

September 19, 2019

MEMO TO: Members of the Economic Development and Budget Committee

F R O M: Keani Rawlins-Fernandez, Chair
Tax Reform Temporary Investigative Group

SUBJECT: **TAX REFORM TIG FINAL REPORT** (PC-24(11))

The Tax Reform Temporary Investigative Group of the Economic Development and Budget Committee ("TIG"), having met on July 17, 2019, July 26, 2019, August 1, 2019, August 14, 2019, August 23, 2019, August 29, 2019, and September 9, 2019 makes its report as follows:

I. Purpose and Scope

The TIG was formed by the members of the Economic Development and Budget ("EDB") Committee on May 16, 2019 having the purpose, scope, and membership as set forth in the proposal from Councilmember Keani Rawlins-Fernandez dated May 10, 2019. Councilmember Rawlins-Fernandez was named as the TIG Chair, Councilmember Alice Lee was named as the TIG Vice-Chair, with Councilmembers Tamara Paltin and Tasha Kama serving as Members.

The purpose of the TIG was to make findings and recommendations on policies relating to county tax reform. The scope of the investigation included a list of ten items, in no particular order, which would likely advance the restructuring of Maui county tax policy.

The TIG was authorized to have discussions with County personnel related to the goals of tax reform, including personnel from Department of Finance, Office of the Mayor, and Department of the Corporation Counsel.

The TIG was also authorized to consult with tax reform advocates and experts for the purpose of creating tax reform solutions, identifying barriers to creating tax reform, and recommending steps the County can take to facilitate tax reform.

The TIG was also instructed to: (1) prioritize and rank in order of importance the top strategies and opportunities for creating tax reform; (2) identify which of the top strategies and opportunities require legislative proposals and action by the Council; and (3) identify which of the top strategies and opportunities would benefit by action of County departments.

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II. Presentation of Report and Dissolution

A report of the TIG's findings and recommendations were due by September 19, 2019. Following presentation of the report, a full discussion of its findings and recommendations may occur at a subsequently noticed meeting of the EDB Committee, in accordance with Section 92-2.5, Hawaii Revised Statutes. Discussion is tentatively scheduled for the Economic Development and Budget Committee meeting of October 3, 2019. The TIG shall be dissolved upon presentation of its findings, recommendations, and legislative proposals to the EDB Committee. The TIG is now dissolved.

III. Membership

Chair: Councilmember Keani Rawlins-Fernandez
Vice Chair: Councilmember Alice Lee
Members: Councilmember Tamara Paltin
Councilmember Tasha Kama

IV. Meetings

The members of the TIG held an organizational meeting on July 17, 2019 and organized the ten TIG scope priorities ("TSP") based upon time sensitivity and in order of importance as follows:

- 1) TSP c: Considering the possibility of merging valuations or rates for land and buildings.
- 2) TSP b: Reviewing tax classifications generally and TSP g: Considering a tiered real property tax rate and plan for implementation.
- 3) TSP d: Considering the possible repeal of or amendment to Subsection 3.48.305(C), Maui County Code, relating to properties subdivided into condominium property regimes.
- 4) TSP f: Identifying and amending potential loopholes in tax classifications.

SIMULTANEOUSLY TIG STAFF, WOULD RESEARCH:

- 5) TSP e: Creating a long-term rental home exemption. (Study other counties, research definitions for "long-term affordable")

The members agreed that the remaining four TIG scope priorities would be taken up in a newly formed Tax Reform TIG Part II, after the time sensitive items were reported out to committee and the current Tax Reform TIG was dissolved, as required.

The members identified their proposed TIG resource experts and advocates to help review and comment on the work product of the TIG.

The TIG members were asked to work closely with their respective TIG resource experts and advocates to review the TIG's legislative proposals and to develop recommendations due to the EDB Chair by September 26, 2019. These recommendations will then be compiled into a matrix for the EDB committee members consideration during deliberations at its October 3, 2019 meeting.

V. Findings and Recommendations

The following two legislative proposals encapsulate and satisfy the six scope priorities that were identified as being time sensitive and most important.

Legislative Proposal #1: Establishing Tiers & Merging Valuations for Land and Buildings.

Summary: The amendments proposed by the Department of Finance merge the valuation for land and building to enable the Department to streamline property assessments. The proposed bill also creates the framework for certain various tax classifications to have tiered tax rates by establishing Section 3.48.561, "Tax rate tiers," to advance the principles of equitable tax reform by allowing the Council the ability to establish different rates within various classifications.

The proposed tiers are as follows:

- (1) Owner-Occupied Tier 1, Tier 2, and Tier 3 tax rates;
- (2) Non-Owner-Occupied Tier 1, Tier 2, and Tier 3 tax rates;
- (3) Short-Term Rental Tier 1 and Tier 2 tax rates; and
- (4) Commercial/Industrial Tier 1 and Tier 2 tax rates.

The net taxable value for each tax class and tiered rate shall be set forth in the annual budget.

Recommended Action: The TIG voted unanimously to pass the amendments as reflected within each section of the attached proposal.

Barriers to Implementing: None.

Legislative Proposal #2: Tax Classification Reform, Repealing Condominium Regimes, Establishing a Long-term Affordable Rental Exemption, Amending the Code to Address Existing Loopholes.

Summary: The proposed amendments: 1) reorganize and modify the tax class categories; 2) deletes the section on planned developments for transient vacation rentals; 3) creates new tax classes and definitions for vacant agriculture and vacant conservation lands; 4) deletes the section on condominium property regimes; 5) creates a new special land reserve for dedicated long-term affordable rentals and long term rentals which a) establishes a long-term affordable rental tax exemption and a long-term rental tax exemption; b) establishes rent control guidelines for dedicated long-term affordable and long-term rental dwellings; and c) establishes an amnesty period for long-term affordable rental dedication applicants to declare unpermitted structures built before January 1, 2019, without monetary civil and criminal penalties that might otherwise be imposed for constructing a structure without a building permit.

Recommended Actions: The TIG voted unanimously to pass the amendments as reflected within each section of the attached proposal.

Barriers to implementing: The long-term affordable rental and long-term rental exemptions will not be implementable until Fiscal Year 2022.

VI. Acknowledgments

The TIG expresses its gratitude to Department of Finance leadership and staff and Executive Assistants of TIG members for their dedicated assistance over the last several months.

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OFFICE OF THE
COUNTY COUNCIL

May 10, 2019

MEMO TO: EDB-24(11) File

Keani Rawlins-Fernandez

F R O M: Keani N.W. Rawlins-Fernandez, Chair
Economic Development and Budget Committee

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
COUNTY TAX REFORM** (EDB-24(11))

The attached proposal pertains to Item 24(11) on the Committee's agenda.

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Attachment

**Temporary Investigative Group (TIG)
of the
Economic Development and Budget Committee**

Purpose of investigation:

To make findings and recommendations on policies relating to county tax reform.

Scope of investigation:

The scope of investigation may include the following:

1. As its first order of business, the temporary investigative group will work with the Director of Finance or the Director's representatives to explore the following:
 - a. Simplifying Chapter 3.48, Maui County Code, relating to Real Property Tax, and streamlining classification and assessment methods.
 - b. Reviewing tax classifications generally.
 - c. Considering the possibility of merging valuations or rates for land and buildings.
 - d. Considering the possible repeal of or amendment to Subsection 3.48.305(C), Maui County Code, relating to properties subdivided into condominium property regimes.
 - e. Creating a long-term rental home exemption.
 - f. Identifying and amending potential loopholes in tax classifications.
 - g. Considering a tiered real property tax rate and plan for implementation.
 - h. Considering amendments to the minimum tax.
 - i. Reviewing the Kuleana tax exemption.
 - j. Reviewing the Hawaiian Homestead tax exemption.
2. During its investigation, the temporary investigative group may:
 - a. Conduct interviews and discussions with County personnel related to the goals of tax reform, including personnel from the following agencies: Department of Finance, Office of the Mayor, and Department of the Corporation Counsel.
 - b. Conduct interviews and discussions with individuals with expertise in the issues identified above to create tax reform solutions, identify

barriers to creating tax reform, and recommend steps the County can take to facilitate tax reform.

- c. Consult with representatives from the following groups: Tax reform advocates, real property mass appraisal and tax policy industry experts, finance experts, other municipalities, local landowners, and real estate, business, and financial communities.
 - d. Research other counties' real property tax structures.
3. At the conclusion of its investigation, the temporary investigative group is requested to:
- a. Prioritize and rank in order of importance the top strategies and opportunities for creating tax reform;
 - b. Identify which of the top strategies and opportunities require legislative proposals and action by the Council; and
 - c. Identify which of the top strategies and opportunities would benefit by action of County departments.

General rules:

1. Discussion of matters relating to the purpose and scope of the investigation is restricted to only those Council members appointed as TIG members by the Economic Development and Budget Committee;
2. The physical presence of three TIG members for a discussion called and convened by the TIG Chair shall constitute a quorum;
3. Discussion of matters relating to the purpose and scope of the investigation is only permitted during a discussion called and convened by the TIG Chair, or in the absence or disability of the TIG Chair, the TIG Vice-Chair;
4. Three affirmative votes shall be required to establish a recommendation of the TIG. Items that do not receive three affirmative votes shall be disclosed as findings;
5. The TIG Chair shall submit a report of the group's findings, recommendations, and legislative proposals, if any, to the Economic Development and Budget Committee no later than September 19, 2019; and
6. The TIG shall be dissolved upon presentation of its findings, recommendations, and legislative proposals to the Economic Development and Budget Committee.

Membership:

_____, TIG Chair

_____, TIG Vice-Chair

_____, TIG member

_____, TIG member

Authority:

Call, convene, and facilitate TIG discussions; request staff assistance from the Council Chair and the Administration; report the TIG's findings and recommendations, if any, to the Economic Development and Budget Committee; establish and enforce parliamentary procedure.

In the absence or disability of the Chair, the Vice-Chair shall assume the duties of the Chair.

Voting member.

Voting member.

Maui County Code

(Updated to reflect the TIG's recommended changes already approved to merge land and building valuations.)

Article X. - Determination of Rates and Tiers

3.48.560 - Definitions.

Unless a different meaning is clearly indicated by the context, as used in this article:

~~A. "Net taxable lands" means all other real property exclusive of buildings.~~

~~A. B.~~ "Net taxable real property" means, ~~as indicated by the context,~~ the percentage of the fair market value of property determined under section 3.48.180, which the director of finance certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases which appeals from the director's assessment are then unsettled, less fifty per cent of the value in dispute.

~~B. "Tax rate" means the dollar amount of tax levied under this chapter per \$1,000.00 of net taxable real property, computed to the nearest cent.~~

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.90(a))

3.48.561 – Tax Rate Tiers.

Classifications as referenced in 3.48.305.

Notwithstanding any provision to the contrary, the tiers are based on the net taxable real property, and are as follows:

(1) Owner-Occupied Tier 1, Tier 2, and Tier 3 tax rates;

(2) Non-Owner-Occupied Tier 1, Tier 2, and Tier 3 tax rates;

(3) Short-Term Rental Tier 1 and Tier 2 tax rates; and

(4) Commercial/Industrial Tier 1 and Tier 2 tax rates.

