

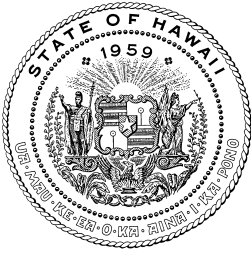
January 25, 2017 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair	NA	Oahu	Parking Pass	Yes
<i>(D) Hawthorn</i> Kyoko Kimura <i>2nd Vice Chair</i>	HA	Maui	Parking Pass	Yes
Harris Nakamoto, Vice Chair	NA	Oahu	NA	Yes
Director's ex officio - Mark Richey	NA	Oahu	NA	Yes
Robert Cundiff	NA	Oahu	Parking Pass	Yes
Nancy Atmospera-Walch	NA	Oahu	NA	Yes
Garth Yamanaka <i>(D) Hawes</i>	HA	B.I.	Parking Pass	Yes

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Poll Board Attendance	✓
Draft Agenda to Chair for approval - 1-13-17 <i>Approved</i>	✓
Prepare TAF's for Director's approval - ASAP (Linda) - Group TAF	<i>Kyoko's ✓</i>
Copies of Rule Package for Lte. Gov's Office (2) and Scan for Posting on State Calendar	✓ ✓
Send Chair Minutes for Approval <i>Approved</i>	✓
Post approved agenda on 1) SBRRB website, 2) State Calendar, 3) Lte. Governor's Office	<i>✓</i> <i>1/2 Done</i> <i>Done</i> <i>Done</i> <i>Done</i>
Send Agendas to those people who requested it - IMPORTANT <i>Attached list</i>	✓ <i>Done</i>
Upload Meeting Documents onto Board's Website in Calendar <i>(Get SBRRB Members Know)</i>	✓
Include "discussion leader" names on the agendas to Board members only.	✓
Prepare Agenda ONLY for "Chair" with Names of Attendees <i>Working on</i>	✓
Mail parking permits to those Board members noted (Sent in Nov. 2016 six (6) permits <i>111 = 3 Member Work</i>)	✓

STAFF				
Dawn Apuna				Via I-pad
Dori Palcovich				

Post Meeting Checklist	



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Bldg., 250 South Hotel St. 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Email: dbedt.sbrb@hawaii.gov
Website: dbedt.hawaii.gov/sbrb

Tel 808 586-2594

David Y. Ige
Governor

Luis P. Salaveria
DBEDT Director

Members

Anthony Borge
Chairperson
Oahu

Harris Nakamoto
Vice Chairperson
Oahu

Kyoko Y. Kimura
2nd Vice Chairperson
Maui

Robert Cundiff
Oahu

Nancy Atmospera-Walch
Oahu

Garth Yamanaka
Hawaii

Director, DBEDT
Voting Ex Officio

AGENDA

Wednesday, January 25, 2017 ★ 10:00 a.m.
No. 1 Capitol District Building
250 South Hotel Street - Conference Room 436

I. Call to Order

II. Approval of December 14, 2016 Meeting Minutes

III. Old Business

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules (HAR) Title 15, **Chapter 210, Rules, Regulations, Charges and Fees for Parks**, promulgated by the Hawaii Community Development Authority / Department of Business, Economic Development and Tourism (DBEDT) – *attached and incorporated as Exhibit 1*
- B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed HAR Title 3, **Chapter 181.1, International Energy Conservation Code**, promulgated by Department of Accounting and General Services (DAGS) / DBEDT – *attached and incorporated as Exhibit 2*
- C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed HAR Title 3, **Chapter 182.1, State Electrical Code**, promulgated by DAGS – *attached and incorporated as Exhibit 3*

IV. New Business

- A. Discussion and Action on Proposed Amendments to Title 13, Sub-Title 7, **Water Resources**, promulgated by Department of Land and Natural Resources, as follows – *attached and incorporated as Exhibit 4*:
 1. **Chapter 167, Rules of Practice and Procedure for the Commission on Water Resource Management;**
 2. **Chapter 168, Water, Use, Wells, and Stream Diversion Works;** and
 3. **Chapter 169, Protection of Instream Uses of Water**
- B. Discussion and Action on Proposed HAR Title 4, Chapter 161, **Hawaii-Grown Industrial Hemp**, promulgated by Department of Agriculture – *attached and incorporated as Exhibit 5*
- C. Discussion and Action on Proposed HAR Title 11, **Chapter 103, Licensure and Certification Fees for Health Care Facilities and Agencies**, promulgated by Department of Health – *attached and incorporated as Exhibit 6*

