

CHAPTER 26

FIRE

Article 1. Hawai'i County fire code.

- Section 26-1-1. Adoption of the Hawai'i State Fire Code.
- Section 26-1-2. Title.
- Section 26-1-3. Building changes.
- Section 26-1-4. Investigation.
- Section 26-1-5. Plans and specifications.
- Section 26-1-6. Standby fire personnel.
- Section 26-1-7. Standby and fire watch; cost.
- Section 26-1-8. Fire watch for systems out of service.
- Section 26-1-9. Fire watch; assignment.
- Section 26-1-10. Fire watch; documentation.
- Section 26-1-11. Public fire education.
- Section 26-1-12. Permits required.
- Section 26-1-13. Permit and fees.
- Section 26-1-14. Plan review.
- Section 26-1-15. Violations and penalties.
- Section 26-1-16. Assembly occupancy.
- Section 26-1-17. Inspection tag.
- Section 26-1-18. Maintenance, inspection, and testing.
- Section 26-1-19. Open fires, incinerators, and commercial fireplaces.
- Section 26-1-20. Premises identification.
- Section 26-1-21. Special outdoor events, carnivals, and fairs.
- Section 26-1-22. Site plan.
- Section 26-1-23. Authority to inspect.
- Section 26-1-24. Heating, ventilation, air-conditioning.
- Section 26-1-25. Access to Fire Department connections.
- Section 26-1-26. Blocked access; vehicle removal.
- Section 26-1-27. Standpipe inspection tag.
- Section 26-1-28. Sprinklers in new one and two family dwellings.
- Section 26-1-29. Sprinkler inspection tag.
- Section 26-1-30. Nuisance or false alarms.
- Section 26-1-31. Fire alarm inspection tag.
- Section 26-1-32. Occupant load increase.
- Section 26-1-33. Water supply for fire protection during construction.
- Section 26-1-34. Fire hydrant use and restrictions.
- Section 26-1-35. Fire department access roads (FDAR)-distance increase.
- Section 26-1-36. Fire department access roads (FDAR)-width and turn around.
- Section 26-1-37. Fire department access roads (FDAR)-height clearance.
- Section 26-1-38. Fire department access roads (FDAR)-height variance.

- Section 26-1-39. Fire department access roads (FDAR)-load limit and surface.
- Section 26-1-40. Fire department access roads (FDAR)-turning radius.
- Section 26-1-41. Fire department access roads (FDAR)-grade.
- Section 26-1-42. Alternative water supply.
- Section 26-1-43. Occupant load sign for assemblies.
- Section 26-1-44. Seating arrangements.
- Section 26-1-45. Cooking operations affiliated with tents and temporary structures.
- Section 26-1-46. Deep fat frying.
- Section 26-1-47. Seating arrangements for grandstands and general assembly areas.
- Section 26-1-48. Existing commercial cooking equipment.
- Section 26-1-49. Kitchen hood suppression acceptance test.
- Section 26-1-50. Vehicular protection.
- Section 26-1-51. LPG-enclosures.
- Section 26-1-52. LPG-enclosures.
- Section 26-1-53. LPG-enclosures.
- Section 26-1-54. LPG-storage and use on balconies.
- Section 26-1-55. LPG-cooking inside of vehicles.
- Section 26-1-56. Fuel supplier responsibility.

Article 2. Fireworks Code.

Division 1. General Provisions.

- Section 26-2-1. Title.
- Section 26-2-2. Definitions.
- Section 26-2-3. Public information.

Division 2. Prohibitions.

- Section 26-2-21. General prohibitions.
- Section 26-2-22. Minors.
- Section 26-2-23. Liability of parents or guardians.

Division 3. Licenses.

- Section 26-2-31. License required.
- Section 26-2-32. General license provisions.
- Section 26-2-33. License application process.
- Section 26-2-34. Applications to include.
- Section 26-2-35. Application fees.
- Section 26-2-36. Requirements of licensee.
- Section 26-2-37. Compliance and revocation.

Division 4. Permits.

- Section 26-2-41. Permits.
- Section 26-2-42. Firecrackers.
- Section 26-2-43. Consumer fireworks for cultural purposes.
- Section 26-2-44. Aerial devices, display fireworks, and articles pyrotechnic.
- Section 26-2-45. General permit provisions.
- Section 26-2-46. Permit application process.
- Section 26-2-47. Compliance and revocation.

Division 5. Importation and Exportation.

- Section 26-2-51. Licensee's duty of notification.
- Section 26-2-52. Inspection of fireworks.
- Section 26-2-53. Importation and storage.

Division 6. Enforcement and penalties.

- Section 26-2-61. Penalties.

Article 3. Fire board of appeals.

- Section 26-3-1. Definitions.
- Section 26-3-2. Fire board of appeals established; appointment; qualifications.
- Section 26-3-3. Powers; duties; functions.
- Section 26-3-4. Appeals.
- Section 26-3-5. Meetings.
- Section 26-3-6. Records.
- Section 26-3-7. Decisions.

This page intentionally left blank.

CHAPTER 26**FIRE****Article 1. Hawai'i County fire code.****Section 26-1-1. Adoption of the Hawai'i State Fire Code.**

The Hawai'i State Fire Code, as adopted by the Hawai'i State fire council on January 1, 2010, pursuant to section 132-3, Hawai'i Revised Statutes, which incorporated the 2006 National Fire Code, NFPA 1 Uniform Fire Code, is by reference incorporated herein and made a part hereof and is hereby adopted by reference, subject to the amendments in this chapter.
(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-2. Title.

1.1.2 is amended to read:

1.1.2 This code, which includes the amendments to the Hawai'i State Fire Code made by the County of Hawai'i shall be known as the Hawai'i County Fire Code, and may be cited as such, and will be referred to herein as this code.
(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-3. Building changes.

1.3.6.3 is amended to read:

1.3.6.3 New construction, repairs, renovations, alterations, or any change in occupancy shall conform with this code, the Hawai'i State Fire Code, and the Building code.
(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-4. Investigation.

1.7.10 is amended to read:

1.7.10 Investigation. Investigations are authorized by and shall be made in accordance with section 132-4, 132-4.5, 132-5, Hawai'i Revised Statutes.
(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-5. Plans and specifications.

1.7.11 is amended to read:

1.7.11 Plans and specification.
The Fire Chief shall have the authority to require plans and specifications to be submitted prior to the construction, demolition, or alteration of any building or

structure; prior to any change in a building's occupancy type or class; or prior to the installation of any life safety or fire protection systems to ensure compliance with applicable codes and standards.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-6. Standby fire personnel.

1.7.15 is amended to read:

1.7.15 Standby and Fire Watch Personnel.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-7. Standby and fire watch; cost.

1.7.15.2.1 is amended to read:

1.7.15.2.1 The cost of standby and fire watch personnel shall be at no cost to the authority having jurisdiction (AHJ).

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-8. Fire watch for systems out of service.

1.7.15.4 is added to read:

1.7.15.4 Where a fire alarm or fire suppression system is out of service for more than 4 hours in a 24-hour period, the AHJ shall be notified and an approved fire watch shall be provided until such system is returned to service.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-9. Fire watch; assignment.

1.7.15.5 is added to read:

1.7.15.5 Person(s) conducting fire watch duty shall be assigned to an area for the express purpose of notifying the Fire department, the building occupants or both of an emergency; preventing a fire from occurring; extinguishing small fires; or protecting the public from fire or life safety dangers. The fire watch personnel shall patrol the entire area or premise that the non-functioning system protects.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-10. Fire watch; documentation.

1.7.15.6 is added to read:

1.7.15.6 Standby and fire watch personnel shall keep documentation on an hourly basis or as often as deemed necessary by the AHJ. Documentation shall be available for review upon the AHJ request.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-11. Public fire education.

1.7.16.3 is added to read:

1.7.16.3 The Fire chief of each county may:

- (1) Appoint advisers, promote and secure the appointment and service of committees of commercial, industrial, labor, civic, and other organizations, who shall, without compensation, assist the county fire chief in establishing standards of safety;
- (2) Establish and maintain museums and exhibits of safety and fire prevention in which shall be exhibited equipment, safeguards, and other means and methods for protection against fire loss, and publish and distribute bulletins on any phase of this general subject;
- (3) Cause lectures to be delivered, illustrated by stereopticon or other views, diagrams, or pictures, for the information of owners or other persons and the general public, in regard to the causes and prevention of fires and related subjects.

(Section 132-14, Hawai'i Revised Statutes.)

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-12. Permits required.

1.12.20 is amended by deleting original proposed language and adding the following amended language:

1.12.20 Permits Required.

Permits shall be required under the following sections:

- (1) Section 10.15.1 Carnivals, Fairs, Farmers Markets, Open Markets, and Flea Markets.
- (2) Section 20.1.1 Places of Assembly with an occupant load of 300 or greater.
- (3) Section 25.1.2 Tents, Canopies and Temporary Structures. A permit shall be required for each event utilizing a tent, canopy or temporary structure in excess of 700 square feet.
- (4) Section 43.1.1.4 Application of Flammable Finishes.
- (5) Section 65.11.3.2 Fireworks.
- (6) Section 66.1.5 Flammable and/or Combustible Liquid Storage tanks in excess of 60 gallons.
- (7) Section 69.1.2 Liquefied Petroleum Gas.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-13. Permit and fees.