The net taxable value shall be set forth in the annual budget.

3.48.565 - Increase or decrease.

The council may increase or decrease the tax rate for ~~buildings and for all other real property, exclusive of buildings for net taxable land and net taxable~~

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(Updated to reflect the TIG's recommended changes already approved to merge land and building valuations.)

~~buildings of~~ each class of net taxable real property established in accordance with section 3.48.305. A resolution setting the tax rates and tiers shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures:

- A. The council shall advertise its intention to increase or decrease tax rates and tiers and the date, time and place of a public hearing in a newspaper of general circulation. The date of the public hearing shall be not less than ten days after the advertisement is first published and shall set forth the tax rates and tiers to be considered by the council.
- B. After the public hearing provided for in subsection A ~~of this section~~, the council shall readvertise and reconvene within three weeks to adopt a resolution fixing the tax rates and tiers for the tax year for which property tax revenues are to be raised. The advertisement shall state the new rates and tiers to be fixed and the date, time and place of the meeting scheduled for fixing such rates and tiers. The date, time and place of the meeting shall also be announced at the public hearing required by subsection A ~~of this section~~. If the resolution fixing the tax rates and tiers is not adopted within three weeks from the public hearing required by subsection A ~~of this section~~, the council shall again advertise and meet as required by subsection A.
- C. If adopting an increase or decrease in the tax rates and tiers as provided by subsections A and B ~~of this section~~, the council determines that it requires a further increase or decrease in tax rates and tiers or fails to act in any specified period, the council shall readvertise and follow the requirements of subsections A and B.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.90(b))

3.48.575 - Use of increased or decreased rates and tiers.

If the tax rates and tiers for the tax year are increased or decreased, the council shall notify the director of finance of the increased or decreased rates and tiers, and the director shall employ such rates and tiers in the levying of property taxes as provided by this chapter.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.90(d))

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(Updated to reflect the TIG's recommended changes already approved to merge land and building valuations.)

3.48.580 - Calculations submitted by director.

- A. ~~The director of finance shall, on~~ On or before April 19 preceding the tax year, the director of finance shall furnish the council with a calculation certified ~~by him~~ as being as nearly accurate as may be possible, of the estimated revenues derived using the rates and tiers set forth in the proposed budget, separately stated for each category established in accordance with section 3.48.305, for net taxable ~~lands and for net taxable buildings~~ real property.
- B. ~~The director of finance shall, on~~ On or before May 1 preceding the tax year, the director of finance shall furnish the council with a calculation certified ~~by him~~ as being as nearly accurate as may be possible, of the net taxable real property within the County, separately stated for each category classification established in accordance with section 3.48.305 ~~for net taxable lands and for net taxable buildings~~ plus such additional data relating to the property tax base as may be necessary.

(Ord. 2016 § 1, 1991: Ord. 1927 § 5, 1990: Ord. 1076 § 3 (part) 1980: prior code § 6-1.90(e))

3.48.585 - Validity.

Insofar as the validity of any tax rate and tiers is concerned, the provisions of sections 3.48.565 and 3.48.580, as to dates, shall be deemed directory; provided, that all other provisions of sections 3.48.565 and 3.48.580, and all provisions of section 3.48.570 and 3.48.575 shall be deemed mandatory.

(Ord. 1076 § 3 (part) 1980: prior code § 6-1.90(f))

3.48.590 - Minimum real property tax.

Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under this chapter a minimum real property tax as set forth in the annual budget, except:

- 1) Those tracts leased under section 207 of the Hawaiian Homes Commission Act, 1920, as amended;
- 2) Any parcel used for farming taro where the assessed value times the current agricultural class tax rate is less than the minimum real property

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(Updated to reflect the TIG's recommended changes already approved to merge land and building valuations.)

tax; 3) Portions of real property designated as kuleana land and granted an exemption as provided for in section 3.48.554; 4) Homes, or portions thereof, granted an exemption under section 3.48.475 to be levied a real property tax of \$150 per year; and 5) Remnant parcels granted an exemption under section 3.48.552 to be levied a real property tax of \$150 per year.

([Ord. No. 4328, § 4, 2016](#) ; Ord. No. 3986, § 3, 2012; Ord. No. 3943, § 3, 2012; Ord. No. 3679, § 5, 2009; Ord. No. 3647, § 1, 2009; Ord. 2315 § 2, 1994: Ord. 2200 § 2, 1992: Ord. 1076 § 3 (part) 1980: prior code § 6-1.90(g))

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Article VII. - Valuations

3.48.290 - Considerations by director.

The director of finance shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the county; provided, that the value of land classified and used for agriculture, whether such lands are dedicated pursuant to section 3.48.350 or not, shall, for real property tax purposes, be the value of such land for agricultural use without regard to any value that such land might have for other purposes or uses, or to neighboring land uses, and determined as provided in section 3.48.320; and provided further that, for real property tax purposes, the value of land leased under Section 207 of the Hawaiian Homes Commission Act, 1920, shall be no value. In making such determination and assessment, the director shall separately value and assess, within each class established in accordance with section 3.48.305, buildings and all other real property, exclusive of buildings.

(Ord. 2579 § 1, 1997; Ord. 1285 § 2, 1982; Ord. 1076 § 3 (part) 1980: prior code § 6-1.53(a))

3.48.300 - Methods—Recordkeeping.

So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.53(c))

3.48.305 ~~—~~ Classification of real property of land and building.

A. ~~—~~ Except as otherwise provided in subsection ~~3.48.305(B)~~, land and building real property shall be classified, upon consideration of the real property's its highest and best use, into the following general classes:

1. ~~Residential~~ Non-Owner-occupied.
2. ~~Apartment.~~ Owner-Occupied.

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3. Commercialized residential.
4. Time-share.
5. ~~Commercial.~~ Short-term rental.
6. ~~Industrial.~~ Hotel and resort.
7. Agricultural.
8. Vacant agricultural.
89. Conservation.
910. ~~Homeowner.~~ Vacant conservation.
- ~~1011.~~ Commercial/Industrial.
- ~~11.~~ Short-term rental.

B. — In assigning land to one of the general classes, the director shall give major consideration to the districting established by the land use commission pursuant to chapter 205, Hawaii Revised Statutes, the districting established by the County in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors that influence highest and best use, except that:

1. Any dwelling, as defined in section 18.04.165 Maui County Code, in any class except "Hotel and resort", "Timeshare", "Commercial/Industrial", "Commercialized residential", or "Short-term rental", shall be designated "Non-Owner-occupied" or "Owner-occupied". A parcel that does not serve as the owner's primary residence shall be classified as "Non-Owner occupied".

A parcel that is used ~~exclusively~~ as the owner's principal residence and has been granted a home exemption in accordance with sections 3.48.410 and 3.48.475, shall be classified as "~~homeowner~~Owner-Occupied" without regard to its highest and best use.

2. A parcel that serves as the owner's primary residence and has been granted a bed and breakfast permit, a transient vacation rental permit, or a conditional permit allowing a transient vacation rental use pursuant to title 19 of this code, shall be classified "~~commercialized~~ Commercialized

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residential" without regard to its highest and best use, and shall not qualify for a home exemption.

3. —A parcel that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "~~time~~Timeshare."
4. Unless classified as "~~time~~Timeshare," "~~hotel~~Hotel and resort," or "~~commercialized~~Commercialized residential," lodging or dwelling units, as defined in title 19 of this code, occupied by transient tenants for periods of less than six consecutive months shall be classified as "~~short~~Short-term rental" including a parcel that does not serve as the owner's primary residence and has been granted a short-term rental home permit, a transient vacation rental permit, or a conditional permit allowing transient vacation rental use pursuant to title 19 of this code shall be classified as "~~short~~Short-term rental" without regard to its highest and best use, and shall not qualify for a home exemption.
- ~~5. A unit and its appertaining common interest that are part of a planned development where transient vacation rentals are permitted, in accordance with chapter 19.32 of this code, shall be classified in accordance with subsection 3.48.305(C)(2)(a). The planned development shall form an entity that shall annually report to the director on a form prescribed by the director, the actual use of each unit in the planned development along with any information deemed relevant by the director to determine the actual use of each unit. If the required annual report is not filed on or before December 1, the director may classify all units in the planned development in accordance with subsection 3.48.305(A) for the following assessment year. The entity shall report any change in actual use of a unit in the planned development within thirty days of that change. The director may investigate any unit and, if it is determined by the director that the actual use differs from the use reported, reclassify and reassess the unit.~~
- ~~6.5.~~ Unless classified as "~~time~~Timeshare" or "~~commercialized~~Commercialized residential," properties occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in title 19 of this code, and employ more than twenty full-time persons, shall be classified as "~~hotel~~Hotel and resort."
6. "Vacant agricultural" means a parcel, or portion thereof, which would otherwise be classified agricultural by the director upon major consideration of the districting established by the county in its general

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plan and zoning ordinance and of such other factors which influence highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for agricultural purposes. If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

7. “Vacant Conservation” means a parcel, or portion thereof, which would otherwise be classified conservation by the director upon major consideration of the districting established by the county in its general plan and zoning ordinance and of such other factors which influence highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for conservation purposes. If a portion of a parcel is dedicated as vacant conservation, the remainder of the parcel that is zoned conservation must be dedicated for conservation use.

~~C.—When property is subdivided into condominium units, each condominium association or any entity filing a condominium property regime, shall file an annual report with the director of all units in the association, by tax map key number, before December 1 of each calendar year.~~

~~1.—The director shall prescribe the form of the list and any supporting evidence as necessary. The list shall include whether the unit is vacant, owner occupied, or rented long term or short term, by month.~~

~~2.—Each unit and its appertaining common interest shall be:~~

~~a.—Classified upon consideration of its actual use into one of the general classes as follows:~~

~~i.—Homeowner. Only those units owned and occupied as a principal home and for which a home exemption claim was filed and granted shall be classified as "homeowner."~~

~~ii.—Apartment. Only those units occupied by the owner for personal use or by a lessee for a term of six consecutive months or more shall be classified as "apartment."~~

~~iii.—Commercial. Only those units occupied by the owner or a lessee for business or mercantile activities shall be classified as "commercial."~~

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- ~~iv. Hotel and resort. Unless classified as "time share" or "commercialized residential," properties that are occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in title 19 of this code, and employ more than twenty full-time persons, shall be classified as "hotel and resort."~~
 - ~~v. Time share. Units occupied by transient tenants for periods of less than six consecutive months that are subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "time share."~~
 - ~~vi. Commercialized residential. Units that serve as the owner's primary residence and that have been granted a bed and breakfast permit, a transient vacation rental permit, or a conditional permit allowing transient vacation rental use pursuant to title 19 of this code, shall be classified as "commercialized residential."~~
 - ~~vii. Short-term rental. Unless classified as "time share," "hotel and resort," or "commercialized residential," lodging or dwelling units, as defined in title 19 of this code, occupied by transient tenants for periods of less than six consecutive months shall be classified as "short-term rental," including properties granted a short-term rental home permit, transient vacation rental permit, or conditional permit allowing transient vacation rental use.~~
- ~~b. Deemed a parcel and assessed separately from other units.~~
- ~~3. The director may, after investigation, reclassify and reassess any unit in a condominium association found to be in violation of the owner's certification of actual use.~~
 - ~~4. A condominium owner, the condominium association or any entity filing a condominium property regime, or both, shall notify the director of any change in a unit's classification within thirty days of that change.~~
 - ~~5. If the required annual report is not filed on or before December 1, the director may classify all units in the project in accordance with subsection B for the following assessment year.~~
- DC.** —Notwithstanding the foregoing, a parcel that does not serve as the owner's primary residence and was, prior to May 23, 2012, granted a conditional permit for bed and breakfast or transient vacation rental use pursuant to title 19 of this

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code, and was classified as "~~commercialized~~Commercialized residential" prior to May 23, 2012, shall retain such "~~commercialized~~Commercialized residential" classification.

