

DEPARTMENT OF FINANCE  
COUNTY OF KAUAI, STATE OF HAWAII  
REAL PROPERTY TAXATION

DEDICATION TO PERMANENT HOME USE

RULES AND REGULATIONS OF THE DIRECTOR OF FINANCE  
RELATING TO DEDICATION OF LANDS  
FOR PERMANENT HOME USE  
UNDER SECTION 5A-9.3,  
KAUAI COUNTY CODE 1987, AS AMENDED

---

**SECTION RP-8.1 Purpose of Rules.** These rules and regulations are intended to implement the provisions of Sec. 5A-9.3, Kauai County Code 1987, as amended, relating to the dedication of real property to permanent home use.

**SECTION RP-8.2 Definitions.** As used in Sec. 5A-9.3, Kauai County Code 1987, as amended, and the Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use:

(a) "Dedication" means a dedication to permanent home use under Sec. 5A-9.3, K.C.C.

(b) "Dedicated property" means property dedicated to permanent home use under Sec. 5A-9.3, K.C.C.

(c) "Director" means the County Director of Finance or his or her designee.

(d) "Home exemption property" means that parcel or portion of a parcel which has been granted a home exemption under Sec. 5A-11.4, K.C.C.

(e) "Home use" means use by the owner of the entire single family dwelling or apartment unit or a portion of the single family dwelling or apartment unit as the owner's principal residence, where the dwelling or apartment unit has been granted a home exemption under Sec. 5A-11.4, K.C.C.

(f) "H.R.S." means Hawaii Revised Statutes, as amended.

(g) "Improvements" mean either:

(1) additions, renovations, or modernizations to existing buildings; or

(2) improvements to the land including, but not limited to, new buildings, paving, fences, or recreational facilities.

(h) "K.C.C." means the Kauai County Code, 1987, as amended.

(i) "Multi-use parcel" means a parcel of land having more than one building.

(j) "Multi-use structure" means a structure comprised of either more than one dwelling unit or one or more dwelling units and a commercial-use area. Commercial-use areas shall include, but not be limited to, stores, offices, rented rooms, or areas of a building used for any income-producing activity.

(k) "Owner" has the meaning prescribed by Sec. 5A-7.1, K.C.C.

(l) "Parent" means a person who is the natural parent of a child or who has legally adopted a child, and the word "child" includes both adults and minors.

(m) "Permanent home use" means home use for a period of ten years.

(n) "Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use" means the administrative rules and regulations of the Director of Finance of the County of Kauai relating to Sec. 5A-9.3, K.C.C.

(o) "Sibling" means a person who has the same mother or father as another person.

(p) "Tax year" shall have the meaning prescribed in Sec. 5A-6.2, K.C.C.

(q) "Underlying home exemption" means a home exemption in favor of the owner who occupied the dedicated property on the date that the dedication to permanent home use was approved.

**SECTION RP-8.3 Petitions to dedicate, deadline, and place to file.**

(a) To dedicate a property to permanent home use, the owner shall file two copies of a petition to dedicate with the Director on or before December 31. Provided the dedication is approved, the dedication shall become effective the tax year following the year in which the petition to dedicate was

filed. The petition for dedication shall be submitted on forms prescribed by the Director. Forms shall be made available at the Office of the Director.

(b) The petition shall include a summary statement by the owner of any uses the property is being put to besides home use.

(c) All owners of the property must sign the petition and certify that they have actual or constructive notice of the conditions placed upon the use of their property because of the dedication and the penalties they are subject to if the terms of the dedication are breached.

(d) In the case of leasehold property where the lessor and the lessee are related as parent and child, siblings, or grandparent and grandchild, the lessor must consent in writing to the petition on a form prescribed by the Director.

**SECTION RP-8.4 Findings of fact and approval or disapproval of the petition.**

(a) Each petition filed shall be reviewed for completeness as soon as practicable by the Director. If a petition is deemed incomplete or deficient, the petition shall be returned to the petitioner. The petitioner shall make any necessary corrections or additions to the petition and submit the petition to the Director within forty-five (45) calendar days from the date the petition was mailed to the petitioner. The petition shall be deemed filed on the date the petition is file-stamped by the Director or on the date specified by Sec. 5A-1.5, K.C.C.

