

CHAPTER 6

BUSINESSES

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CHAPTER 6**BUSINESSES****Article 1. Cemeteries.****Section 6-1. Prohibition.**

No cemetery shall be established, nor shall the area of any existing cemetery be enlarged or extended without the approval of the council, evidenced by a resolution. (1983 CC, c 6, art 1, sec 6-1.)

Section 6-2. Application.

(a) Any person requesting that the council pass a resolution establishing, enlarging or extending a cemetery shall submit with the person's application:

- (1) A certificate of approval by the State department of health of the proposed cemetery site or extension as evidence of compliance with its regulations.
- (2) A complete description of the land included within the proposed cemetery site or extension.
- (3) A map or plan showing the proposed project.
- (4) Evidence of approval relative to noncontamination of water services by the department of water supply.
- (5) A deposit of \$100 to cover cost of publication of notices and other expenses that may be incurred in connection with the application.
- (6) An abstract or certificate of title of the proposed cemetery site or extension.

(1983 CC, c 6, art 1, sec 6-2.)

Section 6-3. Referral to planning commission.

Before final action is taken by the council, the application and related maps and documents will be referred to either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The designated planning commission, or joint commission, shall:

- (1) Study the proposed project in relation to any zoning ordinances, statutes, general plan, and policies and rules and regulations of the planning commission.
- (2) Conduct a public hearing on the application, pursuant to provisions governing public hearings under this Code.
- (3) Submit its recommendation to the council.

(1983 CC, c 6, art 1, sec 6-3; am 2009, ord 09-118, sec 13.)

Section 6-4. Other requirements.

No cemetery shall be located on land which is not owned in fee simple. The section of a proposed location which is set aside for interment shall be free of any financial encumbrance. After the approval of a proposed location, it shall be unlawful to encumber any section thereof which is set aside for interment. Lands which are transferred to the County by State executive order for the establishment, enlargement, or extension of any cemetery shall be exempt from the conditions of this section. (1983 CC, c 6, art 1, sec 6-4.)

Section 6-5. Penalty.

Any person convicted of violating sections 6-1 and 6-4 of this article shall be punished by a fine not exceeding \$500. (1983 CC, c 6, art 1, sec 6-5.)

Section 6-6. County plots; fee; dimensions.

For each County owned cemetery plot sold at the Alae Cemetery, the director of the department of parks and recreation of the County shall collect a fee established by duly promulgated rules of the department, exclusive of the cost of digging and covering the plot. Each cemetery plot shall not exceed nine feet in length and four feet in width. (1983 CC, c 6, art 1, sec 6-6; am 1996, ord 96-22, sec 2.)

Section 6-7. Cemetery fund.

The moneys collected under section 6-6 shall be deposited with the County finance director in a cemetery fund. All moneys deposited in the cemetery fund shall be expended for the improvement, maintenance, and upkeep of Alae Cemetery. (1983 CC, c 6, art 1, sec 6-7.)

Article 2. Commercial Bicycle Tours.**Section 6-8. [Former] Repealed.**

(1983 CC, c 6, art 2, sec 6-8; rep 2023, ord 23-29, sec 1.)

Section 6-8. Definitions.

As used in this article, unless the context clearly requires otherwise:

“Bicycle” means the same as defined in Chapter 291C-1, Hawaii Revised Statutes.

“Business” means the same as defined in Chapter 1 of this Code.

“Commercial bicycle tour” means a tour comprised of a group of persons traveling from place to place on bicycles for pleasure, recreation, and sightseeing, and is operated by a bicycle tour business. “Commercial bicycle tour” shall include guided bicycle tours and unguided bicycle tours.

“Guided bicycle tour” means a commercial bicycle tour that is accompanied or led by the owner, an employee, or an agent of the bicycle tour business providing the bicycle tour for the duration of the tour.

“Public highway” means the same as defined in Chapter 264, Hawai‘i Revised Statutes.

