

## Article 10. Exemptions

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### Sec. 8-10.1 Claims for certain exemptions.

- (a) None of the exemptions from taxation granted in Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, 8-10.29, 8-10.32, and 8-10.33 shall be allowed in any case, unless the claimant shall have filed with the department of budget and fiscal services on or before September 30th preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.
- (b) A claim for exemption, once allowed, shall have continuing effect until:
  - (1) The exemption is disallowed;
  - (2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided for by this chapter) that the claim or claims on file will be voided on a certain date, not less than 30 days after such notice;
  - (3) The five year period for exemption, as allowed in Sections 8-10.4(e) and 8-10.11, expires; or
  - (4) The report required by subsection (d) is made.
- (c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) of this section may be accompanied by or combined with a new claim.
- (d) The owner of any property which has been allowed an exemption under Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, 8-10.29, 8-10.32, or 8-10.33 has a duty to report to the assessor within 30 days after such owner or property ceases to qualify for such an exemption for, among others, the following reasons:
  - (1) The ownership of the property has changed;
  - (2) A change in the facts previously reported has occurred concerning the occupation, use or renting of the premises, buildings or other improvements thereon; or
  - (3) A change in status has occurred which affects the owner's exemption.Such report shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4) of this section. The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable as provided for by this chapter, the fiduciary shall make the report required by this subsection within 30 days after the assumption of the fiduciary's duties or within the time otherwise required, whichever is later.

A penalty shall be imposed for the failure to make the report required by this subsection. The amount of the penalty shall be \$500 for each year that the change in facts remains unreported. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be a paramount lien on the property as provided for by this chapter.

- (e) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, the assessor may at any time within five years of October 1st of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided for by this chapter for the assessment of omitted property.

(Sec. 8-10.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 88-01, 89-129, 95-67, 96-15, 01-60, 03-05, 06-04, 07-7, 09-24, 09-32)

#### **Sec. 8-10.2 Rules and regulations.**

The director of finance may promulgate rules and regulations as may be necessary to administer Sections 8-10.4 to 8-10.17. (Sec. 8-10.2, R.O. 1978 (1983 Ed.))

**(Sec. 8-10.3 Assignment of partial exemptions. Repealed by Ord. 02-45.)**

#### **Sec. 8-10.3 Reserved.**

#### **Sec. 8-10.4 Homes.**

- (a) Real property owned and occupied as the owner's principal home as of the date of assessment by an individual or individuals, shall be exempt only to the following extent from property taxes:
- (1) Totally exempt where the value of a property is not in excess of \$80,000;
  - (2) Where the value of the property is in excess of \$80,000, the exemption shall be the amount of \$80,000.  
Provided:
    - (A) That no such exemption shall be allowed to any corporation, copartnership or company;
    - (B) That the exemption shall not be allowed on more than one home for any one taxpayer;
    - (C) That where the taxpayer has acquired the taxpayer's home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before September 30th immediately preceding the year for which the exemption is claimed;
    - (D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall each be entitled to one-half of one exemption; and
    - (E) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home.

For the purposes of this section, "real property owned and occupied as the owner's principal home" means occupancy of a home in the city and may be evidenced by, but not limited to, the following indicia: occupancy of a home in the city for more than 270 calendar days of a calendar year; registering to vote in the city; being stationed in the city under military orders of the United States; and filing of an income tax return as a resident of the State of Hawaii, with a reported address in the city. The director may demand documentation of the above or other indicia from a property owner applying for an exemption or from an owner as evidence of continued qualification for an exemption. Failure to respond to the director's request shall be grounds for denying a claim for an exemption or disallowing an existing exemption.

In the event the director receives satisfactory evidence that an individual occupies a home outside the city or there is documented evidence of the individual's intent to reside outside the city, that individual shall not be qualified for an exemption or continued exemption under this section, as the case may be.

Notwithstanding any provision to the contrary, for real property held by a trustee or other fiduciary, the trustee or other fiduciary shall be entitled to the exemption where: (i) the settlor of the trust occupies the property as the settlor's principal home; or (ii) the settlor of the trust dies and a beneficiary entitled to live in the home under the terms of the trust document occupies the property as the beneficiary's principal home.

- (b) The use of a portion of any building or structure for the purpose of drying coffee and the use of a portion of real property, including structures, in connection with the planting and growing for commercial purposes, or the packing and processing for such purposes, of flowers, plants, or foliage, shall not affect the exemptions provided for by this section.
- (c) Where two or more individuals jointly, by the entirety, or in common own or lease land on which their homes are located, each home, if otherwise qualified for the exemption granted by this section, shall receive the exemption. If a portion of land held jointly, by the entirety, or in common by two or more individuals is not qualified to receive an exemption, such disqualification shall not affect the eligibility for an exemption or exemptions of the remaining portion.
- (d) A taxpayer who is 65 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed and who qualifies under subsection (a) of this section shall be entitled to a home exemption of \$120,000. For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) of this section has been granted shall be entitled to the \$120,000 home exemption set forth above when at least one of the spouses qualifies for this home exemption.
- (e) (1) In lieu of the \$120,000 home exemption provided in subsection (d), a low-income taxpayer who:
- (A) Is 75 years of age or over on or before June 30th preceding the tax year for which the exemption is claimed;
  - (B) Qualifies under subsection (a) of this section;
  - (C) Applies for the exemption as required in subdivision (2) of this subsection; and

- (D) Has household income that meets the definition of "low-income" in Section 8-10.20(a) shall be entitled to one of the following home exemption amounts for that tax year:

Age of Taxpayer	Home Exemption Amount
75 years of age or over but not 80 years of age or over	\$140,000
80 years of age or over but not 85 years of age or over	\$160,000
85 years of age or over but not 90 years of age or over	\$180,000
90 years of age or over	\$200,000

- (2) The claim for exemption, once allowed, shall continue for a maximum period of five years, and may be renewed for a period of five years by filing a claim for exemption on or before September 30th of the year in which the multiple used in computing the home exemption increases, to coincide with the applicant's attainment of 80 or 85 years of age, except the renewal at 90 years of age shall extend for the life of the applicant.
- (3) For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) of this section has been granted and qualify under this subsection shall be entitled to the applicable home exemption set forth above when at least one of the spouses qualifies each year for the minimum age of the applicable home exemption.
- (f) To qualify for the exemptions under subsections (d) and (e), a taxpayer must provide, upon request, a photocopy of or submit for inspection, a current, valid government-issued identification containing a photo and the date of birth, such as a Hawaii State driver's license, a Hawaii State identification card, or a passport.
- (Sec. 8-10.4, R.O. 1978 (1983 Ed.); Am. Ord. 88-84, 89-132, 94-76, 96-15, 04-31, 05-004, 06-04, 06-07, 09-32)