([Ord. No. 4790, § 2, 2017](#) ; Ord. No. 4166, § 2, 12-5-2014; Ord. No. 4165, §2, 2014; Ord. No. 4003, § 1, 2012; Ord. No. 3766, § 2, 2010; Ord. No. 3703, § 1, 2009; Ord. No. 3671, § 1, 2009; Ord. 3227 §§ 1, 2, 2004; Ord. 2569 § 1, 1997; Ord. 2199 § 1, 1992; Ord. 2130 § 1, 1992; Ord. 1285 § 4, 1982; Ord. 1076 § 3 (part), 1980: prior code § 6-1.53(d))

3.48.310 - Assessment of lots and parcels.

Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.

(Ord. 1285 § 5, 1982; Ord. 1076 § 3 (part), 1980: prior code § 6-1.53 (e))

3.48.320 - Land classified as agriculture or commercialized residential and used for agriculture.

In determining the value of lands which are classified and used for agriculture, or classified as commercialized residential and used for agriculture, whether such lands are dedicated pursuant to section 3.48.350 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of person who may be considered to have special knowledge of land values.

(Ord. No. 3697, § 1, 2009; Ord. 1076 § 3 (part), 1980: prior code § 6-1.63(f)(2))

3.48.325 - Deferred or roll back tax-~~C~~change in classification.

A deferred or roll back tax shall be imposed on the owner of agricultural lands assessed according to their agricultural use as provided in section 3.48.290 in the event of a change in land use classification by the authorized state agency to urban or rural districts or upon the subdivision of the land into parcels of five acres or less; provided, that the tax shall not apply if the owner dedicates his land as provided in section 3.48.350 within three years from the date of the change in

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land use classification and fulfills all of the requirements of the dedication. The deferred tax shall be due and payable at the end of the third year following the change in land use classification, provided that the land shall continue to be used for agriculture during this period.

- A. —The total amount of deferred taxes shall be computed commencing at the end of the third year following the change in classification where the land has continuously been used for agriculture; provided, however, that where the land has been put to a higher urban or rural use prior to the expiration of the three-year period, the amount of deferred taxes shall be computed commencing at the end of the year in which the land has been put to such higher urban or rural use, and shall be retroactive to the date the assessment was made pursuant to section 3.48.290, provided the retroactive period shall not exceed ten years. Where the owner has subdivided his land into parcels of five acres or less, the deferred tax shall commence from the date the conversion was made retroactive to the date the assessment was made pursuant to section 3.48.290, but for not more than ten years.
- B. —Any other provisions to the contrary notwithstanding, the deferred or roll back tax shall apply only if a change in land use classification has been made as a result of a petition by any property owner or lessee and shall apply only upon lands owned by the owner or lessee who has petitioned for the change in classification. The deferred or roll back tax shall not apply to lands owned by any other or lessee who has not petitioned for the change in classification, provided the owner or lessee shall continue to use the land in its agricultural use for a period of three years after the change in land use classification is made, or where the change in classification is initiated by any governmental agency or instrumentality.
- C. —The deferred or roll back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land, at the tax rate applicable for the respective years.
 1. —Where the owner subdivides his land into parcels of five acres or less, the deferred tax shall be due and payable within sixty days of such conversion, subject to a ten percent per year penalty.
 2. —Where the owner changes the land use classification, the deferred tax shall be due and payable within three years of such conversion, except that where the land has been put to its higher urban or rural use, the

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tax shall be due and payable at the end of the year in which the land has been put to such higher use, subject to a ten percent per year penalty.

- D. —Any other provisions to the contrary notwithstanding, the land shall continue to be assessed in its agricultural use as provided in section 3.48.290 until the land is put to its higher urban or rural use for a period of three years following the change in classification, whichever is shorter; provided, that for purposes of determining the amount of deferred taxes to be assessed to the owner or lessee, the retroactive period shall include the period during which the land is continued to be assessed in its agricultural use following the change in classification. Any tax due and owing shall attach to the land as a paramount lien in favor of the county as provided for by this chapter.

(Ord. 1404 § 1, 1984; Ord. 1076 § 3 (part), 1980; prior code § 6-1.53(f)(3))

3.48.330 - Unusable or unsuitable land for agricultural use.

Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to section 3.48.350 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under sections 3.48.290 through 3.48.340.

(Ord. 1076 § 3 (part), 1980; prior code § 6-1.54(f)(4))

3.48.340 - Valuation of buildings—Additions, modifications or new work.

- A. —In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement, or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of the buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications or other new construction, improvement or repair work to buildings undertaken or made by the owner-occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation, or conservation project under the provisions or Part II of Chapter 53 of the Hawaii Revised Statutes shall not increase the assessable valuation of any building for a period of seven years from the date of certification as provided in this section.

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B. It is further provided that the owner-occupant shall file with the director of finance, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:

~~1. In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that are undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as mentioned in this section, the statement shall be certified by the mayor or any governmental official designated by him and approved by the council, that the additions, alterations, modifications or other new construction, improvement or repair work to the buildings were made and satisfactorily comply with the particular urban redevelopment, rehabilitation, or conservation act provision, or~~

~~2.1.~~ In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be ~~certified by the mayor, or any governmental official designated by him and approved by the council,~~ certified by a county inspector, that the building was inspected by them and found to be substandard when the owner-occupant made his claim, and the maintenance of repairs to the buildings were made and satisfactorily comply with the particular code provision.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.53(g) (part))

3.48.345 - Water tanks.

Any provision to the contrary notwithstanding, any tank or other storage receptacle required by any government agency to be constructed or installed on any taxable real property before water for home and farm use is supplied; and any other water tank, owned and used by a real property taxpayer for storing water solely for his own domestic use, shall be exempted in determining and assessing the value of such taxable real property.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.54)

3.48.350 - Dedicated lands.

A. A special land reserve is established to enable the owner of any parcel of land within an agricultural district, a rural district, a conservation district, or any

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urban district to dedicate his land for a specific ranching or other agricultural use and to have his land assessed at its value in such use; provided, that if the land is located within an urban district:

1. ___—A lessee of the land with a term of ten or more years remaining from the date of the petition shall also be deemed an owner of the land within these provisions;
 2. ___—The land dedicated must be used for the cultivation of crops such as sugar cane, pineapple, truck crops, orchard crops, ornamental crops, or the like;
 3. ___—The land dedicated must have been substantially and continuously used for the cultivation of crops such as sugar cane, pineapple, truck crops, orchard crops, ornamental crops, or the like for the five-year period immediately preceding the dedication request; provided further, that land situated within an agricultural district may be dedicated for a period of twenty years and shall be taxed at fifty percent of its assessed value in such use.
- B. ___—If any other desires to use his land for a specific ranching or other agricultural use and to have his land taxed at its assessed value in this use or fifty percent of its assessed value as the case may be, he shall also petition the director of finance and declare in his petition that his land can best be used for the purpose for which he requests permission to dedicate his land and that if his petition is approved he will use his land for this purpose.
- C. ___—If the owner desires to change from one specific ranching or other agricultural use to another ranching or other agricultural use he shall so petition the director of finance and declare in his petition that:
1. ___—His land can best be used for a ranching or other agricultural purpose other than that for which he originally requested permission; and
 2. ___—He will use his land for that new purpose if his petition is approved.
- D. ___—Upon receipt of a petition as provided above in subsections B and C, the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the intended use. The finding shall include and be based upon the productivity ratings of the land in those uses for which it is best suited, a study of the ownership, size of operating unit, the present use of surrounding similar lands and other criteria as may be appropriate. The director shall also make a finding of fact as to whether the intended use is in conflict with the overall development plan of the state. If both findings are favorable to

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the owner, the director shall approve the petition and declare that the owner's land is dedicated land; provided, that for lands in urban districts, the director shall make further findings respecting the economic feasibility of the intended use of the land. If all three findings are favorable, the director shall approve the petition and declare the land to be dedicated. In order to place prospective buyers on notice of the roll back liability, the petitioner shall within thirty days of notice of approval record the dedication in accordance with the procedures of the bureau of conveyances.

E. —The approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land to a use other than agriculture for a minimum period of ten years or twenty years, as the case may be, automatically renewable indefinitely, subject to cancellation as follows:

1. —In the case of a ten-year dedication, the owner may after the ninth year and years thereafter, give notice of cancellation by filing with the director, a written notice of cancellation, on or before December 31st, to be effective as of July 1st of the following tax year;
2. —In the case of a twenty-year dedication, the owner may during the nineteenth year and years thereafter give notice of cancellation as provided by this subsection;
3. —In the case of a change in a major land use classification not as a result of a petition by any property owner or lessee such that the owner's land is placed within an urban district, the dedication may be canceled within sixty days of the change by the owner. Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director.

Any other provision to the contrary notwithstanding, an approved change in use as provided in subsections C and D shall not alter the original dedication period.

F. Failure of the owner to observe the restrictions on the use of his land shall cancel the dedication and special tax assessment privilege retroactive to the date of the dedication, but in any event shall not exceed the term of the original dedication; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable

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with a ten percent a year penalty from the respective dates that these payments would have been due. The additional taxes and penalties, due and owing as a result of a breach of the dedication, shall be a paramount lien upon the property as provided for by this chapter.

1. —Failure to observe the restrictions on the use means failure for a period of twelve consecutive months to use the land in that manner requested in the petition or the overt act of changing the use for any period, provided that a change in land use classification upon petition by the owner of such dedicated lands, or the petition by the owner for a change in use as provided in subsection C, and the owner's subsequent change in use of such dedicated lands, shall not be deemed to constitute a failure of the owner to observe the restrictions on the use.
2. —If an owner is permitted to change his use as provided in subsections C and D, he shall be allowed thirty-six months from the date of the approval of his petition to convert to the new ranching or agricultural use. If the owner fails to make the conversion within the specified time limit, he will be subject to the taxes and penalties provided above. For purposes of assessment of taxes and penalties, the conversion period shall be considered in addition to the specified dedication period, except, however, in the case of the leased lands whose term expires prior to or in conjunction with the end of the dedication period, the conversion period shall be considered as a part of the dedication period. The petitioner shall submit progress reports of his efforts in converting from one agricultural use to another agricultural use to the director of finance by the anniversary date of the petition approval and yearly, thereafter, as long as such conversion period remains.

G. Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than ranching or other agricultural use shall be taxed as provided by this subsection.

HG. The director shall prescribe the form of the petition. The petition shall be filed with the director of finance by September 1st of any calendar year and shall be approved or disapproved by December 15th. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1st of the next calendar year.

