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CHAPTER 20
REFUSE
(Rep 2020, ord 20-86, sec 10.)

CHAPTER 20
INTEGRATED SOLID WASTE MANAGEMENT

Article 1. General Provisions.

Section 20-01-01. Title and purpose.

- (a) The provisions of this chapter, inclusive of any amendments, shall be known as the integrated solid waste management code.
- (b) Purpose. The purpose of this chapter is to protect the environment through the management and operation of all solid waste programs and facilities of the County. (2020, ord 20-86, sec 3.)

Section 20-01-02. Severability.

If any portion of this chapter, or its application to any person or circumstance, shall be held unconstitutional or invalid because it violates any provision of the County Charter or for any other reason, the remainder of the chapter and the application of such portion to other persons or circumstances shall not be affected thereby. (2020, ord 20-86, sec 3.)

Section 20-01-03. Definitions.

As used in this chapter:

“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.

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

“Commission” means the environmental management commission of the County.

“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 or similar ASTM recognized certifier.

“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 users” 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.

“Customer” means a person obtaining prepared food from a food provider.

“Department” means the department of environmental management.

“Derelict vehicle” means the definition in chapter 290-8, Hawaii Revised Statutes.

“Director” means the director of the department of environmental management, or the director’s authorized 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, and excludes 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.

“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, nonprofit 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.

“Integrated solid waste management” (ISWM) means environmentally and economically sound, systematic approach to solid waste handling that combines source reduction, reuse, recycling, composting, energy recovery, collection, transfer, transport and disposal in sanitary landfills, or other solid waste disposal and processing facilities in order to conserve and recover resources and dispose of solid waste in a manner that protects human health and the environment.

“Materials” means solid waste, recyclables, reusable materials, household hazardous waste, greenwaste, or similar items managed by SWD.

“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 or compostable plastic and 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.

“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, 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 sludges in containers one gallon or larger unless mixed with a bulking agent so that it solidifies; and hazardous wastes as defined in 40 Code of Federal Regulations parts 257, 258 and 261 or the State’s statutes or rules, whichever is more stringent.

“Public highway” means all roads, highways, alleys, streets, ways, lanes, bikeways, and bridges open to the use of the public for purposes of vehicular travel that is acquired or built by the government.

“Public property” means all real property owned by the County, State, 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.

“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.

“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.

“Solid waste management” means planned and organized handling of solid waste and recyclable materials in an environmentally and economically sound manner, encompassing the generation, storage, collection, transfer, transportation, processing, resource recovery, reuse, and disposal of solid waste and recyclable materials and including all administrative, financial, educational, environmental, legal, planning, marketing and operational aspects thereof.

“State” means the State of Hawai‘i.

“SWD” means the Solid Waste Division of the Department of Environmental Management.

“SWD facility” means a County facility for the management of materials the County is legally permitted to accept pursuant to State law.

(2020, ord 20-86, sec 3.)

Article 2. Administration and Enforcement.

Division 1. Administration.

Section 20-02-01. Jurisdiction.

Unless otherwise provided for by law, the department shall have jurisdiction over and administer all matters covered by this chapter.

(2020, ord 20-86, sec 3.)

Section 20-02-02. Adoption of rules.

The department may adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this chapter.

(2020, ord 20-86, sec 3.)

Division 2. Enforcement.

Section 20-02-21. General provisions.

Failure to comply with any provision of this chapter, or any rule adopted pursuant to this chapter, or with conditions imposed as part of any permit issued pursuant to this chapter, shall constitute a violation of this chapter.

(2020, ord 20-86, sec 3.)

Section 20-02-22. Administrative enforcement.

(a) If the director determines that any person has violated or is violating any provision of this chapter or department rules, the director shall serve a notice of violation and order upon the parties responsible for the violation, which shall include the following:

- (1) Date of the notice;