**Sec. 8-10.5 Home, lease, lessees defined.**

- (a) For the purpose of Section 8-10.4, the word "home" includes:
- (1) The entire homestead when it is occupied by the taxpayer as such;
  - (2) A residential building on land held by the lessee or the lessee's successor in interest under a lease for a term of five years or more for residential purposes and owned and used as a residence by the lessee or the lessee's successor in interest, where the lease and any extension, renewal, assignment or agreement to assign the lease, have been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease;
  - (3) A condominium unit, with its appertaining common interest, which is occupied as a residence by the owner of the unit. The "owner of a condominium unit" means the individual:
    - (A) Owning the fee simple interest in the unit and its appertaining common interest; or
    - (B) Holding the leasehold interest in the unit and its appertaining common interest under a lease:
      - (i) For a term of five years or more for residential purposes;
      - (ii) Duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed; and
      - (iii) Requiring the holder of the leasehold interest to pay all real property taxes during the term of the lease.
  - (4) An apartment which is a living unit (held under a proprietary lease by the tenant thereof) in a multiunit residential building on land held by a cooperative apartment corporation (of which the proprietary lessee of such living unit is a stockholder) under a lease for a term of five years or more for residential purposes and which apartment is used as a residence by the lessee-stockholder, where the lease and any extension or renewal have been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee-stockholder agrees to pay all taxes during the term of the lease provided that:
    - (A) The exemption shall not be allowed in respect to any cooperative apartment unit where the owner of the cooperative apartment unit claims exemption on a home or other cooperative apartment unit; and
    - (B) The owner or owners of a cooperative apartment building or premises shall not be permitted exemptions where a husband and wife owner of a cooperative apartment unit own separate cooperative apartment units or separate homes owned by each of them, unless they are living separate and apart, in which case the owner of the cooperative apartment or premises shall be entitled to one-half of one exemption;
  - (5) An apartment in a multiunit apartment building which is occupied by the owner of the entire apartment building as such person's residence, provided that:
    - (A) The exemption shall not be allowed in respect to any apartment owner who claims any other home exemption; and
    - (B) A husband or wife owner of the aforementioned type of apartment shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining an apartment or home entitled to an exemption, in which case they shall each be entitled to one-half of one exemption;
  - (6) That portion of a residential duplex and that portion of land appurtenant to the duplex which are occupied by the owner of the duplex and land as the owner's residence, provided that:
    - (A) The exemption shall not be allowed in respect to any duplex owner who claims any other home exemption;
    - (B) The portion of the appurtenant land shall not be exempt unless owned in fee by the duplex owner; and

- (C) A husband or wife owner of the duplex shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining a duplex or home entitled to an exemption, in which case they shall each be entitled to one-half of one exemption;
  - (7) Premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises;
  - (8) An apartment which is a living unit (held under a lease by the tenant thereof) in a multiunit residential building used for retirement purposes under a lease for a term to last during the lifetime of the lessee and the lessee's surviving spouse and which apartment is used as a residence by the lessee and the lessee's surviving spouse, and where the apartment unit reverts back to the lessor upon the death of the lessee and the lessee's surviving spouse, and where the lease has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease; and
  - (9) That portion of a property which is occupied as the property owner's principal home.
  - (b) The subletting by the taxpayer of not more than one room to a tenant shall not affect the exemption provided for by Section 8-10.4.
  - (c) As used in Section 8-10.4, in the first paragraph of Section 8-6.3 and in Section 8-10.1, the word "lease" shall be deemed to include a sublease, and the word "lessee" shall be deemed to include a sublessee.
- (Sec. 8-10.5, R.O. 1978 (1983 Ed.); Am. Ord. 92-63, 96-15, 09-32)

**Sec. 8-10.6 Exemption--Homes of totally disabled veterans.**

- (a) Real property:
    - (1) Owned and occupied as a home by any person who is totally disabled due to injuries received while on duty with the armed forces of the United States;
    - (2) Owned by any such person together with such person's spouse and occupied by either or both spouses as a home; or
    - (3) Owned and occupied by a widow or widower of such totally disabled veteran who shall remain unmarried and who shall continue to own and occupy the premises as a home,
  - is exempted from all property taxes, other than special assessments, subject to subsection (b).
  - (b) The exemption provided for in subsection (a) shall be subject to the following:
    - (1) That the total disability of the veteran was incurred while on duty as a member of the armed forces of the United States, and that the director may require proof of total disability.
    - (2) That the home exemption shall be granted only as long as the veteran claiming exemption remains totally disabled.
    - (3) That the exemption shall not be allowed on more than one house for any one person.
    - (4) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion used exclusively as a home; provided, that this exemption shall not apply to any structure, including the land thereunder, which is used for commercial purposes.
    - (5) That a widow or widower of a disabled veteran may apply for an exemption and the exemption may be granted even if the disabled veteran did not apply for and obtain the exemption provided for in subsection (a) during the veteran's lifetime, provided that the widow or widower submits proof satisfactory to the director that, at the time of the veteran's death, the veteran would have qualified for an exemption under this section.
  - (c) For the purposes of this section, the word "home" includes the entire homestead when it is occupied by a qualified totally disabled veteran or the veteran's qualifying widow or widower as a residence; houses where the occupant disabled veteran owner or the qualifying widow or widower owner sublets not more than one room to a tenant; and premises held under an agreement by which the disabled veteran agrees to purchase the same for a residence, where the agreement has been duly entered into and recorded prior to October 1st preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.
  - (d) The exemption shall take effect beginning with the next tax payment date, provided that the claimant shall have filed with the department a claim for a disability exemption along with a copy of a physician's certificate of disability on such form as the department shall prescribe on or before June 30 for the first payment or December 31 for the second payment.
- (Sec. 8-10.6, R.O. 1978 (1983 Ed.); Am. Ord. 96-15, 00-63)

**Sec. 8-10.7 Exemption--Persons affected with leprosy.**

Any person who has been declared by authority of law to be a person affected with leprosy in the communicable stage and is admitted to a hospital for isolation treatment shall, so long as such person is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, and so long as such person remains or continues under temporary release, be exempted from real property taxes on all real property owned by such person on the date when such person was declared to be a person so affected with leprosy, up to, but not exceeding, a taxable value of \$25,000.00. (Sec. 8-10.7, R.O. 1978 (1983 Ed.))

**Sec. 8-10.8 Exemption--Persons with impaired sight or hearing and persons totally disabled.**

- (a) Any person who is blind or deaf, so long as the person's sight or hearing is so impaired, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of \$25,000.00. The impairment of sight or hearing shall be certified to by a qualified ophthalmologist, optometrist or otolaryngologist, as the case may be, on forms prescribed by the department of finance.
- (b) Any person who is totally disabled, as long as the person is totally disabled, shall be exempt from real property taxes on all real property owned by the person up to, but not exceeding a taxable value of \$25,000.00. The disability shall be certified to by a physician licensed under HRS, Chapter 453 or 460, or both, on forms prescribed by the department of finance.
- (c) When used in this section:

"Blind" means a person whose visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"Deaf" means a person whose average loss in speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse.

"Totally disabled" means a person who is totally and permanently disabled, either physically or mentally, which results in the person's inability to engage in any substantial gainful business or occupation.

