CHAPTER 22

COUNTY STREETS

Article 1. General Provisions.

Section 22-1.1. Intent and purpose.
Section 22-1.2. Definitions.

Article 2. Prohibitions.

Section 22-2.1. Encroachments.
Section 22-2.2. Intersection sight distance.
Section 22-2.3. Damage.
Section 22-2.4. Impeding and obstructing the public; endangering persons and property.
Section 22-2.5. Commercial use of County streets.
Section 22-2.6. Signs and other advertising materials.

Article 3. Use of County Streets.

Division 1. Types of Permits.

Section 22-3.1. Types of permits.
Section 22-3.2. Public utilities exemption.

Division 2. Special Activity Permits.

Section 22-3.3. Special activity permit; application and criteria for granting.
Section 22-3.3.1. Special activity permit; determination of allowable areas.
Section 22-3.3.2. Special activity permit; allowable areas.
Section 22-3.4. Special activity permit; penalty and revocation.
Section 22-3.4.1. Special activity permit; exemptions.
Section 22-3.4.2. Special activity permit; posting required.

Division 3. Publication Dispenser Permits.

Section 22-3.5. Publication dispenser permits; application.
Section 22-3.6. Publication dispenser permit; criteria for granting; revocation.

Division 4. Sidewalk Use Permits.

Section 22-3.7. Sidewalk use permit; application.
Section 22-3.8. Sidewalk use permit; criteria for granting.

Division 5. Permit Conditions.

Section 22-3.9. Permit conditions.

Division 6. Permit Fees.

Section 22-3.10. Fees.

Article 4. Construction in County Streets.

Division 1. Permitting.

Section 22-4.1. Construction permit required.
Section 22-4.2. Construction permits; application.
Section 22-4.3. Construction permits; criteria for granting.
Section 22-4.4. Construction permits; conditions.
Section 22-4.5. Construction permit; fees.

Division 2. Sidewalk Standards.

Section 22-4.6. Maintenance of sidewalk area.
Section 22-4.7. Sidewalk repair.

Division 3. Driveway Approach Standards.

Section 22-4.8. Proper driveway approach required.
Section 22-4.9. Standards for driveway approaches.
Section 22-4.10. Maintenance of driveway approaches.

Article 5. Addresses.

Division 1. Street Names.

Section 22-5.1. Posting street names at intersections.
Section 22-5.2. Adoption of street names.
Section 22-5.3. Street name repository.

Division 2. Reserved.

Article 6. Speed Humps.

Section 22-6.1. Powers and duties of director.
Section 22-6.2. Requests for approval.
Section 22-6.3. Process for approval.

Article 7. Variances.

Section 22-7.1. Variances; application.
Section 22-7.2. Variances; criteria for granting.
Section 22-7.3. Variance application fees.

Article 8. Violations, Penalties, Enforcement.

Section 22-8.1. Violations.
Section 22-8.2. Administrative enforcement.
Section 22-8.3. Criminal prosecution.
Section 22-8.4. Injunctive action.
Section 22-8.5. Emergency powers; procedures.
Section 22-8.6. Corrective work by the County; costs.
Section 22-8.7. Limited liability of authorized personnel.
Section 22-8.8. Remedies cumulative.

Article 9. Legal Compliance and Rulemaking.

Section 22-9.1. Compliance with this chapter and other laws.
Section 22-9.2. Adoption of rules.

This page intentionally left blank.

CHAPTER 22

COUNTY STREETS

Article 1. General Provisions.

Section 22-1.1. Intent and purpose.

The County council finds that the primary function of County streets is to provide safe, efficient and orderly passage of pedestrians, vehicles, and other means of transportation and where appropriate, to provide safe, efficient and orderly access to adjoining properties. This chapter seeks to establish a program which preserves and promotes this primary function by defining and regulating construction within a County street; and uses within or adjacent to a County street that are not an integral part of its infrastructure or necessary for safe and lawful operation on a street. These provisions do not apply to private streets or to streets owned by the State of Hawai‘i, including the Department of Hawaiian Home Lands, unless otherwise agreed to by the State or the Department of Hawaiian Home Lands.
(2002, ord 02-67, sec 2.)

Section 22-1.2. Definitions.

As used in this chapter unless otherwise specified:

“Building” means a structure which is occupied for residential purposes or used as a place of business.

“Business improvement district” or “district” means a district of land established by the County pursuant to chapter 35 of this Code for providing and financing supplemental services and improvements.

“Corporation counsel” means the head of the County department of the corporation counsel or its duly authorized representative.

“Chief of police” means the head of the County police department or its duly authorized representative.

“Common driveway approach” means a driveway approach that is located along the frontage of two or more properties and is used as an ingress and egress to said properties.

“Director” means the head of the County department of public works or its duly authorized representative.

“District association” means an association established pursuant to section 35-18 of this Code.

“District-wide publication dispensing rack permit” means an exclusive permit issued pursuant to article 3 of this chapter.

“Driveway” means a road on private or public property giving access from a private or public street to an established use on the property.

“Driveway approach” means an area between the edge of the roadway and property line of any County owned or maintained street that provides ingress and egress to an abutting property.

"Engineer" means a privately employed licensed professional civil engineer.

"Finance director" means the head of the County finance department or its duly authorized representative.

"Official County street name" means a street name that has been adopted by the council by duly promulgated resolution or by the planning director.

"Person" or words importing persons, for instance, "another," "others," "any," "anyone," "anybody," and the like signify not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended.

"Planning director" means the head of the County planning department or its duly authorized representative.

