NOTICE OF DIRECTOR OF FINANCE, COUNTY OF HAWAIʻI DECISION ON RULEMAKING FROM JULY 18, 2024 PUBLIC HEARING

OCTOBER 15, 2024

NOTICE IS HEREBY provided of the Director of Finance's decision on rulemaking following the July 18, 2024 Public Hearing. The Director of Finance held a duly noticed public hearing and received written and oral testimony on proposed rulemaking relating to the Purchasing Division and the Real Property Tax Division; specifically, the following rules were considered at the July 18, 2024 Public Hearing:

- Adopt Amendments to Rule 4, relating to the County's purchase of materials, supplies, equipment and services (AMENDMENTS ADOPTED JULY 18, 2024);
- Repeal, in its entirety, Rule 31, relating to commercial agricultural use dedication under chapter 19, article 8, section 19-60, of the Hawaiʻi County Code 1983 (2016 edition, as amended);
- Adopt a new Rule 31A, relating to long-term commercial agricultural use dedication under chapter 19, article 8, section 19-60, of the Hawaiʻi County Code 1983 (2016 edition, as amended);
- Adopt a new Rule 31B, relating to short-term commercial agricultural use dedication under chapter 19, article 8, section 19-61, of the Hawaiʻi County Code 1983 (2016 edition, as amended);
- Adopt amendments to Rule 32, relating to dedication of lands in urban districts for landscaping, open spaces, public recreation and other similar uses under chapter 19, article 10, section 19-80, of the Hawaiʻi County Code 1983 (2016 edition, as amended) (AMENDMENTS ADOPTED AUGUST 15, 2024);
- Repeal, in its entirety, Rule 33, relating to dedication of residential properties to nonspeculative residential use under article 7, chapter 19, section 19-58.1, of the Hawaiʻi County Code 1983 (2016 edition, as amended) (REPEAL ADOPTED AUGUST 15, 2024);
- Adopt amendments to Rule 34, including a sunset date of June 30, 2028, relating to nondedicated agricultural use assessment under chapter 19, article 7, section 19-57, of the Hawaiʻi County Code 1983 (2016 edition, as amended); and
- Adopt a new Rule 34A, relating to community food sustainability use assessment under chapter 19, article 7, section 19-57.1, of the Hawaiʻi County Code 1983 (2016 edition, as amended).

At the completion of the July 18, 2024 public hearing, the Director of Finance orally adopted the proposed changes to Rule 4. A copy of the final Rule 4 may be found on the Department of Finance website at https://www.hawaiicounty.gov/departments/finance/finance-director-rules.

On August 15, 2024, the Director of Finance adopted the proposed amendments to Rule 32 and the proposed repeal of Rule 33. The August 15, 2024 Notice provided that additional time was needed to consider the numerous oral and written testimony submitted on Rules 31, 31A, 31B, 34, and 34A. In addition, on September 17, 2024, the Hawai'i County Council adopted Bill 188 (Ordinance No. 24-72) and Bill 189 (Ordinance No. 24-73), which affected the rules as drafted. Ordinances 24-72 and 24-73 became effective as law on October 2, 2024.

Accordingly, as to the remaining Rules 31, 31A, 31B, 34, and 34A, pursuant to HRS Section 91-3(a)(2), the Director of Finance hereby **repeals**, in its entirety, Rule 31, as proposed in the draft rules. The Director of Finance hereby **adopts** the new Rule 31A, Rule 31B, and Rule 34A, as proposed in the draft rules, with the additional changes italicized and underlined, which changes are summarized below. The Director of Finance hereby **adopts** the amendments to Rule 34, as proposed in the draft rules, with the additional changes italicized and underlined, which changes are summarized below:

- Rule 31A: Bill 189 (Ord. No. 24-73) changed the definition of Diversified Agriculture by broadening its meaning to cover any agricultural activity. The definition in Rule 31A.2 was accordingly changed to "a blend of *agricultural activities* while transitioning from one category to the other during the term of the dedication *or on a continuous and regular basis*." Rule 31A.3(C)(5) was accordingly changed to "Diversified agriculture, which includes a blend of *agricultural activities*." In addition, at the July 18, 2024 public hearing, public comments received sought a decrease in the minimum lot size schedule. Accordingly, Rule 31A.3(D) minimum lot size schedule was changed, showing the decreased sizes for Feed Crops or Fast Rotation Forestry (*2.5 acres*) and Pasture or Slow Rotation Forestry (*5.0 acres*). Lastly, public comments received sought that notice be provided when conducting site inspections. In response, Rule 31A.3(K) was changed to allow for prior notice to be provided so long as the applicant requests such prior notice: "Submittal of an application by the owner or lessee shall constitute an acknowledgement that site visit inspections may be performed without prior notice, *unless the application requests that the real property tax office provide prior notification of the site inspection. In the event the application requests such prior notice, the real property tax office will make reasonable efforts to contact the applicant, which may include but is not limited to telephone calls or email*."

- Rule 31B: Bill 189 (Ord. No. 24-73) changed the definition of Diversified Agriculture by broadening its meaning to cover any agricultural activity. The definition in Rule 31B.2 was accordingly changed to "a blend of *agricultural activities* while transitioning from one category to the other during the term of the dedication *or on a continuous and regular basis*." Rule 31B.3(C)(5) was accordingly changed to "Diversified agriculture, which includes a blend of *agricultural activities*." In addition, at the July 18, 2024 public hearing, public comments received sought a decrease in the minimum lot size schedule. Accordingly, Rule 31B.3(D) minimum lot size schedule was changed, showing the decreased sizes for Feed Crops or Fast Rotation Forestry (*2.5 acres*) and Pasture or Slow Rotation Forestry (*5.0 acres*). In addition, Bill 189 removed the three consecutive threeyear term cap for the short-term commercial agricultural use program. Rule 31B.3(H) removes this cap. Lastly, public comments received sought that notice be provided when conducting site inspections. In response, Rule 31B.3(K) was changed to allow for prior notice to be provided so long as the applicant requests such prior notice: "Submittal of an application by the owner or lessee shall constitute an acknowledgement that site visit inspections may be performed without prior notice, *unless the application requests that the real property tax office provide prior notification of the site inspection. In the event the application requests such prior notice, the real property tax office will make reasonable efforts to contact the applicant, which may include but is not limited to telephone calls or email*."

- Rule 34: Bill 188 (Ord. No. 24-72) changed the sunset date of the nondedicated agricultural use assessment program from January 1, 2028, to January 1, 2029. The added language in Rule 34.10 clarifies that the sunset date is now "*January 1, 2029 (however, the tax benefit shall end on June 30, 2029)*."

- Rule 34A: Bill 189 (Ord. No. 24-73) changed the definition of Community Food Sustainability Use Assessment by broadening its meaning to add that pasture for food production is a recognized agricultural activity. The definition in Rule 34A.2 was accordingly changed to include "*pasture for food production*" as a defined agricultural activity. Bill 189 (Ord. No. 24-73) also changed the definition of Diversified Agriculture by broadening its meaning to cover any agricultural activity. The definition of Diversified Agriculture in Rule 34A.2 was accordingly changed to "a blend of *agricultural activities* while transitioning from one category to the other during the term of the dedication *or on a continuous and regular basis*." Rule 34A.3(C)(3) was also changed to "Diversified agriculture, which includes a blend of *agricultural activities*." Lastly, public comments received sought that notice be provided when conducting site inspections. In response, Rule 34A.3(J) was changed to allow for prior notice to be provided so long as the applicant requests such prior notice: "Submittal of an application by the owner or lessee shall constitute an acknowledgement that site visit inspections may be performed without prior notice, *unless the application requests that the real property tax office provide prior notification of the site inspection. In the event the application requests such prior notice, the real property tax office will make reasonable efforts to contact the applicant, which may include but is not limited to telephone calls or email*."

Rules 31, 31A, 31B, 34, and 34A, as adopted, are posted on the Department of Finance website at https://www.hawaiicounty.gov/departments/finance/finance-director-rules, the Real Property Tax Division website at www.hawaiipropertytax.com, and may be found below this Notice.

Duly Submitted:

FINANCE DEPARTMENT
By: Diane Nakagawa, Director
October 15, 2024