

Chapter 6

BUSINESSES

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Chapter 6**BUSINESSES****Article 1. Cemeteries.****Section 6-1. Prohibition.**

No cemetery shall be established, nor shall the area of any existing cemetery be enlarged or extended without the approval of the council, evidenced by a resolution.

(1975 C.C., c. 4, art. 1, sec. 1.)

Section 6-2. Application.

(a) Any person requesting that the council pass a resolution establishing, enlarging or extending a cemetery shall submit with the person's application:

- (1) A certificate of approval by the State department of health of the proposed cemetery site or extension as evidence of compliance with its regulations.
- (2) A complete description of the land included within the proposed cemetery site or extension.
- (3) A map or plan showing the proposed project.
- (4) Evidence of approval relative to noncontamination of water services by the department of water supply.
- (5) A deposit of \$100 to cover cost of publication of notices and other expenses that may be incurred in connection with the application.
- (6) An abstract or certificate of title of the proposed cemetery site or extension.

(1975 C.C., c. 4, art. 1, sec. 2.)

Section 6-3. Referral to planning commission.

Before final action is taken by the council, the application and related maps and documents will be referred to either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The designated planning commission, or joint commission, shall:

- (1) Study the proposed project in relation to any zoning ordinances, statutes, general plan, and policies and rules and regulations of the planning commission.
- (2) Conduct a public hearing on the application, pursuant to provisions governing public hearings under this Code.
- (3) Submit its recommendation to the council.

(1975 C.C., c. 4, art. 1, sec. 3; Am. 2009, Ord. No. 09-118, sec. 13.)

Section 6-4. Other requirements.

No cemetery shall be located on land which is not owned in fee simple. The section of a proposed location which is set aside for interment shall be free of any financial encumbrance. After the approval of a proposed location, it shall be unlawful to encumber any section thereof which is set aside for interment. Lands which are transferred to the County by State executive order for the establishment, enlargement, or extension of any cemetery shall be exempt from the conditions of this section.

(1974, Ord. No. 64, sec. 1; 1975 C.C., c. 4, art. 1, sec. 4.)

Section 6-5. Penalty.

Any person convicted of violating sections 6-1 and 6-4 of this article shall be punished by a fine not exceeding \$500.

(1975 C.C., c. 4, art. 1, sec. 5.)

Section 6-6. County plots; fee; dimensions.

For each County owned cemetery plot sold at the Alae Cemetery, the director of the department of parks and recreation of the County shall collect a fee established by duly promulgated rules of the department, exclusive of the cost of digging and covering the plot. Each cemetery plot shall not exceed nine feet in length and four feet in width.

(1975 C.C., c. 4, art. 1, sec. 6; Am. 1996, Ord. No. 96-22, sec. 2.)

Section 6-7. Cemetery fund.

The moneys collected under section 6-6 shall be deposited with the County finance director in a cemetery fund. All moneys deposited in the cemetery fund shall be expended for the improvement, maintenance, and upkeep of Alae Cemetery.

(1975 C.C., c. 4, art. 1, sec. 7.)

Article 2. Dance Halls.**Section 6-8. Definition.**

- (a) A "public dance house" or "hall" within the meaning of this article is any house, hall, building, or room used for public dancing, for admission to which fees are charged or collected, whether directly for tickets or indirectly in any manner by way of cover charges, fees for partners, or other charges of any nature, or in which female dancing partners receive or have agreed to receive compensation.
- (b) Church halls, club houses, or halls which are occasionally used for dances, at which no compensation is paid or agreed to be paid to any female dancing partners, are not included within the meaning of this article.
- (c) A license fee of \$1 shall be paid to the County finance director for each day or night when dances are held in such church halls, club houses, or halls to which admission charges or fees are collected.

(1975 C.C., c. 4, art. 2, sec. 1.)

Section 6-9. License.

It shall be unlawful for any person to keep or conduct a public dance house or hall in the County, unless licensed to do so.

(1975 C.C., c. 4, art. 2, sec. 2.)

Section 6-10. License application.