(Sec. 8-10.8, R.O. 1978 (1983 Ed.); Am. Ord. 89-138)

**Sec. 8-10.9 Exemption--Nonprofit medical, hospital indemnity association.**

Every association or society organized and operating under HRS Chapter 432, solely as a nonprofit medical indemnity or hospital service association or society or both shall be from the time of such organization, exempt from real property taxes on all real property owned by it. (Sec. 8-10.9, R.O. 1978 (1983 Ed.))

**Sec. 8-10.10 Exemption--Charitable purposes.**

(a) There shall be exempt from real property taxes real property, or a portion thereof, designated in subsection (b) or (c) of this section and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) and (c), an exemption for the same property, or a portion thereof, may not also be claimed under the other of these subsections.

(b) This subsection applies to property, or a portion thereof, owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property, or a portion thereof, for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court.

Exemption is allowed by this subsection to the following property:

(1) Property used for school purposes including:

(A) Kindergartens, grade schools, junior high schools and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, HRS Section 302A-1132, or which are for preschool children who have attained or will attain the age of five years on or before December 31st of the school year; provided, that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met.

(B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.

(C) Group child care centers, which meet the child care facilities requirements of HRS Chapter 346, Part VIII; provided, that any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the department of human services stating that the foregoing requirements are met. As used herein, "group child care centers" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months.

(2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the state department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.

(3) Property used for church purposes, including incidental activities, parsonages and church grounds, the property exempt from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4) of this subsection).

(4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose.

(5) Property dedicated to public use by the owner, which dedication has been accepted by the state or county, reduced to writing, and recorded in the bureau of conveyances; and property which has been set aside for public use and actually used therefor for a period not less than five years.

(6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; property owned by any association or league of federal credit unions chartered by the United States, the sole purpose of which is to promote the development of federal credit unions in the state.

Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented or otherwise let to another, if such leasing, renting or letting is to a nonprofit association, organization or corporation.

(c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either:

- (1) A corporation, society, association or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or
  - (2) A corporation chartered by the United States under Title 36, United States Code, as a patriotic society. Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries, art academies and senior citizen housing facilities qualifying for a loan under the laws of the United States as authorized by Section 202 of the Housing Act of 1959 as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964 and the Housing and Urban Development Act of 1965.
  - (d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.
  - (e) The term "for nonprofit purposes," as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private shareholder, member or trust beneficiary. "Monetary gain" includes, without limitation, any gain in the form of money or money's worth. "Economic benefit" includes, without limitation, any benefit to a person in the course of that person's business, trade, occupation or employment.
- (Sec. 8-10.10, R.O. 1978 (1983 Ed.); Am. Ord. 88-01, 01-52, 09-24)

**Sec. 8-10.11 Exemption--Property used in manufacture of pulp and paper.**

All property in the state, both real and personal, actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property taxes for a period of five years from the first day of October following commencement of construction of a plant or plants on the property for such purpose. (Sec. 8-10.11, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

**Sec. 8-10.12 Exemption--Crop shelters.**

Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property consisting of frames or supports and covered by rigid plastic, fiberglass or other rigid and semirigid transparent or translucent material, and including wooden laths, used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property for 10 years or for a period of 10 years from the first day of October following commencement of construction or installation of the structure on the property for such purpose; provided, that any temporary structure so constructed or installed and covered by flexible plastic or other flexible transparent or translucent material, used for such purpose, shall be so exempted not subject to the 10-year limitation; provided further, that such exemption shall continue only so long as the structure is maintained in good condition. Only structures used for commercial agricultural or horticultural purposes shall be included in the exemption. (Sec. 8-10.12, R.O. 1978 (1983 Ed.); Am. Ord. 96-15)

**Sec. 8-10.13 Exemption--Dedicated lands in urban districts.**

- (a) Portions of taxable real property which are dedicated and approved by the director of finance as provided for by this section shall be exempted in determining and assessing the value of such taxable real property.
- (b) Any owner of taxable real property in an urban district desiring to dedicate a portion or portions thereof for landscaping, open spaces, public recreation and other similar uses shall petition the director of finance stating the exact area of the land to be dedicated and that the land is not within the setback and open space requirements of applicable zoning and building code laws and ordinances, and that the land shall be used, improved and maintained in accordance with and for the sole purpose for which it was dedicated, except that land within a historic district may be so dedicated without regard to the setback and open space requirements of applicable zoning and building code laws and ordinances. The director shall make a finding as to whether the use to which such land will be dedicated has a benefit to the public at least equal to the value of the real property taxes for such land. Such finding shall be measured by the cost of improvements, the continuing maintenance thereof, and such other factors as the director may deem pertinent. If the director finds that the public benefit is at least equal to the value of real property taxes for such land, the director shall approve the petition and declare such land to be dedicated land.
- (c) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner's land for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year.
- (d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of the owner's land shall cancel the special tax exemption privilege retroactive to the date of the original dedication, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of the owner's land shall be payable together with interest of five percent a year from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over 12 consecutive months to use, improve and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- (e) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by October 31st of such year. If approved, the exemption based upon the use requested in the dedication shall be effective July 1st of the following tax year.

- (f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.
- (g) The director shall make and adopt necessary rules and regulations including such rules and regulations governing minimum areas which may be dedicated for the improvement and maintenance of such areas.
- (h) "Landscaping" means lands which are improved by landscape architecture, cultivated plantings or gardening.
- (i) "Open spaces" means lands which are open to the public for pedestrian use and momentary repose, relaxation and contemplation.
- (j) "Public recreation" refers to lands which may be used by the public as parks, playgrounds, historical sites, campgrounds, wildlife refuges, scenic sites, and other similar uses.
- (k) "Owner" includes lessees of real property whose lease term extends at least 10 years from January 1st following the filing of the petition.

(Sec. 8-10.13, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 95-15)

**Sec. 8-10.14 Exemption--Air pollution control facility.**

- (a) The value of all property in the county (not including a building and its structural components, other than a building which is exclusively a treatment facility) actually and solely used or to be used as an air pollution control facility as the term is defined in HRS Chapter 237, shall be exempted from the measure of the taxes imposed by this chapter; provided, however, the property exemption shall be applicable only with respect to a certified facility which is property (1) the construction, reconstruction or erection of which is completed by the taxpayer after June 30, 1969, or (2) acquired by the taxpayer after June 30, 1969, if the original use of the property commences with the taxpayer after June 30, 1969; provided, further, the facility is placed in service by the taxpayer before July 1, 1975.
- (b) Application for the exemption provided herein shall first be made with the state director of health who shall, if satisfied that the facility meets the pollution emission criteria established by the state department of health, certify to that fact. Upon receipt of the certification from the department of health, the director of finance shall exempt the facility from the tax imposed by this chapter. A new certificate shall be obtained from the director of health and filed with the director of finance every two years certifying that the pollution control facility complies with the pollutant emission criteria established by the department of health. The director of finance shall furnish all forms required by this section.
- (c) The director of finance shall promulgate rules and regulations necessary to administer this section.

(Sec. 8-10.14, R.O. 1978 (1983 Ed.))