- (2) Name and address of the person noticed;
 - (3) Section number of the code or rule which has been violated;
 - (4) Date, time, location, and nature of the violation;
 - (5) Deadline to correct the violation;
 - (6) To pay a civil fine not to exceed \$1,000 in the manner, place and deadline specified in the order;
 - (7) To pay a civil fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner, time, place and deadline specified in the order;
 - (8) Any other consequence as determined by the director, including but not limited to, suspension or revocation of a permit; and
 - (9) The order shall advise the party responsible for the violation that the order shall become final thirty calendar days after the date of its delivery. The order shall also advise that the party responsible may request a meeting with the director prior to the end of the thirty calendar days and that the director's final written decision may be appealed to the commission within fifteen calendar days from the date of the director's final written decision.
- (b) Service. Proper service of such notice of violation and order shall be by personal service, registered mail, or certified mail upon the responsible party or parties, provided, that if such notice of violation and order is by registered mail or certified mail, the designated period within which the responsible party or parties is required to comply with the order shall begin as of the date the responsible party or parties in charge receives such notice.
- (c) Effect of Order; Right to Appeal. The provisions of the order issued by the director under this section shall become final thirty calendar days after the date of the delivery of the order, unless appealed. The party or parties responsible for the violation may request a meeting with the director, prior to the end of the thirty calendar days. Any final written decision by the director may be appealed to the commission within fifteen days from the date of the final written decision. However, an appeal to the commission shall not stay any provision of the order.
- (d) Judicial Enforcement of Order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any notice of violation and order issued pursuant to this section, including seeking a temporary, preliminary, or permanent injunction. Where a civil action has been instituted to enforce the civil fine imposed by an order, the director need only show that the notice of violation and order was served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid.
- (2020, ord 20-86, sec 3.)

Section 20-02-23. Criminal Enforcement.

Any person convicted of violating any of the provisions of this chapter shall be guilty of a petty misdemeanor and shall be punished by a fine not to exceed \$1,000 and/or imprisonment up to thirty days and shall be adjudged to pay all costs of the proceedings. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance.

(2020, ord 20-86, sec 3.)

Article 3. Disposal Requirements.**Section 20-03-01. Disposal of solid waste.**

Every owner or occupant of any residence or business or premises within the County shall dispose of solid waste in a County approved SWD facility in accordance with department rules.

(2020, ord 20-86, sec 3.)

Section 20-03-02. Permit required for solid waste disposal.

- (a) Every business, government agency, religious entity or nonprofit organization shall first obtain a disposal permit issued by the director and make payment of the permit fee as required before disposing of solid waste at any SWD facility.
- (b) An application for a disposal permit shall be submitted to the director on a form furnished by the department.
- (c) The director may suspend or revoke a disposal permit, in accordance with department rules, for the following reasons:
 - (1) Failure to pay any disposal charges or special handling fees when due.
 - (2) Failure to comply with the provisions of this chapter.
 - (3) Failure to comply with disposal procedures and/or conditions established by the department.

(2020, ord 20-86, sec 3.)

Section 20-03-03. Repealed.

(2020, ord 20-86, sec 3; rep 2022, ord 22-104, sec 1.)

Section 20-03-04. Salvage of solid waste restricted.

Any material delivered or deposited at a SWD facility shall become the property of the County. No person shall separate, collect, carry off, or dispose any article from any County SWD facility unless authorized to do so by the director.
(2020, ord 20-86, sec 3.)

Section 20-03-05. Unauthorized persons entering SWD facilities.

Any unauthorized person entering into a SWD facility during nonworking hours or for purposes other than that permitted in this chapter shall be considered to be a trespasser and shall be subject to the penalties of this chapter.
(2020, ord 20-86, sec 3.)

Article 4. Solid Waste Fees.**Section 20-04-01. Disposal fees.**

- (a) Any solid waste, except for prohibited materials, disposed of by a business, government agency, religious entity, nonprofit organization or private citizen to a SWD facility shall be charged at rates as set forth in department rules.
- (b) The mayor, with the approval of the council, may temporarily rescind the solid waste disposal fees for a specified period.
- (c) The mayor may waive solid waste disposal fees when it is in the best interest of the County. Fees may be waived for one-time events for community organizations, nonprofit organizations, or private property owners who are remediating illegal dump sites which were not of their creation. The mayor will give notice to the council when tip fees are waived.

(2020, ord 20-86, sec 3.)

Section 20-04-02. Collection of fees.

- (a) All disposal fees shall be collected by the department and due at the time of disposal, unless a net thirty account has been established with the department.
- (b) A finance charge shall be charged to all net thirty accounts on all balances which are past due. In addition to this, access to County SWD facilities may be denied until the account is current.

(2020, ord 20-86, sec 3.)

Section 20-04-03. Solid waste fund designation.

- (a) There is hereby created and established a special fund to be known as the “Solid Waste Fund.”
 - (b) All funds received from the collection of fees authorized by this chapter shall be deposited with the director of finance and shall be accounted for and expended for the purpose of operating, maintaining, and administering the County’s solid waste management, collection, and disposal systems.
- (2020, ord 20-86, sec 3.)

Section 20-04-04. Fee schedule.

Fees for management of materials entering into a SWD facility and any State solid waste surcharge shall be established by the department pursuant to department rules.

(2020, ord 20-86, sec 3.)