"Publication dispensing rack space permits" means a publication dispensing rack space allocation or reallocation invoice issued pursuant to chapter 35, section 35-63 of this Code.

"Roadway" means that portion of a County street, excluding shoulders, curbs, gutters, sidewalks or other roadside drainage facilities, used exclusively by vehicular traffic.

"Sidewalk" means that portion of a County street defined by a vehicular separation device such as a concrete, asphaltic concrete or rolled concrete curb that is intended for pedestrian or other non-vehicular use.

"Speed hump" means a gentle rise in the profile of the road that is used to regulate the speed of a vehicle.

"Street" means the entire width between property lines of any County owned and maintained street, avenue, road, alley, highway, lane, path or other place opened, improved and established for the use of vehicles, pedestrians or both.

"Vehicle" means every licensed or otherwise authorized device in, upon or by which any person or property is or may be transported or drawn upon a roadway.

"Violator" means the property owner, lessee, or the person responsible for the violation.

(2002, ord 02-67, sec 2; am 2005, ord 05-139, sec 1; am 2012, ord 12-59, sec 2.)

Article 2. Prohibitions.

Section 22-2.1. Encroachments.

No object shall be allowed in, under, or over any County street, except objects that are permitted by the director, chief of police or other provisions of law to be in, under, or over a County street, or which have a clearance of fifteen feet or more above the surface of the street, such as the canopy of trees.

(2002, ord 02-67, sec 2.)

Section 22-2.2. Intersection sight distance.

(a) To preserve adequate vehicular sight distance at intersections formed by two or more County streets, no object with a height between three feet and eight feet above the nearest surface of the County street shall be allowed within the area defined by the chord of an arc having a radius of thirty feet from the intersection of property lines or their extensions that form the intersection.

(b) Whenever unusual conditions exist, such as steep road grades, non-perpendicular intersections or intersections having more than two County streets, the director, may, after an appropriate analysis, establish an area greater or lesser than that defined in this section.

(2002, ord 02-67, sec 2.)

Section 22-2.3. Damage.

(a) Unless otherwise permitted by the director, no person shall transport any materials or operate any vehicle, trailer, machinery, equipment or any other means of conveyance upon or across any County street in such a manner that it scratches, mars, excavates or otherwise damages any portion of the street.

(b) Unless otherwise permitted by the director, no person shall drop or spread oil, paint, gravel, or any other substance or object upon any County street in a manner or in an amount which creates an unreasonable risk to persons or property.

(2002, ord 02-67, sec 2.)

Section 22-2.4. Impeding and obstructing the public; endangering persons and property.

(a) No person, without a legal privilege to do so, shall knowingly or recklessly render impassable, without unreasonable inconvenience or hazard, any County street, whether alone or with others.

(b) No person shall knowingly or recklessly engage in conduct which creates an unreasonable risk or harm to any person or property on any County street.

(2002, ord 02-67, sec 2.)

Section 22-2.5. Commercial use of County streets.

Except as otherwise permitted by law, no person shall use any portion of a County street for displaying, vending, hawking, selling, renting, or leasing any goods, wares, food, merchandise, or other kinds of property without authorization through a special activity permit pursuant to section 22-3.3. Any permitted commercial activity shall not impede or inconvenience the public or any person in the lawful use of a County street.

(2002, ord 02-67, sec 2; am 2024, ord 24-82, sec 2.)

Section 22-2.6. Signs and other advertising materials.

Except as otherwise permitted by law, no person shall construct, place, leave, deposit, erect, or install any privately owned signs, handbills, posters, or other related advertising material on or above any County street. Signage authorized by a special activity permit shall be displayed in accordance with conditions thereof. Signage and other advertising materials shall not impede or inconvenience the public or any person in the lawful use of a County street.

(2002, ord 02-67, sec 2; am 2024, ord 24-82, sec 3.)

Article 3. Use of County Streets.

Division 1. Types of Permits.

Section 22-3.1. Types of permits.

(a) "Publication dispenser permits" include permits to place newspaper stands, news racks, or other dispensers of handbills or other printed or written materials on or over a County sidewalk.

(b) "Sidewalk use permits" include permits to place garbage receptacles, decorative planters, public benches, required provisions for the disabled or other items which will be placed in or on the County street for noncommercial purposes that are deemed by the director to promote public welfare.

(c) "Special activity permits" include permits that authorize temporary commercial activities such as displaying, vending, hawking, selling, renting, or leasing any goods, wares, food, merchandise, or other kinds of property within a County street for a designated period under specified conditions.

(2002, ord 02-67, sec 2; am 2005, ord 05-139, sec 2; am 2024, ord 24-82, sec 4.)

Section 22-3.2. Public utilities exemption.

Public utilities that have an executed utility franchise, charter, or other legally binding agreement with the County of Hawaiʻi, including provisions of the Hawaiʻi Revised Statutes, may be exempt from the provisions of this article at the discretion of the director. This exemption does not preclude the County from pursuing charging a fee for use of the County streets or property.

(2002, ord 02-67, sec 2.)

Division 2. Special Activity Permits.

Section 22-3.3. [Former] Repealed.
(2002, ord 02-67, sec 2; rep 2005, ord 05-139, sec 3.)

Section 22-3.3. Special activity permit; application and criteria for granting.