- (a) Any person desiring to keep or conduct a public dance house or hall in the County shall make an application in writing, verified under oath, to the County finance director, which shall set forth:
 - (1) The full name and address of the applicant, if an individual, or, if a firm, corporation, or club, the full name and address of the principal officers, including the full name and address of the person who is to be responsible for the conduct of dances or hall.
 - (2) The application of the occupant.
 - (3) A brief description of the place and the location of the public dance house or hall for which a license is desired.
 - (4) The full name and address of the owner, or of the person or persons in control of the premises.
 - (5) The term for which the applicant desires a license.

- (6) A statement under oath that neither the applicant, the person to have charge of the public dances nor any person intended to be employed have been convicted of any offense against the laws of the State or the United States involving moral turpitude or intoxicating liquors.
(1975 C.C., c. 4, art. 2, sec. 3.)

Section 6-11. Location.

Every public dance house or hall shall be located next to or contiguous to a public road or highway, or in a building located next to or contiguous to a public road or highway.
(1975 C.C., c. 4, art. 2, sec. 4.)

Section 6-12. Consent of property owners.

No license shall be issued for a public dance house or hall unless there is first filed with the County finance director the written consent of seventy-five percent of the owners of property within a radius of two hundred fifty feet of the center of the dance house or hall or any proposed dance house or hall. No property owner shall be considered as having consented unless all lessees of any property, the owner of which is required to consent, shall have joined with such owner in a written consent to the issuance of such license.
(1975 C.C., c. 4, art. 2, sec. 5.)

Section 6-13. Written permit.

Every application for a license shall have attached to it a written permit setting forth the fact that the dance house or hall is fit and in proper condition for dances to be held therein, which shall be signed and approved by the County building inspector, the fire chief, or a State deputy fire marshal, and the department of health or its appointed agent.
(1975 C.C., c. 4, art. 2, sec. 6.)

Section 6-14. Issuance of license.

When the application, written consent and written permit have been filed by the applicant and accepted by the County finance director, the applicant shall pay the specified fee to the finance director for the term or terms stated in the application, upon which the director shall issue a license to operate the described house or hall as a public dance house or hall for the term or terms for which the fees have been paid.
(1975 C.C., c. 4, art. 2, sec. 7.)

Section 6-15. Nontransferability.

No license issued under this article shall be transferable or transferred except to a transferee approved by the County finance director after such transferee has filed an application as provided by section 6-10 of this article.
(1975 C.C., c. 4, art. 2, sec. 8.)

Section 6-16. License fees.

The fee for a license to operate a public dance house or hall for one year shall be \$150; the fee for thirty days shall be \$50; and the fee for one day or night or for any number of days or nights less than thirty days shall be at the rate of \$5 per day or per night. All fees shall be paid in advance prior to the issuance of a license.
(1975 C.C., c. 4, art. 2, sec. 9.)

Section 6-17. Conditions of license.

- (a) All licenses to operate a public dance house or hall shall be subject to the following conditions which shall be written and placed upon the license:

- (1) The dance house or hall and the premises shall be brightly lighted during all the time it is in use.
- (2) No undue familiarity between partners shall be permitted at any dance. No violation of law shall be allowed or countenanced in any dance house or hall.
- (3) No person under the influence of liquor shall be permitted to be or remain in the dance house or hall or upon the premises used in that connection.
- (4) Dancing shall cease at 1:00 a.m.
- (5) No person shall be employed with the conduct or operation of such public dance house or hall, who has been convicted of any offense involving immorality, moral turpitude, or intoxicating liquor, or who is under the age of eighteen.
- (6) There shall be employed and be present at such public dance house or hall when dances are being carried on, one person who shall be approved in writing by the chief of police of the County or his deputy. The duties of the person so employed shall be to keep order and enforce the observance of law and the conditions of the license.
- (7) No female shall be permitted to dance, as a dancing partner, in any public dance house or hall, until she produces or shows a birth certificate or other documentary proof to the holder of a license or his manager and to the person employed as provided in the previous paragraph that she is over the age of eighteen.

(1975 C.C., c. 4, art. 2, sec. 10.)

Section 6-18. Bond.

