) Except as provided in subsection (c) and §41-3.5, no minor shall possess or buy any toxic chemical substance.

(b) Except as provided in subsection (c) and §41-3.5, no person shall sell, give, lend, or transfer possession of any toxic chemical substance to a minor.

(c) Provided a person may sell, give, lend, or transfer possession of a toxic chemical substance to a minor for model building or other lawful use where the minor has in the minor's possession and exhibits the written consent of the minor's parent or guardian.

(Sec. 13-25.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.4)

## § 41-3.5 Record of sales required.

A person making a sale of toxic chemical substances to a minor who exhibits the written consent of the minor's parent or guardian shall record the name, address, sex, and age of the minor and the name and address of the consenting parent or guardian. All data required by this section shall be kept in a permanent type register available for inspection by the chief of police or the chief of police's authorized representative for a period of at least six months.

(Sec. 13-25.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.5)

## § 41-3.6 Violation—Penalty.

Any person who violates this article shall, upon conviction, be punished by a fine not exceeding \$100 or by imprisonment not exceeding three months, or by both.

(Sec. 13-25.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 5, § 40-5.6)

# ARTICLE 4: EPHEDRINE-CONTAINING PRODUCTS

Sections

- 41-4.1 Definitions
- 41-4.2 Restrictions on possession, sale, purchase, distribution, and labeling
- 41-4.3 Violation—Penalties

## § 41-4.1 Definitions.

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

**Acupuncture Practitioner.** A person licensed to practice acupuncture under HRS Chapter 436E.

**Dentist.** A person licensed to practice dentistry under HRS Chapter 448.

**Dietary Supplement** and **Drug.** Have the same meaning respectively, as dietary supplement and drug as defined in 21 USC § 321.

**Distribution.** Includes any gift, donation, trade, or barter.

**Ephedrine.** Ephedrine and any natural, botanical, or synthetic form of ephedrine, including but not limited to ephedra, ephedra sinica, ma huang, and epitonin, or any extract thereof.

**FDA.** The United States Food and Drug Administration.

**Herbalist.** An individual who personally engages in the preparation and distribution of an herbal product for a medicinal or nutritional purpose.

**Medical Physician.** A person licensed to practice medicine or surgery under HRS Chapter 453.

**Naturopathic Physician.** A person licensed to practice naturopathy under HRS Chapter 455.

**Osteopathic Physician.** A person licensed to practice osteopathic medicine and surgery under HRS Chapter 453.

**Person.** An individual, firm, partnership, corporation, association, or other entity.

**Podiatrist.** A person licensed to practice podiatric medicine under HRS Chapter 463E.

(1990 Code, Ch. 40, Art. 13, § 40-13.1) (Added by Ord. 96-59)

### **§ 41-4.2 Restrictions on possession, sale, purchase, distribution, and labeling.**

(a) Except as provided in subsection (b), no person shall possess, sell, or cause to be sold, any product containing ephedrine.

(b) The following ephedrine-containing products may be lawfully possessed, sold, or caused to be sold:

(1) A drug approved for sale by the FDA;

(2) An over-the-counter drug in compliance with a proposed monograph, tentative final monograph, or final monograph issued by the FDA;

(3) A dietary supplement which is not deemed adulterated or misbranded by the FDA and which is:

(A) Intended and labeled for use as a weight loss aid or sports nutrition product; and

(B) Labeled for sale only to, and for use only by, persons 21 years of age or older.

(4) A fresh, dried, or ground stem, leaf, root, or other part of a plant of the genus ephedra.

(c) Notwithstanding subsection (b), no person shall sell or cause to be sold any ephedrine-containing product to any person under 21 years of age, except:

(1) Pursuant to a written prescription from a medical physician, osteopathic physician, podiatrist, or dentist or the written approval of an acupuncture practitioner or naturopathic physician; or

(2) An herbalist may personally sell the fresh, dried, or ground stem, leaf, root, or other part of a plant of the genus ephedra to a person under 21 years of age.

(d) No person shall possess, sell, or cause to be sold, purchase for resale or cause to be purchased for resale, distribute or cause to be distributed any ephedrine-containing product with a label that claims or implies that consumption of the product will produce effects such as ecstasy, euphoria, increased sexual sensations, heightened awareness, increased energy, legal "highs", and other similar effects.

(1990 Code, Ch. 40, Art. 13, § 40-13.2) (Added by Ord. 96-59)

### **§ 41-4.3 Violation—Penalties.**

Any person convicted of violating any provision of §41-4.2 shall be punished for each violation by a fine of not less than \$500 nor more than \$1,000, by imprisonment for not more than 90 days, or by both. Possession of one or more tablets, bottles, or other units of any product containing ephedrine in violation of § 41-4.2(a) or (d) at one time shall constitute a single violation. If any person takes possession, sells, or causes to be sold, purchases for resale or causes to be purchased for resale, distributes, or causes to be distributed more than one tablet, bottle, or other unit of any product containing ephedrine in a single transaction, the person shall be deemed to have committed a single violation of § 41-4.2(a), (c), or (d), whichever provision applies. If any person violates more than one subsection of § 41-4.2 in a single transaction, the person shall be deemed to have committed a single violation.

(1990 Code, Ch. 40, Art. 13, § 40-13.3) (Added by Ord. 96-59)

## **ARTICLE 5: PRODUCTS CONTAINING GAMMA HYDROXYBUTYRATE**

### Sections

41-5.1 Definitions

41-5.2 Restrictions relating to gamma hydroxybutyrate

41-5.3 Violation—Penalties

### **§ 41-5.1 Definitions.**

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

**Distribution.** Includes any gift, donation, trade, or barter.

**Drug.** A drug as defined in 21 USC § 321.

**Person.** An individual, firm, partnership, corporation, association, or other entity.

(1990 Code, Ch. 40, Art. 14, § 40-14.1) (Added by Ord. 97-01)

### **§ 41-5.2 Restrictions relating to gamma hydroxybutyrate.**

No person shall manufacture, possess, distribute, sell, or cause to be sold or distributed any product containing gamma hydroxybutyrate.

(1990 Code, Ch. 40, Art. 14, § 40-14.2) (Added by Ord. 97-01)

### **§ 41-5.3 Violation—Penalties.**

Any person convicted of violating § 41-5.2 shall be punished for each violation by a fine of not less than \$500 nor more than \$1,000, by imprisonment for not more than 90 days, or by both. Possession of one or more tablets, bottles, or other units of any product containing gamma hydroxybutyrate in violation of § 41-5.2 at one time shall constitute a single violation. If any person sells, or causes to be sold, or distributes, or causes to be distributed, more than one tablet, bottle, or other unit of any product containing gamma hydroxybutyrate in a single transaction, the person shall be deemed to have committed a single violation of § 41-5.2.

(1990 Code, Ch. 40, Art. 14, § 40-14.3) (Added by Ord. 97-01; Am. Ord. 97-57)

## **ARTICLE 6: NOISE CONTROL**

### Sections

41-6.1 Prohibited noise

41-6.2 Enforcement

41-6.3 Violation—Penalty

41-6.4 Permits

41-6.5 Exemptions

### **§ 41-6.1 Prohibited noise.**

(a) It is unlawful 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 it is located in or on any of the following:

- (1) Any public property, including any public street, highway, building, sidewalk, park, or thoroughfare, or
- (2) Any motor vehicle on a public street, highway, or public space;

and if the sound generated is audible at a distance of 30 feet from the 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 operates, or those persons operate, the machine or device.

(1990 Code, Ch. 41, Art. 31, § 41-31.1) (Added by Ord. 90-26)

### **§ 41-6.2 Enforcement.**

(a) *Powers of arrest or citation.* Any authorized police officer shall issue a citation for any violation under this article, except they may arrest for instances when:

- (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or
- (2) When the alleged violator refuses to cease such person's illegal 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 Hawaii and the City and County of Honolulu.

- (2) In every case when a citation is issued, a copy of the same shall be given to the violator.

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

(1990 Code, Ch. 41, Art. 31, § 41-31.2) (Added by Ord. 90-26)

### **§ 41-6.3 Violation—Penalty.**

Any person convicted of a violation of this article shall be punished by a fine of \$100 for the first offense, \$500 for the second offense within six months of the first offense, and \$1,000, or forfeiture of the sound system or components of the sound system up to \$1,000 in value, or a combination of forfeiture and fine to total \$1,000 for conviction of the third offense within one year of the first offense.

(1990 Code, Ch. 41, Art. 31, § 41-31.3) (Added by Ord. 90-26)

### **§ 41-6.4 Permits.**

(a) A permit for a temporary exemption from this article may be issued by the director of budget and fiscal services 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 director of budget and fiscal services 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 director shall desire.

(c) In determining whether to grant or deny an application for a permit under this section, the director 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 director to make a determination on the application, the director may request further information from the applicant by means of a supplemental application.

(d) The applicant shall submit the completed form, accompanied by a fee of \$5, to the director not later than five days before the

proposed activity; thereafter, the director shall notify the applicant of the decision to grant or deny the permit within three days of the submission of the completed application and fee 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 director 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 director may adopt rules not inconsistent herewith for the implementation of the permit system established in this section. Such rules may include provisions for waiver of the application fee in appropriate situations or for the granting of a permit when an application is received less than five days before the proposed activity.

(1990 Code, Ch. 41, Art. 31, § 41-31.4) (Added by Ord. 90-26)

### **§ 41-6.5 Exemptions.**

The following shall be exempt from the prohibitions set forth in this article:

(1) Activities of the city, the State, or the United States; and

(2) Activities of private persons or entities acting within the permitted uses of a permit issued by the city, the State, or the United States.

(1990 Code, Ch. 41, Art. 31, § 41-31.5) (Added by Ord. 90-26)

## **ARTICLE 7: NOISES IN VICINITY OF HOSPITALS**

Sections

41-7.1 Unlawful to make loud noises

41-7.2 Violation—Penalty

### **§ 41-7.1 Unlawful to make loud noises.**

(a) It is unlawful to discharge firearms or explosives or to make any loud noises within 500 feet from the nearest point of any main hospital building with a capacity for treating not less than 36 patients.

(b) It is unlawful to conduct, operate, maintain, or carry on within 500 feet from any such main hospital building any noisy or noisome workshop, factory, trade, manufacture, industry, or business; provided that this provision shall not apply to any such workshop, factory, trade, manufacture, industry, or business in existence at the time of the erection of such hospital building or of an extension to a hospital building.

(c) It is unlawful for any person, in passing any hospital building of the character and capacity described, to drive or operate any vehicle in such manner as to make or create any unnecessary noise.

(Sec. 13-12.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 5, § 41-5.1)

### **§ 41-7.2 Violation—Penalty.**

Any person violating this article shall, upon conviction, be punished by a fine not exceeding \$100 or by imprisonment not exceeding 60 days, or by both.

(Sec. 13-12.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 5, § 41-5.2)

## **ARTICLE 8: SOUND LEVELS FOR THE TOM MOFFATT WAIKIKI SHELL**

Sections

41-8.1 Findings and policy

41-8.2 Definitions

41-8.3 Sound level limits

41-8.4 Exemptions

41-8.5 Measurement of sound levels

41-8.6 Violation—Penalty

### **§ 41-8.1 Findings and policy.**

The Tom Moffatt Waikiki Shell is a premier forum for outdoor concerts and activities and since 1953, has provided an idyllic setting. The city is concerned and desirous of ensuring that the peace and quiet enjoyed by nearby residents is not unduly disturbed by the events held at the Shell, while at the same time it wishes to continue to provide a venue for quality entertainment and events in the uniquely beautiful setting that is the Shell.

The city finds that in the absence of established sound levels for its facilities, sound levels for the Shell have been established by the State department of health in Title 11 of its Administrative Rules. Sound levels established by the department of health's rules fail to take into consideration the unique characteristics and function of the Shell. Accordingly, it is the intent of this article to establish sound level limits for the Shell.

(1990 Code, Ch. 41, Art. 34, § 41-34.1) (Added by Ord. 91-88)

### **§ 41-8.2 Definitions.**

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

**'A' Level.** The total sound level of all noises as measured with sound level meter using the "A" weighting network. The unit of

measurement is the dBA.

**Decibel.** One-tenth of a Bel, a unit of sound level.

- (1) **dB.** An abbreviation for decibels.
- (2) **dBA.** An abbreviation for A-weighted sound level expressed in decibels.

**Shell.** The Tom Moffatt Waikiki Shell.

**Sound.** A fluctuation of air pressure which stimulates the human nervous systems through the ear, eardrums, and connecting nerves.

**Sound Level Meter.** An instrument or combination of instruments, which meets or exceeds the requirements for a Type I or Type II sound level meter as specified in ANSI specification for sound level meter S1.4-197, or IEC 179, or IEC 123.

**Tenant.** A person or entity executing a rental agreement for the Neal Blaisdell Center and Shell and the agents, representatives, employees, and officers of such person or entity, including an independent contractor, using the premises with the permission of the tenant.

(1990 Code, Ch. 41, Art. 34, § 41-34.2) (Added by Ord. 91-88)

### **§ 41-8.3 Sound level limits.**

(a) Sound levels for events at the Shell, whether amplified or not, shall not exceed 68 dBA for more than 10 percent of the time within any 20-minute period as measured at or near the New Otani Kaimana Beach Hotel at the makai side of Kalakaua Avenue in areas zoned apartment/hotel/business and shall apply from ground level to a perpendicular plane projected above the height of the high-rise buildings.

(b) Sound level limits established in subsection (a) shall be applicable between the hours of 7:00 a.m. through 10:00 p.m. of the same day.

(c) Under no circumstances shall a tenant or performer allow events within their control to continue after 10:00 p.m.

(1990 Code, Ch. 41, Art. 34, § 41-34.3) (Added by Ord. 91-88; Am. Ord. 96-58)

### **§ 41-8.4 Exemptions.**

This article shall not apply to:

- (1) Occasional events of significant cultural benefit to residents of Oahu, including but not limited to celebrations commemorating the beginning of a new year or ethnic and cultural festivals; and
- (2) One-time events designed for the purpose of significantly enhancing the economic well-being of the tourist industry including events scheduled for live broadcast outside the State.

(1990 Code, Ch. 41, Art. 34, § 41-34.4) (Added by Ord. 91-88)

### **§ 41-8.5 Measurement of sound levels.**

(a) **Certification.** Persons conducting sound measurements for the enforcement of this article shall be personnel of the department of enterprise services who shall have been trained in the techniques of sound measurement and the operation of sound level meters or other sound measuring instruments and shall have been certified as competent by the director of the State department of health.

(b) Sound level measurements shall be conducted using standard procedures with sound level meters using the "A" weighting and "slow" meter response unless otherwise stated.

(1990 Code, Ch. 41, Art. 34, § 41-34.5) (Added by Ord. 91-88)

### **§ 41-8.6 Violation—Penalty.**

A tenant whose event exceeds the sound level limits established by this article shall, after notice and hearing, be subject to a fine of not less than 1 percent of the gross receipts or \$500, whichever is greater, for the event that exceeds the sound level limits, or \$500 for events for which no gross receipts are collected.

(1990 Code, Ch. 41, Art. 34, § 41-34.6) (Added by Ord. 91-88)

## **ARTICLE 9: USE OF SOUND AMPLIFYING DEVICE IN PUBLIC BUILDINGS**

### Sections

- 41-9.1 Definitions
- 41-9.2 Prohibition
- 41-9.3 Exceptions
- 41-9.4 Violation—Penalty

### **§ 41-9.1 Definitions.**

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

**Department Head.** The head of a department of the executive branch of the City and County of Honolulu.

**Public Building.** Any building or structure owned or controlled by the City and County of Honolulu.

**Sound Amplifying Device.** Any instrument or device for the production or reproduction of music, spoken words, or other sounds, or any loudspeaker or other sound amplifying device designed to enlarge the volume of sound produced by any instrument or by the human voice, which instrument or device is used or intended to be used for the purpose of advertising or calling attention to any article, thing, or event, or for the purpose of addressing any person or group of persons or the public or of attracting the attention of

any person or group of persons or the public.

(Sec. 13-35.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 7, § 40-7.1)

### **§ 41-9.2 Prohibition.**

No person shall use any sound amplifying device in a public building at any time without the prior written approval of the department head or the department head's authorized subordinate who exercises jurisdiction over the specific public building in which the sound amplifying device is to be used. Such written approval shall be pursuant to a written request, on forms furnished by the department head that shall be submitted to the department head within five working days before the date of the use of the sound devices. The department head shall respond to such request within five working days, either approving or disapproving the request. Any person aggrieved by the action of the department head may appeal same to the council.

(Sec. 13-35.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 7, § 40-7.2)

### **§ 41-9.3 Exceptions.**

The following shall be exceptions to §41-9.2:

- (1) The use of sound amplifying devices for any program to be held in a public building sponsored by the city; and
- (2) Any sound device which is wired into, built in, or made a part of a public building, which is used for any program authorized therein for which the public building has been specifically constructed or for which a specific type of program therein has been authorized by the department head.

(Sec. 13-35.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 7, § 40-7.3)

### **§ 41-9.4 Violation—Penalty.**

- (a) *Denial of use of public building.* Any person failing to obtain the prior written approval shall be denied the use of a sound device within a public building.
- (b) *Ejection.* Any person who has been denied the use of a public building because such person has failed to obtain prior written approval for the use of a sound device, but actually and continually uses the sound device, may be ejected from the public building by a police officer.
- (c) *Fine.* Any person violating this article shall, upon conviction, be punished by a fine not exceeding \$50.

(Sec. 13-35.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 7, § 40-7.4)

## **ARTICLE 10: AIR GUNS**

### Sections

- 41-10.1 Definitions
- 41-10.2 Restrictions on sale, rental, gift, or other transfer
- 41-10.3 Restrictions on use
- 41-10.4 Exceptions
- 41-10.5 Seizure, forfeiture, and disposal
- 41-10.6 Violation—Penalty

### **§ 41-10.1 Definitions.**

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

**Air Gun.** Any gun, rifle, or pistol, by whatever name known, that is designed to expel a pellet or BB shot by the action of compressed air or gas, or by the action of a spring or elastic, but does not include any firearm.

**Dealer.** Any person engaged in the business of selling or renting air guns.

(Sec. 13-19.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.1)

### **§ 41-10.2 Restrictions on sale, rental, gift, or other transfer.**

- (a) It is unlawful for any dealer to sell, lend, rent, give, or otherwise transfer an air gun to any person under the age of 18 years where the dealer knows or has reasonable cause to believe the person to be under 18 years of age or where the dealer has failed to make reasonable inquiry relative to the age of such person and such person is under 18 years of age.
- (b) It is unlawful for any person to sell, lend, rent, give, or otherwise transfer any air gun to any person under 18 years of age, except where the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person and the person under 18 years of age.

(Sec. 13-19.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.2)

### **§ 41-10.3 Restrictions on use.**

- (a) It is unlawful for any person to carry or display an air gun on any street, alley, public road, or on any public land, unless the air gun is unloaded and in a suitable case or securely wrapped.
- (b) It is unlawful for any person to discharge any air gun from or across any street, sidewalk, alley, or public land, or any public place, except on a properly constructed target range.
- (c) It is unlawful for any person to discharge any air gun on any private parcel of land or residence in such a manner that the pellet or BB shot may reasonably be expected to traverse any ground or space outside the limits of such parcel of land or residence or in such a manner that persons or property may be endangered; provided that nothing in this article shall be deemed to prevent any person who has obtained a hunting license pursuant to HRS Chapter 183D from engaging in hunting in accordance with law.

(d) It is unlawful for any person to discharge any air gun in such a manner or under such circumstances that persons or property may be endangered.

(Sec. 13-19.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.3) (Am. Ords. 96-58, 03-23)

#### **§ 41-10.4 Exceptions.**

Notwithstanding any provision of this article to the contrary, it shall be lawful for any person to possess an air gun if it is:

- (1) Kept within such person's domicile;
- (2) Used by a person under 18 years of age, who is a duly enrolled member of any club, team, or society organized for education or training purposes and maintaining as a part of its facilities or having written permission to use an indoor or outdoor target range, when the air gun is used at such target range under the supervision, guidance, and instruction of a responsible adult;
- (3) Used by a person 18 years of age or older at a properly constructed target range;
- (4) Used in or on any private parcel of land or residence under circumstances in which the air gun can be fired, discharged or operated in such a manner as not to endanger persons or property and in such a manner as to prevent the pellet or BB shot from traversing any grounds or space outside the limits of such parcel of land or residence;
- (5) Used in hunting or going to or from the place of hunting in accordance with law by a person who has obtained a hunting license pursuant to HRS Chapter 183D or who, if such person is under 18 years of age, has obtained such a hunting license and is accompanied by an adult who has obtained such hunting license; or
- (6) Used by a person involved in a living history presentation or other activity for historical interpretation or educational purposes, or by a person participating in a parade if such activity or parade participant is associated with an established historical organization, museum, military preservation organization, or other group with a mission to educate the public at various events through the use of historical artifacts, clothing, vehicles, aircraft, maritime vessels, and firearms or replicas thereof.

(Sec. 13-19.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.4) (Am. Ords. 96-58, 03-23, 03-35)

#### **§ 41-10.5 Seizure, forfeiture, and disposal.**

Any police officer who arrests any person for possessing, using, lending, renting, giving, or transferring an air gun in violation of this article shall take custody of such air gun. Upon conviction of such person, the air gun so seized shall be forfeited to the city. Any air gun so forfeited shall remain in the custody of the police department for one year and thereafter destroyed; provided that such air gun shall be retained for subsequent proceedings, both civil or criminal, and until any such action is concluded, if any person desiring the use of such forfeited air gun as evidence files with the chief of police a written notice of an intention to so use the air gun before the destruction date herein provided.

(Sec. 13-19.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.5)

#### **§ 41-10.6 Violation—Penalty.**

Any person violating this article shall, upon conviction, be punished by a fine not exceeding \$500 or imprisonment for a period not exceeding one year, or both.

(Sec. 13-19.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 8, § 41-8.6)

### **ARTICLE 11: REPLICA GUNS**

#### Sections

41-11.1 Definitions

41-11.2 Prohibitions

41-11.3 Violation—Penalty

#### **§ 41-11.1 Definitions.**

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

**Firearm.** Has the same meaning as defined in HRS § 134-1.

**Law Enforcement Officer.** Any public servant, whether employed by the State, the city, or the United States, vested by law with a duty to maintain public order or to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

**Replica Gun.** Any toy or other object which bears such a resemblance to an actual firearm that a reasonable person would have difficulty visually distinguishing it from an actual firearm, and which lacks any feature or aspect which would serve as a signal to allow a person to readily distinguish the replica gun from an actual firearm by sight. The term shall not include an actual firearm.

(1990 Code, Ch. 40, Art. 23, § 40-23.1) (Added by Ord. 03-24)

#### **§ 41-11.2 Prohibitions.**

- (a) No person shall carry or display a replica gun on any street, alley, public road, or on any public lands, unless such replica gun is in a suitable case or securely wrapped.
- (b) No person shall draw or brandish a replica gun in the presence of a law enforcement officer engaged in the performance of the law enforcement officer's duties.
- (c) Nothing in this article shall be deemed to prevent any person who has obtained a hunting license pursuant to HRS Chapter 183D from engaging in hunting in accordance with law.
- (d) In the event a replica gun is also an "air gun", as defined in §41-10.1, the exceptions in §41-10.4 shall also be exceptions to

the prohibitions in this article.

(e) Nothing in this article shall prevent carrying or display of a replica gun by a person involved in a living history presentation or other activity for historical interpretation or educational purposes, or by a person participating in a parade if such activity or parade participant is associated with an established historical organization, museum, military preservation organization, or other group with a mission to educate the public at various events through the use of historical artifacts, clothing, vehicles, aircraft, maritime vessels, and firearms or replicas thereof.

(1990 Code, Ch. 40, Art. 23, § 40-23.2) (Added by Ord. 03-24; Am. Ord. 03-35)

### **§ 41-11.3 Violation—Penalty.**

Any person violating § 41-11.2(a) shall be deemed guilty of a petty misdemeanor and upon conviction, shall be punished by a fine not exceeding \$500, or by imprisonment not exceeding 30 days.

Any person violating § 41-11.2(b) shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year.

(1990 Code, Ch. 40, Art. 23, § 40-23.3) (Added by Ord. 03-24)

## **ARTICLE 12: OBNOXIOUS SUBSTANCES**

### Sections

- 41-12.1 Declaration of legislative intent
- 41-12.2 Definitions
- 41-12.3 Prohibitions
- 41-12.4 Exceptions
- 41-12.5 Permit to be obtained by agency
- 41-12.6 Conditions
- 41-12.7 Vendor to obtain license
- 41-12.8 Licenses—Permits renewability
- 41-12.9 Violation—Penalty
- 41-12.10 Severability

### **§ 41-12.1 Declaration of legislative intent.**

The council finds that the use and possession of devices capable of emitting gases or obnoxious substances, as defined in § 41-12.2, by unauthorized persons creates a potential danger to the peace and well-being of the community at large; but nevertheless, such devices, when properly used, serve a useful purpose. Therefore, pursuant to the power granted in Charter § 2-102 and HRS § 46-1.5, to protect health, life, and property and to protect the general welfare and safety of the inhabitants of the city, this article regulating the sale, purchase, possession, transportation, and use of obnoxious substances and granting the chief of police of the city authority to supervise the sale, purchase, possession, transportation, and use thereof according to the standards hereinafter stated, is enacted to insure that the dissemination of devices emitting obnoxious substances is limited to those agencies and their employees who have a legitimate need thereof. The terms of this article shall be liberally construed to effectuate the purpose stated herein.

(Sec 13-16.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.1)

### **§ 41-12.2 Definitions.**

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

**Agency.** All such 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 § 41-12.3 to accomplish a proper purpose.

**Chief of Police.** The chief of police of the City and County of Honolulu or the chief of police's authorized subordinate.

**Devices.** All shells, cartridges, bombs, guns, or aerosol capable of emitting obnoxious substances in gas, vapor form, liquid, or solid form.

**Employee.** All officers, agents, and employees of an agency whether such officer, agent, or employee has been issued a permit.

**Gun.** All revolvers, pistols, rifles, fountain pen guns, riot guns, shotguns, and cannons portable or fixed, except those regularly manufactured and used with firearm ammunition.

**Obnoxious Substances.** Those substances or the derivatives thereof enumerated in § 41-12.3.

**Shell, Cartridge, or Bomb.** All shells, cartridges, or bombs capable of being discharged or exploded by the use of percussion caps, fuses, electricity, or other means to cause or permit the release or emission of the substance enumerated in § 41-12.3.

(Sec. 13-16.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.2)

### **§ 41-12.3 Prohibitions.**

(a) No person shall use or possess with intent to use any shell, cartridge, bomb, gun, or other device capable of emitting any liquid, gaseous, or solid substance or any combination thereof that is injurious to person or property, or that 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 the individual's person or property.

(b) No person shall possess, discharge, use, transport, sell, or offer to sell any shell, cartridge, bomb, gun, or other device capable of emitting chloracetophenone (CN), o-chlorobenzalmalononitrile (CS) or any derivatives thereof in any form.

(c) No person shall possess, discharge, use, transport, sell, or offer to sell any shell, cartridge, bomb, gun, or other device capable of emitting oleo resin capsicum or any derivative thereof used to repel animals.

(Sec. 13-16.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.3) (Am. Ord. 01-18)

#### **§ 41-12.4 Exceptions.**

(a) *City police department authorized to use all devices.* Notwithstanding the prohibitions prescribed in § 41-12.3, the chief of police or the chief of police's subordinates may purchase, possess, discharge, use, or transport shells, cartridges, bombs, guns, or other devices emitting the obnoxious substances enumerated in § 41-12.3 in carrying out their duties.

(b) *Private security agencies authorized to use certain devices.* Notwithstanding the prohibitions prescribed in § 41-12.3, specifically subsections (a) and (b) thereof, private security officers who are employees of private police or security agencies may purchase, possess, discharge, use, or transport shells, cartridges, bombs, guns, or other devices emitting the obnoxious substances enumerated in § 41-12.3(a) and (b) in carrying out their duties, subject to the conditions prescribed in § 41-12.6.

(c) *Other organizations authorized to use device.* Notwithstanding the prohibitions prescribed in § 41-12.3 specifically relating to subsection (c) thereof, employees of government and private organizations who, by necessity of their employment, are required to go on private property to carry out their duties may possess, discharge, use, or transport shells, cartridges, bombs, guns, or other devices emitting the obnoxious substances enumerated in subsection (c) or animal repellents of § 41-12.3, subject to the conditions prescribed in § 41-12.6.

(d) *Pepper sprays.* The prohibitions of § 41-12.3 shall not apply to the possession, use, transportation, or other distribution of any pepper spray as defined under § 41-27.1 in the city in a manner permitted under Chapter 41, Article 27.

(Sec. 13-16.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.4) (Am. Ord. 95-49)

#### **§ 41-12.5 Permit to be obtained by agency.**

(a) *Application.* Any agency desiring to purchase, possess, discharge, use, or transport obnoxious substances authorized herein shall first file an application on forms furnished by the chief of police for a permit.

(b) *Additional requirements.*

- (1) The application shall include the name of the officer or employee who has been authorized to purchase the devices from vendors; and
- (2) Each agency is authorized to purchase only such devices emitting obnoxious substances as are listed on its permit.

(c) The agency shall submit the names of its employees who are to possess, discharge, use, or transport such devices together with its application for permit so that the chief of police may issue separate permits to the named employees submitted by the agency.

(d) To defray the cost of processing the permit and to administer this article, each agency authorized under this section, except for government agencies and except in the case of agencies desiring to use the obnoxious substances enumerated in § 41-12.3(c), shall pay to the director of budget and fiscal services a sum of \$50 for its permit and a sum of \$5 for each permit issued to its employees.

(Sec. 13-16.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.5)

#### **§ 41-12.6 Conditions.**

Government and private agencies described in § 41-12.4(b) and (c) shall be subject to the following conditions, relative to the purchase, use, storage, possession, transportation, and other requirements in connection with obnoxious substances.

(a) The chief of police, upon application by an agency, shall determine that the possession, discharge, use, and transportation of the devices are necessary due to the nature of the services performed by the agency. The chief of police shall have the sole authority to designate the specific service or services for which there is a necessity for the use of such devices. The devices shall be used only in connection with the performance of the service or services designated.

(b) After the determination and designation, the agency shall submit a list of names of employees whom the agency intends shall possess, discharge, use, and transport the devices. The chief of police shall issue a permit to the individual employee upon finding that the employee:

- (1) Is of good moral character;
- (2) Is of the age of 20 years or more;
- (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 has in the employee's possession any of the devices.

(c) Upon making the determination in 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 specified device or devices capable of emitting obnoxious substances listed thereon which devices shall at all times remain subject to the exclusive ownership and control of the agency. A copy of all permits shall be retained on file at the Honolulu police department.

(d) All devices emitting obnoxious substances owned by an agency except those enumerated in § 41-12.3(c) that 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 be only to employees authorized pursuant to subsection (b) according to controls approved by the chief of police. In addition, an accurate record of the issuance and turn in of all the devices as well as the number of such devices in the possession of each employee and the number in possession of the agency

will be kept by the agency.

- (e) The possession and transportation of the devices 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 such devices was approved and 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.
- (f) The employee shall discharge or use the devices only in the scope of the employee's employment and only when reasonably necessary to perform the same.
- (g) The agency will be liable for the negligent use or misuse of all devices under its control whether such devices are being used by its employees within the scope of their employment; provided that the penalty provision of § 41-12.9 shall not apply to the agency for the unlawful acts of its employees, unless the same are permitted or induced by the actions of the agency.
- (h) The records and procedures for the possession, use, and transportation of such devices shall be subject to inspection by the chief of police from time to time.

(Sec. 13-16.6, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.6)

### **§ 41-12.7 Vendor to obtain license.**

- (a) Any person, corporation, partnership, or association vending the obnoxious substances enumerated herein shall first obtain a license from the director of budget and fiscal services.
- (b) The vendor shall keep accurate records of the sale of obnoxious substances, including monthly inventories showing the quantity and type of devices received, inventories showing the quantity of devices on hand, accurate records of the sale of such devices, including the name of the purchasing agency, date of purchase, type of obnoxious substances sold, and the number of each type and such other records as the chief of police may require.
- (c) The chief of police shall have access to the vendor's books and records pertaining to the purchase and sale of obnoxious substances at reasonable times during business hours.
- (d) The sale of obnoxious substances 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 before the sale. Sales of such obnoxious substances shall be made only to the duly authorized representative of the purchasing agency as provided in §§ 41-12.5(b)(1) and 41-12.6, or in the case of delivery to the agency, such delivery shall be only to the location specified in the agency's permit. Deliveries as provided for herein shall be made only by the personnel of the vendor or the delivery service in both cases which are listed on the vendor's permit required by this section. No permit shall be required for the personnel or delivery service making such deliveries.
- (e) The annual fee for a license under this section shall be \$25, which shall be payable to the director of budget and fiscal services.

(Sec. 13-16.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.7)

### **§ 41-12.8 Licenses—Permits renewability.**

All licenses and permits issued pursuant to this article shall be renewed every year on or before July 1.

(Sec. 13-16.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.8)

### **§ 41-12.9 Violation—Penalty.**

Any person violating this article shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year or both; and upon such conviction, any license or permit issued to any person under this section shall be revoked.

(Sec. 13-16.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.9)

### **§ 41-12.10 Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Sec. 13-16.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 2, § 40-2.10)

## **ARTICLE 13: ADVERTISEMENT AND DISTRIBUTION OF CIGARETTES AND TOBACCO PRODUCTS**

### **Sections**

- 41-13.1 Definitions
- 41-13.2 Prohibition
- 41-13.3 Exceptions
- 41-13.4 Penalties

### **§ 41-13.1 Definitions.**

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

**Advertisement.** Any poster, banner, sticker, emblem, placard, graphic illustration, or sign, including any neon, electronically charged, or portable freestanding sign, used to publicize a cigarette or tobacco product to the general public.

**Business.** Any person or entity engaged in a retail operation that offers cigarettes or other tobacco products for sale to any member of the general public for consumption or use.

**Promotional Activities.** The distribution of cigarette or other tobacco product samples or materials or coupons redeemable for

cigarettes or other tobacco products free of charge or for a nominal charge to members of the general public for the purpose of promoting a brand of cigarettes or a form of tobacco products.

**Public Property.** Includes any street, sidewalk, public or private park, public or private school ground, and any other property that is owned or controlled by the federal, State, or city government or any agency thereof.

**Publicly Visible Location.** A place inside or outside of a commercial building, including the exterior walls of the building and the exterior and interior of a display window of a retail business, that is visible to the general public from public property.

**School Zone.** Every street and all other property within 1,000 feet of the boundaries of any public or private primary or secondary school and any preschool licensed by the State department of human services.

**Street.** Has the same meaning as defined in § 13-1.1.

(1990 Code, Ch. 40, Art. 10, § 40-10.1) (Added by Ord. 98-10)

## § 41-13.2 Prohibition.

(a) It is unlawful for any business to display a cigarette or other tobacco product advertisement in a publicly visible location within a school zone.

(b) It is unlawful for any person to participate in any promotional activities, as defined in §41-13.1, on any public property or within a school zone; provided that such promotional activities shall not be prohibited inside any business establishment in which retail sales are made to the general public; and provided further, that the promotional activities within any such business establishment shall not be seen from a publicly visible location.

(1990 Code, Ch. 40, Art. 10, § 40-10.2) (Added by Ord. 98-10)

## § 41-13.3 Exceptions.

The following shall be exceptions to §41-13.2(a):

- (1) The placement of an advertisement for a cigarette or other tobacco product inside of a retail business establishment where the product is offered for sale to the general public, provided that the advertisement is not in a publicly visible location;
- (2) The operation or legal parking of a vehicle within a school zone that has permanently painted on or affixed to the vehicle any sign, graphics, or lettering relating to the name, trade insignia, or trademark of a cigarette or other tobacco product, to the extent permitted in § 41-29.3; and
- (3) The placement of any advertisement for a cigarette or other tobacco product in or upon a federal or State building or facility located within a school zone.

(1990 Code, Ch. 40, Art. 10, § 40-10.3) (Added by Ord. 98-10)

## § 41-13.4 Penalties.

Any person who violates this article shall be fined not more than \$500.

(1990 Code, Ch. 40, Art. 10, § 40-10.4) (Added by Ord. 98-10)

# ARTICLE 14: SMOKING

## Sections

- 41-14.1 Definitions
- 41-14.2 Prohibition of smoking in certain places
- 41-14.3 Exceptions
- 41-14.4 Signs
- 41-14.5 Violation—Penalty
- 41-14.6 Enforcement—Administration
- 41-14.7 Fire code
- 41-14.8 Severability
- 41-14.9 Conflict with HRS Chapter 328J

## § 41-14.1 Definitions.

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

**Bar.** For a July 1 to June 30 period, a place that was devoted to the serving of alcoholic beverages for on-site consumption by patrons and where the service of food was only incidental to the consumption of such beverages during the previous July 1 to June 30 period, whether or not the place was open for business during that entire period. When the preceding sentence does not apply to a place because it was not open for business in the previous July 1 to June 30 period, the place may choose to be a bar from the date it first opens for business until the next June 30 if, during that time, the place is devoted to the serving of alcoholic beverages for on-site consumption by patrons and the service of food in the place is only incidental to the consumption of such beverages. "Incidental" means less than one third of gross sales of alcoholic beverages as opposed to food sales.

**Building.** A structure with at least three walls.

**Bus Stop.** Any place where the department of transportation services has directed the placement of a bus stop sign designating a location where the city's bus service stops to service passengers. Such sign may include route numbers and regulatory and other information.

**Commercial Building.** A building occupied by two or more commercial tenants.

**Electronic Smoking Device.** Any electronic product that can be used to aerosolize and deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, hookah pipe, or hookah pen, and any cartridge or other component of the device or related product, whether or not sold separately.

**Food Court.** An area with more than one restaurant and seating that is not subject to the exclusive use or possession of any restaurant, but is made available to the patrons of every restaurant in or other tenant of the area. The definition of food court under § 42-3.5 shall not apply to this article.

**Food Court Seating Area.** The portion of a food court with unreserved seating for patrons of any restaurant or other tenant of the food court. An “enclosed or partially enclosed food court” means a food court that is within an “enclosed or partially enclosed area” as defined under § 41-14.2(10).

**Hotel.** Has the same meaning as defined in § 21-10.1.

**Multi-Unit Dwelling.** Has the same meaning as defined in § 21-10.1.

**Open to the Public.** 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.

**Public Park.** Any park, park roadway, playground, athletic field, beach, beach right-of-way, tennis court, swimming pool, or other recreation area or facility under the control, maintenance, and management of the department of parks and recreation. Public park does not include a public thoroughfare defined as a “mall” under § 13-1.1 unless the public thoroughfare has been:

- (1) Accepted, dedicated, or named by the council expressly as a public park or “park”;
- (2) Placed under the control, maintenance, and management of and classified expressly as a public park or “park” by the department of parks and recreation; or
- (3) Constructed or situated within a larger specific recreation area or facility listed in the preceding sentence.

**Public Place.** Has the same meaning as defined in § 13-1.1.

**Restaurant.** 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 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.

**Retail Department Store.** A retail establishment organized or arranged into five or more departments and consisting of a total selling floor space of at least 22,000 square feet.

**Separate Open Air Area of a Restaurant.** An area, roofed or not, of a restaurant's premises that is both:

- (1) Directly exposed to the outside environment on every side, except a side abutting:
  - (A) An indoor area of the restaurant;
  - (B) Any building that does not house the restaurant; or
  - (C) Any other enclosed or partially enclosed place or area where smoking is prohibited by this article or HRS Chapter 328J; and
- (2) Entirely separated from any abutting area, building, or place listed under subdivision (1) by either of the following:
  - (A) At least 10 feet of space that is outside the walls of the building housing the restaurant; or
  - (B) A solid wall: (i) without any opening; or (ii) with either or both of the following, but no other opening: a closable doorway that stays closed except when a person passes through it or a closable serving window that stays closed except when food, drink, or eating ware is passed through it. A “solid wall” means a wall constructed of rigid material that reaches from floor to ceiling. It may have an unopenable plate glass window. A “serving window” means a window through which food, drink, or eating ware may be passed from one area of a restaurant to another area of the restaurant.

A side of a restaurant area is “directly exposed to the outside environment” if the entire side is unenclosed or enclosed only by a barrier of not more than 4 feet high from the floor. An “indoor area of a restaurant” means the area within the walls of the building housing all or part of a restaurant's premises.

**Smoke or Smoking.** Inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. Smoking includes the use of an electronic smoking device.

**Tobacco Product.** Any product made or derived from tobacco, that contains nicotine or other substances, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. Tobacco product does not include any product specifically approved by the United States Food and Drug Administration for legal sale as a tobacco cessation product that is being marketed and sold solely for that approved purpose.

(Sec. 13-42.1, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.1) (Am. Ords. 93-24, 93-68, 97-20, 02-06, 13-27, 13-28, 17-53, [25-2](#))

## § 41-14.2 Prohibition of smoking in certain places.

Except as otherwise provided herein, smoking is prohibited in the following places within the city:

- (1) Elevators in buildings generally open to and used by the public, including elevators in apartment and other multi-unit residential buildings;
- (2) 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;

- (3) Any room which is primarily used for exhibiting any motion picture, stage drama, dance, musical performance, or other similar performance during the time that the room, hall, or auditorium is open to the public for such exhibition;
- (4) Museums, libraries, and galleries;
- (5) All areas within city-owned or controlled buildings, except any dwelling unit or lodging unit, as those terms are defined by § 21-10.1, when not being used for child or adult daycare, or as a health care facility;
- (6) Except as provided in § 41-14.3 or as limited by this subsection, all areas in business or charitable establishments. For the purposes of this subdivision, a "business" means any sole proprietorship, partnership, joint venture, business trust, limited liability company, business corporation, professional corporation, or other business entity formed for profit-making purposes, and "business establishment" includes but is not limited to any of the following establishments operated by a business:
  - (A) Any school;
  - (B) Any hotel, except individual hotel rooms;
  - (C) Any financial institution;
  - (D) Any industrial, commercial, or wholesale establishment;
  - (E) Any utility;
  - (F) Any retail establishment where goods or services are sold, leased, or otherwise provided to the public or to another business;
  - (G) Any bar within an enclosed or partially enclosed food court; or
  - (H) Any restaurant; except that smoking will be permitted in a separate open air area of a restaurant when the business operating the restaurant refrains from designating the area as nonsmoking pursuant to subdivision (8);
- (7) Rest rooms. Any restroom open to the public in places specified in this section;
- (8) Notwithstanding § 41-14.3, any area of any bar, hotel room, restaurant, or governmental property which has been designated by the owner, operator, manager, or other persons having control of such property as a nonsmoking area and marked with a "no smoking" sign or signs;
- (9) All enclosed or partially enclosed areas within multi-unit dwellings that are open to the common use of all unit owners or residents, including but not limited to lobbies, hallways, corridors, stairways, waiting areas, and recreation areas within multi-unit dwellings. For the purposes of this subdivision, "enclosed or partially enclosed areas" means areas closed in by a roof or overhang and at least one wall. An area commonly described as a lobby or roofed mall is deemed to be enclosed or partially enclosed for purposes of this subdivision;
- (10) 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, lobbies, malls, food court seating areas, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings. For the purposes of this subdivision, an enclosed or partially enclosed area is any area for human occupancy that is contained on two or more sides by walls and is covered by a roof, ceiling, or overhang, such that the area of all permanent openings from the space to the open air is less than 50 percent of the combined areas of the walls and ceiling, roof, or overhang. If a wall does not meet the floor or the ceiling, roof, or overhang, the calculation will be based on the vertical projection of the wall to the plane of the floor or the plane of the ceiling, roof or overhang. Permanent openings do not include doors or windows which are capable of being closed;
- (11) If a building is both a multi-unit dwelling and a commercial building as defined in this article, all areas except for private residences;
- (12) All motor vehicles:
  - (A) That are owned or leased by the city; or
  - (B) In which a person under 18 years of age is present;
- (13) All public parks, recreation areas, and facilities under the maintenance of the department of parks and recreation or the department of enterprise services, except for the open air areas of a municipal golf course and such areas within each of the following sites as the department of parks and recreation or the department of enterprise services may designate by appropriate signs as areas within which smoking is permissible:
  - (A) Honolulu Zoo;
  - (B) Hanauma Bay Nature Preserve;
  - (C) Koko Crater Botanical Garden; and
  - (D) Tom Moffatt Waikiki Shell; and
- (14) Any bus stop. The smoking prohibition applies to the area of the bus stop that extends out from the bus stop sign or the footprint of the shelter in every direction by 20 feet. The footprint of the shelter is defined by vertical planes extending down from the outermost edges of the shelter overhang or roof. The prohibition contemplated in this subdivision only applies to public places.

(Sec. 13-42.2, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.2) (Am. Ords. 93-24, 93-68, 93-92, 96-58, 97-20, 99-64, 02-06, 13-5, 13-27, 13-28, 17-53, [25-2](#))

### **§ 41-14.3 Exceptions.**

Smoking must not be prohibited in the following places under this article:

- (1) Private residences, except when used for child or adult daycare, or as a health care facility;
- (2) Any hotel room;
- (3) Any bar that is not within an enclosed or partially enclosed food court; and
- (4) Any separate open air area of a restaurant where smoking is permitted by the business operating the restaurant pursuant to § 41-14.2(6)(H).

(Sec. 13-42.3, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.3) (Am. Ords. 97-20, 02-06, 13-27, 13-28, [25-2](#))

#### **§ 41-14.4 Signs.**

(a) Clearly legible signs that include the words "smoking prohibited by law" with letters of not less than 1 inch in height must be conspicuously posted in all places where smoking is prohibited by this article by the owner, operator, manager, or other person having control of such place. This subsection does not apply to privately owned motor vehicles, unless the vehicles are used in public transportation under the authority of the State or the city.

(b) Alternate means of notification (individual place cards, film clips, etc.) may be employed provided the effect thereof is equivalent to the notice given by signs described in subsection (a).

(c) Any person violating this section shall be issued a notice of violation and shall comply with this section within 10 days. Thereafter, the violation shall carry a fine of not more than \$25. Each violation cited shall constitute a separate offense.

(Sec. 13-42.4, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.4) (Am. Ords. 97-57, 02-06, 17-53))

#### **§ 41-14.5 Violation—Penalty.**

(a) It is unlawful for any person to smoke in a place within the city where smoking is prohibited.

(b) Except as otherwise provided, any person violating this article shall be punished by:

- (1) A fine of not more than \$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 of this article within one year of the date of the preceding violation.