(a) Any person seeking to conduct commercial activities within County streets shall apply for a special activity permit. Applications shall be submitted using a form designated by the director and shall include, at a minimum, the following information and attachments:
   (1) General applicant information, including name, contact details, and representative capacity;
   (2) Proof of a valid business license or permit required for conducting commercial activities in the State of Hawai‘i;
   (3) Details of the proposed commercial activity, including products and services offered, intended location, signage, and operations schedule;
   (4) A plan for managing waste generated by the commercial activity to maintain cleanliness of the special activity site and surrounding area;
   (5) An agreement indemnifying, defending, and holding harmless the County of Hawai‘i and its officers and agents from all claims, demands, suits, or actions arising from the permitted commercial activity; and
   (6) A certificate of insurance and proof of a public liability insurance policy with a minimum coverage of $1,000,000 per occurrence, naming as an additional insured, the County of Hawai‘i, its officers, representatives, employees, and agents. The policy and coverage shall remain in effect until the special activity permit is terminated.

(b) The director is authorized to issue a special activity permit for a duration of up to one year, provided that all application criteria are met and that the required documents are submitted in accordance with subsection (a).

(2024, ord 24-82, sec 5.)

Section 22-3.3.1. Special activity permit; determination of allowable areas.

(a) The council may by ordinance determine County streets where commercial activity authorized by a special activity permit may be conducted.

(b) Prior to taking final action on any such ordinance, the council shall request the respective recommendations of the chief of police, the director of public works, and other public officials deemed appropriate as to whether commercial activity on the affected County street, or portions thereof, should be allowed. The chief of police and director of public works shall provide their respective recommendation within forty-five days of the request by the council.

(2024, ord 24-82, sec 5.)

Section 22-3.3.2. Special activity permit; allowable areas.

When a special activity permit has been granted by the director, the commercial activities authorized thereby may be conducted on the following County streets:

(a) Hāmākua
(b) North Hilo
(c) South Hilo
(d) Kaʻū
(e) Kohala
(f) Kona
• Ane Keohokālole Highway, makai side, between the West Hawaiʻi Civic Center and the "Allied Quarry" access road.
(g) Puna

(2024, ord 24-82, sec 5; am 2025, ord 25-33, sec 1.)

Section 22-3.4. [Former] Repealed.

(2002, ord 02-67, sec 2; rep 2005, ord 05-139, sec 3.)

Section 22-3.4. Special activity permit; penalty and revocation.

(a) Any person conducting a commercial activity within a County street without a special activity permit pursuant to this chapter, shall be fined $250 per incident. The payment of such fine shall not exempt any person from the requirements of this chapter or from any other penalties prescribed in this chapter.

(b) A special activity permit may be revoked by the director if the permittee's operations are found to be noncompliant with any criteria or conditions set forth in the permit or this chapter.

(2024, ord 24-82, sec 5.)

Intentionally left blank.

Section 22-3.4.1. Special activity permit; exemptions.

Notwithstanding any provision to the contrary, any display, vending, and selling of food, beverages, or merchandise by a 501(c)(3) nonprofit organization or educational institution certified by the State may be conducted without a special activity permit where allowable under section 22-3.3.2, provided that all funds derived from such commercial activity are used to support a specific program, project, event, or other benefit directly related to the purpose of the nonprofit organization or educational institution.

In all other respects, the exempted commercial activity shall comply with the applicable requirements of section 22-3.9 as if a special activity permit had been granted therefor.

(2024, ord 24-82, sec 5.)

Intentionally left blank.

This page intentionally left blank.

Section 22-3.4.2. Special activity permit; posting required.

Any person conducting commercial activity permitted by a special activity permit who fails to keep the permit conspicuously posted and available for inspection by the chief of police or the director at the location and for the duration of said activity shall be subject to a fine of $250 and to any other penalties as may be prescribed in this chapter or in the conditions of the permit.
(2024, ord 24-82, sec 5.)

Division 3. Publication Dispenser Permits.

Section 22-3.5. Publication dispenser permits; application.

(a) The publisher, editor, distributor or seller of any newspaper or any other publication may apply for a publication dispenser permit. Permit applications shall be submitted upon a form designated by the director and shall include, at a minimum, the following information and attachments:
   (1) General applicant information, i.e. name, address, phone number.
   (2) A description and map of the location of the publication dispenser.
   (3) The duration of time for which the permit is requested.
   (4) The height of the publication dispenser.
   (5) The width of the sidewalk that the dispenser will occupy and the clear space that will remain on the sidewalk after the dispenser is in place.
   (6) Written statements of consent from every property owner and lessee directly fronting the proposed dispenser site.
   (7) An agreement, to be approved by the corporation counsel, wherein the applicant agrees to indemnify, defend and hold harmless the County of Hawai‘i, its officers and agents from all claims, demands, suits, actions, or proceedings of every name, character, and description that may be brought against the County of Hawai‘i for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.
   (8) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents and covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until the publication dispenser is removed from the County street.

(b) Any district association of a business improvement district may apply for an exclusive, district-wide publication dispensing rack permit. Permit applications shall be submitted upon a form approved by the director and shall include, at a minimum, the following information and attachments:
   (1) The name of the business improvement district and the district association, copies of its respective formation documents, and a certificate of good standing of the district association.
   (2) A map showing the proposed locations of the publication dispensing racks.
   (3) An illustration showing the proposed design and maximum dimensions of the publication dispensing racks and a description of the standards for the size, design, color and material of publication dispensing rack inserts that publication distributors may place within the publication dispensing racks.
   (4) The rules that the district association proposes to adopt pursuant to chapter 35, section 35-68 of this Code, which shall contain a statement that any changes to such rules shall be subject to the approval of the director.
   (5) An agreement and acknowledgement by the district association that it will be bound to comply, and will comply, with all provisions of chapter 35, article 8 of this Code.