**Sec. 8-10.15 Exemption--Alternate energy improvements.**

- (a) The value of all improvements in the county (not including a building or its structural components, except where alternate energy improvements are incorporated into the building, and then only that part of the building necessary to such improvement) actually used for an alternate energy improvement shall be exempted from the measure of the taxes imposed by this article.
- (b) As used in this section "alternate energy improvement" means any construction or addition, alteration, modification, improvement or repair work undertaken upon or made to any building, property or land which results in:
  - (1) The production of energy from a source, or uses a process which does not use fossil fuels, nuclear fuels or geothermal source. Such energy source may include, but shall not be limited to, solid wastes, wind, solar or ocean waves, tides or currents; or
  - (2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation.
- (c) Application for the exemption provided by this section shall be made with the director on or before September 30th, preceding the tax year for which the exemption is claimed, except that no claim need be filed for the exemption of solar water collectors, heaters, heat pumps and similar devices. The director may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption.
- (d) The claim for exemption, once allowed, shall continue for a period of 25 years thereafter.
- (e) The director may adopt rules and regulations to implement this section.

(Sec. 8-10.15, R.O. 1978 (1983 Ed.); Am. Ord. 96-15, 09-31)

**Sec. 8-10.16 Exemption--Fixtures used in manufacturing or producing tangible personal products.**

There shall be exempted and excluded from the measure of the taxes imposed by this chapter, all fixtures which are categorized as machinery and other mechanical or other allied equipment which are primarily and substantially used in manufacturing or producing tangible personal products. (Sec. 8-10.16, R.O. 1978 (1983 Ed.))

**Sec. 8-10.17 Exemption--Public property.**

The following real property shall be exempt from taxation:

- (a) Real property belonging to the United States, to the state or to the county; provided, that real property belonging to the United States shall be taxed upon the use or occupancy thereof as provided in Section 8-10.18, and there shall be a tax upon the property itself if and when the Congress of the United States so permits, to the extent so permitted and in accordance with any conditions or provisions prescribed in such act of Congress; provided, further, that real property belonging to the state or the county, or belonging to the United States and in the possession, use and control of the state, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:
  - (1) Property held on October 1st preceding the tax year under an agreement for its conveyance by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made.
  - (2) Property held on October 1st preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided for by this chapter so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them.

- (3) Property held under a government lease commencing after October 1st preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after October 1st preceding the tax year, shall be assessed as omitted property as provided for by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of the taxes as is proportionate to the remainder of the tax year.
  - (4) Property where the occupancy by the tenant for commercial purposes has continued for a period of one year or more, whether the occupancy has been on a permit, license, month-to-month tenancy or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and the property shall be assessed in the manner provided in subdivisions (2) and (3) of this subsection for the assessment of properties held under a government lease; provided, that the property occupied by the tenant solely for residential purposes on a month-to-month tenancy shall be excluded from this paragraph.
  - (5)
    - (A) In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, under a lease for a term of one year or more, the tax shall be assessed to the tenant upon so much of the value of the entire real property as the floor space occupied by the tenant proportionately bears to the total floor space of the structure or building.
    - (B) For the purposes of subdivisions (2) and (3) of this subsection: "lease" means any lease for a term of one year or more or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation, or termination reserved therein or provided for thereby. Whenever a lease is such that the highest and best use cannot be made of the property by the lessee, the measure of the tax imposed on such property pursuant to subdivisions (2) and (3) of this subsection shall be its fee simple value upon consideration of the highest and best use which can be made of the property by the lessee.
    - (C) Provided, further, that real property belonging to the United States, even though not in the possession, use and control of the state, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:
      - (i) Property held on October 1st preceding the tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien or interest of the United States.
      - (ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after October 1st preceding the tax year, shall be assessed as omitted property as provided for by this chapter, but the taxes thereon shall be prorated so as to require the payment of only so much of such taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States.
  - (b) Subject to HRS Section 101-39(B), any real property in the possession of the state or county which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the state or county; provided the fact of such possession has been certified to the director as provided by HRS Section 101-36 or 101-38, or is certified not later than September 30th preceding the tax year for which such exemption is claimed.
  - (c) Real property with respect to which the owner has granted to the state or county a right of entry and upon which the state or county has entered and taken possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use; provided the state or county shall have, prior to September 30th preceding the tax year for which the exemption is claimed, certified to the director the date upon which it took possession.
  - (d) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance establishing setback lines thereon; provided, that in order to secure the exemption the person claiming it shall annually file between September 15th and September 30th preceding the applicable tax year a sworn written statement with the director describing the real property in detail and setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes the owner will not make use of the land in any way whatsoever during the ensuing year. Any person who has secured such exemption who violates the terms of the agreement shall be fined twice the amount of the tax which would be assessed upon the land but for such exemption.
  - (e) Real property exempted by any laws of the United States which exemption is not subject to repeal by the council.
  - (f) Any other real property exempt by law.
- (Sec. 8-10.17, R.O. 1978 (1983 Ed.); Am. Ord. 95-67, 96-15)

**Sec. 8-10.18 Lessees of exempt real property.**

- (a) When any real property which for any reason is exempt from taxation is leased to and used or occupied by a private person in connection with any business conducted for profit, such use or occupancy shall be assessed and taxed in the same amount and to the same extent as though the lessee were the owner of the property and as provided in subsection (b) of this section, provided, that:
  - (1) The foregoing shall not apply to the following:
    - (A) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed.
    - (B) Any property or portion thereof taxed under any other provision of this chapter to the extent and for the period so taxed.



- (C) Federal property for which payment of certain contributions are made under Section 6-58.3, and which is leased to a private person, who under such lease is contractually obligated to develop, rehabilitate, maintain and operate a military housing project under the authority of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104-106, Title XXVIII, Subtitle A – Military Housing Privatization Initiative (codified at 10 U.S.C. Sections 2871-2885), as amended, including all improvements thereon, provided such federal property does not use the county's refuse and road maintenance services, and routine police, fire and ambulance services, where "routine police, fire and ambulance services" do not include services provided by the county on such federal property (i) pursuant to agreements between the federal government and the county or the State of Hawaii, including without limitation, mutual aid agreements, or (ii) in accordance with policies or procedures developed by the county to coordinate the provision of such services as between the federal government and the county.
- (2) The term "lease" means any lease for a term of one year or more, or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation or termination reserved therein or provided for thereby.
- (3) The assessment of the use or occupancy shall be made in accordance with the highest and best use permitted under the terms and conditions of the lease.
- (b) The tax shall be assessed to and collected from such lessee as nearly as possible in the same manner and time as the tax assessed to owners of real property, except that the tax shall not become a lien against the property. In case the use or occupancy is in effect on October 1st preceding the tax year, the lessee shall be assessed for the entire year but adjustments of the tax so assessed shall be made in the event of the termination of the use or occupancy during the year so that the lessee is required to pay only so much of the tax as is proportionate to the portion of the tax year during which the use or occupancy is in effect, and the director is authorized to remit the tax due for the balance of the tax year. In case the use or occupancy commences after October 1st preceding the tax year, the lessee shall be assessed for only so much of the tax as is proportionate to the period that the use or occupancy bears to the tax year.
- (c) The assessment of the use or occupancy of real property made under this section shall not be included in the aggregate value of taxable realty for the purposes of Section 8-11.1 but the council, at the time that it is furnished with information as to the value of taxable real property, shall also be furnished with information as to the assessments made under this section, similarly determined but separately stated.
- (d) If a use or occupancy is in effect on October 1st preceding the tax year, the assessment shall be made and listed for that year and the notice of assessment shall be given to the taxpayer in the manner and at the time prescribed as provided for by this chapter, and when so given, the taxpayer, if said taxpayer deems oneself aggrieved, may appeal as provided for by this chapter, and if a use or occupancy commences after October 1st preceding the tax year or if for any reason an assessment is omitted for any tax year, the assessment shall be made and listed and notice thereof shall be given, and an appeal may be taken therefrom in the manner and at the time prescribed in Section 8-3.4.