(b) For each petition, the Director shall make the following findings of fact:

(1) Whether a home exemption has been granted for the subject property;

(2) What portion of the subject property has been granted a home exemption;

(3) In the case of leasehold property:

(A) whether a term of eleven (11) years is remaining on the lease; and

(B) whether the consent of the lessor is required and, if so, whether the lessor has consented to the dedication;

(c) If, based upon the findings of fact, the petitioner satisfies the requirements of Sec. 5A-9.3, K.C.C., the Director shall approve the petition.

(d) If, based upon the findings of fact, the petitioner does not satisfy the requirements of K.C.C. Sec. 5A-9.3, the Director shall disapprove the petition.

(e) Notice approving or disapproving each petition shall be mailed to the petitioner by first-class mail, postage pre-paid, no later than March 15th of the year following the year in which the petition was filed.

(1) Where the petition has been approved, the notice shall state whether the dedication has been approved for the whole property or only a portion of the property. If the dedication has been approved for only a portion of the property, the notice shall describe the portion of the property which has been granted the dedication.

(2) Where the petition has been disapproved, the notice shall state the reasons why the petition was disapproved.

**SECTION RP-8.5 Recordation of the Notice of Dedication.**

Where the petition to dedicate has been approved, the Director shall prepare a Notice of Dedication and mail the Notice of Dedication to the petitioner. The owner shall promptly record the Notice of Dedication with the State of Hawaii Bureau of Conveyances. If the owner fails to record the Notice of Dedication within thirty (30) calendar days of the date the Notice of Dedication was mailed to the owner, the dedication shall be canceled without rollback taxes, penalties, and interest being imposed. Recordation fees, if any, shall be paid by the petitioner.

**SECTION RP-8.6 Effect of dedication and restrictions on use.**

(a) The approval of the petition shall constitute a forfeiture on the owner's part of any right to change the use or the ownership of the property in any way which would cause the underlying home exemption to be canceled. The preceding forfeiture shall be effective for 10 (ten) years, beginning January 1 following the year the petition was filed, and ending December 31 of the tenth year following the date the petition was filed.

(1) The approval of the petition shall also constitute a forfeiture by the owner of a right to sell any portion of the dedicated property; provided that conveyances of the dedicated property which are exempt from any conveyance tax pursuant to Sec. 247-3, H.R.S. shall not constitute a breach of the terms of the dedication and provided further that the property conveyed remains eligible for the underlying home exemption.

(b) The dedicated status of the property shall be noted on the assessment notice or the tax bill or both, along with the termination date of the dedication.

(c) Taxation:

(1) The property shall be assessed annually, as provided in Sec. 5A-8.1, K.C.C.

(2) The taxes charged to the dedicated property shall be calculated according to Sec. 5A-6.3, K.C.C.; provided that the total taxes attributable to the dedicated land and building shall not exceed six percent (6%) of the taxes charged for the previous year, except as provided in paragraph (d) of Sec. RP-8.6 of the Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use.

(d) Exceptions: An increase in taxes from one year to the next which is caused by any of the following events shall not be subject to the limitation specified in Sec. RP-8.6 (c)(2) of the Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use.

(1) Improvements to the dedicated property.

(2) The addition of any omitted improvement permitted under Sec. 5A-3.4, K.C.C.

(3) A change in all or a portion of the dedicated property's valuation, from a special assessment under another dedication program or a use valuation, to fair market valuation.

(4) A reduction in the exemption amount the property qualifies for.

(5) An increase in a property's assessment brought about by the correction of a clerical error made in the prior year's assessment.

**SECTION RP-8.7 Renewal.** An owner may renew the dedication for additional ten-year periods by filing a petition to renew no later than December 31st of the tenth year of any dedication period. The taxes for the first year of any additional dedication period shall be based on the taxes of the tenth year of the prior dedication period.

**SECTION RP-8.8 Violation, retroactive taxes, and penalties.**

(a) The dedication shall be violated when any of the following events occur:

(1) The dedicated property, whether due to a change in ownership or use, loses its underlying home exemption, except as provided in paragraphs (c) and (d) below.

(2) Any portion of the dedicated property is conveyed and the conveyance is subject to a conveyance tax under Chapter 247, H.R.S.