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H. The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

J. "Owner," as used in this section, includes lessees of real property whose lease term extends at least ten years from the date of the petition, in the case of a ten-year dedication, or lessees of real property whose lease term extends at least twenty years from the date of the petition, in the case of a twenty-year dedication.

K. —"Agricultural use," as used in this section, shall include aquaculture.

L. —A special land reserve is established to enable the owner of any parcel of land within an urban district to dedicate his land for a specific livestock use such as feed lots, calf-raising and like operations in dairy, beef, swine, poultry and aquaculture, but excluding grazing or pasturing, and to have his land assessed at its value in such use; provided, that:

1. —A lessee of the land with a term of ten or more years remaining from the date of the petition shall also be deemed an owner of the land within these provisions;
2. —The land dedicated must be used for livestock uses such as feed lots, calf-raising and like operations in dairy, beef, swine, poultry and aquaculture but excluding grazing or pasturing;
3. —The land dedicated must have been substantially and continuously used in the livestock uses enumerated in subdivision 2 of this subsection; and
4. —Such livestock use must be compatible with the surrounding uses.

(Ord. 1404 § 2, 1984: Ord. 1076 § 3 (part), 1980: prior code § 6-1.55)

3.48.355 - Golf course assessment-Basis.

A. —Property operated and used as a golf course shall be assessed for property tax purposes on the following basis: The value to be assessed by the director shall be on the basis of its actual use as a golf course rather than on the valuation based on the highest and best use of the land.

B. —In determining the value or actual use, factors to be considered shall include, among others, rental income, cost of development, sales price and the effect of the value of the golf course on the value of the surrounding lands.

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(Ord. 1076 § 3 (part), 1980: prior code § 6-1.56)

3.48.360 - Golf course assessment—Conditions.

In order to qualify in having land assessed in valuation as a golf course, the owner of any parcel of land desiring or presently using his land for a golf course shall as a condition precedent qualify as follows:

A. Dedication of Land.

1. The owner of any parcel of land for a golf course shall petition the director of finance and declare in his petition that he will dedicate his parcel of land for a golf course.
2. The approval by the director of finance of the petition to dedicate the land shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of ten years, automatically renewable indefinitely, subject to cancellation by either the owner or the director of finance upon five years' notice at any time.
3. The failure of the owner to observe the restrictions on the use of his land to that of a golf course shall cancel the special tax assessment privilege retroactive to the date of the dedication, but not more than ten years prior to the tax year in which the exemption is disallowed. All differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a six-percent-a-year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of changing the use for any period. Nothing in this subdivision shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land as a golf course.
4. The director of finance shall prescribe the form of the petition. The petition shall be filed by September 1st of any calendar year and shall be approved or disapproved by December 15th of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1st of the next calendar year.
5. The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

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6. "Owner," as used in this section includes lessees of real property whose lease term extends at least ten years effective from the date of the petition.
 7. The amount of additional taxes due and owing where the owner has failed to observe the restriction on the use shall attach to the property as a paramount lien in favor of the county as provided for by ordinance.
- B. **Covenant Not to Engage in Discrimination.** The owner shall covenant in his petition with the director of finance that he will not discriminate against any individual in the use of the golf course facilities because of the individual's race, sex, religion, color, or ancestry.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.57)

3.48.365 - Lands dedicated for residential use.

- A. "Owner," as used in this section, means a person who is the fee simple owner of the real property, or who is the lessee of real property whose lease term extends at least ten years from the date of the petition.
- B. A special land reserve is established to enable the owner of any parcel of land within a hotel, apartment, resort, commercial, or industrial district to dedicate his land for residential use and to have his land assessed at its value in residential use; provided, that:
1. The land dedicated shall be limited to a parcel used only for single-family dwelling residential use;
 2. The owner of the land dedicated shall use it as his home; and
 3. Not more than one parcel of land shall be dedicated for residential use by any owner.
- C. If any owner desires to use his land for residential use and to have his land assessed at its value in this use, he shall so petition the director of finance and declare in his petition that if his petition is approved, he will use his land for single-family dwelling residential use only and that his land so dedicated will be used as his home.
- D. Upon receipt of any such petition, the director of finance shall make a finding of fact as to whether the land described in the petition is being used by the owner for single-family dwelling residential use only and as his home. If the

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finding is favorable to the owner, the director of finance shall approve the petition and declare the land to be dedicated.

- E. The approval of the petition by the director of finance to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land for a minimum period of ten years, automatically renewable thereafter for additional periods of ten years subject to cancellation by either the owner or the director of finance.
- F. Failure of the owner to observe the restrictions on the use of land or the sale of the property shall cancel the special tax assessment privilege retroactive to the date of the dedication, or the latest renewal ten-year period; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten percent penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- G. The additional taxes and penalties, due and owing as a result of failure to use or any other breach as a result of failure to use or any other breach of the dedication, shall be a paramount lien upon the property as provided for by ordinance.
- H. The director of finance shall prescribe the form of the petition. The petition shall be filed with the director of finance by September 1st of any calendar year and shall be approved or disapproved by December 15th. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1st of the next calendar year.
- I. The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(Ord. 1076 § 3 (part), 1980: prior code § 6-1.58)

3.48.366 - Land dedicated for fast track housing.

- A. A special land reserve is established to enable an owner of land on which a residential workforce housing project has been approved for fast track housing

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by the council pursuant to chapter 2.97 of this code to dedicate the project site for fast track housing and be exempt from real property taxes until the project is complete.

- B. If the owner desires to dedicate the project site for fast track housing, the owner shall petition the director and affirm the owner shall complete the fast track housing pursuant to the application approved by the council in accordance with chapter 2.97 of this code.
- C. Upon confirmation of council's application approval for fast track housing, the director shall approve the petition and declare the property to be dedicated to fast track housing.
- D. The approval of the petition by the director of finance to dedicate a property for fast track housing shall constitute a forfeiture on the part of the owner of any right to change the use of the project site as set forth by chapter 2.97 of this code.
- E. Failure of the owner to commence construction within the time period set forth by chapter 2.97 of this code shall forfeit the special tax assessment privilege retroactive to the date of the dedication and all real property taxes that would have been due from assessment shall be payable with a 10 percent penalty from the respective dates that these payments would have been due. Nothing in this subsection shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.
- F. The taxes and penalties, due and owing as a result of failure of the owner to commence construction within the time period set forth by chapter 2.97 of this code, shall be a paramount lien upon the property as provided for by ordinance.
- G. The director of finance shall prescribe the form of the petition. The petition shall be filed with the director by September first of any calendar year and shall be approved or disapproved by December 15th. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1st of the next calendar year.

([Ord. No. 4941](#), § 2, 2018)

[3.48.367 - Lands dedicated for long-term affordable rental use, or long-term rental use.](#)

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- A. "Owner," as used in this section, means a person who is the fee simple or lease hold owner of the real property.
- B. A special land reserve is established to enable the owner of any parcel of land within any class except "Hotel and resort", "Timeshare", "Commercial/Industrial", "Commercialized residential", or "Short term rental" to dedicate their land for long-term affordable rental use or long-term rental use and to have their land assessed at its value, with a long-term affordable rental or a long-term rental tax exemption, the value for which shall be set forth in the annual budget; provided, that:
1. The land dedicated shall be limited to a parcel not used as a bed and breakfast, transient vacation rental, or for short-term rental use; and
 2. The owner of the land dedicated for long-term affordable rental use shall abide by current U.S. Department of Housing and Urban Development HOME Program Low Home Rent Limits or less, for Maui County; and
 3. The owner of the land dedicated for long-term rental use shall abide by current U.S. Department of Housing and Urban Development HOME Program Fair Market Rent Limits or less, for Maui County.
 4. To qualify for a long-term affordable rental dedication on a parcel containing more than one rental dwelling, each rental dwelling must abide by the current U.S. Department of Housing and Urban Development HOME Program Low Home Rent Limits or less, for Maui County.
- C. If any owner wishes to use their land for long-term affordable rental use or long-term rental use, and to have the land assessed at its value with the respective exemption for its dedicated use, the owner shall petition the director of finance by submitting an application. The director of finance shall prescribe the form of the application. The application shall be filed with the director of finance by September 1st of any calendar year and shall be approved or disapproved by December 15th to qualify for an exemption in the upcoming tax year.
- D. Upon receipt of the application, the director of finance shall initiate a finding of fact as to whether the land and dwelling described in the application are suitable for living.
1. An initial inspection will be conducted to assess the safety and livability of the dwelling(s) following the general criteria of the U.S. Department of Housing and Urban Development (HUD) Housing Quality Standards (HQS).

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2. If the finding is favorable to the owner after inspection, the director of finance shall approve the petition and declare the land to be dedicated as a long-term affordable rental or a long-term rental for the minimum period of ten years, and the appropriate exemption shall be applied to the property's assessed value for the life of the dedication.
 3. If after initial inspection the director of finance finds that the structure is not suitable for living according to HUD HQS, the director shall place the application on hold and allow the applicant a prescribed cure period to resolve any issues and resume the application process upon completion of the cure.
 4. If the applicant is unable to cure the issues before December 15th in order to qualify for an exemption in the upcoming tax year, the application shall continue to be placed on hold, until which time the issues can be resolved by the applicant.
 5. An application may be forfeited if issues cannot be resolved before the proceeding December 15th deadline.
 6. If the director finds that the owner is unable to rehabilitate the rental within the prescribed cure period; the director may grant additional time to cure.
- E. Any applicant wishing to dedicate their land for long-term affordable rental use shall be granted amnesty for residential or farm structures completed before January 1, 2019 without proper building permits, during the long-term affordable rental dedication application process.
- 1) A special circumstance permit shall be issued called an "amnesty permit". Only persons applying for long-term affordable rental dedication may qualify for an amnesty permit.
 - 2) Amnesty permit holders will be exempt from all monetary civil and criminal penalties pursuant to section(s) _____, that might otherwise be imposed for constructing a structure without a building permit, if they

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otherwise comply with all applicable provisions of the County building code.

3) The amnesty period does not preclude the County from pursuing stop work orders, injunctions, and other non-monetary relief from ongoing unpermitted work.

F. The approval of the petition by the director of finance to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of ten years, renewable thereafter for additional periods of ten years subject to cancellation by either the owner or the director of finance.

G. Failure to observe the restrictions on the use of land shall cancel the special tax assessment privilege retroactive to the date of the dedication, or the latest renewal ten-year period; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with penalty and interest pursuant to section 3.48.220 from the respective dates that these payments would have been due, pursuant to section 3.48.195.

1. Failure to observe the restrictions on the use means failure for a period of over six consecutive months to use the land in the manner requested in the petition or the act of changing the use for any period. Nothing in this subsection shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.

2. The additional taxes and penalties, due and owing as a result of failure to use or any other breach as a result of failure to use or any other breach of the dedication, shall be a lien upon the property as provided for by ordinance, pursuant to section 3.48.235.

H. The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

I. Once the long-term affordable rental dedication has been approved, the structure shall be deemed permitted as assessed to date and county records will be updated to reflect the current structure.

