

## **CHAPTER 1**

### **GENERAL PROVISIONS**

- Section 1-1. Designation and citation of Code.
- Section 1-2. Rules of construction.
- Section 1-3. When rules of construction do not apply.
- Section 1-4. Definitions.
- Section 1-5. Reference to chapters, articles, divisions, subdivisions, and sections; conflicting provisions.
- Section 1-6. Revival.
- Section 1-7. Effect on rights accrued.
- Section 1-8. Pending suit or prosecution.
- Section 1-9. Severability.
- Section 1-10. General penalty.
- Section 1-11. Violation of Charter.

This page intentionally left blank.

**CHAPTER 1****GENERAL PROVISIONS****Section 1-1. Designation and citation of Code.**

This Code shall be known and may be cited as the “Hawai‘i County Code,” the “County Code,” or in the provisions which follow as “this Code.”  
(1983 CC, c 1, sec 1-1.)

**Section 1-2. Rules of construction.**

(a) In the construction of this Code, the following rules shall be observed unless it is apparent from the context that a different construction is intended:

- (1) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- (2) Every word in this Code shall extend to and be applied to all genders; and every word importing the singular number only shall extend to and be applied to several persons or things as well as to one person or thing; and every word in the plural number shall include the singular number, and every word in the singular number shall include the plural number.
- (3) Every word used in the present tense shall include the future.
- (4) When any provision of this Code requires an act to be done, which may by law as well be done by a subordinate officer as by the superior officer, such requirement shall be construed to include all such acts when done by an authorized subordinate officer.
- (5) The time within which an act is to be done as provided in any provision of this Code or in any order issued pursuant to any provision of this Code, when expressed in days, shall be computed by excluding the first day and including the last, unless the last day is a Sunday or holiday, in which case it is also excluded. When so provided by the rules of court, the last day shall also be excluded if it is a Saturday.

(1983 CC, c 1, sec 1-2.)

**Section 1-3. When rules of construction do not apply.**

The rules of construction set forth in section 1-2 shall not be applied to any provision of this Code which contains an express provision excluding such construction, or when the subject matter or context of a provision of this Code may be repugnant thereto.

(1983 CC, c 1, sec 1-3.)

**Section 1-4. Definitions.**

- (a) For the purposes of this Code, the following terms, phrases, words, and their derivations shall have the meaning given in this section, unless it is apparent from the context that a different meaning was intended:
- (1) “And/or.” “And” may be read “or” and “or” may be read “and,” if the sense requires it.
  - (2) “Agency” means any office, department, board, commission, or other governmental unit of the County.
  - (3) “Bond” means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.
  - (4) “Building” means any structure intended to have walls and a roof.
  - (5) “Business” means any profession, trade, occupation, and any other commercial enterprise conducted for monetary reward.
  - (6) “City” means the City of Hilo, State of Hawai‘i.
  - (7) “Clerk” means the County clerk.
  - (8) “Charter” means the Charter of the County of Hawai‘i.
  - (9) “Council” means the County council of the County of Hawai‘i.
  - (10) “County” means the County of Hawai‘i, State of Hawai‘i.
  - (11) Definitions given within a chapter or article apply only to words or phrases used in such chapter or article, unless otherwise provided.
  - (12) “Designee” following an official of the County means the authorized agent, employee, or representative of that official.
  - (13) “District” means the geographical area or election district in the County of Hawai‘i as described in sections 4-1 and 4-2, Hawai‘i Revised Statutes.\* District does not mean representative district.
  - (14) “Executive agency” means any agency or department of the executive branch of the County government.
  - (15) “Employee” means any person, except an officer, employed by the County or any agency of the County, but shall not include an independent contractor.
  - (16) “May” is permissive and discretionary.
  - (17) “Mayor” means the mayor of the County.
  - (18) “Month” means a calendar month.
  - (19) “Oath” means any form of attestation by which a person signifies that the person is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath.
  - (20) “Occupant” means a tenant or person in actual possession.
  - (21) “Officer” includes the following:
    - (A) Mayor and members of the council.
    - (B) Any person elected or appointed as administrative head of any agency of the County or appointed as a member of any board or commission provided for in this Code.
    - (C) Any person appointed by a board or commission as the administrative head of any agency of the County.