(Sec. 8-10.18, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 04-38)

**Sec. 8-10.19 Property of the United States leased under the National Housing Act.**

Real property belonging to the United States leased pursuant to Title VIII of the National Housing Act, as amended or supplemented from time to time:

- (a) Shall not be taxed under this chapter upon the lessee's interest or any other interest therein, except as provided in subsection (b) of this section.
- (b) Shall be taxed under this chapter to the extent of and measured by the value of the lessee's interest in any portion of the real property (including land and appurtenances thereof and the buildings and other improvements erected on or affixed on the same) used for, or in connection with, or consisting in, shops, restaurants, cleaning establishments, taxi stands, insurance offices, or other business or commercial facilities. The tax shall be assessed to and collected from the lessee. The assessment of such property shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States.

(Sec. 8-10.19, R.O. 1978 (1983 Ed.))

**Sec. 8-10.20 Exemption--Low income rental housing.**

- (a) For the purposes of this section:
  - "Dwelling unit" means a room or rooms connected together, constituting an independent living unit and containing a single kitchen and at least one bathroom. A dwelling unit shall not include a unit used for time sharing or as a transient vacation unit.
  - "Housing project" means a rental housing project where at least 20 percent of the dwelling units are reserved for low income residents. The housing project must be situated on (i) a single parcel of land, (ii) multiple parcels of land that are contiguous, or (iii) noncontiguous multiple parcels of land which are separated from each other only by a road or roads. If the housing project is comprised of multiple parcels of land, or is comprised of individual dwelling units, each situated upon a subdivided parcel of land, the regulatory agreement must specifically identify each such parcel of land or dwelling units as comprising the housing project.
  - "Kitchen" means a facility in a dwelling unit that exists when there are fixtures, appliances or devices for all of the following: (1) heating or cooking of food, (2) washing of utensils used for dining and food preparation and/or for washing and preparing food, and (3) refrigeration of food.
  - "Low-income" means the annual income of a household that does not exceed 80 percent of the area median income for the county as determined by the United States Department of Housing and Urban Development.
  - "Nonprofit or limited distribution mortgagor" means a mortgagor who qualifies for and obtains mortgage insurance under Sections 202, 221(d)(3) or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.
  - "Owner" shall include a lessee of the property whose lease term extends at least as long as the regulated period.

“Regulatory agreement” means an agreement between an owner and the federal government, state government or a political subdivision of the state government, or agency of the federal government, agency of the state government or agency of the political subdivision of the state government, embodying provisions regulating rents, charges, profits, dividends, development costs, and methods of operation, in accordance with the laws, policies, or rules of the federal government, state government or of the political subdivision of the state government, or agency of the federal government, agency of the state government or agency of the political subdivision of the state government.

“Regulated period” means the period during which a housing project is subject to a regulatory agreement, which shall not be less than 15 years.

- (b) Real property which is owned and operated by (i) a nonprofit, limited distribution mortgagor, or (ii) a person, corporation, trust, partnership or association which is used for a housing project that is subject to a regulatory agreement shall be exempt from property taxes for the duration of the regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.
- (1) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be exempt from property taxes.
  - (2) If the housing project fails to meet the requirements under this section at any time during the regulated period, the exemption shall be cancelled and the housing project shall be subject to taxes and penalties as determined in Section 8-10.21(c).
  - (3) If any portion of the housing project that qualifies for an exemption under this section is transferred during the regulated period, the exemption shall be cancelled and the entire housing project, including the portion retained, if any, and the portion transferred, shall be subject to the taxes and penalties pursuant to Section 8-10.21(c)(3). The taxes and penalties shall not apply to any portion of the housing project for which a new claim is filed for an exemption for low-income rental housing as described in this section within 30 days of the recordation or filing of the sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever is applicable, and the exemption is granted by the director.
  - (4) If the entire housing project is sold or otherwise transferred during the regulated period, a new claim for exemption must be filed within 30 days of the recordation of filing of such sale or transfer with the registrar of the bureau of conveyances or the assistant registrar of the land court, whichever is applicable. Failure to file a new claim for exemption or meet the qualifications under this section shall result in cancellation of the exemption and taxes and penalties imposed pursuant to Section 8-10.21(c).
- (c) The exemption provided in this section shall not apply to any portion of the property that is used for commercial or other purposes, and not for the primary use of the tenants of the housing project.
- (d) Where a housing project is situated upon a single parcel of land, if any portion of the property is ineligible for the property tax exemption under this section:
- (1) The remaining eligible portion shall not be deprived of the exemption;
  - (2) The ineligibility of a portion of the property for exemption under this section shall not disqualify that portion from exemption under any other law; and
  - (3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.
- (e) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under HRS Section 53-38.
- (Sec. 8-10.20, R.O. 1978 (1983 Ed.); Am. Ord. 90-31, 02-68)

**Sec. 8-10.21 Claim for exemption.**

- (a) Notwithstanding any provision in this chapter to the contrary, any real property determined by the director to be exempt from property taxes under Section 8-10.20 shall be exempt from property taxes effective as of the date the application is filed with the director; provided, that the initial application for exemption shall be filed with the director within 60 days of the qualification or in the failure thereof by September 30th preceding the tax year for which the exemption is claimed. A copy of the regulatory agreement that has been recorded with the registrar of the bureau of conveyances or filed with the assistant registrar of the land court, whichever is applicable, shall be filed with the application along with any additional documents determined by the director to be necessary to supplement the application. As used herein, the date of the qualification shall be the earlier of: (i) the date when the mortgage made by the nonprofit or limited distribution mortgagor and insured under Section 202, 221(d)(3) or 236 of the National Housing Act is recorded or (ii) the date the regulatory agreement is recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the state, whichever is applicable.
- For a housing project that qualified for an exemption from real property taxation under Section 8-10.20 before December 20, 2002,\* the first application filed after December 20, 2002\* shall be deemed the initial filing under this subsection. After the initial year for which the real property has qualified for an exemption, a claim for an exemption shall be filed annually on or before September 30th, together with a document from the agency regulating the housing project certifying that the housing project continues to be in compliance with the initial regulatory agreements and is in compliance with the applicable low-income rental requirements in the manner provided by applicable law or rule.
- (b) In the event property taxes have been paid to the county in advance for real property that subsequently qualifies for the exemption, the director shall refund to the owner that portion of the taxes attributable to and paid for the period after the qualification.
- (c) Cancellation of Exemption—Penalties.
- (1) Notice by Director.  
Following the initial year for which real property has qualified for an exemption, if an owner fails to file a claim for continued exemption by the September 30th deadline, the director shall promptly mail a notice to the owner at the owner’s address of record stating that unless a claim for continued exemption and all the necessary documents are received by the director by November 15th of the same year, the exemption shall be cancelled.
  - (2) Cancellation of Exemption.

