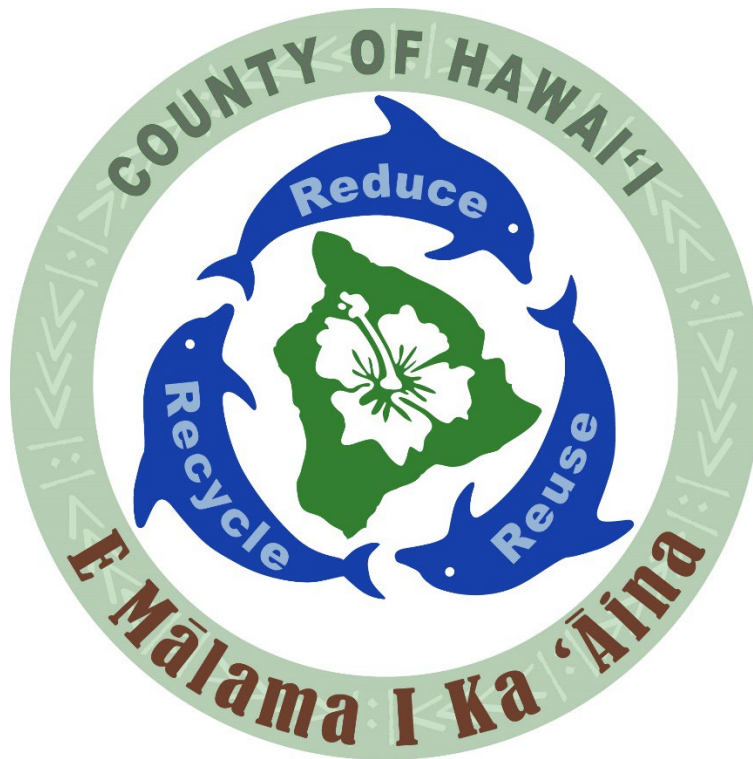


(DRAFT preview of proposed rules, if all adopted)



COUNTY OF HAWAI'I

**DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

**RULES OF PRACTICE AND
PROCEDURE**

Revised April __, 2023

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ARTICLE I
ADMINISTRATIVE PROCEDURE

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RULE 1-1 General Provisions

1-1-1. General Applicability. These rules shall regulate the Department of Environmental Management of the County of Hawai'i and its Director under the Hawai'i Administrative Procedures Act, Chapter 91 of the Hawai'i Revised Statutes, Chapter 92 of the Hawai'i Revised Statutes, the Charter of the County of Hawai'i, or other related acts as may now or hereafter be administered by the Director of the Department of Environmental Management. These rules shall be construed to secure the just and efficient determination of every proceeding.

1-1-2. Definitions. Unless otherwise stated, the following terms shall have the meanings provided below for the Department of Environmental Management:

“Charter” means the Hawai'i County Charter, as amended.

“Department” means the Department of Environmental Management.

“Director” means the director of the Department of Environmental Management or the director's designated representative.

“Person with Disability” means, with respect to an individual, a physical or mental impairment which substantially limits one or more major life activities of such individual.

“Proceeding” means any matter that is brought before the Director, in which the Department has jurisdiction including, but not limited to, adoption, amendment, or repeal of any rule of the Department.

“Public Records” shall have the same meaning as is defined in Chapter 92 of the Hawai'i Revised Statutes, and shall include all maps, rules, written statements of policy or interpretation formulated, all decisions, orders, and records of any proceeding on file, but shall not include records which invade the right of privacy of an individual.

“Rule” means the Department's statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of the Department. The term does not include regulations concerning only the internal management of the Department and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued by the Director pursuant to section 91-8 of the Hawai'i Revised Statutes, nor intra-agency memoranda.

1-1-3. Accommodations for Persons with Disabilities.

(a) Every departmental hearing shall be held in an accessible location.

- (b) Publications and notices, including hearing notifications, shall be available in alternative formats, (such as large print, Braille, or electronic copy) upon request.
- (c) Upon request and with sufficient notice, auxiliary aid/service or other accommodation due to a disability shall be provided at a hearing.

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RULE 1-2 How to Obtain Information; Public Records.

1-2-1. Public Records. The public may obtain information regarding matters within the jurisdiction of the Department at the Department’s administrative office in the manner provided below. Copies of all rules of the Department may also be obtained at the Office of the County Clerk.

- (a) Inspection of Public Records. A request to inspect records may be made in person or by submitting a request in writing to the Director. All public records shall be available for inspection by any person during established business hours at the Department’s administrative office, unless public inspection of such records is in violation of any other county, state, or federal law. Where such records are open under any rule of court, the corporation counsel or prosecuting attorney may determine which records may be withheld from public inspection. These materials will be available in alternate formats upon request.
- (b) Copies of Public Records. Copies of records printed or reproduced for persons other than government agencies shall be given to any person, provided that all applicable fees or costs are paid.
- (c) Denial of Inspection, Application to Circuit Court. Any person denied the right to inspect any public record or to obtain copies may apply to the circuit court for an order directing the custodian of records to permit the inspection of, or to furnish copies of, the public record. If the court grants an order upon a finding that the denial was not for just and proper cause, such records shall be made available.

RULE 1-3 Rulemaking Procedures.**1-3-1. Initiation of Rulemaking Proceedings.**

- (a) **Petition.** Any interested person may petition the Department, requesting the adoption, amendment or repeal of any rule of the Department, stating the reasons therefor.
- (b) **Submission.** The original petition and two (2) copies shall be submitted to the Department. It shall include:
 - (1) A statement of the nature of the petitioner's interest.
 - (2) A draft or the substance of the proposed rule or amendment or a designation of the provision sought to be repealed.
 - (3) An explicit statement of the reasons in support of the proposed rule, amendment or repeal.
- (c) **Disposition of Petition.** Within thirty (30) days after the submission of the petition, the Director shall either deny the petition in writing, stating the reasons for such denial, or initiate public proceedings in accordance with Section 91-3 of the Hawai'i Revised Statutes, for the adoption, amendment or repeal of the rule.
- (d) **Denial of Petition.** Any petition that fails in material respect to comply with the requirements of this section or that fails to disclose sufficient reasons to justify the institution of rulemaking proceedings will not be considered by the Department. The Department shall notify the petitioner in writing of such denial, stating the reasons therefore. Denial of a petition shall not operate to prevent the Department from acting, on its own, on any matter disclosed in the petition. Petitioner may seek review of the denial through the circuit court in accordance with Chapter 91 of the Hawai'i Revised Statutes.
- (e) **Acceptance of Petition.** If the Department determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking to justify the institution of rulemaking proceedings, the Department shall conduct the rulemaking proceedings in accordance with this section and the applicable statutes.

1-3-2. Notice of Public Hearing.

- (a) **Publication and Mailing.** When, pursuant to a petition therefore or upon its own, the Department proposes to adopt, amend, or repeal a rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general

circulation in the county, and the notice shall also be mailed to all persons or agencies who have made timely written requests for advance notice of the Department’s rulemaking proceedings, provided that the fees or costs prescribed in the Hawai’i County Code have been paid. All the notices shall be published at least thirty (30) days prior to the date set for the public hearing.

- (b) Form of Notice. A notice of the proposed adoption, amendment, or repeal of a rule shall include:
- (1) A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved;
 - (2) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
 - (3) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and
 - (4) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

1-3-3. Conduct of Hearing.

- (a) Presiding Officer. The public hearing for the adoption, amendment, or repeal of any rule shall be heard before the Director. The hearing shall afford to interested persons and agencies a reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing, to obtain a clear, orderly record, and shall be held at an accessible location. The Director shall have authority to administer oaths or affirmations and to take all other actions necessary for the orderly conduct of the hearing.
- (b) Order of Proceeding. At the commencement of the hearing, the Director shall read the notice of hearing and shall then outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in such order as the Director shall prescribe.
- (c) Submission and Testimony. Each witness shall, before proceeding to testify, state the witness’ name, address and whom the witness represents at the hearing, and shall give such information respecting the witness’ appearances as the Director may request. The Director shall confine the testimony to the

matters for which the hearing has been called and shall not apply the technical rules of evidence. Every witness shall be subject to questioning by the Director.

- (d) Oral and Written Presentation. Any interested person or agency will be afforded an opportunity to submit data, views, or arguments, orally or in writing, that are relevant to the matters specified in the notice of hearing. An original and two (2) copies of any written comments, recommendations, or written materials shall be submitted. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the Director to be authentic and relevant, shall be received in evidence and made a part of the record.
- (e) Transcript of the Evidence. Unless otherwise specifically ordered by the Director, testimony given at the public hearing shall not be reported verbatim.

1-3-4. Action by Director. The Director shall consider all relevant comments and material of records before taking final action in a rulemaking proceeding. Final action shall be taken at the hearing, or by a date announced by the Director, or within sixty (60) days after the final public hearing, whichever occurs last.

1-3-5. Emergency Rulemaking. If the Director finds that an imminent peril to public health, safety, morals, or to livestock and poultry health requires adoption, amendment, or repeal of a rule upon less than thirty (30) days notice of hearing and states in writing its reasons for such finding, the Department may proceed without prior notice or hearing or upon such abbreviated notice and hearings it finds practicable to adopt an emergency rule to be effective for a period not longer than one hundred twenty (120) days without renewal. Notice shall be in accordance with Section 91-3 of the Hawai'i Revised Statutes.