1.12.20.1 is added to read:

1.12.20.1 Permit and Fees.

- (1) Permit and fee for section 10.15.1 are as follows:
 - (a) There shall be a permit and fee of \$100 for each 10.15.1, Carnival or Fair permit. Permit shall be valid for the duration of the event.
 - (b) There shall be a bi-annual permit and fee of \$25 for each 10.15.1, Farmers Market, Open Market, and Flea Market. This permit shall apply to the property owner, lessee, or his or her representative of which the event is occurring. Permit periods shall be from April 1 through September 30 and October 1 through March 31 of the following year. Permits applied for within such time frames shall be allowed at the cost of \$25 for each permit. Permit shall be kept on site on available for review upon request by the AHJ during normal business hours.
- (2) Permit and fees for section 20.1.1 are as follows:

There shall be an annual permit and fee of \$50 for each 20.1.1 Permit, for places of assembly with an occupancy load of 300 or greater. Permit shall be kept on site and available for review by the AHJ during normal business hours.
- (3) Permit and fee for section 25.1.2 are as follows:
 - (a) There shall be a permit and fee of \$25 for each tent, canopy, or temporary structure covering an area of 700 square feet or greater. Tents or canopies located less than 10 feet between tie-downs shall be considered as one tent when determining square footage.

Exception: These permits and fees shall not apply to structures used for camping or private functions on private property or to any section 10.15.1 permit.
 - (b) A permit and fee of \$25 for each tent or temporary structure erected for the sale of Christmas trees. Tents greater than 10 feet apart shall be considered a separate tent.
 - (c) A permit and fee of \$25 for each tent or temporary structure erected for the sale of fireworks. Tents greater than 10 feet apart shall be considered a separate tent.
- (4) Permit and fee for section 43.1.1.4 are as follows:

An annual permit and fee of \$50 for each 43.1.1.4 permit, Application of flammable finishes.

- (5) Permit and fee for section 65.11.3.2 are as follows:
Permits, licenses, and fees associated with the Import, Manufacture, Wholesale, Storage, Retail, and use of fireworks shall be as specified in section 132-D, Hawai'i Revised Statutes.
- (6) Permit and fee for section 66.1.5 are as follows:
A one-time permit and fee of \$50 for each 66.1.5 permit, installation and/or removal of an above-ground storage tank (AST) or under-ground storage tank (UST) containing flammable or combustible liquids in excess of 60 gallons.
- (7) Permit and fee for section 69.1.2 are as follows:
A one-time permit and fee of \$50 dollars for each 69.1.2 permit, Liquefied Petroleum Gas tank installation of 125 gallons or greater.
- (2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-14. Plan review.

1.14 and 1.14.1 is added to read:

1.14 Plan Review

1.14.1 When required by section 132-9, Hawai'i Revised Statutes, a set of plans and specifications shall be submitted to the Fire Chief for review to assure compliance with applicable codes and standards.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-15. Violations and penalties.

1.16.1.1 is added to read:

1.16.1.1 Violations and Penalties.

Any person, firm or corporation violating any of the provisions in this code may be deemed guilty, but not limited to, a petty misdemeanor. Any such person, firm, or corporation deemed guilty, may be charged for a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, permitted, or continue to be permitted. Upon conviction of any such violation, the person, firm, or corporation shall be punishable of a fine as not to exceed \$500 and/or by imprisonment for not more than thirty days.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-16. Assembly occupancy.

3.3.165.3 is amended to read:

3.3.165.3 Assembly Occupancy.

An occupancy (1) used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting

transportation, or similar uses; or (2) used as a special amusement building, regardless of occupant load.

A building used for the above mentioned purposes, with an occupant load of less than 50 persons shall be governed by the requirements of a Business group occupancy as defined in the Building Code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-17. Inspection tag.

4.5.8.6 is added to read:

4.5.8.6 Upon completion of the testing, maintenance, or inspection of any Fire detection or Fire suppression system or equipment, an inspection tag sticker or other form of documentation shall be affixed to such device or system.

Information on the tag shall include:

- (1) Test or inspection results;
- (2) Date the inspection was completed
- (3) Company name and contact information;
- (4) Name of technician performing the test or inspection;
- (5) Contractor’s license number and expiration date.

Inspection tag shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-18. Maintenance, inspection, and testing.

10.4.6 is added to read:

10.4.6 Upon completion of the testing, maintenance or inspection of any Fire detection or Fire suppression system, an inspection tag, as referenced in 4.5.8.6 above, shall be applied.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-19. Open fires, incinerators, and commercial fireplaces.

10.11.1 is amended to read:

10.11.1 Open fires in Hawai'i County.

- (1) Fires for the cooking of food.
 - (a) Persons responsible for large open fires not contained within an appliance, such as an “Imu”, shall telephone the Fire dispatch center on the non-emergency number at least 15 minutes before the lighting of such fires.

- (b) Persons responsible for fires that use smoke as a method of cooking or curing, such as a “smoke house”, shall telephone the Fire dispatch center on the non-emergency number at least 15 minutes before lighting of such fires.
- (c) For open fire cooking operations with service to and subject to the general public, the following shall apply:
 - i. Open flame cooking operations shall be conducted under a non-combustible covering. All structures shall be properly anchored/secured.
 - ii. Cooking operations shall not be located less than 10 feet from any building.
 - iii. Open flame cooking appliances shall not be located less than 10 feet from the general public. Means of protection, such as a protective barrier shall be approved by the AHJ.
 - iv. Cooking operations shall not be located less than 20 feet from any exiting system.
 - v. Open flame cooking operations shall not be located less than 25 feet from trash, brush, or other combustible waste.
 - vi. Cooking equipment using flammable liquids or gasses shall not be used less than 25 feet from any outside ignition sources, (vehicles, generators, electrical panels, etc.) and not less than 25 feet from any other tent or temporary structures.
 - vii. Flammable gas cylinders used in cooking operations shall be listed for that use. Spare flammable gas cylinders shall not exceed 5 gallons water capacity in any 1 tenant space.
 - viii. Spare flammable liquid containers shall not exceed 1 gallon capacity. Containers shall be stored in a well ventilated area and shall be kept at least 10 feet away from any open flame, ignition source, and the general public. Maximum storage quantity is 1 gallon per appliance. Flammable liquid storage containers shall be listed for that use.
 - ix. All flammable liquid or gas fueled cooking appliances shall be listed for that use.
- (d) The AHJ shall be authorized to immediately cause to cease any open fire or cooking activity, if such fire is determined to cause a danger to life safety and/or health.

- (2) Fires for recreational, decorative, or ceremonial purposes.
- (a) Open fire performances before a proximate audience shall comply with the following:
- i. Performances that use an open flame, such as “fire dancing”, shall be held outdoors (see exception below).
 - ii. Performance shall be in an area at least 25 feet clear of trash, brush, and other combustible waste.
 - iii. A minimum clearance of 25 feet shall be kept between the performers and the audience at all times during a performance. This distance may be reduced to 15 feet, provided an AHJ approved, non-combustible safety net is in place to protect the audience in the case of an accidental release.
 - iv. Gasoline, diesel or any Class I flammable liquid shall not be used as the fuel source.
 - v. Excess fuel storage shall be kept in an approved container and at least 25 feet away from both the performers and the audience. Quantity of fuel stored shall only suffice for a single performance.
 - vi. Performers shall not throw any props or display devices over the audience as to cause a fire or safety hazard.
 - vii. A CO2 fire extinguisher with a minimum 20B rating and an ABC fire extinguisher with a minimum 4A rating shall be readily available and within 50 feet of the performance. The fire extinguishers shall be constantly attended by a competent person trained in the use of portable fire extinguishers.
 - viii. Event site shall be subject to inspection.
 - ix. Additional clearances and/or means of extinguishment shall be provided if deemed necessary by the AHJ.

Exception: Upon the approval of the AHJ, performances using fire may be held indoors provided the facility has an automatic fire sprinkler system that is code compliant and all of the above mentioned safety requirements are met.

- (b) Open fires for recreational, decorative, or ceremonial purposes such as the “lighting of the letters” shall comply with the following:
- i. Burn location shall be outdoors.

- ii. Burn area shall have a minimum clearance of 25 feet to trash, brush, and other combustible waste.
- iii. Burn area shall have a minimum clearance of 100 feet to any building or combustible structure.
- iv. Burn area shall have a minimum clearance of 100 feet to the spectators.
- v. Gasoline, diesel or any Class I flammable liquid shall not be used as the fuel source.
- vi. After fuel is applied, the excess fuel shall be removed from the fire area.
- vii. The person(s) applying the fuel shall not be the same person causing the ignition.
- viii. A CO2 fire extinguisher with a minimum 20B rating and an ABC fire extinguisher with a minimum 4A rating shall be readily available and within 50 feet of the fire. The fire extinguishers shall be constantly attended by a competent person trained in the use of portable fire extinguishers.
- ix. Burn site shall be subject to inspection.
- x. The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.
- xi. Additional clearances and/or means of extinguishment shall be provided if deemed necessary by the AHJ.