D. Discussion and Action on Proposed Amendments to Title 8, Subtitle 1, **Liquor Commission**, promulgated by the Department of Liquor Control, County of Maui, as follows – *attached and incorporated as Exhibit 7:*

1. **Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui**, and
2. **Chapter 102, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui**

V. Legislative Matters

A. Discussion and Action on the Delegation of Authority to Board Member(s) and/or Staff to Submit and/or Testify on behalf of the Board during the 2017 Hawaii State Legislative Session

VI. Administrative Matters

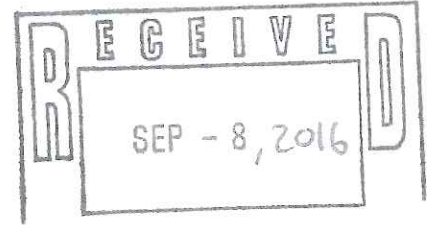
A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes

VII. Next Meeting: Scheduled for Wednesday, February 15, 2017, at 10:00 a.m., Capitol District Building, Conference Room 436, Honolulu, Hawaii

VIII. Adjournment

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

Exhibit 1



Rules Amending Title 15
Hawaii Administrative Rules

(DATE TBD)

1. Chapter 210 of Title 15, Hawaii Administrative Rules, entitled "Rules, Regulations, Charges, and Fees for Parks" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 210

RULES, REGULATIONS, CHARGES, AND FEES
FOR [PUBLIC] PARKS

Subchapter 1 General Provisions

- \$15-210-1 Purpose
- \$15-210-2 Definitions
- \$15-210-3 Severability
- [~~\$15-210-3~~] \$15-210-4 Enforcement
- [~~\$\$15-210-4~~] \$\$15-210-5 to 15-210-12 (Reserved)

Subchapter 2 Use of [Public] Parks

- \$15-210-13 Park use
- \$15-210-14 Animals in [public] parks
- \$15-210-15 Closing of areas

§15-210-1

§15-210-16 Abandoned property

§§15-210-17 to 15-210-25 (Reserved)

Subchapter 3 Commercial Activities

§15-210-26 Advertisements

§15-210-27 Business operations

§15-210-28 Commercial filming, photography,
and videotaping

§15-210-29 Permit for commercial activities

§15-210-30 General commercial use permit
provisions

§15-210-31 Commercial use permit fees

§15-210-32 Commercial use permit
cancellation, revocation, or
termination

§15-210-33 Indemnification and hold harmless

§§15-210-34 to 15-210-45 (Reserved)

Subchapter 4 Permits and Fees for Use of Parks

§15-210-46 Permits

§15-210-47 Fees for use of facilities

§15-210-48 Fees for attendant or custodian
services

§15-210-49 Usage fee schedule

§§15-210-50 to 15-210-58 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§15-210-1 Purpose. The purpose of this chapter is to govern the use and protection of all parks under the jurisdiction, management, and operation of the Hawaii community development authority, providing passive and active, cultural, educational and commercial activities for the well-being of all who visit the [area.] area including permitted park uses.

If any provision of these rules, regulations, charges, and fees for parks or the application of such is held to be invalid, the remaining portions of these rules or the application of said portions shall not be affected. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless otherwise provided:

"Abandoned property" means any [and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels that have been left unattended in the public parks for a continuous period of twenty-four hours or more without the written permission of the authority or the authority's authorized representative. Anything herein to the contrary notwithstanding, personal property carried into the park and left after park hours will be considered abandoned property;] personal property that has been left in, at, or on any Hawaii community development authority property that is closed to the public, and/or the owner of the property is not otherwise permitted to be on the premises. The property of a person violating these rules and who is required to leave any Hawaii community development authority property shall be deemed abandoned;

"Admission fees" means a fee, charge, or assessment levied on permittees for the privilege of observing an event within the [public] parks;

"Agent of the authority" means a person, persons or entity authorized by the Hawaii community development authority to act on Hawaii community development authority's behalf;

"Animals" means all animals wild and domestic;

"Authority" means the Hawaii community development authority board established by section 206E-3, [HRS;] Hawaii Revised Statutes;

"Authority's authorized representative" means any person authorized by the authority to act for the

authority including the executive director and agents of the authority;]

"Camping" means the [possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia any time after park closure within the public park;] use of camping items;