1-3-6. Filing of Rule(s). Upon adopting, amending, or repealing a rule(s) and approval by the mayor, the Director shall file certified copies of the rule(s) with the county clerk.

1-3-7. Effective Date. Each rule adopted, amended, or repealed shall become effective ten (10) days after filing with the county clerk. If a later effective date is required by statute or specified in the rule, the later date shall be the effective date; provided that no rule shall specify an effective date in excess of thirty (30) days after the filing of the rule with the county clerk. An emergency rule shall become effective upon filing with the county clerk for a period not exceeding one hundred twenty (120) days without renewal unless extended in compliance with Section 91-3(a) of the Hawai'i Revised Statutes.

1-3-8. Publication of Rules. As soon as practical, the Director shall compile, index, and publish all rules adopted by the Department and remaining in effect. Compilations shall be supplemented as often as necessary and shall be reviewed at least once every ten (10) years.

RULE 1-4 Declaratory Rulings by the Department

1-4-1. Petition. Any interested person may petition the Director for a declaratory order as the applicability of any statutory provision or of any rule or order of the Department.

1-4-2. Submission of Petition. The original petition and two (2) copies shall be submitted to the Department. The petition shall contain:

- (a) The name, address, telephone number, and signature of each petitioner;
- (b) A statement of the nature of petitioner's interest in the subject matter, including reasons for submitting the petition;
- (c) A designation of the specific provision, rule or order in question, together with a statement of the controversy or uncertainty involved;
- (d) A complete statement of facts;
- (e) A statement of the petitioner's position or contention; and
- (f) A memorandum of authorities, containing a full discussion of the reasons and any legal authorities in support of such position or contention.

1-4-3. Dismissal of Petition. The Director may, without notice or hearing, dismiss a petition for declaratory ruling which does not conform to the requirements in Section 4.02 of these rules.

1-4-4. Refusal to Issue Declaratory Order. The Director may for good cause refuse to issue a declaratory order where:

- (a) The question is speculative or purely hypothetical and does not involve existing fact or facts which can reasonably be expected to exist in the near future;
- (b) The petitioner's interest is not of the type which would give the petitioner standing to maintain an action if seeking judicial relief;
- (c) The issuance of the declaratory order may adversely affect the interests of the County, the Department, or any of its officers or employees in any litigation which is pending or may reasonably be expected to arise; or
- (d) The matter is not within the Department's jurisdiction.

1-4-5. Referral to Other Agencies. Where any question of law is involved, the Director may refer the matter to the corporation counsel. The Director may also obtain the assistance of other departments or agencies where necessary or desirable.

1-4-6. Notification of Petitioner. The petitioner shall be promptly informed by the Director of the disposition of the petition.

1-4-7. Status of Orders. An order disposing of a petition shall have the same status as other Department orders. An order shall be applicable only to the factual situation alleged in the petition or set forth in the order. An order shall not be applicable to different factual situations or where additional facts not considered in the order exist.

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ARTICLE II
SOLID WASTE DIVISION

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RULE 2-1 General Provisions

2-1-1. Purpose. These solid waste division rules shall set forth the department’s standards and procedures as authorized by Chapter 20 of the Hawai’i County Code.

2-1-2. Applicability. These rules are applicable to all persons, as defined in this article, who utilize the County of Hawai’i’s solid waste division facilities.

2-1-3. Definitions. Unless otherwise provided in this article, the following terms shall have the meanings provided below for the solid waste division:

“Abandoned vehicle” means a vehicle that is unlawfully parked and left unattended for a continuous period of more than twenty-four hours on any public highway, public property, or private roads that are located within any ungated subdivision, where roads are open to and used by members of the public.

“Abandoned Vehicle Program” means a program established by the Department for the purpose of disposing of abandoned or derelict vehicles and implementing a public outreach program to educate the public about the disposition of such vehicles.

“Applicant” means either a County facility user or a food vendor that applies for an exemption under these rules.

“ASTM standard” means the standards of the American Society for Testing and Materials International Standards D6400 or D6868 for biodegradable and compostable paper and plastics.

“Billing statement” means a report issued at the end of each month to permit holders showing all weight tickets charged on account, other fees charged, and payments received during the month. It shows the balance due on the account and the date by which the balance must be paid to avoid finance charges and denial of access.

“Bulky material” means large items of solid waste, such as household appliances, furniture and other oversize wastes which may be prohibited for disposal at transfer stations (convenience centers) or would typically not fit in transfer station (convenience center) chutes or solid waste transport trailers.

“Business” means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships and corporations, or any other legal entity, and includes independent contractors associated with the business.

“CFR” means Code of Federal Regulations.

“Commercial cooking oil waste” means cooking oil which, because of prior use, potency loss, or contamination, is no longer usable or salable by a business engaged in cooking food or

selling cooking oil. The term does not mean the residue remaining after the conversion of commercial cooking oil waste into a marketable product.

“Commercial FOG waste” means animal/vegetable fat, oil and grease and other waste that is retained in or removed from a commercial pretreatment device. The term does not mean the residue remaining after the conversion of commercial FOG waste into a marketable product of grease and other waste removed from a commercial pretreatment device.

“Commercial hauler” means a transporter of solid waste made up of commercial, residential or industrial solid waste.

“Commercial solid waste” means all types of solid waste generated from commercial activities including, but not limited to, stores, offices, restaurants, warehouses, and non-manufacturing activities, excluding residential and industrial wastes.

“Commercial vehicle” means any type of motor vehicle used for transporting goods or paying passengers.

“Commission” means the Environmental Management Commission.

“Compost” means the result of microorganisms decomposing organics through the process of aerobic biodegradation, commonly used as a soil amendment.

“Compostable” means all materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a municipal or industrial composting facility. Compostable disposable food service ware includes ASTM-standard paper/fiber and bio-plastics (plastic-like) products that are clearly labeled either on individual food service ware or packaging for food service ware so that any compost collector and processor can easily distinguish the ASTM-standard compostable material from non-ASTM standard compostable material. Required certification of compostable food service ware shall be done by independent third-party organization Biodegradable Products Institute (BPI) or similar ASTM recognized certifier.

“Construction and demolition waste” means material such as metals, wood, gypsum, asphalt shingles, roofing, concrete, rocks, rubble, soil and glass or similar materials.

“Contaminated soil” means excavated soils impacted by the introduction of any physical, chemical, biological, or radiological substance or matter that has an adverse effect on the environment.”

“County” means County of Hawai‘i.

“County facility” means any building, structure, or vehicle owned and operated by the County, its agents, agencies, and departments and includes County buildings, structures, parks, recreation facilities, or property.

“County facility user” means all persons, societies, associations, organizations, or special event promoters who require a permit to reserve or rent a County facility or a permit or contract to use a sidewalk or roadway. County facility users also include concession contracts with the County, County managed concessions, County sponsored events and food services provided at County expense.

“Days” means calendar days unless otherwise specified.

“Derelict vehicle” means as defined in Section 290-8, Hawai‘i Revised Statutes.

“Department” means the Department of Environmental Management.

“Director” means the Director of the Department of Environmental Management or the director’s designated representative.

“Disposable food service ware” means disposable food containers that are commonly disposed of after a single use, that are used, or are intended to be used, to serve or transport prepared, ready-to-consume food or beverages. This includes, but is not limited to, cups, bowls, plates, or clamshell containers that are provided by a food vendor for takeout foods and beverages and/or leftovers from partially consumed meals, excluding straws, cup lids, utensils, food-related bags and wrappers, packaging for unprepared food, and pre-packaged or pre-sealed items such as bread, cookies, milk, juice, snacks, candy, nuts, fruits, vegetables, or other items typically sold in a grocery store or a food manufacturer’s retail location.

“Feral animal” means animals that have changed from being domesticated to being wild, natural, or untamed. This includes but is not limited to dogs, cats, pigs, goats, and chickens.

“Food packaging” means all food-related wrappings, bags, boxes, containers, bowls, plates, trays, cartons, cups, lids, or drinking utensils, in which food or beverage is placed or packaged on the food provider’s premises, and which are not intended for reuse. Food packaging does not include forks, spoons, knives, straws, stirrers, or single-service condiment packages.

“Food providers” means any vendor, business, organization, non-profit entity, group, or individual operating in the County which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, caterer, catering truck or vehicle; and any organization, group or individual which provides food in conjunction with services.

“Food service ware” includes plates, bowls, cups, lids, straws, stirrers, forks, spoons, knives, napkins, trays, and other items primarily designed for use in consuming food.

“Greenwaste” means palm fronds, leaves, tree, shrubs, bush and hedge cuttings, grass clippings, untreated and unpainted wood pallets, logs, branches, excluding invasive species.

“HCC” means Hawai‘i County Code.

“Household pet” means a small animal weighing less than 50 pounds.

“Household solid waste or recyclables” means solid waste or recyclables originating from homes and residences.

“HRS” means the Hawai‘i Revised Statutes.

“Impound facility” means a facility where abandoned vehicles are stored and where County vehicle auctions are held.

“Large appliances” means electrical and mechanical appliances made primarily of metal parts such as refrigerators, clothes washers, dryers and stoves. Appliances of less than 3 cubic feet in volume before crushing shall not be included in this definition.

“Liquid waste” means any waste material that is determined to contain “free liquids” as defined by the Paint Filter Liquids test.