(2002, ord 02-67, sec 2; am 2012, ord 12-59, sec 3.)

Section 22-3.6. Publication dispenser permit; criteria for granting; revocation.

(a) The director may issue a publication dispenser permit pursuant to section 22-3.5(a) for a period not to exceed one year if all of the following criteria are met:
   (1) The publication dispenser does not exceed four feet in height.
   (2) The publication dispenser does not occupy more than one-fifth of the width of the sidewalk and will leave a clear width of at least four feet.
   (3) Written statements of consent are received from every property owner and lessee directly fronting the proposed dispenser site.
   (4) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
   (5) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy as provided above, to the satisfaction of the finance director and the corporation counsel.
   (6) The publication dispenser will not impede or endanger the public's use, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersection or driveway.

(b) The director may issue an exclusive, district-wide publication dispensing rack permit pursuant to section 22-3.5(b), which shall be valid until revoked, if all of the following criteria are met:

(1) The proposed locations of the publication dispenser racks will in every case leave a clear width on the sidewalk of at least three feet and will not otherwise impede use by the public, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersection or driveway.
(2) The director has approved the proposed design and maximum dimensions of the publication dispensing racks as well as the standards for the size, design, color and material of publication dispensing rack inserts.
(3) The director has approved the rules submitted by the district association pursuant to section 35-68, including all proposed fee amounts.
(4) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
(5) The applicant has agreed in writing to comply with all provisions of chapter 35 of this Code.

(c) A permit granted pursuant to this chapter may be revoked by the director if the location and condition of the dispenser or dispensing rack of the permit recipient falls out of compliance with the criteria set forth above or, for district association permit recipients, the operations of the association fall out of compliance with any criteria or conditions set forth in chapter 35.

(d) Following issuance of an exclusive, district-wide publication dispensing rack permit to a district association, no further permits shall be granted for individual dispensers in such business improvement district and, upon expiration of any then-effective permit, the permit holder shall immediately and permanently remove the dispenser from the sidewalk or County property.

(2002, ord 02-67, sec 2; am 2012, ord 12-59, sec 4; am 2024, ord 24-82, sec 6.)

Division 4. Sidewalk Use Permits.

Section 22-3.7. Sidewalk use permit; application.

Any person who is an authorized representative for the use being requested may apply for a sidewalk use permit. Permit applications shall be submitted upon a form designated by the director and shall include, at a minimum, the following information and attachments:

(1) General applicant information, i.e. name, address, phone number.
(2) A description and map of the proposed location showing where the items or use will be located.
(3) A description of the items that will be placed on the County street.
(4) Dates and hours of proposed use.
(5) The height of any items that will be placed on the County street.
(6) The width of the sidewalk that the activity will occupy and the remaining clear space.
(7) Written statements of consent from every property owner and lessee directly fronting the proposed site.

(8) An agreement, to be approved by the corporation counsel, which indemnifies, defends and holds harmless the County of Hawaiʻi, its officers and agents thereof, from all claims, demands, suits, actions, or proceedings of every name, character, and description which may be brought against the County of Hawaiʻi for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.

(9) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until the proposed use is terminated and the permitted items are removed from the County street.

(2002, ord 02-67, sec 2.)

Section 22-3.8. Sidewalk use permit; criteria for granting.

Unless otherwise prohibited, the director may issue a sidewalk use permit for a period not to exceed one year if all of the following criteria are met:

(1) The items do not exceed four feet in height.

(2) The use or item will leave a clear width of at least four feet of sidewalk.

(3) The applicant has submitted evidence that demonstrates that the use is for noncommercial purposes and will promote public welfare.

(4) Written statements of consent from every property owner and lessee directly fronting the proposed site.

(5) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.

(6) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy meeting the requirements as provided above, to the satisfaction of the finance director and the corporation counsel.

(7) The permitted use will not impede or endanger the public's use, including persons with disabilities, of the sidewalk area or interfere with vehicular sight distance at any intersections or driveways.

(2002, ord 02-67, sec 2; am 2024, ord 24-82, sec 7.)

This page intentionally left blank.

Division 5. Permit Conditions.

Section 22-3.9. Permit conditions.

In addition to any other conditions imposed by this chapter, all permits issued pursuant to this article shall be subject to all of the following conditions:

(1) All items shall be removed from the County street during all periods outside of the permitted times and days as specified in the publication dispenser, sidewalk use, or special activity permit.

(2) Permittees shall comply with all laws, ordinances and regulations of the Federal, State and County governments relating to the installation, operation and maintenance of their permitted items or uses.

(3) Permittees shall be wholly responsible for the repair and maintenance of all permitted items, including any associated utility improvements.

(4) Only the use described on the permit shall be deemed to be authorized by the director. Any additional uses shall require additional authorization from the director.

(5) Should the permitted use, activity or improvement interfere or obstruct any County facility or other authorized improvements, the permittee shall, at their own expense either:
   (A) Terminate the use and remove the activity or improvement; or
   (B) Move the use to a location acceptable to the director.

(6) Should the permitted use, activity or improvement impede or obstruct any emergency repairs to a County facility or public utility, the permittee authorizes the use of all necessary action to immediately relocate the permitted activity, use or improvement and shall make no claim for any damages that may result from the relocation action.

(7) Any construction work associated with the permits of this article shall also be subject to the construction requirements of this chapter.

(8) Upon termination of all permits, the permittee shall be responsible for the restoration of the County street used or occupied by the permittee to a condition equal to or better than its original condition.

(9) Permittee shall comply with all conditions noted on the issued permit as may be reasonably necessary for public safety.