- (D) Deputy, assistant, or division chief appointed by the administrative head of any agency of the County.
- (E) Assistant and deputies of the corporation counsel and prosecuting attorney.
- (22) “Operate” means carry on, keep, conduct, maintain, manage, direct, or superintend.
- (23) “Ordinances” means the ordinances of the County of Hawai‘i and all amendments and supplements thereto.
- (24) “Owner” means one who has complete dominion over particular property and the one in whom legal or equitable title rests; when applied to a building or land, “owner” means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land.
- (25) “Person” includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, in any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.
- (26) “Preceding” and “following” mean next before and next after, respectively.
- (27) “Proprietor” means an owner of the property or premises, including any person, firm, association, corporation, club, partnership, or other group acting as a unit, whether acting by themselves or by a servant, agent, or employee.
- (28) “Public place” means any park, lake, stream, stadium, athletic field, playground, school yard, street, avenue, plaza, square, bus depot, shopping center, or mall, or any other place commonly open to the public.
- (29) “Shall” and “must” are mandatory.
- (30) “Sidewalk” means that portion of a street between the curb line and the adjacent property along the margin of a street or other roadway, designed, constructed, and intended for the use of pedestrians to the exclusion of vehicles.
- (31) “State” means the State of Hawai‘i.
- (32) “Statutes” means the Hawai‘i Revised Statutes.
- (33) “Street” means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges, and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lanes used for vehicular traffic, or other public ways or thoroughfares in the County, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.
- (34) “Tenant” means any person occupying the premises, building, or land of another in subordination to such other person's title and with such other person's express or implied consent, whether the person occupies the whole or a part of those premises, building, or land, whether alone or with others.

- (35) "Watercourse" means any drain, ditch, and stream flowing in a definite direction or course in a bed with banks.
- (36) "Week" means seven days.
- (37) "Workforce Investment Act of 1998" refers to the United States Public Law 105-220-August 7, 1998 (112 Stat. 936) and 20 Code of Federal Regulations part 652 and parts 660 through 671.
- (38) "Writing" and "written" mean any representation of words, letters, or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.
- (39) "Year" means a calendar year.

(1983 CC, c 1, sec 1-4; am 2000, ord 00-43, sec 2.)

\* **Editor's Note:** Section 4-2, Hawaii Revised Statutes was repealed.

**Section 1-5. Reference to chapters, articles, divisions, subdivisions, and sections; conflicting provisions.**

- (a) In addition to the rules of construction specified in section 1-2, the following rules shall be observed in the construction of the provisions of this Code:
  - (1) All references to chapters, articles, divisions, subdivisions, and sections are to the chapters, articles, divisions, subdivisions, and sections of the Hawaii County Code unless otherwise specified;
  - (2) If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of that chapter; and
  - (3) If conflicting provisions are found in different sections of the same chapter, the provisions of the section which was enacted later in time prevail unless such construction is inconsistent with the meaning of that chapter.

(1983 CC, c 1, sec 1-5.)

**Section 1-6. Revival.**

The repeal of any resolution or ordinance does not revive any other resolution or ordinance which has been repealed, unless that revival is clearly expressed.

(1983 CC, c 1, sec 1-6.)

**Section 1-7. Effect on rights accrued.**

The repeal of any resolution or ordinance shall not affect any act done, or any right accruing, accrued, acquired, or established, or any suit or proceedings had or commenced in any civil case, before the time when the repeal takes effect.

(1983 CC, c 1, sec 1-7.)

**Section 1-8. Pending suit or prosecution.**

No suit or prosecution pending at the time of the repeal of any resolution or ordinance, for any offense committed, or for the recovery of any penalty or forfeiture incurred under the resolution or ordinance repealed, shall be affected by that repeal.

(1983 CC, c 1, sec 1-8.)

**Section 1-9. Severability.**

It is declared to be the intention of the council that the sections, subsections, paragraphs, sentences, clauses, and words of this Code are severable. If any section, subsection, paragraph, sentence, clause, or word is declared unconstitutional, or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining sections, subsections, paragraphs, sentences, clauses, and words of this Code, since the sections or parts of sections would have been enacted by the council without and irrespective of any unconstitutional or otherwise invalid section, subsection, paragraph, sentence, clause, or word being incorporated into this Code.  
(1983 CC, c 1, sec 1-9.)

**Section 1-10. General penalty.**

- (a) Where there is a violation of a provision of this Code for which no penalty is provided, the person violating the provision shall be subject to a fine of not more than \$100 for each offense, or to imprisonment of not more than ninety days, or to both.
  - (b) In all cases where a penalty is imposed by this Code, the court may, in addition to such penalty, award attorneys' fees to the County.
- (1983 CC, c 1, sec 1-10.)

**Section 1-11. Violation of Charter.**

- (a) As used in this section, “intentionally” means an act purposely, knowingly, or wilfully done.
  - (b) Any person who “intentionally” fails to exercise such person’s duties and responsibilities as expressed in the Charter, or to heed the prohibitions provided for therein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500 or by imprisonment for a term not exceeding six months, or by both.
  - (c) The provisions of this section shall not apply to article XIV of the Charter.
- (1983 CC, c 1, sec 1-11.)

This page intentionally left blank.