(Sec. 13-42.5, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.5) (Am. Ords. 93-68, 97-20))

#### **§ 41-14.6 Enforcement—Administration.**

(a) *Summons or citation.*

(1) There shall be provided for use by an officer or employee of the city 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 of Hawaii and the City and County of Honolulu.

(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 § 41-14.4 shall be under the jurisdiction of the department of planning and permitting, which department shall have the power to formulate any applicable rules necessary to carry out § 41-14.4.

(c) Except as provided in subsection (b), enforcement of this article shall be under the jurisdiction of the Honolulu police department.

(d) In addition to the foregoing, any police officer or other officer or employee of the city 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.

(Sec. 13-42.6, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.6) (Am. Ord. 02-06))

#### **§ 41-14.7 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.

(Sec. 13-42.7, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.7))

#### **§ 41-14.8 Severability.**

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article, which can be given effect without the invalid provision or application, and to this end, the provisions of this article are severable.

(Sec. 13-42.8, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 41, Art. 21, § 41-21.8))

#### **§ 41-14.9 Conflict with HRS Chapter 328J.**

(a) If any provision of this article conflicts with any provision of HRS Chapter 328J, or any successor statute, the more stringent provision shall control.

(b) If any violation of this article also constitutes a violation of HRS Chapter 328J, or any successor statute, the violator shall be subject to the penalties and procedures set forth under this article.

(c) This section shall not be deemed to limit the powers granted to the city under HRS Chapter 328J or any successor statute, to enforce, administer, and adopt rules necessary to carry out HRS Chapter 328J, or any successor statute.

(1990 Code, Ch. 41, Art. 21, § 41-21.9) (Added by Ord. 93-24; Am. Ords. 02-06, 13-28)

## **ARTICLE 15: BIDI CIGARETTE PROHIBITIONS**

Sections

41-15.1 Definition

41-15.2 Prohibition

41-15.3 Violation—Penalties

### **§ 41-15.1 Definition.**

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

**Bidi Cigarette.** A product that contains tobacco that is wrapped in temburni or tendu leaf.

(1990 Code, Ch. 40, Art. 18, § 40-18.1) (Added by Ord. 00-23)

### **§ 41-15.2 Prohibition.**

No person shall sell, give or barter away, or in any way, furnish to any other person a bidi cigarette.

(1990 Code, Ch. 40, Art. 18, § 40-18.2) (Added by Ord. 00-23)

### **§ 41-15.3 Violation—Penalties.**

Any person who violates § 41-15.2 shall be fined not more than \$500 for the first offense. Any subsequent offenses shall subject the person to a fine of not less than \$500 nor more than \$1,000.

A police officer may arrest an alleged violator of this article or may issue a citation in lieu of arrest as provided in HRS § 803-6.

(1990 Code, Ch. 40, Art. 18, § 40-18.3) (Added by Ord. 00-23)

## **ARTICLE 16: HERBAL CIGARETTES**

Sections

41-16.1 Definition

41-16.2 Sale of herbal cigarettes prohibited

41-16.3 Signs

41-16.4 Violations and penalties

### **§ 41-16.1 Definition.**

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

**Herbal Cigarette.** A cigarette that is composed of one or more herbs or other plants and is not a tobacco product.

(1990 Code, Ch. 40, Art. 20, § 40-20.1) (Added by Ord. 00-60)

### **§ 41-16.2 Sale of herbal cigarettes prohibited.**

It shall be unlawful for any person to sell, give, or barter away, or in any way, furnish herbal cigarettes to an individual under 21 years of age.

(1990 Code, Ch. 40, Art. 20, § 40-20.2) (Added by Ord. 00-60; Am. Ord. [24-5](#))

### **§ 41-16.3 Signs.**

Signs using the statement "The sale of herbal cigarettes to persons under twenty-one is prohibited" must be posted on or near any vending machine in letters at least 0.5 inches high and at or near the point of sale of any other location where herbal cigarettes are sold, in letters at least 0.5 inches high.

(1990 Code, Ch. 40, Art. 20, § 40-20.3) (Added by Ord. 00-60; Am. Ord. [24-5](#))

### **§ 41-16.4 Violations and penalties.**

Any person who violates §§ 41-16.2 or 41-16.3 shall be fined not more than \$500 for each offense. Any subsequent offenses occurring within one year of the first offense shall subject the person to a fine of not less than \$500 nor more than \$1,000.

(1990 Code, Ch. 40, Art. 20, § 40-20.4) (Added by Ord. 00-60)

## **ARTICLE 17: PROSTITUTION-RELATED PUBLIC NUISANCE ABATEMENT**

Sections

41-17.1 Definitions

41-17.2 "Public nuisance" declaration for prostitution-related offenses

41-17.3 Abatement

41-17.4 Other actions not prohibited

## **§ 41-17.1 Definitions.**

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

**Business.** A corporation, partnership, or sole proprietorship.

**County Organization.** A city agency with authority under the Charter to bring suit to enjoin, abate, and prevent a nuisance under HRS Chapter 712, Part V.

**Premises of a Business.** The portion of a structure, grounds, or both, which is occupied by a business through ownership, lease, rental, or other conveyance. The term does not include common areas shared by the business with other parties.

**Principal.** An officer, director, shareholder, partner, or sole proprietor of a business.

**Prostitution and Promoting Prostitution.** The offenses of prostitution and promoting prostitution under HRS Chapter 712.

**Prostitution-Related Public Nuisance.** The public nuisance declared under § 41-17.2.

(1990 Code, Ch. 40, Art. 16, § 40-16.1) (Added by Ord. 99-53)

## **§ 41-17.2 “Public nuisance” declaration for prostitution-related offenses.**

(a) The premises of a business, to which all of the following conditions apply, is declared a public nuisance per se:

- (1) At least three arrests of a principal, employee, or independent contractor of the business were made within a five-year period for alleged prostitution or promoting prostitution;
- (2) Each person arrested was charged with prostitution or promoting prostitution for an act which allegedly occurred on the premises;
- (3) At least three of the persons charged:
  - (A) Were convicted of the prostitution or promoting prostitution offenses for which charged; or
  - (B) Had the court defer acceptance of guilty or nolo contendere pleas for; and
- (4) The same business occupied the premises continuously from the first arrest counted under subdivision (1) until the third conviction or court deferred acceptance of guilty or nolo contendere plea counted under subdivision (3). For the purpose of this subdivision, a business shall be deemed the “same” so long as controlling ownership interest in the business remained held or shared by the same person, even if changes occurred in the name of the business, purpose of the business, proportion of controlling ownership interest held by the person, members of the controlling ownership group, if any, of the business, or any other factor which did not affect the person’s holding or sharing of controlling ownership interest.

(b) The existence of the following conditions shall not be necessary for the premises of a business to become a public nuisance under subsection (a):

- (1) Knowledge of any principal of the business that prostitution or promoting prostitution was committed on the premises by another principal, an employee, or an independent contractor of the business;
- (2) Orders by any principal of the business requiring another principal, an employee, or an independent contractor of the business to commit prostitution or promoting prostitution on the premises; or
- (3) Acquiescence by any principal of the business to the prostitution or promoting prostitution committed on the premises by another principal, an employee, or an independent contractor of the business.

(1990 Code, Ch. 40, Art. 16, § 40-16.2) (Added by Ord. 99-53)

## **§ 41-17.3 Abatement.**

(a) This article shall not affect the authority of the prosecuting attorney or a county organization under HRS Chapter 712, Part V, to bring a suit to enjoin, abate, and prevent a prostitution-related public nuisance.

If, however, the prosecuting attorney or a county organization does not bring such a suit within 30 days of the date the premises of a business becomes a prostitution-related public nuisance, the department of the corporation counsel shall take action in accordance with subsection (b). The “date the premises of the business becomes a prostitution-related public nuisance” means the date of the third conviction or court deferred acceptance of guilty or nolo contendere plea counted under § 41-17.2(a)(3) for prostitution or promoting prostitution necessary to make the premises a public nuisance.

(b) When required to take action pursuant to subsection (a), the department of the corporation counsel shall either:

- (1) Seek to enjoin, abate, and prevent the prostitution-related public nuisance by suit brought as a county organization pursuant to HRS Chapter 712, Part V; or
- (2) Seek to enjoin and prohibit the prostitution-related public nuisance under HRS § 603-23. Within 60 days of the day this subsection becomes applicable, the department of the corporation counsel shall initiate the necessary action for an injunction to immediately close the prostitution-related public nuisance for up to one year. The “day this subsection becomes applicable” means the 31st day following the date the premises of the applicable business becomes a prostitution-related public nuisance. It shall not be a defense to an action brought by the corporation counsel that the action was initiated on the 60th day after this subsection becomes available, or thereafter.

When the department of the corporation counsel brings an action under HRS Chapter 712, Part V, or HRS § 603-23 against a prostitution-related public nuisance, the proceedings, including proof required, and remedies shall be subject to that part or section, as applicable.

(1990 Code, Ch. 40, Art. 16, § 40-16.3) (Added by Ord. 99-53)

## **§ 41-17.4 Other actions not prohibited.**

(a) This article shall not affect the right of a private person under statutory or common law to bring an action to abate or collect damages for a nuisance declared under this article.

(b) This article shall not prohibit the prosecuting attorney or any county organization from bringing suit under HRS Chapter 712, Part V, to close the premises of a business before the occurrence of three convictions or court deferred acceptances of guilty or nolo contendere plea counted under § 41-17.2(a)(3) for prostitution or promoting prostitution on the premises.

(c) This article shall not impose any liability on the city for a failure to seek the abatement of a public nuisance declared under this article.

(1990 Code, Ch. 40, Art. 16, § 40-16.4) (Added by Ord. 99-53)

## **ARTICLE 18: ADDITIONAL AREAS OF SIGNIFICANT PROSTITUTION-RELATED ACTIVITY**

### Sections

41-18.1 City-designated areas of significant prostitution-related activity

41-18.2 Additional to Waikiki area

41-18.3 No intent to supersede HRS § 712-1207

41-18.4 Intent regarding “public property”

### **§ 41-18.1 City-designated areas of significant prostitution-related activity.**

(a) Pursuant to the authority conferred by HRS § 712-1207 and the recommendation of the chief of police, the following areas are designated zones of significant prostitution-related activity detrimental to the health, safety, or welfare of the general public:

- (1) The Ala Moana/Kapiolani/Convention Center/Keeaumoku/lower Makiki/McCully/Moiliili area shown in Exhibit A attached to this article and made a part hereof;
- (2) The Downtown/Chinatown area shown in Exhibit B attached to this article and made a part hereof; and
- (3) The Wahiawa area shown in Exhibit C attached to this article and made a part hereof.

Where the boundary lines of the designated areas shown on the exhibits follow streets or highways, the designated areas shall include the entire width of the streets or highways, including the sidewalk or shoulder areas. For this purpose, “streets or highways” mean the same as defined under § 15-2.23.

(b) This article shall be deemed a county ordinance designating areas to which HRS § 712-1207 applies.

(1990 Code, Ch. 40, Art. 21, § 40-21.1) (Added by Ord. 00-67; Am. Ord. 06-48)

### **§ 41-18.2 Additional to Waikiki area.**

The areas designated under § 41-18.1 are additional to the Waikiki area designated under HRS § 712-1207.

(1990 Code, Ch. 40, Art. 21, § 40-21.2) (Added by Ord. 00-67)

### **§ 41-18.3 No intent to supersede HRS § 712-1207.**

This article is not intended to supersede HRS § 712-1207.

(1990 Code, Ch. 40, Art. 21, § 40-21.3) (Added by Ord. 00-67)

### **§ 41-18.4 Intent regarding “public property”.**

(a) The council finds that HRS § 712-1207 prohibits a person, while on public property within Waikiki or a designated area, from offering or agreeing to engage in sexual conduct with another person in return for a fee. Under HRS § 712-1207, “public property” includes any street, highway, road, sidewalk, alley, lane, bridge, parking lot, park, or other property owned or under the jurisdiction of any governmental entity or otherwise open to the public.

(b) The council finds that, as defined, “public property” includes privately owned real property used for commercial purposes if open to any broad class of the public. Thus, the council finds that the term includes a liquor-serving, massage, or adult entertainment establishment open to adult members of the public.

The council further finds that the heading of HRS § 712-1207, which reads in part “street solicitation of prostitution,” may not be construed as limiting the plain language of the section to solicitation on a public street.

(c) The council intends that the chief of police, prosecuting attorney, and any other authorized law enforcement officer enforce HRS § 712-1207 consistent with the findings of this section.

(1990 Code, Ch. 40, Art. 21, § 40-21.4) (Added by Ord. 00-67)

### **Exhibit A**

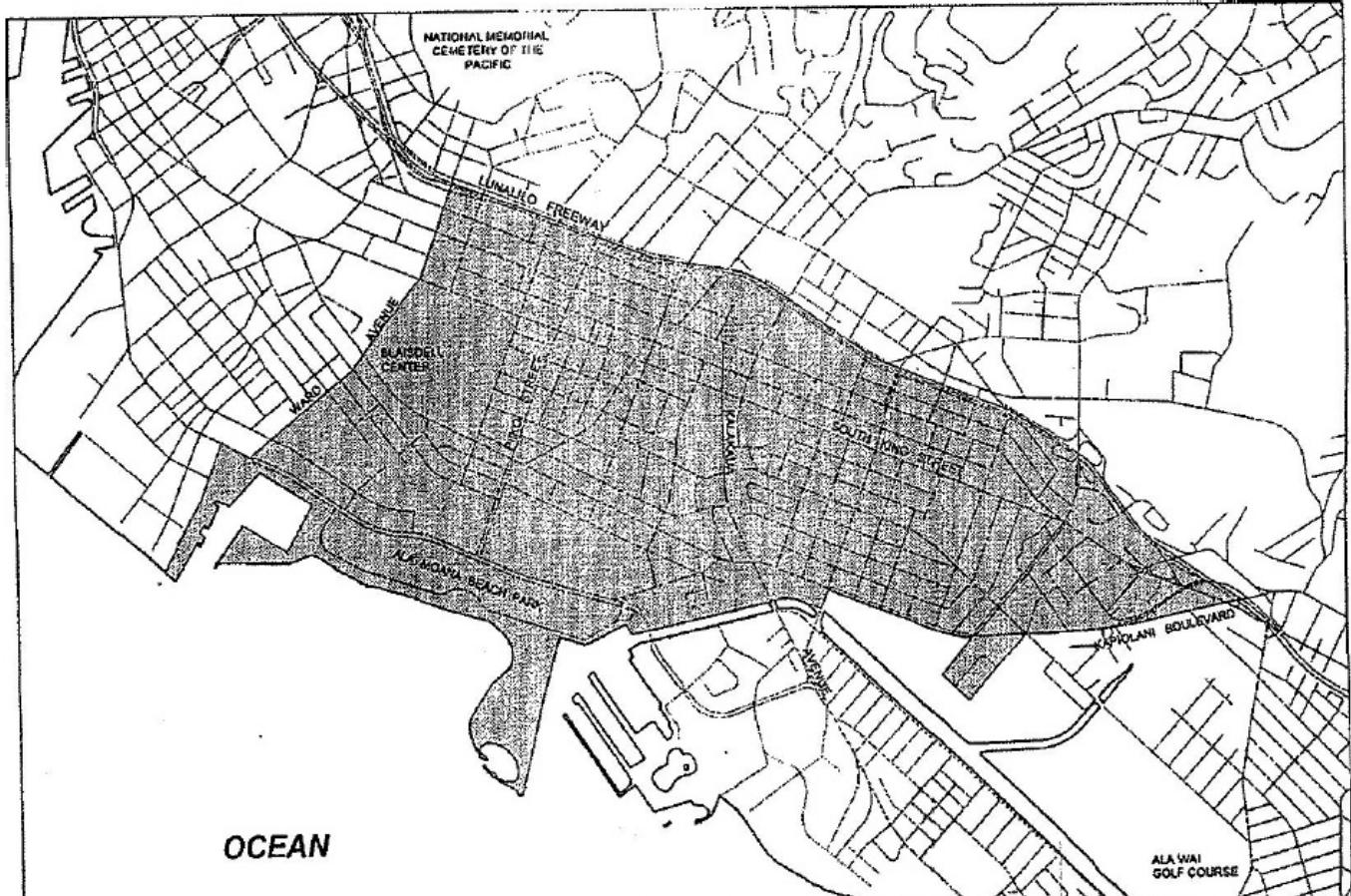


EXHIBIT A

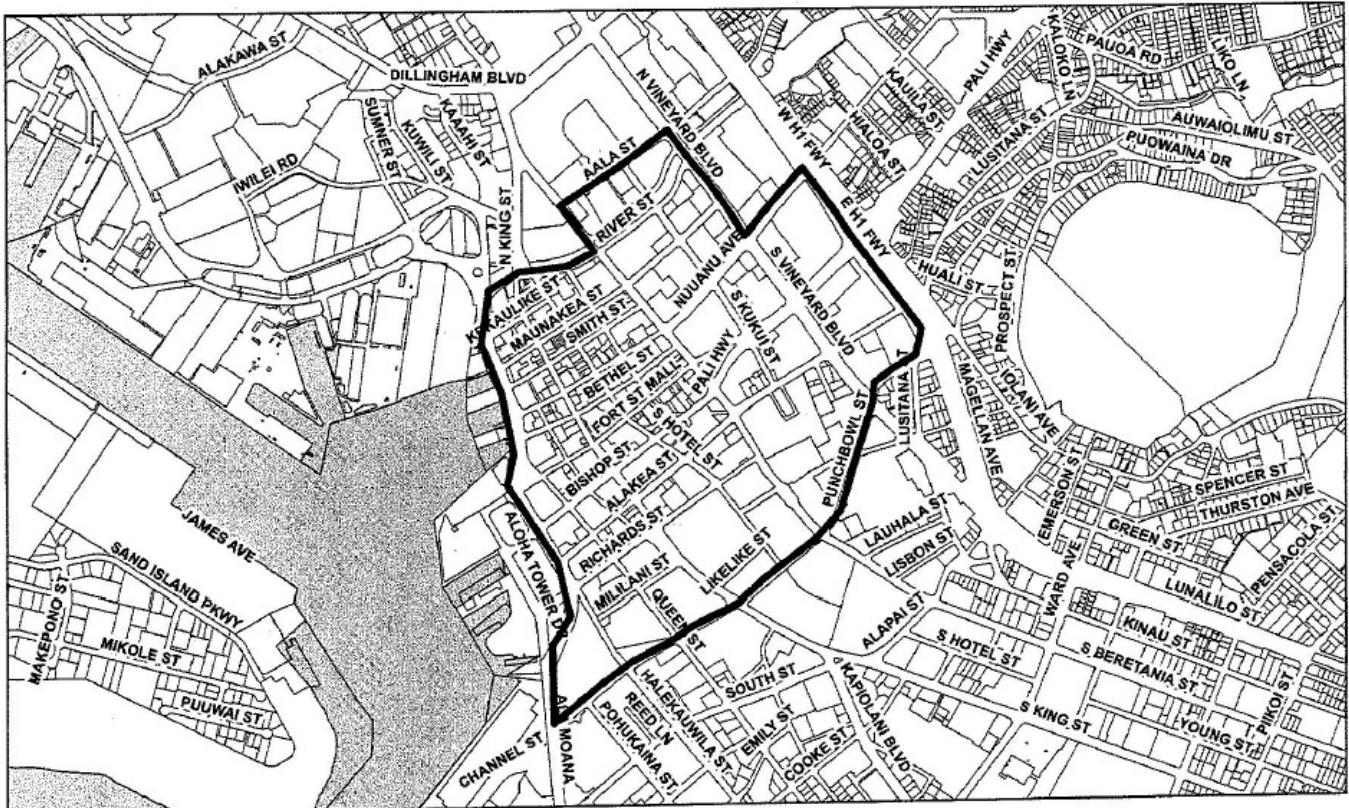
Prepared By: Office of Council Services  
City & County of Honolulu



2000 0 2000 4000 Feet

Exhibit B

## Downtown/Chinatown, Hawaii, United States



**Exhibit B**

RILL 68 (2006)

## **Exhibit C**

Wahiawa, Hawaii, United States

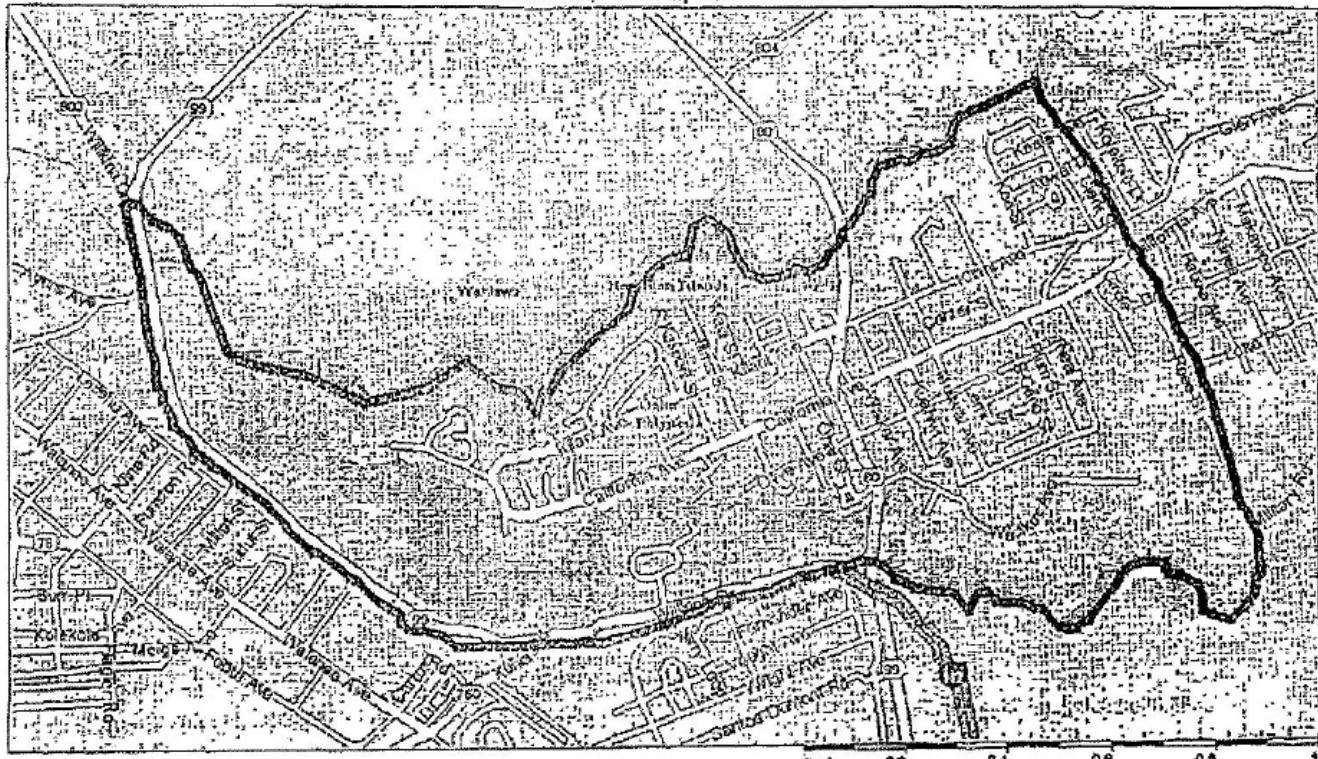


EXHIBIT C

## **ARTICLE 19: LASER POINTERS AND HARASSMENT WITH LASER BEAMS**

## Sections

- 41-19.1 Definition
- 41-19.2 Possession and providing of laser pointers prohibited
- 41-19.3 Harassment by laser beams prohibited
- 41-19.4 Violation—Penalties—Liability of parent

### § 41-19.1 Definition.

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

**Laser Pointer.** Any handheld laser which is not designed as a sighting device for a weapon, and which is not designed for use in a medical procedure. This term includes the product commonly referred to as a “laser pen”.

(1990 Code, Ch. 40, Art. 15, § 40-15.1) (Added by Ord. 99-09)

### § 41-19.2 Possession and providing of laser pointers prohibited.

- (a) No person shall sell, give, loan, or otherwise provide or cause to be provided a laser pointer to any person under 18 years of age.
- (b) No person under 18 years of age shall possess a laser pointer.
- (c) The prohibitions in subsections (a) and (b) do not apply to any handheld laser devices used in a recreational activity commonly referred to as “laser tag,” and which activity is offered for a fee or charge by a facility used for indoor recreation or outdoor recreation as defined in § 21-10.1; provided that the devices must be collected by the owner or operator of the facility following their use in the recreational activity.

(1990 Code, Ch. 40, Art. 15, § 40-15.2) (Added by Ord. 99-09) (Am. Ord. [25-2](#))

### § 41-19.3 Harassment by laser beams prohibited.

No person shall intentionally focus, point, or shine any laser beam directly or indirectly into the eye or eyes of another person, or on another person or animal, in such a manner as would reasonably be expected to annoy, harass, or alarm the person or animal.

(1990 Code, Ch. 40, Art. 15, § 40-15.3) (Added by Ord. 99-09)

### § 41-19.4 Violation—Penalties—Liability of parent.

- (a) Any person convicted of violating this article shall be punished for each violation by a fine of not less than \$100 nor more than \$500, by imprisonment for not more than 30 days, or both.
- (b) Any father or mother of an unmarried minor who violates §41-19.3 shall be jointly and severally liable with the minor for any injury or damage suffered as a result of such violation.

(1990 Code, Ch. 40, Art. 15, § 40-15.4) (Added by Ord. 99-09)

## **ARTICLE 20: URINATING OR DEFECATING IN PUBLIC PROHIBITED IN THE WAIKIKI SPECIAL DISTRICT**

## Sections

- 41-20.1 Definitions
- 41-20.2 Prohibition
- 41-20.3 Exceptions
- 41-20.4 Violation—Penalty

### § 41-20.1 Definitions.

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

**Public Place.** Any publicly-owned or privately-owned property open for public use or to which the public is invited for entertainment or business purposes and includes but is not limited to any street, sidewalk, driveway, alley, doorway, mall, plaza, park, public building, or parking lot.

**Waikiki Special District.** The Waikiki special district as defined in § 21-9.80-2.

(1990 Code, Ch. 40, Art. 24, § 40-24.1) (Added by Ord. 14-27)

### § 41-20.2 Prohibition.

Within the boundaries of the Waikiki special district, no person shall intentionally or knowingly urinate or defecate:

- (1) In a public place; or
- (2) In any area where such an act is likely to be observed by any member of the public.

(1990 Code, Ch. 40, Art. 24, § 40-24.2) (Added by Ord. 14-27)

### § 41-20.3 Exceptions.

- (a) This article shall not apply in cases where the person failed to use a restroom or other toilet facility because of a medical condition verified by a licensed physician.
- (b) This article shall not apply to a person urinating or defecating while using appropriate fixtures in any restroom or other toilet facility designed for the sanitary disposal of human waste.

(1990 Code, Ch. 40, Art. 24, § 40-24.3) (Added by Ord. 14-27)

#### **§ 41-20.4 Violation—Penalty.**

Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.

(1990 Code, Ch. 40, Art. 24, § 40-24.4) (Added by Ord. 14-27)

### **ARTICLE 21: URINATING OR DEFECATING IN PUBLIC PROHIBITED OUTSIDE OF THE WAIKIKI SPECIAL DISTRICT**

Sections

- 41-21.1 Definition
- 41-21.2 Prohibition
- 41-21.3 Exceptions
- 41-21.4 Violation—Penalty

#### **§ 41-21.1 Definition.**

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

**Public Place.** Any publicly-owned or privately-owned property open for public use or to which the public is invited for entertainment or business purposes and includes but is not limited to any street, sidewalk, driveway, alley, doorway, mall, plaza, park, public building, or parking lot.

(1990 Code, Ch. 40, Art. 24A, § 40-24A.1) (Added by Ord. 14-28)

#### **§ 41-21.2 Prohibition.**

No person shall intentionally or knowingly urinate or defecate:

- (1) In a public place; or
- (2) In any area where such an act is likely to be observed by any member of the public.

(1990 Code, Ch. 40, Art. 24A, § 40-24A.2) (Added by Ord. 14-28)

#### **§ 41-21.3 Exceptions.**

- (a) This article shall not apply in cases where the person failed to use a restroom or other toilet facility because of a medical condition verified by a licensed physician.
- (b) This article shall not apply to a person urinating or defecating while using appropriate fixtures in any restroom or other toilet facility designed for the sanitary disposal of human waste.
- (c) This article shall not apply to any area where urination or defecation is prohibited by State law or by a separate ordinance enactment.

(1990 Code, Ch. 40, Art. 24A, § 40-24A.3) (Added by Ord. 14-28)

#### **§ 41-21.4 Violation—Penalty.**

Any person violating this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS §§ 706-640 and 706-663, as amended.

(1990 Code, Ch. 40, Art. 24A, § 40-24A.4) (Added by Ord. 14-28)

### **ARTICLE 22: ICEBOXES AND REFRIGERATORS**

Sections

- 41-22.1 Prohibitions
- 41-22.2 Violation—Penalty
- 41-22.3 Severability

#### **§ 41-22.1 Prohibitions.**

- (a) It is unlawful for any person to abandon or discard in a place accessible to children, or to store, keep or permit to remain on any property under such person's control in a place accessible to children, any icebox or refrigerator which has an airtight door or lid, snaplock, or other locking device, which may not be released from within the icebox or refrigerator, without first removing the door or lid, snaplock, or other locking device.
- (b) Subsection (a) is not intended and shall not be construed to apply to:
  - (1) Iceboxes or refrigerators kept within any building for the purposes of display, inventory, or repair in the regular course of business; provided that an attendant is in the building at all times when the building is not under lock and key;
  - (2) Iceboxes or refrigerators within the enclosed dwelling area of a home; or
  - (3) Iceboxes or refrigerators actually being used for the purpose of refrigeration.

(Sec. 13-22.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 4, § 40-4.1)

#### **§ 41-22.2 Violation—Penalty.**

- (a) Any person violating § 41-22.1 shall be deemed guilty of a petty misdemeanor and upon conviction, shall be punished by a fine

not exceeding \$100, or by imprisonment not exceeding 30 days, or by both.

(b) Each day that such violation continues shall constitute a separate offense and shall be punishable as such under this section.

(Sec. 13-22.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 4, § 40-4.2)

### **§ 41-22.3 Severability.**

If any provision or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this article.

(Sec. 13-22.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 4, § 40-4.3)

## **ARTICLE 23: UNOFFICIAL AGE IDENTIFICATION CARD**

Sections

41-23.1 Definitions

41-23.2 Prohibition on manufacture, sale, or supply of unofficial age identification card without required disclaimer

41-23.3 Prohibition on use of unofficial age identification card with false birth date

### **§ 41-23.1 Definitions.**

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

**Government Agency.** An agency of the United States government, an agency of any state government of the United States, or an agency of any political subdivision of a state. Government agency also means an agency of any government of a country besides the United States.

**Government Document.** A document issued by a government agency.

**Supply.** With respect to an unofficial age identification card, means to provide or furnish to a person by other than a sales transaction.

**Unofficial Age Identification Card.** A card which:

- (1) Is manufactured by a private person without the express, specific authorization of a government agency;
- (2) Is rectangular and not more than 8 inches in length and not more than 5 inches in width; and
- (3) Is imprinted, inscribed, or stamped on at least one side with at least the following information:
  - (A) A picture of an individual;
  - (B) A personal name positioned or described in a manner indicating or resulting in a reasonable assumption that it is the personal name of the pictured individual; and
  - (C) A date represented as a "birth date" and positioned or described in a manner indicating or resulting in a reasonable assumption that the date is the birth date of the pictured individual. A date shall be deemed represented as a "birth date" if designated or accompanied by the words "birth date" or "date of birth," the initials "DOB" or "BD," or other similar words or initials in the English or another language.

(1990 Code, Ch. 40, Art. 17, § 40-17.1) (Added by Ord. 99-66)

### **§ 41-23.2 Prohibition on manufacture, sale, or supply of unofficial age identification card without required disclaimer.**

(a) Except as provided in this section, a private person shall not manufacture, sell, supply, or attempt to sell or supply an unofficial age identification card unless the following words are imprinted, inscribed, or stamped across the top of each side of the card in the manner required by this subsection: "SOUVENIR ONLY." The words shall be in red capital letters at least 0.25 inches high and printed prominently, legibly, and conspicuously in permanent ink. The phrase "SOUVENIR ONLY" shall be at least 2 inches wide or, if the card is less than 2 inches wide, shall be at least 80 percent of the width of the card.

(b) Subsection (a) shall not apply to a private person who manufactures, sells, supplies, or attempts to sell or supply the following:

- (1) A "credit card" as defined in HRS § 708-800;
- (2) An "employee identification card," meaning a card given to an individual by a private employer for the purpose of identifying the individual as an employee of the employer;
- (3) A "school identification card," meaning a card given to an individual by a private academic, trade, vocational, or technical school, college, or university for the purpose of identifying the individual as a student of the school, college, or university; or
- (4) A card which does not meet all criteria of the definition of "unofficial age identification card" under §41-23.1. A card excepted by this subdivision includes a card which is manufactured, sold, or supplied by a private person with the express, specific authorization of a government agency, a card which does not comply with the dimensional requirements of subdivision (2) of the definition, or a card which does not include on at least one side all of the information specified under subdivision (3) of the definition.

A card described under this subsection need not include the words required by subsection (a).

(c) A person who manufactures, sells, supplies, or attempts to sell or supply an unofficial age identification card in violation of this section shall be subject for each violation to a maximum \$2,000 fine, maximum one-year imprisonment, or both. Each card manufactured, sold, supplied, or attempted to be sold or supplied in violation of the section shall be deemed a separate violation.

(1990 Code, Ch. 40, Art. 17, § 40-17.2) (Added by Ord. 99-66)

### **§ 41-23.3 Prohibition on use of unofficial age identification card with false birth date.**

(a) A person shall not use or attempt to use an unofficial age identification card with a false birth date as proof of being the requisite age to:

- (1) Enter a liquor-serving or other establishment restricted to patrons of a minimum age; or
- (2) Purchase liquor or another product purchasable only by persons of a minimum age.

An “unofficial age identification card with a false birth date” means an unofficial age identification card, the birth date on which is not that of the person who uses or attempts to use the card. The prohibition of this subsection applies even if the unofficial age identification card includes the disclaimer required under § 41-23.2.

(b) Subsection (a) shall not apply when the use of a particular unofficial age identification card with a false birth date also constitutes a violation of a State law prohibiting the use of a fraudulent government document. By this subsection, the council intends to avoid a conflict with the State law.

(c) A person who violates this section shall be subject for each violation to a maximum \$2,000 fine; provided that if the person is subject to the jurisdiction of the family court pursuant to HRS § 571-11(1), the punishment shall be established by that court.

(1990 Code, Ch. 40, Art. 17, § 40-17.3) (Added by Ord. 99-66)

## **ARTICLE 24: WEARING OF MASKS OR DISGUISES**

### Sections

- 41-24.1 Definitions
- 41-24.2 Wearing of masks or disguises prohibited
- 41-24.3 Penalty

### **§ 41-24.1 Definitions.**

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

**Disguise.** All items that may be worn to alter the physical appearance of the wearer.

**False Whiskers.** All items that, when used, create the impression of facial hair features that include beards, moustaches, and sideburns.

**Mask.** Any item that, when used, covers or conceals a person's facial features.

(1990 Code, Ch. 40, Art. 22, § 40-22.1) (Added by Ord. 01-19)

### **§ 41-24.2 Wearing of masks or disguises prohibited.**

No person shall wear any mask, false whiskers, or any personal disguise (whether complete or partial) for the purpose of:

- (1) Evading or escaping discovery, recognition, or identification in the commission of any criminal offense; or
- (2) Concealment, flight, or escape, when the person has been charged with, arrested for, or convicted of, any criminal offense.

(1990 Code, Ch. 40, Art. 22, § 40-22.2) (Added by Ord. 01-19)

### **§ 41-24.3 Penalty.**

Any person violating this article shall be deemed guilty of a misdemeanor, and shall be subject to a fine of up to \$1,000, up to 30 days of imprisonment, or both.

(1990 Code, Ch. 40, Art. 22, § 40-22.3) (Added by Ord. 01-19)

## **ARTICLE 25: LOITERING ON PUBLIC SCHOOL PREMISES**

### Sections

- 41-25.1 Loitering on public school premises
- 41-25.2 Exclusions
- 41-25.3 Presence considered prima facie case of violation
- 41-25.4 Violation—Penalty

### **§ 41-25.1 Loitering on public school premises.**

No person shall go or remain upon, loiter around, in or upon, or play or engage in any game in or upon any public school buildings or public school grounds, without lawful business or excuse for so doing.

(Sec. 13-5.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 32, § 41-32.1)

### **§ 41-25.2 Exclusions.**

Section 41-25.1 shall not apply to bona fide visitors, whether residents of the State of Hawaii or tourists, who may go into public school buildings or upon public school grounds for the purpose of observing or inspecting the same or to any school teacher or other person in the State department of education, on the island of Oahu.

(Sec. 13-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 32, § 41-32.2)

### **§ 41-25.3 Presence considered prima facie case of violation.**

A prima facie case of a violation of this article shall be established upon the showing that any person charged with the violation of the

section was found, seen, or arrested in any public school buildings or upon public school grounds in the city. Upon such showing, the burden of proof shall be upon the accused to show such person's lawful business or excuse for going or being in any public school building or upon any public school grounds in the city.

(Sec. 13-5.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 32, § 41-32.3)

#### **§ 41-25.4 Violation—Penalty.**

Any person violating this article shall be punished by a fine not exceeding \$100.

(Sec. 13-5.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 32, § 41-32.4)

### **ARTICLE 26: REGULATED USE OF UNIFORMS BY PRIVATE SECURITY PERSONNEL**

Sections

- 41-26.1 Legislative intent
- 41-26.2 Definition
- 41-26.3 Uniforms
- 41-26.4 Prohibition
- 41-26.5 Exceptions
- 41-26.6 Penalty

#### **§ 41-26.1 Legislative intent.**

It is declared to be the legislative intent of the council to regulate the uniforms of private security personnel not covered under HRS Chapter 463 by establishing certain standards for their appearance.

(1990 Code, Ch. 41, Art. 33, § 41-33.1) (Added by Ord. 92-133)

#### **§ 41-26.2 Definition.**

The term "private security personnel" means any uniformed persons responsible for the safekeeping of an employer's property and persons thereon, and for observation and reporting relative to such safekeeping.

(1990 Code, Ch. 41, Art. 33, § 41-33.2) (Added by Ord. 92-133)

#### **§ 41-26.3 Uniforms.**

- (a) The uniforms worn by private security personnel must be of two or more different and contrasting colors or two or more different shades of the same color or of one solid color that does not resemble the color of the uniform worn by officers of the Honolulu police department. Each uniform shall be approved by the chief of police and a color photograph of each uniform shall be filed with the Honolulu police department.
- (b) No badges or other metallic objects that closely resemble the badge of the Honolulu police department shall be worn on the uniform or any outer garment covering the upper body.
- (c) If any outer garment covers the upper part or top of the uniform, a white plaque bearing the word "SECURITY" in letters at least 1-inch high shall be worn on the left breast area of that garment and the word "SECURITY" in letters at least 3 inches high shall be worn on the back area of that garment.

(1990 Code, Ch. 41, Art. 33, § 41-33.3) (Added by Ord. 92-133)

#### **§ 41-26.4 Prohibition.**

- (a) No person shall wear a private security uniform that violates the requirements of §41-26.3.
- (b) No person shall instruct or authorize another to wear a private security uniform that violates the requirements of §41-26.3.

(1990 Code, Ch. 41, Art. 33, § 41-33.4) (Added by Ord. 92-133)

#### **§ 41-26.5 Exceptions.**

These restrictions shall not apply to the following: government security personnel; private security personnel who are regulated by the State board of private detectives and guards; and private security personnel who are not uniformed.

(1990 Code, Ch. 41, Art. 33, § 41-33.5) (Added by Ord. 92-133)

#### **§ 41-26.6 Penalty.**

Any corporation, unincorporated association, or member thereof convicted of a violation of this article shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year or both.

(1990 Code, Ch. 41, Art. 33, § 41-33.6) (Added by Ord. 92-133)

### **ARTICLE 27: POSSESSION, USE, AND SALE OF PEPPER SPRAYS FOR SELF-DEFENSE**

Sections

- 41-27.1 Definitions
- 41-27.2 Exceptions
- 41-27.3 Restrictions on possession, sale, and use of pepper sprays
- 41-27.4 License to distribute—Application and requirements
- 41-27.5 Conditions of license

41-27.6 Suspension or revocation of license

41-27.7 Forfeiture

41-27.8 Rules

41-27.9 Violation—Penalty

## § 41-27.1 Definitions.

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

**Adult.** Any natural person other than a minor.

**Chemical Device.** Any aerosol container or other device that is capable of emitting chloroacetaphenone (CN), orthochlorobenzalmalononitrile (CS), or oleoresin capsicum (OC), or any combination or derivative thereof, in a vapor or liquid form.

**Chief of Police.** The chief of police of the City and County of Honolulu or the chief of police's authorized subordinate.

**Controlled Substance.** Has the same meaning as defined in HRS § 329-1.

**Department.** The Honolulu police department.

**Designated Place of Business.** A fixed place of business owned or leased by a licensee and designated by the licensee in its application under § 41-27.4 as a place where it desires to sell or otherwise distribute pepper spray on a regular basis. "Designated place of business" does not include any temporary space rented or leased by a licensee at a swap meet, open market, or other similar setting.

**Licensee.** Any person who has obtained, pursuant to § 41-27.4, a license to sell, transport, or otherwise distribute pepper sprays in the city.

**Minor.** Any natural person below the age of 18 years.

**Pepper Spray.** Any aerosol container or other device designed to fit into a handbag or a pants pocket and has a trigger-guard, flip top, or other mechanism to prevent the accidental release of the spray, that:

- (1) Is capable of emitting oleoresin capsicum (OC), or any derivative thereof, in a vapor or liquid form;
- (2) Contains only the chemical substance oleoresin capsicum, or any derivative thereof, without containing chloroacetaphenone (CN) or orthochlorobenzalmalononitrile (CS); and
- (3) Contains a nonflammable propellant or carrier, or both.

**Person.** Has the same meaning as defined in § 40-1.1.

(1990 Code, Ch. 41, Art. 37, § 41-37.1) (Added by Ord. 95-49)

## § 41-27.2 Exceptions.

This article shall not apply to persons authorized under §§41-12.4 and 41-12.7 to possess, use, sell, transport, or otherwise distribute chemical devices in the city; provided that the persons possess, use, sell, transport, or otherwise distribute the chemical devices while acting in their capacities as employees of the city, of private security agencies, and of other organizations, or as licensed vendors, all in accordance with Chapter 41, Article 12.

(1990 Code, Ch. 41, Art. 37, § 41-37.2) (Added by Ord. 95-49)

## § 41-27.3 Restrictions on possession, sale, and use of pepper sprays.

(a) It is unlawful for any person to use any pepper spray for any purpose, except:

- (1) Self-defense;
- (2) Defense of another person; or
- (3) Protection of property of the person or of another person.

- (b) It is unlawful for any person to sell or offer for sale any pepper spray in the city without a license obtained pursuant to § 41-27.4.
- (c) It is unlawful for any person to sell, offer for sale, or otherwise furnish any pepper spray to a minor in the city.
- (d) It is unlawful for a minor to purchase, possess, or use any pepper spray in the city.
- (e) It is unlawful to sell or offer for sale any pepper spray on premises where liquor or alcoholic beverages are consumed.
- (f) It is unlawful for any person to alter the manufacturer's name on any pepper spray to be carried or used in the city.

(1990 Code, Ch. 41, Art. 37, § 41-37.3) (Added by Ord. 95-49)

## § 41-27.4 License to distribute—Application and requirements.

(a) Any person desiring to sell or offer for sale any pepper spray in the city may apply for a license using forms prescribed by the director of budget and fiscal services. The application shall set forth the name and location of the principal place of business of the licensee and, if applicable, each additional designated place of business at which the licensee desires to sell pepper spray on a regular basis.

(b) Upon receipt of the completed form and the fee established in subsection (f), the director of budget and fiscal services shall issue a license and, if requested, certified copies thereof to the applicant.

(c) Before making a sale of or otherwise distributing pepper spray, the licensee shall provide a point-of-sale briefing that includes but is not limited to the following:

- (1) The proper and safe use of the spray;

- (2) The shelf life of the spray;
- (3) The proper disposal of the spray;
- (4) First-aid or medical remedies for people who come in contact with the spray; and
- (5) Current information regarding the effectiveness and limitations of the spray.

After giving the briefing, and before the sale or distribution of the pepper spray, the licensee shall obtain a signed acknowledgement from the purchaser or other recipient acknowledging that they have received the briefing. The acknowledgement shall be on a form provided by the department of budget and fiscal services or a copy thereof.

- (d) The license or a certified copy thereof shall be posted at each designated place of business during any hours when pepper spray is being sold or offered for sale.
- (e) No license shall be issued to a minor.
- (f) The annual fee for a license under this section shall be \$25 for the principal place of business of the licensee and shall be \$25 for each additional designated place of business of the licensee, which shall be payable to the director of budget and fiscal services. The license shall be provided by the director of budget and fiscal services for the principal place of business and, if applicable, a certified copy of the license shall be provided for each additional designated place of business.

(1990 Code, Ch. 41, Art. 37, § 41-37.4) (Added by Ord. 95-49; Am. Ord. 96-77)

#### **§ 41-27.5 Conditions of license.**

- (a) The licensee's books and records for the licensee's inventory shall be subject to inspection by the department at reasonable times during normal business hours. In addition to the records required to be kept under subsection (b), the licensee shall keep a record of the licensee's purchases, sales, and other acquisitions and distributions of pepper sprays, as well as a record of the licensee's current inventory of pepper sprays.
- (b) The licensee shall keep records of pepper sprays sold or otherwise distributed by the licensee in the city for a minimum of five years from the date of sale or other distribution. The records kept shall include:
  - (1) The recipient's name, date of birth, and address;
  - (2) The quantity and description of the pepper spray distributed, including the name of the manufacturer;
  - (3) If applicable, the business name, address, telephone number, and the pepper spray license number of the purchaser;
  - (4) The date and time of transaction;
  - (5) Information as to whether the transaction was a sale, gift, or other transaction; and
  - (6) Signed acknowledgement forms required, pursuant to § 41-27.4(c), of a purchaser or recipient of pepper spray.
- (c) When displaying or storing pepper sprays at a designated place of business, the licensee shall display or store the pepper sprays at a location that is not within the reach of the general public and shall make a sale of pepper spray only upon request and only to an adult.
- (d) The licensee or an adult employee of the licensee shall be present during all hours of operation of each designated place of business of the licensee; provided that if the pepper spray is in a locked cabinet inaccessible to minor employees, no adult employee need be present at the place of business.
- (e) The licensee shall be responsible for the legal sale, distribution, and proper storage of any pepper spray under the licensee's control or at any one of the licensee's designated place of business.