The County finance director shall require the licensee to furnish a bond to the County in the sum of \$500 for the faithful observance of law and order in such public dance house or hall and of the conditions of the license.

(1975 C.C., c. 4, art. 2, sec. 11.)

Section 6-19. Inspection.

The chief of police, his deputy or any regular police officer of the County, members of the department of health, the Hilo fire department, and any County official, may at any time enter any public dance house or hall for the purpose of inspecting the conditions therein.

(1975 C.C., c. 4, art. 2, sec. 12.)

Section 6-20. Display of license.

Any license issued under this article shall be displayed in a conspicuous place upon the premises for which the license is issued.

(1975 C.C., c. 4, art. 2, sec. 13.)

Section 6-21. Liquor prohibited.

No person attending any public dance house or hall shall take to or into said public dance house or hall any intoxicating liquor; and no person shall drink or consume any intoxicating liquor in any public dance house or hall or any premises connected therewith.

(1975 C.C., c. 4, art. 2, sec. 14.)

Section 6-22. Minors prohibited.

It shall be unlawful for any licensee of any public dance house or hall, or any agent or servant of such licensee, to permit children under the age of eighteen years to visit or remain in a public dance house or hall during its use for dancing.

(1975 C.C., c. 4, art. 2, sec. 15.)

Section 6-23. Penalties.

Any person who violates any of the provisions of this article, or who operates or assists in the operation of a public dance house or hall without a license, shall be punished by a fine not exceeding \$500.

In the event any licensee or any owner of any public dance house or hall is convicted of any misdemeanor under this article, then in addition to the above penalty, the judge or district magistrate in imposing sentence may suspend or revoke the license of such person and may prescribe any period not more than one year during which such person may be prohibited from obtaining any license under this article; further, the judge or district magistrate may suspend the use of such public dance house or hall for dances for any period of time not exceeding one year.

(1975 C.C., c. 4, art. 2, sec. 16.)

Section 6-24. Revocation of license.

(a) The County finance director may revoke any license issued under this article upon a proper showing made to him that any of the conditions of the license have been violated by its holder or any of his servants, agents or employees; or that there has been rowdyism, fights or intoxicating liquor furnished or consumed in and upon the premises, dance house or hall for which a license has been issued.

(b) After a license has been issued as provided herein and if the County finance director finds that any false statement had been knowingly made in any application, he shall revoke such license.

(1975 C.C., c. 4, art. 2, sec. 17.)

Article 3. Mobile Homes.**Section 6-25. Definitions.**

(1) "Mobile home" means any vehicle or similar portable structure having no foundation other than wheels, jacks or blocks and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

(2) "Mobile home park" means any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.

(3) "Persons" means any natural individual, firm, trust, partnership, association or corporation.

(1975 C.C., c. 4, art. 4, secs. 1—1.03.)

Section 6-26. License.

It shall be unlawful for any person to maintain or operate a mobile home park within the County, unless such person first obtains a license.

(1975 C.C., c. 4, art. 4, sec. 2.)

Section 6-27. License application; initial; transfer.

(a) Application for an initial mobile home park license shall be filed with and issued by either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The application shall be in writing, signed by the applicant and shall include the following:

(1) The name and address of the applicant;

(2) The location and legal description of the mobile home park; and

(3) Such further information as may be requested by the designated planning commission, or joint commission, to enable it to determine if the proposed park will be compatible with existing and proposed land uses and complies with all legal requirements.

- (b) If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this article and all other applicable statutes, ordinances, and regulations, the designated planning commission, or joint commission, may approve the application, and upon completion of the park according to the plans shall issue the license. A ruling by the joint commission shall require the affirmative vote of a majority of the combined membership of both commissions.
- (c) Upon application in writing for transfer of a license, the designated planning commission, or joint commission, shall issue a transfer if the transferee is of good moral character.
(1975 C.C., c. 4, art. 4, secs. 3-3.02; Am. 2009, Ord. No. 09-118, sec. 14.)

Section 6-28. Conformity with other laws.

All mobile homes shall conform to the County building code, and the public health housing code (chapter 2 of the State public health regulations),* except:

- (1) When parked in a licensed mobile home park;
- (2) When occupied for dwelling or sleeping purposes outside of a licensed mobile home park for less than thirty days in any one location.