An owner who has been sent a notice under paragraph (1) by the director and who fails to file for an exemption by the November 15th deadline shall have the exemption cancelled and the housing project shall be subject to taxes and penalties pursuant to paragraph (3).

In the event the director finds that the initial or subsequent claim for exemption contains false or fraudulent information, the housing project fails to meet the requirements of Section 8-10.20 during the regulated period, or the owner fails to file annually during the regulated period as required under this section, the director shall cancel the exemption retroactive to the date the exemption was first granted pursuant to an initial filing under subsection (a), and the housing project shall be subject to the taxes and penalties determined in paragraph (3).

(3) **Back Taxes and Penalties.**

In the event a housing project is subject to taxes and penalties as provided in paragraph (2), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed shall be payable, together with interest at 10 percent per annum, from the respective dates that these payments would have been due. The taxes and penalties due shall be a paramount lien upon the real property.

In addition, in the event a claim for an exemption is submitted after the September 30th deadline but on or before the November 15th deadline, a late filing penalty of \$500.00 shall be imposed.

(Sec. 8-10.21, R.O. 1978 (1983 Ed.); Am. Ord. 02-68)

[\*Editor's Note: "December 20, 2002" is substituted for "the effective date of this ordinance."]

**Sec. 8-10.22 Exemption—Historic Residential real property dedicated for preservation.**

(a) As used in this section:

"Alternative visual visitations" means the alternative visual access provided to the public from a viewing point on the property.

"Average condition of property" means a finding by the director that all major components of a property are still functional and contributing toward an extended life expectancy and effective age and utility are standard for like properties of its class and usage; this finding will allow for some deferred maintenance and normal obsolescence with age, in that a few minor repairs and some refurbishing is needed.

"Day" means the seven consecutive hours running from 9:00 a.m. to 4:00 p.m.

"Historic property" means property that has been placed on the Hawaii Register of Historic Places.

"Public way" means and includes any area open to the general public, such as a road, alley, street, way, right-of-way, lane, trail, bikeway, highway, bridge, sidewalk, park or beach and any private property usually open to the public, such as a parking lot.

"Residential property" means property improved with a one or two-family detached dwelling or a duplex unit. This definition includes associated structures, such as carriage houses, ohana units and outbuildings. This definition specifically excludes vacant parcels, districts, areas, or sites, including heiaus, burial and underwater sites.

"Visual access" means visual access at all times with the unaided eye from a distance of not more than 50 feet from the owner's property line from a public way as defined in this section, of the entire front or rear of the one or two-family detached dwelling or duplex unit that is the subject of the petition for dedication under this section.

(b) An owner of taxable historic residential property may dedicate a portion or portions of the residential property thereof for historic preservation by petitioning the director of budget and fiscal services, provided the residential property has visual access or the owner allows alternative visual visitations.

(1) If the historic residential property does not provide visual access, the petition shall provide the public with alternative visual visitations to the property from a viewing point on the historic residential property for at least the twelve days a year designated in the rules adopted by the director.

(2) The viewing point on the historic residential property for alternative visual visitations shall: (A) Be clearly identified on the sketch or site plan included in the petition for dedication; (B) Be identified by a sign on the historic residential property marking the location of the viewing point; and (C) Establish the point beyond which the public shall not advance.

(c) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year. The notice of assessment shall serve as notification of approval, approval in part, or disapproval of the petition for dedication. The owner may appeal any petition for dedication approved in part or disapproved, on or before the date for appealing an assessment as set forth in section 8-12.1. If the petition is approved or approved in part, the exemption provided for by this section shall be effective October 1st of the same calendar year.

(d) The director shall review the petition and determine what portion or portions of the residential real property shall be exempted from real property taxes. Any building or portion of a building less than fifty years old shall not be exempted from real property taxes. The director shall consult with the state historic preservation office in making this determination. The director shall take into consideration whether the historic property has been maintained, at a minimum, in average condition, and shall determine the total area or areas of real property that shall be exempted. The director shall confirm that the historic residential property has visual access. If the director determines that the historic residential property does not provide visual access, then the director shall confirm that the petition provides the public with acceptable alternative visual visitations.

(e) If the director determines that the historic residential property does not provide visual access to the public or that the petition does not provide the public with acceptable alternative visual visitations, the application for dedication shall be denied.

(f) Portions of residential real property which are dedicated and approved by the director as provided for by this section, shall be exempt from real property taxation except as provided by Section 8-9.1.

(g) The approval of the petition by the director shall constitute an obligation on the part of the owner to meet the following requirements:

(1) The owner shall provide visual access to the public of the dedicated historic residential property, or shall provide alternative visual visitations as described in the approved petition.

- (2) The owner shall certify that the historic property shall meet or exceed average condition, and, during the dedicated period, shall maintain the historic property in at least average condition. All repair, maintenance and improvements to the property, and use of the property, shall comply with all statutes, ordinances, rules and regulations, and standards for historic properties.
- (3) The owner of a historic residential property that has been approved for dedication pursuant to this section shall place and maintain on the dedicated historic residential property a plaque that has been approved by the director and the state historic preservation officer. The director shall adopt rules prescribing the requirements for such a plaque.
- for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year. Legally permitted uses of the historic residential property may continue during the dedication period without cancellation of the dedication.
- (h) An owner may appeal any cancellation of the dedication or imposition of any rollback tax or penalty as in the same manner as an appeal from an assessment.
- (i) Any person who becomes an owner of historic residential property that is subject to a dedication under this section shall be subject to the requirements imposed under subsection (g).
- (j) The director shall cancel the dedication and disallow the tax exemption if:
- (1) the owner fails to observe the requirements and obligations of this section and the rules adopted to implement this section,
  - (2) a city department issues a citation for noncompliance with or violation of chapters 16 through 21, or
  - (3) the property is removed from the historic register.
- The cancellation and disallowance shall subject the owner to a rollback tax and penalty, retroactive to the date of the last 10-year renewal of the dedication. All differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable, together with a 12 percent penalty and interest at 12 percent per year for each year of the rollback tax provided the provision in this subsection shall not preclude the city from pursuing any other remedy to enforce the covenant on the use of the property.
- (k) The director shall cancel the dedication and the retroactive assessment shall not apply: (1) where the owner submits the written notice of cancellation within the prescribed time as provided in subsection (g); and (2) where the subject property is destroyed by any natural disaster or by fire, and upon verification by the Historic Preservation Officer that the restoration or reconstruction of the property is not feasible.
- (l) The director shall adopt rules and regulations deemed necessary to accomplish the foregoing in accordance with HRS Chapter 91.
- (Sec. 8-10.22, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 01-23, 11-7)