(1990 Code, Ch. 41, Art. 37, § 41-37.5) (Added by Ord. 95-49; Am. Ord. 96-77)

#### **§ 41-27.6 Suspension or revocation of license.**

If the department has probable cause to believe that a licensee has violated any provision of this article, the license may be suspended by the director of budget and fiscal services. If the licensee is not convicted, then the director of budget and fiscal services shall remove any suspension placed on the license. If the licensee is convicted, then the license shall be revoked by the director of budget and fiscal services.

(1990 Code, Ch. 41, Art. 37, § 41-37.6) (Added by Ord. 95-49)

#### **§ 41-27.7 Forfeiture.**

Any chemical device under the ownership of or found in the possession of or at the premises of a licensee may be subject to forfeiture to the city in accordance with HRS Chapter 712A and if so forfeited, shall be destroyed or, if not destroyed, transferred to the chief of police for use by and under the control of the department.

(1990 Code, Ch. 41, Art. 37, § 41-37.7) (Added by Ord. 95-49)

#### **§ 41-27.8 Rules.**

The director of budget and fiscal services and the chief of police are authorized to adopt rules in accordance with HRS Chapter 91 necessary to administer and enforce this article.

(1990 Code, Ch. 41, Art. 37, § 41-37.8) (Added by Ord. 95-49)

#### **§ 41-27.9 Violation—Penalty.**

Any person who violates this article shall, upon conviction, be punished by a fine not exceeding \$2,000 or by imprisonment not exceeding one year, or by both. In addition to the penalties assessed under this section, upon conviction of any licensee, any license issued under this article shall be suspended or revoked pursuant to § 41-27.6. Each separate prohibited transaction shall be a separate violation.

(1990 Code, Ch. 41, Art. 37, § 41-37.9) (Added by Ord. 95-49)

## **ARTICLE 28: AERIAL ADVERTISING**

Sections

41-28.1 Prohibited—Exceptions

41-28.2 Violation—Penalty

### **§ 41-28.1 Prohibited—Exceptions.**

(a) Except as allowed under subsection (b), no person shall use any type of aircraft or other self-propelled or buoyant airborne object to display in any manner or for any purpose any sign or advertising device. For the purpose of this section, a "sign or advertising device" includes but is not limited to a poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol, or any other form of advertising sign or device.

(b) *Exceptions.*

(1) Subsection (a) shall not prohibit the display of an identifying mark, trade name, trade insignia, or trademark on the exterior of an aircraft or self-propelled or buoyant airborne object if the displayed item is under the ownership or registration of the aircraft's or airborne object's owner.

(2) Subsection (a) shall not prohibit the display of a sign or advertising device placed wholly and visible only within the interior of an aircraft or self-propelled or buoyant airborne object.

(3) Subsection (a) shall not apply to the display of a sign or advertising device when placed on or attached to any ground, building, or structure and subject to regulation under Chapters 21, 40, or 41. Such a sign or advertising device shall be permitted, prohibited, or otherwise regulated as provided under the applicable chapter.

(Sec. 13-32.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 6, § 40-6.1) (Am. Ord. 96-33)

### **§ 41-28.2 Violation—Penalty.**

Any person who violates this article shall, upon conviction, be punished by a fine not less than \$25 nor more than \$500, or by imprisonment not exceeding three months, or by both.

(Sec. 13-32.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 40, Art. 6, § 40-6.2)

## **ARTICLE 29: VEHICULAR ADVERTISING**

Sections

41-29.1 Definitions

41-29.2 Vehicular advertising prohibited

41-29.3 Business identification permitted

41-29.4 Violation—Penalty

***Editor's note:***

\* The ordinance codified as this article, Ord. 79-23, was declared unconstitutional on its face by the U.S. District Court for the District of Hawaii in Beetleboards of America, Inc., et al., v. the City and County of Honolulu, et al., Civil No. 79-0198, and the City and County of Honolulu and other defendants were permanently enjoined from enforcing or attempting to enforce Ord. 79-23, either directly or indirectly.

### **§ 41-29.1 Definitions.**

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

**Business Identification Sign.** Any sign, graphics, or lettering upon a vehicle, relating to the company name, trade insignia, trademarks, products distributed, manufactured, or sold, or services performed by the business enterprise owning or leasing the vehicle. "Vehicular business identification sign" shall not include any poster, banner, light, model, or any other device separately attached to the vehicle.

**Consideration.** Any of the three or any combination thereof:

- (1) Any money;
- (2) Thing of value; or
- (3) Economic benefit conferred on or received by any person in return for advertising services rendered or to be rendered.

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

**Pole Trailer.** Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as pipes, poles, or structural members capable, generally of sustaining themselves as beams between the supporting connections.

**Semitrailer.** Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a vehicle, whether propelled by motor or human power and so constructed that some part of its weight, including that of its load, rests upon or is carried by another vehicle.

**Trailer.** Every vehicle with or without motive power, other than a pole trailer, drawn by a vehicle, whether propelled by motor or human power and designed to carry persons or property, and so constructed that no appreciable part of its weight rests upon the towing vehicle.

**Vehicle.** Every device in, upon or by which any person or property, which would include signs, is or may be transported or drawn upon a roadway or highway. This definition shall include a vehicle, whether it is propelled by motor or moved by human power.

(Sec. 13-37.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 14, § 41-14.1)

## **§ 41-29.2 Vehicular advertising prohibited.**

No person shall use a vehicle or trailer, or both, as defined herein, whether it is in operable or nonoperable condition, to display in any manner, on any highway, street, or private property, any advertising device for consideration as defined herein, including but not limiting the generality of the foregoing to any poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol, and any other form of advertising sign or device.

(Sec. 13-37.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 14, § 41-14.2)

## **§ 41-29.3 Business identification permitted.**

Nothing in this article shall prohibit the identification of a business enterprise, as defined in §41-29.1, upon a vehicle or trailer, or both, provided however:

- (1) The vehicle is registered in the name of the business entity; and provided that such identification will not constitute a hazard to motorists or will impair the operation of the vehicle; and
- (2) The vehicle or trailer, or both, is primarily used for the purpose of and in the ordinary conduct of the business of the owner or lessee of the vehicle. The vehicle or trailer, or both, however, cannot be used only for the purpose of advertising. Any subterfuge of the owner or lessee of the vehicle or trailer to promote the sale of its product, material, supplies, or services by situating its vehicle or trailer, or both, in a strategic location on any highway, street or private property calculated to attract the attention of motorists or pedestrians, or both, to its advertisement in circumvention of State and county billboard advertising or sign laws shall not be permitted under this section.

(Sec. 13-37.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 14, § 41-14.3)

## **§ 41-29.4 Violation—Penalty.**

### **(a) Summons or citation.**

- (1) There shall be provided for use by police officers, a form of summons or citation for use in citing violators of this article which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaii and the City and County of Honolulu.
- (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 dispositions 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.

### **(b) Penalty.** Any person who violates this article shall, upon conviction, be punished by a fine not less than \$25 nor more than \$500, or by imprisonment not exceeding three months, or by both.

### **(c) Every day any violation of this article shall continue shall constitute a separate offense.**

(Sec. 13-37.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 41, Art. 14, § 41-14.4)

## **ARTICLE 30: DOMESTIC VIOLENCE PROGRAM**

### **Sections**

41-30.1 Domestic violence program

41-30.2 Domestic violence program policies

## **§ 41-30.1 Domestic violence program.**

(a) *Legislative findings and declaration of intent.* The council finds that pursuant to an audit report published by the office of the city auditor entitled *Audit of How Domestic Violence Cases are Handled, Processed, and Resolved* dated June 2017, Report No. 17-02, the handling, processing, and investigation of domestic violence cases by the office of the prosecuting attorney is inefficient and ineffective due in part to:

- (1) A statutory classification of domestic abuse in the presence of a family or household member who is less than 14 years old as a felony, resulting in a significant increase in the number of domestic abuse cases;
- (2) The lack of common definitions, processes, procedures, and reports between the department of the prosecuting attorney and the Honolulu police department that could facilitate data sharing and streamline monitoring and processing of domestic violence cases; and
- (3) The absence of formal administrative processes, procedures, and policies in the department of the prosecuting attorney governing domestic violence cases and the department's reliance upon informal guidelines in the processing of domestic violence cases.

(b) *Establishment of a domestic violence program.* A domestic violence program is hereby established to effectuate the expeditious and efficient processing and investigation of domestic violence cases.

(Added by Ord. 19-11)

## **§ 41-30.2 Domestic violence program policies.**

A domestic violence program policy is hereby established to require the:

- (1) Use of vertical prosecution whenever possible and to minimize personnel rotations for domestic violence cases.
- (2) Evaluation, and as appropriate, suspension of operational policies, such as the "no drop" policy that may create artificial

barriers to the effective and efficient investigation and prosecution of domestic violence cases.

- (3) Establishment of shared access to data and information systems between city agencies and departments that will facilitate data collection and information transmission and sharing, and eliminate redundant systems.
- (4) Establishment of one, common data collection system that allows access to data as needed by respective city agencies and departments to investigate and prosecute domestic violence cases, while preserving the confidentiality and security of the data and information.
- (5) Assessment of current policies, procedures, and processes for administering domestic violence cases and develop updated policies, procedures, and processes.
- (6) Promulgation of written rules that provide useful information for managing, tracking, and accounting for domestic violence cases.
- (7) Development of domestic violence performance metrics and data between city agencies and departments that allow the organizations to benchmark and evaluate their performance, determine how well goals are being achieved, manage their workload, and justify the need for resources.
- (8) Development of unified domestic violence terms, itemize the categories to be reported under domestic violence, and provide consistent and uniform definitions, terms, and jargon that facilitates domestic violence reporting and communications.
- (9) Development of reporting parameters for periodic, formal, and regular reports on domestic violence incidents that use consistent and regular categories (such as HRS § 709-906 related incidents) that will allow for the monitoring and tracking of the number and type of domestic violence cases. The reports must provide reliable, complete, accurate, and consistent domestic violence data that segregates the domestic violence categories under HRS § 709-906 from the categories that fall under other sections of the HRS (e.g., attempted murder, kidnapping, and robbery).

(Added by Ord. 19-11)

## **ARTICLE 31: PUBLIC CARRY OF FIREARMS**

### Sections

- 41-31.1 Declaration of legislative intent
- 41-31.2 Definitions
- 41-31.3 Prohibition against the public carrying of a pistol or revolver outside a residence without a license
- 41-31.4 Prohibition against the public carrying of firearms in a sensitive location—Prohibition against carrying a firearm on a private business establishment's or charitable establishment's premises without express consent
- 41-31.5 Signage
- 41-31.6 Duty to inform law enforcement upon contact
- 41-31.7 Criminal penalties
- 41-31.8 Enforcement
- 41-31.9 Severability

### **§ 41-31.1 Declaration of legislative intent.**

It is declared to be the intent of this article to protect sensitive areas that have traditionally been subject to restrictions on the carrying or possessing of firearms therein; to facilitate private decision-making on private property; to protect health, life, and property; and to preserve the order and security of the city, its inhabitants, and its visitors.

(Added by Ord. [23-6](#))

### **§ 41-31.2 Definitions.**

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

**Business.** Any sole proprietorship, partnership, joint venture, business trust, limited liability company, business corporation, professional corporation, or other business entity formed for profit-making purposes.

**Business Establishment.** Includes any of the following establishments operated by a business:

- (1) Any hotel, except individual hotel rooms and when actively traveling through a hotel to or from an individual hotel room;
- (2) Any financial institution;
- (3) Any industrial, commercial, or wholesale establishment;
- (4) Any utility;
- (5) Any retail establishment where goods or services are sold, leased, or otherwise provided to the public or to another business; and
- (6) Any restaurant or bar, as those terms are defined in §41-14.1.

**Carry on their Person.** The person has immediate physical access to the firearm, such as by carrying the firearm in a holster or other receptacle.

**Charitable Establishment.** Any organization classified under § 501(c) of the Internal Revenue Code.

**Child or Minor.** A person under 18 years of age.

**Child Care.** Includes those situations where a person or organization has agreed to assume and has been entrusted with the responsibility for the child's supervision, development, safety, and protection apart from the parent or guardian. "Child care" includes any program or camp for children that occurs before school hours, after school hours, and during breaks in school instructional periods, including Summer Fun programs, A+ programs, children's programs of the YWCA and YMCA, and similar nonprofit and government-sponsored programs for children.

**Child Care Facility.** A place maintained by any individual, organization, or agency for the purpose of providing child care with or without charging a fee at any time. It includes a family child care home, group child care center, and group child care home as those terms are defined in HRS § 346-151. "Child care facility" does not include any dwelling unit or lodging unit when not used as a child care facility.

**Detective, Private Detective, and Investigator.** Have the same meanings as defined in HRS § 463-1.

**Dwelling Unit.** Has the same meaning as defined in § 21-10.1.

**Firearm(s).** Has the same meaning as defined in HRS § 134-1.

**Guard.** Has the same meaning as defined in HRS § 463-1.

**License.** Any license to carry a concealed or unconcealed firearm issued by the Honolulu police department.

**Lodging Unit.** Has the same meaning as defined in § 21-10.1.

**Operating Hours.** Any time at which a place is open for customers or visitors, including any time at which a place is open only for a limited number or group of customers or visitors but otherwise closed to the general public.

**Pistol or Revolver.** Has the same meaning as defined in HRS § 134-1.

**Place of Deposit.** Has the same meaning as defined in HRS § 11-1.

**Public Park.** Has the same meaning as defined in § 10-1.1.

**School.** Includes all institutions that provide preschool, elementary, secondary, post-secondary, technical, trade, or vocational education, including youth challenge academies, and includes all athletic facilities, offices, cafeterias, eating establishments, health care facilities, research facilities, parking lots, school buses, and shared rooms and common areas of dormitories thereof. "School" does not include a private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption.

**Sensitive Place.** Within the city:

- (1) All areas within or on city-owned or -controlled buildings or offices, excluding:
  - (A) Any dwelling unit or lodging unit when not used as a child care facility;
  - (B) The Koko Head Shooting Complex; and
  - (C) The Neal S. Blaisdell Center or other city-owned or -controlled building during the operating hours of an organized, scheduled firearms show or exhibit there;
- (2) Except as otherwise provided by federal or State law, all areas within or on buildings or offices owned or controlled by the United States or the State, excluding any dwelling unit or lodging unit when not used as a child care facility;
- (3) Any school or child care facility, including preschools, public schools, parochial schools, private schools, colleges, or universities;
- (4) Public parks, excluding the Koko Head Shooting Complex, during each park's operating hours;
- (5) Shelters and residential facilities operated by a government entity or a charitable establishment, including those that serve the homeless, homeless children, developmentally disabled persons, victims of domestic violence, children involved in the juvenile justice system, adults involved in the criminal justice system, or persons who are similarly at-risk;
- (6) The buildings, grounds, and appurtenant parking lots of the following, during the respective operating hours of each:
  - (A) Hanauma Bay Nature Preserve;
  - (B) Hawaii Children's Discovery Center;
  - (C) Honolulu Zoo; and
  - (D) Waikiki Aquarium;
- (7) A voter service center, place of deposit, and its appurtenances, and an area of 200 feet from the perimeter of any voter service center, place of deposit, and its appurtenances, as designated by election officials pursuant to HRS § 11-132, as follows:
  - (A) As applied to a voter service center and its appurtenances, all operating hours, as set forth in HRS § 11-109; and
  - (B) As applied to a place of deposit and its appurtenances, all times at which the place of deposit is accessible to the public;
- (8) The Alapai Transit Center, Kalihi Transit Center, rail stations, nonsecure areas of airports, and cruise terminals, as well as vehicles used for public transportation by air, sea, or land, including rail, TheBus, Handi-Van, or ship;
- (9) Any business establishment licensed to dispense intoxicating liquor for consumption on the premises;
- (10) Within 100 feet of or within the permitted boundaries of a public gathering, demonstration, or event for which a government permit has been obtained, during the conduct of such gathering, demonstration, or event; provided that for parades, marathons, and other events characterized by the movement of people from one place to another, the following are not a sensitive place:

- (A) Fixed structures along the route, such as businesses and residences, unless firearms are otherwise prohibited in those structures in accordance with this article; and
  - (B) Areas where participants are not present.
- (11) Theaters, stadiums, museums, and amusement parks;
  - (12) A medical cannabis dispensary, as defined in HRS § 329D-1; and
  - (13) Any public or private hospital, mental health facility, nursing home, clinic, medical office, urgent care facility, or other place at which medical or health services are customarily provided, including appurtenant parking lots.

**Sidewalk.** Has the same meaning as defined in § 13-1.1.

**Street.** Has the same meaning as defined in § 13-1.1 provided that “street” does not include any portion of a parking lot.

**Structure.** Has the same meaning as defined in § 21-10.1.

**Theater.** Has the same meaning as defined in § 21-10.1.

**Voter Service Center.** Has the same meaning as defined in HRS § 11-1.

**Voter Service Center, Place of Deposit, and its Appurtenances.** Includes those places included within those terms as enumerated in HRS § 11-132.

(Added by Ord. [23-6](#))

### **§ 41-31.3 Prohibition against the public carrying of a pistol or revolver outside a residence without a license.**

- (a) *Prohibition.* Except as otherwise provided by federal or State law, it is a violation of this article for any person to intentionally, knowingly, or recklessly carry on their person a pistol or revolver outside the person’s residence without having a valid license in the person’s immediate possession or to fail to display the license upon the demand of a law enforcement officer.
- (b) *Exceptions.* This prohibition does not apply to:
  - (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11; and
  - (2) Qualified law enforcement officers and qualified retired law enforcement officers pursuant to 18 USC §§ 926B and 926C who have documentation regarding their qualifications in their immediate possession.

(Added by Ord. [23-6](#))

### **§ 41-31.4 Prohibition against the public carrying of firearms in a sensitive location—Prohibition against carrying a firearm on a private business establishment’s or charitable establishment’s premises without express consent.**

- (a) *Prohibition.* Except as otherwise provided by federal or State law, it is a violation of this article for any person to intentionally, knowingly, or recklessly carry on their person a firearm, concealed or unconcealed, on the premises of:

- (1) Any sensitive place; or
- (2) Any business establishment or charitable establishment unless the business establishment or charitable establishment, or an agent thereof, has expressly consented thereto. For the purposes of this subsection, signage must be in accordance with the requirements specified in § 41-31.5.

For the purposes of this section, “the premises of any business establishment or charitable establishment” includes all appurtenant grounds and parking lots of the business establishment or charitable establishment, but does not include privately owned or maintained streets or sidewalks.

- (b) *Exceptions.* This section does not apply to:

- (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11;
- (2) Detectives, private detectives, investigators, and guards, authorized by the chief of police to carry a firearm in a particular sensitive place, while on duty, in that sensitive place or on the premises of a business establishment or charitable establishment with the authorization of the owner of the premises;
- (3) Any person who has a valid license to carry on their person a pistol or revolver outside the person’s residence, or is exempted in accordance with § 41-31.3(b), and who is in the act of:
  - (A) Transporting a concealed firearm within a vehicle into or out of a parking area in a location covered under subsection (a); provided that the firearm is secured in a locked container;
  - (B) Transporting a concealed firearm in the immediate area surrounding their vehicle within a prohibited parking lot area only for the purpose of storing or retrieving the firearm within a locked container in the vehicle’s trunk or other place inside the vehicle that is out of plain view;
  - (C) Traveling along a public right-of-way that touches or crosses any of the locations identified in subsection (a), if the concealed firearm is carried on their person or is being transported in a vehicle by the licensee in accordance with all other applicable laws; provided that nothing in this exception allows a licensee to loiter or remain in a sensitive place longer than necessary to complete their travel; or
  - (D) Walking through or within 100 feet of a public gathering, demonstration, or event for which a government permit is obtained in order to access a place where firearms are allowed or their residence, place of business, or vehicle, while the licensee is in the act of walking through the gathering, demonstration, or event to access a place where firearms are allowed or their residence, place of business, or vehicle; provided that nothing in this exception allows a licensee to loiter or remain in a place longer than necessary to complete their travel or business; and

- (4) Public gatherings, demonstrations, or events for which a government permit is obtained, if the permit allows the carrying of a firearm, concealed or unconcealed, during the conduct of the gathering, demonstration, or event.
- (c) *Leased Premises.* The landlord of a nonresidential property may, but need not, delegate authority by contractual provision to a lessee operating a business establishment or a charitable establishment to expressly consent to:
- (1) The carrying of firearms concealed or unconcealed by licensed persons generally; or
  - (2) The carrying of firearms by licensed detectives, private detectives, investigators, or guards;
- on the leased premises.

(Added by Ord. [23-6](#))

### **§ 41-31.5 Signage.**

(a) Signage must be posted at a business establishment or charitable establishment to allow or prohibit the carry of firearms when the sign would indicate a permission or prohibition that is different from the default provisions of this article or applicable State law. Signage is not required at a business establishment or charitable establishment to indicate a permission or prohibition that is consistent with the default provisions of this article or applicable State law, but any posted signage must be consistent with the requirements of this section.

(b) Signage posted pursuant to subsection (a) must be posted as follows:

For express consent:

- (1) Where the premises has a physical door, the sign must:
  - (A) Be clearly legible from outside the door;
  - (B) Be at least 8.5 inches wide by 11 inches tall in size;
  - (C) Contain the phrase "GUNS ALLOWED," where "GUNS" is in black 1-inch tall or taller uppercase type and "ALLOWED" is in red 1-inch tall or taller uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
  - (D) Contain a black silhouette of a handgun inside a black-outlined circle on a white background; and
  - (E) Be placed not less than 40 inches and not more than 60 inches from the bottom of the premises' entrance door.
- (2) Where the premises does not have a physical door, the sign must:
  - (A) Be at least 18 inches wide by 24 inches tall in size;
  - (B) Contain the phrase "GUNS ALLOWED," where "GUNS" is in black 1.5-inch tall or taller uppercase type and "ALLOWED" is in red 1.5-inch tall or taller uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
  - (C) Contain a black silhouette of a handgun inside a black-outlined circle on a white background;
  - (D) Be placed not less than 40 inches and not more than 70 inches above the ground; and
  - (E) Be posted in sufficient quantities to be clearly legible from any point of entry onto the premises.

For express prohibition.

- (1) Where the premises has a physical door, the sign must:
    - (A) Be clearly legible from outside the door;
    - (B) Be at least 8.5 inches wide by 11 inches tall in size;
    - (C) Contain the phrase "GUNS NOT ALLOWED," where "GUNS" and "ALLOWED" are in black 1-inch tall or taller uppercase type and "NOT" is in red 1-inch tall or taller uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
    - (D) Contain a black silhouette of a handgun inside a red-outlined circle with a diagonal red bar across the handgun; and
    - (E) Be placed not less than 40 inches and not more than 60 inches from the bottom of the premises' entrance door.
  - (2) Where the premises does not have a physical door, the sign must:
    - (A) Be at least 18 inches wide by 24 inches tall in size;
    - (B) Contain the phrase "GUNS NOT ALLOWED," where "GUNS" and "ALLOWED" are in black 1.5-inch tall or taller uppercase type and "NOT" is in red 1.5-inch tall or taller uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
    - (C) Contain a black silhouette of a handgun inside a red-outlined circle with a diagonal red bar across the handgun;
    - (D) Be placed not less than 40 inches and not more than 70 inches above the ground; and
    - (E) Be posted in sufficient quantities to be clearly legible from any point of entry onto the premises.
- (c) All signs that meet the requirements of this section will be considered public signs under §21-7.20.

(Added by Ord. [23-6](#))

### **§ 41-31.6 Duty to inform law enforcement upon contact.**

A person granted a license to carry a concealed or unconcealed firearm and who is in possession of or carrying their licensed firearm when contacted by a law enforcement officer, shall immediately inform the law enforcement officer that the person is in possession of or carrying their licensed firearm, and shall present the license to the law enforcement officer.

(Added by Ord. [23-6](#))

### **§ 41-31.7 Criminal penalties.**

- (a) Any person violating this article is guilty of a misdemeanor.
- (b) A law enforcement officer may arrest an alleged violator of this article or may issue a citation in lieu of arrest, as provided in HRS § 803-6.
- (c) In any prosecution, it is an affirmative defense that the person was exempt from the prohibition in §41-31.4(a) pursuant to § 41-31.4(b).

(Added by Ord. [23-6](#))

### **§ 41-31.8 Enforcement.**

- (a) The presence of a person at any sensitive place is prima facie evidence that the person knows it is a sensitive place.
- (b) The presence of a person on the premises of any business establishment or charitable establishment is prima facie evidence that the person knows it is the premises of a business establishment or charitable establishment.
- (c) The failure of a person to have a valid license in the person's immediate possession while carrying on their person a pistol or revolver outside the person's residence is prima facie evidence that the person knows the person is carrying the pistol or revolver in public without possession of the person's license.
- (d) The failure of a person to display the person's license upon the demand of a law enforcement officer while carrying on their person a pistol or revolver outside the person's residence is prima facie evidence that the person has knowingly, intentionally, and recklessly failed to display the license.

(Added by Ord. [23-6](#))

### **§ 41-31.9 Severability.**

Every provision in this article and every application of the provisions in this article is severable from each other as a matter of law. If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this article that may be given effect without the invalid provision or application. This article must be construed to be enforceable up to, but no further than, the maximum possible extent consistent with federal and State law.

(Added by Ord. [23-6](#))

## **ARTICLE 32: PROHIBITION OF FLAVORED TOBACCO PRODUCTS**

### Sections

- 41-32.1 Definitions
- 41-32.2 Prohibition
- 41-32.3 Administrative penalty
- 41-32.4 Severability

### **Editor's note:**

\*In accordance with Ordinance [23-28](#): Chapter 41, Article 32 takes effect 42 days after the day on which the State of Hawaii preemption of county ordinances on the sale of tobacco products is officially repealed or suspended. If the 42nd day after the day of the repeal or suspension of the preemption occurs on a weekend or holiday, then this article takes effect on the next business day following the 42nd day. Upon the effective date of this article, the Corporation Counsel is directed to notify the City Council, the Mayor, and the Managing Director. Once such notification is received, the City Clerk is directed to post the effective date of Ordinance [23-28](#) on the City and County of Honolulu's official website and other public notice platforms.

### **§ 41-32.1 Definitions.**

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

**E-Liquid or Electronic Liquid.** Any liquid or like substance, which may or may not contain nicotine, that is designed or intended to be used in an electronic smoking device, whether or not packaged in a cartridge or other container. The term does not include prescription drugs; cannabis for medical use pursuant to HRS Chapter 329 or manufactured cannabis products pursuant to HRS Chapter 329D; or medical devices used to aerosolize, inhale, or ingest prescription drugs, including manufactured cannabis products manufactured or distributed in accordance with HRS § 329D-10(a).

**Electronic Smoking Device.** Any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic pipe, vape pen, or electronic hookah. The term includes any component, part, or accessory of the device, and also includes any e-liquid that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. The term does not include drugs, devices, or combination products approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

**Flavored Tobacco Product.** Any tobacco product that imparts:

- (1) A taste or smell, or both, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product, including but not limited to any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice; or
- (2) A cooling or numbing sensation distinguishable by an ordinary consumer during the consumption of such tobacco

product.

**Hookah.** A type of waterpipe, used to smoke shisha tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses. This term does not include an e-hookah or other electronic smoking devices.

**Labeling.** Written, printed, pictorial, or graphic matter upon a tobacco product or any of its packaging.

**Loose Leaf Tobacco.** Cut or shredded pipe tobacco, usually sold in pouches, excluding any tobacco product that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes, including roll-your-own cigarettes.

**Packaging.** A pack, box, carton, or container of any kind, or if no other container, any wrapping, including cellophane, in which a tobacco product is sold or offered for sale to a consumer.

**Premium Cigar.** Any cigar that is handmade, is not mass produced by use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, has a wholesale price of \$6 or more, and weighs more than 4 pounds per 1,000 cigars. A premium cigar does not have a filter, tip, or non-tobacco mouthpiece and is capped by hand.

**Retailer.** An entity that sells, offers for sale, or exchanges or offers to exchange tobacco products to consumers for any form of consideration. The term includes an owner or agent of a tobacco retail location.

**Shisha Tobacco Product.** A tobacco product smoked or intended to be smoked in a hookah. The term includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. The term does not include any electronic devices, such as an electronic hookah, electronic cigarette, or electronic tobacco product.

**Tobacco Product.** Any nicotine product and any product made or derived from tobacco that contains nicotine or other substances and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by any other means, including but not limited to a cigarette, cigar, chewing tobacco, snuff, snus, any electronic smoking device and any e-liquid that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and any component, part, or accessory of a cigarette, **cigar, chewing tobacco, snuff, snus, or electronic smoking device, whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, or flavor enhancers. The term does not include drugs, devices, or combination products approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.**

**Tobacco Retail Location.** Any premises where tobacco products are sold or distributed to a consumer, including but not limited to any store, bar, lounge, café, stand, outlet, vehicle, cart, location, vending machine, or structure.

(Added by Ord. [23-28](#))

## § 41-32.2 Prohibition.

(a) It is unlawful for any retailer to:

- (1) Sell or offer for sale a flavored tobacco product;
- (2) Display, market, or advertise for sale in the city a flavored tobacco product; or
- (3) Mislabel as nicotine-free, or sell or market for sale as nicotine-free, an e-liquid product that contains nicotine.

(b) *Presumption of flavor.* Any communication by or on behalf of the manufacturer or retailer of a tobacco product that such tobacco product imparts a taste or odor other than the taste or odor of tobacco, or that imparts a cooling or numbing sensation, constitutes presumptive evidence that the tobacco product is a flavored tobacco product. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer:

- (1) Has made or makes a public statement or claim that the tobacco product is a flavored tobacco product;
- (2) Has used or uses text or images, or both, on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product has a flavor other than tobacco, to make a public statement or claim that the tobacco product is a flavored tobacco product;
- (3) Has taken or takes action directed at consumers that would be reasonably expected to cause consumers to believe the tobacco product is a flavored tobacco product; or
- (4) Has made or makes a public statement or claim that a product has a minty or cooling effect, such as describing the product as "chill," "ice," "fresh," "arctic," or "frost."

(c) Any flavored tobacco product found in a retailer's possession that violates this section may be considered contraband, seized by an inspector, or subject to immediate destruction or disposal by the retailer in accordance with the Hawaii Administrative Rules. The cost of proper disposal of electronic smoking devices and e-liquids as hazardous waste pursuant to the Hawaii Administrative Rules must be borne by the retailer.

(d) *Exceptions.* This section does not apply to the sale, display, marketing, or advertisement of:

- (1) Premium cigars;
- (2) Looseleaf tobacco; and
- (3) Only shisha tobacco products that are sold in retail tobacco stores as defined in HRS § 328J-1.

(Added by Ord. [23-28](#))

## § 41-32.3 Administrative penalty.

Any retailer found to have violated this article shall be subject to the following, after reasonable notice and an opportunity for a hearing:

- (1) *For the initial violation.*

- (A) The retailer is responsible to pay an administrative fine of \$1,000; and
  - (B) The retailer is responsible to pay an administrative fine of \$2,000 for each day in which the violation persists beyond the date of the initial violation.
- (2) *For a recurring violation.*
    - (A) The retailer is responsible to pay an administrative fine of \$2,000; and
    - (B) The retailer is responsible to pay an administrative fine of \$5,000 for each day in which the violation persists beyond the date of the recurring violation.

(Added by Ord. [23-28](#))

#### **§ 41-32.4 Severability.**

If any provision of this article or its application thereof to any person or circumstance is held invalid, such invalidity does not affect the validity or enforceability of the remaining provisions, or their application to other persons or circumstances. The remaining provisions will be given effect to the maximum extent possible.

(Added by Ord. [23-28](#))

### **ARTICLE 33: GAMBLING-RELATED PUBLIC NUISANCES**

Sections

- 41-33.1 Definitions
- 41-33.2 Interagency cooperation

#### **§ 41-33.1 Definitions.**

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

**Chief of Police.** The chief of police of the city or the chief's authorized subordinates.

**Director.** The director of planning and permitting or the director's authorized subordinates.

**Gambling-Related Public Nuisance.** A public nuisance as defined under HRS Chapter 712, Part V, that involves activities related to gambling offenses prohibited under HRS Chapter 712, Part III.

(Added by Ord. [25-29](#))

#### **§ 41-33.2 Interagency cooperation.**

- (a) The director and the chief of police shall cooperate in the provision of notices, referrals, and assistance to ensure code enforcement of gambling-related public nuisances.
- (b) The director and the chief of police are authorized to adopt rules pursuant to HRS Chapter 91 or enter into a memorandum of agreement between the department of planning and permitting and the Honolulu police department for the purposes of implementing this section.

(Added by Ord. [25-29](#))

### **ARTICLE 34: AGENT'S INSPECTION OF PRIVATE REAL PROPERTY**

Sections

- 41-34.1 Definitions
- 41-34.2 Inspection of private property by a police officer for nuisance
- 41-34.3 Powers of the chief of police to share information
- 41-34.4 Rules
- 41-34.5 Annual report

#### **§ 41-34.1 Definitions.**

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

**Chief of Police.** The chief of police of the Honolulu police department or the chief's designee.

**Department.** The Honolulu police department.

**Department Information.** Any data, records, reports, or details collected, maintained, or disseminated by the department in the course of its duties.

**Landlord.** Has the same meaning as defined in HRS § 521-8.

**Owner.** Has the same meaning as defined in §8-6.3(c).

**Police Officer.** Any police officer of the department.

**Premises.** Has the same meaning as defined in HRS § 708-800.

**Private Property or Property.** Any real property, including but not limited to buildings, structures, yards, open spaces, walkways, courtyards, driveways, carports, parking areas, and vacant lots owned by any person or legal entity other than property owned or lawfully possessed by any governmental entity or agency.

**Public Nuisance Related to Public Health and Morals or Nuisance.** A building, premises, or a place used for offenses prohibited

under HRS Chapter 712, Part I, Part II, or Part III, not including social gambling as defined in HRS § 712-1231(a), and Part IV.

**Real Property Interest Holder.** Any individual or entity that has a recognized legal right or claim to real property, including but not limited to owners, landlords, tenants, mortgagor's insurer, leasehold, or easement rights.

**Rental Agreement.** All agreements, written or oral, that establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a private property or property.

**Right to Inspect.** An owner or landlord of private property's right to access, enter, or inspect the private property as provided by the lease, rental agreement, or HRS Chapter 521.

(Added by Ord. [25-30](#))

### **§ 41-34.2 Inspection of private property by a police officer for nuisance.**

(a) **Authority.** An owner or landlord of private property with the right to inspect may request the department to escort the owner or landlord during the inspection of the property for nuisance, pursuant to the terms of the rental agreement. The request must be submitted to the department by the owner or landlord in writing. The chief of police may approve or deny the request. If the request is approved by the chief of police, a police officer may escort the owner or landlord to inspect the property as provided by the right to inspect in accordance with subsection (c).

(b) **Request form.** The request must be sworn on a form provided by the department that includes:

- (1) The address of the private property;
- (2) The name of the lessee, tenant, or renter;
- (3) A copy of the current lease or rental agreement of the private property, or a statement that the current lease or rental agreement is oral;
- (4) A statement of the need for police support with regard to the private property and, based on the information and belief of the owner or landlord, a description of the nature of the nuisance that has occurred or that may be occurring on the property; and
- (5) A request that a police officer be allowed to enter the property with the owner or landlord.

(c) **Inspection supported by police officer.** A police officer authorized to escort the owner or landlord pursuant to a request granted under subsection (a) may escort the owner or landlord during the inspection of the real property; provided that the inspection complies with the lease, rental agreement, or HRS Chapter 521. The lessee or renter may withhold consent as provided in the lease, rental agreement, or HRS Chapter 521.

(d) **Powers of police officer on inspection.** In conducting an inspection authorized under this article, the police officer may:

- (1) At the owner's or landlord's request, warn persons not specifically authorized to be present in the lease or rental agreement to leave and not return pursuant to HRS § 708-814; and
- (2) Document any violations of law, unsafe conditions, or violations of the lease or rental agreement.

(e) **Limitations.** Nothing in the section will be interpreted to limit preexisting law enforcement powers.

(f) **Records.** All designations approved under subsection (a) must be retained by the department for at least \_ years.

(Added by Ord. [25-30](#))

### **§ 41-34.3 Powers of the chief of police to share information.**

(a) **Authority.** The chief of police may provide department information regarding a nuisance to a real property interest holder in the premises.

(b) **Scope.** The chief of police must determine that providing department information will assist a real property interest holder in private action to decrease the nuisance and will not compromise any department investigations.

(c) **Redaction.** Personal data that could compromise an individual's privacy or safety must only be disclosed in accordance with applicable privacy laws and must be redacted whenever possible.

(d) **Restrictions.** Any sharing of department information must comply with federal, State, and local laws.

(Added by Ord. [25-30](#))

### **§ 41-34.4 Rules.**

The chief of police shall adopt rules pursuant to HRS Chapter 91 for the implementation, administration, and enforcement of this article.

(Added by Ord. [25-30](#))

### **§ 41-34.5 Annual report.**

Not later than January \_ of each year, the chief of police shall submit to the council a report providing information for the preceding calendar year regarding the implementation of this article, which at a minimum must include: the number of requests under § 41-34.2(a) that were received by the department; the number of those requests approved by the department; the number of inspections executed by police officers pursuant to § 41-34.2(b); and the outcome of each inspection.

(Added by Ord. [25-30](#))

## **CHAPTER 42: COLLECTION AND DISPOSAL OF REFUSE**

Articles

1. General Provisions

2. Collection License
3. Regulations Applicable to Businesses, Private Dwellings, and Government Facilities
4. Collection and Disposal Charges
5. Enforcement of Provisions
6. Procedure on Arrest
7. Recycling of Glass Containers

## **ARTICLE 1: GENERAL PROVISIONS**

### Sections

- 42-1.1 Findings—Determinations—Goals
- 42-1.2 Definitions
- 42-1.3 Collection of refuse and recyclable materials by the division
- 42-1.4 Preparation and placement of refuse and recyclable materials by owner
- 42-1.5 Limitations to collection by refuse crews
- 42-1.6 Disturbing receptacles prohibited
- 42-1.7 Acceptable and nonacceptable refuse at disposal facilities
- 42-1.8 Removal of dead animals
- 42-1.9 Office of recycling coordinator established—Duties
- 42-1.10 Prohibited activities
- 42-1.11 Mandatory recycling program for city government
- 42-1.12 Islandwide curbside recycling program
- 42-1.13 Preparation of integrated solid waste management plan
- 42-1.14 Timetable for conversion of waste to energy
- 42-1.15 Charge for damage to carts

### **§ 42-1.1 Findings—Determinations—Goals.**

- (a) The council of the City and County of Honolulu (the "city") makes the findings and determinations set forth in this section.
  - (1) The council has heretofore determined it to be in the best interest of the city and necessary for the health and safety of the residents of the city to provide for environmentally sound disposal of solid waste generated and collected in the city.
  - (2) Pursuant to HRS § 340A-3, the council enacted Ordinance 79-32 to amend this chapter, among other things, to provide that the chief of the refuse division of the department of environmental services may require all solid waste, whether transported by the division, licensed collectors, businesses, or individuals, to be disposed of at disposal facilities (as defined in this chapter) or in areas designated by such person if it is found to be in the best public interest.
  - (3) In furtherance of the determination and the implementation of the powers granted in this chapter, it is in the best interest of the city and its residents to further amend this chapter to redefine certain terms and to define certain additional terms and to authorize the designation of facilities as a part of a disposal system of the city for the processing and disposal of solid waste generated in the city and to prescribe procedures for the enforcement of the powers granted to the chief.
  - (4) To provide for the environmentally sound and systematic disposal of solid waste generated in the city, it is in the best interest and necessary for the health and safety of the residents of the city to create a citywide disposal system for processing and disposal of solid waste generated in the city and for the director of environmental services to designate from time to time the disposal facilities or private disposal facilities constituting a part of such system and the methods for such processing and disposal.
  - (5) To permit reusable materials to be recovered from solid waste, to achieve the solid waste volumes necessary to meet the minimum operating requirements of the Honolulu resource recovery facility hereinafter defined and to lessen the demand for landfill sites in the city, it is in the best public interest of the city and its residents for the director of the department of environmental services to designate a particular solid waste processing disposal and resource recovery and electric generating facility of the city to be constructed at the Campbell Industrial Park (hereinafter defined as the "H-POWER project") as a part of the disposal system to be created pursuant to this chapter.
  - (6) It is in the best interest of the city and its residents to approve the form and the terms, provisions, and conditions of a contract for waste processing and disposal services (the "disposal contract") between the city and Honolulu Resource Recovery Venture, a Hawaii general partnership, as contractor, pursuant to and under authority of HRS § 46-85, and to approve the execution and delivery thereof by the appropriate officials of the city.
- (b) (1) In addition to the findings and determinations made under this section, the council establishes the following goals:
  - (A) By the end of 2007, at least 65 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel, or electricity through a waste-to-energy or other alternative technology facility, or otherwise diverted from placement in a landfill;
  - (B) By the end of 2010, at least 75 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel, or electricity through a waste-to-energy or other alternative

technology facility, or otherwise diverted from placement in a landfill; and

(C) By the end of 2015, at least 90 percent of the solid waste generated within the city be recycled, reused, composted, used for the generation of power, fuel or electricity through a waste-to-energy or other alternative technology facility, or otherwise diverted from placement in a landfill.

(2) The percentage goals in this subsection shall be reviewed annually by the department of environmental services, which shall recommend to the council any necessary revisions. For the purpose of these goals, "solid waste" includes source separated waste generated in the city, but not introduced into the disposal system.

(Sec. 9-1.0, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 1, § 9-1.1) (Am. Ords. 89-114, 99-32, 06-40)

## § 42-1.2 Definitions.

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

**Agricultural Solid Waste.** The solid waste that results from the rearing of animals and the harvesting of crops.

**Association of Apartment Owners.** All of the apartment owners of a multi-unit residential building acting as a group in accordance with the bylaws and declaration.

**Automated Collection.** Refuse collection service using a city-provided refuse receptacle (cart) that requires no manual moving and no manual lifting by city personnel.

**Business.** Any individual proprietorship, partnership, corporation, association, joint venture, or project operated, which carries on commercial or industrial activity for gain or profit, including any hotel or hotel-apartment.

**Chief.** The chief of the refuse division of the department of environmental services of the City and County of Honolulu.

**Commercial Cooking Oil Waste.** Has the same meaning as defined in § 43-5A.1.

**Commercial FOG Waste.** Has the same meaning as defined in § 43-5A.1.

**Days.** Calendar days, including weekends and holidays, unless otherwise indicated.

**Department.** The department of environmental services of the City and County of Honolulu.

**Director.** The director of the department of environmental services of the City and County of Honolulu.

**Director of Budget and Fiscal Services.** The director of budget and fiscal services of the City and County of Honolulu.

**Director of Customer Services.** The director of customer services of the City and County of Honolulu.

**Disposal Facilities.** All the facilities controlled by the city for the disposal of solid waste, including but not limited to incinerators, composting plants, landfills, shredding plants, transfer stations, convenience centers, and resource recovery facilities.

**Disposal System.** The citywide system for processing and disposing of solid waste generated in the city and consisting of disposal facilities or private disposal facilities, or a combination thereof, or methods designated by the director from time to time for processing and disposing of solid waste in the city and declared to constitute a part of the city's system of processing and disposing of solid waste.

**Division.** The refuse division of the department of environmental services of the City and County of Honolulu.

**Frontloader Collection Service.** Refuse collection service using an owner-provided, 3-cubic-yard container that requires no manual moving, no manual lifting by city personnel and is lifted over the front of the collection vehicle.

**Hotel or Hotel-Apartment.** An establishment operating under a license issued pursuant to HRS § 445-92.

**Incinerator.** Any incinerator owned or controlled by the city where refuse is disposed of by incineration.

**Inspector.** Any individual designated by the department of environmental services to issue notices of violation or citations, or both, to enforce this chapter.

**Licensed Collector.** Any person who has been licensed by the city to collect refuse in accordance with Article 2 of this chapter.

**Manual Collection.** Refuse collection service using an owner-provided refuse receptacle or bag that requires manual moving and manual lifting by city personnel.

**Motor Vehicle.** Every vehicle that is self-propelled or is propelled by electric power but not operated upon rails, but excludes a moped.

**Multi-Unit Residential Building.** A building consisting of two or more dwelling units.

**Owner.** The person assessed the real property tax as shown by the records of the director of budget and fiscal services and the records, if any, in the office of the assistant registrar of the land court.

**Person.** Any individual, partnership, corporation, trust, unincorporated association, or joint venture, a government or any department or agency thereof, or any other entity.

**Private Disposal Facilities.** Facilities in the city for the disposal of solid waste, including but not limited to incinerators, composting plants, landfills, shredding plants, transfer stations, and resource recovery facilities owned and operated by private interests.