Prior to any Recreational, Decorative or Ceremonial Fire, a site plan shall be submitted to the AHJ at least 7 days prior to the event. The site plan shall include: (1) Contact information of the person(s) responsible, (2) Location or address of the burn site(s), (3) Date and time of ignition, and (4) Distances from the burn area to spectators, structures, and vehicles.

- (c) Recreational or Ceremonial “Sweat Lodges” or other Structure(s) used for similar purposes.
 - i. No fire shall be allowed or maintained in any structure used as a “sweat lodge” or the like in that the byproducts of combustion may cause a danger to life safety or health.
 - ii. Structures used in this context shall notify the Fire department, State Department of Health, and the Building department prior to operation.
 - iii. Fire department access shall be provided.

- (d) Aerial Luminary Devices.
 - i. Aerial luminary devices shall be defined as any homemade or manufactured device that has an open flame and which can be sent airborne or adrift, leaving the height and distance it travels to be determined by existing atmospheric conditions. Such devices whether it is tethered or not, shall be deemed an Aerial luminary device.
 - ii. All Aerial luminary devices shall be deemed a fire hazard.
 - iii. It shall be unlawful to Buy, Sell, Use, Possess, Ignite, or cause to ignite any such Aerial luminary devices.
 - iv. Exception: Signal flares for emergency use.
- (e) Bonfires.

Bonfires are prohibited unless approved by the State Department of Health or the State Department of Land and Natural Resources. The Fire dispatch center shall be notified of all approved bonfires prior to ignition.
- (f) Fires used for cinematic purposes.

Fires used with cinematography shall be allowed by the Fire chief provided adequate safeguards as determined by the Fire chief is provided.
- (3) Fires to abate a fire hazard.
 - (a) A site plan shall be submitted to the AHJ at least 14 days prior to the burn activity. The site plan shall include:
 - i. Contact information of the person(s) responsible.
 - ii. Location or address of the burn site(s).
 - iii. Type of fuel being burned.
 - iv. Date and time of ignition.
 - v. Means of extinguishment (shall be suitable to the AHJ).
 - vi. Fire department access as approved by the AHJ.
 - (b) Burn site shall be subject to inspection.
 - (c) The Fire dispatch center shall be notified on their non- emergency number at least 30 minutes prior to ignition.

- (4) Fires for the prevention or control of disease or pests.
 - (a) A site plan shall be submitted to the AHJ at least 14 days prior to the burn activity. The site plan shall include:
 - i. Contact information of the person(s) responsible.
 - ii. Location or address of the burn site(s).
 - iii. Date and time of ignition.
 - iv. Means of extinguishment shall be suitable to the AHJ.
 - v. Fire department access as approved by the AHJ.
 - (b) Burn site shall be subject to inspection.
 - (c) The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.
- (5) Fires for the training of Firefighting personnel.

All fires of this nature shall be approved by the Fire chief.
- (6) Fires for disposal of dangerous materials.
 - (a) All fires of this nature shall be approved by the State Department of Health.
 - (b) The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.
- (7) Fires for residential bathing purposes.
 - (a) Open fires using solid fuels for residential bathing purposes shall not be allowed in any residential dwelling.
 - (b) Fires shall not be located less than 25 feet from trash, brush, or other combustible waste.
- (8) Agricultural Fires.
 - (a) Agricultural fires shall be permitted by the State Department of Health.

- (b) Upon approval by the State Department of Health, a site plan shall be submitted to the Fire chief, at least 7 days prior to the event. The site plan shall include:
 - i. Contact information of the person(s) responsible.
 - ii. Location and address of the burn site(s). Burn site shall be a minimum of 150 feet from any residential dwelling.
 - iii. Date, time and duration of the burn.
 - iv. Means of extinguishment shall be suitable to the AHJ and shall be capable of total extinguishment.
 - v. Fire department access to the burn site(s) shall be suitable to the AHJ. Access parameters:
 - (A) Minimum of 14 feet wide.
 - (B) All weather driving surface.
 - (C) Maximum grade of 15 percent.
- (c) Burn site shall be subject to inspection.
- (d) The Fire dispatch center shall be notified on their non-emergency number at least 30 minutes prior to ignition.

Except for closed incinerators approved by the State Health Department, private incineration is prohibited by State health laws.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-20. Premises identification.

10.12.1.4 is added to read:

10.12.1.4 Premises identification shall comply with the Building code and Chapter 14 of the Hawai'i County Code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-21. Special outdoor events, carnivals, and fairs.

10.15 is amended to read:

10.15 Special Outdoor Events, Carnivals, Fairs, Farmers Markets, Open Markets, and Flea Markets.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-22. Site plan.

Section 10.15.1.1 is added to read:

10.15.1.1 A site plan shall be submitted with the permit application. The site plan shall include:

- (1) Size of each of each tent and the location of each tent in reference to each other.
- (2) Location of emergency access roads.
- (3) Location of emergency exits.
- (4) Location of vehicle parking.
- (5) Location of all fire suppression appliances.
- (6) If applicable, location of all cooking operations.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-23. Authority to inspect.

10.15.2 is amended to read:

10.15.2 The AHJ shall be authorized to inspect any Section 10.15 site location as it pertains to access for emergency vehicles; location of fire protection equipment; placement and securement of tents, temporary structures, stands, concession booths, and exhibits; and the control of hazardous conditions dangerous to life and property.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-24. Heating, ventilation, air-conditioning.

11.2.3 is amended to read:

11.2.3 Commercial cooking equipment. Commercial cooking equipment shall be in accordance with Chapter 50, and NFPA 96 unless such installations are approved existing installations, which shall be permitted to be continued in service. See also 50.2.1.3.2 of this code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-25. Access to Fire Department connections.

13.1.3 is amended to read:

13.1.3 Obstructions shall not be placed or kept near fire hydrants, fire department connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible and accessible. A minimum three foot clear space shall be maintained around fire hydrants. These distances may be reduced or increased at the discretion of the AHJ.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-26. Blocked access; vehicle removal.

13.1.3.1 and 13.1.3.2 is added to read:

13.1.3.1 The Police department may cause to be removed, any vehicle left unattended upon any street within 10 feet of any fire hydrant. The registered owner shall be liable for all expenses incurred in the removal and storage of such vehicle.

13.1.3.2 The Police department may cause to be removed, any vehicle left unattended upon any required fire department access road. The registered owner shall be liable for all expenses incurred in the removal and storage of such vehicle.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-27. Standpipe inspection tag.

13.2.3.5 is added to read:

13.2.3.5 The person, company, or firm conducting the inspection, testing, or maintenance of a Standpipe system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-28. Sprinklers in new one and two family dwellings.

13.3.2.18.1 is deleted in its entirety.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-29. Sprinkler inspection tag.

13.3.3.2.1 is added to read:

13.3.3.2.1 The person, company, or firm conducting the inspection, testing, or maintenance of a Sprinkler system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain legibility for the life of their use.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-30. Nuisance or false alarms.

13.7.1.4.4.1 is added to read:

13.7.1.4.4.1 In the event of excessive false alarms:

The Fire Chief may order the building owner, manager, or representative to provide Fire watch as specified in this code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-31. Fire alarm inspection tag.

13.7.3.2.8 is added to read:

13.7.3.2.8 The person, company, or firm conducting the inspection, testing, or maintenance of a Fire Alarm system shall affix a tag, sticker, or other form of documentation to that system when completed. Such documentation shall include the date completed, the company name and contact information, the technician performing the test, and the results of such test. All forms of labeling shall maintain their legibility for the life of their use.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-32. Occupant load increase.

14.8.1.3.1 is amended to read:

14.8.1.3.1 With approval of a Hawai'i County Building Official, the Fire Chief may allow the occupant load of a building or portion thereof, to be increased from the occupant load established in section 14.8.1.2 of the State Fire Code, and where all other requirements of this code are also met, based on such increased occupant load.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-33. Water supply for fire protection during construction.

16.4.3.1.1 is amended to read:

16.4.3.1.1 A water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible building materials are present.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-34. Fire hydrant use and restrictions.

18.1.1.2.1 is added to read:

18.1.1.2.1 No unauthorized person shall use or operate any Fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system.

Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-35. Fire department access roads (FDAR)-distance increase.

18.2.3.2.2.1 is amended to read:

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 300 feet.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-36. Fire department access roads (FDAR)-width and turn around.

18.2.3.4.1.1 is amended to read:

18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20 feet with an approved turn around area if the FDAR exceeds 150 feet.

Exception: FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-37. Fire department access roads (FDAR)-height clearance.

18.2.3.4.1.2 is amended to read:

18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less than 13 ft 6 in.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-38. Fire department access roads (FDAR)-height variance.

18.2.3.4.1.2.1 is amended to read:

18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-39. Fire department access roads (FDAR)-load limit and surface.

18.2.3.4.2 is amended to read:

18.2.3.4.2 Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-40. Fire department access roads (FDAR)-turning radius.