“Unguided bicycle tour” means a commercial bicycle tour that is not accompanied or led by the owner, an employee, or an agent of the bicycle tour business throughout the ride, and in which transportation to or from the route is provided or arranged by the bicycle tour business.

(2024, ord 24-51, sec 2.)

Section 6-9. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-9; rep 2023, ord 23-29, sec 1.)

Section 6-9. Applicability.

This article shall apply to all commercial bicycle tours on any public highway, or any designated portion thereof.

(2024, ord 24-51, sec 2.)

Section 6-10. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-10; rep 2023, ord 23-29, sec 1.)

Section 6-10. Annual registration.

- (a) Prior to the first day of each January, any business or person operating a commercial bicycle tour in the County shall register or renew annually with the director of finance, which registration shall be made in such form as prescribed by the director of finance and shall include:
- (1) The name, business address, mailing address, phone number, and e-mail of the registrant;
 - (2) The name and contact information of any representatives authorized to act on behalf of the registrant;
 - (3) Locations, areas, and routes to be utilized for bicycle tours, tour schedule, and the maximum number of participants per tour group;
 - (4) Written and notarized permission from any property owner whose property the commercial bicycle tour traverses; and
 - (5) A description of all moveable structures, including trailers or mobile containers, used in conjunction with the bicycle tour business.
- (b) A registration fee shall accompany the annual registration, which shall be \$500 for the initial registration and \$250 for each annual renewal. Failure to register shall incur a fine of \$1,000.

(2024, ord 24-51, sec 2.)

Section 6-11. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-11; rep 2023, ord 23-29, sec 1.)

Section 6-11. Authority to restrict.

- (a) The council may by ordinance prohibit commercial bicycle tours on designated portions of public highways due to substandard road conditions.
- (b) Prior to taking final action on any such ordinance, the council shall request the respective recommendations of the chief of police, the director of public works, and other public officials deemed appropriate as to whether the operation of commercial bicycle tours on the affected highways, or portions thereof, should be prohibited. The chief of police and director of public works shall provide their respective recommendation within forty-five days of the request by the council.
- (c) With respect to any prohibition considered by the council, conditions considered substandard for non-vehicle use may include unpaved gravel road surfaces, narrow travel-lane pavement widths, lack of or insufficient shoulder areas, limited lines of sight, one-lane bridges, steep roadway grades, and any other condition deemed unsafe by the director of public works.

(2024, ord 24-51, sec 2.)

Section 6-12. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-12; rep 2023, ord 23-29, sec 1.)

Section 6-12. Prohibited highways for commercial bicycle tours.

In accordance with section 6-11 and when signs are erected giving notice thereof, commercial bicycle tours shall not operate on the following public highways:

(a) Hāmākua
(b) North Hilo
(c) South Hilo
(d) Ka‘ū
(e) Kohala
<ul style="list-style-type: none"> • Akoni Pule Highway, from the twenty-five mile marker to its terminus at Pololū Valley Lookout. • Kohala Mountain Road, from the junction with Route 250 and Route 19, to the intersection of Route 250 and Hāwī Road.
(f) Kona
(g) Puna

(2024, ord 24-51, sec 2; ord 24-98, sec 1.)

Section 6-13. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-13; rep 2023, ord 23-29, sec 1.)

Section 6-13. Penalties.

Any bicycle tour business that operates a commercial bicycle tour on a prohibited highway shall be subject to:

- (1) A fine of not more than \$500 for the first offense; and
- (2) A fine of not less than \$1,000 per bicycle for the second or subsequent offense committed within one year of the date of the first offense.

(2024, ord 24-51, sec 2.)

Section 6-14. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-14; rep 2023, ord 23-29, sec 1.)

Section 6-14. Disposition of funds.

All monies collected under this article shall be deposited into the general fund and used exclusively for supporting bicycle and pedestrian safety education.