“Medical waste” means all infectious and injurious waste originating from a medical, veterinary, or intermediate care facility.

“Materials” means all items acceptable by permit at a SWD facility.

“Mils thickness” means a unit of measurement that is equal to .001" or “one one-thousandth of an inch”. In the United States, the gauge or thickness of a plastic bag is measured by mils.

“Mulch” means processed greenwaste used on the soil surface to reduce weeds, conserve soil moisture, improve water infiltration, or for aesthetic purposes.

“Net 30 business account” means an account which must be paid within thirty (30) full days of the billing statement date, which is created based on a customer’s proven credit history with the County.

“Organics” means solid wastes containing carbon compounds that are capable of being biologically degraded, including paper, food residuals, wood wastes, yard debris, and plant wastes.

“Organics facility” means a facility that accepts greenwaste and acceptable organics and processes it into mulch or compost.

“Permit” means written authorization from the director to dispose of any solid waste material in a SWD facility.

“Person” means any individual, firm, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, nonprofit, or any other entity whatsoever.

“Plastic checkout bag” means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and that is made from non-compostable plastic or compostable plastic, and is not specifically designed and manufactured for multiple re-use.

“Polystyrene foam,” sometimes referred to as “Styrofoam,” a Dow Chemical Company trademarked product, means a thermoplastic petrochemical material utilizing the styrene monomer, which may be marked with resin symbol #6, processed by any number of techniques including, but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). In food service, polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons intended for a single use. Polystyrene foam does not include solid hard polystyrene.

“Prepared food” means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared for consumption by a retail consumer on the premises of a food provider, including, but not limited to, beverages, ready to eat, and takeout food. Prepared food does not include raw: eggs; butchered meats; fish; and/or poultry unless provided for consumption without further food preparation or heating. For example, sashimi and poke shall be considered to be prepared food. This also does not include pre-packaged or pre-sealed items such as breads, cookies, milk, juice, snacks, candy, nuts, fruits, vegetables, or other items typically sold in a grocery store or a food manufacturer’s retail location.

"Prescription drug" means the same as defined in section 461-1, HRS, as amended.

“Private road” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, including private roads open to the public.

“Prohibited materials” include, but are not limited to, burning or smoldering materials, paint thinner or solvents; oil based paint; engine oil, antifreeze or lead acid batteries; pesticides, poisons; household cleaner; contaminated soil; untreated medical waste; propane, compressed gas cylinders; diesel, gasoline or alcohol; liquids or sludge in containers one gallon or larger unless mixed with a bulking agent so that it solidifies, large appliances, automobiles, whole tires, radioactive or chemical waste, explosives, blasting materials, fuses, live ammunition, and hazardous wastes as defined in the HRS or Hawai’i Administrative Rules.

“Public property” means all real property owned by the County or State of Hawai‘i, or the Federal government.

“Recyclable” means material that has reached the end of its current use and may be processed into material utilized in the production of new products.

“Reload facility” means a facility that receives and consolidates solid waste or recyclable materials for future transport to disposal or processing facilities from municipal or commercial collection trucks and self-haulers’ vehicles and loads the solid waste onto tractor trailers for long-haul transport to a distant disposal facility.

“Reusable bag” means a bag that is specifically designed and manufactured for multiple re-use and is (1) made of cloth or other washable fabric, or (2) made of paper specifically designed for multiple and long term use.

“Sanitary landfill” means engineered solid waste disposal method in accordance with state and federal laws, which are designed and operated to protect human health and the environment by establishing requirements with respect to location, operation, design, ground water monitoring, corrective action, closure and post-closure, and financial assurance.

“Sanitary landfill disposal fees,” also known as “tipping fees” or “gate fees,” means the fee paid to dispose of waste in a landfill. This fee pays for the cost of using and operating the landfill and administrative costs.

“Scavenging” means the removal of materials at a SWD facility without the approval of the director.

“Self-hauled” means individuals hauling only their own self-generated materials.

“Single-use” means a bag that is specifically designed and manufactured for one-time use, normally for transporting groceries or other products. Plastic bags that are less than 3 mils thickness are considered single-use.

“Sludge” means any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, industrial process, or air pollution control facility exclusive of the effluent from a wastewater treatment plant.

“Solid waste” means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from residential habitation; industrial, commercial, mining, and agricultural operations; and community activities.

“Special handling materials” means tree stumps, root balls, telephone poles, pilings, cables, barbed wire, dead animals, seafood, and slaughter house waste, asbestos, contaminated soil, canec material, biosolids, FOG (fats, oils and grease, treated medical waste, document destruction, and other materials the department determines to require special handling.

“Storage” means the holding of derelict or abandoned vehicles for a temporary period.

“SWD” means the solid waste division of the department of environmental management.

“SWD facility” means the County or contractor facility for the management of materials that is legally permitted to accept pursuant to state law.

“Transfer station” means a permanent, fixed, supplemental collection and transportation facility, used to deposit self-hauled household materials into a larger transfer container for transport to a SWD facility.

“Undue hardship” means situations unique to the food providers or County facility user that generally do not apply to other persons in similar circumstances.

“Unsecured load” means any solid waste material that is not covered or otherwise secured in place during transport.

“Vehicle processing facility” means a facility permitted to operate a metals processing and recycling business that processes and/or stores and ships vehicles, metals and associated items.

“Weight ticket” means a printed invoice issued by a SWD weighmaster for a specific load weighed on a certified scale. Also known as a scale ticket.

RULE 2-2 Disposal Permit for Sanitary Landfill and Reload Facility**2-2-1. Requirements.**

- (a) No business, government agency, religious entity or nonprofit organization shall dispose of solid waste at any sanitary landfill or reload facility without first obtaining a disposal permit issued by the director and making payment of the permit fee as required herein.
- (b) Application. An application for a disposal permit shall be submitted to the director on a form furnished by the department. Incomplete applications shall not be considered by the director.
 - (1) The following information is required on the application:
 - (A) Name, mailing and street address, telephone number and e-mail address (if available) of the business, government agency, religious entity or nonprofit organization.
 - (B) Make, model, tare weight, carrying capacity in cubic yards and license number of the vehicle(s) which would be used to dispose of solid waste.
 - (C) Approximate volume and frequency of solid waste to be disposed.
 - (D) Origin and type of solid waste to be disposed.
 - (E) Other information as deemed necessary by the director.
 - (2) Persons not acting as or on behalf of any business, government agency, religious entity or nonprofit organization shall provide their name, residence and mailing address, and e-mail address (if available), residence and employer telephone numbers, driver's license number, and any other information deemed necessary by the director for billing, collection and monitoring purposes.
- (c) Duration. The disposal permit shall be effective for a period of one (1) year from the date of issuance.
- (d) Compliance. The director may suspend or revoke a disposal permit for the following reasons:
 - (1) Failure to pay disposal charges or special handling fees when due.

- (2) Failure to comply with the provisions of these rules.
- (3) Failure to comply with disposal procedures and/or conditions established by the department.
- (4) Altering a permit or falsifying any information submitted to the department.
- (5) Failure to comply with Sanitary Landfill Operating Rules and Reload Facility Operating Rules.
- (e) Permit holder may dispute the director's findings by requesting a hearing pursuant to Chapter 20, HCC.
- (f) Any person who is found within a sanitary landfill or reload facility attempting to continue business with a suspended or revoked permit shall be deemed to be a trespasser and subject to prosecution, pursuant to Chapter 20, HCC.
- (g) Permit Fee. There shall be a fee of \$50 for the issuance of a solid waste disposal permit to a business, government agency, religious entity or nonprofit organization, payable with the application. There shall be no fee for the issuance of a permit to persons not acting as or on behalf of a business, government agency, religious entity or nonprofit organization. The permit grants access into the SWD facility and nothing more.

2-2-2. Variations. There shall be no variations or exemptions to either the permit fee or the solid waste disposal fee described and included herein, except the mayor may waive solid waste disposal fees when it is in the best interest of the county.

RULE 2-3 Sanitary Landfill Operating Rules

2-3-1. All solid waste, except for prohibited materials, shall be accepted at the sanitary landfill when properly deposited. Prohibited materials may be accepted upon approval of the director.

2-3-2. All sanitary landfill customers shall have a current Solid Waste Facility Disposal Permit, except for household self-hauled customers.

2-3-3. Any unauthorized person entering into the sanitary landfill during nonworking hours shall be considered to be a trespasser, and shall be subject to criminal enforcement under chapter 20, HCC.

2-3-4. All customers enter the facility at their own risk.

2-3-5. All customers shall adhere to all communications from SWD personnel and/or County contractors.

2-3-6. Any customer's load may be inspected before and after unloading. If the load contains unacceptable material, the material may be rejected and reloaded into the customer's vehicle.

2-3-7. All customers' vehicles shall check in and be weighed at the scalehouse before and after unloading. Customers who fail to weigh out shall be charged for the entire inbound weight.

2-3-8. The SWD personnel may search and/or recover lost items from the reload facility at the discretion of the SWD and the customer shall be charged a fee for said service.

2-3-9. No customer(s) shall be admitted into the sanitary landfill after the posted closing time.

2-3-10. Loitering within the sanitary landfill site is prohibited. All customers shall leave the sanitary landfill site immediately after weighing out.

2-3-11. Everyone entering SWD facilities shall observe all posted speed limits and traffic warning signs.