18.2.3.4.3.1 is amended to read:

18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-41. Fire department access roads (FDAR)-grade.

18.2.3.4.6.1 is amended to read:

18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-42. Alternative water supply.

18.3.8 is added to read:

18.3.8 Alternative water supply.

- (1) Minimum water supply for buildings that do not meet County water standards:
 - (a) Buildings up to 2,000 square feet shall have a minimum of 3,000 gallons of water available for Firefighting.
 - (b) Buildings 2,001- 3,000 square feet shall have a minimum of 6,000 gallons of water available for Firefighting.
 - (c) Buildings, 3,001- 6,000 square feet shall have a minimum of 12,000 gallons of water available for Firefighting.

- (d) Buildings, greater than 6,000 square feet shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.

Commercial buildings requiring a minimum fire flow of 2,000 gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

- (2) Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(4) of this code.
- (3) In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:
 - (a) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting.
 - (b) Minimum pipe diameter sizes from the water supply to the Fire Department Connection (FDC) shall be as follows:
 - i. 4" for C900 PVC pipe.
 - ii. 4" for C906 PE pipe.
 - iii. 3" for ductile Iron.
 - iv. 3' for galvanized steel.
 - (c) The Fire Department Connection shall:
 - i. Be made of galvanized steel.
 - ii. Have a gated valve with 2-1/2 inch, National Standard Thread male fitting and cap.
 - iii. Be located between 8 ft and 16 ft from the Fire department access. The location shall be approved by the AHJ;
 - iv. Not be located less than 18 inches, and no higher than 36 inches from finish grade, as measured from the center of the FDC orifice.
 - v. Be secure and capable of withstanding drafting operations. Engineer stamped plans may be required.

- vi. Not be located more than 150 feet of the most remote part, but not less than 20 feet, of the structure being protected.
- vii. Also comply with section 13.1.3 and 18.2.3.4.6.1 of this code.
- (d) Commercial buildings requiring a fire flow of 2,000 gpm shall be provided with a second FDC. Each FDC shall be independent of each other, with each FDC being capable of flowing 500 gpm by engineered design standards. The second FDC shall be located in an area approved by the AHJ with the idea of multiple Fire apparatus' conducting drafting operations at once, in mind.
- (e) Inspection and maintenance shall be in accordance to NFPA 25.
- (f) The owner or lessee of the property shall be responsible for maintaining the water level quality, and appurtenances of the system.
- (4) Exceptions to Section 26-42.
 - (a) Agricultural buildings, storage sheds, and shade houses with no combustible or equipment storage.
 - (b) Buildings less than 800 square feet in size that meets the minimum Fire Department Access Road requirements.
 - (c) For one and two family dwellings, agricultural buildings, storage sheds, and detached garages 800 to 2,000 square feet in size that meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 1,000 feet.
 - (d) For one and two family dwellings, agricultural buildings and storage sheds greater than 2,000 square feet, but less than 3,000 square feet of living area, that meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 500 feet.
 - (e) For buildings with an approved automatic sprinkler system, the minimum water supply required may be modified.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-43. Occupant load sign for assemblies.

20.1.4.10.3.1 is amended to read:

20.1.4.10.3.1 Any room or area constituting an assembly, regardless of seating arrangements, shall have a permanent occupant load sign posted in a conspicuous place near the main exit from the room.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-44. Seating arrangements.

20.1.4.10.4 is added to read:

20.1.4.10.4 The maximum number of seats permitted between the farthest seat and any aisle shall not exceed that shown in table 20.1.4.10.4.

Table 20.1.4.10.4

Application	Outdoors	Indoors
Chair style seating (loose)	11	6
Bench/Bleacher type seating	20	9

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-45. Cooking operations affiliated with tents and temporary structures.

25.1.11.1 is added to read:

25.1.11.1 Cooking operations shall comply with Section 10.11.3.1 of this code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-46. Deep fat frying.

25.1.11.2 is added to read:

25.1.11.2 A minimum of one Type K Fire extinguisher shall be accessible within 30 feet of any deep fat frying operation in accordance with NFPA 10.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-47. Seating arrangements for grandstands and general assembly areas.

25.3.1.5 is amended to read:

25.3.1.5 The maximum number of seats permitted between the farthest seat and any aisle shall not exceed that shown in table 25.3.1.5.

Table 25.3.1.5

Application	Outdoors	Indoors
Chair style seating (loose)	11	6
Bench/Bleacher type seating	20	9

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-48. Existing commercial cooking equipment.

50.2.1.3.2 is added to read:

50.2.1.3.2 Existing commercial cooking equipment shall be in accordance with Chapter 50, and NFPA 96 unless such installations are approved existing installations, which shall be permitted to be continued in service or as approved by the AHJ.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-49. Kitchen hood suppression acceptance test.

50.4.3.3 is added to read:

50.4.3.3 Prior to the commencement of any cooking operation, all new or re-furbished hood suppression systems shall first complete a satisfactory acceptance test. Test shall be of an approved method and witnessed by the AHJ. The maintenance, service, and inspection of that system shall be as required by NFPA 96.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-50. Vehicular protection.

69.3.6.1.2.1 is added to read:

69.3.6.1.2.1 When Bollards or Guard posts are installed, they shall meet the requirements of Section 60.1.2.13.2 of this code.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-51. LPG-enclosures.

69.3.6.1.7 is added to read:

69.3.6.1.7 Containers shall not be within enclosures that would cause the build-up of flammable gasses in the event of a leak.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-52. LPG-enclosures.

69.3.6.1.8 is added to read:

69.3.6.1.8 Enclosures shall not be within 3 feet of the tank.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-53. LPG-enclosures.

69.3.6.1.9 is added to read:

69.3.6.1.9 Enclosures shall not impede access to fire suppression activities.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-54. LPG-storage and use on balconies.

69.3.10.2.1 (10) is added to read:

69.3.10.2.1 (10) LPG cylinders greater than 2.7 lb capacity shall not be used or stored on balconies above the first floor.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-55. LPG-cooking inside of vehicles.

69.3.12.8.1 and 69.3.12.8.2 are added to read:

69.3.12.8.1 Portable LPG cylinders greater than 2.7 lb. capacity shall not be used or stored in an area that will obstruct or impede the egress in the case of an emergency. Not more than 12 LPG cylinders of 2.7lb capacity or less shall be kept, used, or stored in any vehicle. LPG cylinders of 5 gallon capacity or greater shall not be used within any vehicle. All LPG appliance and equipment shall be listed for that use.

69.3.12.8.2 Portable fire extinguishers shall be provided as required in NFPA 10.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Section 26-1-56. Fuel supplier responsibility.

69.4.2.2.14 is added to read:

69.4.2.2.14 No fuel supplier shall fill or cause to be filled, any unpermitted fuel storage tank that should otherwise be permitted.

(2012, ord 12-3, sec 2; am 2016, ord 16-107, sec 1.)

Article 2. Fireworks Code.**Division 1. General Provisions.****Section 26-2-1. Title.**

This article shall be known as the fireworks code and shall apply to the importation, storage, possession, sale, purchase, transfer, and discharge of fireworks within the County.

(2016, ord 16-107, sec 3.)

Section 26-2-2. Definitions.

Whenever used in this article, unless the context otherwise requires:

“Aerial device” means any fireworks:

- (1) Containing one hundred thirty milligrams or less of explosive materials that produces an audible or visible effect and is designed to rise higher than twelve feet into the air and explode or detonate in the air, or to fly about above the ground;
- (2) That are prohibited for use by any person who does not have a display permit issued by the County under section 132D-16, Hawai'i Revised Statutes; and
- (3) Including firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, jumping jacks that move about the ground farther than a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.

“Articles pyrotechnic” means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 by the United States Department of Transportation.

“Consumer fireworks” means any fireworks designed primarily for retail sale to the public during authorized dates and times, that produces visible or audible effects by combustion, and that is designed to remain on or near the ground and, while stationary or spinning rapidly on or near the ground, emits smoke, a shower of colored sparks, whistling effects, flutter sparks, or balls of colored sparks, and includes combination items that contain one or more of these effects. “Consumer fireworks” shall comply with

the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as set forth in Title 16 Code of Federal Regulations and fireworks classified as UN0336 and UN0337 by the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations. “Consumer fireworks” include firework items commonly known as: firecrackers; snakes; sparklers; fountains; and cylindrical or cone fountains that emit effects up to a height not greater than twelve feet above the ground; illuminating torches; bamboo cannons; whistles; toy smoke devices; wheels; and ground spinners that when ignited remain within a circle with a radius of twelve feet as measured from the point where the item was placed and ignited; novelty or trick items; combination items; and other fireworks of like construction that are designed to produce the same or similar effects.

“County fire code” means chapter 26, article 1, of this Code.

“County building code” means chapter 5 of this Code.

“Cultural” means relating to the arts, customs, traditions, mores, and history of all of the various ethnic groups of Hawai‘i.

“Department” means the Hawai‘i fire department.

“Display” means the use of aerial devices, display fireworks, or articles pyrotechnic for any activity, including such activities as movie or television production.