(b) If the dedication is violated, the dedication shall be canceled and roll-back taxes, interest, and penalties shall be imposed as follows:

(1) The difference between the taxes actually levied on the dedicated property and the taxes that would have been due had the property not been dedicated retroactive, as the case may be, to the date the property was dedicated or the dedication was renewed;

(2) Interest on the taxes specified in paragraph (b)(1) above at the rate of ten percent (10%) per annum, from the date that the taxes would have been due; and

(3) A penalty of one percent (1%) of the property's fair market value as of the date the dedication was violated.

(A) In the case of property subdivided or declared to be a condominium under Chapter 514A, H.R.S., the penalty shall be based on the total value of all the lots or units within the boundaries of the parcel as originally dedicated.

(c) Upon the death of the last surviving petitioner of the dedicated property, the dedication shall automatically be canceled without roll-back taxes, penalties, and interest being imposed, and the property shall be taxed based on its net taxable assessed value beginning the tax year following the date of death.

(1) As used in Sec. RP-8.8 (c) of the Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use, "Petitioner" means an owner who occupied the property at the time the first, original petition to dedicate was filed and who filed a petition to dedicate his or her property to permanent home use. The term "Petitioner", as used in Sec. RP-8.8 (c) of the Rules and Regulations of the County of Kauai Relating to Dedication of Lands To Permanent Home Use, shall have no other meaning.

(d) If the use of a portion of the dedicated property changes, causing only a portion of the dedicated property to lose its underlying home exemption, the owner shall immediately notify the Director of the change in writing within thirty (30) days of the change of use. The portion taken out of home use shall be taxed on its assessed value without the limitation specified in Sec. 5A-9.3, K.C.C. The change in taxation shall begin the tax year following the change in use. Such a partial removal of the dedicated property from home use shall constitute neither a violation of the dedication nor a change in the time period of the term of the dedication.

(1) If a parcel which has more than one home exemption loses one of its home exemptions, the loss of that home exemption shall not constitute a breach of the home dedication; provided that if the home exemption which is lost is the last remaining underlying home exemption, the loss of this last remaining underlying home exemption shall constitute a breach of the home dedication.

(2) If the area which is eligible for a home exemption increases in size, the owner shall immediately notify the Director of the increase in writing within thirty (30) days of the increase, and the increased area shall be subject to the six percent (6%) limit on tax increases beginning the tax year following the increase in the home exemption area.

**SECTION RP-8.9 Appeals.** The petitioner or owner, as the case may be, may appeal any disapproval or cancellation under these rules by filing a Notice of Appeal with the Director within thirty (30) calendar days of the effective date of the disapproval or cancellation.

**SECTION RP-8.10 Conflicts between Ordinances, Laws and Rules.**

If any term, paragraph, or provision in these rules conflicts with any applicable county ordinance or state law, the county ordinance or state law shall prevail.

**SECTION RP-8.11 Singular and Plural Words.** Pursuant to Sec. 1-17, H.R.S., words used in the singular shall include the plural.




CERTIFICATION

I, Dorothy Bekeart, Deputy Director of Finance, Department of Finance, County of Kauai, do hereby certify:

1. That the foregoing is a true and correct copy of the Rules of the Department of Finance on matters relating to Dedication to Permanent Home Use under Section 5A-9.3 of the Kauai County Code 1987, as amended.

2. That a public hearing on the foregoing Rules was held on April 7, 1993, and that notice of the public hearing, which notice included a statement of the substance of the proposed Rules, was published in The Garden Island Newspaper on February 26, 1993.

3. That said Rules were adopted by the Department of Finance on April 7, 1993 and shall become effective ten (10) days after filing with the Office of the County Clerk, County of Kauai, State of Hawaii.

  
DOROTHY BEKEART  
Deputy Director of Finance

APPROVED AS TO FORM:


for   
KATHLEEN WATANABE  
County Attorney

Date: 4-8-93

APPROVED:

  
MICHAEL D. VEITH  
Director of Finance

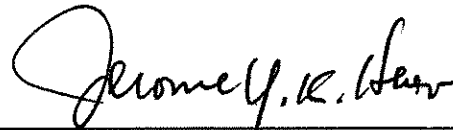
Date: 4-12-93

  
JOANN A. YUKIMURA  
Mayor, County of Kauai

Date: 4/13/93

CERTIFICATION OF THE COUNTY CLERK:

I certify that on April 20, 1993, I have  
accepted for filing from the Department of Finance the rules on the  
Dedication of Lands for Permanent Home Use, adopted on  
April 7, 1993.



JEROME Y. K. HEW  
County Clerk, County of Kauai