(2024, ord 24-51, sec 2.)

Section 6-15. [Former] Repealed.

(1983 CC, c 6, art 2, sec 6-15; rep 2023, ord 23-29, sec 1.)

Section 6-15. Administrative rules.

The director of finance may adopt administrative rules pursuant to chapter 91, Hawai'i Revised Statutes, as may be necessary to implement this article.

(2024, ord 24-51, sec 2.)

Section 6-16. Repealed.

(1983 CC, c 6, art 2, sec 6-16; rep 2023, ord 23-29, sec 1.)

Section 6-17. Repealed.

(1983 CC, c 6, art 2, sec 6-17; rep 2023, ord 23-29, sec 1.)

Section 6-18. Repealed.

(1983 CC, c 6, art 2, sec 6-18; rep 2023, ord 23-29, sec 1.)

Section 6-19. Repealed.

(1983 CC, c 6, art 2, sec 6-19; rep 2023, ord 23-29, sec 1.)

Section 6-20. Repealed.

(1983 CC, c 6, art 2, sec 6-20; rep 2023, ord 23-29, sec 1.)

Section 6-21. Repealed.

(1983 CC, c 6, art 2, sec 6-21; rep 2023, ord 23-29, sec 1.)

Section 6-22. Repealed.

(1983 CC, c 6, art 2, sec 6-22; rep 2023, ord 23-29, sec 1.)

Section 6-23. Repealed.

(1983 CC, c 6, art 2, sec 6-23; rep 2023, ord 23-29, sec 1.)

Section 6-24. Repealed.

(1983 CC, c 6, art 2, sec 6-24; rep 2023, ord 23-29, sec 1.)

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Article 3. Mobile Homes.**Section 6-25. Definitions.**

- (1) "Mobile home" means any vehicle or similar portable structure having no foundation other than wheels, jacks or blocks and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.
- (2) "Mobile home park" means any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.
- (3) "Persons" means any natural individual, firm, trust, partnership, association or corporation.

(1983 CC, c 6, art 3, sec 6-25.)

Section 6-26. License.

It shall be unlawful for any person to maintain or operate a mobile home park within the County, unless such person first obtains a license.

(1983 CC, c 6, art 3, sec 6-26.)

Section 6-27. License application; initial; transfer.

- (a) Application for an initial mobile home park license shall be filed with and issued by either the windward or leeward planning commission, or both acting jointly, as provided in the Charter. The application shall be in writing, signed by the applicant and shall include the following:
 - (1) The name and address of the applicant;
 - (2) The location and legal description of the mobile home park; and
 - (3) Such further information as may be requested by the designated planning commission, or joint commission, to enable it to determine if the proposed park will be compatible with existing and proposed land uses and complies with all legal requirements.
- (b) If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this article and all other applicable statutes, ordinances, and regulations, the designated planning commission, or joint commission, may approve the application, and upon completion of the park according to the plans shall issue the license. A ruling by the joint commission shall require the affirmative vote of a majority of the combined membership of both commissions.
- (c) Upon application in writing for transfer of a license, the designated planning commission, or joint commission, shall issue a transfer if the transferee is of good moral character.

(1983 CC, c 6, art 3, sec 6-27; am 2009, ord 09-118, sec 14.)

Section 6-28. Conformity with other laws.

All mobile homes shall conform to the County building code, and the public health housing code (chapter 2 of the State public health regulations),* except:

- (1) When parked in a licensed mobile home park;
- (2) When occupied for dwelling or sleeping purposes outside of a licensed mobile home park for less than thirty days in any one location.

(1983 CC, c 6, art 3, sec 6-28.)

* **Editor's Note:** The public health regulations of the department of health relating to housing were repealed.

Article 4. Miscellaneous Business Licenses.**Section 6-29. County business licenses.**

The director of finance shall issue County licenses to businesses as required by chapter 445, Hawai'i Revised Statutes, as amended, except as provided in section 6-30 of this article.