“Display fireworks” means any fireworks designed primarily for exhibition display by producing visible or audible effects and classified as display fireworks or contained in the regulations of the United States Department of Transportation and designated as UN0333, UN0334, or UN0335, and includes salutes containing more than two grains (one hundred and thirty milligrams) of explosive materials, aerial shells containing more than forty-grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “consumer fireworks.” This term also includes fused set pieces containing components, which together exceed fifty milligrams of salute power.

“Fire chief” means the chief of the Hawai‘i fire department or the chief’s duly authorized representative.

“Firecrackers” mean single paper cylinders not exceeding one and one-half inches in length excluding the fuse and one-quarter of an inch in diameter that contain a charge of not more than fifty milligrams of pyrotechnic composition.

“Fireworks” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and that meets the definition of aerial device or consumer or display fireworks as defined by this section and contained in the regulations of the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations. The term “fireworks” shall not include any explosives or pyrotechnics regulated under chapter 396, Hawai‘i Revised Statutes, or automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its, or other devices which contain twenty-five hundredths of a grain or less of explosive substance.

“Import” (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in this article) means to bring or attempt to bring fireworks or articles pyrotechnic into the County or to cause fireworks or articles pyrotechnic to be brought into the County.

“License” means a nontransferable, formal authorization, valid for a period from April 1 of the year in which the license was issued to March 31 of the following year and which the department is hereby authorized to issue under chapter 132D, Hawai‘i Revised Statutes, to engage in the act or acts specifically designated therein.

“Movie” or “television production” means a series of activities that are directly related to the creation of visual and cinematic imagery to be delivered via film, videotape, or digital media and are to be sold, distributed, or displayed as entertainment or the advertisement of products for mass public consumption, including scripting, casting, set design and construction, transportation, videography, photography, sound recording, interactive game design, and post production.

“Permanent” means the state of one object being affixed to another object by glue or other means in a manner that the affixed object is intended to not be easily removable.

“Permanent fireworks storage building or structure” means a building or structure affixed to a foundation on a site and having fixed utility connections, which is intended to remain on the site for more than one hundred eighty consecutive calendar days in a twelve-month period for the purpose of receiving, storing, or shipping fireworks, but in which no manufacturing of fireworks is performed.

“Permit” means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which the department is authorized to issue under chapter 132D, Hawai‘i Revised Statutes, to engage in the act or acts specifically designated therein.

“Pyrotechnic composition” or “pyrotechnic contents” means the combustible or explosive component of fireworks.

“Red flag warning” means a weather forecast issued by the National Weather Service indicating that weather conditions associated with the outbreak of wildfire may occur.

“Redistribution” means the receiving, separating, consolidating or delivery of fireworks to wholesale, retail, or storage locations.

“Shipper” means an entity or person, including a freight forwarder, that is hired for the transport of aerial devices, articles pyrotechnic, consumer fireworks, display fireworks, or fireworks.

“State Fire Code” means the current State Fire Code as adopted by the State of Hawai‘i pursuant to chapter 132, Hawai‘i Revised Statutes.

“Store” means to have or keep in reserve for future distribution or delivery.

“Temporary fireworks storage building or structure” means a building or structure that is used for fireworks storage for one hundred eighty days or less in a twelve-month period.

“Unit” means one individual firecracker.
(2016, ord 16-107, sec 3.)

Section 26-2-3. Public information.

- (a) The public may obtain information about matters within the jurisdiction of the department by inquiring at the office of the Hawai'i fire department. Inquiries may be made in person at the department's office during regular business hours, or by submitting a request for information in writing to the fire chief.
- (b) Department records which are subject to inspection by the public pursuant to chapters 92 and 92F, Hawai'i Revised Statutes:
 - (1) May be examined upon request; and
 - (2) Are available upon payment of the fees established by statute or County ordinance.

(2016, ord 16-107, sec 3.)

Division 2. Prohibitions.**Section 26-2-21. General prohibitions.**

- (a) Fireworks, including aerial devices, consumer fireworks, display fireworks, and articles pyrotechnic shall not be imported, possessed, stored, offered for sale, sold, transferred, purchased, set off, ignited, discharged, thrown, used, or otherwise caused to explode within the County unless licensed, permitted, or otherwise allowed by this article.
- (b) It shall be unlawful for any person to:
 - (1) Remove or extract the pyrotechnic contents from any fireworks or articles pyrotechnic;
 - (2) Remove or extract the pyrotechnic contents from any fireworks or articles pyrotechnic and use the contents to construct fireworks, articles pyrotechnic, or a fireworks or articles pyrotechnic related device;
 - (3) Throw any fireworks or articles pyrotechnic from a vehicle;
 - (4) Set off, ignite, discharge, or otherwise cause to explode any fireworks or articles pyrotechnic:
 - (A) At any time not within the periods for use prescribed in section 26-2-41(b), unless permitted pursuant to division 4 of this article;
 - (B) Within one thousand feet of any operating hospital, licensed convalescent home, licensed home for the elderly, zoo, animal shelter, or animal hospital;
 - (C) Within three hundred feet of any consumer fireworks retail sales facility;
 - (D) In any school building, or on any school grounds or yards on any occasion; and
 - (E) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; or within one thousand feet of any building used for public worship during the periods when services are held; except as may be permitted pursuant to division 4 of this article;

(5) Set off, ignite, discharge, or otherwise cause to explode any display fireworks, articles pyrotechnic, or aerial devices within areas zoned residential or agricultural; and

(6) It shall be unlawful to violate any of the provisions of this article.

(2016, ord 16-107, sec 3.)

Section 26-2-22. Minors.

It shall be unlawful for any person to offer for sale, sell, or give any fireworks or articles pyrotechnic to minors, and for any minor to possess, purchase, sell, or set off, ignite, or otherwise cause to explode any fireworks or articles pyrotechnic, except as provided in section 26-2-23.

(2016, ord 16-107, sec 3.)

Section 26-2-23. Liability of parents or guardians.

(a) The parents, guardian, and other persons having the custody or control of any minor, who knowingly permit the minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks or articles pyrotechnic, shall be deemed to be in violation of this article and shall be subject to the penalties thereunder; except that the parents or guardian may allow the minor to use consumer fireworks while under the immediate supervision and control of the parent or guardian, or under the supervision and control of another adult.

(b) The parents, guardian, and other persons having the custody or control of any minor, may be subject to civil and criminal penalties should it be found that negligence on their part caused loss of life, injury, or property damage from fireworks or articles pyrotechnic being ignited by such minors.

(2016, ord 16-107, sec 3.)

Division 3. Licenses.

Section 26-2-31. License required.

(a) Any person desiring to store, offer to sell, or sell, at wholesale or retail, aerial devices, consumer fireworks, display fireworks, or articles pyrotechnic or to possess aerial devices, display fireworks, or articles pyrotechnic within the County shall obtain a license issued by the department.

(b) Any person desiring to import aerial devices, consumer fireworks, display fireworks, or articles pyrotechnic into the County shall obtain a license issued by the department.

(2016, ord 16-107, sec 3.)

Section 26-2-32. General license provisions.

(a) A license may only be issued to a person eighteen years of age or older.

(b) Licenses are nontransferable.

- (c) Licenses are valid for a period beginning on April 1 of the year in which the license was issued and ending on March 31 of the following year. The date of issuance or effect and the date of expiration shall be noted on the license.
- (d) Licenses shall be prominently displayed in public view and secured at the location for which the license has been issued.

(2016, ord 16-107, sec 3.)

Section 26-2-33. License application process.

- (a) Applications for licenses to import, store, offer to sell, or sell, at wholesale or retail, aerial devices, consumer fireworks, display fireworks, or articles pyrotechnic, or applications for licenses to possess aerial devices, display fireworks, or articles pyrotechnic within the County may be obtained at the department.
- (b) Completed applications for licenses may be delivered during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department.
- (c) Applications for all licenses shall be submitted to the department at least forty-five calendar days from the date on which importing, storage, wholesaling or retailing activities would begin.
- (d) The department may deny an application for a license if the applicant is not in compliance with the requirements of this article or chapter 132D, Hawai'i Revised Statutes or if the proposed use or activity presents a substantial inconvenience to the public or an unreasonable fire or safety hazard. Licenses or denials of license applications will be mailed to the applicant by the department.

(2016, ord 16-107, sec 3.)

Section 26-2-34. Applications to include.