Article 5. Polystyrene Foam Food Container and Food Service Ware Reduction.**Section 20-05-01. Prohibition.**

Food providers and County facility users are prohibited from providing food in disposable food service ware that is made from polystyrene foam.

(2020, ord 20-86, sec 3.)

Section 20-05-02. Use of recyclable or compostable food service ware required.

- (a) All food vendors using any disposable food service ware shall use a suitable recyclable or compostable product.
 - (b) All County facility users shall use a suitable recyclable or compostable product for disposable food service ware.
- (2020, ord 20-86, sec 3.)

Section 20-05-03. Exemptions.

- (a) The following are exempt from the provisions of this article:
 - (1) Foods packaged outside the limits of the County of Hawai‘i;
 - (2) Coolers and ice chests that are intended for reuse; and
 - (3) Food packaging for raw: meat; poultry; seafood; and eggs that have not been further processed.
- (b) County facility users and food vendors.
 - (1) The director may exempt a food vendor or County facility user from the provisions of this article, in a situation where compliance with the terms of this article would result in undue hardship. The exemption shall be in place for a period of time not to exceed one hundred eighty days.
 - (2) Undue hardship includes, but is not limited to, situations unique to the food vendor or County facility user that generally do not apply to other persons in similar circumstances.

- (3) Food vendors and County facility users seeking an exemption from the requirements of this article shall provide all required information on an application for exemption, including but not limited to, documentation supporting the applicant's claim that compliance with this article will result in undue hardship.
 - (4) The director may approve or deny an exemption request in whole or in part. Applicants may appeal the director's decision to the commission.
 - (5) All exemptions shall be promptly posted on the County website for the department of environmental management as a notice of temporary exemption.
- (c) Emergency supplies or services procurement.
The mayor may exempt County facility users and food vendors from the provisions of this article, 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 be 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.
(2020, ord 20-86, sec 3.)

Article 6. Plastic Bag Reduction.

Section 20-06-01. Purpose.

The purpose of this article is to reduce the use of plastic bags and to encourage the use of environmentally preferable alternatives, such as reusable cloth or paper bags.
(2020, ord 20-86, sec 3.)

Section 20-06-02. Plastic checkout bags prohibited.

Businesses shall not provide plastic checkout bags to their customers.
(2020, ord 20-86, sec 3.)

Section 20-06-03. Exemptions.

Organizations classified under Section 501(c)(3) of the United States Internal Revenue Code are exempt from the provisions of this article.
(2020, ord 20-86, sec 3.)

Article 7. Disposal of Vehicles and Similar Materials.**Division 1. Abandoned and Derelict Vehicles.****Section 20-07-01. Disposition of abandoned or derelict vehicles.**

- (a) No person shall leave, abandon, or place any wrecked or nonoperational automobile or construction equipment or part or portion of a wrecked or nonoperational automobile or construction equipment, or scrap iron, or other similar material, upon any part of a public highway, public property, or private property of another.
 - (b) The department shall take into custody and dispose of abandoned or derelict vehicles in accordance with chapter 290, Hawai'i Revised Statutes.
 - (c) The removal of abandoned or derelict vehicles shall be subject to the following:
 - (1) The department shall only remove abandoned or derelict vehicles that are located on or within ten feet from the edge of any public or private road;
 - (2) The department shall not remove abandoned or derelict vehicles from any area if the director determines that the area is unsafe for a tow truck to traverse;
 - (3) A notice shall be affixed to an abandoned or derelict vehicle stating that the vehicle must be moved beyond a radius of one mile from its location within twenty-four hours of the notice being affixed;
 - (4) If an abandoned or derelict vehicle has not moved beyond a radius of one mile from its location within twenty-four hours of a notice being affixed, the vehicle will be classified as abandoned and subject to removal; and
 - (5) All decisions to tow shall be subject to the discretion of the director.
 - (d) The director shall develop and implement a public outreach program to educate residents, community associations, road corporations, tow companies, and the public about the disposition of abandoned or derelict vehicles including the procedures for reporting abandoned or derelict vehicles.
 - (e) The department shall adopt rules regarding the disposition of abandoned or derelict vehicles, that are in accord with chapter 290, Hawai'i Revised Statutes.
- (2022, ord 22-104, sec 2.)

Division 2. Vehicle Disposal Assistance.**Section 20-07-21. Vehicle disposal assistance program.**

- (a) The department shall establish 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.
 - (b) Applications for assistance.
To apply for disposal 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.
 - (c) The property owner shall ensure that the vehicle is accessible for towing.
- (2022, ord 22-104, sec 2.)