J. The department of finance shall be able to conduct random or complaint driven inspections over the dedication period to ensure the terms of the dedication are

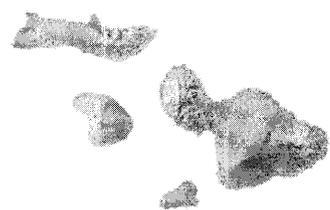
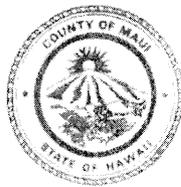
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being adhered to, and that the dwelling is suitable for living according to HQS standards. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1st of the next calendar year.

MICHAEL P. VICTORINO
Mayor

SCOTT K. TERUYA
Director

MAY-ANNE A. ALIBIN
Deputy Director



DEPARTMENT OF FINANCE
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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July 24, 2019

TO: Temporary Investigative Group – EDB-24(11) Tax Reform
FROM: Marcy Martin, AAS County Real Property Tax Administrator
THROUGH: Scott Teruya, AAS Director of Finance
SUBJECT: Pros and cons of moving to a total value real property tax rate versus land and building tax rate

Cons:

- Modification has cost from tax software vendor.
- Requires re programming of tax calculation programs and reports. The change will require staff time and testing. Reports will be unstable during the transition.
- Requires reprogramming of appeal reports. The change will require staff time and testing. Reports will be unstable during the transition
- Council will lose the ability to tax land and buildings at different rates. Taxing land and building at different rates would be a policy decision that has not be exercised in recent years.

Pros:

- Maui County has had the same rate for land and building for over 20 years. A single real property tax rate will accurately reflect the standing tax policy of the council.
- Tax payers can only appeal total assessed value. A single tax rate for total value will improve consistency in the county code.
- Certification, appeal and tax calculation reports will have six less columns (land, land exemption, net land, building, building exemption, net building values).
- Assessed values derived by the sales comparison approach are total values. Land and building allocations have little meaning.
- Having a single tax rate will reduce costs and implementation time if a tiered tax rate program is implemented. The cost estimate with land and building rates is \$400,000 and the cost estimate with a single rate is \$180,000.
 - RPA can use Honolulu's reports and programs
 - The calculation will be straight forward.

Honolulu Ordinance 13-33

RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to: 1) add "Residential A" as new general real property class and provide language defining such properties, 2) change the property to be classified from "land" to "real property," and 3) make other housekeeping amendments.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 8-7.1 Valuation--Considerations in fixing.

(a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for ad valorem taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the county.

(b) So far as practicable, records shall be compiled and kept which shall show the methods established by or under the authority of the director, for the determination of values.

(c) (1) Real property shall be classified, upon consideration of its highest and best use, into the following general classes, unless it qualifies for a different class as defined in this section:

(A) Residential;

(B) Hotel and resort;

(C) Commercial;

(D) Industrial;

(E) Agricultural;

(F) Preservation;

(G) Public service;

Honolulu Ordinance 13-33

(H) Vacant agricultural; and

(I) Residential A.

(2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.

(3) When real property is subdivided into condominium units, each unit and its appertaining common interest:

(A) Shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property and

(B) Shall be deemed a parcel and assessed separately from other units.

(4) Notwithstanding any provision contained in this subsection, a condominium unit which is used at any time during the assessment year as a time share units shall be classified for the following tax year as "hotel and resort" unless:

(A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct,

(B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property, and

(C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A.

If the requirements of (A), (B) and (C) are met, the time share unit shall be classified as "residential." For purposes of this paragraph, "assessment year" shall mean the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year, and "time sharing" shall be as defined in Section 21-10.1.

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(5) "Vacant agricultural" means a parcel, or portion thereof, which would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors which influence highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for agricultural purposes. If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

(6) Notwithstanding any provision contained in this subsection, all [lands] real property actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, a public service company is defined as a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:

(A) "Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

(i) Shall include any person insofar as that person owns or operates a private sewer company or sewer facility;

(ii) Shall include telecommunications carrier or telecommunications common carrier;

(iii) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;

(iv) Shall not include persons owning or operating taxicabs, as defined in this subsection;

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(v) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;

(vi) Shall not include persons engaged in the business of warehousing or storage unless the public utilities commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;

(vii) Shall not include:

(aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and

(bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the state or on luxury round-trip cruises returning to the point of departure;

(viii) Shall not include any person who:

(aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources; and

(bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;

(ix) Shall not include a telecommunications provider only to the extent determined by the public utilities commission of the State of Hawaii, pursuant to applicable state law;

(x) Shall not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable state law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and

Honolulu Ordinance 13-33

(xi) Shall not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:

(aa) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least 10 percent of the wastewater processed is used directly by the state or county which has entered into the service contract;

(bb) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;

(cc) The facility shall not make sales of water to residential customers;

(dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph xi, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and

(ee) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes.

(B) "Motor carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab.

(C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air.

(D) "Carrier" means a person who engages in transportation and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation.

(E) "Taxicab" means and includes:

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(i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

(ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957.

(F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices.

(G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable state law.

(d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.

(e) When a parcel of land which has been classified as agricultural is improved with a single-family dwelling and has been granted a home exemption for the tax

Honolulu Ordinance 13-33

year, that portion of the parcel which is used for residential purposes shall be classified as residential: This classification shall:

- (1) Apply only to that portion used for residential purposes;
- (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
- (3) Remain in effect only so long as the property qualifies for a home exemption.

(f) When a parcel of land which has been classified as preservation is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel which is used for residential purposes shall be classified as residential. This classification shall:

- (l) Apply only to that portion used for residential purposes;
- (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
- (3) Remain in effect only so long as the property qualifies for a home exemption.

(g) (1) In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications or other new construction, improvement or repair work to buildings undertaken or made by the owner occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of Part II of HRS Chapter 53, shall not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.

(2) It is further provided that the owner occupant shall file with the director, in the manner and place which the director may designate, a statement of the details of the improvements certified in the following manner:

(A) In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that are undertaken pursuant to any

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urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvement or repair work to the buildings were made and satisfactorily comply with the particular urban development, rehabilitation or conservation act provision; or

(B) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement shall be certified by the mayor or any governmental official designated by the mayor and approved by the council, that (i) the building was inspected by them and found to be substandard when the owner occupant made the claim, and (ii) the maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.

(h) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.

(i) "Residential A" shall mean a parcel, or portion thereof, which either:

(1) Is improved with no more than two single family dwelling units; and

(A) Has an assessed value of \$1,000,000 or more

(B) Does not have a home exemption; and

(C) Is zoned R-3.5, R-5, R-7.5, R-10 or R-20 or is dedicated for residential use

(2) Is vacant land zoned R-3.5, R-5, R-7.5, R-10 or R-20; or

(3) Is a condominium unit with an assessed valuation of \$1,000,000 or more and does not have a home exemption.

Residential A excludes any parcel or a portion thereof, improved with military housing located on or outside of a military base."

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in

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the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.

SECTION 4. This ordinance shall take affect upon its approval and shall apply to the tax years beginning July 1, 2014 and thereafter.

Honolulu Ordinance 17-12

RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the determination of the rates for properties in the "Residential A" real property tax classification.

SECTION 2. Section 6-11.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-11.1 Real property tax—Determination of rates.

(a) Unless a different meaning is clearly indicated by the context, as used in this section:

"Base tax year" means the tax year immediately prior to the budgeted tax year.

"Budgeted tax year" means the tax year beginning July 1 from which real property tax revenues are to help finance the proposed legislative and executive budgets.

"Class of property" means a class of real property established in accordance with Section 8-7.1(c).

"Estimated uncontrollable cost adjustment" means a factor representing costs that the city is mandated or obligated to pay.

"Initial tax rate" means the preliminary tax rate for a class of property as determined in Section 8-11.1(b).

"Net taxable real property" means the fair market value of property determined pursuant to this chapter that the director certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases where appeals from the director's assessment are then unsettled, less 50 percent of the value in dispute.

"Tax rate" means the dollar amount of tax levied under this chapter per \$1,000.00 of net taxable real property, computed to the nearest cent.

(b) The council shall annually set the tax rate or rates in accordance with this subsection for the classes of real property established in accordance with subsection 8-7.1(c). A resolution setting the tax rate or rates must be adopted by the council during the same meeting at which the applicable legislative and

Honolulu Ordinance 17-12

executive budget bills are passed on third reading. The tax rate or rates must be set according to the following procedures. The procedures provide for initial tax rates for the net taxable real property within each class of property to be established by the director. The initial tax rates are established in a way that the average real property tax liability within each class of property does not change in the budgeted tax year compared to the base tax except for the estimated uncontrollable cost adjustment only.

(1) The director shall establish the initial tax rates for all taxable classes of property using the following method:

(A) The director shall establish the estimated change in the operating uncontrollable costs of the city expressed as a percentage of the base tax year's total net tax liability of all classes;

(B) The director shall determine the average tax liability for each class of property for the base tax year as follows: sum the net tax liability for the base tax year of all parcels within the class, then divide the result by the total number of tax parcels in the class;

(C) The director shall then determine the average tax liability for each class of property for the budgeted tax year as follows: adjust the figure determined under paragraph (B) by the estimated uncontrollable cost adjustment;

(D) The director shall then determine the amount to be raised by the initial tax rate for each class of property for the budgeted tax year as follows: multiply the figure determined under paragraph (C) for each class of property by the total number of tax parcels in the class for the budgeted tax year; and

(E) The director shall then determine the initial tax rate per \$1,000.00 of net taxable real property in each class of property for the budgeted tax year as follows: divide the figure determined under paragraph (D) for each class of property by the assessed valuation of net taxable real property within each class of property for the budgeted tax year, then multiply the result by 1,000, then round the result to the nearest cent.

(2) The mayor may propose to the council that the initial tax rates be adopted or be increased or decreased for any class of property. The tax rates proposed by the mayor must be set forth in the form of a resolution transmitted to the council at

Honolulu Ordinance 17-12

the same time that other revenue measures for the budgeted tax year are transmitted.

(3) Upon receipt of the mayor's proposed tax rate resolution, the council may adopt the initial tax rates, the mayor's proposed tax rates, or propose new rates.

(c) (1) The council shall advertise its intention to set the tax rate or rates and the date, times and place of a public hearing in accordance with law. The date of the public hearing must be not less than 10 days after the advertisement is first published and must set forth the proposed tax rate or rates to be considered by the council.

(2) After the public hearing provided for in subdivision (1) of this subsection, the council shall readvertise and reconvene to adopt a resolution setting the tax rate or rates for the tax year for which property tax revenues are to be raised. The advertisement must state the rate or rates proposed to be set and the date, time and place of the meeting scheduled for setting the rate or rates. The date, time and place of the meeting must also be announced at the public hearing required by subdivision (1) of this subsection.

(3) If, after adopting an increase or decrease in the tax rates as provided by subdivisions (1) and (2) of this subsection, the council determines that it requires a further increase or decrease in tax rate, the council shall readvertise and follow the requirements of subdivisions (1) and (2) of this subsection.

(d) The council shall notify the director of the tax rate or rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the director shall use the rate or rates in the levying of property taxes as provided by this chapter.