- (a) Applications for all licenses shall be in writing, signed by the applicant and shall include:
 - (1) The date of the application;
 - (2) The name of the applicant as follows:
 - (A) If the applicant is a sole proprietor, the name of the proprietor;
 - (B) If the applicant is a partnership, the name of the partnership and the names of all partners; and
 - (C) If the applicant is a corporation, the name of the corporation and the names and titles of its officers;
 - (3) The address, telephone number, and age of the applicant; and
 - (4) A self-addressed envelope of adequate size and sufficient postage.
- (b) If the license is to import consumer fireworks, the application shall also include:
 - (1) The address of the importer;
 - (2) The date upon which importation will begin;
 - (3) Class and estimated quantity of fireworks to be imported; and
 - (4) The physical address where the fireworks will be stored.
- (c) If the license is to import aerial devices, display fireworks, or articles pyrotechnic, the application shall also include:
 - (1) The address of the importer;

- (2) The date upon which importation will begin;
 - (3) Class and estimated quantity of fireworks to be imported;
 - (4) The physical address where the fireworks will be stored; and
 - (5) Written documentation regarding the proposed display event and related contact information, in a form prescribed by the department, to allow the department to validate the importation of the inventory.
- (d) If the license is to store, offer to sell, or to sell fireworks, the application shall also include:
- (1) The date upon which the storage, sale, or offers for sale will begin;
 - (2) The address of the location of the licensee;
 - (3) The address where the fireworks will be stored, and the address where the sales or offers to sell will occur;
 - (4) The name of the proprietor; or
 - (5) If a partnership, the name of the partnership and the names of all partners; or
 - (6) If a corporation, the name of the corporation and the names of its officers.
- (2016, ord 16-107, sec 3.)

Section 26-2-35. Application fees.

- (a) Licensees that plan to conduct business in the County shall pay the following fees for each license, pursuant to section 26-2-31:
- (1) \$3,000 for each importer per year;
 - (2) \$2,000 for each wholesaler's site per year;
 - (3) \$1,000 for each permanent or temporary storage site per year; and
 - (4) \$500 for each retailer's site per year.
- (b) As used in this section, the term "year" shall pertain to the period beginning on April 1 of the year in which the license was issued to March 31 of the following year.
- (c) The nonrefundable fee for each license shall be made payable to the director of finance and shall be submitted to the department with the application.
- (d) The department shall provide an exemption from license fees to nonprofit community groups for importation and storage of fireworks or articles pyrotechnic for displays once a year.
- (2016, ord 16-107, sec 3.)

Section 26-2-36. Requirements of licensee.

- (a) Sale or transfer.
- (1) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks to a licensed retailer, to sell or offer to sell, exchange for consideration, give, transfer, or donate any fireworks, or articles pyrotechnic at any time to any person who does not present a permit duly issued as required by division 4 (Permits).
 - (2) The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks, and the seller or transferor shall indicate on the permit the amount and type of fireworks sold or transferred.

- (3) No fireworks shall be sold or delivered to any permittee in any amount in excess of the amount specified in the permit.
 - (4) No fireworks shall be sold to a permittee holding a permit issued for purposes of sections 26-2-42 through 26-2-44, more than five calendar days prior to the designated periods for use as set forth in sections 26-2-42 through 26-2-44.
- (b) Structures, buildings, and facilities.
Structures, buildings, and facilities where fireworks are stored or redistribution activities are performed shall comply with County, State, and National building and fire codes.
- (c) Reporting.
Any person who has obtained a license pursuant to section 26-2-31 shall comply with the following reporting requirements regarding fireworks and articles pyrotechnic:
- (1) Importers shall submit to the department an inventory list of the contents of each shipment received that specifies the name of the fireworks or articles pyrotechnic, “ex” number, and quantity of each item received within ten working days of receiving the product.
 - (2) Wholesalers shall submit to the department within three working days after the product is shipped: copies of sales invoices or packing lists, or both, that indicate the date of shipment; customer’s name; type of fireworks or articles pyrotechnic shipped; and the amount delivered.
 - (3) Storage facilities shall:
 - (A) Provide written notification to the department whenever fireworks or articles pyrotechnic are moved from the facility, within three working days after the product is moved;
 - (B) Maintain a report which contains a listing of all fireworks and articles pyrotechnic brought into the facility, moved from the facility, and current inventory, including dates of activity and destinations of all product moved from the facility; and
 - (C) Provide the report to the department for inspection, upon request.
 - (4) Retailers shall submit to the department:
 - (A) An inventory list of the contents of each shipment received that specifies the name of the fireworks or articles pyrotechnic, “ex” number, and quantity of each item received within ten working days of receiving the product; and
 - (B) An ending inventory of all remaining product and the location of the storage facility where the product is being stored.
- (d) Posting notice.
Each licensed retail outlet shall post adequate notice that clearly cautions each person purchasing fireworks of the prohibitions, liabilities, and penalties incorporated in sections 26-2-22 (Minors), 26-2-23 (Liability of parents), 26-2-61 (Penalties).

(2016, ord 16-107, sec 3.)

Section 26-2-37. Compliance and revocation.

- (a) Prior to or following the issuance of a license the department may at its discretion, inspect the proposed location where the fireworks will be stored or sold, at wholesale or retail, to ensure that the applicant is in compliance with the County fire code, State fire code, and County building code.
- (b) Persons to whom licenses are issued shall comply with the provisions of: the license; this article; chapter 132D, Hawai'i Revised Statutes; and all applicable County, State, and Federal laws.
- (c) If a licensee fails to comply with the provisions of the license, this article, chapter 132D, Hawai'i Revised Statutes, or applicable County, State, or Federal laws, or if the department determines that the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard the department may immediately revoke the license; and
- (d) If the department discovers at a later date that a licensee has been convicted of a felony under this article or chapter 132D, Hawai'i Revised Statutes, the department shall revoke the licensee's license and no new license shall be issued to the licensee for a period of two years from the date of the license revocation.

(2016, ord 16-107, sec 3.)

Division 4. Permits.**Section 26-2-41. Permits.**

- (a) The following types of fireworks permits are available to the public:
 - (1) Consumer fireworks.
 - (A) Permits for the purchase and use of firecrackers, during designated periods, on New Year's Eve to New Year's Day; Chinese New Year's Day, and the Fourth of July, pursuant to section 26-2-42.
 - (B) Permits for the purchase and use of consumer fireworks for cultural purposes, other than during designated periods on New Year's Eve to New Year's Day, Chinese New Year's Day, and the Fourth of July, pursuant to section 26-2-43.
 - (2) Aerial devices, display fireworks, and articles pyrotechnic.
Permits to purchase, set off, ignite, discharge, or otherwise cause to explode aerial devices, display fireworks, and articles pyrotechnic, pursuant to section 26-2-44.
- (b) Permits not required.
Consumer fireworks other than firecrackers may be set off, ignited, discharged, or otherwise caused to explode within the County without a permit during the following periods:
 - (1) 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day;
 - (2) 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and
 - (3) 1:00 p.m. to 9:00 p.m. on the Fourth of July.

(2016, ord 16-107, sec 3.)

Section 26-2-42. Firecrackers.

- (a) Firecrackers may be purchased and used within the County with a permit from:
 - (1) 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day;
 - (2) 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and
 - (3) 1:00 p.m. to 9:00 p.m. on the Fourth of July.
- (b) Not more than five thousand individual firecrackers shall be allowed per each permit.
- (c) Applications for permits to purchase and use firecrackers during the periods prescribed in subsection (a) shall be in writing, signed by the applicant and shall include:
 - (1) Name, age, telephone number, and address of the applicant and the person who will control the firing of fireworks, if different;
 - (2) Date of the permitted activity;
 - (3) Location where the permitted activity is to occur; and
 - (4) Estimated quantity of firecrackers to be used under the permit, but not exceeding five thousand units.
- (d) The nonrefundable fee for this permit shall be \$25, payable to the director of finance, and must be submitted at the time of the application.
- (e) Firecrackers with a permit issued pursuant to this section may not be purchased more than five calendar days prior to the designated periods for use set forth in subsection (a).
- (f) Each permit issued pursuant to this section shall not allow purchase of firecrackers for more than one event as set forth in subsection (a).

(2016, ord 16-107, sec 3.)

Section 26-2-43. Consumer fireworks for cultural purposes.

- (a) Consumer fireworks, including firecrackers, may be used for cultural purposes with a permit during any time not specified in subsection 26-2-41(b).
- (b) A permit issued pursuant to this section shall authorize purchase and use of consumer fireworks from 9:00 a.m. to 9:00 p.m. on the date for which the permit was issued, provided that not more than five thousand individual firecrackers shall be allowed per each permit.
- (c) Applications for permits to purchase and use consumer fireworks for cultural purposes pursuant to this section shall be in writing, signed by the applicant and shall include:
 - (1) Name, age, telephone number, and address of the applicant and the person who will control the firing of fireworks, if different;
 - (2) Name of the organization's, corporation's, club's, establishment's, or other entity's proprietor, partner or officer and verification that the person making the application is the authorized agent of the entity;
 - (3) Estimated quantity of consumer fireworks to be used under the permit, but not exceeding five thousand units; and
 - (4) Date, time period, and description of the proposed cultural use of the consumer fireworks.