(2002, ord 02-67, sec 2; am 2024, ord 24-82, sec 8.)

Division 6. Permit Fees.

Section 22-3.10. Fees.

(a) Upon submission of an application for any permit provided for this article, applicants shall submit a processing fee of $50.

(b) Fees shall be waived for any permit issued to or on behalf of County agencies including the department of water supply.

(2002, ord 02-67, sec 2; am 2024, ord 24-82, sec 9.)

Article 4. Construction in County Streets.

Division 1. Permitting.

Section 22-4.1. Construction permit required.

Except as otherwise permitted by law, no person shall, in any manner or for any purpose, alter, break up, dig up, disturb, undermine or dig under or cause to be altered, broken up, dug up, disturbed, undermined or dug under any County street without having first obtained a written permit to do so from the director.

Public utilities that have an executed utility franchise, charter, or other legally binding agreement with the County of Hawai‘i, including provisions of the Hawai‘i Revised Statutes, are not required to obtain a permit if the County street is altered, broken up, dug up, disturbed, undermined or dug under as part of an emergency repair or other urgent work necessary to immediately restore lost service to their customers. However, a permit for this work must still be obtained on the first County working day following the emergency repair.
(2002, ord 02-67, sec 2.)

Section 22-4.2. Construction permits; application.

Any person or authorized representative who is responsible for the work to be performed within a County street may apply for a construction permit. Permit applications shall be submitted upon a form designated by the director and shall include the following information and attachments:

(1) General applicant information, i.e. name, address, phone number.
(2) General contractor, i.e. name, license number, address, phone number.
(3) A description and map of the location or address of the County street to be affected.
(4) A plan describing the purpose and nature of the work to be performed on the County street and a cost estimate for the work.
(5) A description of the dimensions of the area of the County street that will be affected.
(6) The approximate starting date, duration of work and working hours.
(7) An agreement, to be approved by the corporation counsel, which indemnifies, defends and holds harmless the County of Hawai‘i, its officers and agents thereof, from all claims, demands, suits, actions, or proceedings of every name, character, and description which may be brought against the County of Hawai‘i for or on account of any injuries or damages to any person or property received or sustained by any person by or in consequence of any act or acts of the holder of the permit for actions done under the permit.

(8) A certificate of insurance and proof of a public liability insurance policy approved by corporation counsel naming as an additional insured, the County, its officers, representatives, employees, and agents covering any claim or liability for damages, injuries or death resulting from any of the uses permitted hereunder. The minimum amount of coverage under such policy shall be $1,000,000 per occurrence. The policy and coverage shall be kept in force until all the work is completed to the satisfaction of the director.

(2002, ord 02-67, sec 2.)

Section 22-4.3. Construction permits; criteria for granting.

The director may issue a construction permit for a period not to exceed one year if all of the following criteria are met:

(1) The applicant has demonstrated that the construction will be in compliance with the requirements of this article and the other provisions of this chapter.
(2) The applicant has executed an agreement to indemnify, defend and hold harmless the County as provided above, to the satisfaction of the corporation counsel.
(3) The applicant has submitted a certificate of insurance and proof of a public liability insurance policy meeting the requirements as provided above, to the satisfaction of the finance director and the corporation counsel.
(4) The construction will not impede the public use of the street or endanger pedestrians including persons with disabilities.
(5) Work within the County street shall be done by appropriately licensed contractors.

(2002, ord 02-67, sec 2.)

Section 22-4.4. Construction permits; conditions.

(a) The applicant shall notify the director at least forty-eight hours before the commencement of any work within the County street.
(b) The applicant shall maintain public safety while working in a County street by using barricades, construction signs, markings, warning lights, traffic control personnel and other devices according to the "Manual on Uniform Traffic Control Devices for Streets and Highways" on file in the department of public works.

(c) Unless otherwise permitted by law, the applicant shall keep at least one traffic lane open for two-way vehicular traffic during the working hours of the day and at least two traffic lanes open during non-working hours. When the work interferes with a sidewalk, the applicant shall also provide for the safe passage of pedestrians including persons with disabilities around or through the work area.
(d) The applicant shall be responsible for notifying all property owners/lessees who are affected by the construction at least forty-eight hours prior to commencing.
(e) No material, except the trench excavated material, shall be stockpiled closer than six feet from the existing edge of pavement.
(f) No construction equipment shall be parked or any materials stored in the County street in such a manner that the equipment or materials will obstruct or prohibit pedestrian and vehicular movements, including driveway movements, except during actual working hours.
(g) No excavation shall be left open for more than five working days.
(h) The applicant shall repair, restore, or replace all portions of a County street, including but not limited to utilities, drainage ways and structures, traffic markings and signs, driveways and private property that had been altered, broken up, dug up, disturbed, undermined, dug under or otherwise damaged during construction to a state equal to or better than its original condition. All repair, restoration or replacement work shall comply with the current requirements of the Americans with Disabilities Act, including the construction of curb cuts, accessible driveways, or other improvements for persons with disabilities.
(i) Before issuing a permit, for all work with an estimated cost equal to or exceeding $20,000, the director may require a cash bond, surety company bond, or personal surety bond in favor of the County. The value of the bond shall be double the estimated cost of restoring or replacing the County street to a state equal to or better than its original condition.
(j) Work must be completed within one year of the starting date shown on the permit unless otherwise specified. Failure to complete the work will result in the termination of the permit.
(k) Repair, restoration or replacement of County streets, highways and sidewalks shall comply with applicable specifications and plans on file in the department of public works. Copies of these specifications and plans shall be furnished to each applicant upon making a request.
(l) Driveway approaches shall be constructed or repaired according to the provisions of this chapter and applicable specifications and plans on file in the department of public works. Copies of these specifications and plans shall be furnished to each applicant upon making a request.
(m) Upon completion of the work, the applicant shall immediately remove all equipment and materials and shall leave the work area in a clean, safe and sanitary condition satisfactory to the director.
(n) All restoration and repair work of the pavement, shoulders, and any other County facilities shall be guaranteed by the applicant against any defects for a period of one year from the date of final inspection.