**Sec. 8-10.23 Other exemptions.**

Exemptions to real property taxes as set forth in HRS Chapter 53 ("Urban Renewal Law") and Chapter 183 ("Forest Reserves, Water Development, Zoning"), and in Section 208 of the Hawaiian Homes Commission Act, 1920, and which were enacted prior to November 7, 1978, shall remain in effect and be recognized and implemented by the city in its administration of the real property tax system; provided that real property leased under homestead and not general lease pursuant to the authority granted the department of Hawaiian home lands by Section 207 of the Hawaiian Homes Commission Act, 1920, shall be exempt from real property taxes, the seven-year limitation on the exemption afforded by Section 208 of the Hawaiian Homes Commission Act, 1920, notwithstanding. (Sec. 8-10.23, R.O. 1978 (1983 Ed.); Am. Ord. 92-38, 92-63, 93-13, 93-112, 97-56, 00-65)

**Sec. 8-10.24 Exemption--Credit union.**

- (a) Real property owned in fee simple or leased for a period of one year or more by a federal or state credit union which is actually and exclusively used for credit union purposes shall be exempt from real property taxes. If the property for which exemption is claimed is leased, the lease agreement shall be in force and recorded in the bureau of conveyances at the time the exemption is claimed. As used in this section, "federal credit union" means a credit union organized under the Federal Credit Union Act of 1934, 12 U.S.C. Chapter 14, as amended, and "state credit union" means a credit union organized under the Hawaii Credit Union Act, HRS Chapter 410, as amended.
- (b) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.

(Added by Ord. 88-01)

**Sec. 8-10.25 Exemption--Slaughterhouses.**

All real property in the city used exclusively by the owner or lessee thereof for purposes of slaughtering or butchering cattle, pigs, poultry animals or other domestic livestock for commercial slaughterhouse purposes shall be exempt from real property taxes for a period of 10 years. In the case of newly constructed slaughterhouses, the exemption shall apply to the tax year following the first day of October following commencement of construction of such slaughterhouse. (Added by Ord. 93-06; Am. Ord. 96-15)

**Sec. 8-10.26 Exemption--Qualifying construction work.**

- (a) Any incremental increase in the valuation of buildings primarily attributable to qualifying construction work shall be exempt from property taxes for a period of seven years following the completion of the qualifying construction work, provided that:
- (1) The qualifying construction work commences on or after January 1, 1999 as evidenced by the issuance date of the building permits;

- (2) The qualifying construction work is completed on or before June 30, 2003 unless extended pursuant to subsection (d); and
  - (3) The laborers and mechanics who performed the qualifying construction work were paid at or above the rate of wages established by Hawaii Revised Statutes Chapter 104 and the applicable rules adopted thereunder.
- (b) As used in this section:
- "Incremental increase in the valuation of buildings primarily attributable to qualifying construction work" shall be determined by subtracting the valuation of buildings on the property as determined in the real property tax assessment immediately preceding June 22, 1999\* from the valuation of buildings following the completion of qualifying construction work as of June 22, 1999. [\*Editor's Note: "June 22, 1999" is substituted for "the effective date of this ordinance" (Ord. 99-42).]
- "Qualifying construction work" means work to construct new buildings, or to construct additions or renovations to existing buildings, located on land which is classified in accordance with Section 8-7.1 as hotel and resort, commercial, industrial, preservation, or agricultural.
- (c) The date of the completion of the construction shall be established by the date of the department of planning and permitting's inspection completion date, or the last of the inspection completion dates, where multiple inspections are required for the electrical, plumbing and/or architectural and structural work allowed under the building permit.
  - (d) The claimant may request an extension of time of up to one year but no later than June 30, 2004 to complete construction, and only if a major change in circumstances beyond the control of the claimant has occurred since the issuance of the building permit which causes the delay. The request for an extension setting forth the claimant's justification for an extension shall be made in writing to the director of planning and permitting and either receipt-stamped by the department or U.S. postmarked. By either method, the request shall be receipt-stamped or U.S. postmarked no later than June 29, 2003. The decision of the director of planning and permitting on the request shall be final.
  - (e) The claim for exemption shall be filed with the department of budget and fiscal services on or before September 30th preceding the first tax year for which such exemption is claimed on such form as shall be prescribed by the department, and shall be supported by documentation establishing the date of the issuance of the building permit, the department of planning and permitting's inspection completion date, and the director of planning and permitting's decision to grant an extension of time to complete construction, if applicable.
  - (f) The claim for exemption, once allowed, shall continue for a period of seven years provided that where an extension has been granted under subsection (d) in no event shall such exemption be allowed beyond June 30, 2012.
  - (g) In order to confirm that the laborers and mechanics who performed the qualifying construction work were paid at or above the applicable rate of wages, every claim for exemption filed with the department of budget and fiscal services shall include documentation in a form satisfactory to the director of budget and fiscal services which establishes that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder. This documentation shall include, but not be limited to, a notarized affidavit from the claimant establishing that the wage rates for the laborers and mechanics who performed the qualifying construction work were not less than the wage rates established by HRS Chapter 104 and the applicable rules adopted thereunder.
- (Added by Ord. 99-42; Am. Ord. 00-45, 02-39)

**Sec. 8-10.27 Exemption--Public service.**

- (a) Real property which is owned, or leased and actually used by a public service company shall be exempt from real property taxes.
  - (b) If the property for which exemption is claimed is leased by the public service company for a period of one year or more, the lease agreement shall be in force and recorded in the bureau of conveyances at the time the exemption is claimed.
  - (c) The exemption provided in this section shall not apply to any portion of the property that is not used for the primary purpose of the public service company.
  - (d) If any portion of the property is ineligible for the property tax exemption under this section:
    - (1) The remaining eligible portion shall not be deprived of the exemption;
    - (2) The ineligibility for exemption under this section shall not disqualify that portion for an exemption under any other law; and
    - (3) The tax shall be assessed upon so much of the value of the building and land thereunder as the proportion of the nonexempt floor area bears to the total floor area of the building.
  - (e) "Public service company" shall be as defined under Section 8-7.1(c)(6).
- (Added by Ord. 01-60; Am. Ord. 04-34, 04-35)

**Sec. 8-10.28 Additional terms and conditions for exemption of low-income rental housing projects on Hawaiian home lands.**

- (a) For the purposes of this section:  
 "Hawaiian home lands" means the lands described in the Hawaiian Homes Commission Act, Hawaii Revised Statutes, Section 201.  
 The definitions provided in Section 8-10.20(a) shall also apply to this section.
- (b) A low-income rental housing project that occupies Hawaiian home lands and qualifies for an exemption from real property taxes pursuant to Section 8-10.20 shall be subject to the following additional terms and conditions:
  - (1) The exemption shall be for the duration of the regulated period, provided that the lease remains in force and effect for the duration of said regulated period. This exemption shall be incorporated into any and all agreements, including regulatory and loan agreements as applicable.
  - (2) If the qualifying housing project is comprised of multiple parcels of land, each parcel comprising the housing project shall be:
    - (A) Exempt from property taxes; and

- (B) Subject to the assessment of the minimum tax under Section 8-11.1; provided that for an exempt rental housing project consisting of no more than one hundred (100) parcels of land, in the event full payment of the annual minimum tax is received on or before June 30th prior to the tax year for any one of the parcels comprising the exempt rental housing project, no minimum tax shall be due and owing for the tax year for any of the other parcels comprising the exempt rental housing project; provided further, that no tax bill shall be issued for the June 30th full minimum tax payment.