**Recyclable Materials.** Include but are not limited to the following discarded materials for which a market exists and which are delivered to a point where they are converted to a material for later manufacture or reprocessing:

(1) **Aluminum Can.** A can that is designed and intended to hold a beverage or other substance and is manufactured of aluminum alloy;

(2) **Battery.** Any lead acid battery or dry cell battery discarded in the city independent of intended use;

- (3) **Corrugated Cardboard.** Kraft, jute, or test liner pulp that is made by combining two or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves and discarded by commercial, industrial, and agricultural businesses;
- (4) **Food Waste.** All animal, vegetable, and beverage waste that attends or results from the storage, preparation, cooking, handling, selling, or serving of food. The term does not mean commercial cooking oil waste or commercial FOG waste;
- (5) **Glass Container.** Any container that is manufactured from a mixture of silicates, borates, or phosphates;
- (6) **Green Waste.** Tree branches under 9 inches in diameter, hedge and other plant cuttings, coconut and other palm branches or fronds, vines, and similar materials;
- (7) **Manufactured Compostable Material.** Any material specifically manufactured to break down in a compost system at the end of its useful life that may be made from paper or plant-based materials, along with other ingredients that provide necessary form and functionality, and that is certified by an appropriate authority, as determined by the department, such as the Biodegradable Product Institute or the Composting Manufacturing Alliance, as meeting the ASTM standard for compostability and that contains no perfluoroalkyl and polyfluoroalkyl substances (PFAS). The term includes but is not limited to items such as bags, food ware, service ware, coffee pods, and food packaging that are so manufactured;
- (8) **Metal Scrap.** Any metal, in whole or in parts, from buildings, equipment, machinery, and vehicles discarded by commercial, industrial, and agricultural businesses;
- (9) **Newspaper.** A publication that is printed and distributed and contains news articles, opinions, features, and advertising, and is manufactured of impermanent wood pulp material;
- (10) **Office Paper.** Computer paper, and white and colored ledger paper, which is discarded by commercial, industrial, and agricultural businesses;
- (11) **Paperboard.** A sheet of fibrous material made from either virgin wood fiber or recycled paper stock or a combination of these sources;
- (12) **Plastic Container.** A container that is designed and intended to hold a beverage or food product and is manufactured of polyethylene terephthalate (PET), high-density polyethylene (HDPE), and other synthetic materials;
- (13) **Steel Can** (also referred to as **Tin Can** due to a protective coating of tin) A can made primarily of steel and manufactured to hold food or other items; and
- (14) **Used Oil.** A petroleum-based oil, which through use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

**Refuse.** Any one or more of the following:

- (1) Rubbish, other than recyclable materials as defined in this section, consisting of and including such materials as paper, cardboard, clothes, shoes, bottles, cans, china, glass, grass, hedge cuttings, tree branches under 9 inches in diameter, and any other material of similar character; or
- (2) Bulky wastes consisting of such materials as lumber, iron pipes, tree branches over 9 inches in diameter, refrigerators, stoves, radios, television sets, phonographs, bedsteads, bed springs, tables, sofas, chairs, water heaters, sinks, and other similar materials or equipment of a weighty or bulky nature.

**Registered Owner.** A person who holds unencumbered title to a vehicle, a buyer under a purchase money security interest, or a debtor under any security interest.

**Rental or U-Drive Motor Vehicle.** A motor vehicle that is rented or leased for a period of six months or less.

**Resource Recovery Facility.** Solid waste processing and disposal and resource recovery and electric generating facilities located in the city that have been designated by the director as a part of the disposal system of the city, together with related and appurtenant structures and equipment, whether such resource recovery facilities are owned by the city or by private interests.

**Semiautomated Collection.** Refuse collection service using a city-provided receptacle (cart) that requires manual moving, but no manual lifting by city personnel.

**Sidewalk.** That portion of a street between a curbline or the pavement of a roadway, and the adjacent private or public property line, whichever the case may be, intended for the use of pedestrians, including any setback areas acquired by the city for road widening purposes.

**Solid Waste.** All refuse, soil, rock, construction debris, demolition debris, and all similar materials.

**Source Separated Waste.** Recyclable materials that are set aside at their point of generation for segregated collection and transport to specialized waste processing sites or final manufacturing markets.

**Special Wastes.** Any refuse that must be handled in an exceptional and uncommon manner because of its characteristics.

**Street.** The entire width between the property lines of every way publicly owned and maintained when the part thereof is open to the use of the public for purposes of vehicular travel or any private street, highway or thoroughfare that for more than five years has been continuously used by the general public.

**Transshipment Facilities.** Any city-operated or city-contracted site used to bale or ship, or both, refuse to an off-island site.

**Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, but excludes devices moved by human power or devices used exclusively upon stationary rails or tracks and mopeds.

(Sec. 9-1.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 1, § 9-1.2) (Am. Ords. 89-113, 95-16, 99-32, 02-14, 06-09, 10-2, 10-16, 20-4, [22-10](#), [23-30](#))

## § 42-1.3 Collection of refuse and recyclable materials by the division.

(a) The division shall have charge of and shall administer the collection and disposal of refuse and the collection and processing of recyclable materials as designated by the director. No refuse shall be collected from any building or place when:

- (1) The owner thereof has made provision for refuse collection by the owner's own vehicles or by a licensed collector; and
- (2) The owner thereof has installed or provided the premises with private incineration equipment or other refuse disposal facilities that have been approved by the director as being adequate and safe and that have been approved by the State department of health as conforming to HRS Chapter 322, relating to nuisances and sanitary regulations.

(b) Any refuse or recyclable materials removed by the city and any solid waste accepted by the city shall become the property of the city.

(Sec. 9-1.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 1, § 9-1.3) (Am. Ord. 07-45)

#### **§ 42-1.4 Preparation and placement of refuse and recyclable materials by owner.**

(a) The types of refuse and recyclable materials hereinafter described must be prepared for collection as follows:

(1) In areas provided with manual collection, tree branches set out for collection may not exceed 9 inches in diameter and green waste must be cut into lengths not exceeding 3 feet. All green waste must be tied in bundles, which do not weigh more than 50 pounds each or prepared in a manner determined by the director in accordance with § 42-1.12(b)(3). In areas with automated green waste collection, green waste must be placed in the city-provided green waste cart as designated by the director such that the cart lid fully closes.

(2) In areas provided with manual collection, all empty cardboard and other fibrous cartons, wooden boxes and crates, and other similar empty containers must be flattened and securely tied in bundles not exceeding 3 feet in length nor weighing more than 50 pounds each. In areas with automated mixed recyclable materials collection, all empty corrugated cardboard boxes must be flattened and placed in the city-provided mixed recyclable materials cart as designated by the director such that the cart lid fully closes.

(3) All other refuse except that mentioned in subdivisions (1) and (2) must be placed in city-provided refuse carts as designated by the director, or in areas provided with manual collection, in durable or nondurable containers described as follows:

(A) *Durable containers.* The interior surface of the container must be smooth with no projections and the top diameter must be equal to or larger than the bottom diameter. The container must have a capacity of at least 10 gallons but not more than 35 gallons. The maximum weight of an empty container is 25 pounds. The maximum weight of a filled container is 75 pounds. Every container holding any garbage must have a tight-fitting lid.

(B) *Nondurable containers.* Nondurable containers made of plastic film, paper, or cardboard may be used if the containers are able to contain their contents securely at all times. The maximum weight for filled nondurable containers is 50 pounds. The containers will be collected together with their contents.

(4) All rubbish consisting of ashes, powders, dust, sawdust, broken bottles, glass, china, or other materials likely to cause injury to persons collecting the same must be securely wrapped or contained before being placed in the city-provided refuse cart as designated by the director for automated collection or in the resident-provided container for manual collection.

(5) Except for food waste that the director designates as a recyclable material, garbage must be drained and securely wrapped before being placed in the container.

(6) Recyclable materials designated by the director, except newspaper or other paper which is used to wrap or hold garbage or other refuse not designated as recyclable materials, must be prepared or placed in the city-provided mixed recyclable materials cart as designated by the director and will be collected under procedures determined by the director.

(7) The director shall designate the city-provided cart into which food waste must be placed and may specify additional standards for the placement of food waste in the carts.

(b) On or the evening before the scheduled day of collection, all refuse, green waste, and other recyclable materials as designated by the director prepared for collection as hereinabove provided, must be placed on the street, so as not to impede vehicular traffic, or sidewalk, so as not to impede pedestrian use, in a location readily accessible to the collector. The lateral location for each owner's refuse within the sidewalk area must be limited to the street frontage abutting the owner's property or where approved by the division. In apartment and business districts, refuse, green waste, and other recyclable materials as designated by the director may be placed within 20 feet of the curb, as defined in this subsection. Refuse, green waste, and other recyclable materials as designated by the director may be placed for collection within the sidewalk area (as defined in this subsection) of private roads and nonstandard private roadways when all of the following conditions are met:

- (1) All of the residents along the roadway must want such collection;
- (2) The roadway must serve at least three residences;
- (3) The roadway must have an unobstructed width of at least 12 feet not including parking lanes;
- (4) Horizontal and vertical curves of the roadway must meet subdivision standards;
- (5) Maximum roadway grade may not exceed 19 percent;
- (6) The owners of the roadway shall provide and maintain an all-weather road surface;
- (7) The roadway must have an adequate turnaround. If there is no turnaround, reversing of the truck must not exceed a distance of 100 feet; and
- (8) Reversing on a grade exceeding 10 percent is not required.

(c) Containers may not be left on the street or sidewalk area after the day of collection. In cases of hardship, as determined by the director, automated carts may be left on the street or sidewalk area.

(d) Bulky wastes will be collected under procedures determined by the director. Bulky wastes must be placed on the street, so as not to impede vehicular traffic, or sidewalk, so as not to impede pedestrian use, for collection no earlier than the evening before the scheduled day of collection.

(1) In the event bulky wastes are placed on the street or sidewalk fronting a property earlier than the evening before the scheduled day of collection, the owner of the abutting property shall be responsible for the removal and storage of such bulky wastes.

(2) In the event bulky wastes are placed on the street or sidewalk fronting a multi-unit residential building earlier than the evening before the scheduled days of collection, the property owner or the association of apartment owners of the abutting property shall be responsible for the removal and storage of such bulky wastes as set forth in § 42-3.4(b).

(e) Three-cubic-yard containers designed for mechanical handling, if used, may not be placed on the street or sidewalk, but must be placed within the property to be served in locations directly accessible to the pickup forks of the collection truck. Access roadway requirements for the collection of 3-cubic-yard containers will be those required for collection on private roads and nonstandard private roadways as provided in subsection (b), except that maximum roadway grade may not exceed 12 percent.

(Sec. 9-1.3, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 9, Art. 1, § 9-1.4) (Am. Ords. 89-113, 93-19, 95-16, 99-32, 06-09, 07-45, 10-16, 22-10)

### **§ 42-1.5 Limitations to collection by refuse crews.**

The division shall not collect:

(1) Any soil, rock, concrete, explosives, liquids, radioactive materials, construction debris, demolition debris, commercial cooking oil waste, or commercial FOG waste; except that used oil may be collected under a curbside collection service established pursuant to § 2-23.2;

(2) Any refuse, green waste, and other recyclable materials as designated by the director not prepared for collection as provided by § 42-1.4;

(3) Any refuse, green waste, and other recyclable materials as designated by the director not placed for collection as provided by § 42-1.4;

(4) Any rubbish consisting of tree branches, plant cuttings, vines, and other similar materials exceeding 1 cubic yard in volume for any single regular collection in manual collection areas;

(5) Any refuse, green waste, and other recyclable materials as designated by the director placed for collection in a place that is unsafe or is likely to cause injury to the persons collecting refuse, green waste, and other recyclable materials; or

(6) Any refuse from any business where the owner thereof shall have failed to pay the service charges hereinafter provided.

(Sec. 9-1.4, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 9, Art. 1, § 9-1.5) (Am. Ords. 89-113, 89-118, 02-14, 07-45, 16-29)

### **§ 42-1.6 Disturbing receptacles prohibited.**

No person shall:

(1) Remove or disturb any refuse, green waste, and other recyclable materials as designated by the director from the place where the same has been placed for collection;

(2) Collect or haul away any refuse, green waste, and other recyclable materials as designated by the director from the place where the same has been placed for collection;

(3) Transport any refuse, green waste, and other recyclable materials as designated by the director; provided that authorized persons may remove, disturb, collect, haul away, or transport any refuse from the place where the same has been placed for collection. For purposes of this section, "authorized persons" means:

(A) Owner;

(B) Division employees during authorized working hours; or

(C) Licensed collector.

(4) This section shall not apply to bulky wastes placed on the street or sidewalk earlier than the evening before the scheduled day of collection, in which case the property owner or the association of apartment owners of the abutting property shall remove and store such bulky wastes in accordance with § 42-1.4(d).

(Sec. 9-1.5, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 9, Art. 1, § 9-1.6) (Am. Ords. 07-45, 10-16)

### **§ 42-1.7 Acceptable and nonacceptable refuse at disposal facilities.**

(a) Except as directed by the director or the director's authorized representative and as provided otherwise under the mandatory recycling program for city government established under § 42-1.11, the division shall accept or cause to be accepted the following solid waste within the disposal system: paper, cardboard, yard trimmings, bottles, cans, plastic, garbage, lumber, and tree branches less than 5 feet long and less than 9 inches in diameter.

Except during a suspension by the director of the requirements of § 43-5A.2(a) or (b), or both, and as authorized by the director during the suspension, the division shall not accept into the disposal system any commercial cooking oil waste or commercial FOG waste.

(b) The division may conduct an examination of any truckload of refuse or other solid waste delivered or transported to a disposal facility:

(1) At any time that the division has cause to believe that the truckload contains:

(A) Twenty-five percent or more of those recyclable materials designated by the director; or

(B) Any commercial cooking oil waste or commercial FOG waste; or

- (2) Periodically and on a random basis to determine compliance with the prohibition of subsection (a).
- (c) The division shall accept the following types of solid waste only at specific disposal sites designated by the chief: large household appliances, tree trunks, dirt, rock, concrete, reinforcing steel, metal pipe, metal roofing, automobile parts, and bed springs.
- (d) The division shall not accept deliveries of any refuse or recyclable materials that are not made during hours of operation as posted at each facility.
- (e) The chief may divert all or part of the incoming refuse away from a disposal facility, or limit the area to be served by a disposal facility when, in the chief's judgment, such action is necessary to undertake repairs or to maintain the facility, or where the facility lacks the continued capacity to handle the incoming refuse, or so as to prolong the life of the facility.
- (f) The director, or the director's authorized representative, may designate from time to time, those disposal facilities or private disposal facilities, or a combination thereof, and the methods for the processing and disposal of solid waste generated in the city constituting a part of the disposal system created by this chapter. The director or the director's authorized representative may require that all solid waste, whether transported by the division, licensed collectors, businesses, or individuals, be disposed of at specific disposal facilities or private disposal facilities within the disposal system as designated by such person if it is found to be in the best public interest; provided that agricultural solid waste and source separated waste transported for recycling purposes shall not be subject to this section; and provided further, that if regional transfer stations are designated, transportation to the stations shall be considered so as to minimize the operating costs of the collector. The best public interest shall be found if disposal at the designated disposal facility or private disposal facility within the disposal system shall:

- (1) Result in reusable materials being recovered from solid waste;
- (2) Achieve the solid waste volumes necessary to meet a resource recovery facility's minimum operating requirement;
- (3) Lessen the demand for landfill sites; or
- (4) Conserve natural resources.

(Sec. 9-1.6, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 9, Art. 1, § 9-1.7) (Am. Ords. 89-113, 89-117, 02-14, 04-10)

#### **§ 42-1.8 Removal of dead animals.**

- (a) Every owner of dead animals shall remove such animals, or cause the same to be removed, within a reasonable time after death or before the same shall constitute a nuisance.
- (b) Any person who has actual knowledge of the dead animal shall cause such animal to be removed within a reasonable time after death, or before the same shall constitute a nuisance.
- (c) Dead animals weighing up to 70 pounds will be collected and disposed by the division, provided they are placed in an open area that is accessible to the collector, or such animals will be accepted at any municipal incinerator during operating hours.
- (d) Dead animals weighing over 70 pounds will be accepted at disposal areas other than the municipal incinerators during operating hours.

(Sec. 9-1.7, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 1, § 9-1.8)

#### **§ 42-1.9 Office of recycling coordinator established—Duties.**

- (a) There is established within the division a recycling coordinator. Subject to council authorization and the availability of council appropriations, other positions within the division may be established and filled to serve under and assist the recycling coordinator in the performance of duties. The recycling coordinator and, if any, subordinate employees, shall be under the supervision and direction of the chief.
- (b) The recycling coordinator shall have the following duties, according to the following order of priorities:
- (1) Establishment and implementation of recycling education and promotion programs;
  - (2) Establishment and implementation of recycling programs within or by city government;
  - (3) Conduct of research and development of recycling issues and techniques; and
  - (4) Provision of technical assistance concerning recycling.

The purpose of the order of priorities shall be to guide the recycling coordinator in making decisions on the expenditures, budget requests, programs, and other activities to be made or undertaken. This subsection shall not prevent the recycling coordinator from undertaking, expending funds for or requesting appropriations for programs or activities of lesser priority, rather than those of higher priority, when deemed in the best public interest.

- (c) In the establishment and implementation of recycling education and promotion programs, the recycling coordinator may undertake, but shall not be limited to, the following:
- (1) Establishment of a recycling telephone hotline serving to take inquiries and disseminate information on recycling;
  - (2) Formulation of recycling education curricula and materials to be made available and distributed to public and private elementary, intermediate, and high schools, and instruction of teachers who will teach the curricula. For the purpose of this paragraph, the recycling coordinator shall cooperate and coordinate with the department of education and private school administrations to distribute the curricula and materials to the schools. If deemed desirable or necessary, and subject to the approval of the appropriate school authority, the recycling coordinator may provide direct instruction to the students;
  - (3) Conduct of media advertising and community relations campaigns to promote public awareness of the benefits of recycling, detriments of solid waste disposal, and methods of recycling recyclable refuse;
  - (4) Promotion of public awareness of products that are not recyclable nor degradable and the detriments of use and disposal of the products;

- (5) Publication and dissemination of a directory of businesses engaged in recycling to promote their patronage by the public;
  - (6) Publication and dissemination of guidebooks and instruction manuals to promote recycling; and
  - (7) Publication and dissemination of a newsletter to promote or provide information on recycling.
- (d) In the establishment and implementation of recycling programs within or by city government, the recycling coordinator may undertake, but shall not be limited to the following:
- (1) Formulation and, with the approval of the appropriate authority, imposition of recycling activities on city agencies and employees;
  - (2) Formulation and evaluation of recycling demonstration projects that the division may choose to implement. Demonstration projects may include those under which:
    - (A) Residents in selected areas are required to separate recyclable refuse from other refuse;
    - (B) The division collects or authorizes another person to collect the recyclable refuse under procedures separate from the collection of other refuse; and
    - (C) The division recycles, and not disposes of, the recyclable refuse;
  - (3) Recommendation to city officers of the establishment or revision of administrative policies or practices, procurement practices, or other policies or practices to promote recycling;
  - (4) Recommendation to and advocacy before the council of legislation to promote recycling; and
  - (5) Identification of products manufactured of recycled material that are usable by the city and substitutable for products manufactured of virgin material.
- (e) In the conduct of research and development of recycling issues and techniques, the recycling coordinator may undertake, but shall not be limited to, the following:
- (1) Study of recycling techniques to determine the most cost-effective manner of collecting, processing, storing, transporting, reusing, or converting recyclable refuse;
  - (2) Study and monitoring of the market conditions for recyclable refuse and the recycling industry;
  - (3) Function as a clearinghouse for information on recycling;
  - (4) Sponsor seminars, workshops, and classes to discuss and disseminate information on recycling;
  - (5) Identify Hawaii, national and foreign businesses reusing or converting recyclable refuse to which businesses engaged in recycling or the public may sell recyclable refuse;
  - (6) Study the feasibility of recycling different types of refuse; and
  - (7) Conduct public opinion surveys to assess attitudes on and practices of recycling and disposal of solid wastes.
- (f) In the provision of technical assistance concerning recycling, the recycling coordinator may undertake, but shall not be limited to, the following:
- (1) Advise and assist owners or managers of businesses and multi-family dwelling unit buildings on effective and efficient techniques to separate recyclable refuse;
  - (2) Advise and assist licensed collectors on effective and efficient techniques to collect and recycle recyclable refuse;
  - (3) Advise and assist businesses engaged in recycling and manufacturers reusing or converting recyclable refuse on effective and efficient techniques to make their operations more efficient, cost-effective, or profitable;
  - (4) Advise and assist businesses engaged in recycling and manufacturers reusing or converting recyclable refuse in the obtainment of loans, grants, and necessary permits pertinent to the promotion of recycling activities; and
  - (5) Disseminate findings of research and development studies and advise and assist willing persons in implementing the finding.

(1990 Code, Ch. 9, Art. 1, § 9-1.9) (Added by Ord. 89-83)

#### **§ 42-1.10 Prohibited activities.**

- (a) No person shall throw, drop, place, dump, or deposit refuse, to include bulky wastes, on a street, roadside, alley, highway, or public place except as provided in this chapter.
- (b) No person shall operate or use a vehicle in committing a violation of subsection (a).

(1990 Code, Ch. 9, Art. 1, § 9-1.10) (Added by Ord. 16-9; Am. Ord. 20-4)

#### **§ 42-1.11 Mandatory recycling program for city government.**

- (a) There shall be a mandatory recycling program for city agencies. Under the program, the following types of recyclable materials generated by city agencies and their employees and discarded at places of work shall be recycled or reused and not disposed of as waste: newspaper, cardboard, office paper, aluminum cans, glass containers, plastic containers, and any other type of recyclable material identified by the division. The division shall establish procedures for:
  - (1) Either:
    - (A) Separation of the recyclable materials from other refuse at the source of generation and collection of the recyclable materials under procedures separate from the collection of other refuse; or
    - (B) Collection of mixed recyclable materials and other refuse from the source of generation and, after collection,

separation of the recyclable materials from other refuse; and

(2) The sale, recycling, or reuse, but not disposal as waste, of the recyclable materials. If the recyclable materials are sold, the revenues derived from the sale of the recyclable materials shall be realizations of the general fund.

(b) The mandatory recycling program shall be in conformance with all applicable laws, rules, and collective bargaining agreements. City agencies shall comply with the mandatory recycling program.

(c) The division may contract with a private person to collect, separate, store, sell, or transport the recyclable materials as part of the implementation of the program. If determined desirable by the division, the person contracted shall not have to be a licensed collector.

(d) The division shall supervise and enforce the mandatory recycling program of this section.

(e) Articles 5 and 6 of this chapter shall not apply to any violation of the mandatory recycling program.

(f) The division may contract with a not-for-profit organization that would provide a valuable community service in exchange for the potential market value of the recyclable materials collected from the city under the mandatory recycling program of this section. The not-for-profit organization shall collect the recyclable materials without monetary recompense to the city. If such a contract is determined desirable by the division and permissible under the State procurement code by the director of budget and fiscal services:

(1) Preference shall be given to such a contractual agreement over sale by bid;

(2) Proposals shall be solicited by public notice and reviewed for selection by a committee designated by the division and approved by the director of budget and fiscal services; and

(3) Selection shall be based on an evaluation of the community service to be rendered by the not-for-profit organization and the organization's ability and qualifications to service the needs of the mandatory recycling program.

(1990 Code, Ch. 9, Art. 1, § 9-1.11) (Added by Ord. 89-117; Am. Ords. 93-05, 04-10, 14-24)

### **§ 42-1.12 Islandwide curbside recycling program.**

(a) The director shall establish an islandwide program for the curbside collection of recyclable materials. The director may implement the program in stages; provided that by July 1, 2007, the curbside collection of recyclable materials includes, at a minimum, the collection of at least two of the following:

(1) Glass containers;

(2) Newspapers;

(3) Plastic containers;

(4) Green waste;

(5) Food waste; and

(6) Manufactured compostable materials.

By July 1, 2008, the director shall include, at a minimum, an additional two recyclable materials from the list in this subsection. By April 1, 2026, the director shall include the collection of food waste and manufactured compostable materials.

(b) The director shall determine the structure of the program, including:

(1) The types of recyclable materials to be collected;

(2) The frequency in which recyclable materials shall be collected; and

(3) How recyclable materials shall be prepared for collection.

(c) The director shall adopt rules in accordance with HRS Chapter 91 for the implementation, administration, and enforcement of this section. The rules may provide that recyclable materials not prepared or set out at the curbside in accordance with the rules may not be collected by the city.

(d) The director may contract with a private entity or entities to sort and sell the recyclable materials after they are collected.

(e) The director may establish incentive programs to encourage participation in the islandwide curbside recycling program.

(1990 Code, Ch. 9, Art. 1, § 9-1.12) (Added by Ord. 06-09; Am. Ords. [22-10](#), [23-30](#), [25-24](#))

### **§ 42-1.13 Preparation of integrated solid waste management plan.**

(a) The department shall prepare and submit to the council, for its review, a revised 10-year integrated solid waste management plan and interim status report that meet the requirements of HRS Chapter 342G, Part III. The department shall submit the revised plan to the State department of health and have it reviewed in accordance with HRS § 342G-24.

(b) In addition to the contents of the integrated solid waste management plan required by HRS § 342G-25, the county plan shall include an evaluation of alternative technologies that may be developed in the future to dispose of solid waste.

(1990 Code, Ch. 9, Art. 1, § 9-1.13) (Added by Ord. 06-27; Am. Ord. 12-39)

### **§ 42-1.14 Timetable for conversion of waste to energy.**

By July 1, 2010, the city shall convert or cause to be converted at least 700,000 tons per year of municipal solid waste to energy.

(1990 Code, Ch. 9, Art. 1, § 9-1.14) (Added by Ord. 06-41)

### **§ 42-1.15 Charge for damage to carts.**

City-provided carts are the responsibility of the owner or occupant, or both. If the department determines the city-provided cart must be replaced due to intentional damage by the owner or occupant, or both, and not due to normal wear and tear of the cart, the owner shall be

assessed a unit charge of \$75 per cart.

(1990 Code, Ch. 9, Art. 1, § 9-1.15) (Added by Ord. 07-45)

## **ARTICLE 2: COLLECTION LICENSE**

### Sections

- 42-2.1 License required to collect refuse
- 42-2.2 Application—Bond—Insurance—Term—Fee
- 42-2.3 Conditions of licenses
- 42-2.4 Prohibitions
- 42-2.5 Initial compliance
- 42-2.6 Denial or revocation of license
- 42-2.7 Notice of suspension or revocation—Hearing
- 42-2.8 Rule-making powers
- 42-2.9 Disposal system created
- 42-2.10 Designation of H-POWER project as part of disposal system

### **§ 42-2.1 License required to collect refuse.**

No person shall engage in any business that involves the collecting of any refuse from any building or premises other than that person's own without first obtaining a license therefor as provided in § 42-2.2.

(Sec. 9-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.1)

### **§ 42-2.2 Application—Bond—Insurance—Term—Fee.**

(a) *Application.* No license to engage in such business shall be issued until the applicant secures from the director of the department of environmental services and presents to the director of customer services an approved application. Such application shall include but not be limited to the following information:

- (1) Name and home address of the applicant;
- (2) Business address and the address where all trucks, other vehicles, and operating equipment will be kept (if other than the business address), and the zoning code classification of each address;
- (3) State of Hawaii general excise tax license number of the applicant;
- (4) If applicant is a firm, association, organization, partnership, joint venture, corporation, limited liability corporation, business trust, company, or cooperative, the names and addresses of all owners and officers and their respective percentage of ownership;
- (5) For each truck, vehicle, and equipment that the applicant owns or has under the applicant's control or intends to use for collection or transportation of refuse, the applicant shall provide:
  - (A) Registration number;
  - (B) Valid registration number assigned by the State department of transportation; and
  - (C) Copy of a valid safety inspection certificate issued by the State department of transportation;
- (6) Facts demonstrating that the applicant owns or has access to suitable facilities for keeping equipment clean and in good repair and that the applicant owns or has access to reasonable office facilities; and
- (7) Facts demonstrating that the applicant owns or has the legally enforceable right to use at least two trucks or has made documented arrangements for continued service to customers in case of truck breakdown.

(b) *Bond.* Every applicant for a license shall execute and submit a surety bond in favor of the city in the penal sum of \$1,000, which bond shall be subject to all of the conditions set forth in § 42-2.3, including the cost of collecting and disposing of refuse by the city if the licensee fails to collect and dispose of refuse which the licensee has contracted so to do with others. The bond shall be issued by a surety company authorized to do business in Hawaii in accordance with HRS § 78-20.

(c) *Vehicular public liability and damage insurance.* The licensee shall secure and present to the director at the time of application a standard automobile liability insurance policy covering the licensee, or any person driving any vehicle belonging to the licensee with the licensee's permission in the amount of \$100,000 for bodily injury to or death of one person in any accident and in the amount of \$300,000 for bodily injury to or death of two or more persons in any one accident respectively, and property damage insurance in the amount of \$50,000 because of damage to or destruction of property of others in any one accident.

(d) *Comprehensive nonvehicular public liability insurance policy.* The licensee shall secure and present to the director at the time of application a standard comprehensive nonvehicular public liability insurance policy covering the licensee and the licensee's employees and agents, which shall also include a rider covering the city in the sum of \$300,000. Such rider shall be in the form of an endorsement issued by the insurer.

(e) *Term of license.* Such refuse collection license shall be issued for a term of one year commencing July 1 through June 30 of the next succeeding year. Such license may be renewed annually on or before July 1 upon application by a licensee, if the director determines that the licensee remains in compliance with this chapter.

(f) *License fee.* The fee for an annual license to collect refuse shall be \$500, payable in advance to the director of customer services on or before July 1 of each year. The fee for any annual license issued to an applicant after July 1 shall be prorated

according to the remaining months of each fiscal year. No license fee shall be refundable.

(g) *Determination of eligibility for license.*

- (1) Upon receipt of a completed application for a license to collect or transport refuse, the director shall determine if the applicant meets all the requirements of this chapter applicable to collectors and transporters of refuse.
- (2) After such determination the director shall either approve the application by proper endorsement or deny the application specifying in writing the cause or causes for such disapproval.

(Sec. 9-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.2) (Am. Ords. 96-58, 99-32, 10-16)

**§ 42-2.3 Conditions of licenses.**

(a) Every license issued under this article shall be subject to the following conditions.

- (1) All vehicles used by the licensee for the collection of refuse shall be so designed and constructed as to prevent the spilling or scattering of its contents upon the public streets. All such vehicles and equipment shall be kept in a clean, inoffensive and sanitary condition. Such vehicles shall carry at all times: a shovel, broom, and fire extinguisher. The name and phone number of the licensee shall be marked on each side and across the back of all such vehicles and containers in letters not less than 2 inches in height. Trucks with a rated capacity of more than 1.5 tons used in the transportation or collection of refuse that contains garbage shall be closed, leakproof, and constructed for the purpose of refuse collection. Vehicles shall not be loaded in excess of the gross vehicle weight.
- (2) All refuse shall be handled and transported by the licensee in such a manner as to prevent scattering, spilling, or leaking of the same or to otherwise create a nuisance thereby or to violate any rule or regulation of the State department of health.
- (3) All refuse collected by the licensee shall be disposed of at such disposal facilities or private disposal facilities within the disposal system designated by the director, or as otherwise directed by the director or the director's authorized representative.
- (4) Disposal charges incurred by the licensee for disposing of refuse at disposal facilities or private disposal facilities within the disposal system designated by the director shall be paid when due.
- (5) The licensee shall not violate any provisions contained herein or in any other ordinance relating to the collection and disposal of refuse within the city.
- (6) All vehicles and other equipment used by a licensee in the collection and transportation of refuse shall be inspected at least once per year by the director of the department of environmental services to determine use in conformance with this article and such rules as the director may duly adopt pursuant hereto.

(b) The director shall provide for each truck or equipment found to be in compliance herewith a durable tag or decal, at cost, and upon payment of the license fee to the director of customer services by the licensee. Such tag or decal shall be securely fastened and maintained by the licensee on each vehicle or equipment so as to be clearly visible.

(Sec. 9-2.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.3) (Am. Ords. 99-32, 10-16)

**§ 42-2.4 Prohibitions.**

- (a) No person licensed to collect refuse shall scatter or spill or cause to be scattered or spilled any refuse set out for collection, either at the location at which it is collected or while transporting the same for disposal, unless the refuse so scattered and spilled is immediately gathered up and removed.
- (b) No person licensed to collect refuse shall violate any of the conditions prescribed in §42-2.3. Notwithstanding other penalties provided under this chapter, violations of § 42-2.3 shall be punishable by a fine of \$1,000.
- (c) No person licensed to collect refuse shall collect, remove, or transport any commercial cooking oil waste or commercial FOG waste, in any form or in any combination with other material, unless the person also holds a valid industrial wastewater discharge permit.

(Sec. 9-2.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.4) (Am. Ord. 02-14)

**§ 42-2.5 Initial compliance.**

Licensees are granted until June 30, 1979 to bring vehicles used by them into compliance with §42-2.3(a)(1) and (a)(5).

(Sec. 9-2.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.5)

**§ 42-2.6 Denial or revocation of license.**

- (a) The director of customer services is authorized to deny initial issuance of a refuse collection license if the applicant cannot demonstrate compliance with the requirements set forth in this article to the satisfaction of the director of customer services. Written notice of denial of an application for a license shall be mailed to the applicant, specifying the reason or reasons for the denial. The applicant may appeal the decision of the director of customer services by requesting a hearing in the manner provided for in § 42-2.7(c).
- (b) The director may deny issuance of a vehicle decal if a vehicle or other equipment of the licensee or applicant for a license cannot demonstrate compliance with the requirements set forth in this article to the satisfaction of the director. Written notice of denial of a vehicle decal shall be mailed to the licensee or applicant, specifying the reason or reasons for the denial. The licensee or applicant may appeal the decision of the director by requesting a hearing in the manner provided for in § 42-2.7(c).
- (c) The director of customer services is authorized to suspend or revoke any refuse collection license, and the director is authorized to suspend or revoke any vehicle decal, if the provisions contained in this chapter are violated or the requirements of this chapter, or any rules adopted pursuant to this chapter, are not complied with by the licensee. In the case of suspension or revocation of a license or vehicle decal, the licensee shall be afforded notice and an opportunity for a hearing before the suspension or revocation.

(Sec. 9-2.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.6) (Am. Ord. 10-16)

## **§ 42-2.7 Notice of suspension or revocation—Hearing.**

(a) *Notice of intent to suspend or revoke a refuse collection license or vehicle decal.* The licensee shall be given written notice, pursuant to HRS § 91-9, of the intent to suspend or revoke a refuse collection license or vehicle decal (hereinafter referred to as "business documents"). If the licensee waives such person's right for a hearing, the director of customer services or the director, as the case may be, shall issue in writing an appropriate decision and order.

(b) *Service of notice.* The foregoing notice will be served upon the appropriate party in the manner provided by HRS § 91-9.5.

(c) *Request for hearing.* The appropriate party who has received a notice shall, if such person desires a hearing, affix such person's signature as designated on the copy and have same returned to the director of customer services or the director, as the case may be, by certified mail.

(d) *Notice of date of hearing.* Whenever the appropriate party requests a hearing, a notice of the date of such hearing shall be issued to the appropriate party, and such hearing shall be held no later than 20 working days after the request for hearing is received.

(e) *Procedure for hearing.* Any hearing conducted under this section shall be pursuant to rules adopted by the director of customer services or the director, as the case may be.

(f) *Director of customer services or the director, as the case may be, to suspend, revoke or deny business documents.* After the hearing, the director of customer services or the director, as the case may be, may rule either in favor or against the suspension or revocation of a license or vehicle decal.

(g) *Judicial review.* Any person aggrieved by the final decision and order of the director of customer services or the director, as the case may be, may appeal same to the circuit court as provided in HRS § 91-14.

(Sec. 9-2.7, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.7) (Am. Ord. 10-16)

## **§ 42-2.8 Rule-making powers.**

Pursuant to HRS Chapter 91, the director of budget and fiscal services and the director are authorized to adopt any rules or regulations not inconsistent with this chapter to administer and enforce this chapter.

(Sec. 9-2.8, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.8)

## **§ 42-2.9 Disposal system created.**

There is created a citywide system for the processing and disposal of solid waste generated in the city. As authorized in this chapter, the director of the department of environmental services is authorized and directed to designate from time to time those properties or the methods for the processing and disposal of waste generated in the city, whether "disposal facilities" or "private disposal facilities" (as defined in this chapter), at which the city disposes of waste as part of such system.

(Sec. 9-2.9, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.9) (Am. Ord. 99-32)

## **§ 42-2.10 Designation of H-POWER project as part of disposal system.**

The director of the department of environmental services is directed to designate as a part of the disposal system created pursuant to § 42-2.9 that certain solid waste processing and disposal and resource recovery and electric generating facility of the city to be constructed at the Campbell Industrial Park in the city and known as the "H-POWER project," together with related and appurtenant structures and equipment (the "H-POWER project").

(Sec. 9-2.10, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 2, § 9-2.10) (Am. Ord. 99-32)

# **ARTICLE 3: REGULATIONS APPLICABLE TO BUSINESSES, PRIVATE DWELLINGS, AND GOVERNMENT FACILITIES**

## Sections

- 42-3.1 Business
- 42-3.2 Private dwellings
- 42-3.3 Service to government buildings
- 42-3.4 Multi-unit residential buildings
- 42-3.5 Food waste recycling

## **§ 42-3.1 Business.**

(a) No person shall operate or maintain a business without arranging or providing for the collection of all refuse therefrom.

(b) Where the collection of refuse is to be made by the division, the owner or occupant of the business shall prepare and place refuse for collection in the manner set forth in § 42-1.4.

(c) The owners of liquor-serving establishments shall arrange and provide for the separate collection and recycling of glass containers and the owners of office buildings shall provide for the separate collection and recycling of office paper, newspaper, and corrugated cardboard. In so doing, liquor-serving establishments and office buildings shall not place those recyclable materials in the same containers as those holding refuse, or in a manner which causes or is intended to cause the collection of the recyclable materials with refuse.

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

**Liquor-Serving Establishment.** A business establishment that sells liquor or intoxicating liquor to be consumed on the premises of the establishment, and shall include bars, nightclubs, cabarets, taverns, and any restaurant where liquor or intoxicating liquor is sold for consumption on the premises, including restaurants within hotels and office buildings.

**Liquor or Intoxicating Liquor.** Has the same meaning as defined in HRS § 281-1.

**Office Building.** Any building with, or group of connected buildings with an aggregate of, 20,000 square feet or more of office space, excluding common areas; provided that office space shall not include any portion of a building used for resort, retail, or educational purposes.

An office building, as defined in this subsection, which is occupied by city agencies, in whole or in part, shall be subject to the requirements of this subsection, except where the city agencies are already participating in a recycling program under § 42-1.11.

The owner of a liquor-serving establishment or office building may petition the chief for an exemption from the recycling requirements of this subsection in part or in full if the owner can demonstrate that the establishment or office building, as the case may be, does not generate a sufficient amount of the designated recyclable material to warrant separate collection for recycling.

The owner of a liquor-serving establishment or office building may petition the chief to suspend the applicability of this subsection to the applicant if the applicant demonstrates that recycling service for the items the applicant is required to recycle is unavailable to the applicant, or that the cost of recycling the applicable recyclable materials exceeds the cost of disposing of those same items at the H-POWER facility or the city's landfills. If the chief grants the application, the requirements of this subsection shall be suspended until such time as recycling service becomes available to the applicant, or the cost of the recycling service is less than or equal to the cost of disposal of the recyclable items at the H-POWER facility or the city's landfills. The chief shall, from time to time, review the availability and cost of the recycling service to those persons for whom the requirements of this subsection have been suspended.

For the purposes of this subsection, the "cost of the recycling service" shall include only those costs that the recycler would charge the owner of a liquor-serving establishment or office building, whichever applies, for picking up and disposing of the items to be recycled, and the cost of disposal of the items to be recycled at the H-POWER facility or the city's landfills shall include the city's tipping fee and the cost of transporting the recyclable items to either of the aforementioned disposal facilities. If the chief determines that the requirements of this subsection shall no longer be suspended with regard to a particular liquor-serving establishment or office building, the chief shall notify the owner of the establishment or building by registered mail and such owner shall be required to recycle the appropriate items in accordance with this subsection within 60 days of receipt of the notice.

The chief may also suspend the requirements of this subsection during the period of a work stoppage or any other interruption of refuse collection service to the office buildings and liquor-serving establishments that are subject to this subsection.

(Sec. 9-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 3, § 9-3.1) (Am. Ords. 95-64, 14-24)

### **§ 42-3.2 Private dwellings.**

- (a) Every owner of a private dwelling shall arrange or provide for the collection and disposal of all refuse therefrom.
- (b) Where the collection of refuse is to be made by the division, the owner or occupant of a private dwelling shall prepare and place refuse for collection in the manner set forth in § 42-1.4.
- (c) Every owner shall keep the street and sidewalk fronting the owner's property free of refuse, except for refuse prepared and placed for collection in accordance with § 42-1.4.

(Sec. 9-3.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 3, § 9-3.2) (Am. Ord. 10-16)

### **§ 42-3.3 Service to government buildings.**

The division may provide refuse collection services to buildings of the federal and State governments upon request from the authorities responsible for such buildings. The charge for service to such governmental buildings, other than buildings used for residential purposes, shall be that which applies to a place of business. For services rendered to buildings used for residential purposes, the charges shall be established by agreement. Such agreement shall be executed by the director of budget and fiscal services, with the recommendation of the director, on behalf of the city.

(Sec. 9-3.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 3, § 9-3.3) (Am. Ord. 99-32)

### **§ 42-3.4 Multi-unit residential buildings.**

- (a) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building who has not made provisions for refuse collection by the division pursuant to § 42-3.2(b) shall present to the director or the director's authorized representative upon reasonable request one of the following, whichever applies:
  - (1) Evidence that the owner or the owner's designated management agent has engaged a licensed refuse collector to collect and dispose of the refuse at least once a week;
  - (2) Evidence that the owner or the owner's designated management agent has independently disposed of the refuse at a properly designated disposal site at least once a week; or
  - (3) Evidence that the owner or the owner's designated management agent is disposing of refuse pursuant to § 42-1.3(a)(2).
- (b) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building shall maintain a clean and sanitary storage area for accumulated refuse between scheduled collection days.
- (c) Every owner of a multi-unit residential building or individual unit or the owner's designated management agent in such building shall keep the street and sidewalk fronting the property free of refuse, except for refuse prepared and placed for collection in accordance with § 42-1.4.
- (d) The director or the director's authorized representative shall determine whether a multi-unit residential building is being adequately serviced by refuse collection.
- (e) Any person residing in a multi-unit residential building may file a complaint with the director if the owner of such building does not provide for refuse removal pursuant to this chapter.
- (f) Notwithstanding any other penalty provided under this chapter, a violation of this section shall be subject to a civil fine of \$250 per day, beginning with the day the violation is verified by the director or the director's authorized representative and continuing until conditions are brought into conformity with the law. This subsection shall not apply to bulky wastes that are improperly placed on the street or sidewalk abutting a property that shall be subject to the penalty provided in § 42-5.1(e).

(Sec. 9-3.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 3, § 9-3.4) (Am. Ord. 10-16)

### **§ 42-3.5 Food waste recycling.**

(a) The owners of the following food establishments located within the city shall: (i) arrange and provide for the separate collection of food waste and for its recycling by a recycling facility in the city; or (ii) separate food waste from all other solid waste generated by the food establishment and deliver the food waste to a recycling facility:

- (1) A restaurant that occupies 5,000 square feet or more of floor area and serves 400 or more prepared meals per day based on an annualized average. If a restaurant is also a catering establishment, it shall be considered a restaurant for purposes of this section. If a restaurant has on its premises a place where the primary method of service, for all mealtimes, is food and drink orders taken and served to customers at a self-service counter, that portion of the premises devoted to the taking and serving of such food and drink orders, and any dining area serving customers of such self-service counter, shall not be counted in determining the square feet of the restaurant or the number of prepared meals served by the restaurant;
- (2) A food court as defined in subsection (g). The company or entity that manages the shopping center or building where the food court is located shall be required to comply with the requirements of this section, unless the owners of the food establishments in the food court are responsible for the disposal of their refuse, in which case the owners of those establishments shall be responsible for complying with this section;
- (3) A hotel with a kitchen or kitchens and one or more function rooms. For the purposes of this subdivision, a "kitchen" means that place that is not part of a restaurant and where food is prepared for hotel employees or functions on the hotel's premises;
- (4) A market that occupies 18,000 square feet or more of floor area;
- (5) A food manufacturer or processor that occupies 5,000 square feet or more of floor area;
- (6) A catering establishment that is not also a restaurant or part of a restaurant and that serves or sells 400 or more prepared meals per day based on an annualized average; and
- (7) A hospital that serves 400 or more prepared patient meals a day based on an annualized average.

For the purposes of this subsection, for the first year following January 1, 1997,\* the annualized average number of prepared meals served or sold per day by a food establishment shall be the average number of meals prepared per day in the year before January 1, 1997,\* for food establishments that have been in existence for one year or more before January 1, 1997.\* For establishments that have not been in existence for that length of time before January 1, 1997,\* the annualized average shall be determined based on the number of prepared meals served or sold per day during the first year that the food establishment has been in existence following January 1, 1997.\* Except as provided above, establishments shall use the prior year's average number of prepared meals served or sold per day in determining whether they are required to recycle their food waste in accordance with this section.

(b) This section shall not apply to any church or nonprofit organization except a hospital, as provided in subsection (a). Further, this section shall not apply to any food service establishment that offers as the primary method of service, for all mealtimes, food and drink orders taken at and served to the customer at a self-service counter; provided that this exemption shall not apply to food establishments in markets or establishments in a food court.

(c) The requirement to recycle food waste under this section applies only to the food waste from kitchens and food preparation, handling, and manufacturing or processing areas, and from dining areas where customers are served by waiters or waitresses, or where tables or meals are cleared away by employees of the business or establishment.

The requirement of this subsection does not apply to commercial cooking oil waste or commercial FOG waste. Instead, the removal, transport, and disposal of such waste is subject to Chapter 43, Article 5A.

(d) A food establishment that is required to recycle food waste under this section may combine such waste with that of other establishments, or may separately collect and recycle its own food waste.

(e) All food establishments otherwise required to recycle food waste under this section shall not be required to do so if the disposal charge for disposing of food waste at a recycling facility in the city, including the cost of transporting the food waste to the facility, exceeds the tipping fee or disposal charge for disposing of waste at the H-POWER facility, as provided in § 42-4.2, plus the cost of transporting refuse to such facility. The chief shall make this determination.

(f) The owner of a food establishment that is otherwise required to recycle food waste may petition the chief to suspend the applicability of this section to the applicant if the applicant demonstrates that recycling service for food waste is unavailable to the applicant. If the chief grants the application, the requirements of this section shall be suspended until such time as recycling service becomes available to the applicant. The chief shall, from time to time, review the availability of recycling service to food establishments for which the requirements of this section have been suspended. If the chief determines that recycling service is available and that the requirements of this section shall no longer be suspended with regard to a particular food establishment, the chief shall notify the owner of the establishment by registered mail and that owner shall be required to recycle food waste in accordance with this section within 60 days of receipt of the notice.

The chief may also, on the chief's own initiative, suspend the requirements of this section:

- (1) During the period of a work stoppage or any other interruption of recycling collection service to the food establishments that are subject to this section; or
- (2) Whenever the chief determines that there are inadequate recycling facilities or there is inadequate recycling capacity to dispose of the food waste being collected pursuant to this section.