(2002, ord 02-67, sec 2.)

Section 22-4.5. Construction permit; fees.

Upon submission of an application, construction permit processing fees shall be paid as follows:

(1) For County street excavation, including sidewalk restoration, a fee of fifty cents per lineal foot for the first fifty feet of work and an additional five cents per lineal foot for work in excess of fifty feet, but no fee shall be less than $25.
(2) For driveway approaches a fee of $25 for each driveway approach.
(3) For all other work, construction, or installations within a County street a fee of $25.
(4) Fees shall be waived for permits issued to or on behalf of Federal, State and County agencies including the department of water supply.

(2002, ord 02-67, sec 2.)

Division 2. Sidewalk Standards.

Section 22-4.6. Maintenance of sidewalk area.

(a) Every owner of land abutting on or adjoining any County street shall, at their own expense, maintain the sidewalk area and the portions of their properties that adjoin the sidewalks by trimming, cutting, pruning, mowing, sweeping or using other methods to control landscape plants, weeds, noxious growths, trash, debris or other materials that would damage the sidewalk area or interfere with or inconvenience pedestrian traffic. The sidewalk area shall include that portion of the County street between the outside face of the curb and the abutting property line. The sidewalk area shall also include the gutter when the gutter and curb are constructed as a single unit.
(b) All landowners shall, at their own expense, be responsible for the repair of all damages to the sidewalk area that are attributed to the owner's abuse or failure to provide proper maintenance. The director shall determine the extent of repair or maintenance required and whether damages were caused by a lack of maintenance or abuse.

(2002, ord 02-67, sec 2.)

Section 22-4.7. Sidewalk repair.

All repair work shall be performed in accordance with the requirements of this chapter.

(2002, ord 02-67, sec 2.)

Division 3. Driveway Approach Standards.

Section 22-4.8. Proper driveway approach required.

(a) No County street shall be used for ingress or egress to a property without a properly located and constructed driveway approach.

(b) All driveway approaches shall be constructed in accordance with this chapter except for those County streets that do not have curbs and sidewalks and are fully paved from the lateral line of the roadway up to the property line.

(2002, ord 02-67, sec 2.)

Section 22-4.9. Standards for driveway approaches.

(a) Width of driveway approach.
  (1) Except for commercial and industrial uses, driveway approaches shall not exceed thirty-six feet in width, including flares. This width shall be measured along the outside face of the curb or the lateral line of the roadway.
  (2) Driveway approaches for commercial and industrial uses may be wider than thirty-six feet in width, including flares, if designed by an engineer and approved by the director.

(b) Common driveway approaches.
  (1) The director may permit the creation of a common driveway approach for separate parcels when requested by the affected property owners.
  (2) Except for commercial and industrial uses, common driveway approaches shall not exceed thirty-six feet in width, including flares. This width shall be measured along the outside face of the curb or the lateral line of the roadway.

(c) Distance between driveway approach and property lines. Except for a common driveway approach, no portion of a driveway approach, including flares, shall be constructed closer than two feet from the extension of any property line dividing two lots except where a property frontage is less than twenty feet, in which case the flared portions of the driveway may go beyond the property line extension.

(d) Location of driveway approaches at intersections.
  (1) Intersections without a traffic signal system.
    (A) Except for commercial and industrial uses, no portion of the driveway approach including flares shall be constructed within thirty feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than thirty feet, no portion of the driveway approach including flares shall be constructed within the curve.
    (B) For commercial and industrial uses, no portion of the driveway approach including flares shall be constructed within seventy-five feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than seventy-five feet, no portion of the driveway approach including flares shall be constructed within the curve.

(2) Intersections with a traffic signal system.
No portion of the driveway approach including flares shall be constructed within seventy-five feet of the intersection of property lines or their extensions. However, if the property corner at the County street intersection is defined by a curve having a radius of greater than seventy-five feet, no portion of the driveway approach, including flares, shall be constructed within the curve.

(3) If a property does not have sufficient County street frontage to comply with the intersection location requirements, the driveway shall be located as far from the intersection as possible. A plot plan showing the location of the driveway shall be submitted to the director for review and approval.

(e) Maximum number of driveway approaches.

(1) Except for commercial and industrial uses, no property shall have more than two driveway approaches. A common driveway approach shall be counted as one of the two driveway approaches. Two driveway approaches will be allowed if they meet the width, spacing and location requirements of this chapter.

(2) For commercial and industrial uses, multiple driveway approaches shall be designed by an engineer and approved by the director.

(f) Spacing between driveway approaches.

(1) When more than one driveway approach is to be constructed for a property, there shall be a minimum space of thirty feet between approaches.

(g) Public facilities.

(1) No driveway approach shall interfere with any existing public facilities located within a County street. Typical public facilities include street lighting poles, traffic signal poles and equipment, signs, catch-basins, fire hydrants, crosswalks, parking spaces and meters, bus loading zones, utility poles, underground public utilities and other related public structures or improvements within a County street.

(2) If a proposed driveway approach interferes with an existing public facility, the owner of the property using the driveway approach shall bear the expense of removing, reconstructing or relocating the facility. This work shall be performed according to the provisions of this chapter.