(1989, ord 89-41, sec 2.)

Section 6-30. Elimination of business licenses.

The following businesses are not required to obtain an annual County license or to pay an annual County license fee:

- (1) The sale of beef or pork.
- (2) The manufacture of food products.
- (3) The operation of a laundry.
- (4) The keeping of a lodging or tenement house, hotel, boarding house or restaurant.
- (5) The production, processing or preparation of milk.
- (6) The sale of tobacco, cigars, and cigarettes.
- (7) The carrying of freight and baggage.
- (8) The carrying of passengers.

(1989, ord 89-41, sec 2.)

Article 5. Licensing of Auctioneers.**Section 6-31. Purpose.**

The purpose of this article is to provide for a licensing mechanism for auctioneers which was eliminated by Act 232 of the 1992 State Legislature, but which is still required in the Federal Bankruptcy Court.

(1995, ord 95-140, sec 1.)

Section 6-32. Definitions.

"Auction" means a sale, offering for sale or exposing for sale to the highest bidder of any goods, wares, merchandise or other personal property in an auction room.

“Auctioneer” means any person who is licensed by the director pursuant to chapter 445, Hawaii Revised Statutes, and this article to sell goods, wares, merchandise or other personal or real property at auction.

“Director” means the director of finance of the County of Hawaii or the director’s duly authorized subordinate(s).

(1995, ord 95-140, sec 1.)

Section 6-33. Exceptions.

- (a) Nothing contained in this article shall be construed to apply to any type of auction which is exempt from the requirements of section 445-22, Hawaii Revised Statutes.
- (b) Auctions conducted by nonprofit organizations for charitable purposes shall also be exempt from the provisions of this Article.

(1995, ord 95-140, sec 1.)

Section 6-34. Applicability.

It shall be unlawful for any person to sell, offer for sale or expose for sale at public auction any personal property without obtaining a license issued by the director in accordance with the terms, conditions and penalties enumerated in chapter 445, Hawaii Revised Statutes and this article.

(1995, ord 95-140, sec 1.)

Section 6-35. Fee.

The annual fee for a license to sell, offer for sale or expose for sale any property at auction shall be \$100, payable to the County of Hawaii, department of finance.

(1995, ord 95-140, sec 1.)

Section 6-36. Authority to conduct auctions.

- (a) It is unlawful for any person, other than an auctioneer who has obtained a license, to conduct an auction, provided that the auctioneer may appoint an agent or assistant who may conduct the auction in the auctioneer’s presence. Where the licensee is a corporation, it shall appoint and designate a person to be its “auctioneer” within the meaning of this article.
- (b) The auctioneer, its agent or assistant or if a corporation shall post a copy of the license and bond, if required, in a conspicuous place that is visible and accessible to any interested persons at the time of the auction.

(1995, ord 95-140, sec 1.)

Section 6-37. Adverse interest of auctioneer prohibited.

Every auctioneer conducting an auction shall, in accepting a bid from any person, become the agent of such bidder and remain so until a higher bid is accepted or until the transaction involving the bid is completed. The auctioneer must disclose publicly to all prospective buyers any proprietary interest that the auctioneer has in any personal or real property to be sold at the auction.

(1995, ord 95-140, sec 1.)

Section 6-38. Receipts to purchasers required.

The auctioneer shall give each purchaser at an auction a receipt with each purchase setting forth:

- (a) The name and permanent address of the auctioneer.
- (b) The date.
- (c) The price paid for the article.
- (d) The amount of tax paid.
- (e) A description of the article.

(1995, ord 95-140, sec 1.)

Section 6-39. Violation - penalty.

Any person violating any provision of this article shall, upon conviction, be punished by a fine not exceeding \$500, and such person's license to conduct a public auction shall be subject to suspension or forfeitures.

(1995, ord 95-140, sec 1.)

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