(e) The director shall, on or before February 1st preceding the tax year, furnish the council with a calculation certified by the director as being as nearly accurate as possible of the net taxable real property within the city, separately stated for each class established in accordance with subsection 8-7.1(c) plus such additional data relating to the property tax base as may be necessary. The director shall include the amount of all tax credits granted under Article 13 for the current tax year and the amount of all tax credit denials appealed during the current tax year as part of the information required by this subsection.

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(f) Insofar as the validity of any tax rate is concerned, the provisions of subsection (e) of this section as to dates are directory; provided, that all other provisions of this section are mandatory.

(g) Notwithstanding any provision to the contrary, a minimum real property tax of \$300.00 a year is levied upon each individual parcel of real property taxable under this chapter, except for properties exempt under Section 8-1 0.27 and except as provided in Section 8-1 0.28(b)(2).

(h) Notwithstanding any provision to the contrary, rates for property classified as residential A must be assigned to two tiers based on the valuation of the property. The tiers are as follows:

(1) Residential A Tier 1 tax rate: applied to the net taxable value of the property up to \$1,000,000; and

(2) Residential A Tier 2 tax rate: applied to the net taxable value of the property in excess of \$1,000,000.”

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1,2017.

EXAMPLE

EXEMPTIONS FOR LONG-TERM AND LONG-TERM AFFORDABLE RENTALS

Classification	Home Owner Exemption	Long Term Rental Exemption	Long Term Affordable Rental Exemption
Owner Occupied	\$200,000	\$250,000	\$350,000
Non-Owner Occupied	\$0	\$150,000	\$250,000

U.S. DEPARTMENT OF HUD
STATE:HAWAII

----- 2019 HOME PROGRAM RENTS -----

PROGRAM	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Kahului-Wailuku-Lahaina, HI MSA							
LOW HOME RENT LIMIT	855	915	1098	1269	1416	1562	1708
HIGH HOME RENT LIMIT	1161	1246	1497	1720	1899	2077	2255
For Information Only:							
FAIR MARKET RENT	1186	1335	1675	2416	2940	3381	3822
50% RENT LIMIT	855	915	1098	1269	1416	1562	1708
65% RENT LIMIT	1161	1246	1497	1720	1899	2077	2255
Urban Honolulu, HI MSA							
LOW HOME RENT LIMIT	1055	1130	1356	1566	1747	1928	2108
HIGH HOME RENT LIMIT	1351	1449	1742	2004	2215	2426	2636
For Information Only:							
FAIR MARKET RENT	1390	1563	2067	2989	3631	4176	4720
50% RENT LIMIT	1055	1130	1356	1566	1747	1928	2108
65% RENT LIMIT	1351	1449	1742	2004	2215	2426	2636
Hawaii County, HI							
LOW HOME RENT LIMIT	687	736	883	1020	1138	1256	1373
HIGH HOME RENT LIMIT	865	943	1133	1300	1431	1561	1690
For Information Only:							
FAIR MARKET RENT	865	1018	1346	1686	1855	2133	2412
50% RENT LIMIT	687	736	883	1020	1138	1256	1373
65% RENT LIMIT	879	943	1133	1300	1431	1561	1690
Kauai County, HI							
LOW HOME RENT LIMIT	795	851	1022	1180	1317	1453	1589
HIGH HOME RENT LIMIT	984	1152	1384	1591	1755	1918	2082
For Information Only:							
FAIR MARKET RENT	984	1210	1531	2044	2492	2866	3240
50% RENT LIMIT	795	851	1022	1180	1317	1453	1589
65% RENT LIMIT	1074	1152	1384	1591	1755	1918	2082

CHAPTER 10

HOUSING QUALITY STANDARDS

10.1 CHAPTER OVERVIEW

The goal of the housing choice voucher program is to provide “decent, safe and sanitary” housing at an affordable cost to low-income families. To accomplish this, program regulations set forth basic housing quality standards (HQS) which all units must meet before assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. HQS defines “standard housing” and establishes the minimum criteria necessary for the health and safety of program participants.

HQS regulations provide performance requirements and acceptability criteria to meet each performance requirement. HQS includes requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types such as manufactured homes, congregate housing, single room occupancy (SROs), shared housing and group residences (GRs). Requirements for Special Housing Types are discussed in Chapter 17.

The HUD Housing Inspection Manual for Section 8 Housing, available through the HUD user at 800-245-2691, and the HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD 52580-A (9/00), available through HUDCLIPS website: www.hudclips.org, provide guidance to PHAs in interpreting the standards, as well as HUD regulations.

10.2 HOUSING QUALITY STANDARDS GENERAL REQUIREMENTS

At least annually, it is the responsibility of the PHA to conduct inspections of units to determine compliance with HQS prior to the execution of the entire term of the assisted lease. Inspections may be completed by PHA staff or by contract personnel. HQS consists of the following thirteen (13) performance requirements:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Lead-based paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke Detectors.

Inspection Checklist

Housing Choice Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(Exp. 04/30/2018)

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number

Assurances of confidentiality are not provided under this collection.

This collection of information is authorized under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). The information is used to determine if a unit meets the housing quality standards of the section 8 rental assistance program.

Privacy Act Statement. The Department of Housing and Urban Development (HUD) is authorized to collect the information required on this form by Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). Collection of the name and address of both family and the owner is mandatory. The information is used to determine if a unit meets the housing quality standards of the Section 8 rental assistance program. HUD may disclose this information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. Failure to provide any of the information may result in delay or rejection of family participation.

Name of Family		Tenant ID Number	Date of Request (mm/dd/yyyy)
Inspector		Neighborhood/Census Tract	Date of Inspection (mm/dd/yyyy)
Type of Inspection Initial <input type="checkbox"/> Special <input type="checkbox"/> Reinspection <input type="checkbox"/>		Date of Last Inspection (mm/dd/yyyy)	PHA

A. General Information

Inspected Unit	Year Constructed (yyyy)	Housing Type (check as appropriate) <input type="checkbox"/> Single Family Detached <input type="checkbox"/> Duplex or Two Family <input type="checkbox"/> Row House or Town House <input type="checkbox"/> Low Rise: 3, 4 Stories, Including Garden Apartment <input type="checkbox"/> High Rise: 5 or More Stories <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Congregate <input type="checkbox"/> Cooperative <input type="checkbox"/> Independent Group Residence <input type="checkbox"/> Single Room Occupancy <input type="checkbox"/> Shared Housing <input type="checkbox"/> Other
Full Address (including Street, City, County, State, Zip)		
Number of Children in Family Under 6		
Owner		
Name of Owner or Agent Authorized to Lease Unit Inspected		Phone Number
Address of Owner or Agent		

B. Summary Decision On Unit (To be completed after form has been filled out)

<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> Inconclusive	Number of Bedrooms for Purposes of the FMR or Payment Standard	Number of Sleeping Rooms

Inspection Checklist				Comment	Final Approval Date (mm/dd/yyyy)
Item No.	Yes Pass	No Fail	In-Conc.		
1. Living Room					
1.1				Living Room Present	
1.2				Electricity	
1.3				Electrical Hazards	
1.4				Security	
1.5				Window Condition	
1.6				Ceiling Condition	
1.7				Wall Condition	
1.8				Floor Condition	

* Room Codes: 1 = Bedroom or Any Other Room Used for Sleeping (regardless of type of room); 2 = Dining Room or Dining Area;
 3 = Second Living Room, Family Room, Den, Playroom, TV Room; 4 = Entrance Halls, Corridors, Halls, Staircases; 5 = Additional Bathroom; 6 = Other

Item No.	1. Living Room (Continued)	Yes Pas	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)
1.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				Not Applicable	
2. Kitchen						
2.1	Kitchen Area Present					
2.2	Electricity					
2.3	Electrical Hazards					
2.4	Security					
2.5	Window Condition					
2.6	Ceiling Condition					
2.7	Wall Condition					
2.8	Floor Condition					
2.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				Not Applicable	
2.10	Stove or Range with Oven					
2.11	Refrigerator					
2.12	Sink					
2.13	Space for Storage, Preparation, and Serving of Food					
3. Bathroom						
3.1	Bathroom Present					
3.2	Electricity					
3.3	Electrical Hazards					
3.4	Security					
3.5	Window Condition					
3.6	Ceiling Condition					
3.7	Wall Condition					
3.8	Floor Condition					
3.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				Not Applicable	
3.10	Flush Toilet in Enclosed Room in Unit					
3.11	Fixed Wash Basin or Lavatory in Unit					
3.12	Tub or Shower in Unit					
3.13	Ventilation					

Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In- Conc.	Comment	Final Approval Date (mm/dd/yyyy)	
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	___ Floor Level
4.2	Electricity/Illumination						
4.3	Electrical Hazards						
4.4	Security						
4.5	Window Condition						
4.6	Ceiling Condition						
4.7	Wall Condition						
4.8	Floor Condition						
4.9	Lead-Based Paint				<input type="checkbox"/> Not Applicable		
	Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?						
4.10	Smoke Detectors						
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	___ Floor Level
4.2	Electricity/Illumination						
4.3	Electrical Hazards						
4.4	Security						
4.5	Window Condition						
4.6	Ceiling Condition						
4.7	Wall Condition						
4.8	Floor Condition						
4.9	Lead-Based Paint				<input type="checkbox"/> Not Applicable		
	Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?						
4.10	Smoke Detectors						
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	___ Floor Level
4.2	Electricity/Illumination						
4.3	Electrical Hazards						
4.4	Security						
4.5	Window Condition						
4.6	Ceiling Condition						
4.7	Wall Condition						
4.8	Floor Condition						
4.9	Lead-Based Paint				<input type="checkbox"/> Not Applicable		
	Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?						

Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In-Conc.	Comment	Final Approval Date (mm/dd/yyyy)	
4.1	Room Code * and Room Location	(Circle One) Right/Center/Left			(Circle One) Front/Center/Rear	Floor Level	
4.2	Electricity/Illumination						
4.3	Electrical Hazards						
4.4	Security						
4.5	Window Condition						
4.6	Ceiling Condition						
4.7	Wall Condition						
4.8	Floor Condition						
4.9	Lead-Based Paint				Not Applicable		
	Are all painted surfaces free of deteriorated paint?						
	If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?						
4.10	Smoke Detectors						
4.1	Room Code* and Room Location	(Circle One) Right/Center/Left			(Circle One) Front/Center/Rear	Floor Level	
4.2	Electricity/Illumination						
4.3	Electrical Hazards						
4.4	Security						
4.5	Window Condition						
4.6	Ceiling Condition						
4.7	Wall Condition						
4.8	Floor Condition						
4.9	Lead-Based Paint				Not Applicable		
	Are all painted surfaces free of deteriorated paint?						
	If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?						
4.10	Smoke Detectors						
5. All Secondary Rooms (Rooms not used for living)							
5.1	None Go to Part 6						
5.2	Security						
5.3	Electrical Hazards						
5.4	Other Potentially Hazardous Features in these Rooms						

Item No.	6. Building Exterior			In - Conc.	Comment	Final Approval Date (mm/dd/yyyy)
	Yes Pass	No Fail				
6.1	Condition of Foundation					
6.2	Condition of Stairs, Rails, and Porches					
6.3	Condition of Roof/Gutters					
6.4	Condition of Exterior Surfaces					
6.5	Condition of Chimney					
6.6	Lead Paint: Exterior Surfaces				Not Applicable	
	Are all painted surfaces free of deteriorated paint?					
	If not, do deteriorated surfaces exceed 20 square feet of total exterior surface area?					
6.7	Manufactured Home: Tie Downs					
7. Heating and Plumbing						
7.1	Adequacy of Heating Equipment					
7.2	Safety of Heating Equipment					
7.3	Ventilation/Cooling					
7.4	Water Heater					
7.5	Approvable Water Supply					
7.6	Plumbing					
7.7	Sewer Connection					
8. General Health and Safety						
8.1	Access to Unit					
8.2	Fire Exits					
8.3	Evidence of Infestation					
8.4	Garbage and Debris					
8.5	Refuse Disposal					
8.6	Interior Stairs and Common Halls					
8.7	Other Interior Hazards					
8.8	Elevators					
8.9	Interior Air Quality					
8.10	Site and Neighborhood Conditions					
8.11	Lead-Based Paint: Owner's Certification				Not Applicable	

If the owner is required to correct any lead-based paint hazards at the property including deteriorated paint or other hazards identified by a visual assessor, a certified lead-based paint risk assessor, or certified lead-based paint inspector, the PHA must obtain certification that the work has been done in accordance with all applicable requirements of 24 CFR Part 35. The Lead -Based Paint Owner Certification must be received by the PHA before the execution of the HAP contract or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.