(3) If a proposed public facility interferes with an existing driveway approach, the owner of the public facility shall bear the expense of removing, reconstructing or relocating the driveway approach and its related improvements, including paying for all damages resulting from the work and restoring all improvements to a state equal to or better than its original condition.

(4) Culverts, swales and other drainage improvements. No driveway approach shall interfere with the proper runoff of surface waters into, or passage of waters through existing drainage culverts, swales, ditches, watercourses, defiles, or depressions. When in the construction of a driveway approach, the proper runoff of surface waters and other waters require the construction of a drainage structure other than a swale, such drainage structure shall be designed by an engineer and subject to the approval of the director.

(2002, ord 02-67, sec 2.)

Section 22-4.10. Maintenance of driveway approaches.

All landowners shall, at their own expense, maintain and repair their driveway approach such that it does not cause a hazard to, interfere with or inconvenience vehicular or pedestrian traffic. Maintenance shall also include drainage structures or other improvements that are integrated or included as part of the driveway approach. These responsibilities shall continue until the driveway approach is removed and the area restored to a condition approved by the director.

(2002, ord 02-67, sec 2.)

Article 5. Addresses.

Division 1. Street Names.

Section 22-5.1. Posting street names at intersections.

The director shall post the official County names where two or more County streets intersect.

(2002, ord 02-67, sec 2.)

Section 22-5.2. Adoption of street names.

The authority to name and to approve the change of names for all streets including private and State owned streets, within the County, shall be the responsibility of the planning director to be exercised in accordance with administrative rules and regulations established by the planning department. The planning director may devise a method of adding numbers or letters to street names to show their orderly progression and/or direction. The number or letter will be in addition to the street name.

(2002, ord 02-67, sec 2.)

Section 22-5.3. Street name repository.

The planning department shall serve as a repository for all official street names.

(2002, ord 02-67, sec 2.)

Division 2. Reserved.

Article 6. Speed Humps.

Section 22-6.1. Powers and duties of director.

The director may:

(1) Construct, place, approve, remove and repair speed humps on County streets when deemed necessary for public safety.

(2) Grant or deny requests from the public pursuant to this chapter and in accordance with the administrative rules and regulations governing speed humps on County streets.

(2002, ord 02-67, sec 2.)

Section 22-6.2. Requests for approval.

All requests for speed humps must provide:

(1) The name of the County street on which the speed humps are to be placed.

(2) The proposed location of the speed humps for the highway mentioned in subsection (1).

(3) Petition of the property owners whose property abuts the County street within five hundred feet of the proposed speed hump, in support of the speed hump.

(2002, ord 02-67, sec 2.)

Section 22-6.3. Process for approval.

The director shall review all requests for approval for location, design and construction to ensure that they meet the guidelines as established in the "Guidelines for the Design and Application of Speed Humps," Institute of Transportation Engineers, May 1993, or as subsequently revised.

(2002, ord 02-67, sec 2.)

Article 7. Variances.

Section 22-7.1. Variances; application.

(a) In unique cases where strict enforcement of this chapter would result in unnecessary hardship or practical difficulty, and where desirable relief may be granted without detriment to the public interest, convenience or welfare, a request for a variance may be submitted to the director for consideration.

(b) Variance applications shall be submitted upon a form designated by the director and shall include the following information and attachments:

(1) Property owner's name, phone number, and mailing address.

(2) Tax map key number of the affected property.

(3) A map showing:

(A) The location of the driveway.

(B) The location of all structures on the property.

(4) Code section from which a variance is requested.

(5) Explanation of the applicant's unique circumstances and why consequently, compliance with the applicable code section would be difficult or cause an unnecessary hardship.
(6) Explanation of alternative measures that applicant is proposing to take in lieu of compliance with the applicable code section.
(7) Evidence that desired relief may be granted without detrimentally affecting the public interest.

(2002, ord 02-67, sec 2.)

Section 22-7.2. Variances; criteria for granting.

Only in situations where all of the following conditions exist may a variance be granted by the director:

(1) A grant of a variance is necessitated by peculiar physical conditions not ordinarily found in most districts, because of the peculiarity of a business, or as a result of a special event or circumstance.
(2) Granting the variance will not adversely affect the rights of adjacent property owners or tenants.
(3) Granting the variance will not violate the interest, safety, convenience, or general welfare of the public.
(4) A strict application of the terms of this chapter would result in unnecessary hardship and practical difficulty upon the applicant or community.

(2002, ord 02-67, sec 2.)

Section 22-7.3. Variance application fees.

(a) Upon submission of an application for a variance provided for in this article, applicants shall submit a processing fee of $25.
(b) Fees shall be waived for any variance applied for by a Federal, State or County agency including the department of water supply.

(2002, ord 02-67, sec 2.)

Article 8. Violations, Penalties, Enforcement.

Section 22-8.1. Violations.

Failure to comply with any provision of this chapter, any rule adopted pursuant to this chapter, or with conditions imposed as part of any permit or variance from the provisions of this chapter, shall constitute a violation of this chapter.
(2002, ord 02-67, sec 2.)

Section 22-8.2. Administrative enforcement.

(a) In lieu of or in addition to enforcement pursuant to the provisions of this chapter, if the director determines that any person is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any conditions imposed as part of any permit or variance from the provisions of this chapter, the director shall serve the person with a notice of violation and order pursuant to this section. Service may be accomplished through personal service or by certified mail. The director may also post a copy of the notice of violation and order at the site of the violation.