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

**Catering Establishment.** Establishments primarily involved in the preparation and transfer of finished food products for immediate consumption upon delivery to off-premises destinations, including but not limited to hotels, restaurants, airlines, and social events.

**Composting Facility.** An establishment that conducts composting operations.

**Food Bank.** A facility that receives donations of food for redistribution to needy groups, individuals, or families.

**Food Court.** An area within a building or shopping center where five or more food establishments are situated and serviced by a common dining area.

**Food Establishment.** A catering establishment, food court, food manufacturer or processor, hospital, hotel, market, or restaurant.

**Food Manufacturer or Processor.** An establishment that generates food waste and is primarily involved in the manufacture or processing of food products, including animal products, but excluding baked goods.

**Food Waste.** Has the same meaning as defined under the definition of "recyclable materials" in § 42-1.2.

**Function Room.** An area within a hotel where events are held at which food is served, including but not limited to wedding receptions, business meetings, conferences, banquets, and parties.

**Hospital.** Has the same meaning as defined in § 21-10.1.

**Hotel.** Has the same meaning as defined in § 21-10.1.

**Market.** Includes establishments where fresh meat, fish, or produce is prepared, handled, and displayed for sale at retail or wholesale.

**Meal.** Includes any food item or items served as an entree at breakfast, lunch, or dinner, but excludes beverages and desserts, if the beverages or desserts are served by themselves and not part of a breakfast, lunch, or dinner.

**Prepared Meals.** Meals that have been cleaned, cooked, or otherwise prepared on the premises of the food establishment, and excludes prepackaged meals that are cooked or otherwise prepared elsewhere and only sold on the premises of the establishment. Includes meals a portion of which have been precooked or prepared off the premises of the establishment.

**Recycling Facility.** Includes a composting facility, waste bioconversion facility, rendering facility, pig farm, or other agricultural facility that uses food waste as animal feed or for other agricultural use, or any other facility that recycles food waste and is approved by the director for that purpose.

**Recycling Service.** A service or collection of services that includes the collection and transportation of food waste to a recycling facility by a refuse hauler or other company that collects the food waste, and the recycling or reuse of that food waste by a recycling facility, which may or may not be operated by the company that collects and transports the food waste.

**Rendering Facility.** An establishment that converts kitchen grease, cooking oils, meat scraps or other slaughterhouse waste, waste from meat processing plants, or any combination of the foregoing items, for use in the manufacture of such products as cosmetics, detergents, plastics, paints, tires, and animal feed products.

**Restaurant.** A place of business where food is served for compensation and includes the kitchen or food preparation area of that place of business, but excludes any portion of the establishment that is a bakery serving baked goods for consumption on or off the premises of the restaurant and excludes a quick-serve food service establishment that offers as the primary method of service, for all mealtimes, food and drink orders taken at and served to the customer at a self-service counter.

**Waste Bioconversion Facility.** A facility where food and other organic waste are converted into useable byproducts.

(h) The department may adopt rules in accordance with HRS Chapter 91, having the force and effect of law, for the implementation, administration, and enforcement of this section.

(i) Upon presentation of proper credentials, the director or the director's duly authorized representative, may enter at reasonable times any building or premises of a food establishment and inspect the books and records of a food establishment to determine compliance with the requirements of this section; provided that such entry and inspection shall be made in such a manner as to cause the least possible inconvenience to the persons in possession of the property and the owners of the food establishment; and provided further that an order of a court authorizing such entry and inspection shall be obtained before entry or inspection if such entry or inspection is denied or resisted by the persons in possession or owners of the food establishment.

(j) On January 1, 1997\* and quarterly thereafter:

(1) Each waste bioconversion facility in the city shall report to the refuse division on:

(A) How much private refuse haulers or other companies are being charged as of the end of the quarter being reported, per unit of weight or volume, for disposing of food waste at the bioconversion facility, and how much the facility is charging per unit of weight or volume, if the facility both collected and disposed of food waste from a food establishment; and

(B) The amount of food waste, per unit of weight or volume, that the facility recycled during the previous quarter; and

(2) Each refuse hauler or other company that collects and transports food waste shall report to the refuse division on how much, per unit of weight or volume, the hauler or company charged food establishments as of the end of the quarter being reported to collect and dispose of their food waste.

(k) Nothing in this section shall preclude a food establishment from donating leftover or unsold food that is safe to consume to a food bank.

(1990 Code, Ch. 9, Art. 3, § 9-3.5) (Added by Ord. 96-20; Am. Ords. 99-32, 02-14, [25-2](#))

**Editor's note:**

\* "January 1, 1997" is substituted for "the effective date of this ordinance."

## **ARTICLE 4: COLLECTION AND DISPOSAL CHARGES**

Sections

42-4.1 Collection charges for businesses

42-4.2 Disposal charges for businesses and federal, State, and city agencies

- 42-4.3 Payments of charges
- 42-4.4 Failure to pay charges
- 42-4.5 Dead animals—Collection fee
- 42-4.6 Disposition of fees, charges, and deposits
- 42-4.7 Refuse collection and disposal charges—Waiver
- 42-4.8 Cost of bulky wastes removal

#### **§ 42-4.1 Collection charges for businesses.**

(a) *For refuse generated by businesses and collected by manual collection.*

(1) *Unit charge for collection.* For all refuse collected and removed by the division on regularly scheduled collection days from places of business, there shall be a unit charge or a minimum charge, whichever is greater, assessed against each business served by the division in accordance with the following schedule:

<b>Unit Charge (per cubic foot)</b>	<b>Minimum Charge (per month or fraction thereof)</b>	<b>Effective Date</b>
\$1	\$30	July 1, 1997

(2) Volumes of refuse shall be based on monthly averages determined by periodic measurements. New accounts shall be charged the minimum charge specified in paragraph (1) per month during the period that the monthly average volume is being determined; provided that after the average monthly volume is determined, retroactive adjustment of charges over the minimum may be made if deemed to be warranted, such determination to be made by the director of budget and fiscal services.

(b) *For refuse generated by businesses and collected by automated collection with 90-gallon city-issued carts.*

(1) *Cart deposit charge.* An initial cart deposit fee shall be charged for each business cart. Upon return of the cart to the city refuse division, a portion of the cart deposit fee shall be returned to the business. The difference between the deposit fee and the deposit return shall be retained by the city for administrative handling, including cart delivery. Carts are the responsibility of the business owner. Damaged carts under warranty will be repaired or replaced by the city. The city will collect the deposit fee for all carts issued to businesses, including the carts issued before July 1, 1997.\*

<b>Deposit Fee (per cart)</b>	<b>Deposit Return (per cart)</b>	<b>Effective Date</b>
\$90	\$70	July 1, 1997

(2) *Unit charge.* The unit charge for collection will be according to the following schedule:

<b>Monthly Unit Charge (per cart)</b>	<b>Minimum Charge (per month or fraction thereof)</b>	<b>Effective Date</b>
\$75	\$75	July 1, 1997

(3) *New account charge.* New accounts shall be charged the minimum charge specified in paragraph (2) of this subsection.

(Sec. 9-4.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.1) (Am. Ords. 89-77, 97-45)

***Editor's note:***

\* "January 1, 1997" is substituted for "the effective date of this ordinance."

#### **§ 42-4.2 Disposal charges for businesses and federal, State, and city agencies.**

(a) *Unit charges for disposal.* For the receipt and disposal of refuse and other solid wastes delivered to disposal facilities by any business or any federal or State agency, the following unit charges shall apply:

<b>Disposal Facility</b>	<b>Unit Charge (per ton)</b>	<b>Unit Charge (per cubic yard or fraction thereof)</b>
H-POWER	\$81	\$25.25
Transfer stations	\$110.60	\$34.50
Landfills	\$81	\$25.25

Transshipment facilities	\$81	\$25.25
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(b) *Minimum and special charges.*

(1) *Minimum charges.* The minimum charge per truckload shall be equal to the unit charge per cubic yard. The unit charge per cubic yard will be assessed only in the event of a breakdown or unavailability of weighing equipment at the disposal facility.

(2) *Special charges.* All special charges will apply to businesses, and federal and State agencies.

(A) *Landfill.* In addition to the unit charges established in this section, a charge per truckload for special wastes requiring special handling or arrangements by the city's or operating contractor's employees for proper disposal at landfills shall be imposed as follows:

Special Handling Charge
\$84.25

(B) *H-POWER.* In addition to the unit charges established in subsection (a), a per ton and a per hour charge for waste delivered to the H-POWER facility requiring special handling or arrangements by the H-POWER contractor's employees shall be imposed as follows:

Disposal Area	Per Ton Charge	Minimum Load Charge
	Special Handling Per Ton Charge	
Auger bin	\$540	\$270
RDF storage floor	\$440	\$220
MSW storage floor	\$320	\$210

The charge per ton or minimum load charge, whichever is greater, shall be assessed against each business or agency served. In addition to this assessment, there shall be a per hour charge as specified below:

Per Hour Charge	
Disposal Area	Special Handling Per Hour Charge
Auger bin	\$250 per hour or fraction thereof
RDF storage floor	\$25 per hour or fraction thereof per H-POWER contractor's employee
MSW storage floor	\$25 per hour or fraction thereof per H-POWER contractor's employee

(c) *Discount for disposal of residue from recycling operations.* The unit charges for disposal of residue from recycling operations shall be discounted to 75 percent of the unit charges for disposal set forth in subsection (a). For the purposes of this subsection, a "recycling operation" is a facility that recovers post-consumer waste materials for use in new consumer products. To be eligible for the discounted unit charges for disposal, the following conditions must be met:

- (1) The recycling operation shall recover at least 2,000 pounds of recyclable materials per month;
- (2) The recyclable material shall be shipped off-island, or the recyclable material shall be incorporated into a new consumer product directly by the recycling operation;
- (3) The residue shall be a maximum of 25 percent of the weight of the recyclable materials recovered;
- (4) The residue shall be a direct result of the recycling operation;
- (5) The residue shall not be commingled with other waste at delivery;
- (6) The residue shall not contain any recyclable material; and
- (7) The recycling operation shall be in compliance with all applicable permits and licenses required by the City and County of Honolulu, State of Hawaii, and the federal government; noncompliance will result in disqualification until compliance is resolved and certified.

Upon submission of a written request and supporting data from the recycling operation's owner or the recycling operation's owner's designee, the director shall determine whether the recycling operation is eligible for the discounted unit charge for disposal. After such determination, the director shall either approve the application by proper endorsement or deny the application specifying in writing the cause or causes for such disapproval.

All vehicles used by the recycling operation to transport residue to disposal facilities shall be constructed so as to allow ready inspection of their load before disposal.

Disposal charges shall be charged directly to the recycling operation. The recycling operation's owner or the recycling operation's owner's

designee shall submit monthly reports to the director documenting types and quantities of the materials recycled and the residues resulting therefrom. If the director determines that the residue from the recycling operation does not meet the conditions for the discounted unit charge for disposal as set forth in this subsection, the director shall not apply the discount and shall not apply the discount until such time that the director determines that the applicable conditions for such discount have been met.

(d) *Exemption.*

- (1) Any eleemosynary or charitable organization that has been determined by the Internal Revenue Service to qualify as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code and that recovers post-consumer waste materials for charitable use through a donated merchandise program, generating residue as a byproduct of its charitable function for disposal at a city disposal facility; and
- (2) Any one-day solid waste cleanup event or activity approved by the department of environmental services for the express, noncommercial benefit of the community that involves the collection of litter and other solid waste from noncommercial sources and that results in the disposal and recycling of that waste, shall be exempt from the disposal and special handling charges of subsections (a) and (b) and the fees of subsection (e). The residue generated from a donated merchandise program run by an eleemosynary or charitable organization, pursuant to subdivision (1), and waste collected through the event or activity described in subdivision (2), that are to be disposed of at any city disposal facility, shall be clearly marked as such residue or waste, as the case may be, and shall not be commingled with any other waste.

If an eleemosynary organization contracts with a private business to dispose of residue in compacted form or otherwise, the private business shall be initially charged the standard disposal fees for the disposal of the residue. The exemption to disposal fees shall be applied to the private business's account after the eleemosynary organization submits a monthly report to the chief engineer documenting dates and numbers of loads of residue dispatched to the disposal sites.

(e) In addition to the charges outlined in subsections (a) and (b), there shall be a surcharge of 12 percent on those charges. The 12 percent surcharge shall also be applied to the charge that the city pays for disposing of refuse and other solid wastes at the H-POWER facility. All charges collected in accordance with this subsection shall be deposited into the recycling account of the solid waste special fund established by § 6-49.1.

(f) *Surcharge for recovering State and federal fees.* In addition to the disposal charges at municipal landfills, incinerators, and transfer stations delineated in this section, the department is authorized to impose a surcharge to recover the amount of any solid waste regulatory or permit fee imposed by the State or federal government together with any administrative cost to the city for imposing and collecting the fee.

(Sec. 9-4.2, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.2) (Am. Ords. 89-77, 91-66, 92-60, 92-111, 95-06, 95-39, 95-40, 96-58, 97-45, 99-32, 99-33, 00-27, 01-65, 02-32, 03-20, 04-07, 04-16, 10-2, 11-6, 11-25, 12-37, 16-4)

**§ 42-4.3 Payments of charges.**

- (a) Collection and disposal charges shall be paid at the time of disposal or billed monthly or bimonthly by the director of budget and fiscal services or the director's designated billing agency, such determination to be made by the director. Charges billed shall be paid within 30 days after the date of the bill.
- (b) Billed charges not paid within 30 days shall become delinquent and shall be subject to interest at the rate of 1 percent per month for each month or fraction thereof that such charges remain delinquent.
- (c) If partial payment of a delinquent charge is made, the amount received shall first be credited to interest and then to principal.

(Sec. 9-4.3, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.3) (Am. Ords. 99-32, 99-65, 14-13)

**§ 42-4.4 Failure to pay charges.**

- (a) The director shall discontinue collection and disposal service to any business for failure to pay any charge when due. The director shall resume service upon request for reinstatement of service by the business and upon payment to the director of budget and fiscal services of all delinquent charges including interest. There shall be a service reinstatement fee of \$10 that shall be paid to the director of budget and fiscal services when request for reinstatement of service is made.
- (b) A service fee of \$25 will be charged for handling a dishonored check.

(Sec. 9-4.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.4) (Am. Ord. 99-32)

**§ 42-4.5 Dead animals—Collection fee.**

There shall be no charge for the collection or disposal of dead animals described in §42-1.8.

(Sec. 9-4.5, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.5)

**§ 42-4.6 Disposition of fees, charges, and deposits.**

All fees and charges collected under this chapter shall be deposited into the solid waste special fund.

(Sec. 9-4.6, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 4, § 9-4.6) (Am. Ords. 92-111, 99-32)

**§ 42-4.7 Refuse collection and disposal charges—Waiver.**

- (a) The director is authorized to waive the collection and disposal charges established by this article in cases of natural or man-made disasters and for a time period in which the director deems necessary to remove disaster debris.
- (b) For the purposes of this section, a "natural disaster" includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or other natural causes; and a "man-made disaster" includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created, or constructed by mankind.
- (c) The director may adopt rules pursuant to HRS Chapter 91 to implement this section.

(1990 Code, Ch. 9, Art. 4, § 9-4.7) (Added by Ord. 92-137)

## **§ 42-4.8 Cost of bulky wastes removal.**

(a) The failure of any owner or association of apartment owners to properly dispose of or remove bulky wastes within seven days after written notice shall constitute a public nuisance. Any person responsible for noncompliance with § 42-1.4(d) shall be liable to the city for the cost of removing such bulky wastes.

- (1) Upon the failure, neglect, or refusal of any owner or association of apartment owners so notified to properly dispose of or remove bulky wastes within seven days after receipt of written notice or within seven days after the date of such notice in the event the same is returned to the city because of an inability to make delivery thereof, provided the same is properly addressed to the last known address of such owner or association of apartment owners, the director is authorized and empowered to dispose of such bulky wastes or to order its disposal by the city. The director or the director's authorized representative, including any contractor with whom the director contracts under this section and assistants, employees or agents of such contractor are authorized to remove bulky wastes on the street or sidewalk fronting the property of the owner or association of apartment owners.
- (2) When the city has effected the removal of bulky wastes or has paid for their removal upon the failure, neglect or refusal of any owner or association of apartment owners so notified to properly dispose or remove bulky wastes, the owner or association of apartment owners shall be billed by mail and charged the actual cost incurred by the city, plus any administrative expenses associated with the removal of the bulky wastes. The bill shall apprise the owner or association of apartment owners that failure to pay the bill within 30 days after the bill has been mailed for payment will result in a lien being placed upon the property as authorized by HRS § 46-1.5. Interest at the rate of 8 percent per year shall accrue on any unpaid balance from the 31st day after the bill has been mailed to the owner or association of apartment owners.

- (3) The director shall cause to be kept in the department a permanent record containing:

- (A) A description of each parcel of the property for which a notice to remove bulky wastes has been given under this subsection;
- (B) The name of the owner or association of apartment owners if known;
- (C) The date on which such notice was mailed and posted;
- (D) The fee for removing the bulky wastes; and
- (E) A brief summary of the work performed.

(b) All moneys collected under this section shall be deposited into the solid waste special fund.

(1990 Code, Ch. 9, Art. 4, § 9-4.8) (Added by Ord. 10-16)

## **ARTICLE 5: ENFORCEMENT OF PROVISIONS**

### **Sections**

- 42-5.1 Violation—Penalty
- 42-5.2 Revocation or suspension of license
- 42-5.3 Enforcement authority
- 42-5.4 Nonliability of department personnel

## **§ 42-5.1 Violation—Penalty.**

- (a) Except as otherwise provided, any person violating this chapter shall be subject to a civil fine not exceeding \$500 for each violation. Each day that a person violates this chapter shall constitute a separate violation.
- (b) Any person violating § 42-1.4(a)(6) shall be subject to a civil fine not exceeding \$250 for each violation.
- (c) Any person violating § 42-3.1(c) shall be subject to a civil fine not exceeding \$250 for each violation.
- (d) Any person violating § 42-3.5 shall be subject to a civil fine not exceeding \$250 for each violation. For purposes of this subsection, "person" means any natural person, partnership, corporation, firm, sole proprietorship, trust, unincorporated association or joint venture, cooperative, or any other entity; provided that the term shall exclude a church and a nonprofit organization, as defined in § 38-1.3, except a hospital.
- (e) Any person violating both §§ 42-1.4(d) and 42-4.8 shall be subject to a civil fine not exceeding \$250 for each violation. Each time an owner or association of apartment owners violates § 42-1.4(d), and fails to properly dispose of or remove the bulky wastes after receiving a written notice pursuant to § 42-4.8, that shall constitute a single violation. The fine shall be in addition to any removal costs billed to the owner or association of apartment owners.
- (f) Any person violating § 42-1.10 shall be subject to a civil fine not exceeding \$2,500 for each violation; provided that any person violating both §§ 42-1.4(d) and 42-1.10 shall be subject only to the civil fine set forth in subsection (a).
- (g) The penalties under this section are in addition to any other penalty that may be imposed on a person for a violation of this chapter.
- (h) Appeal of the fines set forth in this section shall be pursuant to rules adopted by the director as necessary to carry out this chapter.

(Sec. 9-5.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 9, Art. 5, § 9-5.1) (Am. Ords. 89-113, 95-64, 96-20, 99-32, 10-16, 16-9)

## **§ 42-5.2 Revocation or suspension of license.**

In the case where a person has been convicted, the court shall have the further power to suspend or revoke any license or permit issued to such person under this section for any remaining portion of the term of such license or permit, or such person may be punished by both such fine, suspension, or revocation. No license or permit shall be issued to any person whose license or permit has been so suspended or revoked, as above prescribed for a period of two years after the date of such suspension or revocation. The court may also order

forfeiture of the bond provided in § 42-2.2(b) or any part thereof, for the nonobservance or violation by a licensee of the conditions of the license.

(Sec. 9-5.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 5, § 9-5.2)

### **§ 42-5.3 Enforcement authority.**

(a) Any inspector is authorized to:

- (1) Issue a written citation pursuant to §42-5.1 if such enforcement officer witnesses a violation, receives a report from a private citizen witnessing a violation or has probable cause to believe that a person has violated this chapter;
- (2) Investigate any refuse and bulky wastes found thrown, deposited, or dumped on a street, roadside, alley, highway, or public place to find any personal identification contained therein;
- (3) Issue a written citation pursuant to §42-5.1 for violations of this chapter; and
- (4) Issue a written citation pursuant to §42-5.1(f) for violations of §42-1.10. When a vehicle is used in violation of § 42-1.10(b), the inspector is authorized to issue a written citation to the registered owner of the vehicle. The registered owner may be determined by the identification of the vehicle's license plates. If the registered owner is the lessor of a rental or U-drive motor vehicle and if the vehicle is leased at the time of the violation, the lessee at the time of the violation shall be cited and notified of the citation in the same manner as the registered owner and shall be responsible for responding to the citation.

(b) Any person who witnesses the throwing, dropping, placing, dumping, or depositing of refuse or bulky wastes in violation of this chapter, including the throwing of refuse or bulky wastes from a vehicle, may report the date, time of day, location and license number of the vehicle, to any enforcement officer. It shall not be necessary that an act of illegal dumping or other violation of this article shall have occurred in the presence of or have been witnessed by an employee of the department for the director to determine that a violation has occurred.

(c) All complaints of alleged violations shall be investigated by the city. Inspectors shall, wherever practicable, inspect any refuse found on any street, highway, alley or public place, and any traceable ownership shall be subject to this chapter. Reasonable evidence may be considered by the department in investigating complaints of illegal dumping or related violations, including photographs and video recordings, in determining whether a violation has occurred.

(d) A written citation for a violation of §42-1.10 shall contain information identifying or describing the location of the violation, the date and time the violation occurred or was discovered, a copy of any photograph or digitized image of the violation, provided that the inspector uses such photograph or image in issuing the citation, and the license plate number of any vehicle used. The inspector shall cause the written citation to be sent by certified mail or registered mail that is postmarked within five days of the occurrence or discovery of the violation, to the individual identified as having committed the violation, or where a vehicle was involved, to the registered owner at the registered owner's address on record with the department of customer services or appropriate motor vehicle registration agency, or, in the case of a rental or U-Drive motor vehicle, to the lessee of the vehicle at the time of the violation. If the end of the five-day period falls on a Saturday, Sunday, or holiday, then the period shall run until the end of the next day that is not a Saturday, Sunday, or holiday.

Upon receipt of the citation, the individual or the registered owner or lessee shall be given fourteen days to respond to the citation by:

- (1) Paying a fine by mail; or
- (2) Requesting that a hearing be set on the matter.

A mail receipt signed by the individual, registered owner, or lessee is prima facie evidence of notification.

A rebuttable presumption exists that the registered owner or lessee of a vehicle used in committing a violation of §42-1.10(a) is the person who operated or used the vehicle in violation of § 42-1.10(b). The registered owner of the vehicle shall not be presumed to be the operator or user of the vehicle for violations § 42-1.10(b) when the vehicle or license plates have been reported stolen before the violation occurs.

(e) In any proceeding for a violation of §42-1.10(b), the information contained in the citation issued in accordance with subsection (d) shall be deemed evidence that the vehicle was observed as being involved with the unlawful throwing, dropping, placing, dumping, or depositing of refuse or bulky wastes, on a street, roadside, alley, highway, or other public place.

(f) The director may adopt rules to administer and enforce this chapter.

(1990 Code, Ch. 9, Art. 5, § 9-5.3) (Added by Ord. 10-16; Am. Ord. 20-4)

### **§ 42-5.4 Nonliability of department personnel.**

No member, employee, or officer of the department shall be civilly or criminally liable or responsible under this chapter for any acts done under this chapter in the performance of their duties as a member, an officer, or an employee of the city.

(1990 Code, Ch. 9, Art. 5, § 9-5.4) (Added by Ord. 10-16)

## **ARTICLE 6: PROCEDURE ON ARREST**

### Sections

42-6.1 Procedure

42-6.2 Summons or citation

### **§ 42-6.1 Procedure.**

Any authorized police officer or special officer, upon making an arrest for a violation of this chapter, shall take the name and address of the alleged violator and shall issue to such person in writing a summons or citation hereinafter described, notifying such person to answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation. The term "special officer" means any officer or employee of the department of environmental services who has the duty and responsibility to enforce this chapter and who has been conferred and appointed as special officer by the chief of police of the City and County of Honolulu.

## § 42-6.2 Summons or citation.

(a) There shall be provided for use by police officers or special officers, a form of summons or citation for use in citing violators of this chapter where the circumstances do not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaii and the City and County of Honolulu.

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

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

(Sec. 9-6.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 9, Art. 6, § 9-6.2)

## ARTICLE 7: RECYCLING OF GLASS CONTAINERS

### Sections

- 42-7.1 Incentive for licensed recycler
- 42-7.2 Definitions
- 42-7.3 License application—Bond—Insurance—Fee—Term—Revocation
- 42-7.4 Glass incentive program
- 42-7.5 Payment of incentives
- 42-7.6 Prohibitions
- 42-7.7 Violation—Penalty

### § 42-7.1 Incentive for licensed recycler.

The department shall pay to each licensed recycler engaged in the recycling of glass containers an incentive in accordance with this article.

(1990 Code, Ch. 9, Art. 7, § 9-7.1) (Added by Ord. 89-125)

### § 42-7.2 Definitions.

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

**Cullet.** Pieces of crushed glass that may be melted and made into new glass.

**Glass Container.** A container that is designed and intended to hold a beverage, food, cleaning, health, beauty, or similar product and is manufactured from a mixture of silicates, borates, or phosphates.

**Glass Dealer.** Any person who is engaged in the manufacture of glass containers within the city or who imports glass containers from without the city.

**Incentive.** The payment for each ton of glass containers recycled, as authorized under § 42-7.5.

**Licensed Recycler.** A person licensed under § 42-7.3.

(1990 Code, Ch. 9, Art. 7, § 9-7.2) (Added by Ord. 89-125; Am. Ords. 99-32, 10-16)

### § 42-7.3 License application—Bond—Insurance—Fee—Term—Revocation.

(a) Any person wholly or partially engaged in the business of recycling glass containers may apply to the department for licensure as a licensed recycler. The application shall contain the following information from the applicant:

- (1) Name and home address;
- (2) Business address;
- (3) Address at which the applicant refills glass containers, processes glass containers for shipment out of State or crushes glass containers into cullet;
- (4) State of Hawaii general excise tax license number;
- (5) If the applicant is a firm, association, organization, partnership, joint venture, corporation, business, trust, company, or cooperative, the names and addresses of all owners and officers and their respective percentages of ownership; and
- (6) Facts demonstrating that the applicant is engaged in the business of recycling glass containers.

(b) Every applicant for a license shall execute and submit a surety bond in favor of the city in the penal sum of \$1,000. The bond shall be issued by a surety company authorized to do business in Hawaii in accordance with HRS § 78-20.

(c) The applicant shall secure and present to the department at the time of application a standard automobile liability insurance policy covering the applicant, or any person driving any vehicle belonging to the applicant with the applicant's permission in the amount of \$100,000 for bodily injury to or death of one person in any accident and in the amount of \$300,000 for bodily injury to or death of two or more persons in any one accident, respectively, and property damage insurance in the amount of \$10,000 because of damage to or destruction of property of others in any one accident. The applicant shall secure and present to the department at the time of application a standard comprehensive nonvehicular public liability insurance policy covering the applicant and the applicant's employees and agents, which shall also include a rider covering the city in the amount of \$300,000. The rider shall be in

the form of an endorsement insured by the insurer.

(d) The fee for an annual glass recycling license shall be \$100, payable in advance to the director of customer services. The fee for any license issued to an applicant after July 1 shall be prorated according to the remaining months of each fiscal year. No license fee shall be refundable.

(e) The director of customer services shall issue a license to each applicant upon satisfaction of the truth of the information on the application and payment by the applicant of the license fee. Issuance of the license shall confer upon the licensed recycler the privilege of receiving the incentive under this article, and no other privilege, right, power, duty, or obligation. Issuance of the license shall not be deemed an approval, endorsement or sanction by the director of customer services or city of the licensed recycler or any activity conducted by the licensed recycler. Nor shall issuance of the license be deemed an expressed or implied imposition or acceptance of a regulatory obligation upon the director of customer services or city over the licensed recycler or any activity conducted by the licensed recycler, except as otherwise provided under this article.

(f) The glass recycling license shall be issued for a term of one year commencing July 1 and ending on June 30 of the next succeeding year.

(g) Revenues from the license fee and renewal fee shall be a realization of the solid waste special fund.

(h) The director of customer services may suspend or revoke a license for cause, subject to the same procedure as applicable to the suspension or revocation of a refuse collection license under § 42-2.6.

(1990 Code, Ch. 9, Art. 7, § 9-7.3) (Added by Ord. 89-125; Am. Ords. 96-58, 99-32, 10-16)

#### **§ 42-7.4 Glass incentive program.**

(a) The amount of funding provided in the glass incentive account referenced in § 49.1 shall be adequate to meet glass recycling program goals as determined by the department, considering the economic and environmental benefits to be realized.

(b) Every glass dealer shall pay to the department an assessment to cover incentives and the expense of administering the glass recycling program, which assessment shall be paid only once on the same glass container and shall not exceed 1 cent per glass container in the first year of operation and shall not exceed 2 cents per container, if needed, in the second year, and thereafter an amount to be determined by the department consistent with the glass recycling program goals as determined by the department pursuant to subsection (a).

In addition to the revenues provided by the glass dealers through the assessments, the city shall pay to the fund an amount not to exceed \$300,000 in the first year of operation and \$600,000, if needed, in the second year, and thereafter an amount to be determined by the department consistent with the glass recycling program goals as determined by the department pursuant to subsection (a), subject to appropriation by the council. The assessment shall be paid at a time and in a manner prescribed by rules adopted by the department in accordance with HRS Chapter 91. The assessment shall not be paid on glass containers exported from the city, unless the glass dealer decides to make such payment.

(c) The department may require glass dealers to maintain records reflecting their manufacture and importation of glass containers, to furnish to the department such information as may be requested relating to such manufacture and importation, and to permit inspection by the department of such books and records. Proprietary information obtained by the department shall be kept confidential, and shall not be disclosed to any other person except:

- (1) As may be reasonably required in any administrative or judicial proceeding to enforce this chapter or any rule adopted to implement or administer this chapter; and
- (2) Under any order or subpoena issued by a court.

(1990 Code, Ch. 9, Art. 7, § 9-7.4) (Added by Ord. 89-125; Am. Ord. 99-22; Am. Ord. [21-18](#))

#### **§ 42-7.5 Payment of incentives.**

(a) The department may pay an incentive to each licensed recycler who agrees in writing to pay to the public a minimum price established by the department for glass to be recycled in the program.

(b) The amount of the incentive shall be determined by the department in accordance with rules adopted pursuant to HRS Chapter 91. In determining the amount of the incentive, the department shall consult with the glass dealers and licensed recyclers based on, among other things:

- (1) The minimum price licensed recyclers must pay the public to achieve the recycling goals set forth in § 42-7.4(b); and
- (2) The avoided cost of collecting and disposing of glass.

(c) The amount of the incentive shall be the same for all licensed recyclers.

(d) To qualify for the payment of the incentive, the licensed recycler shall:

- (1) Transport not less than 1 ton of the glass to a processing facility designated by the department; and
- (2) Provide sufficient documentation as determined by the department indicating the number of tons received by the ultimate user of the glass containers, and the amount paid for each ton received.

(e) To receive payment of the incentive, the licensed recycler shall show proof or provide appropriate attestation that recyclable glass containers have been:

- (1) Processed for refilling, or have been refilled, within the State;
- (2) Loaded onto an air carrier or water carrier for shipment out-of-State; or
- (3) Loaded onto an air carrier or water carrier for use within the State, or otherwise used within the city in a manner approved by the director.

(f) The department shall make the appropriate payment to the licensed recycler upon satisfaction that all of the recycled glass has

been processed, refilled, loaded, or used.

(g) All assessments collected or received by the department under this chapter may only be used for costs and expenses directly relating to operational and administrative costs of the program actually incurred.

(h) Surplus funds may be:

- (1) Carried over into the next fiscal year and may be used to assist in defraying the cost of the program in succeeding fiscal years; or
- (2) Refunded at the close of the fiscal year on a pro rata basis to all persons from whom assessments were collected.

(i) Upon termination of the incentive program, all moneys remaining that are not required by the department to defray the expenses of the program shall be refunded on a pro rata basis to all persons from whom assessments were collected. If amounts returnable are so small as to make impractical the computation and remitting of the pro rata refunds, the remaining funds shall become a realization of the city.

(1990 Code, Ch. 9, Art. 7, § 9-7.5) (Added by Ord. 89-125)

### **§ 42-7.6 Prohibitions.**

- (a) No person shall falsify the proof or attestation required to collect an incentive. No person shall pay an incentive based upon false proof or attestation if knowing that the proof or attestation is false.
- (b) No person shall submit false information on the application for issuance or renewal of a license under §42-7.3. No person shall apply for, receive, or issue a license under § 42-7.3 on a fraudulent basis.
- (c) No person shall use a license issued under §42-7.3 if the person is not the licensed recycler to which the license was issued or an authorized officer or employee of the licensed recycler. No unauthorized officer or employee shall use the licensed recycler's license.
- (d) No person shall violate any other provision of this article.

(1990 Code, Ch. 9, Art. 7, § 9-7.6) (Added by Ord. 89-125)

### **§ 42-7.7 Violation—Penalty.**

Any person violating this article shall, upon conviction, be punished by the immediate termination of the license, and for each violation by a fine not exceeding \$1,000 and imprisonment not exceeding one year.

(1990 Code, Ch. 9, Art. 7, § 9-7.7) (Added by Ord. 89-125)

## **CHAPTER 43: SEWERS, DRAINAGE, AND CESSPOOLS**

### **Articles**

1. General Provisions
2. Sewer System for New Subdivision
3. Sewer System for Other Than in New Subdivisions
4. Private Sewer System
5. Industrial Wastewaters
- 5A. Commercial FOG Waste and Commercial Cooking Oil Waste
6. Sewer Service Charges

Appendix 43-A: Sewer Service Charge Schedules

7. Pumping or Treating of Cesspools

Appendix 43-B: Cesspool Charge Schedules

8. Sewer Fund
9. Termination of Water Service
10. Wastewater System Facility Charges

Appendix 43-C: Wastewater System Facility Charges

11. Drainage, Flood, and Pollution Control

### ***Editor's note:***

*Amendments made to Chapter 43, Article 6, in Ord.[25-27](#), take effect on October 1, 2025. Amendments made in Ord. [25-2](#) to Sections 43-6.2, 43-10.3, Appendix 43-A, and Appendix 43-B were repealed on June 24, 2025, in accordance with Ord. [25-27](#).*

## **ARTICLE 1: GENERAL PROVISIONS**

### **Sections**

- 43-1.1 Purpose
- 43-1.2 Definitions
- 43-1.3 Authority of the director

- 43-1.4 Emergency actions
- 43-1.5 Use of public sewers
- 43-1.6 Sewer extensions—Application—Payment—Specifications
- 43-1.7 Lateral sewer construction and connection
- 43-1.8 Use of public sewers—Restrictions—Violations
- 43-1.9 Right of entry and inspection
- 43-1.10 Recordkeeping

### **§ 43-1.1 Purpose.**

(a) Articles 1 through 10 of this chapter set forth uniform requirements for industrial users of the city's wastewater collection and treatment system, to enable publicly owned treatment works ("POTW") to protect their interceptors, treatment, pumping, and disposal systems and to comply with all applicable State and federal laws required by the Federal Water Pollution Control Act, as amended, and the General Pretreatment Regulations (40 CFR part 403).

(b) The objectives of Articles 1 through 10 of this chapter are:

- (1) To protect the health and safety of the people and enhance the environmental quality of the city and its surroundings;
- (2) To comply with the applicable State and federal laws relating to the protection of the environment, control of water pollution, pretreatment of industrial discharges, and the disposal of hazardous wastes in POTWs;
- (3) To prevent the introduction of pollutants in the POTW that will interfere with the operation of the POTW, including interference with its use or disposal of municipal sludge;
- (4) To prevent the introduction of pollutants in the POTW that will pass through the treatment works or otherwise be incompatible with such works;
- (5) To ensure that the quality of the POTW sludge is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
- (6) To protect the health and welfare of workers at the treatment plants;
- (7) To prevent the introduction of wastes to sewers connected to the POTW that could result in the POTW being classified as a hazardous waste treatment, storage, or disposal facility under applicable State or federal laws;
- (8) To provide for source monitoring and control of quantity, quality, and rate of flow of residential, commercial, and industrial wastes entering the POTW;
- (9) To establish enforcement procedures and penalties for violations;
- (10) To regulate the use, connection, and construction of all public and private sewers and to fix charges therefor; and
- (11) To authorize the director of the department of environmental services to effectively enforce Articles 1 through 10 of this chapter.

(Sec. 11-1.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 1, § 14-1.1) (Am. Ords. 94-46, 01-64)

### **§ 43-1.2 Definitions.**

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

**Act.** See definition of "federal act" in this section.

**Advanced Primary Treatment.** An intermediate form of wastewater treatment that provides for removal of generally 75 percent of the suspended solids and 45 percent of the biochemical oxygen demand (BOD<sub>5</sub> ).

**Assessment or Sewer Assessment.** A compulsory levy or charge on selected property for a particular sewer improvement undertaken in the interests of the public and which benefits the lessees or owners of the selected property.

**Authorized Representative.** Pursuant to 40 CFR § 403.12(1), an authorized representative of the industrial user is defined as and shall be any one or more of the following:

- (1) A responsible corporate officer if the industrial user submitting the statement or report is a corporation. For the purposes of this definition, a "responsible corporate officer" means:
  - (A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (B) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) A general partner or proprietor if the industrial user submitting the statement or report is a partnership or sole proprietor, respectively;
- (3) A duly authorized representative of the individual designated in subdivision (1)(A) or (1)(B) of this definition if:
  - (A) The authorization is made in writing by the individual described in subdivision (1)(A) or (1)(B) of this definition;
  - (B) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(C) The written authorization is submitted to the department; or

(4) If an authorization under subdivision (3) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subdivision (3) of this definition shall be submitted to the department before or together with any other reports to be signed by an authorized representative.

**Backup Facilities.** The wastewater conveyance system (interceptors, trunk sewers, mains, and pumping stations); the wastewater treatment plant; and the ocean outfall or wastewater disposal system. Specifically excluded are sewer laterals, in-tract facilities, and main extensions, for which the costs have been contributed by users of the system.

**Benefited or Special Benefited Property.** That property or portion of a property provided with a direct or indirect connection to the public sewer, deriving therefrom the direct and indirect advantages and benefits of sewer service.

**Biochemical Oxygen Demand (BOD<sub>5</sub>).** A standard test used in assessing sewage strength and is the measure of decomposable organic material in domestic or industrial wastewater as represented by the oxygen used over a period of five days at 20 degrees Celsius and as determined by the appropriate procedure in "Standard Methods."

**Building Sewer or House Sewer.** That portion of a pipe or conduit carrying sanitary sewage or industrial wastes, or both, from a building to the public sewer or a common sewer.

**Bypass.** The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

**Categorical Industrial User.** An industrial user who is subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

**Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits adopted by the U.S. Environmental Protection Agency in accordance with § 307(b) and (c) of the Federal Water Pollution Control Act, which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

**Cesspool.** A covered lined or partially lined pool, pit, or deep hole in the ground to receive the untreated discharges of sewage and from which the liquids seep into the surrounding soil through the bottom or sides.

**Combined Sewer.** A sewer receiving a mixture of stormwater and sanitary sewage with or without industrial wastes.

**Commercial Cooking Oil Waste.** Has the same meaning as defined in § 43-5A.1.

**Commercial FOG Waste.** Has the same meaning as defined in § 43-5A.1.

**Composite Sampling.** A collection of a number of discrete sample aliquots obtained through flow-proportional samples, at constant time intervals between samples and composites for analysis. Composite sampling techniques shall be performed in accordance with Appendix E to 40 CFR Part 403.

**Connection.** Any connection made or to be made to a public sewer at a manhole, in a new manhole, at the end of a stub, wye, saddle wye, lateral, or main.

**DOH.** The State department of health.

**Days.** Calendar days, including weekends and holidays, unless otherwise indicated.

**Department.** The department of environmental services of the City and County of Honolulu.

**Director.** The director of the department of environmental services or the director's authorized representatives.

**Discharge.** See definition of "indirect discharge" in this section.

**Domestic Wastewater.** The water-carried wastes produced from noncommercial or nonindustrial activities and which result from normal human living processes.

**Drain, Storm.** A pipe, conduit, or channel used for conveying stormwater, surface water, wash water, or other similar discharges, but excludes sewage and polluted industrial wastes.

**Dry Weather Flow.** Wastewater flow during periods of little or no rainfall. Rates of flow exhibit hourly, daily, and seasonal variations. A certain amount of infiltration may also be present.

**Dwelling Unit.** A room or rooms connected together constituting an independent living unit with independent exterior access that includes a food preparation area. The existence of separate rental/lease agreements, addresses, and mailboxes can be used in determining dwelling unit counts for sewer service charge assessment purposes.

**Effluent.** Sewage, water, or other liquid flowing out of any basin treatment device or facility.

**Entitlement.** The amount of sewage capacity reserved for the property.

**EPA.** The United States Environmental Protection Agency.

**Equivalent Single-Family Dwelling Unit (ESDU).** The fundamental unit that will be used to express the imputed seasonal average wastewater volume for new applicants for service and for existing users of the city's wastewater system. One "ESDU" is equal to about 305 gallons per day in Honolulu, or about 9,000 gallons per month.

**Extension or Extension Sewer.** The continuation of an existing public sewer through public or private property not owned, in whole or in part, by the applicant or owner of the particular property or subdivision to be served.

**Federal Act, Act,** or the **Federal Water Pollution Control Act.** Refers to P.L. 92-500, also known as the Clean Water Act, and amendments thereto, 33 USC §§ 1251 et seq., as well as regulations and standards adopted by the EPA, or successor, pursuant to the act.

**Food Preparation Area.** An area containing fixtures, appliances, or devices for:

- (1) Heating, preparing, or cooking food;
- (2) Refrigerating food; and
- (3) Washing utensils used for dining and food preparation or for washing and preparing food, or both.

The permanent removal of both elements (1) and (2) above, or element (3) above is required to eliminate a food preparation area for sewer service charge assessment purposes.

**Force Main.** A pipeline on the discharge end of a pump carrying flow under pressure.

**40 CFR.** Title 40 of the Code of Federal Regulations relating to the protection of the environment.

**Grab Sampling.** A method of obtaining an individual sample collected over a period of time not exceeding 15 minutes. Grab sampling may be employed where the pollutants being evaluated are those that may not be held for an extended period because of biological, chemical, or physical interaction that takes place after sample collection and affects the results.

**Grease.** Any material that is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate procedure in "Standard Methods."

**House Connection.** The sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying domestic wastewater.

**House Sewer.** See definition of "building sewer" in this section.

**Indirect Discharge** or **Discharge.** The introduction of pollutants into a POTW from any nondomestic source regulated under § 307(b), (c), or (d) of the Federal Water Pollution Control Act, also known as the Clean Water Act.

**Individual Wastewater Disposal System.** Any system of storing, treating, or disposing of wastewater on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a city wastewater system. Individual wastewater disposal systems include but are not limited to cesspools, septic tanks, and household aerobic units. Excluded are wastewater treatment plants.

**Industrial Connection Sewer.** The sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying industrial wastewater.

**Industrial User** or **User.** A source of indirect discharge.

**Industrial Wastewater.** All water-carried wastes and wastewater excluding sanitary wastewater.

**Industrial Wastewater Discharge Permit** or **Permit.** A document issued by the department authorizing discharge of industrial waste, unless otherwise indicated.

**Infiltration.** The unintentional entry of water into the wastewater collection system from the surrounding soil. Common points of entry include broken pipe and defective joints in the pipe or walls of manholes. Infiltration may result from sewers being laid below the groundwater table or from saturation of the soil by rain or irrigation water, seepage of groundwater into a sewer system, including service connections. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections, or manhole walls.

**Inflow.** Water discharged into the sewer system and service connections from such sources as but not limited to roof leaders, cellars, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, and around manhole covers or through holes in the covers, cross connections from storm and combined sewer systems, catch basins, stormwaters, surface runoff, street wash waters, or drainage. Inflow differs from infiltration in that it is a direct discharge into the sewer rather than a leak into the sewer itself.

**Influent.** Sewage, water, or other liquid flowing into any basin treatment device or facility.

**Interceptor.** A sewer that is laid transversely to the general sewer system that receives flow from sewer mains and lateral sewers and conducts such flow to a plant for treatment and disposal.

**Interference.** Any discharge that, alone or in conjunction with a discharge or discharges from other sources:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; or
- (2) Is a cause of a violation of the NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder: § 405 of the Federal Water Pollution Control Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

**Lateral** or **Lateral Sewer.** A branch or side sewer of a minimum 6-inch inside diameter in size from a public sewer main to serve one or more lots.

**Local Limits.** Prohibitive discharge limits developed by the city pursuant to 40 CFR § 403.5 and are deemed pretreatment standards for the purposes of § 307(d) of the act.

**Main.** A sewer into which several laterals or other sewer lines may discharge.

**Manhole.** An opening in a sewer constructed for the purpose of permitting a person to enter or leave the sewer.

**May.** Is permissive.

**NPDES Permit (National Pollutant Discharge Elimination System Permit).** Refers to the written requirements established by DOH, which govern the quality and quantity of wastewater discharged from a POTW.

**National Pretreatment Standard, Pretreatment Standard, or Standard.** Any regulation containing pollutant discharge limits adopted by the EPA in accordance with § 307(b) and (c) of the Federal Water Pollution Control Act, as amended, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR § 403.5, categorical pretreatment standards, and local limits

provided in the sewer ordinance.

**New Source.** Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commences after the publication of proposed pretreatment standards under § 307(c) of the act that will be applicable to such source if such standards are thereafter adopted in accordance with that section. Specific location and construction criteria for determining a new source are as defined in 40 CFR § 403.3(k), as revised.

**Noncompliance.** Any violation of Articles 1 through 10, the local limits, the industrial wastewater discharge permit, or National Categorical Standards.

**Ocean Outfall.** A conveyance system whereby treated wastewater is discharged to the marine receiving waters for final disposal.