C. Special Amenities (Optional)

This Section is for optional use of the HA. It is designed to collect additional information about other positive features of the unit that may be present. Although the features listed below are not included in the Housing Quality Standards, the tenant and HA may wish to take them into consideration in decisions about renting the unit and the reasonableness of the rent. Check/list any positive features found in relation to the unit.

D. Questions to ask the Tenant (Optional)

1. Living Room

- High quality floors or wall coverings
- Working fireplace or stove Balcony, patio, deck, porch Special windows or doors
- Exceptional size relative to needs of family
- Other: (Specify)

2. Kitchen

- Dishwasher
- Separate freezer
- Garbage disposal
- Eating counter/breakfast nook
- Pantry or abundant shelving or cabinets
- Double oven/self cleaning oven, microwave
- Double sink
- High quality cabinets
- Abundant counter-top space
- Modern appliance(s)
- Exceptional size relative to needs of family
- Other: (Specify)

3. Other Rooms Used for Living

- High quality floors or wall coverings
- Working fireplace or stove Balcony, patio, deck, porch Special windows or doors
- Exceptional size relative to needs of family
- Other: (Specify)

4. Bath

- Special feature shower head
- Built-in heat lamp
- Large mirrors
- Glass door on shower/tub
- Separate dressing room
- Double sink or special lavatory
- Exceptional size relative to needs of family
- Other: (Specify)

5. Overall Characteristics

- Storm windows and doors
- Other forms of weatherization (e.g., insulation, weather stripping) Screen doors or windows
- Good upkeep of grounds (i.e., site cleanliness, landscaping, condition of lawn)
- Garage or parking facilities
- Driveway
- Large yard
- Good maintenance of building exterior
- Other: (Specify)

6. Disabled Accessibility

Unit is accessible to a particular disability. Yes No
Disability

1. Does the owner make repairs when asked? Yes No
2. How many people live there?
3. How much money do you pay to the owner/agent for rent? \$ _____
4. Do you pay for anything else? (specify) _____
5. Who owns the range and refrigerator? (insert O = Owner or T = Tenant) Range _____ Refrigerator _____ Microwave
6. Is there anything else you want to tell us? (specify) Yes No

HARMAINE TAVARES
Mayor



BRIAN T. MOTO
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740
FAX: (808) 270-7152

April 2, 2007

Michael J. Molina
Council Member
County of Maui
200 South High Street
Wailuku, Hawaii 96793

RE: **AMNESTY FOR ILLEGAL RESIDENTIAL OR FARM STRUCTURES**
(No file number specified)

Dear Council Member Molina:

The purpose of this letter is to respond to your memorandum, dated March 5, 2007, requesting comments and recommendations on certain Hawaii County Code provisions that established an amnesty period, beginning October 1, 2006 and ending September 30, 2007, during which owners of "unpermitted" residential buildings and farm structures may come into compliance with the County of Hawaii building code, plumbing code, and electrical code without penalty. These comments and recommendations are being requested to aid you in determining whether similar ordinances should be considered by the Council for the County of Maui.

In response to your request, we obtained, and for your ease of reference enclose, copies of County of Hawaii Ordinance Nos. 06-120, 06-121, and 06-122, and Committee on Public Works and Intergovernmental Relations Report Nos. 47, 48, and 49.

The chief of the Building Division, Department of Public Works, County of Hawaii, has informed us that ten applications for "amnesty permits" have been received to date. A County of Hawaii deputy corporation counsel has informed us that Ordinance Nos. 06-120, 06-121, and 06-122 have not been the subject of any litigation and that no legal challenges have been raised regarding said Ordinances. The deputy corporation counsel also informed us that the Ordinances were intended to encourage voluntary compliance with building, plumbing, and electrical code requirements, as a significant number of structures have been constructed, and a significant amount of electrical and plumbing work done, without proper permits.

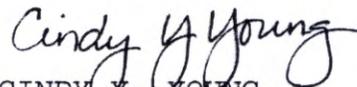
Having discussed the Ordinances with the Hawaii deputy

Michael J. Molina, Council Member
April 2, 2007
Page 2

corporation counsel, we suggest that if legislation similar to such Ordinances were to be considered for the County of Maui, such legislation exempt property owners from monetary civil and criminal penalties only, and not preclude the County from pursuing stop work orders, injunctions, and other non-monetary relief.

It is difficult for us to provide further suggestions or recommendations at this time without information or comments on the subject matter from the Development Services Administration, Department of Public Works and Environmental Management, which administers our building, plumbing, and electrical codes. For example, we have no information regarding the estimated number or description of illegally built structures in the County of Maui, or the degree to which plumbing and electrical work has been done without permits. We therefore reserve further comment.

Very truly yours,



CINDY Y. YOUNG

Deputy Corporation Counsel

CYY:ku
Enclosures

S:\ALL\Advisory\CYY\amnesty for illegal residential structures.wpd

cc: Milton M. Arakawa, Director, Department of Public Works and Environmental Management
Michael Miyamoto, Deputy Director, Department of Public Works and Environmental Management
Ralph Nagamine, Administrator, Development Services Administration, Department of Public Works and Environmental Management
Renee Segundo, Building Permit Supervisor, Development Services Administration, Department of Public Works and Environmental Management
Traci Fujita Villarosa, First Deputy Corporation Counsel

ORDINANCE NO. 06 120 BILL NO. 311

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 1, HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO THE BUILDING CODE.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The County council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period, beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County building code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006, may apply for a permit to bring their buildings in compliance with chapter 5, the County building code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County building code, will be exempt from all civil and criminal penalties pursuant to sections 5-1.0.6 and 5-1.0.12 that might otherwise be imposed for constructing a structure without a building permit.

SECTION 2. Chapter 5, article 1, Hawai'i County Code 1983, (2005 Edition, as amended) is amended by adding a new section 5-1.0.12(a) to read as follows:

(a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for building permits for residential building or farm structures completed before January 1, 2006 without proper building permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 5-1.0.8, may apply for an amnesty permit.

(b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to sections 5-1.0.6, and 5-1.0.12, that might otherwise be imposed for constructing a structure without a building permit, if they otherwise comply with all applicable provisions of the County building code, as well as the following listed conditions:

- (1) An application for a building permit, that satisfies the requirements of the County building code, shall be submitted within the amnesty period; and
- (2) The unpermitted construction shall be brought into full compliance with the requirements of the County building code, and the permit closed in compliance with the code.

(c) If these conditions are not being met, exemption from all civil and criminal penalties pursuant to sections 5-1.0.6, and 5-1.0.12, arising from the grant of an amnesty permit, shall lapse.

(d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.

(e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County building code.

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 5. This ordinance shall take effect on October 1, 2006.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: August 1, 2006
Date of 1st Reading: August 1, 2006
Date of 2nd Reading: August 23, 2006
Effective Date: October 1, 2006

REFERENCE: ~~Comm.~~ 975

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: Virginia Isbell
Date Introduced: August 1, 2006
First Reading: August 1, 2006
Published: August 11, 2006

REMARKS: _____

Second Reading: August 23, 2006
To Mayor: August 24, 2006
Returned: August 29, 2006
Effective: October 1, 2006
Published: September 5, 2006

REMARKS: _____

ROLL CALL VOTE 29 PM 2 23

	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 8/29/06

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Approved/Disapproved this 29th day

of August, 2006

[Signature]
MAYOR, COUNTY OF HAWAII

Bill No.: 311
Reference: C-975/PWIRC-47
Ord No.: 06 120

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 06 121 BILL NO. 312

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE 2, HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO THE PLUMBING CODE.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The County council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period, beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County plumbing code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006, may apply for a permit to bring their buildings in compliance with chapter 17, the County plumbing code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County plumbing code, will be exempt from all civil and criminal penalties pursuant to sections 17-9 that might otherwise be imposed for constructing a structure without a plumbing permit.

SECTION 2. Chapter 17, article 2, Hawai'i County Code 1983, (2005 Edition, as amended) is amended by adding a new section 17-17.1 to read as follows:

"Section 17-17.1. Amnesty Period.

(a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for plumbing permits for residential building or farm structures completed before January 1, 2006 without proper plumbing permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 17-15, may apply for an amnesty permit.

(b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to section 17.9 that might otherwise be imposed for constructing a structure without a plumbing permit, if they otherwise comply with all applicable provisions of the County plumbing code, as well as the following listed conditions:

- (1) An application for a plumbing permit, that satisfies the requirements of the County plumbing code, shall be submitted within the amnesty period; and
- (2) The unpermitted construction shall be brought into full compliance with the requirements of the County plumbing code, and the permit closed in compliance with the code.

(c) If these conditions are not being met, exemption from all civil and criminal penalties pursuant to sections 17-9, arising from the grant of an amnesty permit, shall lapse.

(d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.

(e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County plumbing code."

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 5. This ordinance shall take effect on October 1, 2006.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: August 1, 2006

Date of 1st Reading: August 1, 2006

Date of 2nd Reading: August 23, 2006

Effective Date: October 1, 2006

REFERENCE: ~~County~~ 976

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

2006 AUG 29 PM 2 23
ROLL CALL VOTE

Introduced By: Virginia Isbell
Date Introduced: August 1, 2006
First Reading: August 1, 2006
Published: August 11, 2006

	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

REMARKS: _____

Second Reading: August 23, 2006
To Mayor: August 24, 2006
Returned: August 29, 2006
Effective: October 1, 2006
Published: September 5, 2006

	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh			X	
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	8	0	1	0

REMARKS: _____

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 8/29/06

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Approved Disapproved this 29th day
of August, 2006
[Signature]
MAYOR, COUNTY OF HAWAII

Bill No.: 312
Reference: C-976/PWIRC-48
Ord No.: 06 121

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 06 122 BILL NO. 313

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 5, DIVISION 2, HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO THE ELECTRICAL CODE.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The County council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period, beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County electrical code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006, may apply for a permit to bring their buildings in compliance with chapter 9, the County electrical code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County electrical code, will be exempt from all civil and criminal penalties pursuant to sections 9-6 and 9-41 that might otherwise be imposed for constructing a structure without an electrical permit.