- (d) A person, including the proprietor, partner, corporate officer or duly authorized agent of any temple, cemetery, or any cultural association, lion dance club, or other similar organization desiring to purchase, discharge, fire, or explode consumer fireworks for cultural purposes or occasions, or desiring to provide for the discharging, firing, or exploding of consumer fireworks by members of their organizations, clients, patrons, or customers, for cultural purposes or occasions may obtain a permit pursuant to this subsection.
 - (1) The nonrefundable fee for this permit shall be \$25, payable to the director of finance, and must be submitted at the time of the application.
 - (2) A permit issued pursuant to this subsection shall not allow purchase of consumer fireworks for more than one event.
- (e) A permit may be issued to an establishment for the use of consumer fireworks at the establishment during the period of the permit. Such permit may allow the establishment to purchase consumer fireworks for cultural purposes specified in the permit.
 - (1) The nonrefundable fee for this permit shall be \$25, payable to the director of finance, and must be submitted at the time of the application.
 - (2) The time period of a permit for an establishment shall not exceed six months.
- (f) Consumer fireworks, with a permit issued pursuant to this section, may not be purchased more than five calendar days prior to the designated periods for use as set forth in subsection 26-2-41(b), and as stated on the permit.

(2016, ord 16-107, sec 3.)

Section 26-2-44. Aerial devices, display fireworks, and articles pyrotechnic.

- (a) Aerial devices, display fireworks, and articles pyrotechnic may be purchased, set off, ignited, discharged, or otherwise caused to explode only for display and if permitted in writing pursuant to this section.
- (b) Aerial devices, display fireworks, and articles pyrotechnic shall be set off, ignited, discharged, or otherwise caused to explode only from 9:00 a.m. to 9:00 p.m. The fire chief may extend this time period for special events. Applicants shall submit requests for extension of the time period in writing, stating the reason for the extension, and the length of extension requested. The time restriction established in this subsection shall not apply to aerial devices, display fireworks, and articles pyrotechnic set off, ignited, discharged, or otherwise caused to explode within the County solely as part of a movie or television production.
- (c) No aerial devices, display fireworks, or articles pyrotechnic shall be set off, ignited, discharged or otherwise caused to explode within areas zoned residential or agricultural.
- (d) Display permit applications shall be in writing, signed by the applicant and include the following:
 - (1) The name, age, and address of the applicant;
 - (2) The name, age, and address of the person who will operate the display, and a current photo copy of pyrotechnic operator's certificate of fitness, issued by the State of Hawai'i;

- (3) The time, date, physical address, and plot plan of the display site, of the display including distances between the location where the display will take place and buildings, spectators, roadways, and special hazards;
 - (4) A complete inventory of the type and quantity of aerial devices, display fireworks, and articles pyrotechnic to be purchased, set off, ignited, discharged, or otherwise caused to be exploded, including product size, type, and amount;
 - (5) The purpose or occasion for the display;
 - (6) Letter of approval from the property owner of the physical address where the display will take place that authorizes the discharge of aerial devices, display fireworks, or articles pyrotechnics for display on this property;
 - (7) Copy of applicant's insurance policy or surety bond as required in subsection (e); and
 - (8) Approved permits from the following agencies if applicable:
 - (A) Department of land and natural resources land division;
 - (B) Department of land and natural resources boating and ocean recreation division;
 - (C) United States Coast Guard; and
 - (D) Federal Aviation Agency.
- (e) No display permit shall be issued unless the applicant presents, at the applicant's option, either:
- (1) A written certificate of an insurance carrier or a policy, which has been issued to or for the benefit of the applicant, providing for the payment of damages in the amount of not less than \$250,000 for injury to, or death of, any one person, and subject to the foregoing limitation for one person; in the amount of not less than \$500,000 for injury to, or death of, two or more persons; and in the amount of not less than \$100,000 for damage to property, caused by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the display. The County of Hawai'i, its officers, agents, employees, and affiliates, shall be listed as an additional insured on the insurance certificate; or
 - (2) The bond of a surety company duly authorized to transact business within the State, or a bond with not less than two individual sureties who together have assets in the State equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than \$500,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect for not less than ten days after the date of the display.

- (f) The department may require coverage in amounts greater than the minimum amounts set forth in subsection (e) of this section if deemed necessary or desirable in consideration of such factors as:
 - (1) Location and scale of the display;
 - (2) Type of aerial devices, display fireworks, or articles pyrotechnic to be used; and
 - (3) Number of spectators expected.
- (g) The nonrefundable fee for this permit shall be \$110 for each event, payable to the director of finance, and must be submitted with the application.
- (h) An application for a display permit shall be submitted to the department not less than twenty calendar days before the proposed date of the display. All items required to be included with the permit application shall accompany the application at time of submittal.
- (i) Prior to the issuance of a display permit and at the discretion of the department, an inspection of the proposed firing area may be required. Inspections, when conducted, shall ascertain compliance with National Fire Protection Association Standards 1123 entitled "Outdoor Display of Fireworks" or 1126 entitled, "Pyrotechnics Before a Proximate Audience," 2011 Edition, which are incorporated herein by reference.
- (j) A site inspection fee of \$200 shall be assessed for each display event. For multi-day events, each day shall constitute a separate event and require payment of a separate site inspection fee.
- (k) A display permit or a request for an extension of the time period for a display permit may be issued by the department if the requirements imposed by this article and chapter 132D, Hawai'i Revised Statutes are met. The permit shall authorize the holder to display aerial devices, display fireworks, or articles pyrotechnic only at the place and during the time set forth therein, and to acquire and possess the specified aerial devices, display fireworks, or articles pyrotechnic between the date of the issuance of the permit and the time during which the display of those aerial devices, display fireworks, or articles pyrotechnic is authorized.
- (l) The applicant shall be notified in writing whether the display permit has been approved or denied within ten working days after receipt of application.
- (m) If required by the department, written notification of an upcoming display shall be given to all area residents within one thousand feet of the firing site. The display operator shall be responsible for issuing the notification.
- (n) Notwithstanding the foregoing, any display permit issued by the department may be revoked or suspended immediately by the department for the following reasons:
 - (1) The climatic, atmospheric, or other conditions on the date of the proposed firing may reasonably be believed to make the use of aerial devices, display fireworks, or articles pyrotechnic hazardous to persons or property;
 - (2) A Red Flag Warning that affects the location of the display has been issued by the National Weather Service; or

- (3) Any requirement imposed by this article or chapter 132D, Hawai'i Revised Statutes, or any condition of the permit necessary to minimize the danger to persons or property is not met.
 - (o) A post-display report shall be submitted to the department within five days after the display.
- (2016, ord 16-107, sec 3.)

Section 26-2-45. General permit provisions.

- (a) A permit may only be issued to a person eighteen years of age or older.
 - (b) Permits are nontransferable.
 - (c) Permits are valid for a period beginning on January 1 and ending December 31. In no case shall the period of a permit exceed one year. The date of issuance or effect and the date of expiration shall be noted on the permit.
 - (d) Permits are valid only when the fireworks are used at the site, on the date, and during the time indicated on the permit.
 - (e) Permits shall be prominently displayed in public view at the location, on the date, and time indicated on the permit.
- (2016, ord 16-107, sec 3.)

Section 26-2-46. Permit application process.

- (a) Applications for permits may be obtained at the department or at locations designated by the department.
 - (b) Completed applications for permits may be delivered during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department.
 - (c) The department may deny an application for a permit if the applicant is not in compliance with the requirements of this article or chapter 132D, Hawai'i Revised Statutes or if the proposed use presents a substantial inconvenience to the public or an unreasonable fire or safety hazard. Permits or denials of permit applications shall be mailed to the applicant by the department.
- (2016, ord 16-107, sec 3.)

Section 26-2-47. Compliance and revocation.

- (a) Permittees shall comply with the provisions of: permits issued pursuant to this article; chapter 132D, Hawai'i Revised Statutes; and all applicable County, State, and Federal laws.
 - (b) If a permittee fails to comply with the provisions of this permit this article, chapter 132D, Hawai'i Revised Statutes, or applicable County, State, or Federal laws, or if the department determines that the permittee handles or uses fireworks in such a manner as to present an unreasonable safety hazard, the department may immediately revoke the permit.
- (2016, ord 16-107, sec 3.)

Division 5. Importation and Exportation.**Section 26-2-51. Licensee's duty of notification.**

Any person who has obtained a license pursuant to this article, and ships fireworks or articles pyrotechnic into or out of the County shall:

- (1) Clearly designate the types of fireworks or articles pyrotechnic in each shipment on the bill of lading or shipping manifest;
- (2) Declare on the bill of lading or shipping manifest the gross weight of fireworks or articles pyrotechnic to be imported or exported in each shipment;
- (3) Declare on the bill of lading or shipping manifest, the location of the storage facility, if applicable, in which the fireworks or articles pyrotechnic are to be stored;
- (4) Prior to shipment, notify the department regarding whether the shipment will be distributed from:
 - (A) Pier to pier;
 - (B) Pier to warehouse or storage facility; or
 - (C) Pier to redistribution;
- (5) When a shipment is booked, the importer, shipper, or consignee shall notify the department in writing of the expected shipment's landing date; and
- (6) Upon receipt of any shipment, provide the department with copies of sales invoices or packing slips, or both, that clearly indicate:
 - (A) Name, address, phone number of seller;
 - (B) Name and description of the product; and
 - (C) Quantity received.

(2016, ord 16-107, sec 3.)

Section 26-2-52. Inspection of fireworks.