2-3-12. Use of handheld devices while operating a vehicle is prohibited. Making phone calls, sending text messages or emails while driving is prohibited. Completing paperwork or any other type of task that would distract the driver from the operation of the vehicle is also prohibited.

2-3-13. Children under the age of 16 and all pets must remain in the vehicle at all times.

2-3-14. Tools, tailgates, etc., must be kept on, in, or under the vehicle while unloading.

2-3-15. Dangerous practices, such as rapid backing up to discharge loads, operating vehicles with unsecured doors, etc., are prohibited.

2-3-16. Load pull off service is not provided.

2-3-17. Loads shall be securely tied and/or covered upon arrival at the scalehouse to prevent spillage. All unsecured loads shall be accessed an unsecured load fee.

2-3-18. All sanitary landfill users shall first communicate with the sanitary landfill SWD personnel before unloading. Unloading is permitted only in those areas designated by the SWD personnel.

2-3-19. The scavenging of unloaded material is prohibited.

2-3-20. Tree stumps, roots, telephone poles, pilings, cables and wire fences and other similar material shall be cut to lengths of 4 feet or less, to avoid paying special handling charges. Disposal of materials requiring special handling shall be scheduled in advance with the scalehouse.

2-3-21. Travel within the sanitary landfill shall be on designated routes only. Any vehicle unable to negotiate these routes because of faulty or malfunctioning equipment shall be prohibited from entering the sanitary landfill.

2-3-22. Customers and vehicles shall maintain a minimum distance of 25 feet from the sanitary landfill equipment at all times.

2-3-23. Witness requirement for confidential document destruction shall be provided by the agency or individual requesting such special handling.

2-3-24. Any concerns regarding a violation of safety practices should be reported to the SWD personnel.

2-3-25. Closed toe shoes, high visibility vest, shirts, et cetera, shall be worn at the sanitary landfill working face.

2-3-26. All vehicles must have a current County of Hawai'i vehicle registration and safety inspection, which shall be made available upon request by SWD personnel.

2-3-27. Drinking alcoholic beverages, smoking, use of drugs, or use of firearms is prohibited.

RULE 2-4 Reload Facility Operating Rules

2-4-1. All solid waste, except for prohibited materials and special handling materials, shall be accepted at the reload facility when properly deposited. Prohibited materials and special handling materials may be accepted upon approval of the Director.

2-4-2. All reload facility customers shall have a current Solid Waste Facility Disposal Permit, except for residential self-hauled customers.

2-4-3. Any unauthorized person entering into the reload facility during nonworking hours shall be considered to be a trespasser and shall be subject to criminal enforcement under Chapter 20, HCC.

2-4-4. All customers shall check in at the scalehouse and all customers enter at their own risk.

2-4-5. All customers shall adhere to all communications from the SWD personnel and/or County contractors.

2-4-6. The maximum load size shall not exceed 40 cubic yards, unless otherwise approved by the director.

2-4-7. The maximum load size for construction and demolition waste must not exceed 5 cubic yards unless otherwise approved by the director.

2-4-8. All vehicles shall be weighed at the scalehouse before and after dumping. Customers who fail to weigh out shall be charged for the entire inbound weight.

2-4-9. The SWD personnel may search and/or recover lost items from the reload facility at the discretion of the SWD and the customer shall be charged a fee for said service.

2-4-10. No customer shall be admitted into the reload facility after the posted closing time.

2-4-11. Loitering within the reload facility is prohibited. All customers shall leave the reload facility immediately after unloading.

2-4-12. Everyone entering SWD facilities shall observe all posted speed limits and traffic warning signs.

2-4-13. Use of handheld devices while operating a vehicle is prohibited. Making phone calls, sending text messages or emails while driving is prohibited. Completing paperwork or any other type of task that would distract the driver from operating the vehicle is also prohibited.

2-4-14. Children under the age of 16 and all pets shall remain in the vehicle at all times.

2-4-15. Tools, tailgates, etc., shall be kept on, in, or under the vehicle while unloading.

2-4-16. Dangerous practices, such as rapid backing up to discharge loads, operating vehicles with unsecured doors, etc., are prohibited.

2-4-17. Load pull off service shall not be provided.

2-4-18. Loads shall be securely tied and/or covered upon arrival at the scalehouse to prevent spillage. All unsecured loads will be assessed an unsecured load fee.

2-4-19. All reload facility customers users shall first communicate with the SWD personnel before unloading. Unloading is permitted only in those areas designated by the SWD personnel.

2-4-20. The scavenging of unloaded material is prohibited.

2-4-21. Vehicles shall maintain a minimum distance of 15 feet from the reload facility equipment at all times.

2-4-22. Any concerns regarding a violation of safety practices should be reported to the SWD personnel.

2-4-23. Closed toe shoes, high visibility vest, shirts, et cetera, shall be worn at the reload facility.

2-4-24. All vehicles shall have a current County of Hawai'i vehicle registration and safety inspection, which shall be made available upon request by SWD personnel.

2-4-25. Drinking alcoholic beverages, smoking, use of drugs, or use of firearms is prohibited.

RULE 2-5 Transfer Station Operating Rules

2-5-1. All self-hauled acceptable household materials deposited into a transfer station container or area shall be accepted by the County for disposal on any day the transfer station is open.

2-5-2. Prohibited materials and special handling materials shall not be dropped off at a transfer station, including solid waste generated by a business, government agency, religious entity or nonprofit organization. Prohibited materials and special handling materials may be accepted upon approval of the director.

2-5-3. The director may authorize the disposal of non-self-hauled solid waste at the transfer station and may also authorize non-household solid waste disposal.

2-5-4. The SWD personnel may search and/or recover lost items from the transfer station at the discretion of the SWD and the customer shall be charged a fee for said service.

2-5-5. Any unauthorized person entering into the transfer station during nonworking hours or for purposes other than that permitted in this section shall be considered to be a trespasser, and shall be subject to criminal enforcement under chapter 20, HCC.

2-5-6. All customers enter the facility at their own risk.

2-5-7. All materials shall be deposited directly into the designated container or solid waste area.

2-5-8. Depositing materials outside of a designated area shall be considered littering and shall be punishable pursuant to chapter 14, HCC.

2-5-9. Customers are expected to utilize the appropriate designated container or area at a transfer station that offers sanitary landfill diversion collection.

2-5-10. All customers shall adhere to all communications from SWD personnel and/or County contractors.

2-5-11. Customers are limited to dropping off one large appliance per vehicle per day where accepted.

2-5-12. Customers may include one double-bagged deceased household pet per day in their daily load limit.

2-5-13. Customers shall not put greenwaste into solid waste chutes at transfer stations that offer greenwaste collection, except greenwaste that is classified as an invasive species.

2-5-14. All vehicles shall have a current County of Hawai'i vehicle registration and safety inspection, which shall be made available upon request by SWD personnel.

2-5-15. The maximum solid waste load size, including construction and demolition debris but excluding greenwaste, shall be 3 cubic yards or less, and/or seven feet or less in any dimension. Items exceeding the maximum dimensions or one load per day shall not be allowed unless approved in advance by the director.

2-5-16. Hide-a-beds are not permitted to be thrown down the transfer station chute.

2-5-17. Vehicles are limited to sedans, SUVs, pickup trucks, or vans. Dump bed trucks are prohibited at the transfer stations. Trailers are prohibited at transfer stations, except as provided below:

- (a) After a review of site designs, safety reports, and SWD recommendations, and having determined that a transfer station allows the safe maneuvering, the Director will publish locations, dates, and times trailers will be allowed. The Director may suspend this authorization at any time.
- (b) Trailers shall not exceed 6 feet by 9 feet.
- (c) All trailers shall have a current County of Hawai'i vehicle registration and safety inspection. Transfer station users shall follow all other rules for solid waste disposal and all directions from SWD personnel.
- (d) Transfer station users shall pull trailers beside a chute and minimize reversing their trailers when possible.
- (e) The Director will notify the public of schedule changes regarding trailers at transfer stations.

2-5-18. Business-owned vehicles are permitted, provided they are limited to the vehicle types listed in Rule 2-5-17 above and are delivering household, self-hauled solid waste, and/or recyclables contained in no more than two 33 gallon trash bags per vehicle per day.

2-5-19. The maximum greenwaste load size shall not exceed 5 cubic yards. Except for palm fronds, no greenwaste items, including logs and branches, shall exceed 3 feet in length or 1 foot in diameter. Not more than one load per day shall be allowed unless approved in advance by the director.

2-5-20. No customers shall be admitted into the transfer station after the posted closing time.

2-5-21. Loitering within the transfer station is prohibited. All customers shall leave the transfer station immediately after unloading.

2-5-22. Everyone entering SWD facilities shall observe all posted speed limits and traffic warning signs.

2-5-23. Use of handheld devices while operating a vehicle is prohibited. Making phone calls or sending text messages or emails while driving is prohibited. Completing paperwork or any other type of task that would distract the driver from operating the vehicle is also prohibited.

2-5-24. Children under the age of 16 and all pets shall remain in the vehicle at all times.

2-5-25. Tools, tailgates, etc., shall be kept on, in, or under the vehicle while unloading.

2-5-26. Dangerous practices, such as rapid backing up to discharge loads, operating vehicles with unsecured doors, etc., are prohibited.

2-5-27. Loads shall be securely tied and/or covered upon arrival at the transfer station to prevent spillage.