**Order or Director's Order.** A written determination, revocation, authorization, permission, direction, or document, including but not limited to a permit issued by the director pursuant to this chapter.

**Owner.** Includes a holder in fee, life tenant, executor, administrator, trustee, guardian, or other fiduciary, lessee, or licensee holding under any government lease or license of real property.

**Pass Through or Pass-Through.** A discharge that exits the POTW into the waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the district's NPDES permit, including an increase in the magnitude or duration of a violation, or that causes water quality standards established by the State or EPA to be exceeded.

**Permit.** See definition of "industrial wastewater discharge permit" in this section.

**Person** or Words Importing Persons, for Instance, **Another, Others, Any, Anyone, Anybody**, and the Like. Signifies not only individuals, but corporations, trusts, partnerships, limited liability companies, firms, associations, societies, communities, assemblies, inhabitants of a district or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense, and connection in which such words are used, that such construction is intended.

**pH.** The reciprocal of the logarithm of the hydrogen ion concentration. It indicates the intensity of acidity and alkalinity on a pH scale running from 0 to 14. A pH value of 7.0, the midpoint of the scale, represents neutrality. Values above 7.0 indicate alkalinity and those below 7.0 indicate acidity.

**Pollution.** The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

**POTW.** See definition of "publicly owned treatment works" in this section.

**Pretreatment Requirement.** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, applicable to an industrial user.

**Pretreatment Standard.** See definition of "national pretreatment standard" in this section.

**Pretreatment System or Device.** Any control equipment that performs the process of pretreatment.

**Primary Treatment.** A basic form of wastewater treatment that provides for removal of generally 30 percent of the suspended solids and 30 percent of the BOD<sub>5</sub>.

**Private Sewer.** A sewer, privately owned, which is not directly controlled by the department.

**Public Sewer.** A sewer directly controlled by the department.

**Publicly Owned Treatment Works (POTW).** A treatment works as defined by § 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality (as defined by § 502(4) of the Federal Water Pollution Control Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW. The term also means the municipality as defined in § 502(4) of the Federal Water Pollution Control Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

**Relief Sewer.** A sewer constructed to relieve an existing line or lines determined to be structurally defective or inadequate and of insufficient capacity.

**SADWF.** See definition of "seasonal average dry weather flow" in this section.

**Sanitary Sewer.** A sewer the specific purpose of which is to carry only sanitary sewage.

**Seasonal Average Dry Weather Flow (SADWF).** The average daily flow during the month of maximum wastewater discharge for each seasonal discharger.

**Secondary Treatment.** An advanced form of wastewater treatment that provides for removal of 85 percent of the suspended solids and 85 percent of the BOD<sub>5</sub>, minimum.

**Self-Monitoring.** Wastewater sampling performed by an industrial user in accordance with the municipality's pretreatment program. Self-monitoring requirements will be specified in the industrial wastewater discharge permit.

**Septic Tank.** A watertight settling tank in which settled sludge is in immediate contact with the sewage flowing through the tank and the organic solids are decomposed by an aerobic bacterial action.

**Sewage.** The waterborne wastes derived from ordinary human living processes and of such character as to permit satisfactory disposal, without special treatment, into the public sewer, a private sewer, or by means of a household sewage disposal system.

**Sewage Pump Station.** Any arrangement of devices within a structure used for lifting and forcing out sewage.

**Sewage Treatment Plant.** Any arrangement of devices and structures for treating sanitary sewage and industrial wastes excluding cesspools, individual household septic tank systems, and individual household aerobic units.

**Sewer.** A pipe or conduit for carrying sewage.

**Sewer, Building or House.** That portion of a pipe or conduit carrying sanitary sewage or industrial wastes, or both, from a building to the public sewer or a common sewer.

**Sewer, Private.** A sewer, privately owned, which is not directly controlled by the department.

**Sewer, Public.** A sewer directly controlled by the department.

**Sewer System.** A system of piping, with appurtenances, for collecting and conveying sewage from source to discharge.

**Shall.** Is mandatory.

**Significant Industrial User.** Defined as:

- (1) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N; and
- (2) Any other industrial user that:
  - (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (B) Contributes to a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; and
  - (C) Is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

**Significant Noncompliance.** A significant industrial user (or any industrial user that violates 40 CFR § 403.8(f)(2)(viii)(C),(D), or (H)) is in significant noncompliance, as defined in 40 CFR § 403.8(f)(2)(viii), if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR § 403.3(l);
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by CFR § 403.3(l), multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment standard or requirement, as defined by 40 CFR 403.3(l), (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority under 40 CFR § 403.8(f)(1)(vi)(B) and § 43-1.4 to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations, which may include a violation of BMPs, that the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

**Slug.** Any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge as defined under 40 CFR § 403.8(f)(2)(vi) that has a reasonable potential to cause interference or pass-through, or in any other way violate the city's regulations, local limits, or permit conditions.

**Storm Drain.** A slotted opening leading to an underground pipe or an open ditch for carrying surface runoff.

**Storm Sewer.** A sewer that carries only stormwater.

**Stormwater.** Runoff from a storm event, and surface runoff and drainage.

**Subdivision.** A division of a piece of property into two or more lots.

**Suspended Solids.** Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids; and which are largely removable by laboratory filtering and as determined by the appropriate procedure in "Standard Methods."

**Toxic Pollutant.** Any pollutant listed as toxic under § 307(a)(1) of the Federal Water Pollution Control Act.

**Toxic Substances.** Any substance whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient quantities may tend to interfere with any sewage treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life or create a hazard to recreation in the receiving waters of the effluent from the sewage treatment plant.

**User.** An individual, establishment, or industry using any part of the public sewer.

**Waste Hauler.** Any person carrying on or engaging in any one of more of the following: the collection, vehicular transport, or disposal of wastewater.

**Wastewater.** Any liquid waste of any kind, whether treated or not, and whether animal, mineral, or vegetable, including sewage, agricultural, industrial, and thermal wastes.

**Wastewater System Facility Charge.** A fee levied against:

- (1) A new applicant for service, for the privilege of connecting its property to the city's wastewater system; and
- (2) An existing user of the city's wastewater system, for the privilege of increasing its prior use of the city's wastewater system or for any enlargement of existing structures.

**Wastewater System Facility Charge Increment.** The fee levied against the applicant who increases the applicant's entitlement. The fee is determined by subtracting the applicant's current ESDU from the applicant's future ESDU.

(Sec. 11-1.2, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 1, § 14-1.2) (Am. Ords. 90-80, 91-86, 91-93, 93-04, 93-32, 94-46, 94-73, 96-58, 01-64, 02-14, 12-7, [21-28](#))

### **§ 43-1.3 Authority of the director.**

(a) The director is authorized to administer and enforce this chapter; to conduct an industrial waste pretreatment program; to issue permits containing discharge requirements, indemnification and surety provisions and other conditions; to deny or revoke any permits, orders, or variances issued pursuant to this chapter; to adopt local limitations imposing specific discharge requirements; to enforce this chapter by any lawful means available for such purpose; to monitor and inspect any industrial user; to require industrial users to perform and submit for the director's review and approval wastestream and process environmental audits and to require industrial users to implement any objectives, including reclamation and waste minimization objectives, identified by the audits; and to adopt such orders and rules necessary to accomplish the purposes of this chapter in accordance with the requirements that have been or may be adopted by federal or State governments, including the EPA and the DOH.

The director also may monitor, inspect, and audit any business with a pretreatment device, any business using or selling cooking oil, any person removing and transporting commercial cooking oil waste or commercial FOG waste, and any recycling facility converting commercial cooking oil waste or commercial FOG waste into a marketable product.

(b) The director may require the industrial user to construct and operate additional pretreatment systems or devices to treat wastewater before discharge into the sewerage system to achieve compliance with applicable categorical pretreatment standards. New categorical industrial users shall install and operate pretreatment systems necessary to meet applicable pretreatment standards before discharge and shall comply with all applicable categorical pretreatment standards within the shortest feasible time, not to exceed 90 days. The director may require any industrial user to develop a compliance schedule containing dates for the commencement and completion of major events leading to the construction and operation of pretreatment systems or devices necessary for compliance with this chapter in the shortest time possible. No compliance schedule shall allow more than nine months from commencement of the compliance schedule to achieving a milestone compliance to full compliance. In the case of a new categorical industrial user, the final date in the compliance schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard. All proposed pretreatment systems or devices shall be subject to the review and comment of the director, but such review shall not relieve an industrial user of the responsibility for taking all steps necessary to comply with all applicable discharge limitations and standards pursuant to this chapter and other laws. All required pretreatment systems or devices shall be installed, operated, and maintained at the industrial user's expense. The director is authorized to require industrial users to promptly notify the department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the IU has submitted initial notification under 40 CFR § 403.12(p).

(c) The director may, by permit or order, require an industrial user to construct, in accordance with current city standards and at the industrial user's expense, a monitoring facility immediately downstream from pretreatment facilities. If no pretreatment facilities exist, the monitoring facility shall be constructed immediately downstream from the regulated process.

(d) Any permit may be revoked, modified, or suspended by the director, in addition to seeking injunctive relief or imposing civil penalties, or both, when such action is necessary to stop a discharge or a threatened discharge that may present a hazard to the public health, safety, welfare, natural environment, or sewerage system, to prevent or stop violations of this chapter, the industrial wastewater discharge permit and federal pretreatment standards, or to implement programs or policies required or requested of the city by appropriate State or federal regulatory agencies.

(e) The director retains the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants discharged into the city's treatment plants by industrial users where such contributions or changes do not meet applicable pretreatment standards and requirements or where such contributions would cause the city to violate the requirements of its NPDES permit.

(1990 Code, Ch. 14, Art. 1, § 14-1.3) (Added by Ord. 94-46; Am. Ords. 02-14, [21-28](#))

### **§ 43-1.4 Emergency actions.**

The director is authorized to take all necessary actions to immediately and effectively halt or prevent any discharge or threatened discharge of pollutants to the sewerage system that may pose an imminent danger to the health or welfare of persons or to the environment, or that interferes or threatens to interfere with the operations of the sewerage system. The industrial user shall immediately cease undertaking such action or discharge of any wastewater presenting such a hazard upon verbal or written notification by the director.

(1990 Code, Ch. 14, Art. 1, § 14-1.4) (Added by Ord. 94-46)

### **§ 43-1.5 Use of public sewers.**

(a) *When required.* Every lot that has sanitary facilities requiring sewage disposal that is accessible to a public sewer and is not connected shall be connected to the public sewer within 90 days after the owner or person legally responsible has been notified to do so. The director may grant an owner or person legally responsible a 30-day extension of time to connect to the public sewer upon a showing of extenuating circumstances and a good faith effort by such owner or person to make the connection. Under no circumstances shall the director grant more than three 30-day extensions of time.

(b) *Permit to connect.*

- (1) A permit to connect shall be obtained from the department before any connection or reconnection may be made to a public sewer.
- (2) The permit is issued only for the facility or improvement shown on the original plans and specifications or application.
- (3) Where any money or payment is due the department for a connection, the full amount shall be paid before the

connection is made.

- (4) The permit will be issued only after an application for a building permit has been filed.
  - (5) All connections for industrial wastewater shall require an industrial wastewater discharge permit before a permit to connect is issued.
- (c) *Where public or private sewer system is not available.* Where public or private sewers are not available or accessible, an owner may elect to construct a cesspool or septic tank or other aerobic treatment unit as defined in Hawaii Administrative Rules, Chapter 62, provided the use of such a unit meets the public health requirements of all public agencies having jurisdiction over the use of the facilities.
- (d) *Where public or private sewer is inadequate.* Where public or private sewers are inadequate to accommodate additional sewage, connection will not be permitted until the inadequacy is relieved either by the city or the applicant at the applicant's expense. For sewer lines, the relief sewer shall be constructed to the city's ultimate master plan size and location in accordance with § 43-2.1(b).
- (e) The property owner shall be responsible for maintaining the integrity of the sewer lateral line from his or her residence or building to the edge of the property line. This maintenance shall include but not limited to keeping the lateral line in such a state that there is no inflow or excessive infiltration entering the lateral line.

(Sec. 11-1.3, R.O. 1978 (1983 Ed.); Sec. 14-1.3, R.O. 1990) (1990 Code, Ch. 14, Art. 1, § 14-1.6) (Am. Ord. 94-46)

### **§ 43-1.6 Sewer extensions—Application—Payment—Specifications.**

- (a) *Application.*
  - (1) The property owner or subdivider of an unsewered area may apply for an extension. The application must be in writing. If the application is approved by the department, the department shall make an estimate of the cost and submit it to the applicant.
  - (2) The cost shall include land acquisition, engineering, and inspection.
- (b) *Payment and refund.*
  - (1) The owner or subdivider shall pay 50 percent of the cost of any portion of such extension that passes through property not owned or controlled by such person and 100 percent of the cost of any portion that passes through property owned or controlled by such person.
  - (2) Before any contract is let, the applicant shall deposit with the department a sum equal to the applicant's share of the estimated cost. In the event the sewer extension costs less than the estimate, a refund will be made to the applicant. If it costs more than the estimate, the applicant shall pay the applicant's share of the difference to the department.
- (c) *Specifications.*
  - (1) The extension of an existing public sewer, any part of which runs through property not owned or controlled, wholly or in part, by the owner or subdivider shall be constructed by the department, upon approval by the director, in accordance with HRS Chapter 103, as amended. Such extension shall extend to the proximate boundary of the land specified in the application or of land owned by the owner or subdivider and contiguous to the land specified, whichever is closer.
  - (2) The department shall construct the extension including any laterals to serve the applicant's area. The department shall determine the type, size, and location of the extension. The applicant, property owner, or subdivider shall not have any title to the extension.

(Sec. 11-1.4, R.O. 1978 (1983 Ed.); Sec. 14-1.4, R.O. 1990) (1990 Code, Ch. 14, Art. 1, § 14-1.7) (Am. Ord. 94-46)

### **§ 43-1.7 Lateral sewer construction and connection.**

- (a) *Lateral construction.* All laterals shall not have less than 6-inch inside diameter and shall be installed, when practicable, at a right angle with the sewer. Each shall end at the property line with a 6 x 4 inch or the required size reducer properly capped unless excepted in special cases by the director.
- (b) *Connection to a lateral.*
  - (1) A 4-inch or appropriate size cast iron long radius 90-degree bend shall be connected to the lateral from which shall extend the cast or schedule 40 polyvinyl chloride riser and cleanout vertically to at least 1 inch above ground except in a sidewalk and driveway area. In sidewalk and driveway areas, the cleanout shall be flush with the surface and shall be made of brass. The director may require the installation of a concrete block below the 90-degree bend in sandy or soft soil areas. No construction shall be backfilled or covered until inspected and approved by the department.

The lateral connection described in this subsection may be varied at the approval of the department to accommodate special topographic conditions. In all cases, the pipe connection to the lateral and the riser extension shall be of cast iron material.

The entire cleanout shall be installed within the property and at the expense of the property owner. In improvement district projects, the city may install all or a portion of the riser extension at city expense when directed by the director. A sewer manhole in lieu of the above cleanout shall be installed when directed by the director.

- (2) If an existing lateral connection does not include a cleanout as described above, the property owner shall have one installed within 60 calendar days after written notice has been given the owner by the director.
  - (3) Special control structures and other appurtenances shall be constructed by the applicant when required by the director.
- (c) *Lateral installation charges.* An applicant for lateral sewer installation shall pay for installation charges in accordance with the schedule of charges in § 43-3.2.

(Sec. 11-1.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Sec. 14-1.5, R.O. 1990) (1990 Code, Ch. 14, Art. 1, § 14-1.8) (Am. Ords. 90-50, 94-46)

## **§ 43-1.8 Use of public sewers—Restrictions—Violations.**

- (a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, or any other source of inflow into any public sewer or any private sewer that is connected to the public sewer. However, the director may approve discharges of any nature or origin from public projects into the public sewer or any private sewer, which is connected to the public sewer.
- (b) No person shall enter, obstruct, uncover, or tamper with any portion of the public sewer, or connect to it, or discharge any wastewater or any other substance directly into a manhole or other opening in the public wastewater system other than in accordance with requirements established by Articles 1 through 10 and through service sewers approved by the director, except that the director may grant permission and establish requirements and policies for such direct discharge.

This subsection, however, shall not authorize the director to approve the discharge of any commercial cooking oil waste or commercial FOG waste into the public sewer system.

- (c) No person or party shall remove or demolish any building or structures with plumbing fixtures connected directly or indirectly to the public sewer without first notifying the department of the intention to do so. All openings, in or leading to the public sewer line or lines caused by such work, shall be sealed watertight.
- (d) No person shall fill or backfill over, or cause to be covered or obstruct access to, any sewer manhole.
- (e) No person shall erect any improvements, including but not limited to foundations, structures, or buildings over public sewers without the written permission of the director of planning and permitting.
- (f) The general and specific prohibitions set forth by the federal regulations at 40 CFR § 403.5 are incorporated into this chapter by reference.
- (g) No person shall discharge or cause to be discharged any of the following into any public sewer or any private sewer that is connected to a public sewer:
- (1) Any pollutant that may cause obstruction, upset, pass through, or interference with the operation of the POTW or may impact public health or the environment;
  - (2) Pollutants that may create a fire or explosion hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR § 261.21. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system be over 5 percent, nor shall any single reading be over 10 percent of the lower explosive limit of the meter;
  - (3) Pollutants that cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5 or higher than 11.0, unless the POTW is specifically designed to accommodate such discharges;
  - (4) Solid or viscous pollutants in amounts that may cause obstruction to the flow in the POTW resulting in interference;
  - (5) Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate or pollutant concentration, or both, that may cause pass through or interference in the POTW;
  - (6) Heat in the amounts that may inhibit biological activity in the POTW resulting in interference, but in no case shall heat be permitted in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit);
  - (7) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - (8) Any trucked or hauled pollutants, except those allowed by permit at discharge points designated by the director;
  - (9) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, paper ware (either whole or ground), or any other solid or viscous substances, or normally dry solid wastes capable of causing obstruction to the flow in or damage to sewers or other interference with the proper operation of the wastewater works;
  - (10) Any wastewater containing toxic pollutants such as herbicides and insecticides, in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the POTW. A toxic pollutant shall include but is not limited to any pollutant identified pursuant to § 307(a) of the Federal Water Pollution Control Act, as amended;
  - (11) Any unusual volume of flow or concentration of wastewater constituting "slugs," as defined in §43-1.2, without notification to the POTW;
  - (12) Water or wastes that have been contaminated by radioactive materials;
  - (13) Water added for the purpose of diluting wastewater, which would otherwise exceed applicable maximum concentration limitations set by the POTW or the federal categorical pretreatment standards;
  - (14) Water or wastewater that violates the local limits developed by the city;
  - (15) Wastewater with concentrations exceeding national categorical pretreatment standards adopted by the U.S. Environmental Protection Agency in accordance with § 307(b) and (c) of the Federal Water Pollution Control Act, as amended. The national categorical pretreatment standards in 40 CFR Chapter I, Subchapter N, Parts 405 through 471, are incorporated into this section. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in Articles 1 through 10 and, if more stringent than limitations imposed under this section, shall immediately supersede the limitations imposed under this section;
  - (16) Any substance that may cause a city wastewater treatment plant's effluent or any other products thereof, such as residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to a city wastewater treatment plant cause it to be in noncompliance with sludge use or the disposal criteria, guidelines, or regulations developed under § 405 of the Federal Water Pollution Control Act (P.L. 92-500), as amended; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste

Disposal Act, the Clean Air Act, or the Toxic Substances Control Act; or State criteria applicable to the sludge management method being used;

(17) Any substance that may cause the city's wastewater treatment plant to violate its national pollutant discharge elimination system permit or State water quality standards;

(18) Any wastewater with an animal/vegetable fat, oil, and grease (FOG) content having detrimental characteristics so as to cause obstruction, upset, interference, or pass through in the POTW, or result in adverse impact on public health or the environment; and

(19) Any wastewater with petroleum hydrocarbon concentration greater than 100 mg/L or having detrimental characteristics so as to cause obstructions, upset, interference, or pass through in the POTW, or result in an adverse impact on the public health or the environment.

(h) A pretreatment device shall be required when deemed necessary by the director for users that may discharge any pollutant/indirect discharge, including but not limited to fats, oils, and grease of animal, fish, marine mammal, or vegetable origin, into any public sewer or any private sewer that is connected to a public sewer.

(1) All pretreatment devices shall be designed, sized, constructed, installed, and maintained such that they comply with:

(A) All applicable federal, State, and local discharge limits; and

(B) All department policies and rules, as amended.

(2) All pretreatment devices shall be maintained in efficient operation at all times by the owner at the owner's expense. The maintenance frequency shall be determined by the director and shall be based on department policies or rules. In cases where there are no department policies or rules, the frequency of maintenance for a pretreatment device shall be established by the recommendation of the manufacturer of the pretreatment device. In maintaining these pretreatment devices, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates, amounts, and means of disposal, all of which shall be subject to review by the director.

(i) Where preliminary treatment facilities are provided for any wastewater as a condition of its acceptance, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(j) When required by the director, the owner of any property served by a building sewer carrying industrial wastewater shall install monitoring and recording equipment, and a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such manhole shall be readily accessible and safely located, and shall be constructed in accordance with plans approved by the director. If applicable, the manhole shall be designated in the industrial user's wastewater discharge permit as its approved sampling location. The manhole shall be installed and maintained by the owner at the owner's expense.

(k) All pretreatment program monitoring activities discussed in Articles 1 through 10 shall be conducted in accordance with the methods and procedures in 40 CFR Part 136, as amended, and shall be made at the sampling location identified in the industrial wastewater discharge permit.

(l) Dilution is prohibited as a substitute for treatment. Except where expressly authorized by the director to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, or in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The director may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

(m) Any discharge that would be considered a hazardous waste, as defined by any one or more of the following: the State or federal laws or regulations, shall be prohibited from the sewer system.

(n) In addition to complying with Articles 1 through 10, all industrial users shall comply with all applicable requirements set forth in federal categorical pretreatment standards and other applicable federal regulatory standards, applicable State orders and water quality control regulations, wastewater discharge permits and orders issued to the city by federal and State agencies, federal and State pretreatment program approval conditions, local discharge limitations and rules adopted by and regulations adopted by the director and the city, and any other applicable requirement regulating the discharge of wastewater into the wastewater system. The director is authorized to develop and enforce such local limitations as the director deems necessary for the city's compliance with State and federal laws and requirements and the enforcement of Articles 1 through 10.

(1990 Code, Ch. 14, Art. 1, § 14-1.9) (Added by Ord. 94-46; Am. Ords. 94-73, 01-64, 02-14; [21-28](#))

### **§ 43-1.9 Right of entry and inspection.**

(a) *Existing systems.* The department may, during reasonable hours and upon notification to the person with a right to possession, enter any building or premises in the discharge of its official duties to examine or copy records or inspect, investigate, measure, or test the wastes discharged or the private sewer connected, directly or indirectly, to the public system as per 40 CFR § 403.12(o) and to use existing sewer lateral cleanouts for the purpose of inspecting, maintaining, or cleaning blockages in the public sewer system.

(b) *Inspection of construction of sewer system works.*

(1) During the construction of all sewer system works, including private sewers that directly or indirectly connect to the public system, the city shall have access thereto for inspection purposes and if considered advisable by the director, may require an inspector on the job continuously. At no time shall sewers be backfilled or covered until the department has been notified and has given proper inspection and approval. If the work is not approved, it shall be repaired or removed and reconstructed, whichever is directed by the director.

(2) All costs of inspection and testing shall be borne by the owner or subdivider.

(c) *Premises of industrial users.*

(1) Upon showing proper credentials, persons authorized by the director or persons authorized by EPA or DOH, when necessary for the performance of their duties, shall have the right to enter the industrial user's premises during scheduled,

unscheduled, announced, or unannounced inspections. Such authorized personnel shall have access to any facilities and records necessary for determining compliance, including but not limited to the ability to copy any records, inspect any monitoring equipment, and sample any wastewater subject to regulation under this chapter. Notwithstanding any provision of law, persons authorized by the director may enter an industrial user's premises at any time if the director determines that an imminent hazard to persons or property exists on or as a result of activities conducted on the industrial user's premises.

(2) The director may inspect the process areas of an industrial user, inspect chemical and waste storage areas, and inspect, sample, and monitor wastewater production activities to determine compliance with the provisions herein and any permit or order issued herein. Inspections may include but are not limited to visual observations of the pretreatment and monitoring facilities, review of the measures undertaken by the industrial user to minimize risks for slug discharges, spills, and discharges that would violate any limitations and specific prohibitions, and inspections of any hazardous waste storage areas.

(3) Persons authorized by the director, EPA or DOH may witness any sampling or sampling procedures required of any industrial user as part of a self-monitoring program or an industrial wastewater discharge permit.

(Sec. 11-1.7, R.O. 1978 (1987 Supp. to 1983 Ed.); Sec. 14-1.7, R.O. 1990) (1990 Code, Ch. 14, Art. 1, § 14-1.10) (Am. Ords. 93-04, 94-46)

### **§ 43-1.10 Recordkeeping.**

All industrial users subject to the reporting requirements of 40 CFR § 403.12 shall maintain and retain, and make available for inspection and copying by EPA, DOH, or city officials, personnel, or their agents, all records, and information required to be retained herein. All records relating to compliance with pretreatment requirements and standards shall be retained by industrial users for a minimum of three years from the date of any investigation or enforcement action undertaken by EPA, DOH, or the city. This period shall be automatically extended for the duration of any litigation concerning compliance with applicable laws.

(1990 Code, Ch. 14, Art. 1, § 14-1.11) (Added by Ord. 94-46)

## **ARTICLE 2: SEWER SYSTEM FOR NEW SUBDIVISION**

### Sections

- 43-2.1 Generally
- 43-2.2 Temporary treatment plants—Pumping stations
- 43-2.3 Construction costs

### **§ 43-2.1 Generally.**

(a) *Connection to public sewers.* In every subdivision where connection to a public sewer system is practicable and reasonable, or where temporary sewage treatment and disposal facilities have been approved by all authorities having jurisdiction, the subdivider shall install a complete sewer system connected to the public sewer or temporary sewage treatment and disposal facility, unless such subdivision is for agricultural purposes where the lots are 2 acres or larger in size and the soil is deemed suitable and adequate for an acceptable private sewage disposal system.

(b) *Specifications.*

- (1) The sewer system shall be of the type and size and at the locations approved by the director; provided that these shall not be contrary to the locations fixed for utilities by the city general plan or for sewer system facilities by the department of environmental services master plans.
- (2) The sewer system shall be constructed in accordance with the current standards and specifications of the city. Before the construction of a sewer is commenced, the construction plan therefor shall be approved by the director and by the State department of health pursuant to HRS Chapter 342D, Part III.
- (3) A lateral shall be provided to service each lot.

(c) *Title to city.*

- (1) Upon completion of the construction of the subdivision sewer system and any other related new construction and approval of the construction by the department, the subdivider or developer shall convey title of the sewer system to the city for use of the department if required by the director.
- (2) Before acceptance of the sewer system by the department, the subdivider shall convey easements covering those portions of the sewer system installed in privately owned areas and shall convey to the city, for the use of the department, fee simple title to all sites on which are located pump stations or treatment plants constructed by the subdivider or developer as part of the public sewer system.

(Sec. 11-2.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 2, § 14-2.1) (Am. Ord. 93-32)

### **§ 43-2.2 Temporary treatment plants—Pumping stations.**

(a) *Specifications.* Where connection to a public sewer is not available, the subdivider may construct temporary treatment and disposal facilities or where gravity service to the public sewer is not possible, the subdivider may construct a temporary pump station; provided that the sewer system, including the temporary treatment plant with pertinent structures, shall be constructed in accordance with the standards and specifications of the department, or other agency having jurisdiction or other standards or requirements as may be established by the director; and provided further, that prior written approval of the director has been obtained as to the necessity for such plant or station.

(b) *Title.*

- (1) The subdivider shall convey the title to the treatment plant or the pump station including the site, in fee to the city for the use of the department, except as provided herein. Acceptance of title and possession to either the plant or station reserves for the department the right to admit sewage or wastewater to either facility from other areas provided that the needs of the subdivider are met for a stipulated period as mutually agreed upon before date of conveyance. Title shall revert to the grantor

or the grantor's successors or assigns in the event the director finds the plant or the station is no longer needed.

(2) In remote areas where the treatment plant or pump station serves less than 40 lots, or any area where it serves less than 10 lots, the director may require the facility to be owned and maintained as a private system at the owner's or subdivider's expense.

(Sec. 11-2.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 2, § 14-2.2)

### **§ 43-2.3 Construction costs.**

(a) *General.* Except as otherwise provided herein or by statute, the entire cost of installation of sewer system works within a subdivision and for any new construction required for connection to the public sewers shall be borne by the subdivider or developer.

(b) *Temporary treatment plant and temporary or permanent pump station.* The entire cost of constructing a temporary treatment plant or a temporary or permanent pump station shall be borne by the subdivider or developer.

(c) *Oversize facilities.*

(1) Whenever the director finds that good planning and engineering practice require sewer system works of greater capacity or greater depth than required to serve a subdivision, the director shall require the provisions thereof.

(2) Whenever the director requires a subdivider to install a treatment plant or pump station with pertinent structures or other sewer system works or sewer lines with an inside diameter of more than 8 inches, which are, in either case, of greater capacity or at greater depth than is necessary to serve the subdivision or other land under the same ownership, which is hereinafter referred to as the "initial subdivider's area," the department shall install or provide for the installation of the same in accordance with HRS Chapter 103. Before any contract is let, the subdivider shall pay the department an amount equivalent to the cost of construction of the facilities adequate to serve the "initial subdivider's area," as determined by the director.

(Sec. 11-2.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 2, § 14-2.3)

## **ARTICLE 3: SEWER SYSTEM FOR OTHER THAN IN NEW SUBDIVISIONS**

### Sections

43-3.1 Connections within improvement districts

43-3.2 Installation charges

### **§ 43-3.1 Connections within improvement districts.**

(a) No lateral installation charge shall be made for one or more original laterals to an original lot that is being or has been assessed in accordance with the improvement district ordinance, unless this lot has later been rezoned for higher usage and the owner desires an additional lateral or the lot is required to be served by a relief sewer, which has been or will be constructed to relieve an inadequate existing sewer.

(b) No lateral installation charge shall be made for one or more original laterals to a property within an improvement district when the property is served by an existing properly functioning individual wastewater disposal system, other than a cesspool, permitted by the DOH and constructed pursuant to § 43-1.5(c); provided that if the owner or person legally responsible subsequently wishes to connect to the sanitary sewer system, the owner or person legally responsible shall be required to pay the lateral installation charge.

If a property within an improvement district served by an existing properly functioning individual wastewater disposal system, other than a cesspool, permitted by the DOH and constructed pursuant to § 43-1.5(c) is required to connect to the public sewer system, then the owner or person legally responsible shall not be required to pay the lateral installation charge for a period of 25 years following connection to the public sewer system; provided that if such property is sold or otherwise transferred, except for a transfer due to the death of the property owner, prior to the end of the 25-year period, then the owner of the property, or person legally responsible, following such sale or other transfer shall be required to pay the lateral installation charge immediately following such sale or other transfer.

(Sec. 11-3.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 3, § 14-3.1) (Am. Ord. [20-36](#))

### **§ 43-3.2 Installation charges.**

(a) *Charge.*

(1) *For unsewered properties.* An applicant for sewer service for an unsewered property shall pay the following assessment per square foot of specially benefited area:

- (A) Residential zoned areas: 16 cents psf;
- (B) Business and industrial zoned areas: 20 cents psf; and
- (C) Hotel and apartment zoned areas: 24 cents psf

The benefited area shall be determined by the department.

Upon approval of the application by the department and payment of assessment charge by the applicant, the department will construct the sewer to the property line as soon as possible.

(2) *For sewered properties rezoned to higher use.* For properties with an existing sewer lateral that have been rezoned to higher use after the existing sewer service was provided; and the property is required to be served by a relief sewer that has been or will be constructed to relieve the inadequate existing sewer; shall pay the difference between the rates per square foot of that zoned to higher use and that zoned from, specified in subsection (a)(1).

(b) *Special conditions.*

(1) No charge will be made for replacements of lateral sewer installations because of normal deterioration.

(2) Charges for construction of an additional lateral shall be the actual total cost of the installations, including overhead costs.

(3) A charge shall be made for a lateral sewer that has already been constructed for which no assessment or installation charge has been paid. The charge shall be as specified in subsection (a)(1).

(Sec. 11-3.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 3, § 14-3.2)

## **ARTICLE 4: PRIVATE SEWER SYSTEM**

Sections

43-4.1 Building or house sewers

43-4.2 Treatment plant—Pumping stations

### **§ 43-4.1 Building or house sewers.**

(a) *Inspection after connection.* Existing private sewers connected to the public system may be inspected and tested for excessive infiltration whenever deemed necessary by the director. If the rate of infiltration is excessive, the owner, when informed by the director, shall effect approved remedial measures within 30 days. Infiltration in excess of 500 gallons per day per inch of diameter of pipe per mile of pipe shall be considered excessive. The cost of inspection after corrective action has been completed shall be paid by the owner.

(b) *Restrictions.* All private sewers connected to the public systems shall be governed by § 43-1.6.

(Sec. 11-4.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 4, § 14-4.1)

### **§ 43-4.2 Treatment plant—Pumping stations.**

(a) *Existing.* The department may agree to operate and maintain existing treatment plants and pump stations if these facilities are upgraded to conform with standards to be established by the director pursuant to subsection (c), and title is conveyed to the city. Title shall revert to the grantor or the grantor's successors or assigns in the event the director finds the plant or the station is no longer needed.

(b) *New.* Provisions contained in § 14-2.2 are also applicable to new private treatment plants and pump stations.

(c) The director is authorized to prescribe and enforce rules to carry out this section by establishing procedures and standards for city acceptance of private treatment plants and pump stations.

(Sec. 11-4.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 4, § 14-4.2)

## **ARTICLE 5: INDUSTRIAL WASTEWATERS**

Sections

43-5.1 Industrial wastewater discharge permit—Violations

43-5.2 Permit application

43-5.3 Change of permit restrictions

43-5.4 Permit suspension

43-5.5 Permit revocation

43-5.6 Industrial wastewater discharge permit revocation or suspension

43-5.7 Wastewater discharge permit modification

43-5.8 Issuance and reissuance of wastewater discharge permit

43-5.9 Transfer of wastewater discharge permit

43-5.10 Compliance schedules

43-5.11 Sampling, analyses, flow measurements, and reporting requirements

43-5.12 Pretreatment of industrial wastewaters

43-5.13 Liability for damage

43-5.14 Trade secrets

43-5.15 Administrative enforcement

43-5.16 Judicial enforcement of order

43-5.17 Enforcement orders

43-5.18 Appeals

43-5.19 Violation provisions

43-5.20 Injunctive relief

43-5.21 Nonliability of department personnel

### **§ 43-5.1 Industrial wastewater discharge permit—Violations.**

(a) No person shall discharge or cause to be discharged any industrial wastewater into the public sewers or into any private sewer that discharges to the public sewers, without first applying for and obtaining an industrial wastewater discharge permit. Industrial

wastewater discharge permits shall meet the following requirements or include the following provisions:

- (1) Permits shall be issued by the director for a specified time period, not to exceed five years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date as determined by the director;
  - (2) No permit shall be transferable without the prior written consent of the director and provision of a copy of the existing permit to the new owner or operator;
  - (3) Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law;
  - (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable pretreatment standards, categorical pretreatment standards, local limits and State and local law;
  - (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules shall not extend the compliance date beyond applicable federal deadlines;
  - (6) A statement requiring the notification of a hazardous wastewater discharge in accordance with §43-5.12(f);
  - (7) Recordkeeping requirements as detailed in §43-1.10; and
  - (8) Permittees shall provide the director with written notification upon the discontinuance of their business operations.
- (b) This permit may require pretreatment of industrial wastewater before discharge, compliance with a schedule containing commencement and completion dates of events leading to the construction and operation of pretreatment systems, restriction of peak flow discharges, discharge of certain wastewater only to specified sewers, relocation of point of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, self-monitoring programs and submission of self-monitoring reports and may include other conditions deemed appropriate by the director to ensure compliance with Articles 1 through 10 of this chapter, and federal and State laws.
- (c) No person shall discharge industrial wastewater in excess of the quantity or quality limitations set by the industrial wastewater discharge permit. Any person desiring to discharge wastewater that is not or use facilities that are not in conformance with the permit shall apply to the department for an amended permit.
- (d) All self-monitoring submittals required by the permit, and reports filed with the director shall comply with §43-5.11(a)(3).
- (e) Industrial users subject to categorical pretreatment standards shall submit baseline monitoring reports. The baseline monitoring report requirements for industrial users in 40 CFR § 403.12(b), as further detailed in §§ 43-5.8 and 43-5.11(b) and (c), are incorporated into this section. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in Articles 1 through 10.
- (f) All waste haulers shall apply for and obtain an industrial wastewater discharge permit.
- (g) With the exception of those industrial users defined by federal regulations as significant industrial users (categorical industrial users), the director may exempt certain industrial users or waste haulers from the requirement to obtain an industrial wastewater discharge permit if the quantity or quality, or both, of the wastewater, or hauled wastewater is deemed to be unlikely to cause obstructions, upset, interference, or pass through in the POTW or result in an adverse impact on public health or the environment.
- (h) Bypass is prohibited, and the director may take enforcement action against an industrial user for a bypass, unless:
- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass occurring during normal periods of equipment downtime or preventative maintenance; and
  - (3) The industrial user submitted notices as required under paragraph (c) of Section 40 CFR § 403.17.
- (i) *Bypass notice.* If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the director, if possible at least 10 days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the director within 24 hours from when the industrial user becomes aware of the bypass. A written submission shall also be provided by the industrial user within five days of the bypass. The written submission shall contain:
- (1) A description of the bypass and its cause;
  - (2) The duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and
  - (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
- The director may waive the requirement for a written report, on a case-by-case basis, if the oral report has been received within 24 hours.
- (j) All industrial users shall promptly notify the director in advance of any substantial change in the volume or character of pollutants in their discharge.

(Sec. 11-5.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 5, § 14-5.1) (Am. Ords. 91-93, 94-46, 01-64, [21-28](#))

## § 43-5.2 Permit application.

In support of the permit application, an industrial user shall submit, in units and terms appropriate for evaluation, all information as required by the director to evaluate the permit application. This information shall include, but not be limited to: industrial process identification; flow rates; wastestream constituents and characteristics; time and duration of discharge; peak discharge amounts; locations of all discharge points; pretreatment facilities; sampling and monitoring equipment and points; description of activities, facilities, and plant

processes, including raw materials, processes and types of materials that are or could be produced; number of employees; site diagrams; and flow schematics. Specific information required for application evaluation will be identified in the permit application package. A statement shall be included, which describes possible subcategories that may be applicable, supporting evidence for applicability of each subcategory and certification of factual information. After evaluation of the information submitted, the director shall determine if an industrial wastewater discharge permit is required. If the director so determines, a permit may be issued subject to the terms and conditions provided in this chapter.

(1990 Code, Ch. 14, Art. 5, § 14-5.2) (Added by Ord. 94-46)

### **§ 43-5.3 Change of permit restrictions.**

The department may change the restrictions and conditions of a permit from time to time as provided in this article or as required by law. An industrial user shall be allowed a reasonable period of time as determined by the director to comply with any permit modifications.

(Sec. 11-5.2, R.O. 1978 (1983 Ed.); Sec. 14-5.2, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.3) (Am. Ord. 94-46)

### **§ 43-5.4 Permit suspension.**

- (a) The director may suspend a permit as provided in this article or by law for a period not to exceed 45 calendar days when such suspension is necessary to stop a discharge which presents an immediate hazard or threat to the public health, safety, or welfare, to the environment, to the public sewer system, or to those employed by the city.
- (b) Any industrial user notified of a suspension of such person's permit shall immediately cease and desist in the discharge of all industrial wastewater to the sewer system. In the event of a failure of the industrial user to comply voluntarily with the suspension order, the director shall take such steps as necessary to insure compliance or invoke penalties as provided in this chapter.
- (c) The director may reinstate the permit upon proof of satisfactory compliance with all discharge requirements of the department.
- (d) This provision does not preclude a person's right to appeal the director's order as provided herein and by the department's rules.
- (e) The director's order is not stayed pending any appeal.

(Sec. 11-5.3, R.O. 1978 (1983 Ed.); Sec. 14-5.3, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.4) (Am. Ord. 94-46)

### **§ 43-5.5 Permit revocation.**

- (a) The director may order a permit revoked as provided in this chapter or by law or upon a finding that the industrial user has violated this chapter, or of applicable laws or regulations.
- (b) An industrial user whose permit has been revoked shall immediately stop all discharges of any liquid-carried wastes covered by the permit to the sewer system. The director may disconnect or permanently block from the sewer system the industrial sewer connection of any industrial user whose permit has been revoked if such action is deemed necessary by the director to ensure compliance with the revocation order or if the director deems that there is an immediate hazard or threat to the public health, safety or welfare, to the environment, to the public sewer system, or to persons employed by the city.
- (c) An industrial user whose permit has been revoked shall apply for a new permit and pay all delinquent fees, charges, penalties, and such other sums as may be due to the department. Costs incurred by the department in revoking the prior issued permit and disconnecting the industrial sewer connection shall be paid by the industrial user before issuance of a new permit.
- (d) This provision does not preclude a person's right to appeal the director's order as provided herein and by the department's rules.
- (e) The director's order is not stayed pending any appeal.

(Sec. 11-5.4, R.O. 1978 (1983 Ed.); Sec. 14-5.4, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.5) (Am. Ord. 94-46)

### **§ 43-5.6 Industrial wastewater discharge permit revocation or suspension.**

Wastewater discharge permits may be revoked or suspended based on violations of this chapter, laws, rules, or any final judicial order, including but not limited to the following reasons:

- (1) Failure to provide notification to the director of changed ownership or operations pursuant to this article;
- (2) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (3) Falsifying self-monitoring reports or late submittal of reports;
- (4) Failure to factually report the wastewater constituents and characteristics of its discharge;
- (5) Tampering or actions which disrupt the proper functioning of monitoring equipment;
- (6) Refusing to allow the city timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of the permitted facility;
- (13) Nonuse or cessation of operations;
- (14) Failure to notify the director immediately of all discharges that could cause problems to the POTW and collection system, including slug discharges and specific prohibitions, as defined by § 43-1.8 and by 40 CFR § 403.5(b); or

(15) Any discharge that is in violation of any one or more of the following: any applicable city, State, or federal laws and requirements or results in any enforcement action by the city, EPA, or DOH.

(1990 Code, Ch. 14, Art. 5, § 14-5.6) (Added by Ord. 94-46)

### **§ 43-5.7 Wastewater discharge permit modification.**

- (a) The director may modify the wastewater discharge permit for good cause, including but not limited to the following:
- (1) To incorporate any new or revised federal, State, or local pretreatment standards or requirements;
  - (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
  - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - (4) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
  - (5) Violation of any terms or conditions of the wastewater discharge permit;
  - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR § 403.13;
  - (8) To correct typographical or other errors in the wastewater discharge permit; or
  - (9) To reflect a transfer of the facility ownership or operation, or both, to a new owner/operator in accordance with this section.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(b) It is declared a policy of this chapter that any user of the POTW who violates any provision herein shall have the user's wastewater discharge permit suspended or revoked, and, upon due process, be disconnected from the water system or have the sewer connection severed, or both.

- (1) The procedures for water service disconnection shall be in accordance with the above provisions, and severance of sewer connection shall be in accordance with guidelines established by the director.
- (2) If a user violates the discharge prohibitions of this chapter and does not comply with the order issued by the director, then a notice of termination shall be forwarded by registered mail, return receipt requested, certified mail, or personal service, to any one or more of the following: an authorized representative of an industry, or the occupant or owner of record of the property.
- (3) The director shall reinstate water service and approve reconnection to the city's sewer system upon proof of the elimination of the noncomplying discharge.

Whenever the director finds that a discharge of wastewater produces an imminent hazard to public health or safety or endangers public or private property, the director shall act immediately to suspend water service or sever all pertinent connections to the sewer or both, without giving advance notice or warning to the persons.

(1990 Code, Ch. 14, Art. 5, § 14-5.7) (Added by Ord. 94-46)

### **§ 43-5.8 Issuance and reissuance of wastewater discharge permit.**

First time issuance. Categorical Industrial Users shall apply for an industrial wastewater discharge permit for a first-time issuance no less than 180 days prior to commencement of operations by submitting to the department a complete industrial wastewater discharge permit application to include a baseline monitoring report, as follows:

- (1) Existing categorical industrial users currently discharging to or scheduled to discharge to the city shall submit to the director a report that contains the information listed in 40 CFR § 403.12(b)(1) through (b)(7) within 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR § 403.6(a)(4), whichever is later.
- (2) New sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard shall, at least 90 days prior to commencement of their discharge, submit to the director a report that contains the information listed in 40 CFR § 403.12(b)(1) through (b)(5). A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(1990 Code, Ch. 14, Art. 5, § 14-5.8) (Added by Ord. 94-46; Am. Ord. [21-28](#))

### **§ 43-5.9 Transfer of wastewater discharge permit.**

If a change in ownership or operations would affect the nature or characteristics of the wastewater discharged, the permittee shall provide, within 20 days of the change, written notice of the change to the director. If applicable, a new permit will be issued to reflect the change.

(1990 Code, Ch. 14, Art. 5, § 14-5.9) (Added by Ord. 94-46)

### **§ 43-5.10 Compliance schedules.**

- (a) *Compliance schedule progress report.* The conditions herein shall apply to any compliance schedule required by the director. The schedule shall set forth progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for

major components, commencing and completing construction, and beginning and conducting routine operations). No increment set forth herein shall exceed nine months. The industrial user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with steps being taken by the industrial user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the director.

(b) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the director a report containing the measurement of flow and pollutant and certification of pretreatment standards being consistently met. If pretreatment standards are not being met consistently, a description of additional operation and maintenance requirements or pretreatment shall be included in the report. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR § 403.6(c), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports shall be signed and certified in accordance with § 43-5.11(c).

(c) *Periodic compliance reports.*

(1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the director, but in no case less than twice a year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge, which are limited by such pretreatment standards, and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified in accordance with § 43-5.11(c).

(2) All wastewater samples shall be representative of the industrial user's daily operations and discharge as described in the permit issued to the user. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure to keep the monitoring facility in good working order shall not be grounds for the user to claim that sample results do not properly report the discharge constituents and characteristics.