(1975 C.C., c. 4, art. 4, sec. 4.)

* **Editor’s Note:** The public health regulations of the department of health relating to housing have been repealed.

Article 4. Miscellaneous Business Licenses.

Section 6-29. County business licenses.

The director of finance shall issue County licenses to businesses as required by chapter 445, Hawai‘i Revised Statutes, as amended, except as provided in section 6-30 of this article.

(1989, Ord. No. 89-41, sec. 2.)

Section 6-30. Elimination of business licenses.

The following businesses are not required to obtain an annual County license or to pay an annual County license fee:

- (1) The sale of beef or pork.
- (2) The manufacture of food products.
- (3) The operation of a laundry.
- (4) The keeping of a lodging or tenement house, hotel, boarding house or restaurant.
- (5) The production, processing or preparation of milk.
- (6) The sale of tobacco, cigars, and cigarettes.
- (7) The carrying of freight and baggage.
- (8) The carrying of passengers.

(1989, Ord. No. 89-41, sec. 2.)

Article 5. Licensing of Auctioneers.

Section 6-31. Purpose.

The purpose of this article is to provide for a licensing mechanism for auctioneers which was eliminated by Act 232 of the 1992 State Legislature, but which is still required in the Federal Bankruptcy Court.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-32. Definitions.

“Auction” means a sale, offering for sale or exposing for sale to the highest bidder of any goods, wares, merchandise or other personal property in an auction room.

“Auctioneer” means any person who is licensed by the director pursuant to chapter 445, Hawai‘i Revised Statutes, and this article to sell goods, wares, merchandise or other personal or real property at auction.

“Director” means the director of finance of the County of Hawai‘i or the director’s duly authorized subordinate(s).

(1995, Ord. No. 95-140, sec. 1.)

Section 6-33. Exceptions.

(a) Nothing contained in this article shall be construed to apply to any type of auction which is exempt from the requirements of section 445-22, Hawai‘i Revised Statutes.

(b) Auctions conducted by nonprofit organizations for charitable purposes shall also be exempt from the provisions of this Article.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-34. Applicability.

It shall be unlawful for any person to sell, offer for sale or expose for sale at public auction any personal property without obtaining a license issued by the director in accordance with the terms, conditions and penalties enumerated in chapter 445, Hawai‘i Revised Statutes and this article.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-35. Fee.

The annual fee for a license to sell, offer for sale or expose for sale any property at auction shall be \$100, payable to the County of Hawai‘i, department of finance.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-36. Authority to conduct auctions.

(a) It is unlawful for any person, other than an auctioneer who has obtained a license, to conduct an auction, provided that the auctioneer may appoint an agent or assistant who may conduct the auction in the auctioneer’s presence. Where the licensee is a corporation, it shall appoint and designate a person to be its “auctioneer” within the meaning of this article.

(b) The auctioneer, its agent or assistant or if a corporation shall post a copy of the license and bond, if required, in a conspicuous place that is visible and accessible to any interested persons at the time of the auction.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-37. Adverse interest of auctioneer prohibited.

Every auctioneer conducting an auction shall, in accepting a bid from any person, become the agent of such bidder and remain so until a higher bid is accepted or until the transaction involving the bid is completed. The auctioneer must disclose publicly to all prospective buyers any proprietary interest that the auctioneer has in any personal or real property to be sold at the auction.

(1995, Ord. No. 95-140, sec. 1.)

Section 6-38. Receipts to purchasers required.

The auctioneer shall give each purchaser at an auction a receipt with each purchase setting forth:

(a) The name and permanent address of the auctioneer.

(b) The date.

(c) The price paid for the article.

- (d) The amount of tax paid.
 - (e) A description of the article.
- (1995, Ord. No. 95-140, sec. 1.)

Section 6-39. Violation - penalty.

Any person violating any provision of this article shall, upon conviction, be punished by a fine not exceeding \$500, and such person’s license to conduct a public auction shall be subject to suspension or forfeitures.

(1995, Ord. No. 95-140, sec. 1.)