2-5-28. All customers shall follow the directions of SWD personnel or County contractors before unloading.

2-5-29. The scavenging of unloaded material is prohibited.

2-5-30. Any concerns regarding a violation of safety practices should be reported to the SWD personnel.

2-5-31. Drinking alcoholic beverages, smoking, use of drugs, or use of firearms is prohibited.

2-5-32. To prevent interference with SWD operations, collisions with vehicles, and potential disease transmission, the feeding of feral animals is discouraged.

RULE 2-6 Organics Facilities Operating Rules

2-6-1. Only acceptable organics (as posted at the facilities or as published on the SWD website) and greenwaste shall be accepted at the organics facilities. Contaminated loads may be rejected.

2-6-2. All greenwaste customers' vehicles shall be weighed at the scalehouse before and after unloading. Commercial and non-self-hauling customers who fail to weigh out shall be charged for the entire inbound weight. Customers who do not weigh out may be prohibited from the facility in the future.

2-6-3. Mulch customers may bypass the scalehouse with approval of the director.

2-6-4. All business, government agency and non-profit agency greenwaste customers shall have a current Solid Waste Facility Disposal Permit.

2-6-5. Any customer's load may be inspected before and after unloading. If the load is contaminated, the material may be rejected and reloaded into the customer's vehicle.

2-6-6. Any unauthorized person entering into the organics facility during nonworking hours shall be considered to be a trespasser and shall be subject to criminal enforcement under chapter 20, HCC.

2-6-7. All customers enter the facility at their own risk.

2-6-8. All customers shall adhere to all communications from SWD personnel and/or County contractors.

2-6-9. Loitering within the organic facility site is prohibited. All customers shall leave the organic facility immediately after loading and unloading.

2-6-10. Everyone entering SWD facilities shall observe all posted speed limits and traffic warning signs.

2-6-11. Use of handheld devices while operating a vehicle is prohibited. Making phone calls, sending text messages or emails while driving is prohibited. Completing paperwork or any other type of task that would distract the driver from operating the vehicle is also prohibited.

2-6-12. Children under the age of 16 and all pets shall remain in the vehicle at all times.

2-6-13. Tools, tailgates, etc., shall be kept on, in, or under the vehicle while loading and unloading.

2-6-14. Dangerous practices, such as rapid backing, operating vehicles with unsecured doors, etc., are prohibited.

2-6-15. Customers shall unload their greenwaste or be loaded with mulch in areas designated by the SWD personnel or County contractors.

2-6-16. Travel within the organics facility shall be on designated routes only. Any vehicle unable to negotiate these routes because of faulty or malfunctioning equipment shall be prohibited from entering the organics facility.

2-6-17. Any concerns regarding a violation of safety practices should be reported to the SWD personnel and/or County contractor.

2-6-18. All vehicles shall have a current County of Hawai'i vehicle registration and safety inspection, which shall be made available upon request by SWD personnel.

2-6-19. Incoming greenwaste loads shall be securely tied and/or covered upon arrival at the scalehouse, and outgoing mulch loads shall be covered and secured to prevent spillage. All unsecured greenwaste loads shall be assessed an unsecured load fee.

2-6-20. Drinking alcoholic beverages, smoking, use of drugs, or use of firearms is prohibited.

RULE 2-7 Administrative Fines for Violations of Rules 2-3, 2-4, 2-5, and 2-6.

2-7-1. Any person violating any section of Rules 2-3, 2-4, 2-5, and 2-6 shall be subject to an initial civil fine of \$250.00 for each violation and a daily fine of \$250.00 for each violation for each day thereafter until the violation is corrected.

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RULE 2-8 Solid Waste Fees**2-8-1. Disposal Fees.**

- (a) Any solid waste, except for prohibited materials, delivered by a business, public agency, religious entity, nonprofit organization or private citizen to the working face of a sanitary landfill, reload facility, or organics facility shall be charged by the ton, or pro-rated accordingly, at the rates set forth herein.
- (b) Scales, certified by the State of Hawai'i, shall be operated at a sanitary landfill, reload facility or organics facility. A weight ticket shall be issued to the driver of each permitted vehicle after it is weighed at the landfill. The weight ticket shall list relevant information such as, date, time, permittee, vehicle I.D. number, gross, tare, and net weights, and tipping fee. In the event of a printer or other malfunction, weight ticket information shall be made available to the permittee as soon as possible.
- (c) In the event the weighing equipment is inoperable, charges shall be based on volume rates as set forth herein.

2-8-2. Collection of Fees.

- (a) All charges for disposal fees shall be collected by the department and due at the time of disposal, unless a net 30 business account has been established with the department. The only acceptable forms of payment at the time of disposal are checks, debit cards, or credit cards.
- (b) Weight tickets shall be issued for each load being disposed and shall list the tipping fee charged for each load including the weight (or volume), vehicle I.D., date, and time.
- (c) A customer may request a net 30 business account by submitting an application provided by the department. Approval will be based on the customer's credit history for a period of three (3) months with the department or by posting a bond. Revocation or suspension of the net 30 business account will occur after a delinquency occurs.
- (d) A net 30 business account billing statement shall be made monthly, and payments shall be made within thirty (30) days of the date on the billing statement. A finance charge of one percent monthly (annual rate of twelve percent) shall be charged on all balances which are past due, which may lead to revocation or suspension of the net 30 business account.

- (e) In addition to the above, if payment is not received by the due date indicated on the billing statement, further use of any SWD facility shall not be permitted until full payment is made.

2-8-3. Fee Schedule. Fees for solid waste disposal into SWD facilities are established as follows:

- (1) Sanitary landfill disposal fees.

(A) Rate by weight: Dollars per ton prorated accordingly.

Year beginning on July 1 of each calendar year.	
2022	2023
\$116	\$124

In subsequent years the disposal fees will increase at a minimum in accordance with the fourth quarter of the calendar year prior to the coming fiscal year of the Honolulu consumer price index.

- (B) When and if it is impossible or impractical due to power outage, disaster, or other emergency to determine an accurate weight, rates by vehicle size and volume shall be used:

TYPE I: Light trucks or other vehicles with a gross vehicle weight of less than 10,000 pounds with no more than three cubic yards of solid waste charged as dollars per truck.

Year beginning on July 1 of each calendar year.	
2022	2023
\$70	\$75

TYPE II: Medium trucks or other vehicles with a gross vehicle weight from 10,000 pounds to 19,999 pounds with no more than six cubic yards of solid waste charged as dollars per truck.

Year beginning on July 1 of each calendar year.	
2022	2023
\$117	\$125

TYPE III: Large trucks or other vehicles with a gross vehicle weight from 20,000 pounds to 25,999 pounds with no more than nine cubic yards of solid waste charged as dollars per truck.

Year beginning on July 1 of each calendar year.

2022	2023
\$209	\$223

TYPE IV: All other trucks or vehicles with a gross vehicle weight of 26,000 pounds including commercial solid waste hauling trucks or all other vehicles not qualifying as a Type I, II, or III:

1. Compacted. Dollars per cubic yard.

Year beginning on July 1 of each calendar year.	
2022	2023
\$38	\$41

2. Not compacted. Dollars per cubic yard.

Year beginning on July 1 of each calendar year.	
2022	2023
\$23	\$25

(C) Special handling: Shall be twice the amount per ton listed in (1)(A) above.

(D) Residential credit: Commercial haulers of residential waste shall be eligible for a partial credit for each single-family household from which the hauler collects refuse, provided the hauler’s account is current. The annual credit shall be equal to the landfill disposal fee multiplied by one and one-half tons per year per single-family household. An additional credit for the (1)(E) Reload Facility Disposal Fee equal to the amount charged for one and one half-tons per year per single-family household may also be claimed. The total residential credit shall not exceed the total landfill tipping fees charged to the residential hauler for the month for which the credit is being claimed. Commercial haulers who claim this credit shall provide documentation to the solid waste division including customer name, mailing address, and service address for each credit claimed. Claims for the residential credit must be submitted on or before the last day of the month following the month for which the credit is being claimed and the hauler’s account must be current for the credit to be applied. Names, mailing addresses, and service addresses of customers of residential haulers are subject to the disclosure limitations in section 92F, Hawai’i Revised Statutes, as disclosure would cause substantial harm to the competitive position of the person from whom the information was obtained.

(E) Reload Facility Disposal Fee: A Reload Facility Disposal Fee of \$25 per ton shall be charged for each load delivered to the Reload Facility. This fee is in addition to the disposal fees in (1)(A) above and is for costs related to SWD handling and hauling of commercial refuse from the Reload Facility to the

Sanitary Landfill. This fee shall be effective July 1, 2023, and will be subject to periodic review.

- (2) Lost item fee: If SWD personnel are able to search for a customer’s lost item within an hour of arrival at the landfill, the fee will be calculated for the total time SWD personnel removes a trailer from a station, delivers the trailer to the landfill for item recovery, and returns the trailer to the station from which it originated.

Lost Item Fee for first hour
\$500
Additional Lost Item Fee for the second and third hour
\$250 per hour (Maximum search time 3 hours)

Customers wishing to retrieve a lost item will be responsible for the full cost as noted in this table, not to exceed a maximum of 3 hours, of the scheduled fees.