(3) If an industrial user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in § 43-5.11, the results of this monitoring shall be included in the report.

(1990 Code, Ch. 14, Art. 5, § 14-5.10) (Added by Ord. 94-46)

### **§ 43-5.11 Sampling, analyses, flow measurements, and reporting requirements.**

(a) The city may require an industrial user to monitor its discharge into the sewerage system and report the results of the monitoring to the department periodically. These specific monitoring and reporting requirements shall be listed in the industrial wastewater discharge permit. The director, or the director's agent, may require additional monitoring and reporting to document compliance with pretreatment requirements.

(1) *Sampling.* The industrial user shall sample its discharge into the sewerage system at a frequency provided in the industrial wastewater discharge permit or as deemed reasonable and necessary by the director to demonstrate compliance. The director, at the director's discretion, may require nonpermitted industrial users to conduct sampling and analysis. If sampling indicates a violation, the industrial user shall notify the director within 24 hours of becoming aware of the violation and resample within five working days. The results of the resampling shall be submitted to the director within 30 days.

(2) *Analytical procedures.* All samples shall be taken, preserved, and analyzed in accordance with the procedures outlined in 40 CFR Part 136 (guidelines establishing test procedures for the analysis of pollutants). Where no test procedure is specified by federal regulations, the procedure shall be one that is approved by EPA, or, if there is no EPA-approved procedure, by the city. Unless approved otherwise by the director, all analysis for the specific pollutants and matrix shall be performed by a laboratory certified by DOH.

(3) *Sampling records.* For each sampling event, an industrial user shall record and maintain, in accordance with 40 CFR § 403.12(o)(i) through (o)(v), the following information:

- (A) Date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (B) Sample preservation used;
- (C) Dates analyses were performed;
- (D) Chain-of-custody of samples;
- (E) Names of those who performed the analyses;
- (F) Analytical techniques and methods used;
- (G) Results of such analyses; and
- (H) Any unusual observations or conditions (equipment sample) noted during acquisition or analysis.

(b) Baseline monitoring reports, reports on compliance with categorical standards, and periodic reports on continued compliance shall contain a statement, reviewed by an authorized representative of the industrial user, as defined in § 43-1.2, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment, or both, are required for the industrial user to meet the pretreatment standards and requirements.

(c) Any authorized representative of the industrial user, as defined in § 43-1.2, signing an application statement or report submitted pursuant to this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of

the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Sec. 11-5.5, R.O. 1978 (1983 Ed.); Sec. 14-5.5, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.11) (Am. Ords. 91-93, 94-46, [21-28](#))

### **§ 43-5.12 Pretreatment of industrial wastewaters.**

- (a) The director may require an industrial wastewater pretreatment system or device to treat industrial wastewater, in complying with pretreatment requirements, before discharge into the sewerage system. This may be necessary to restrict or prevent the discharge of certain wastewater constituents, to distribute more equally over a longer time period of any peak discharges, or to achieve any pretreatment result required by the director.
- (b) All pretreatment systems or devices shall be approved by the director but such approval shall not absolve the industrial user of the responsibility of meeting any industrial effluent limitation required by the department.
- (c) The city shall annually publish in the largest daily newspaper a list of industrial users who were in significant noncompliance with applicable pretreatment requirements as defined in § 43-1.2 during the previous 12 months.
- (d) *Slug control plan.* Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
- (1) A description of discharge practices, including non-routine batch discharges;
  - (2) A description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR § 403.5(b) with procedures for follow-up written notification within five days; and
  - (4) If necessary, procedures to prevent any adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
- (e) Dilution is prohibited as a substitute for pretreatment as stated in §43-1.8(m).
- (f) If hazardous waste is discharged into the sewer system, the industrial user shall notify, in writing, the director, DOH, and EPA. Notification shall include but is not limited to the name of the hazardous waste, as set forth in 40 CFR Part 261; EPA hazardous waste number; and the type of discharge (continuous, batch, or other).

(Sec. 11-5.6, R.O. 1978 (1983 Ed.); Sec. 14-5.6, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.12) (Am. Ords. 91-93, 94-46, 96-58, [21-28](#))

### **§ 43-5.13 Liability for damage.**

- (a) Any industrial wastewater user who discharges or causes a discharge in violation of this chapter or as prohibited by law and regulations that damages the sewer system resulting in costs to the department shall be liable to the department for all such costs incurred thereby, including but not limited to attorney fees.
- (b) Any person, whether or not doing work for the city or work on a city project, shall provide notice to DOH and the city in accordance with city, State, and federal laws and regulations of any leak, spill, or release of sewage from the city's sewer system caused by the person, its agents, or its employees. This notice shall be provided as soon as the person becomes aware of the leak, spill, or release of sewage from the city's sewer system as a result of the work of the person, its agents or its employees. The person shall also be liable to the department for all fines incurred including but not limited to attorney fees, in the event any monetary fines are levied against the city.

(Sec. 11-5.7, R.O. 1978 (1983 Ed.); Sec. 14-5.7, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.13) (Am. Ords. 94-46, 94-73)

### **§ 43-5.14 Trade secrets.**

- (a) With respect to trade secrets, it is determined that the public interest served by not making the records public clearly outweighs the public interest served by the disclosure of the records. Accordingly, any trade secrets acquired by the department in the course of implementation or enforcement of this chapter shall be confidential information and shall not be made public, except to that extent necessary to enforce this chapter. Effluent data, however, are not confidential information and shall always be made available to the public.
- (b) Whenever the director makes a written request or issues an order for an industrial user to furnish information, the request or order may contain, in addition to the required information, the following:
- (1) That the industrial user may assert a confidential claim, including but not limited to a trade secret claim covering specified information; and
  - (2) That if no such claim accompanies the information received by the director, the industrial user is deemed to have waived all confidential claims that may exist, and the information may be made available to the public without further notice to the industrial user.
- (c) For purposes of this section in determining confidential information, the director shall determine whether the information is entitled by statute, judicial order, or law to the confidential treatment as claimed by the industrial user. In the absence of such finding, the director shall make the information available for public disclosure.

(Sec. 11-5.8, R.O. 1978 (1983 Ed.); Sec. 14-5.8, R.O. 1990) (1990 Code, Ch. 14, Art. 5, § 14-5.14) (Am. Ords. 91-93, 94-46)

### **§ 43-5.15 Administrative enforcement.**

- (a) If the director determines that any industrial user is violating this chapter, any rule adopted thereunder, or any permit issued pursuant thereto, the director may have the user served by personal service, by registered or certified mail or delivery, with a written notice of violation and order.

(b) Within 30 days of the receipt of this notice, or such shorter period as may be provided in the notice of violation, an explanation of the violation and plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves a person for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation, or before the expiration of the time to respond with a plan.

(c) The director is authorized to seek injunctive relief or impose administrative civil penalties, or both, for violations of any federal pretreatment standard, provision or condition in any permit, or any requirement of the ordinance.

(1990 Code, Ch. 14, Art. 5, § 14-5.15) (Added by Ord. 94-46)

#### **§ 43-5.16 Judicial enforcement of order.**

The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued. Where the civil action has been instituted to enforce the civil fine imposed by the order, the director need only show that the notice of violation and order was served, a hearing was held or the time granted for requesting a hearing had expired without such a request, the civil fine was imposed, and that the fine imposed had not been paid.

(1990 Code, Ch. 14, Art. 5, § 14-5.16) (Added by Ord. 94-46)

#### **§ 43-5.17 Enforcement orders.**

(a) *Consent orders.* The director is authorized to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. The order shall include specific action to be taken by the industrial user to correct the noncompliance within a time period to be provided in the order. These orders shall have the same force and effect as other administrative orders issued pursuant to § 43-5.15 and shall be judicially enforceable.

(b) *Show cause orders.* Whenever the director finds that a discharge of wastewater is taking place or threatening to take place in violation of any requirement imposed by ordinance, regulation, or other law, the director may issue a notice of violation and show cause order requesting the industrial user to meet with someone designated by the director. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and an order that the industrial user show cause why this proposed enforcement action may not be taken. The notice of hearing shall be served personally or by registered or certified mail (return receipt requested) at least 15 days before the hearing. The notice may be served on any authorized representative of the industrial user.

This meeting is not a prerequisite to taking formal enforcement action against the industrial user, and neither does this preclude in any way informal meetings or discussions with the industrial user.

(c) *Compliance orders and compliance schedules.* Upon a finding by the director that an industrial user has violated or continues to violate the ordinance, a permit or an order issued herein, or any other pretreatment standard or requirement, the director may issue an order to the industrial user responsible for the discharge requiring the user to come into compliance within a period of time specified by the director. These orders may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor do they release the user from liability for any violation, including a continuing violation. Issuance of a compliance order or a compliance schedule shall not be a prerequisite to taking any other enforcement action against the industrial user.

(d) *Cease and desist orders.* Whenever the director finds that a discharge of wastewater is taking place or threatening to take place in violation of any ordinance, order, regulation, or other law, the director shall issue an order directing the industrial user to cease and desist such discharges and achieve compliance in accordance with a detailed time schedule of specific actions the user shall take to correct or prevent violations of this chapter, regulation, order, or any other law. The director may order the revocation or suspension of any permit. Any order issued by the director may require the industrial user to provide information as the director deems necessary to explain the nature of the discharge. The director may require in any cease and desist order that the user pay to the city the costs of any extraordinary inspection or monitoring which in the discretion of the director was deemed necessary as a result of the violation, together with civil penalties. Issuance of a cease and desist order shall not preclude any other enforcement action against the industrial user.

(e) *Cleanup and abatement orders.*

(1) Any industrial user who is in violation of this chapter, regulation, order, or any other law, shall upon the director's order and at the total expense of the user, clean up the discharge and do whatever is necessary or required by the director to abate the effects of the violation.

(2) The industrial user may be required to initiate any cleanup, abatement, or remedial work that the director deems necessary. Issuance of a cleanup and abatement order shall not preclude any other enforcement action against the user.

(3) Any industrial user violating the ordinance, regulations, order, or any other law shall be liable to the city for costs incurred in the cleanup, abatement, or remedial actions undertaken by the director, including but not limited to administrative costs, inspection costs, attorney fees and penalties or other liability imposed upon the city by other agencies, persons, or organizations, whether by way of court action, administrative action, or settlement.

(f) *Termination of discharge.* In addition to other remedies available and as provided in this chapter or by law, when in the discretion of the director, the industrial user has not demonstrated or cannot demonstrate satisfactory progress toward compliance with the requirements of the ordinance, regulation, order, or other laws, the director may, after providing written notice to the user by certified mail 30 days in advance of any action, sever or plug the connection from the user's system to the city's sewerage system or otherwise prevent the discharge of wastewater from the user's system to the city's sewerage system.

(g) *Administrative fines.* In addition to other remedies available and as provided in this chapter or by law, the director may impose administrative penalties.

(h) *Other enforcement actions.* Nothing herein shall preclude or limit in any manner, State or federal regulatory agencies from undertaking enforcement actions as appropriate as a result of violations pursuant to this chapter to the extent these also constitute violations of applicable federal or State laws, or other pertinent requirements.

(1990 Code, Ch. 14, Art. 5, § 14-5.17) (Added by Ord. 94-46)

## **§ 43-5.18 Appeals.**

- (a) The industrial user may petition to appeal the terms of a wastewater discharge permit, its modification, revocation, suspension, or denial, or the director's order, including but not limited to enforcement within 30 days of the director's final action on the matter in accordance with the rules of the department.
- (b) (1) Failure to submit a timely petition for appeal shall be a waiver of the administrative appeal.
- (2) In its petition, the appealing party shall indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and alternative condition, if any, it seeks to substitute for the provisions objected to in the wastewater discharge permit, or the specific basis for its objections to the permit modification, suspension, revocation, or denial, and alternatives, if any, it suggests, or specific grounds for its objection to the director's order.
- (3) The effectiveness of the wastewater discharge permit or the director's final action regarding the permit modification, suspension, revocation, or denial, or the director's order, including but not limited to enforcement, shall not be stayed pending the appeal.
- (4) If the petition for appeal is not acted upon within 30 days by the director, the petition shall be denied and the industrial user shall comply with the terms of the permit or the director's final action regarding the permit modification, suspension, or revocation, or the terms of the director's order.
- (5) The director shall take final action on a permit denial, issuance, modification, or renewal, or the order, including but not limited to enforcement, by sending the permit or the director's order to the applicant by certified mail.

(1990 Code, Ch. 14, Art. 5, § 14-5.18) (Added by Ord. 94-46)

## **§ 43-5.19 Violation provisions.**

(a) *Administrative and civil penalties.* Any person violating this chapter, any order, or permit issued under this section, or any other pretreatment standard or requirement, shall be liable for an administrative or civil penalty of not less than \$1,000 per violation per day, except that in cases where such offense shall continue after written notice from the director of such violation, each day's continuance of the same shall constitute a separate offense. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In determining the amount of the fine, the director shall consider the seriousness of the violation or violations, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the fine on the violator, and such other considerations, that the director determines in the exercise of the director's discretion, are relevant to the amount of the fine. In addition to the penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits under this section.

(b) *Criminal penalties.* Any person:

- (1) Who intentionally, knowingly, recklessly, or negligently violates Articles 1 through 5 or 6 through 10, any order or permit issued under one of those articles, or any other pretreatment requirement shall, upon conviction, be punished by a fine of not less than \$1,000 or by imprisonment not exceeding 90 days, or both, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense; or
- (2) Who knowingly makes any false statement or misrepresentation in any record, report plan, or other document filed with the director, or tampers with or knowingly renders inaccurate any monitoring device or sampling and analysis method required under this section or by other law, shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than six months, or both.

Unless otherwise provided, this subsection shall be controlled by the Hawaii Penal Code, Hawaii Revised Statutes.

(1990 Code, Ch. 14, Art. 5, § 14-5.19) (Added by Ord. 94-46; Am. Ord. 02-14)

## **§ 43-5.20 Injunctive relief.**

Whenever a user has violated a pretreatment standard or requirement or continues to violate Articles 1 through 10, wastewater discharge permits or orders issued under this section, or any other pretreatment requirement, the city may petition the Circuit Court of the First Circuit, State of Hawaii, or the United States District Court, State of Hawaii, through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the industrial user. Such other action as appropriate for legal or equitable relief, or both, may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(1990 Code, Ch. 14, Art. 5, § 14-5.20) (Added by Ord. 94-46)

## **§ 43-5.21 Nonliability of department personnel.**

No member, employee, or officer of the department of environmental services shall be civilly or criminally liable or responsible under this chapter for any acts done under this chapter in the performance of their duties as a member, an officer, or an employee of the city.

(1990 Code, Ch. 14, Art. 5, § 14-5.21) (Added by Ord. 94-46; Am. Ord. 94-73)

# **ARTICLE 5A: COMMERCIAL FOG WASTE AND COMMERCIAL COOKING OIL WASTE**

## Sections

### 43-5A.1 Definitions

43-5A.2 Required transport of commercial FOG waste and commercial cooking oil waste to recycling facility and required conversion to marketable product

### 43-5A.3 Penalties

## **§ 43-5A.1 Definitions.**

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

**Biodiesel or Renewable Fuel.** Has the same meaning as defined in § 2-34.1.

**Commercial Cooking Oil Waste.** Cooking oil, which because of prior use, potency loss, or contamination, is no longer usable or salable by a business engaged in cooking food or selling cooking oil. The term does not mean the residue remaining after the conversion of commercial cooking oil waste into a marketable product.

**Commercial FOG Waste.** Animal/vegetable fat, oil, and grease and other waste that is retained in or removed from a commercial pretreatment device. The term does not mean the residue remaining after the conversion into a marketable product of grease and other waste removed from a commercial pretreatment device.

**Commercial Pretreatment Device.** A pretreatment device that is installed by a business pursuant to § 43-1.8(h).

**Marketable Product.** A salable, tradeable, serviceable, or otherwise valuable product that is produced from the bioconversion, composting, or processing of commercial FOG waste or commercial cooking oil waste.

**Recycling Facility.** A facility of a business or other operation engaged in the conversion of commercial FOG waste, commercial cooking oil waste, or both into biodiesel or renewable fuel, compost, or another marketable product. For the purposes of this article, a publicly owned sewage treatment works or privately owned sewage treatment plant shall not be deemed a recycling facility, even if capable of converting commercial FOG waste or commercial cooking oil waste into sewage sludge.

(1990 Code, Ch. 14, Art. 5A, § 14-5A.1) (Added by Ord. 02-14)

## **§ 43-5A.2 Required transport of commercial FOG waste and commercial cooking oil waste to recycling facility and required conversion to marketable product.**

(a) Any person who removes commercial FOG waste or commercial cooking oil waste from a business shall transport the waste to a recycling facility and unload the waste there.

(b) Any person who comes into possession of commercial FOG waste or commercial cooking oil waste at a recycling facility shall either:

(1) Convert the waste into biodiesel or renewable fuel, compost, or another marketable product; or

(2) Transport the waste to another recycling facility and unload the waste there.

(c) The director may, on the director's own initiative, suspend the requirements of subsections (a) or (b), or both:

(1) During the period of a work stoppage or any other interruption of recycling transport service or recycling facility service; or

(2) Whenever the director determines that there are inadequate recycling facilities or there is inadequate recycling capacity to dispose of all commercial FOG waste or commercial cooking oil waste in the city at a recycling facility.

(1990 Code, Ch. 14, Art. 5A, § 14-5A.2) (Added by Ord. 02-14)

## **§ 43-5A.3 Penalties.**

(a) A person shall not intentionally, knowingly, recklessly, or negligently dispose of or unload any commercial FOG waste or commercial cooking oil waste at a place other than a recycling facility in violation of § 43-5A.2, or otherwise violate this article. "Intentionally," "knowingly," "recklessly," and "negligently" shall have the meanings ascribed to the terms under HRS Chapter 702.

(b) A person who violates subsection (a) shall be guilty of a misdemeanor and subject to a fine of not more than \$2,000, imprisonment of not more than 30 days, or both, for each violation.

(c) In lieu of or in addition to the criminal penalty under subsection (b), a person who violates subsection (a) shall be subject to a civil fine of at least \$500 for each violation. In setting the fine amount, the director shall consider the seriousness of the violation, cost incurred by the city to remedy the negative impacts of the violation, any history of similar violations by the person, any good faith effort to comply with the applicable requirement, and such other factors determined necessary by the director.

To enforce an order by the director imposing a civil fine, the corporation counsel, on behalf of the director, may institute a civil action in a court of competent jurisdiction. This provision shall be deemed the council consent and approval required by § 2-3.2(b) for bringing the action against a private person.

(d) The penalties under this section are additional to any other penalty that may be imposed on a person for a violation of this chapter.

For the purposes of Article 5, a violation of this article is a violation of this chapter and a violation of Articles 1 through 10 of this chapter.

(1990 Code, Ch. 14, Art. 5A, § 14-5A.3) (Added by Ord. 02-14)

## **ARTICLE 6: SEWER SERVICE CHARGES**

### Sections

- 43-6.1 Liability for payment
- 43-6.2 Customer classifications
- 43-6.3 Sewer service charge schedules
- 43-6.4 Determination of residential user discharge
- 43-6.5 Determination of discharge
- 43-6.6 Wastewater disposal charges for waste haulers
- 43-6.7 Payment of bills

### § 43-6.1 Liability for payment.

(a) All customers who are connected, directly or indirectly, to the public sewer system as defined herein shall pay a sewer service charge.

If a property within an improvement district served by an existing properly functioning individual wastewater disposal system, other than a cesspool, permitted by the DOH and constructed pursuant to § 43-1.6(c), is required to connect to the public sewer system, then the owner or person legally responsible is not required to pay sewer service charges for a period of 25 years following connection to the public sewer system; provided that if such property is sold or otherwise transferred, except for a transfer due to the death of the property owner, prior to the end of the 25-year period, then the owner of the property, or person legally responsible following such sale or other transfer, is required to pay a sewer service charge immediately following the sale or other transfer.

(b) Where a service contract/agreement exists between any user of the public sewer system and the city that provides for free sewer service, the contract/agreement shall be terminated or renegotiated to provide for payment of sewer services in accordance with the requirements of § 204 (b)(1)(A) of the Clean Water Act and 40 CFR § 35.2140.

(Sec. 11-6.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 6, § 14-6.1) (Am. Ord. [20-36](#))

### § 43-6.2 Customer classifications.

(a) "Residential" customers have been defined to include only the following:

- (1) Single-family dwellings;
- (2) Duplexes, apartment buildings, condominiums, and townhouses;
- (3) Retirement hotels (permanent guests);
- (4) Mobile homes and mobile home parks, if any;
- (5) Housing projects; or
- (6) Accessory dwelling units as defined in § 21-10.1.

(b) "Nonresidential" customers have been defined to include all industrial, commercial, agricultural, governmental, and miscellaneous services, plus the following that have been specifically excluded from the above definition of residential customers:

- (1) Military bases (excluding housing units);
- (2) Convalescent homes and sanitariums;
- (3) Hotels, motels, resorts, camps, lodges, and guest ranches (transient guests);
- (4) School dormitories and fraternity houses; or
- (5) Boardinghouses.

(c) Any customer with both residential and nonresidential usage and a common meter shall be charged as follows: The department shall determine the percentage of the total number of units that are nonresidential and the percentage of the total number of units that are residential. The department shall then apportion the total monthly water usage for the customer between residential and nonresidential units based on these percentages. The customer's bill shall be computed by charging all residential units the applicable residential sewer service charges, and by charging the nonresidential units the applicable nonresidential sewer service charges. The charges shall be from Column 1 or Column 2 of Appendix 43-A, whichever applies. The means of determining the amount to charge a customer with both residential and nonresidential usage established by this subsection shall not preclude any customer from apportioning all or any portion of the charge among the various users on any other basis.

(Sec. 11-6.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 6, § 14-6.3) (Am. Ords. 89-80, 03-32, [25-2](#), [25-27](#))

**Editor's note:**

*Amendments made to § 43-6.2 take effect on October 1, 2025, in accordance with Ord[25-27](#).*

### § 43-6.3 Sewer service charge schedules.

(a) Sewer service charge schedules are listed separately in Appendix 43-A of this chapter.

(b) The department shall review the sewer charge schedule as frequently as may be necessary or proper to comply with any agreements with holders of bonds of the city issued to finance facilities constituting part of the public wastewater system, but not less frequently than annually, and recommend to the council revisions, as necessary, to reflect the actual operation and maintenance costs of the public wastewater system and debt service, reserve and other coverage requirements on bonds of the city issued to finance facilities constituting a part of the public wastewater system.

(c) The department shall annually notify all users of the public sewer system of their current sewer service charge rate and that portion of their rate that is attributable to wastewater treatment services in accordance with 40 CFR § 35.2140(c). Notification may be in conjunction with a regular bill, newspaper notice, or other means acceptable to the EPA regional administrator.

(Sec. 11-6.4, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 6, § 14-6.4) (Am. Ords. 96-58, 98-19, 01-52)

### § 43-6.4 Determination of residential user discharge.

Residential users may, upon request to the director and the director's approval, be permitted to install and maintain at the user's expense, a water meter for submetering nonsewer water. The property owner shall, at the owner's expense, do any necessary plumbing, subject to departmental inspection, to separate the types of water use and shall provide for the meter to be located adjacent to the primary water meter and within the public right-of-way or at a location approved by the director.

(1990 Code, Ch. 14, Art. 6, § 14-6.4A) (Added by Ord. 97-07; Am. Ord. 98-06)

### § 43-6.5 Determination of discharge.

(a) Dischargers using private wells or other private water sources will be required to install, at their own expense, water meters approved by the director for measuring the supplemental water quantity or, alternatively, they will be required to install, at their own expense and at the appropriate location, a calibrated flume, weir, flow meter, or similar device approved by the director for measuring wastewater quantity. A flow recording and totalizing register will also be required, and measurements to verify the quantities of waste flows will be performed on a random basis by the department. Residential users not served by the city water system shall be charged on the basis of the monthly base charge rates provided for in Appendix 43-A.

(b) Because of landscape irrigation or consumptive usage, some nonresidential users may discharge substantially less than 80 percent of their metered water usage to the sanitary sewer system. Those users may, upon request to the director, be permitted to have the amount of water being discharged to the sewer determined by one of the methods listed below. The specific method to be used will be selected by the director based on considerations of cost of installation and anticipated accuracy of the method.

(1) *Method one.* The user shall install and maintain at the user's expense a calibrated flume, weir, flow meter, or similar device approved by the director as to type and location to measure the user's wastewater discharge. In the latter case, a flow meter and totalizing register will be required and measurements to verify the quantity of wastewater flow will be performed on a random basis by the director. The property owner shall install at the owner's expense a suitable vault for installing the flow meter. The vault shall be located on the user's sewer lateral or building sewer at a location approved by the director, and the department shall be granted access rights.

(2) *Method two.* The user shall install and maintain at the user's expense a water meter for submetering the water discharging to the public sewer. The property owner shall at the owner's expense do any necessary plumbing subject to department inspection to separate the types of water use and provide for the meter to be located adjacent to the primary water meter and within the public right-of-way or at a location approved by the director.

(3) *Method three.* If the director determines that it is impractical for a user to employ method one or method two as a result of physical difficulty or excessive cost, the director may permit the user to estimate the amount of wastewater reasonably anticipated to be discharged to the public sewer. The user's estimate may be based upon average historical water use during wet weather periods or upon any other reasonable basis, and may be based upon flow meter tests if practical. The director shall review the data submitted by the user and may modify the user's estimate, where appropriate. The decision of the director shall be final if method three is used. If a user is not satisfied with the determination under method three, the user shall have the right to require at the user's expense use of method one or method two for determination of the amount of wastewater discharge to the public sewer.

(Sec. 11-6.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 6, § 14-6.5) (Am. Ord. 89-80)

#### **§ 43-6.6 Wastewater disposal charges for waste haulers.**

Waste haulers transporting wastewater to a city facility for wastewater disposal are subject to the wastewater disposal charges listed in Appendix 43-A.

(Added by Ord. [25-27](#))

#### **§ 43-6.7 Payment of bills.**

(a) All bills shall be due and payable upon deposit in the United States mail or upon the presentation to the consumer. Payment shall be made to collectors duly authorized by the city.

(b) Any bill that is not paid within 30 days after presentation or deposit in the United States mail shall be deemed delinquent and the water service by the board of water supply may be discontinued five business days after written notice is given to the consumer. For consumers not served by the board of water supply, the department may use any reasonable means to effectively terminate the discharge into the public sewer.

(c) A service fee for handling a dishonored check may be made in accordance with fees established by the department.

(Sec. 11-6.8, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 6, § 14-6.7)

#### **APPENDIX 43-A: SEWER SERVICE CHARGE SCHEDULES**

These charges apply to all customers as specified in the following schedules.

Residential Sewer Service Charges		
	Effective :	
Residential Sewer Service Charges		
	Effective :	
Single-family and duplex dwellings served by city water system per dwelling unit per month		
1. Monthly base charge	January 1, 2026	\$63.55
	July 1 of:	
	2026	\$48.27
	2027	\$52.37
	2028	\$57.08
	2029	\$62.22
	2030	\$67.82
	2031	\$73.92
	January 1, 2026	\$7.95
	July 1 of:	

2. Charge per 1,000 gallons of metered water consumed, the water consumed reduced by the water irrigation factor of 20 percent; provided that residential users who install and maintain a water meter for submetering nonsewer water shall not have the water consumed reduced by the water irrigation factor

2026	\$11.83
2027	\$12.83
2028	\$13.99
2029	\$15.24
2030	\$16.62
2031	\$18.11

<i>Residential Sewer Service Charges</i>		<i>Effective :</i>
<i>Residential Sewer Service Charges</i>		<i>Effective :</i>
Single-family and duplex dwellings not served by city water system per dwelling unit per month	January 1, 2026	\$120.82
	July 1 of:	
	2026	\$133.42
	2027	\$144.76
	2028	\$157.78
	2029	\$171.98
	2030	\$187.46
	2031	\$204.33
Multiple-unit dwellings and accessory dwelling units served by city water system per dwelling unit per month		
1. Monthly base charge	January 1, 2026	\$43.70
	July 1 of:	
	2026	\$33.19
	2027	\$36.01
	2028	\$39.25
	2029	\$42.78
	2030	\$46.63
	2031	\$50.83
2. Charge per 1,000 gallons of metered water consumed, the water consumed reduced by the water irrigation factor of 20 percent; provided that residential users who install and maintain a water meter for submetering nonsewer water shall not have the water consumed reduced by the water irrigation factor	January 1, 2026	\$7.95
	July 1 of:	
	2026	\$11.83
	2027	\$12.83
	2028	\$13.99
	2029	\$15.24
	2030	\$16.62
	2031	\$18.11

<i>Residential Sewer Service Charges</i>		<i>Effective :</i>
<i>Residential Sewer Service Charges</i>		<i>Effective :</i>
Multiple-unit dwellings and accessory dwelling units not served by city water system per dwelling unit per month	January 1, 2026	\$100.97
	July 1 of:	
	2026	\$118.33
	2027	\$128.39
	2028	\$139.95
	2029	\$152.54
	2030	\$166.27
	2031	\$181.24

<i>Nonresidential Sewer Service Charges</i>		<i>Effective :</i>
<i>Nonresidential Sewer Service Charges</i>		<i>Effective :</i>
Domestic Strength Wastewater: 1. Metered Water Usage		

	January 1, 2026	\$63.55
	July 1 of:	
(1) Monthly base charge per equivalent single-family dwelling unit (ESDU)	2026	\$48.27
	2027	\$52.37
	2028	\$57.08
	2029	\$62.22
	2030	\$67.82
	2031	\$73.92

<b>Nonresidential Sewer Service Charges</b>		
	<i>Effective :</i>	
<b>Nonresidential Sewer Service Charges</b>		
	<i>Effective :</i>	
	January 1, 2026	\$7.95
	July 1 of:	
	2026	\$11.83
	2027	\$12.83
	2028	\$13.99
	2029	\$15.24
	2030	\$16.62
	2031	\$18.11
2. Metered Wastewater Discharge		
	January 1, 2026	\$63.55
	July 1 of:	
	2026	\$48.27
	2027	\$52.37
	2028	\$57.08
	2029	\$62.22
	2030	\$67.82
	2031	\$73.92

<b>Nonresidential Sewer Service Charges</b>		
	<i>Effective :</i>	
<b>Nonresidential Sewer Service Charges</b>		
	<i>Effective :</i>	
	January 1, 2026	\$7.95
	July 1 of:	
	2026	\$11.83
	2027	\$12.83
	2028	\$13.99
	2029	\$15.24
	2030	\$16.62
	2031	\$18.11
(2) Charge per 1,000 gallons		

<b>Wastewater Disposal Charges</b>		
	<i>Effective:</i>	
	January 1, 2026	\$16.78
	July 1 of:	
1. Charge per 1,000 gallons of wastewater disposed	2026	\$18.53
	2027	\$20.10
	2028	\$21.91
	2029	\$23.89
	2030	\$26.04
	2031	\$28.38

For fiscal year 2033 and every fiscal year thereafter, each of the sewer service charges in this appendix will increase by 3 percent

annually, effective July 1 of each fiscal year.

Customer assistance program. A customer assistance program is hereby established within the department to provide relief to certain households paying residential sewer charges. The director may adopt rules pursuant to HRS Chapter 91 to implement and administer the customer assistance program.

(1990 Code, Ch. 14, App. 14-B) (Added by Ord. 12-7) (Am. Ords. [25-2](#), [25-27](#))

**Editor's note:**

*Amendments made to Appendix 43-A take effect on October 1, 2025, in accordance with Ord[25-27](#).*

## **ARTICLE 7: PUMPING OR TREATING OF CESSPOOLS**

### Sections

- 43-7.1 Generally
- 43-7.2 Requirements
- 43-7.3 Service charge
- 43-7.4 Payment of bills

Appendix 43-B: Cesspool charge schedules

### **§ 43-7.1 Generally.**

(a) *Services to be provided for.*

- (1) Services under this article will be provided only to properties for which a public sewer is not available or accessible and are classified as residential under § 43-6.2(a) of this chapter.
- (2) Services will not be provided to properties classified as nonresidential. Nonresidential properties are required to obtain service from private establishments.

(b) *Procedure.*

- (1) An occupant or owner of residential property may request to have a cesspool serviced by the department.
- (2) The department may, at its option, use chemical treatment in lieu of pumping.

(Sec. 11-7.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 7, § 14-7.1) (Am. Ord. 02-60)

### **§ 43-7.2 Requirements.**

(a) *Maintenance of cesspool.* The owner shall maintain the owner's cesspool in a safe, serviceable condition and readily accessible to the department's crew. Failure to exercise reasonable care to minimize the frequency of servicing may result in termination of pumping or treatment services by the department.

(b) *Replacement and rehabilitation of cesspools.* Any cesspool requiring one or more pumping per week for a period of three weeks shall be replaced or rehabilitated within 90 days after the owner or person legally responsible has been notified to do so by the director. Failure to take corrective action required by the director may result in termination of pumping services by the department.

(Sec. 11-7.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 7, § 14-7.2)

### **§ 43-7.3 Service charge.**

(a) *Pumping.*

(1) A charge shall be made for pumping cesspools. The person requesting the service shall have the choice of either paying on a per-call basis or on a monthly contract basis. A person who elects to be serviced on a contract basis must apply to the department. Except as otherwise provided in this subdivision, no contract shall extend beyond June 30, 2004. After June 30, 2004, the charge for pumping cesspools shall be on a per-call basis only; provided that any owner or occupant whose property is included within a sewer improvement district for which an assessment ordinance has been enacted before June 30, 2004, may elect to pay for service on a contract basis until the prescribed deadline in the notice to connect to the sewer system or as may be allowed by an extension to the deadline approved by the director.

(2) An eligible household shall be entitled to pay reduced per-call cesspool pumping service charges. For purposes of this section, an "eligible household" is that which does not exceed the U.S. Department of Housing and Urban Development (HUD) low-income limit adjusted for family size. The eligible household must apply for a loan through the department of community services housing rehabilitation loan program for wastewater disposal system rehabilitation/reconstruction to rehabilitate or reconstruct their wastewater disposal system. Only if the eligible household does not otherwise qualify for a housing rehabilitation loan program will the eligible household be entitled to pay reduced per-call cesspool pumping service charges, retroactive to the date of initial application for the rehabilitation loan with the department of community services.

(3) No charge shall be made for pumping a cesspool that is being chemically treated by the city and payment is being made for the service.

(b) *Chemical treatment.* A monthly charge shall be made for any cesspool under chemical treatment.

(c) *Cesspool service charge schedule.* Cesspool service charge schedules are listed in Appendix 43-B of this chapter.

(Sec. 11-7.3, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 7, § 14-7.3) (Am. Ords. 01-52, 02-60, 04-37)

### **§ 43-7.4 Payment of bills.**

(a) All bills shall be due and payable upon deposit in the United States mail or upon other presentation to the consumer. Payment shall be made to collectors duly authorized by the city.

(b) Any bill that is not paid within 30 days after presentation or deposit in the United States mail shall be deemed delinquent and the water service by the board of water supply may be discontinued five business days after written notice is given to the consumer. For consumers not served by the board of water supply, the department may use any reasonable means to effectively terminate the discharge into the public sewer.

(c) A service fee for handling a dishonored check may be made in accordance with fees established by the department.

(Sec. 11-7.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 7, § 14-7.4)

#### APPENDIX 43-B: CESSPOOL CHARGE SCHEDULES

A.	Reserved
B.	The following charges shall be effective from July 1, 2004:
1.	Pumping cesspool on a per-call basis:
	For a single truckload or fraction thereof:
a.	Regular rate \$132.90
b.	Reduced rate for owners or occupants determined to be "low-income" by the director pursuant to § 43-7.3(a) \$86.50
2.	Chemically treated cesspool:
a.	Single-family and duplex dwellings, per dwelling unit served per month \$55
b.	Multiple-unit dwellings, per dwelling unit served per month \$38.50

(1990 Code, Ch. 14, App. 14-C) (Added by Ord. 01-52; Am. Ords. 02-60, 04-37, [25-2](#))

**Editor's note:**

*For rebate of cesspool charges, see § 5 of Ord. 04-37.*

### ARTICLE 8: SEWER FUND

#### Sections

43-8.1 Creation

43-8.2 Purpose

43-8.3 Authority

43-8.4 Refunds

#### § 43-8.1 Creation.

There is created and established a special fund to be known as the "sewer fund."

(Sec. 11-8.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 8, § 14-8.1)

#### § 43-8.2 Purpose.

(a) All moneys received by the city pursuant to § 204 (b)(1)(B) of the Federal Water Pollution Control Act amendments of 1972 (P.L. 92-500), § 6-47.1, and Articles 1 through 10 shall be deposited into the sewer fund and shall be appropriated and expended for the purposes authorized by federal or State law, the implementation of Articles 1 through 10, or other purposes specified by ordinance. Notwithstanding the foregoing, except for moneys expended for: (1) debt service payments on reimbursable general obligation bonds and other financings; or (2) repayments of interfund transfers and loans, where the proceeds from such bonds, financings, interfund transfers or loans were used to pay wastewater expenditures that are currently paid for by the sewer fund or sewer revenue bond improvement fund, no moneys shall be expended from the sewer fund to reimburse the general fund for expenses incurred in prior fiscal years.

(b) In addition, all moneys received by the city from the board of water supply for the sale or long-term lease or rental of a city-owned treatment works to the board shall be deposited into the sewer fund and shall be appropriated and expended only for the following purposes:

- (1) Land acquisition, planning, design, engineering, construction, inspection, relocation, or equipment necessary for the establishment of a new city-owned treatment works or improvement of an existing city-owned treatment works;
- (2) Payment of debt service on outstanding sewer revenue bonds;
- (3) Repayment of an outstanding loan from the State water pollution control revolving fund that was used to construct or improve the sold, leased, or rented city-owned treatment works; or
- (4) Reimbursement of the federal or State government when the sale or long-term lease or rental to the board of water supply of the city-owned treatment works has violated a term or condition of a federal or State grant that was used to construct or improve the works.

For this subsection, "city-owned treatment works" means a publicly owned treatment works, means the lease as defined under §43-1.2, that is owned by the city and "long-term lease or rental of a city-owned treatment works" means the lease or rental of all or a portion of a city-owned treatment works that has been approved by the council pursuant to § 28-4.1.

(Sec. 11-8.2, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 8, § 14-8.2) (Am. Ords. 94-32, 98-21, 02-14, 02-55, 05-006)

#### § 43-8.3 Authority.

The director of budget and fiscal services shall take any and all actions necessary to effect compliance with this article.

(Sec. 11-8.4, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 8, § 14-8.3) (Am. Ords. 93-04, 02-55)

## **§ 43-8.4 Refunds.**

Any payments heretofore made pursuant to the "in-lieu charges to tax exempt users" before the effective date of this section shall be refunded.

(Sec. 11-8.5, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 8, § 14-8.4) (Am. Ord. 93-04)

## **ARTICLE 9: TERMINATION OF WATER SERVICE**

Section

43-9.1 Authorization

### **§ 43-9.1 Authorization.**

It has been determined that termination of water service to enforce payment of sewer service charges is necessary and that termination of water service to industrial users for violations pursuant to § 43-5.7(b) may be necessary. Therefore, the board of water supply is given the authority to terminate water service for delinquency in payment of sewer service charges or pursuant to § 43-5.7(b) when so directed by the director.

(Sec. 11-9.1, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 9, § 14-9.1) (Am. Ord. 94-73)

## **ARTICLE 10: WASTEWATER SYSTEM FACILITY CHARGES**

Sections

43-10.1 Liability for payment of wastewater system facility charges

43-10.2 Time of payment

43-10.3 Residential wastewater system facility charges

43-10.4 Nonresidential wastewater system facility charges

43-10.5 Mixed residential and nonresidential wastewater system facility charges

43-10.6 Reduction of wastewater system facility charges for low-income housing projects

43-10.7 Waiver of wastewater system facility charges for accessory dwelling unit projects

43-10.8 Waiver of wastewater system facility charges for affordable dwelling units

Appendix 43-C: Wastewater system facility charges

### **§ 43-10.1 Liability for payment of wastewater system facility charges.**

(a) *New applicants for service.*

- (1) All applicants for structures to be completed after October 24, 1990\* shall be liable for the payment of wastewater system facility charges, provided that they will be served directly or indirectly by the city's wastewater system.
- (2) Applicants for structures on any existing vacant, residential zoned property shall be exempt from paying a system facility charge for connecting one equivalent single-family dwelling unit to the city's wastewater system. In the event more than one equivalent single-family dwelling unit is connected to the system, system facility charges shall be assessed for each additional equivalent single-family dwelling unit connected.
- (3) Applicants for structures on any vacant residential zoned property that is created in accordance with city subdivision rules after October 24, 1990\* shall be assessed system facility charges for each equivalent single-family dwelling unit connected to the system.
- (4) Applicants for structures to be completed after October 24, 1990\* that will initially be served by either private individual wastewater disposal systems or private wastewater treatment plants shall be subject to a deferred wastewater system facility charge. Payment of the deferred charge shall not be required until such time as connection is actually made either directly or indirectly to the city's wastewater system.
- (5) All other applicants for structures to be completed after October 24, 1990\* that will be served either directly or indirectly by the city's wastewater system shall be subject to the wastewater system facility charge, including federal, State, city, charitable, religious, or other tax-exempt entities; except that the wastewater system facility charge shall be reduced for low-income housing projects in accordance with § 43-10.6.

(b) *Existing structures.*

- (1) All existing structures as of October 24, 1990\* that are currently served either directly or indirectly by the city's wastewater system or by private individual disposal systems or treatment plants, shall be exempt from the wastewater system facility charge with respect to their existing wastewater system capacity entitlement. Structures that are determined to be illegal by the city shall not be entitled to any wastewater system facility charge exemption.
- (2) The existing wastewater system capacity entitlement for residential structures shall be based on the number and type of existing dwelling units.
- (3) The existing wastewater system capacity entitlement for nonresidential structures shall be based on the size of the existing water meter serving the existing structures as determined from board of water supply water service records. For those structures served by a private water well, the water meter size shall be determined from the State department of land and natural resources records.
- (4) The owner of an existing residential or nonresidential structure shall be liable for the wastewater system facility charge increment associated with any enlargement of the existing structures or for any increase in the owner's wastewater system

capacity entitlement.

(1990 Code, Ch. 14, Art. 10, § 14-10.1) (Added by Ord. 90-80; Am. Ord. 04-12)

**Editor's note:**

\* "October 24, 1990" is substituted for "the effective date of this article."

**§ 43-10.2 Time of payment.**

(a) *Residential service.*

(1) *New residential applicants for service.*

(A) A wastewater system facility charge shall be paid by each new applicant for service as a precondition to the issuance of a building permit by the city, where the new applicant is subject to liability under § 43-10.1(a); provided that the director of planning and permitting may defer payment of the facility charge for low-income housing projects and city or city-sponsored, or State or State-sponsored housing projects, but in all instances no connection to the city's sewer system shall be allowed until the facility charge is paid. The required payment shall be based on the number and type of dwelling units to be constructed in accordance with § 43-10.3.

(B) Wastewater system facility charges for subdivision or development projects shall be paid as a precondition to the issuance of building permits for the subdivision by the city. The minimum required payment shall be based on one equivalent single-family dwelling unit per lot. In the event more than one equivalent single-family dwelling unit is constructed per lot, wastewater system facility charges for each additional unit shall be paid as a precondition to the issuance of a building permit by the city; provided that the director of planning and permitting may defer payment of the facility charge for low-income housing projects and city or city-sponsored, or State or State-sponsored housing projects, but in all instances, no connection to the city's sewer system shall be allowed until the facility charge is paid. Subdivision or development projects that have received final subdivision approval before October 24, 1990\* shall be exempt from paying the minimum one equivalent single-family dwelling unit charge.

(2) *Existing residential structures.*

(A) An existing residential structure is exempt from liability under § 43-10.1 for its existing wastewater system capacity entitlement.

(B) An applicant for a building permit to enlarge an existing residential structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the number and type of dwelling units to be constructed in accordance with § 43-10.3. Payment of the charge shall be a precondition to the issuance of a building permit by the city.

For the purposes of this subsection, "city or city-sponsored housing project" means any one or more of the following: a housing project that is city-owned, city-funded or developed pursuant to any one or more of the following: HRS § 46-15 or 46-15.2 or under HRS Chapter 201H as applicable to the city through HRS § 46-15.1, "State or State-sponsored housing project" means a housing project that is any one or more of the following: State-owned, State-funded, or developed under HRS Chapter 201H, and "low-income housing project" has the same meaning as defined in § 43-10.6; provided that a "city or city-sponsored housing project" and a "State or State-sponsored housing project" may also be a "low-income housing project" for purposes of the reduction of the wastewater system facility charges pursuant to § 43-10.6.

(b) *Nonresidential service.*

(1) *New nonresidential applicants for service.* A wastewater system facility charge shall be paid by each new nonresidential applicant for service as a precondition to the issuance of a building permit by the city, where the new applicant is subject to liability under § 43-10.1(a). The required payment shall be based on the procedures indicated in § 43-10.4.

(2) *Existing nonresidential structures.*

(A) An existing nonresidential structure is exempt from liability under § 43-10.1(b) for its existing wastewater system capacity entitlement.

(B) An applicant for a building permit to enlarge an existing nonresidential structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the procedures set forth in § 43-10.4. Payment of the charge shall be a precondition to the issuance of a building permit by the city.

(C) An applicant wishing to increase its wastewater system capacity entitlement when no increase in structure size is required, shall be liable for the wastewater system facility charge increment associated with the increase, based on the procedures set forth in § 43-10.4. Payment of the charge shall be a precondition to the issuance of a building permit by the city.

(c) *Mixed residential and nonresidential service.*

(1) *New mixed applicants for service.* A wastewater system facility charge shall be paid by each new applicant for service as a precondition to the issuance of a building permit by the city, where the applicant is subject to liability under § 43-10.1(a); provided that the director of planning and permitting may defer payment of the facility charge applicable to the residential portion of a city or city-sponsored or State or state-sponsored housing project upon consideration of the applicant's financial situation, but in all instances no connection to the city's sewer system shall be allowed until the charge is paid. The required payment shall be based on the procedures set forth in § 43-10.5.

(2) *Existing mixed structures.*

(A) An existing structure is exempt from liability under § 43-10.1(b) for its existing wastewater system capacity entitlement.

(B) An applicant for a building permit to enlarge an existing structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the procedures set forth in § 43-10.5. Payment of that charge shall be a precondition to the issuance of a building permit by the city.