(b) The notice of violation shall include at least the following information:
   (1) Date of the notice.
   (2) Name and address of the person noticed.
   (3) Section number of the provision, rule, permit, or variance that was violated.
   (4) Nature of the violation.
   (5) Location and date of the violation.

(c) The order may require the person to do any or all of the following:
   (1) Cease and desist from the violation.
   (2) Correct the violation at the person's own expense before a date specified in the order.
   (3) Reimburse the County for costs incurred during the course of performing any corrective work.
   (4) Pay a civil fine not exceeding $1,000 in the manner, at the place and before the date specified in the order.
   (5) Pay a civil fine not exceeding $1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(d) The order shall become final thirty calendar days after the person's receipt of the order, unless the director's decision is appealed to the County board of appeals within the thirty-day period.

(e) The provisions of the order issued by the director under this section shall become final thirty days after the receipt of the order, unless the director's action is appealed to the County board of appeals as provided in this section.

(f) Any person adversely affected by any order issued under this section, may within thirty days after the service of the order, appeal the order to the County board of appeals. An appeal to the County board of appeals shall stay the provisions of the director's order pending the final decision of the board.

(g) The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine, recover County costs, or both, as imposed by said order, the director need only show that:
   (1) The notice of violation and order were served.
   (2) That a civil fine, County costs, or both were imposed.
   (3) The amount of the civil fine, County costs, or both imposed.
   (4) That the fine, County costs, or both imposed have not been paid.

(2002, ord 02-67, sec 2.)

Section 22-8.3. Criminal prosecution.

(a) This section shall not apply to violations of article 3 of this chapter.

(b) Any person whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a violation, and upon conviction thereof shall be punished by a fine not exceeding $1,000.

(c) After a conviction for a first violation under this chapter, each further day of violation shall constitute a separate offense if the violation is a continuance of the subject of the first conviction.

(d) The imposition of a fine under this section shall be controlled by the provisions of the Hawai‘i Penal Code relating to fines, sections 706-641 through 706-645, Hawai‘i Revised Statutes.

(e) Any authorized personnel may issue a summons or citation to an alleged violator in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by penal summons, by complaint, by warrant or such other judicial process as is permitted by statute or rule of court.

(f) Any authorized personnel issuing a summons or citation for a violation of this article may take the name and address of the alleged violator and shall issue to the alleged violator a written summons or citation notifying the alleged violator to answer at a place and at a time provided in the summons or citation.

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

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

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

(2002, ord 02-67, sec 2.)

Section 22-8.4. Injunctive action.

The County of Hawai‘i may maintain an action for an injunction to restrain any violation of the provisions of this article and may take any other lawful action to prevent or remedy any violation.

(2002, ord 02-67, sec 2.)

Section 22-8.5. Emergency powers; procedures.

(a) Notwithstanding any other law to the contrary, if the director determines that a violation of this chapter will cause imminent peril to the public health and safety, the director, without a public hearing, may order the responsible persons to immediately cease their activities, and may perform all necessary work and other actions as may be necessary to correct the violation. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the hearings officer.

(b) Nothing in this section shall be construed to limit any power authorized by law which the director or any other County official may have to declare an emergency and act on the basis of such declaration.

(2002, ord 02-67, sec 2.)

Section 22-8.6. Corrective work by the County; costs.

(a) When the director determines that a violation of this chapter will cause imminent peril to the public health and/or safety, the department of public works may perform all necessary work to correct the violation. This work may include, but may not be limited to, clearing or removing of encroachments and obstructions, removal of equipment, materials, goods, wares or merchandise found within a County street, repair and maintenance of sidewalk areas and driveway approaches, barricading of illegal driveways and installing building numbers.

(b) All costs incurred during the course of performing any corrective work shall be paid by the violator. The department of public works shall give, by certified mail, a bill to the violator. The violator shall then have thirty days from the date of mailing to pay the bill.

(c) Should the violator fail to make full legal payment within thirty days, the County may use all legal means available to recover its expenses and costs of clearing by any action allowed in law or equity.

(d) Signs, banners, equipment, goods, wares, merchandise and other private items removed by the department of public works will be stored at the nearest County highway maintenance baseyard. Owners may recover removed items during the normal working hours of the baseyard. The County will not be responsible for the safekeeping or proper storage of these items. At the end of the calendar year all items shall be appropriately disposed or discarded no matter when they were removed during the calendar year.

(2002, ord 02-67, sec 2.)

Section 22-8.7. Limited liability of authorized personnel.

The authorized personnel charged with the enforcement of this article, acting in good faith and without malice in the discharge of the duties required by this article or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the authorized personnel because of such act or omission performed by the authorized personnel in the enforcement of any provision of this article or other pertinent laws or ordinances implemented through the enforcement of this article shall be defended by the County of Hawai‘i until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County.
(2002, ord 02-67, sec 2.)

Section 22-8.8. Remedies cumulative.

The remedies provided in this article shall be cumulative and not exclusive.
(2002, ord 02-67, sec 2.)

Article 9. Legal Compliance and Rulemaking.

Section 22-9.1. Compliance with this chapter and other laws.

Any approval or permit issued pursuant to the provisions of this chapter shall comply with all applicable requirements of this chapter. The granting of a permit or variance under this chapter does not dispense with the necessity to comply with any law, ordinance, regulation or any other provision of the Hawai‘i County Code to which a permittee may also be subject.
(2002, ord 02-67, sec 2.)

Section 22-9.2. Adoption of rules.

The director may adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this chapter.
(2002, ord 02-67, sec 2.)

This page intentionally left blank.