SECTION 2. Chapter 9, article 5, division 2, Hawai'i County Code 1983, (2005 Edition, as amended) is amended by adding a new section 9.41.1 to read as follows:

"Section 9-41.1. Amnesty Period.

(a) For the period beginning October 1, 2006 through September 30, 2007, persons may apply for electrical permits for residential building or farm structures completed before January 1, 2006 without proper electrical permits. These special circumstance permits shall be called "amnesty permits." Only persons eligible to obtain a permit, pursuant to section 9-35, may apply for an amnesty permit.

(b) Amnesty permit holders will be exempt from all civil and criminal penalties pursuant to sections 9-6 and 9-41, that might otherwise be imposed for constructing a structure without an electrical permit, if they otherwise comply will all applicable provisions of the County electrical code, as well as the following listed conditions:

(1) An application for an electrical permit, that satisfies the requirements of the County electrical code, shall be submitted within the amnesty period;
and

(2) The unpermitted construction shall be brought into full compliance with the requirements of the County electrical code, and the permit closed in compliance with the code.

(c) If these conditions are not be met, exemption from all civil and criminal penalties pursuant to sections 9-6 and 9-41, arising from the grant of an amnesty permit, shall lapse.

(d) Any exemption from civil and criminal penalties granted pursuant to this section, arising from the grant of an amnesty permit, shall not relieve any person from the obligation to otherwise comply with all requirements of this code.

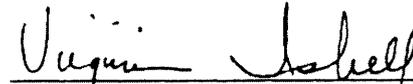
(e) This section shall be repealed on October 1, 2007. All persons who have applied for and obtained an amnesty permit before the expiration of this section, shall be allowed to proceed pursuant to the terms of such permit, as long as they remain in full compliance with this section and the County electrical code."

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 5. This ordinance shall take effect on October 1, 2006.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: August 1, 2006
Date of 1st Reading: August 1, 2006
Date of 2nd Reading: August 23, 2006
Effective Date: October 1, 2006

REFERENCE: ~~Comp. 977~~

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
 Hilo, Hawai'i

Introduced By: Virginia Isbell
 Date Introduced: August 1, 2006
 First Reading: August 1, 2006
 Published: August 11, 2006

REMARKS: _____

Second Reading: August 23, 2006
 To Mayor: August 24, 2006
 Returned: August 29, 2006
 Effective: October 1, 2006
 Published: September 5, 2006

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh			X	
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 07/20/06

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 313
 Reference: C-977/PWIRC-49
 Ord No.: 06 122

Approved Disapproved this 29th day
 of August, 2006
[Signature]
 MAYOR, COUNTY OF HAWAII

**REPORT OF THE
COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS**

DATE: July 18, 2006
PLACE: Council Chambers
TIME: 9:00 a.m.

RE: Comm. No. 975/Bill No. 311

Council Chair and Members
Hawai'i County Council
Hilo, Hawai'i 96720

Your Committee on Public Works and Intergovernmental Relations, to which was referred Bill No. 311, reports as follows:

Bill No. 311, transmitted by Hawai'i County Council Vice Chair Virginia Isbell, via Communication No. 975, dated July 3, 2006, creates amnesty permits to the Building Code.

The purpose of this bill is to amend Chapter 5, Article 1, Hawai'i County Code 1983, (2005 Edition, as amended), by adding a new section 5-1.0.12(a). The County Council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County Building Code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006 may apply for a permit to bring their buildings in compliance with Chapter 5, the County Building Code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County Building Code, will be exempt from all civil and criminal penalties pursuant to Sections 5-1.0.6 and 5-1.0.12 that might otherwise be imposed for constructing a structure without a building permit. All amnesty permits must satisfy the requirements of the Building Code, including permit fees.

Your Committee heard testimony from two members of the public regarding the proposed bill. One member of the public, speaking in favor of the bill, stated that the bill provides an opportunity to allow otherwise law-abiding people to correct a problem. This member of the public also encouraged your Committee members and members of the Department of Public Works to think outside the box and allow permitting for creative, non-traditional structures. The other member of the public spoke in blanket opposition to Bills 311, 312, and 313, stating that violators should not be given a break. This member of the public also urged your Committee members to include a deadline for completion of permitted projects, rather than an open-ended completion date. This member of the public also suggested forming a citizen committee to oversee the amnesty program.

Your Committee also heard testimony from Bruce C. McClure, Director of the Department of Public Works. Mr. McClure stated that he was in accord with the proposed amnesty program. He stated that new staffing, expected to be on board by October would alleviate any potential staffing problems. He said that a previous amnesty program did not "open the flood gates" for permits. Mr. McClure stated that the program would be a benefit to home owners.

Brian Kajikawa, from the Department of Public Works – Building Division stated that under the new Building Code, all permits will expire in three years. Mr. Kajikawa then stated that it would be helpful to include a sunset clause for permits under the amnesty program (the new Building Code has yet to pass).

Your Committee members voiced general support of the measure. Committee member James Arakaki suggested that the amnesty period should be extended. Committee member Bob Jacobson suggested that stricter enforcement of the Codes was essential. Committee member Gary Safarik questioned whether the State Department of Health was in accord with the amnesty program. Committee member Stacy Higa suggested that the penalties for non-permitted work be increased. Mr. Higa also suggested that there be a completion deadline for permits under the amnesty program.

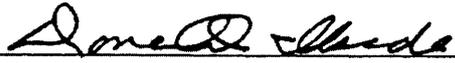
Your Committee on Public Works and Intergovernmental Relations is in accord with the purpose and intent of Bill No. 311 and recommends it pass first reading

awm

	AYES	NOES	A&E	EX
ARAKAKI	X			
HIGA	X			
HOFFMANN			X	
HOLSCHUH	X			
IKEDA	X			
ISELL	X			
JACOBSON	X			
PILAGO	X			
SAFARIK	X			

Respectfully submitted,

COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS


DONALD IKEDA, CHAIR
PWIRC REPORT NO. 47

ADOPTED: AUG 01 2006

**REPORT OF THE
COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS**

DATE: July 18, 2006
PLACE: Council Chambers
TIME: 9:00 a.m.

RE: Comm. No. 976/Bill No. 312

Council Chair and Members
Hawai'i County Council
Hilo, Hawai'i 96720

Your Committee on Public Works and Intergovernmental Relations, to which was referred Bill No. 312, reports as follows:

Bill No. 312, transmitted by Hawai'i County Council Vice Chair Virginia Isbell, via Communication No. 976, dated July 3, 2006, creates amnesty permits to the Building Code..

The purpose of this bill is to amend Chapter 17, Article 2, Hawai'i County Code 1983, (2005 Edition, as amended), by adding a new section 17-17.1. The County Council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County Plumbing Code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006 may apply for a permit to bring their buildings in compliance with Chapter 17, the County Plumbing Code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County Plumbing Code, will be exempt from all civil and criminal penalties pursuant to Section 17-9 that might otherwise be imposed for constructing a structure without a plumbing permit. All amnesty permits must satisfy the requirements of the Plumbing Code, including permit fees.

Your Committee heard testimony from one member of the public regarding the proposed bill. This member of the public spoke in blanket opposition to Bills 311, 312, and 313, stating that violators should not be given a break. This member of the public also urged your Committee members to include a deadline for completion of permitted projects, rather than an open-ended completion date. This member of the public also suggested forming a citizen committee to oversee the amnesty program.

Comments, suggestion and discussion from your Committee members, Bruce McClure, Director of the Department of Public Works and by Brian Kajiwaka from the Department of Public Works – Buildings Division were made during the discussion phase for Bill 311, and were meant to blanket Bills 311, 312, and 313.

Your Committee on Public Works and Intergovernmental Relations is in accord with the purpose and intent of Bill No. 312 and recommends it pass first reading.

awm

	AYES	NOES	A&E	EX
ARAKAKI	X			
HIGA	X			
HOFFMANN			X	
HOLSCHUH	X			
IKEDA	X			
ISBELL	X			
JACOBSON	X			
PILAGO	X			
SAFARIK	X			

Respectfully submitted,

COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS


DONALD IKEDA, CHAIR
PWIRC REPORT NO. 48

ADOPTED: AUG 01 2006

**REPORT OF THE
COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS**

DATE: July 18, 2006
PLACE: Council Chambers
TIME: 9:00 a.m.

RE: Comm. No. 977/Bill No. 313

Council Chair and Members
Hawai'i County Council
Hilo, Hawai'i 96720

Your Committee on Public Works and Intergovernmental Relations, to which was referred Bill No. 313, reports as follows:

Bill No. 313, transmitted by Hawai'i County Council Vice Chair Virginia Isbell, via Communication No. 977, dated July 3, 2006, creates amnesty permits to the Electrical Code..

The purpose of this bill is to amend Chapter 9, Article 5, Division 2, Hawai'i County Code 1983, (2005 Edition, as amended), by adding a new section 9.41.1. The County Council finds that residents with unpermitted construction work within the County of Hawai'i may want to legalize their buildings. Consequently, this bill would create an amnesty period beginning October 1, 2006 through September 30, 2007, during which time, owners of unpermitted buildings may bring their structures into compliance with the County Electrical Code without penalty. During this amnesty period, owners of unpermitted buildings completed prior to January 1, 2006 may apply for a permit to bring their buildings in compliance with Chapter 9, the County Electrical Code. Owners who secure a permit, pursuant to this amnesty program, who otherwise comply with all provisions of the County Electrical Code, will be exempt from all civil and criminal penalties pursuant to Sections 9-6 and 9-41 that might otherwise be imposed for constructing a structure without a electrical permit. All amnesty permits must satisfy the requirements of the Plumbing Code, including permit fees.

Your Committee heard testimony from one member of the public regarding the proposed bill. This member of the public spoke in blanket opposition to Bills 311, 312, and 313, stating that violators should not be given a break. This member of the public also urged your Committee members to include a deadline for completion of permitted projects, rather than an open-ended completion date. This member of the public also suggested forming a citizen committee to oversee the amnesty program.

Comments, suggestion and discussion from your Committee members, Bruce McClure, Director of the Department of Public Works and by Brian Kajiwaka from the Department of Public Works – Buildings Division were made during the discussion phase for Bill 311, and were meant to blanket Bills 311, 312, and 313.

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Your Committee on Public Works and Intergovernmental Relations is in accord with the purpose and intent of Bill No. 313 and recommends it pass first reading.

awm

	AYES	NOES	A&E	EX
ARAKAKI	X			
HIGA	X			
HOFFMANN			X	
HOLSCHUH	X			
IKEDA	X			
ISBELL	X			
JACOBSON	X			
PILAGO	X			
SAFARIK	X			

Respectfully submitted,

COMMITTEE ON PUBLIC WORKS AND
INTERGOVERNMENTAL RELATIONS



DONALD IKEDA, CHAIR

PWIRC REPORT NO. 49

ADOPTED: AUG 01 2006