- (3) Greenwaste and organics facility fee.
 - (A) All clean greenwaste and acceptable organics must be delivered to a permitted County greenwaste and organics facility.
 - (B) The greenwaste and organics disposal fee is set at 25% of the sanitary landfill disposal fee as described in section 12-3(1)(A) above.
 - (C) The greenwaste and organics disposal fee is set at 65% of the landfill disposal fee as described in section 12-3(1)(B) above at a County greenwaste and organics facility without scales. These facilities are able to accept Type I and Type II trucks only.
 - (D) Greenwaste and organics must be separated from other solid waste in order to qualify for the reduced greenwaste and organics disposal fee.
 - (E) The greenwaste and organics disposal fee may be suspended by the director if the greenwaste and organics facilities are not operating.
- (4) Additional fee. In addition to the above fees, an additional fee of twenty-five dollars (\$25) shall be assessed for all unsecured loads at the sanitary landfill, reload station, and organics facilities.

RULE 2-9 Derelict or Abandoned Vehicles Program**2-9-1. Reporting a Derelict or Abandoned Vehicle.**

- (a) All derelict or abandoned vehicles located on public property or private roads may be reported to the County police dispatcher.

2-9-2. Removal of Derelict or Abandoned Vehicle.

- (a) A responsible government enforcement agency shall attach a notice to the reported vehicle, requiring the owner to remove the vehicle within 24 hours.
- (b) A report is initiated for vehicles not removed within 24 hours.
- (c) The report shall be considered closed for any vehicle that has been moved beyond the required minimum distance under Section 20-07-01 of the Hawai'i County Code within 24 hours from the reported location when the County contractor arrives to tow the vehicle.
- (d) Vehicles identified as derelict pursuant to section 290-8, HRS, shall be immediately hauled to the vehicle processing facility or to the impound facility, as determined by the department.
- (e) Abandoned vehicles are towed to the impound facility and the legal and registered owner of the vehicle will be sent written notice by certified mail to last address on record at the vehicle registration and licensing division of the finance department.
- (f) Towing, storage, and administration fee: The registered owner shall pay for the actual cost of towing, plus an administration fee of \$50 or as determined by the director. In addition, the registered owner shall pay for the storage of any impounded vehicle at a charge of \$10 per day from the date of the tow or as determined by the director.
- (g) Only the legal or registered owner may claim an impounded vehicle or property within the impounded vehicle upon payment of all fees incurred or at the discretion of the director.
- (h) All unclaimed abandoned vehicles shall be disposed of, or sold at, public auction.
- (i) There is established a vehicle disposal assistance program to assist Hawai'i County residents with disposal of vehicles. Assistance shall be contingent on the availability of funds within the County's vehicle disposal fund, and at the discretion of the director.

- a. To apply for assistance, a property owner or registered vehicle owner shall apply to the department to have the department dispose of a vehicle from the property owner or registered vehicle owner's property.
- b. The property owner shall ensure that the vehicle is located within 20 feet of the nearest roadway and is accessible to be towed.

2-9-3. Vehicle Disposal Assistance Program.

- (a) The Vehicle Disposal Assistance Program (VDAP) assists residents of Hawai'i County with the disposal fee of junk vehicles based on available funding.
- (b) A resident shall complete the department's Vehicle Disposal Assistance Application and provide all requested documentation. Incomplete applications or failure to provide requested documentation shall result in denial of participation in the program.

2-9-4. Auction of Abandoned Vehicles.

- (a) The department shall determine suitability of vehicles to be auctioned.
- (b) All bidders shall complete a department bid form and shall have a valid government issued identification. Any inaccurate or incomplete bid forms, as determined by the department, shall be rejected.
- (c) All bidders shall submit 25% of their total bid, rounded up to the nearest dollar amount. All auction payments shall be made by cash, cashier's check, money order, or other financial instrument approved by the department.
- (d) All bids shall be delivered to the department in person, unless otherwise specified by the department.

RULE 2-10 Relating to Polystyrene Foam Food Container and Food Service Ware Reduction

2-10-1. Purpose. To reduce the use of polystyrene foam food containers and food service ware by food providers. This rule does not include the use of solid hard polystyrene by food providers.

2-10-2. Prohibitions and Requirements.

- (a) Unless exempt under section 14-3, food providers shall not provide food in disposable food service ware that is made from polystyrene foam.
- (b) All food providers using any disposable food service ware shall use a recyclable or compostable product.
- (c) All County facility users shall not use disposable food service ware that is made from polystyrene foam and shall use a recyclable or compostable product for disposable food service ware.

2-10-3. Exemptions. This rule shall not apply to the following:

- (a) Foods packaged outside the limits of the County of Hawai'i.
- (b) Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use.
- (c) Food packaging for raw meats, poultry, seafood, and eggs that are provided for consumption which normally requires further food preparation.
- (d) County facility users and food providers may be exempted by the director only in situations where compliance with this chapter would result in undue hardship.

2-10-4. Application for Exemption Due to Undue Hardship. County facility users and food providers seeking an exemption from the requirements of this chapter due to undue hardship shall complete the department application and submit it to the director as set forth below. All exemptions granted under this section shall be promptly posted on the County website for the department as a notice of temporary exemption. The director may approve or deny an exemption application for undue hardship.

- (a) Application for Exemption Due to Hardship to the County Facility User. A County facility user shall submit a Department application to the director and shall include with specificity the following:
 - (1) The name, mailing address, telephone number, and email of the County facility user.

- (2) The name and location of the County facility to be used, submission date of the County facility use permit application, and event date(s) at the County facility.
 - (3) A description of the polystyrene foam food service ware(s) at issue, including why the County facility user requires the product(s) and an estimate of the quantity of the product used.
 - (4) The factual basis to support the requested determination that use of compliant food service ware would cause the County facility user undue hardship and there is no compliant alternative, which, for example, may include packaging necessary for safely containing food that is of significantly high or low temperature; specific transportation requirements or safeguards.
 - (5) If an exemption is granted under this section, the polystyrene foam food service ware(s) may only be used for the specific food item(s) identified in the application.
- (b) Application for Exemption Due to Hardship to the Food Vendor: A Food vendor shall submit a Department application to the director and shall include with specificity the following:
- (1) The name, mailing address, telephone number, email, and a copy of the food vendor’s most current business registration certificate (business license).
 - (2) The polystyrene foam food service ware(s) at issue, including why the food vendor requires the product(s) and an estimate of the monthly quantity of the product used.
 - (3) The factual basis to support the requested determination that use of compliant food service ware(s) would cause the food vendor undue hardship and there is no compliant alternative.
 - (4) The director may consider the information provided by the applicant to determine whether an undue hardship exists to justify an exemption.
 - (5) If an exemption is granted, the polystyrene foam food service ware(s) may only be used for the specific food item(s) identified in the application.

2-10-5. Duration, Renewal, and Revocation of Exemptions.

- (a) Initial exemptions are valid for a maximum period of one hundred eighty (180) days, except that shorter periods may be approved by the director.
- (b) Applications to renew exemptions shall be submitted to the department no later than thirty (30) days prior to the expiration of the exemptions. Exemption renewals may be granted but shall not exceed one hundred eighty (180) days, including the initial exemption period, upon a showing that the applicant continues to meet all applicable requirements.
- (c) Exemptions may be revoked upon the director's finding that the basis for the exemption is no longer valid or the applicant has otherwise violated this chapter.

2-10-6. Administrative Fines.

- (a) A fine may be imposed upon findings made by the director that any food vendor or County facility user has used polystyrene-based disposable food service ware in violation of this rule. Each day on which any food vendor or County facility user has sold or transferred disposable food service ware made from polystyrene foam shall constitute a separate violation of this article.
- (b) Food vendors shall be subject to an administrative fine for each separate violation as follows:
 - (1) A fine of \$10 for a first violation;
 - (2) A fine of \$50 for a second violation; and
 - (3) A fine not exceeding \$200 for a third and any subsequent violation.
- (c) Food vendors and County facility users who violate this rule in connection with commercial or non-commercial special events shall be assessed fines for each special event as follows:
 - (1) A fine of \$10 for a first violation;
 - (2) A fine of \$50 for a second violation; and
 - (3) For a third and any subsequent violation:
 - (A) A fine not to exceed \$100 for an event of one to 200 persons;
 - (B) A fine not to exceed \$200 for an event of 201 to 400 persons;
 - (C) A fine not to exceed \$400 for an event of 401 to 600 persons; and
 - (D) A fine not to exceed \$600 for an event of 600 or more persons.
- (d) Failure to pay fine. Fines not paid within thirty days from the date appearing on the notice of violation and order or of the notice of determination of the director after the hearing, shall be collected in compliance with chapter 20, HCC.

2-10-7. Appeal. A County facility user or food provider aggrieved by the director’s final decision may appeal the decision in accordance with chapter 20, HCC.

2-10-8. Emergency Exemption. The mayor may exempt County facility users and food vendors from the provisions of this chapter in a situation deemed by the mayor to be an emergency that necessitates such exemption in order to preserve the public peace, health, and safety.

The exemption shall remain in place until the mayor determines that the emergency situation has ceased and the exemption is no longer needed to preserve the public peace, health, and safety.

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RULE 2-11 Plastic Bag Reduction

2-11-1. Prohibition. Businesses are prohibited from providing single-use plastic checkout bags to their customers for the purpose of transporting groceries or other goods. A civil fine may be imposed for doing so.