The department shall be allowed to inspect, if it chooses, any shipment declared on the shipping manifest as fireworks or articles pyrotechnic when a shipment of fireworks has landed and becomes subject to the jurisdiction of the department or before a shipment leaves the jurisdiction.

(2016, ord 16-107, sec 3.)

Section 26-2-53. Importation and storage.

- (a) The facility in which fireworks or articles pyrotechnic are to be stored must:
 - (1) Obtain the approval of the department fifteen calendar days prior to the shipment's arrival; and
 - (2) Satisfy the requirements of the State fire code, County fire code, and County building code.

- (b) Aerial devices, display fireworks, or articles pyrotechnic, shall only be imported and stored, if necessary, in an amount sufficient for an anticipated three-month inventory; provided that if a licensee provides aerial devices, display fireworks, or articles pyrotechnic for displays as allowed pursuant to this article more than once a month, the licensee may import or store, if necessary, sufficient aerial devices, display fireworks, or articles pyrotechnic, for a six-month inventory.
- (2016, ord 16-107, sec 3.)

Division 6. Enforcement and penalties.

Section 26-2-61. Penalties.

- (a) Any person who imports fireworks or articles pyrotechnic without having a valid license pursuant to this article shall be guilty of:
- (1) A class C felony for shipments of up to and including ten thousand pounds gross weight; and
 - (2) A class B felony for shipments of more than ten thousand pounds gross weight.
- (b) Any person who purchases, possesses, sets-off, or discharges fireworks or articles pyrotechnic without a valid permit or who stores, sells, or possesses fireworks or articles pyrotechnic without a valid license pursuant to this article shall be guilty of:
- (1) A class C felony if the total weight of the fireworks or articles pyrotechnic is twenty-five pounds or more; or
 - (2) A misdemeanor if the total weight of the fireworks or articles pyrotechnic is less than twenty-five pounds.
- (c) Any person who transfers or sells fireworks or articles pyrotechnic to a person who does not have a valid permit pursuant to this article, shall be guilty of a class C felony.
- (d) Any person who commits the following acts shall be guilty of a misdemeanor:
- (1) Removes or extracts the pyrotechnic contents from any fireworks or articles pyrotechnic; or
 - (2) Removes or extracts the pyrotechnic contents from any fireworks or articles pyrotechnic and uses the contents to construct fireworks, articles pyrotechnic, or a fireworks or articles pyrotechnic related device.
- (e) Except as provided in subsection (a), or as otherwise specifically provided for in this article or chapter 132D, Hawaii Revised Statutes, any person violating any other provision of this article or chapter 132D, Hawaii Revised Statutes, shall be fined not more than \$2,000 for each violation.
- (f) Notwithstanding any penalty set forth herein, violations of paragraphs 26-2-61(a)(1) or 26-2-61(a)(2) may be subject to nuisance abatement proceedings provided in chapter 712, part V, Hawaii Revised Statutes.
- (2016, ord 16-107, sec 3.)

Article 3. Fire board of appeals.**Section 26-3-1. Definitions.**

Whenever used in this article, unless the context otherwise requires:

“Board” means the fire board of appeals.

“County fire code” means chapter 26, article 1, of this Code.

“Fire chief” means the chief of the Hawai‘i fire department or the chief’s designated representative.

“Fireworks code” means chapter 26, article 2, of this Code.

(2018, ord 18-15, sec 2.)

Section 26-3-2. Fire board of appeals established; appointment; qualifications.

- (a) There shall be a fire board of appeals consisting of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed by section 13-4 of the Charter. Three voting members of the board shall constitute a quorum.
- (b) Upon the initial appointment of members pursuant to this division, one shall be appointed for a term of one year, two for terms of two years, and two for terms of three years. Thereafter, board members shall serve three year terms pursuant to this section.
- (c) Members shall be residents of the County of Hawai‘i who possess education, experience, and knowledge in one or more of the following fields or professions:
 - (1) Engineering or architectural design;
 - (2) General contracting;
 - (3) Fire protection contracting;
 - (4) Fire department operations or fire code enforcement;
 - (5) Building code enforcement; or
 - (6) Legal.
- (d) Members shall not be employees, agents, or officers of the County.

(2018, ord 18-15, sec 2.)

Section 26-3-3. Powers; duties; functions.

- (a) The fire board of appeals shall hear and issue rulings on appeals from final decisions of the fire chief relating to article 1, the County fire code and article 2, the fireworks code.
- (b) Rulings of the board shall interpret and be consistent with the County fire code and the fireworks code. In the event that any provision of the code is found to be ambiguous, the board shall interpret the intent of the code in a manner that affords due consideration for the safety of the public and firefighters.

- (c) The board may grant alternatives or modifications to the provisions or requirements of the County fire code and the fireworks code, provided the following requirements are met:
 - (1) Equivalencies.
Systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by the County fire code and the fireworks code, may be allowed, provided technical documentation is submitted to the fire chief that demonstrates equivalency and that the system, method, or device is approved for the intended purpose.
 - (2) Alternatives.
The requirements of the County fire code and fireworks code may be altered by the fire chief to allow alternative methods that secure equivalent fire safety. In no case shall the alternative afford less fire safety than, in the judgement of the fire chief, would be provided by compliance with the provisions contained in the County fire code and fireworks code.
 - (3) Modifications.
The requirements of the County fire code and fireworks code may be modified by the fire chief upon application in writing by the owner, a lessee, or a duly authorized representative where there are practical difficulties in carrying out the provisions of the County fire code or fireworks code, provided that the intent of the Code is complied with, public safety secured, and substantial justice done.
 - (d) The board may not waive the requirements of the County fire code or the fireworks code.
 - (e) Board decisions shall not be precedent setting.
 - (f) The board may adopt rules for the conduct of its business that are consistent with the County fire code and the fireworks code.
- (2018, ord 18-15, sec 2.)

Section 26-3-4. Appeals.

- (a) Any person directly affected by a decision of the fire chief relating to the administration of the County fire code or the fireworks code shall have standing to file an appeal of such decision with the fire board of appeals when it is asserted that one or more of the following conditions exists:
 - (1) The true intent of the County fire code or fireworks code has been incorrectly interpreted;
 - (2) The provisions of the County fire code or fireworks code do not fully apply; or
 - (3) A decision was unreasonable or arbitrary when applied to alternatives or new materials.
- (b) An appeal shall be submitted to the fire chief in writing within thirty calendar days of the notification of violation. The appeal shall outline all of the following:
 - (1) The County fire code or fireworks code provision or provisions from which relief is sought;
 - (2) A statement indicating which provisions of subsection (a) apply;

- (3) Justification indicating why the provision of subsection (a) applies;
 - (4) A requested remedy; and
 - (5) Justification stating specifically how the requested remedy complies with the County fire code or fireworks code, secures public safety, and secures fire fighter safety.
- (c) Documentation supporting an appeal shall be submitted to the fire chief at least seven calendar days prior to the fire board of appeals hearing on the matter.
- (2018, ord 18-15, sec 2.)

Section 26-3-5. Meetings.

- (a) The board shall select one of its members to serve as chairperson and one member to serve as vice chairperson.
 - (b) Meetings of the board shall be held at the call of the chairperson, at other times the board determines necessary, and within thirty calendar days of the filing of a notice of appeal.
 - (c) All hearings before the board shall be conducted pursuant to chapter 92, Hawai'i Revised Statutes, relating to public agency meetings and records.
- (2018, ord 18-15, sec 2.)

Section 26-3-6. Records.

- (a) The board shall keep minutes of its proceedings. These minutes shall include every decision of the board and the vote of each member. A member's absence or failure to vote on a question shall also be recorded in the minutes.
 - (b) The board shall keep records of its examinations and other official actions.
 - (c) Minutes and records of the board shall be public records, pursuant to chapter 92, Hawai'i Revised Statutes.
- (2018, ord 18-15, sec 2.)

Section 26-3-7. Decisions.

- (a) To vary the application of any provision of the County fire code or fireworks code, or modify an order of the fire chief made pursuant to these codes, at least three affirmative votes shall be required.
- (b) Decisions of the board to modify an order of the fire chief shall:
 - (1) Be in writing; and
 - (2) Specify the manner in which such modification is made, the conditions upon which it is made, the reasons therefore, and justification for the modification linked to specific code sections.
- (c) Every decision of the board shall be timely filed in the fire chief's office and be open to public inspection, pursuant to chapter 92, Hawai'i Revised Statutes.
- (d) A certified copy of a decision of the board shall be sent by mail or delivered in person to the appellant and a copy shall be publicly posted in the office of the fire chief for two weeks after filing.

- (e) A decision of the fire board of appeals shall be final. A party may obtain judicial review of the fire board of appeals final decision in the manner set forth in section 91-14, Hawai'i Revised Statutes.
 - (f) If a decision of the board reverses or modifies a refusal, order, or disallowance of the fire chief, or varies the application of any provision of the County fire code or fireworks code, the fire chief shall take action promptly in accordance with such decision.
 - (g) No member of the board shall sit in judgment on any case in which the member holds a direct or indirect property or financial interest in the case.
- (2018, ord 18-15, sec 2.)