(C) An applicant wishing to increase its wastewater system capacity entitlement to accommodate a change in use of the existing structure shall be liable for the wastewater system facility charge increment associated with the increase, based on the procedures set forth in § 43-10.5. Payment of that charge shall be a precondition to the issuance of a building permit by the city.

For the purposes of this subsection, "city or city-sponsored housing project" means any one or more of the following: a housing project that is city-owned, city-funded, or developed pursuant to any one or more of the following: HRS § 46-15 or 46-15.2 or under HRS Chapter 201H as applicable to the city through HRS § 46-15.1, and "State or State-sponsored housing project" means any one or more of the following: a housing project that is State-owned, State-funded or developed under HRS Chapter 201H.

(1990 Code, Ch. 14, Art. 10, § 14-10.2) (Added by Ord. 90-80; Am. Ords. 95-11, 04-12, 12-7)

***Editor's note:***

\* "October 24, 1990" is substituted for "the effective date of this article."

**§ 43-10.3 Residential wastewater system facility charges.**

(a) Each applicant for a residential building permit for a new structure, or for an enlargement of an existing structure, shall be required to pay a wastewater system facility charge based on the total number of equivalent single-family dwelling units in the project to be constructed, provided that the director shall reduce the amount of the facility charge upon consideration of the applicant's financial contribution for backup facilities constructed or to be constructed for the project and dedicated or to be dedicated to the city.

This requirement applies to those new applicants for service and to those existing structures that are subject to liability under § 43-10.1.

(b) The following weights are assigned to the various categories of residential developments for wastewater system facility charge purposes:

Description	Number of ESDUs Per Unit
Single-family dwellings, duplex-unit dwellings, triplexes, and quadraplexes	1.0
Multiple-family dwellings (five units or more), condominiums, townhouses, retirement homes, mobile homes, and housing projects	0.7
Accessory dwelling units	0.7

(c) The applicable wastewater system facility charge per ESDU is set forth in Appendix 43-C of this chapter.

(1990 Code, Ch. 14, Art. 10, § 14-10.3) (Added by Ord. 90-80; Am. Ords. 01-52, [25-2](#), [25-27](#))

***Editor's note:***

Amendments made to § 43-10.3 take effect on October 1, 2025, in accordance with Ord[25-27](#).

**§ 43-10.4 Nonresidential wastewater system facility charges.**

(a) Each applicant for a nonresidential building permit for a new structure, or for an enlargement of an existing structure, or for an increase in the wastewater system entitlement shall be required to pay a wastewater system facility charge based on the imputed number of equivalent single-family dwelling units in the project to be constructed; provided that the director shall reduce the amount of the facility charge upon consideration of the applicant's financial contribution for backup facilities constructed or to be constructed for the project and dedicated or to be dedicated to the city.

This requirement applies to those new applicants for service and to those existing structures that are subject to liability under § 43-10.1.

(b) The new applicant for service, or an owner wishing to increase the owner's wastewater system capacity entitlement, shall be required to obtain from the board of water supply, or from the State department of land and natural resources in the case of private water wells, the size of the water meter to be provided for the project to be constructed. The number of ESDUs is determined from the following table based on the water meter size:

Meter Size (in inches)	Number of ESDUs
5/8	1
3/4	1
1	2.4
1-1/2	5.8
2	13
3	33
4	57
6	87

(c) The applicable wastewater system facility charge per ESDU is set forth in Appendix 43-C of this chapter.

(d) All nonresidential applicants who are liable for payment under this article may install a sub-water meter to monitor their sewage discharge.

(1990 Code, Ch. 14, Art. 10, § 14-10.4) (Added by Ord. 90-80; Am. Ords. 01-52, [25-27](#))

***Editor's note:***

*Amendments made to § 43-10.3 take effect on October 1, 2025, in accordance with Ord[25-27](#).*

**§ 43-10.5 Mixed residential and nonresidential wastewater system facility charges.**

(a) Each applicant for a building permit for a new structure, or the owner of an existing structure who wishes to increase the owner's wastewater system capacity entitlement, shall be required to pay a wastewater system facility charge based on the number of equivalent single-family dwelling units in the project to be constructed. This requirement shall be applicable to those new applicants for service and to those existing structures that are subject to liability under § 43-10.1.

(b) The new applicant for service, or the owner of an existing structure who wishes to increase the owner's current wastewater system capacity entitlement, shall be required to install a sub-water meter to monitor the water flow to the nonresidential units. The number of ESDUs shall be determined in accordance with § 43-10.3 for the residential units and § 43-10.4 for the nonresidential units.

(1990 Code, Ch. 14, Art. 10, § 14-10.5) (Added by Ord. 90-80; Am. Ord. 12-7)

**§ 43-10.6 Reduction of wastewater system facility charges for low-income housing projects.**

(a) A developer of low-income housing may apply for a reduction of wastewater system facility charges in accordance with this section.

(b) An applicant for a reduction of wastewater system facility charges shall provide the city with information, as prescribed by the director, to demonstrate that the applicant is developing a low-income housing project and otherwise qualifies for a reduction of the city's wastewater system facility charges.

(c) If the city determines that an applicant qualifies for a reduction of the wastewater system facility charges, the city shall reduce the charges only for those housing units in the applicant's housing project that are to be sold or rented to low-income households. The reduced charges shall be as provided in Appendix 43-C(2).

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

**Director.** The director of the department of environmental services.

**Low-income.** Has the same meaning as defined in § 8-10.17.

**Low-Income Housing Project.** A housing project in which at least 25 percent of the units are reserved for rent for low-income housing pursuant to an agreement with the county, State or federal government, or reserved for sale to low-income households.

**Low-Income Housing Unit.** A housing unit in the applicant's housing project that is sold or rented to a low-income household.

(e) If a developer to whom a reduction has been granted under this section sells a low-income housing unit in a low-income housing project to other than a low-income household, or rents a low-income housing unit in a low-income housing project to other than a low-income household within any period in which the sale or rental of the unit is prohibited by any agreement with the county, State, or federal government, the developer shall notify the director of the department of environmental services within 30 days of such sale or rental and shall, within such 30-day period, pay to the city the difference between the wastewater system facility charge that would have been applicable under Appendix 43-C(1), and the reduced charge that was paid under Appendix 43-C(2), plus interest on the difference at 8 percent per year from the date of payment of the reduced wastewater system facility charge for the housing unit.

(f) In accordance with HRS Chapter 91, the director may adopt rules having the force and effect of law for the implementation, administration and enforcement of this section.

(1990 Code, Ch. 14, Art. 10, § 14-10.6) (Added by Ord. 04-12)

**§ 43-10.7 Waiver of wastewater system facility charges for accessory dwelling unit projects.\***

The wastewater system facility charges, as set forth in Appendix 43-C of this chapter, for the creation of an "accessory dwelling unit," as defined in § 21-10.1, will be waived. The wastewater system facility charges that were collected for the creation of "accessory dwelling units" from September 14, 2015, will be reimbursed if requested by the permittee.

(1990 Code, Ch. 14, Art. 10, § 14-10.7) (Added by Ord. 16-19; Am. Ords. 17-30, 20-20)

***\*Editor's note:***

*Section 43-10.7 will be repealed on June 30, 2025, in accordance with Ord. 17-30, as amended by Ord. 20-20.*

**§ 43-10.8 Waiver of wastewater system facility charges for affordable dwelling units.\*\***

(a) Wastewater system facility charges, as set forth in Appendix 43-C of this chapter will be waived for the following:

(1) Affordable dwelling units as defined in and as provided on-site or off-site pursuant to Chapter 29;

(2) Affordable dwelling units provided pursuant to a planned development-transit permit pursuant to § 21-9.100-10, or an interim planned development-transit permit pursuant to § 21-9.100-5;

(3) Affordable rental dwelling units developed in compliance with HRS § 201H-36(a)(5);

(4) Affordable rental housing units that:

(A) Are rented to households earning 100 percent and below of the AMI; and

(B) For a period of at least 15 years after a certificate of occupancy is issued for the affordable rental housing project, the affordable units are rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 100 percent of the AMI for the applicable household size;

pursuant to Chapter 32.

(b) An applicant for a waiver of wastewater system facility charges under this section must provide the city with information, as prescribed by the director, to demonstrate that the applicant qualifies for the waiver.

(Added by Ord. 18-1; Am. Ords. 19-8, 20-11, 20-13)

**\*\*Editor's note:**

*Amendments made to § 43-10.8 in Ord. 18-1, as amended by Ords. 19-8 and [25-25](#), will be repealed on June 1, 2030, in accordance with Ords. 18-1, 19-8, and [25-25](#).*

## APPENDIX 43-C: WASTEWATER SYSTEM FACILITY CHARGES

The following wastewater system facility charges are established in accordance with §§ 43-10.3, 43-10.4, 43-10.5, and 43-10.6:

(1) Residential wastewater system facility charge per ESDU:

<b>Effective:</b>	<b>Amount (dollars)</b>
<b>Effective:</b>	<b>Amount (dollars)</b>
January 1, 2026	\$7,013
July 1 of:	
2026	\$7,539
2027	\$8,180
2028	\$8,916
2029	\$9,718
2030	\$10,593

(2) Low-income housing wastewater system facility charges per ESDU:

<b>Effective:</b>	<b>Amount (dollars)</b>
<b>Effective:</b>	<b>Amount (dollars)</b>
January 1, 2026	\$1,450
July 1 of:	
2026	\$1,559
2027	\$1,691
2028	\$1,844
2029	\$2,009
2030	\$2,190

(3) Nonresidential wastewater system facility charge for domestic strength wastewater per ESDU:

<b>Effective:</b>	<b>Amount (dollars)</b>
<b>Effective:</b>	<b>Amount (dollars)</b>
January 1, 2026	\$7,013
July 1 of:	
2026	\$7,539
2027	\$8,180
2028	\$8,916
2029	\$9,718
2030	\$10,593

For fiscal year 2032 and every fiscal year thereafter, each of the wastewater system facility charges in this appendix will increase by 3 percent annually, effective July 1 of each fiscal year.

(1990 Code, Ch. 14, App. 14-D) (Added by Ord. 01-52; Am. Ords. 03-11, 04-12, 05-019, 11-17, [25-27](#))

**Editor's note:**

*Amendments made to Appendix 43-C take effect on October 1, 2025, in accordance with Ord [25-27](#).*

## ARTICLE 11: DRAINAGE, FLOOD, AND POLLUTION CONTROL

Sections

43-11.1 Legislative findings—Intent

43-11.2 Definitions

- 43-11.3 Adequacy of drainage
- 43-11.4 Considerations
- 43-11.5 Approval of drainage plans
- 43-11.6 Exceptions
- 43-11.7 Determination of boundary lines
- 43-11.8 Buildings adjacent to drainage facilities
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- 43-11.20 Federal aid projects
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- 43-11.29 Injunctive relief
- 43-11.30 Nonliability of department personnel
- 43-11.31 Rule-making powers
- 43-11.32 Decisions of the chief engineer

### **§ 43-11.1 Legislative findings—Intent.**

(a) The council finds that:

- (1) (A) Heavy rain storms have periodically created destructive floods in certain areas of the city threatening the lives of its inhabitants and causing heavy damage to property;
- (B) The continued development of these areas without providing adequate drainage and appropriate flood control measures would only aggravate the conditions conducive to flooding; and
- (C) Every effort should be made to minimize flood damage potential and to protect the lives and property of the inhabitants of the city.
- (2) There is a growing need to protect our city's natural watercourses and other vital water resources from contamination and pollution.
- (3) Natural methods of drainage and soil infiltration, which absorb and slowly release runoff, are preferred methods of stormwater management.

(b) Therefore, the council deems it necessary to enact the ordinance codified in this article for the sound, economic development of the city and in the interests of the health, safety, and general welfare of the inhabitants of the city.

(Sec. 16-6.1, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.1) (Am. Ord. 96-34)

### **§ 43-11.2 Definitions.**

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

**Best Management Practices** or **BMPs**. Pollution control measures, applied to nonpoint sources, on-site or off-site, to control erosion and the transport of sediments and other pollutants that have an adverse impact on waters of the State. BMPs may include a schedule of activities, the prohibition of practices, maintenance procedures, treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, or drainage from raw material storage.

**Chief Engineer.** The director and chief engineer of facility maintenance, or the director and chief engineer's authorized representative.

**City Standards.** The storm drainage standards approved by the chief engineer, a copy of which shall be on file in the stormwater quality branch, department of facility maintenance. These standards are intended to be minimum standards only and are not to be construed as a guarantee to property owners adjacent to a drainage facility against flood or drainage damage.

**Department.** The department of facility maintenance of the City and County of Honolulu.

**Developer.** One who causes land to be developed.

**Development.** Land that is being developed or developed lands.

**Discharge.** The deposit, disposal, injection, dumping, spilling, leaking, or placing of any substance into a drainage facility or natural watercourse.

**Domestic Wastewater.** The water-carried wastes produced from noncommercial or nonindustrial activities and that result from normal human living processes.

**Drainage Facility.** Any city drainage structure or separate storm sewer system, including stream structures, constructed principally for the conveyance of storm and surface waters, street wash, or drainage.

**Drainage Problem.** The discharge of effluent or a pollutant onto a public right-of-way or into a drainage facility, or both, that causes the hydraulic capacity of that drainage facility to be exceeded and results in flooding. This definition includes the discharge of a pollutant that reduces the hydraulic capacity of a drainage facility by the deposit of solids therein.

**Effluent.** Any substance other than stormwater runoff that is discharged onto a public right-of-way or into a drainage facility, or both, including nonstormwater discharges that are not sources of pollutants, and any NPDES-permitted discharges.

**Engineering Control Facility.** Any drainage device such as a basin, well, pond, ditch, dam, or excavation used for the temporary or permanent storage of stormwater by means of detention, retention, divergence, or infiltration for the purpose of reducing stormwater volume or peak storm discharge flows, or both, and which may provide gravity settling of particulate pollutants. It includes but is not limited to detention ponds, retention ponds, infiltration wells or ditches, holding tanks, diversion ditches or swales, drainpipes, check dams, and debris basins.

**Flood or Flooding.** The inundation to a depth of 3 inches or more of any property not ordinarily covered by water. The terms shall not apply to inundation caused by tsunami wave action.

**Hazardous Substance.** Has the same meaning as defined in HRS § 342D-38.

**Industrial Wastewater.** All water-carried wastes and wastewater, excluding domestic wastewater.

**Maximum Extent Practicable** or **MEP.** Economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint source pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

**National Pollutant Discharge Elimination System Permittee NPDES Permit.** The permit issued to the city pursuant to Title 40 CFR Part 122, Subpart B, § 122.26(a)(1)(iii), for stormwater discharge from the city's separate storm sewer systems; or the permit issued to a person or property owner for a stormwater discharge associated with industrial activity pursuant to Title 40 CFR Part 122, Subpart B, § 122.26(a)(1)(ii), or other applicable sections of Part 122; or the permit issued to a person or property owner for the discharge of any pollutant from a point source into State waters through the city's separate storm sewer system pursuant to Hawaii Administrative Rules, Chapter 11-55, "Water Pollution Control."

**Person.** Includes corporations, estates, associations, partnerships, and trusts, as well as one or more individuals.

**Pollutant.** Any waste, cooking or fuel oil, waste milk, waste juice, pesticide, paint, solvent, radioactive waste, hazardous substance, sewage, dredged spoils, chemical waste, rock, sand, biocide, toxic substance, construction waste and material, and soil sediment. The term also includes commercial FOG waste as defined under § 43-5A.1.

**Pollution Problem.** The discharge of any pollutant into State waters directly or by conveyance through a drainage facility that creates a nuisance or adversely affects the public health, safety, or welfare, or causes a drainage facility to violate the city National Pollutant Discharge Elimination System permit or violates any State water quality standards.

**Private Storm Drain Connection.** Any conveyance of stormwater, including but not limited to any drainage pipe, ditch, or swale connected to any drainage facility or separate storm sewer system, including any curb or gutter.

**Property Owner.** The fee simple owner of record, lessee of record, administrator, administratrix, executor, executrix, personal representative, receiver, trustee, property management agent, or any other individual, corporation, or unincorporated association who has the use, control or occupation of land with claim of ownership, whether the owner's interest be in absolute fee or a lesser estate.

**Redevelopment.** Developed land which is subsequently subdivided or redeveloped or renovated.

**Relief Drain.** An additional drainage facility or an enlarged facility constructed in place of any existing drainage system.

**Remedial Work.** The construction or installation of catch basins or other devices to resolve localized drainage problems.

**Separate Storm Sewer.** A conveyance or system of conveyance including city roads and streets with drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains owned by the city, and designated or used for collecting or conveying stormwater.

**State Waters.** Has the same meaning as defined in HRS § 342D-1.

**Stormwater.** Stormwater runoff, surface runoff, street wash, or drainage, and may include discharges from fire fighting activities.

**Stormwater Runoff Associated with Industrial Activity.** Stormwater discharge associated with industrial activity as defined in Title 40 CFR Part 122, Subpart B, § 122.26(b)(14).

**Water Quality Standards.** The State water quality standards adopted pursuant to HRS § 342D-5.

(Sec. 16-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.2) (Am. Ords. 92-122, 96-34, 02-14)

### **§ 43-11.3 Adequacy of drainage.**

No building permit shall be issued without the prior written approval of the chief engineer as to the adequacy of drainage within the areas designated by the shaded portions on the maps attached to the adopting ordinance and incorporated by reference as: Exhibit A - Waimanalo; Exhibit B-1 - Kailua-Kaneohe; Exhibit C - Kaneohe-Heeia; Exhibit D-1 - Heeia-Kahaluu; Exhibit E-1 - Kaalaea-Kahaluu; Exhibit F - Waiahole-Kualoa; Exhibit G - Kaaawa-Kahana; Exhibit I - Pupukea-Paumalu; Exhibit J - Waianae Kai-Makaha; Exhibit K - Lualualei-Nanakuli; Exhibit L - Pearl City-Waimalu; and Exhibit M - Niu Valley.

(Sec. 16-6.3, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.3)

### **§ 43-11.4 Considerations.**

In making a determination as to the adequacy of drainage the chief engineer shall consider topographic conditions, rainfall, runoff, land use, depth and width of drainage channels, size of other drainage facilities, and past history of flooding, including the extent of flooding.

(Sec. 16-6.4, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.4)

### **§ 43-11.5 Approval of drainage plans.**

Any applicant for a building permit for the construction of a structure within the areas indicated in Exhibits A through M, mentioned in § 43-11.3, shall submit plans for the improvement or construction of drainage facilities to the chief engineer for approval. Upon approval of such plans, the applicant shall be entitled to the issuance of the building permit, if all other requirements of law have been complied with.

(Sec. 16-6.5, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.5)

### **§ 43-11.6 Exceptions.**

If the application for a building permit otherwise qualifies under Chapter 18 and under all other applicable laws and rules, §43-11.3 does not apply to the issuance of a building permit for the following work:

- (1) To perform work permitted under Chapter 18 on a building or structure dislocated or damaged by floods or rains. This exception does not extend to the moving or relocation of a building or structure into another area within which the issuance of building permits is prohibited, as designated in § 43-11.3;
- (2) To perform work permitted under Chapter 18 necessary or required to make an existing building or structure comply with applicable laws and rules;
- (3) To perform alterations or repairs to an existing structure or building that will not increase the number of inhabitants in the structure or building; and
- (4) To erect temporary structures, not for residential purposes, as permitted by Chapter 18.

(Sec. 16-6.6, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.6) (Am. Ord. 96-58)

### **§ 43-11.7 Determination of boundary lines.**

In the event of a dispute as to whether the property or proposed work of an applicant for a building permit falls within any area indicated by Exhibits A through M mentioned in § 43-11.3, the chief engineer shall determine from the plot plan submitted by the applicant the location of the property and the proposed work in relation to the reference points on the applicable exhibit. The decision of the chief engineer shall be final.

(Sec. 16-6.7, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.7)

### **§ 43-11.8 Buildings adjacent to drainage facilities.**

All applications for a building permit for buildings or structures that will be located on property adjacent to any drainage facility shall be submitted to the chief engineer for review.

(Sec. 16-6.8, R.O. 1978 (1983 Ed.) (1990 Code, Ch. 14, Art. 12, § 14-12.8)

### **§ 43-11.9 Subdivision drainage facilities.**

- (a) In the case of subdivisions, the owner shall dedicate and the city accept the land or any interest in land necessary for the drainage facilities that are constructed to city standards and that are to be maintained and repaired (and operated as the case may be) by the city pursuant to HRS § 265A-1, by way of easements or in fee simple as determined by the chief engineer. The land document for stream improvements shall include the following covenant:

That the grantor shall include in all conveyances of its land in the vicinity of the stream improvement area a statement that the drainage structure was designed and constructed by the grantor or the grantor's authorized agent or developer to at least meet the minimum criteria set forth in the storm drainage standards of the city, dated \_\_\_\_\_, but that the city does not guarantee that the drainage structure is adequate to confine all flood waters to the stream improvement area.

- (b) In the case of subdivisions, drainage facilities that only serve private properties shall have easements in favor of the affected property owners. This includes interceptor ditches.

- (c) Before the subdivision of any land is approved by the chief engineer, the chief engineer shall check the subdivision plans against the areas of possible inundation in the watershed area as shown shaded on the maps incorporated by reference in § 43-11.3. Such possible inundated areas are to be designated "possible flood areas." No subdivision shall be approved by the chief engineer, unless all lots in a subdivision that are wholly or partially within the "possible flood area" designation have been subjected to the following encumbrance and noted as a legend on the subdivision map to the effect that:

This lot (Lots \_\_\_\_\_) is(are) in a "possible flood area." All existing drainage structures have been designed and have been or are being constructed to at least meet the minimum criteria set forth in the storm drainage standards of the city; however, the city does not guarantee that the drainage structures will confine all flood waters to the drainage facilities at all times.

- (d) The developer shall pay the entire cost of the drainage facilities to satisfy the anticipated drainage requirements of all surface

water that may flow through or over the proposed subdivision.

(e) Where city standards require drainage facilities of greater capacity than necessary to serve the land being subdivided or developed, to dispose of water diverted or concentrated by the city into such drainage system, the city may pay the difference in costs of materials and excavation, if any. The cost of materials to the city shall be based on the costs of the materials delivered at the site. Upon a determination by the chief engineer that such larger facilities are required, and if HRS Chapter 103, or any amendatory act thereto, are applicable, the property owner shall deposit with the city an amount equal to the cost of construction of the drainage facilities allocable to the property owner's land, based upon current city cost data for comparable installations, but the amount paid by the property owner shall be adjusted, if necessary, on the basis of final costs.

(f) The chief engineer may require the construction of permanent detention or retention drainage structures or other engineering control facilities to contain or divert stormwater runoff to satisfy the anticipated drainage requirement of all surface waters that may flow through or over the proposed subdivision, or to meet any conditions of the city NPDES permit. When required, such facilities will be constructed to provide gravity settling of sediments, suspended solids, and other particulate pollutants.

(g) The chief engineer shall, pursuant to federal requirements, establish controls on the timing and rate of discharge of stormwater runoff from any new development or redevelopment as may be appropriate to reduce stormwater runoff pollution to the maximum extent practicable through the implementation of best management practices (BMPs) and engineering control facilities, designed to reduce the generation of pollutants. This may, where feasible and pursuant to city standards, include limiting peak stormwater runoff rates for storms of higher frequencies to predevelopment levels.

(Sec. 16-6.9, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.9) (Am. Ords. 92-122, 96-34)

#### **§ 43-11.10 Open drainways.**

(a) Open drainways, such as streams, ravines, channels, and ditches, shall not be covered or modified, except when the chief engineer determines that such covering or modification of the open drainways will not be dangerous to the public health, safety, and welfare.

(b) If a property owner desires, at the property owner's own cost, that an open drainway be covered or modified, the property owner shall submit all the pertinent data to substantiate the desirability of covering or modifying such a facility, including data showing that the function of the facility will not be hampered. The construction plans for such covering or modification shall be approved by the chief engineer.

(Sec. 16-6.10, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.10)

#### **§ 43-11.11 Fences along improved channels.**

(a) The chief engineer may require that fences be constructed as part of any channel improvement based upon a consideration of any one or more of the following: the height of the wall or bank, or shape of the channel, or the land use of the adjoining properties, or the depth of normal flow in the channel, or the location of the channel improvement or the possibility of people injuring themselves because of the channel improvement.

(b) Fences, when required, shall generally be erected on or immediately adjacent to the channel walls and they shall be maintained and repaired by the city.

(c) The minimum height of such fences shall be 42 inches.

(Sec. 16-6.11, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.11)

#### **§ 43-11.12 Connection to city-owned separate storm sewer system—Violation.**

(a) *Private storm drain connection licenses.*

(1) All connections from nonmunicipal and private drainage systems to the city-owned separate storm sewer system shall require a storm drain connection license issued by the chief engineer.

(2) The license may require, if applicable, a description of the property owner activity or standard industrial classification code, or both, that best reflects the principal products or services, and a description or analysis, or both, of the effluent to be discharged from the private drainage system into the city-owned system. No license is transferrable without the prior written consent of the chief engineer.

(3) Nonstormwater discharge into the city-owned separate storm sewer system may be allowed if the discharge has been issued an NPDES permit from the State department of health or the United States Environmental Protection Agency, subject to requirements herein.

(4) The chief engineer, or the chief engineer's authorized representative, shall be authorized to enter any property, building, or premises in the discharge of the chief engineer's official duties to inspect or investigate, measure, or test any effluent that is discharged in a private drainage system connected, directly or indirectly, to the city-owned system.

(5) Effluent, including NPDES-permitted discharges and nonstormwater discharges, which are not sources of pollutants, may be allowed into a private drainage system, connected directly or indirectly to the city-owned system.

(6) All required analysis submitted by property owners on the characteristics of the constituents in the discharge shall be performed by qualified personnel in a laboratory acceptable to the chief engineer.

(7) The chief engineer may condition the granting of the license with requirements to prevent drainage or pollution problems, or both, or mitigative measures which will meet any conditions of the city NPDES permit.

(8) Where a private drainage system is common to one or more parcels and is owned by more than one property owner, each property owner is required to have a private drain connection license and be responsible for the maintenance of the common private drainage system.

(9) Failure of the property owner to obtain a license shall be a violation of this article.

(b) *Private storm drain connection license agreement.* A property owner may be allowed to connect the property owner's private drainage system to the city-owned separate storm sewer system if the chief engineer determines that the existing system is

adequate to accommodate the potential peak-designed flows of both systems, and if the property owner agrees to the following conditions:

- (1) That the property owner shall bear the entire cost of engineering, construction, and maintenance of the private drainage system;
- (2) That the property owner shall indemnify and hold the city free and harmless from all suits and actions caused by the property owner's acts or failure to act in connection to the city-owned system;
- (3) That the construction of the drain connection shall be made in accordance with plans and specifications approved by the chief engineer, and subject to compliance by the property owner with this section, including conditions of any and all applicable statutes, ordinances, and rules of federal, State, or city agencies having the effect of law;
- (4) That no additions or alterations to the private drainage system will be made without the prior written consent of the city;
- (5) That the private drainage system shall remain the property owner's property;
- (6) That in the event the private drainage system within the public right-of-way shall at any time interfere with any public use, the property owner shall relocate the private drainage system at the property owner's expense;
- (7) That in the event any portion of the city-owned separate storm sewer system is damaged or destroyed during the construction of the private storm drain connection, the property owner shall bear the entire cost of engineering and construction, or replacement of the damaged facility;
- (8) That in the event the discharge into the city-owned system includes stormwater discharge associated with industrial activity, the property owner shall have an NPDES permit and provide data on the characteristics of the constituents, quantity of the effluent and discharge at the property owner's expense within one year after the date of connection, and annually thereafter or as the need may arise, as determined by the chief engineer; and
- (9) That any time the property owner or anyone using the property owner's property, discharges pollutants or other objectionable material that exceeds applicable water quality standards into the city-owned system or otherwise misuses the system, or causes a violation of the city NPDES permit, the discharge shall be deemed a violation of this section and the city by written notice may terminate this license.

(c) *Termination of license agreement.*

- (1) The chief engineer may order a license to be terminated upon finding that the property owner has violated the agreement or this section.
- (2) A property owner whose license has been terminated shall immediately stop the discharge of any pollutant, if applicable, covered by the license into the city-owned separate storm sewer system. The chief engineer may disconnect or permanently block from the city-owned separate storm sewer system, the private storm drain connection from any property owner whose license has been terminated if such action is necessary to insure compliance with the order of termination.
- (3) A property owner whose license has been terminated may apply for a new license and pay all delinquent charges, penalties, and such other sums as may be due to the city. Any cost that might be incurred by the city in terminating the prior license and disconnecting the private storm drain connection shall be paid by the property owner before issuance of a new license.

(d) *Private storm drain connections.*

- (1) All licenses for private storm drain connections to the city-owned separate storm sewer system issued to the property owner of record shall remain in force. The city may reissue new license agreements for those connections that are discharging nonstormwaters or any effluent that requires an NPDES permit into the city-owned separate storm sewer system.
- (2) Any private storm drain system that is connected to the city-owned separate storm sewer system without a license issued to the property owner of record shall be considered an illegal storm drain connection.
- (3) Whenever a property owner is cited for an illegal private storm drain connection to the city-owned separate storm sewer system, the property owner shall be given 90 days after the date of the citation to obtain a connection license. The city will issue a connection license to the property owner without penalty within the 90-day period, provided no nonstormwater is being discharged into the city-owned separate storm sewer system. After the 90-day period, the property owner shall be in violation of this chapter.
- (4) Whenever a property owner caused or is causing a discharge of stormwater runoff associated with industrial activity or polluted industrial process water or other objectionable material into the city-owned separate storm sewer system, the property owner, within 10 days after being notified by the city of the violation, shall cease the discharges. If an NPDES permit is obtained by the property owner for the discharge, the discharge may be resumed.

(e) Any other storm drain connections to the city-owned separate storm sewer system requires approval by the chief engineer in writing.

(f) *Private storm drain connection fee.*

- (1) A license fee of \$200 shall be collected before the issuance of a private storm drain connection license. All license fees collected shall not be refundable.
- (2) When the license is issued on behalf of the city, State, or federal government, the chief engineer shall waive the collection of the license fee.
- (3) All license fees shall be deposited into the highway fund.

(Sec. 16-6.12, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.12) (Am. Ords. 92-122, 96-34, 03-12, 14-4)

**§ 43-11.13 Allocation of costs.**

- (a) Except as otherwise provided, the city may pay the entire cost for the following types of drainage facilities:
  - (1) Public stream improvements;
  - (2) Bridge to replace an existing bridge;
  - (3) Relief drains that will take care of the drainage requirements of the existing land use; provided that if a property owner desires the construction of a larger facility to meet the drainage requirements attributable to a proposed higher land use of such person's property, the city may construct such larger facility provided that the property owner bears the additional cost of such enlarged facility; and
  - (4) Remedial work for the disposal of water collected or accumulated on public streets or remedial work necessitated by the disposal of such water over land not heretofore subject to such disposal, or both.

- (b) Except as otherwise provided, the city may participate in remedial work to existing private drainage facilities, situated in or abutting on private properties, for the resolution of localized drainage problems to the extent of the cost of engineering and 50 percent of the cost of construction. Examples of such drainage facilities are:

- (1) Stream walls to minimize erosion or to prevent flooding where such walls will show some public benefit; and
  - (2) Drainage facilities to resolve seepage problems in the sidewalk area.

(Sec. 16-6.13, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.13)

#### **§ 43-11.14 Improvements under the improvement district assessment ordinance.**

Nothing contained in this article shall be deemed to affect the initiation and construction of drainage improvements under the improvement district assessment ordinance.

(Sec. 16-6.14, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.14)

#### **§ 43-11.15 Election by property owners to pay additional amounts.**

Notwithstanding any provision above mentioned as to apportionment of costs, owners of properties may pay more than the amounts required by such provisions relating to apportionment of costs.

(Sec. 16-6.15, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.15)

#### **§ 43-11.16 Land requirements and maintenance of drainage facilities.**

- (a) Except as otherwise provided, the city shall acquire the land or any interest in land necessary for the construction, maintenance, and repair (and operation as the case may be) of drainage facilities that are to be constructed by the city by way of easements or in fee simple. Nothing herein shall prevent the city from acquiring easements for other improvements or for utilities or other uses through the same land.

- (b) The city shall maintain and repair (and operate as the case may be) only structures in improved drainage facilities that have been constructed to city standards and have been accepted or constructed by the city.

- (c) The cleaning of debris from public or private drainways may be performed as part of any general cleanup or beautification program of the city, but shall not be performed as a part of maintenance and repair of drainage facilities; however, the chief engineer may cause to be removed any potential obstruction to the operation of any culvert, gate, bridge or drain opening, or similar drainage structure that has been accepted or constructed by the city.

(Sec. 16-6.16, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.16)

#### **§ 43-11.17 Exception.**

This article shall not apply to the construction of any drainage facility for subdivisions, the final subdivision map of which has been approved by the department of planning and permitting within 30 days of the approval date of this article, nor to any drainage improvement where participation by the city has been approved by the chief engineer before the approval date.

(Sec. 16-6.17, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.17)

#### **§ 43-11.18 Inequities.**

Whenever the chief engineer finds that the apportionment of costs, as proposed in this article, would result in inequities, the chief engineer is authorized and directed to submit the chief engineer's recommendations to the council as to how such inequities may be corrected.

(Sec. 16-6.18, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.18)

#### **§ 43-11.19 Provisions subject to State statutes.**

- (a) Any drainage facility, open drainway or other similar facility that extends to the shoreline may be subject to HRS Chapter 205A, Part III.
- (b) In such case, approval of the appropriate agency is required before approval of any construction plans may be granted by the chief engineer.

(Sec. 16-6.19, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.19) (Am. Ord. 96-58)

#### **§ 43-11.20 Federal aid projects.**

- (a) The contents of this article may be adjusted, modified, or deleted to meet federal requirements under a federal aid project.
- (b) In the case of federal projects, the city may obtain the necessary channel right-of-way in such form as required by federal regulations.

(Sec. 16-6.20, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.20)

#### **§ 43-11.21 Approval denied.**

The chief engineer shall disapprove any drainage facilities, open drainways, and other similar facilities that do not conform with this

article.

(Sec. 16-6.21, R.O. 1978 (1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.21)

### **§ 43-11.22 Discharge of effluent other than stormwater runoff—Violation.**

(a) No person shall discharge any effluent other than stormwater runoff onto any public right-of-way or into any drainage facility, or both, without first obtaining a permit from the chief engineer. The chief engineer will only issue a permit upon application when the chief engineer determines that such discharge will not create a drainage or pollution problem or cause a violation of the city NPDES permit. The chief engineer may condition the granting of the permit with requirements to prevent drainage or pollution problems, or both, or mitigative measures that will meet any conditions of the city NPDES permit. Except for those nonstormwater discharges authorized by the city NPDES permit, no discharge shall commence, unless an NPDES permit is first obtained from the State department of health for the discharge of any pollutant into State waters through the municipal separate storm sewer system.

(b) Any person desiring the permit required under this section shall apply to the chief engineer on forms prescribed by the chief engineer.

(c) Any permit issued under this section shall be for the duration of the effluent discharge, but shall not extend beyond the term of the city NPDES permit. The permit shall meet any conditions of the city NPDES permit.

(d) A fee of \$200 shall be required for each permit application. All application fees collected shall not be refundable. When the discharge is performed by or on behalf of the city, State or federal government, the collection of the permit fee shall be waived. All permit fees shall be deposited into the highway fund.

(e) Any discharge that violates any condition of the permit or the State water quality standards in Hawaii Administrative Rules (HAR) Chapter 11-54, shall also be a violation of this article and may result in a cease and desist order. In addition, the city by written notice may terminate the permit for any discharge that violates any condition of the permit or the State water quality standards in HAR Chapter 11-54.

(f) Failure to obtain a permit required under this section shall be a violation of this article.

(Sec. 16-6.22, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.22) (Am. Ords. 92-122, 96-34, 03-12, 14-4)

### **§ 43-11.23 Environmental quality control—Violation.**

(a) It shall be unlawful for any person to discharge or cause to be discharged any pollutant into any drainage facility that causes a pollution problem in State waters, or causes a violation of the city NPDES permit or State water quality standards.

(b) It shall be unlawful for any person to discharge or cause to be discharged any stormwater runoff associated with industrial activity into any drainage facility that causes a violation of the city NPDES permit.

(c) It shall be unlawful to discharge domestic wastewater and industrial wastewater into any drainage facility or any separate storm sewer system.

It also shall be unlawful to discharge commercial cooking oil waste and commercial FOG waste, as defined under §43-5A.1, into any drainage facility or any separate storm sewer system.

(d) It shall be unlawful to discharge any stormwater on any public right-of-way that creates a drainage problem or causes a nuisance.

(e) This section is not applicable to employees of the city who, during the performance of their duties or in cases of emergency or a hazardous substance spill, may discharge sewage, other pollutants or wash water from cleanup operation of a hazardous substance spill into any drainage facility.

(f) Upon presentation of proper credentials, the chief engineer or the chief engineer's duly authorized representatives may enter at reasonable times any building or premises in the City and County of Honolulu in the performance of the chief engineer's official duties, to inspect or investigate the discharge of any pollutant or effluent into or onto a drainage facility; provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.

(Sec. 16-6.23, R.O. 1978 (1987 Supp. to 1983 Ed.)) (1990 Code, Ch. 14, Art. 12, § 14-12.23) (Am. Ords. 92-122, 96-34, 02-14)

### **§ 43-11.24 Administrative enforcement.**

If the chief engineer determines that any person is violating this article, any rule adopted thereunder, or any permit or license issued pursuant thereto, the chief engineer may have the person served, by mail or delivery, with a notice of violation and order. Whenever a corporation violates this article, the violation shall be also that of the individual directors, officers or agents of such corporation who, in their capacity as directors, officers, or agents of such corporation, have authorized, ordered, or done any of the acts constituting in whole or in part such violation.

(a) *Contents of the notice of violation.* The notice shall include at least the following information:

- (1) Date of the notice;
- (2) The name and address of the person served with the notice and the location of the violation;
- (3) The section number of the ordinance or rule, or other law that has been violated;
- (4) The nature of the violation; and
- (5) The deadline for compliance with the notice.

(b) *Contents of the order.* The order may require the person to do any or all of the following:

- (1) Cease and desist from the violation;
- (2) Correct the violation at the person's own expense before a date specified in the order;
- (3) Payment of an administrative fine; or

- (4) Appear before the chief engineer or a person designated by the chief engineer at a time and place specified in the order and answer the charges specified in the notice of violation.

(1990 Code, Ch. 14, Art. 12, § 14-12.24) (Added by Ord. 92-122)

### **§ 43-11.25 Judicial enforcement of order.**

The chief engineer may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued. Where the civil action has been instituted to enforce the civil fine imposed by the order, the chief engineer need only show that the notice of violation and order was served, a hearing was held or the time granted for requesting a hearing had expired without such a request, the civil fine imposed, and that the fine imposed had not been paid.

(1990 Code, Ch. 14, Art. 12, § 14-12.25) (Added by Ord. 92-122)

### **§ 43-11.26 Enforcement.**

(a) *Show cause order.* Whenever the chief engineer finds that a discharge of stormwater or effluent or any pollutant is taking place or threatening to take place in violation of any requirement imposed by ordinance, regulation, or other law, the chief engineer may issue a notice of violation and show cause order requesting the property owner or permit holder or discharger to meet with someone designated by the chief engineer to show why there should be no formal enforcement action. This meeting is not a prerequisite to taking formal enforcement action against the property owner or permit holder or discharger, and neither does this preclude in any way informal meetings of discussions with the property owner or permit holder or discharger.

(b) *Cease and desist order.* Whenever the chief engineer finds that a discharge of stormwater or effluent or any pollutant is taking place or threatening to take place in violation of any ordinance, order, regulation, or other law, the chief engineer may issue an order directing the property owner or permit holder or discharger to cease and desist such discharges and directing the property owner or permit holder or discharger to achieve compliance in accordance with a detailed time schedule of specific actions the property owner or permit holder or discharger must take to correct or prevent violations of this ordinance, regulation, order, or any other law. The chief engineer may order the revocation or suspension of any permit or license. Any order issued by the chief engineer may require the property owner or permit holder or discharger to provide information as the chief engineer deems necessary to explain the nature of the discharge. The chief engineer may require in any cease and desist order that the property owner or permit holder or discharger pay to the city the costs of any extraordinary inspection or monitoring that in the discretion of the chief engineer was necessary as a result of the violation together with civil penalties.

(c) *Cleanup and abatement orders.*

(1) Any person who is in violation of this ordinance, regulation, order, or any other law, shall, upon the chief engineer's order and at the total expense of the property owner or permit holder or discharger, clean up the discharge and do whatever is necessary or required by the chief engineer to abate the effects of the violation.

(2) The chief engineer may initiate any cleanup, abatement, or remedial work required that the chief engineer deems necessary as a result of the magnitude of the violation or when necessary to prevent harm to public health or the environment. The chief engineer may take this action, notwithstanding that injunctive relief and this action may be in addition to any action taken by the property owner or permit holder or discharger or other persons.

(3) Any property owner or permit holder or discharger violating the ordinance, regulations, order, or any other law shall be liable to the city for costs incurred in the cleanup, abatement, or remedial actions undertaken by the chief engineer, including but not limited to administrative costs, inspection costs, attorney fees and penalties or other liability imposed upon the city by other agencies, persons, or organizations whether by way of court action, administrative action, or settlement.

(d) *Termination of discharge.* In addition to other remedies available and as provided in this article or by law, when in the discretion of the chief engineer, the property owner or permit holder or discharger has not or cannot demonstrate satisfactory progress toward compliance with the requirements of this ordinance, regulation, order, or other law, the chief engineer, after providing written notice to the property owner or permit holder or discharger by certified mail 30 days in advance of any action, may sever or plug the connection from the property owner's or permit holder's or discharger's system to the city-owned separate storm sewer system or otherwise prevent the discharge of stormwater or effluent or any pollutant from the property owner's or permit holder's or discharger's system to the city-owned separate storm sewer system.

(e) *Administration fines.* In addition to other remedies available and as provided in this article or by law, the chief engineer may impose administrative penalties.

(1990 Code, Ch. 14, Art. 12, § 14-12.26) (Added by Ord. 92-122)

### **§ 43-11.27 Appeals.**

(a) The property owner, permit holder, or discharger may petition to appeal the terms of a permit or license issued herein by the city, its modification, revocation, suspension, or denial, or the chief engineer's order, including but not limited to enforcement within 30 days of the chief engineer's final action on the matter in accordance with the rules of the department.

(b) Failure to submit a timely petition for appeal shall be a waiver of the administrative appeal.

(c) In its petition, the appealing party must indicate the permit or license provisions objected to, the reasons for this objection, and alternative condition, if any, it seeks to place in the permit or license, or the specific basis for its objections to the permit or license modification, suspension, revocation, or denial and alternatives, if any, it suggests; its specific grounds for its objection to the chief engineer's order.

(d) The effectiveness of the permit or license issued herein or the chief engineer's final action regarding the permit or license modification, suspension, revocation, or denial; or regarding the chief engineer's order, including but not limited to enforcement, shall not be stayed pending the appeal.

(e) If the petition for appeal is not acted upon within 30 days by the chief engineer, the petition shall be denied and the property owner or permit holder or discharger shall comply with the terms of the permit, license, or the chief engineer's final action regarding the permit or license modification, suspension, or revocation; or the terms of the chief engineer's order.

(f) The chief engineer shall take final action on a permit or license denial, issuance, modification, or renewal, or the order, including

but not limited to enforcement, by sending the permit, license or the chief engineer's order to the applicant by certified mail.

(1990 Code, Ch. 14, Art. 12, § 14-12.27) (Added by Ord. 92-122)

### **§ 43-11.28 Violation provisions.**

(a) *Administrative and civil penalties.* Any person violating this article, any order, permit, or license issued under this section, or any other standard or requirement shall be liable for an administrative or civil penalty of not less than \$1,000 nor more than \$25,000 per violation per day, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense. In determining the amount of the fine, the chief engineer shall consider the seriousness of the violation or violations, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the fine on the violator, and such other considerations that have a bearing on the amount of the fine. In addition to the penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations, permits, and licenses under this section.

(b) *Criminal penalties.* Any person:

- (1) Who wilfully, intentionally, recklessly, or negligently violates this article, order, permit, or license issued under this section, or any other requirement, shall upon conviction, be punished by a fine not less than \$1,000 nor more than \$25,000 or by imprisonment not exceeding 90 days, or both, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense; or
- (2) Who knowingly makes any false statement or misrepresentation in any record, report plan, or other document filed with the chief engineer, or tampers with or knowingly renders inaccurate any monitoring device or sampling and analysis method required under this article or by other law, shall be punished by a fine of not more than \$25,000 or by imprisonment for not more than six months, or both.

Unless otherwise provided, this section shall be controlled by HRS, Hawaii Penal Code.

(1990 Code, Ch. 14, Art. 12, § 14-12.28) (Added by Ord. 92-122)

### **§ 43-11.29 Injunctive relief.**

Whenever a property owner or permit holder or discharger has violated a requirement or continues to violate this article, permits, licenses, or orders issued under this section, the city may petition the Circuit Court of the First Circuit, State of Hawaii, or the United States District Court, State of Hawaii, through the city's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, license, or order, or other requirement imposed by this article on activities of the property owner or permit holder or discharger. Such other action as appropriate for legal or equitable relief, or both, may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a property owner or permit holder or discharger.

(1990 Code, Ch. 14, Art. 12, § 14-12.29) (Added by Ord. 92-122)

### **§ 43-11.30 Nonliability of department personnel.**

Notwithstanding any other law to the contrary, no member, employee, or officer of the department of facility maintenance shall be civilly or criminally liable or responsible under this ordinance for any acts done by the member, officer, or employee in their performance of the member's, officer's, or employee's duties.

(1990 Code, Ch. 14, Art. 12, § 14-12.30) (Added by Ord. 92-122)

### **§ 43-11.31 Rule-making powers.**

The chief engineer shall be empowered to adopt rules pursuant to HRS Chapter 91, for the implementation of this article.

(1990 Code, Ch. 14, Art. 12, § 14-12.31) (Added by Ord. 92-122)

### **§ 43-11.32 Decisions of the chief engineer.**

Decisions of the chief engineer made in accordance with this article, or decisions involving variations from the standards referred to herein, or both, shall be made a matter of record in the permit or license file.

(1990 Code, Ch. 14, Art. 12, § 14-12.32) (Added by Ord. 92-122)