2-11-2. Exemption. Exempted from these rules are organizations classified under Section 501 (c)(3) of the United States Internal Revenue code.

2-11-3. Permissible bags. The following types of plastic bags, provided by a business for the uses stated herein, shall not be subject to the prohibition set forth in section 15-2 of this rule:

- (1) Bags without handles, designed and used solely for protection of food products, protection of property or for preventing contamination including, but not limited to, bags for: raw meat, poultry, seafood, frozen foods, deli foods and unpackaged bakery items.
- (2) Bags without handles, designed and used solely for self-service packing of non-prepackaged food items sold in bulk including, but not limited to, bags for: fruits, vegetables, nuts, grains, cereal, flour, rice and candy.
- (3) Bags designed and used solely for protecting garments when provided by a garment cleaning business or formal wear retailer.
- (4) Bags without handles, designed and used for small retail items including, but not limited to jewelry, buttons, beads, ribbon and hardware items like nails, nuts and screws.
- (5) Bags without handles, used for dispensing prescription drugs.
- (6) Reusable bags and/or paper bags made available for sale, or free of charge, by businesses to customers for the purpose of transporting groceries.
- (7) Bags made from plastic that are washable and specifically designed and manufactured for multiple re-use, which have at least 3.0 mils thickness will be acceptable as a reusable bag.

2-11-4. Administrative Fines. The violator shall pay to the County an initial civil fine in the amount of \$250 and \$500 per day thereafter for each day until the violation is corrected.

RULE 2-12 Prohibition of Non-Mineral Sunscreen

2-12-1. Definitions. Unless otherwise stated, the following terms shall have the meanings provided below for the Department of Environmental Management:

“Sunscreen,” “licensed healthcare provider,” and “prescription” mean the same as defined in section 342D-21, Hawai‘i Revised Statutes.

“Non-mineral sunscreen” means any sunscreen that uses an active ingredient other than titanium dioxide and zinc oxide.

“Titanium dioxide” means the chemical titanium (IV) oxide under the International Union of Pure and Applied Chemistry chemical nomenclature registry, has a chemical abstract service registry number 13463-67-7, and whose synonyms include TiO₂, titania, rutile, anatase, brookite, akaogiite, titanium white, Pigment White 6 (PW6), Colour Index (CI) 77891, oxido de titanio (IV), and titandioxid, and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from four hundred nanometers to two hundred twenty nanometers in an epidermal sunscreen-protection personal care product.

“Zinc oxide” means the chemical oxozinc under the International Union of Pure and Applied Chemistry chemical nomenclature registry, has a chemical abstract service registry number 1314- 13- 2, and whose synonyms include ZnO, zinc white, calamine, Chinese White, flowers of zinc, and zinc oxide, and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from four hundred nanometers to two hundred twenty nanometers in an epidermal sunscreen-protection personal-care product.

2-12-2. Prohibition. It is unlawful to sell, offer for sale, or distribute for sale any non-mineral sunscreen without a prescription issued by a licensed healthcare provider.

2-12-3. Exceptions. This article shall not apply to the sale, distribution, or offer of sale of sunscreens banned pursuant to chapter 342D, Hawai‘i Revised Statutes.

2-12-4. Enforcement and Administration. Enforcement and administration of the provisions of this article shall be under the jurisdiction of the Department of Environmental Management of the County.

2-12-5. Administrative Fines.

a) A fine may be imposed upon findings made by any designee of the Department of Environmental Management. Any person, corporation, public agency, or other entity who violates this article:

1. Shall be issued a written warning letter with a description of the violation(s) and shall have 15 days from the date of the letter to respond. Once contact is made with the department, the violator shall have 30 calendar days, excluding weekends and State holidays, to correct the violation(s).
2. For every violation that is not corrected in the timeframe, a fine of not more

than \$1,000 per incident shall be imposed. In addition to the fine, DEM will seize and dispose of any product(s) in violation of this article.

b) Money from fines collected for violation of this article shall be deposited into the general fund and utilized by the Department of Parks and Recreation for mineral sunscreen dispensers, educational materials, and related purposes.

2-12-6. No conflict with State or federal law. Nothing in this article may be interpreted or applied so as to create any requirement or duty in conflict with any State or federal law.

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ARTICLE III
WASTEWATER DIVISION

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RULE 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 **RESERVED**

RULE 16 General Provisions

16-1. Purpose. The purpose of these rules is to manage the collection, treatment and disposal of wastewater to protect public health and the environment.

16-2. Authority. These rules are adopted pursuant to chapter 21 of the Hawai'i County Code.

16-3. Definitions. As used in this Article, unless the context specifically indicates otherwise:

“Commission” means the Environmental Management Commission of the county.

“Common interest development” means a development characterized by individual ownership of a condominium housing unit or a residential parcel coupled with the shared ownership of (or right to use) common areas and facilities, including, but not limited to, condominium projects, community apartment projects, stock cooperatives and planned unit developments, which contains three (3) or more dwelling units and which has a sewer service lateral shared by three (3) or more dwelling units.

“Customer” means sewer account holder, the owner of the property, and water account holder for any water service associated with the sewer account.

“County” means the County of Hawai'i.

"Defective condition" includes, but is not limited to, a condition that will allow I & I or exfiltration of sewage including non-sanitary sewer connections to the private sewer or to any wastewater plumbing that connects to the public sewer lateral, and other violation of County Standards and requirements.

“Delinquent” means an indebtedness to the Department unpaid for more than thirty (30) calendar days from the date of the bill.

“Day” means calendar day unless otherwise specified.

“DCCA” means the Department of Commerce and Consumer Affairs.

“Department” means the Department of Environmental Management.

“Director” means the Director of the Department of Environmental Management or the director’s authorized representative.

“Discontinuation of water service” or “termination of water service” means shutting off water service.

“DWS” means the Department of Water Supply.

“HCC” means the Hawai‘i County Code.

“HRS” means Hawai‘i Revised Statutes.

“Infiltration” means water other than sewage which enters into the County owned collection system through cracks, breaks, open joints, or other deficiencies which may exist in laterals.

“Inflow” means any water other than sewage that is directed toward or connected to the District's collection system through drainage ditches, open or enclosed culverts, roof drains, yard or area drains, or any other source of storm or ground water.

“I & I” means infiltration and inflow collectively.

“Lateral inspection” means an inspection of a private sewer lateral that includes the retention of a licensed plumber by the owner to visually examine and inspect a lateral. The WWD may require the use of a closed-circuit television inspection device for the purpose of determining whether the lateral complies with the requirements of the HCC.

“Lower lateral” means that portion of any private sewer lateral beginning at the property line and running to the sewer main, including the connection itself.

“Non-sanitary sewer connection” means anything that directly or indirectly conveys storm water, surface water, roof runoff, intercepted groundwater or subsurface drainage into the sanitary sewer, including, but not limited to, down spouts, yard drains, sump pumps, or other sources of storm water, run-off or groundwater.

“Owner” means any person, partnership, association, corporation or fiduciary having legal title (or any partial interest) in any real property.

“Person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, government entity, or any other legal entity, and their legal representatives, agents, and successors and assigns.

“Private Sewer Lateral,” “Lateral,” or “Sewer Lateral” is hereby defined as a privately-owned sewer which conveys sewage from a building to the County’s collection system, including all pipes, fittings , and appurtenances, from the outer face of the building served to the connection into the County's sewer main, including the connection itself.

“Reinstallation charges” includes the cost of labor, materials, transportation, holiday pay, overtime pay, and all other incidental charges for reinstalling the water meter and turning on the water.

"Repair," also referenced as "Rehabilitation" or "Replacement," means restoration of the lateral in a manner that maintains adequate flow capacity to serve the property and eliminates defective conditions and non-sanitary sewer connections. The appropriate requirement of repair, rehabilitation, or replacement shall be determined by the WWD.

“Septage hauler” means individual or business registered with the State Department of Health to engage in the pumping and hauling of wastewater or wastewater sludge, or both, from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment/disposal system or collection system that receives wastewater.

“Sewer account holder” means the owner of the property or any other designated person(s) that the owner or landlord of the lot, parcel of land, building, or premises has designated to be billed for the sewer service, including any tenant(s).

“Sewer main” means a County owned pipeline designed and operated to collect sewage from private sewer laterals and collection systems for treatment and disposal.

“Shared lateral” means any portion of a private sewer lateral that serves more than one parcel.

“Tenant(s)” mean person(s) under oral or written contract with the owner or agent to temporarily occupy premises.

“WWD” means wastewater division of the department of environmental management.

“Wastewater” means any liquid waste, whether treated or not, and whether animal, mineral, or vegetable, including agricultural, industrial, and thermal wastes.

“Wastewater sludge” means any solid, semi-solid, or liquid residue removed during treatment of municipal wastewater or domestic sewage. Includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, portable toilet pumping, Type III marine sanitation device.

“Water account holder” means any person(s) designated to be billed by the Department of Water Supply for water service.

“Water service” means the delivery of water by the county Department of Water Supply.

RULE 17 Public Sewers17-1. Connection to Sewer Required.