(Added by Ord. 02-68)

**Sec. 8-10.29 Exemption—Nonprofit organization thrift shops.**

- (a) Notwithstanding Section 8-10.10(d), real property used for a thrift shop shall be exempt from property taxes, provided that:
- (1) The thrift shop is operated by a nonprofit organization that sells goods;
  - (2) Ninety percent or more of the goods sold in the thrift shop have been donated; and
  - (3) All of the net revenues from the thrift shop are used to provide job training and employment services or drug rehabilitation services at no cost to the person being trained or rehabilitated.
- (b) For the purposes of this section, the term “nonprofit organization” means an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational or other nonprofit purposes, no part of the assets, income or earnings of which inures to the benefit of any individual or member thereof, and whose charter or other enabling act contains a provision that, in the event of dissolution, the assets owned by such association, corporation or other entity shall be distributed to another association, corporation or other entity organized and operated exclusively for nonprofit purposes, and which further qualifies for exemption under Section 501 of the Internal Revenue Code of 1954, as amended.
- (c) “Thrift shop” means a retail outlet.

(Added by Ord. 03-05)

**Sec. 8-10.30 Exemption—Historic commercial real property dedicated for preservation.**

- (a) An owner of commercial property which has been placed on either the National or the Hawaii Register of Historic Places after January 1, 1977 who wishes to dedicate such property for historic preservation may petition the director to obtain an exemption from real property taxation as provided herein. As used in this section, “commercial property” means properties classified for real property tax purposes as commercial and excludes properties classified for real property tax purposes as hotel and resort or industrial.
- (b) The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1st of any calendar year and shall be approved or disapproved by December 15th of such year. If approved, the exemption shall be effective July 1st of the immediately following tax year.
- (c) The petition shall include a copy of a covenant that has been recorded with the bureau of conveyances or the land court, whichever is applicable. The covenant shall ensure that the public is provided reasonable visual access to the historic commercial real property and that the property is maintained in accordance with a maintenance agreement approved by the director, in consultation with the state historic preservation division, nonprofit historic preservation organizations and the director of planning and permitting.
- (d) The director shall review the petition and determine whether the historic commercial landmark shall be granted the real property tax exemption. The director shall consult with the state historic preservation office and nonprofit historic preservation organizations in making this determination.
- (e) Upon approval of the petition, 50 percent of the value of that real property or portion thereof that is designated as a historic site shall be exempt from real property taxes.
- (f) The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of the owner’s exempted property as specified in the maintenance agreement for a minimum period of 10 years. The petition shall be automatically renewable for an unlimited number of additional 10-year periods.
- (g) Upon determining that the owner has failed to observe the restrictions of the covenant, the director shall cancel the exemption retroactive to the date of the dedication, and all differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable together with interest at 12 percent per annum from the respective dates that these payments would have been due, provided the provision in this subsection shall not preclude the county from pursuing any other remedy to enforce the covenant on the use of the land.
- (h) An owner applicant may appeal any adverse determination as in the case of an appeal from an assessment.
- (i) The director shall adopt rules pursuant to HRS Chapter 91 as deemed necessary to accomplish the purposes of this section.

(Added by Ord. 04-17)

**Sec. 8-10.31 Exemption—Qualifying agricultural improvements for dedicated vacant agricultural lands.**

- (a) As used in this section:
- “Drainage systems” means agricultural systems of channels, ditches, pipes, pumps, and accessory facilities established for the purpose of drawing off water from a land area.
- “Incremental increase in the valuation of real property attributable to qualifying agricultural land improvements” means the sum of all documented expenses incurred to construct the qualifying agricultural land improvements.
- “Irrigation systems” means the agricultural systems of intakes, diversions, wells, ditches, siphons, pipes, reservoirs, and accessory facilities established for the purpose of providing water for agricultural production.
- “Qualifying agricultural land improvements” means construction, reconstruction or improvement of irrigation systems, drainage systems or roads, soil conservation, fire protection or animal control measures on land classified as vacant agricultural land as defined in 8-7.1(c) and dedicated for 10 years under 8-7.3(d), where the cost of such improvements is equal to or greater than \$10,000.
- (b) Any incremental increase in the valuation of real property attributable to qualifying agricultural land improvements shall be exempt from property taxes for a period of seven years following the construction of the agricultural land improvements.

- (c) The claim for exemption shall be filed with the director on or before September 30th preceding the tax year for which such exemption is claimed on such form as shall be prescribed by the department. The claim shall be supported by documentation describing the agricultural land improvements, establishing that the agricultural land improvements have been constructed, and establishing the amount of expenses therefor. Any additional qualifying agricultural improvements for a subsequent fiscal year shall be separately claimed.
- (d) The claim for exemption, once allowed, shall continue for a period of seven years.

(Added by Ord. 04-34)

**Sec. 8-10.32 Exemption—Kuleana land.**

- (a) Real property zoned as residential or agricultural, any portion of which is designated as kuleana land, shall pay the minimum real property tax as long as the real property is owned in whole or in part by a lineal descendant of the person(s) that received the original title to the kuleana land.
- (b) An application for this exemption shall be filed with the director on forms prescribed by the director. The application shall include documents verifying that the condition set forth in subsection (a) has been satisfied. The director shall prescribe what shall be sufficient to show genealogy verification, provided that: (1) genealogy verification by the Office of Hawaiian Affairs or by court order shall be deemed sufficient; and (2) the applicant/landowner shall be responsible for the cost of such evidence. The director shall require the applicant to obtain a court order verifying ownership of property if the applicant is not identified as the owner of the property in the records of the director.
- (c) For purposes of this section, "kuleana land" means those lands granted to native tenants pursuant to L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as amended by L. 1851, p. 98, entitled "An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges" and as further amended by any subsequent legislation.
- (d) Notwithstanding the provisions of subsection (a), kuleana lands which are Hawaiian home lands shall not pay the minimum real property tax if they qualify for the exemption set forth in Section 8-10.28(b)(2)(B).

(Added by Ord. 07-7)

**Sec. 8-10.33 Exemption—For-profit group child care centers.**

- (a) Real property, or a portion thereof, used for a for-profit group child care center shall be exempt from property taxes provided that:
  - (1) The property is actually and exclusively used for a group child care center;
  - (2) If an exemption is claimed under this section, an exemption for the same property may not also be claimed under any other section.
  - (3) The property is owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption.
  - (4) If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court.
  - (5) The group child care center meets the child care facilities requirements of HRS Chapter 346, Part VIII; and
  - (6) Any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the department of human services stating that the foregoing requirements are met.
- (b) For purposes of this section, the term "group child care center" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months.

(Added by Ord. 09-24)