"Camping items" means structures of any kind (except for permitted tents), sleeping bags, mattresses, tarpaulins or tarpaulin like items, laid directly on the ground which cover more than a four-foot by four-foot area;

"Carts" means any wheeled unmotorized device used for moving or carrying personal property which is physically pushed or pulled;

"Commercial activity" means the use of or activity in the [public] park for which compensation is received by any person or entity for the sale of goods or services or both rendered to customers or participants in that use or activity. Display of merchandise, demanding or requesting gifts, money, or services shall be considered a commercial activity. Commercial activities include activities whose base of operations are outside the boundaries of the park, [or provide transportation to or from the parks;] and for which transportation to and from the park is provided;

"Compensation" includes, but is not limited to, monetary fees, barter, or services in-kind;

"Disposal" means the process listed herein for dealing with abandoned property;

"Executive director" means the executive director [of] appointed by the authority;

"HCDA" means the Hawaii community development authority, the executive director, the executive director's staff this includes current officers, directors, board members, employees, representatives and authorized agents, or such authority's successor in interest established by section 206E-3, Hawaii Revised Statutes;

"HCDA property" means real property owned and managed by the HCDA and not leased to another entity within the Kakaako community development district. Such real property includes, but is not limited to,

parks, park roadways, parking lots, beaches and beach rights-of-way. HCDA property also includes improvements made by the HCDA or the agent of the authority. HCDA property is not limited to real property;

"HRS" means the Hawaii Revised Statutes;

"Kakaako makai gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako mauka gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako waterfront park facility" means the stage, bleachers, stands, parking [lot,] lots, landscaped, and other areas of the facility which is HCDA property as outlined in the [park] makai area plan;

"Kewalo basin park facility" means the parking lots, landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kolowalu makai park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Kolowalu mauka park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Law enforcement officer(s)" means any federal, state or county employee with law enforcement powers;

"Mother waldron playground" means the basketball and volleyball courts, play equipment, landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan;

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds,

[and dune buggies] dune buggies, golf carts, all-terrain vehicles (ATVs), segways, hoverboards, or any other vehicles which are mechanically propelled regardless of whether the vehicle is required by the State or any county to be licensed;

"Nude" means uncovered post-pubertal human genitals, pubic areas, or [the nipple or areola of post-pubertal human female breasts;] any portion of the female breast below the top of the areola;

"Park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other area that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties;

"Parking lot" means the area designated for the parking of vehicles within the [public] park;

"Permissible animals" means common domestic household pets which includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, chickens, horses, cattle, sheep, or pigs;

"Permitted tents" means a tent used to provide shade which is not fully enclosed. The addition of a side wall is allowed if it results in an enclosure of less than fifty per cent (i.e., pop up tents);

"Permittee" means the promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purpose of conducting a special event at a [public] park;

"Personal property" means property of any kind or nature, including but not limited to clothing, personal care items such as personal hygiene products and medicines, household items, materials, containers, cardboard, camping items, furniture, equipment,

fixtures, bicycles or mopeds or motorcycles as defined in section 291C-1, HRS;

"Picnic" means an outing with food or refreshments provided by members of a group and eaten in the [open;] open and may include games, music or other activities for the enjoyment of members;

"Play apparatus" means equipment installed in the park by the HCDA or with HCDA's express written permission, specifically designed for recreation and play such as swings and slides or other equipment so designated by these rules or sign;

"Premises" means any park land under the control, maintenance, and management of the [authority] HCDA including, but not limited to, the Kewalo basin park, Kakaako mauka gateway park, Kakaako makai gateway park, [and the] Kakaako waterfront [park;] park, Kolowalu mauka park and Kolowalu makai park;

["Public park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other unencumbered public land that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties; and]

"Soliciting" means engaging in unpermitted commercial activities;

"Storing" means to put aside or accumulate, to place or leave in a location;

"Structure" means any shelter built with construction or other materials which can include parts of a tent; and

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, [including mopeds, but excluding bicycles and other devices moved by human power.] but excluding bicycles. [Eff 6/11/05;

§15-210-2

am and comp 5/25/07, am and comp] (Auth:
HRS §206E-4) (Imp: HRS §§206E-2, 206E-4)

§15-210-3 Severability. These rules shall be liberally construed to protect and preserve the health, safety, and general welfare within the Kakaako community development district. Should any provision of the rules be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions. [Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

[§15-210-3] §15-210-4 Enforcement. (a) Citations. [Police officers and any other officer authorized shall] Law enforcement officer(s) and any other person authorized by the HCDA shall have the power(s) to issue a citation for any violation of the provisions of this chapter:

- (1) [There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this chapter for instances which do not mandate the physical arrest of the violators. The form and content of the citation shall be adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and rules of the State of Hawaii and the city and county of Honolulu;] Law enforcement officer(s) may use a form of citation that is authorized for use for violations of Hawaii Administrative Rules, ordinances, or HRS;
- (2) In every case when a citation is issued, a copy of the same shall be given to the

- violator, or in the case of a parking, standing, or stopping violation, a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);
- (3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original;
- (4) Whenever a motor vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this section, any [police officer and any other officer] law enforcement officer and any other person so authorized shall take the name, address, and driver's license number of the alleged violator and the license plate number of the vehicle or vehicle identification number of the motor vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the [complaint to be entered against the person at a place and at a time provided in the citation;] citation in writing at the address provided and by the date listed; and
- (5) Whenever any motor vehicle is parked, standing, or stopped in violation of this section, the [police officer and any other officer] law enforcement officer and any other person so authorized finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the [charge against the registered owner at a time and place specified in the citation.] citation in writing at the address provided and by the date listed. The registered

owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

- (A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or
- (B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for violation of a parking, standing, or stopping provision of this section, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle shall constitute prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the [vehicle; or] vehicle.

- [(6) If a person cited for violating any provision under this section does not appear in response to a citation, a penal summons shall be issued ordering the person's appearance in court.

(b) Police officers and any other officer so authorized may arrest in situations where:

- (1) The alleged violator refuses to provide the officer with the person's name and address and any proof thereof as may be reasonably available to the alleged violator;
- (2) When the alleged violator refuses to cease the person's illegal activity after being issued a citation; or
- (3) The alleged violator has previously been issued a citation for the same offense within a one-year period.] (b) Removed vehicles.

- (1) Complaint resolution may be initiated by persons claiming ownership or entitlement to

- vehicle towed under these rules by contacting the HCDA at (808) 594-0300; and
- (2) Any persons claiming ownership of the towed vehicle under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the vehicle being towed for which the contested case hearing is sought pursuant to section 15-219-45 et seq.

(c) Severability. If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions hereof.

(d) Penalty. [Except as otherwise provided in subsection (a)(1) through (a)(4), any person convicted of a violation of any section or provision of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than thirty days, or by both the fine and imprisonment; provided however, any person who violates or causes a vehicle to violate the provisions of the following sections shall be fined not less than \$25 but not more than \$500:

- (1) §15-210-13(a)(11);
- (2) §15-210-13(a)(14);
- (3) §15-210-13(b)(5); or
- (4) §15-210-13(f).]

Any person cited for a violation of any section or provision of this chapter shall be subject to a fine of \$50 for first time offense, \$100 for second or third time offenses, and \$500 for repeated offense beyond the third offense.

(e) Trespass. Any person(s) cited for repeated violation of any provisions of this chapter may be prohibited from use of the parks for a period of one year.

[(e)] (f) Injunction. The authority may maintain an action for an injunction to restrain any violation of this chapter and may take lawful action to prevent

§15-210-4

or remedy any violation. [Eff 6/11/05; am and comp
5/25/07, am and ren §15-210-3, am and
comp] (Auth: HRS §206E-4) (Imp: HRS
§206E-4)

[§§15-210-4] §§15-210-5 to 15-210-12 (Reserved)

SUBCHAPTER 2

USE OF [PUBLIC] PARKS

- §15-210-13 Park use. (a) Within the limits of any [public] park, it is unlawful for any person to:
- (1) Wilfully or intentionally destroy, damage, or injure any property;
 - (2) Climb onto any tree, except those designated by signage for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play [apparatus;] apparatus which is a part of the park;
 - (3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
 - (4) Kindle, build, maintain, or use any fire, other than [in a grill or brazier;] in a HCDA designated barbeque pit;
 - (5) Annoy, molest, kill, wound, chase, shoot, launch or throw projectiles or missiles at any animal or bird;
 - (6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
 - (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
 - (8) [Construct] Construct, repair, or fabricate surfboards;