- (a) Owners of all dwellings, buildings, or properties used for human occupancy or other purposes, which are accessible to a sewer are required at their expense to connect directly with the public sewer within 180 days after the date of official notice.
- (b) If a building cannot be practically served due to rock, wastewater collection system depth, or other construction problems, the owner shall install, operate, and maintain a residential pumping station at the owner's own expense. Such pumping station shall be privately owned and operated. The owner shall be responsible for acquiring all permits, including proper building permits, for the pumping station.
- (c) Request for extension of time to connect.
 - (1) To obtain a time extension of the 180 days to connect to an accessible sewer, owners shall file a written request to the director before the expiration of the 180 days. Such request shall contain all of the following:
 - (A) Documentation to support the reason for the extension;
 - (B) The amount of additional time required, not to exceed two (2) years;
 - (C) Identification of the property by tax map key and physical address;
 - (D) Documentation of authority to make such request, if not the owner; and
 - (E) Verification of intent and ability to connect within or by the requested time period.
 - (2) Based on the information provided, the director may deny the request or grant an extension not to exceed two (2) years.
 - (3) The director's decision may be appealed to the commission, pursuant to Chapter 21, HCC.

RULE 18 Permit to Connect or Disconnect

18-1. Connect or Disconnect. Connection or disconnection from the public sewer system requires completion and approval of a Permit To Perform Work On The Public Sewer System department form, along with a nonrefundable permit fee of \$150.

- (a) The connection permit may be issued only after a plumbing permit has been issued by the building division, department of public works.
- (b) Construction may begin only after the Permit To Perform Work On The Public Sewer System has been approved.

18-2. Inspections.

- (a) Inspection by the wastewater division is required prior to backfilling.
- (b) The permittee shall schedule inspections with the wastewater division at least 2 business days in advance.
- (c) If the work does not pass on first inspection, a fee of \$100 shall be charged for each subsequent inspection.
- (d) Backfilling prior to receiving a passing inspection by the wastewater division shall be a violation.

18-3. Administrative Fines. Anyone who violates this rule shall be subject to an initial fine of \$1,000 and daily fines of \$1,000 per day for each day the violation persists, pursuant to chapter 21, HCC.

RULE 19 Extensions

19-1. Application for Sewer Main Extensions.

- (a) Applicant shall complete all information requested on the department's Application For Sewer Main Extension or it shall be rejected by the department.
- (b) All sewer main extensions require a resolution which has been approved by the County Council.
- (c) Applicant shall be responsible for submitting a draft County Council resolution, along with supporting documents, to the WWD for review.
- (d) Upon the department's approval, the department shall submit the draft County Council resolution and supporting documents to the County Council for approval of the sewer main extension.

19-2. Payment of costs. For applicants who wish to receive reimbursement from the County after completion of a sewer main extension, applicants shall enter into a reimbursement agreement with the County.

RULE 20 *Reserved*

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RULE 21 Septage Haulers

21-1. Septage Hauler Discharge Permit Required. Septage haulers are required to have a valid permit in accordance with Chapter 21, HCC, and proof of registration with the State Department of Health (DOH) in accordance with Section 11-62-61 of the Hawai'i Administrative Rules, prior to discharging waste into the county sewer system.

- (a) Application. A department application for a septage hauler discharge permit shall be completed in full. Any incomplete application shall not be processed. The following documents shall be attached to and submitted with the application:
 - (1) Vehicle Registrations(s);
 - (2) Vehicle Insurance Card(s);
 - (3) Wastewater and Wastewater Sludge Pumpers and Haulers registration placard(s) issued by the State of Hawai'i Department of Health Wastewater Branch; and
 - (4) DCCA Certificate of Good Standing.
 - (5) Application fee of \$50
- (b) Discharge rates. Discharge rates are set by Chapter 21, HCC, and are subject to change. Septage haulers shall be notified in advance of any changes in rates or conditions.
- (c) Conditions of permit. All septage haulers/permittee and its personnel shall be subject to all permit conditions included on the Septage Hauler Discharge Permit Application & Conditions.
- (d) Suspension permit. Failure to comply with all permit conditions included on the Septage Hauler Discharge Permit Application & Conditions may result in suspension of the permit, and fines may be assessed in accordance with Chapter 21, HCC.
- (e) Discharges. Discharges into the county wastewater treatment system shall be made at the locations and times determined by the department. The county reserves the right to change discharge locations and discharge hours at any time.

RULE 22 Sewer Service Charges**22-1. Sewer Service Charges for Residential and Nonresidential Customers.**

- (a) Sewer service charges shall be assessed to nonresidential customers in accordance with Chapter 21, HCC.
- (b) Sewer service charges shall be assessed to residential customers in accordance with Chapter 21, HCC.

22-2. Billing of Charges; Payment; Late Penalty.

- (a) Sewer service charges shall be billed to residential and nonresidential customers in accordance with Chapter 21, HCC.
- (b) All sewer service charges shall be due and payable within thirty (30) days from the date of the bill. If any sewer service charge is not paid within thirty (30) days from the date of the bill, it shall be considered delinquent, and the water service shall be subject to discontinuation.
- (c) Interest at the rate of one percent per month shall be imposed upon the outstanding balance for all accounts that are past due.
- (d) Charges for sewer service shall be billed to the sewer account holder. The sewer account holder shall be the owner(s) of the property unless the property owner(s) request that the department bill a tenant or other designated individual. Such request shall be in writing and signed by all parties involved, including all property owners and the tenant or the designated individual. The property owner(s) and the tenant or designated individual shall be jointly and severally liable for the entire sewer service charge without further notice of any delinquency to the property owner(s).
- (e) Where a property owner(s) has requested that the department bill a tenant or a designated individual pursuant to paragraph (d), the director shall notify the property owner(s) if the tenant or designated individual's payment is past due; and the interest on the outstanding balance shall not commence until thirty (30) days after the department has sent such notice to the property owner(s) of the delinquency.

22-3. Discontinuation of Water Service for Nonpayment of Sewer Service Charges.

- (a) Water service may be discontinued for nonpayment of a sewer bill after written notice is provided to the customer. Prior to the proposed discontinuation of water service, the director shall give at least fifteen (15) calendar days' notice to the sewer account holder. If the sewer account holder

is a designated person other than the owner or landlord, the department shall also provide written notice to the owner or landlord that the water service may be discontinued for nonpayment of a sewer bill. When the water account holder is different from the sewer account holder, a notice of discontinuation of water service shall also be given to the water account holder. The director shall also notify the DWS of the proposed discontinuation of water service.

(b) The notice shall include:

- (1) The total amount owed to the county on the delinquent account;
- (2) The date by which the total amount owed to the county must be received in order to avoid water shut off. The due date shall not exceed fifteen (15) calendar days from the date of the notice;
- (3) That discontinuation of water service may occur after fifteen (15) calendar days if either payment is not received by the department for the total amount owed to the county, or if no payment plan has been made with the department for the total amount owed;
- (4) That the customer may contact the department to resolve the outstanding balance; and
- (5) The procedures to contest the decision to discontinue water service.

(c) Procedures to contest discontinuation of water service:

- (1) After notice of proposed discontinuation of water service has been delivered by the department, a customer may contest the proposed discontinuation of water service by scheduling a hearing or telephone conference with the department. The customer and/or the customer's representative shall attend the hearing or telephone conference.
- (2) Discontinuation of water service shall be stayed from the date the customer requests a hearing and shall be stayed pending any final resolution from any appeals.
- (3) At the hearing or conference, the customer shall have the right to submit evidence, present and cross-examine witnesses and bring in an interpreter or representative to aid in presenting the customer's case. The customer shall have the right to see the department's records concerning the customer's account, and the customer has the right to reasonable explanation by the department for any matter concerning the proposed discontinuation of water service.

- (4) The department personnel conducting the hearing or conference shall be empowered to correct any errors in the account and to take whatever remedial action is necessary.
 - (5) The department personnel conducting the hearing or conference shall issue a final written decision within five (5) business days of the hearing or conference. The final written decision shall include findings of fact and conclusions of law to support the decision, shall state the customer's right to appeal, and shall be signed by the director.
 - (6) If the customer is dissatisfied with the decision by the director, the customer shall have the right to appeal the decision to the Commission in accordance with Hawai'i County Environmental Management Commission Rules of Practice and Procedure, Part 7 Appeals, and Chapter 91 of the Hawai'i Revised Statutes, as amended.
- (d) If, after the fifteenth calendar day from the date of the notice, the customer does not pay the amount delinquent and owed to the county, does not arrange an approved payment plan, or does not contest the proposed discontinuation of water service, water service shall be discontinued. If, prior to the discontinuation of the water service, the customer pays the total amount owed to the county on the delinquent account, the water service shall continue.

22-4. Restoration of Water Services. Water service shall not be resumed until the delinquent sewer account against the customer has been paid or until the customer has entered into and signed an approved payment plan. In addition, all DWS requirements for restoration of water service must be met, including reinstallation charges (in accordance with DWS Rules and Regulations).

SEVERABILITY

In the event any portion of these rules is declared invalid, such invalidity shall not affect other parts of these rules.

Dated this XXth day of MONTH, 2023.

RAMZI I. MANSOUR, Director
Department of Environmental Management

DATE OF PUBLIC HEARINGS: April 10, 2023
April 11, 2023

APPROVED:

MITCHELL D. ROTH or LEE E. LORD
Mayor or Managing Director

Date: _____

APPROVED AS TO FORM AND LEGALITY

SHERILYN K. TAVARES
Deputy Corporation Counsel

Date: _____

I hereby certify that the forgoing rules were received and filed in my office this ____ day of _____, 2023.

COUNTY CLERK