- (9) Permit any animal to enter and remain within the confines of any [public] park area except as otherwise provided in this chapter or authorized by permits issued by the authority or the [authority's authorized representative;] agent of the authority;
- (10) Feed any animal or bird [when signs are posted prohibiting the feeding unless authorized by a permit issued by the authority or the authority's authorized representative;] unless authorized by a permit issued by the authority or the agent of the authority;
- (11) Wash, polish, or repair cars or other vehicles;
- (12) Enter or remain in any [public] park during the posted hours that the park is [closed, provided that public notice of closure is made;] closed;
- (13) [Camp at any park not designated as a campground;] Camp at any parks or create a camp site;
- (14) Park any vehicle in the parking lot except while its passengers are within the [public] park;
- (15) Appear nude within the [public] park;
- (16) Defecate or urinate other than in public restrooms;
- (17) Dispose of any trash other than in designated rubbish bins;
- (18) [Launder clothes or wash any article of household use in barbecue areas, drinking fountains, irrigation systems, or restrooms;] Use any type of detergent or soap to launder clothes or wash any personal property within the park;
- (19) Hang or lay more than one article of clothing or [household use] personal property to dry anywhere in the park; [or]
- (20) Park vehicles outside of marked parking [stalls.] stalls;

- (21) Operate any vehicle within the park, excluding the parking lot, unless authorized by the authority or the agent of the authority;
- (22) Use skates, skateboards, hoverboards, segways, scooters, or other similar items;
- (23) Use inflatable bouncers or other similar items;
- (24) Insert stakes or spikes of any length into the grounds;
- (25) Smoking of cigarettes, cigars, etc. or utilizing e-cigs, e-cigarettes, vapor cigarettes or similar devices;
- (26) Personal use of fireworks of any type; or
- (27) Access water from any source within the park other than a park comfort station or park shower.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the authority, it is unlawful for any person, within the limits of any [public] park, to:

- (1) Cut or remove any wood, plant, grass, soil, rock, sand, or gravel;
- (2) Sell or offer for sale any services, merchandise, article, or thing, whatsoever;
- (3) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;
- (4) Repair or [condition] recondition any surfboard;
- (5) Operate a motorized scooter, motorized vehicle, or other motorized recreational equipment that is not regulated and licensed by the city and county of Honolulu;
- (6) Enter the [public park with a shopping cart or park any shopping cart or vehicle on grassed areas;] park with a cart with items in the cart stacked, piled, or placed exceeding a height of three feet;
- (7) Amplify music or use battery-operated loudspeakers (bullhorns);
- (8) Ride or drive any horse or any other animal;

- (9) Access electricity from any source within the park;
- [(9)] (10) Kindle, build, or maintain any campfire, fire torch, or fire knife;
- [(10)] (11) Serve, sell, or consume alcoholic beverages;
- [(11)] (12) Engage in or conduct any activity which creates any sound, noise, or music exceeding 80 dBA sound pressure level taken at a point ten feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the authority;
- [(12)] Use anchors, stakes, or any ground penetration for any purpose; or]
- (13) Placement of anchors, stakes, or any ground penetrating item for any purpose;
- (14) Bring wading pools, dunking tanks, inflatable pools, or portable hot [tubs.] tubs;
- (15) Burning or lighting of firecrackers or fireworks display in the parks;
- (16) Placement of any structures;
- (17) Holding any gathering with more than fifty people in attendance;
- (18) Digging holes; or
- (19) Access water from any backflow preventer or tamper with any backflow preventer and/or irrigation system.

(c) Within the limits of any [public] park, it is [unlawful] a violation of these rules for any person, wherever signs are posted prohibiting the activities, to:

- (1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;
- (2) Ride upon roller skates, roller blades, skate boards, scooters, wheelies, [or

bicycles; or] hoverboards, segways, or other wheeled devices;

(3) Engage in kite [flying.] flying;

(4) Engage in drone flying; or

(5) Ride bicycles anywhere except on designated paths or areas.

(d) Except in park areas specifically designated for the purposes, it is unlawful for any person to:

(1) Throw, cast, roll, or strike any bowling ball or golf ball;

(2) Engage in model [airplane] airplane, or drone flying;

(3) Engage in model boat sailing;

(4) Engage in model car, truck, or motorcycle driving;

(5) Discharge firearms for target practice only;

(6) Engage in archery for target practice and tournament only; [or]

(7) Launch model [rockets.] rockets; or

(8) Allow any domestic household pet to be off leash at any time.

(e) In addition to the requirements of subsection (b), the repair or [conditioning] reconditioning of any surfboard shall be performed only by a concessionaire of the authority who has a surfboard concession. The repair work shall be conducted only in an enclosed building or structure, approved by the authority, the Honolulu county department of planning and permitting, and the state department of health. The terms and conditions to be imposed by the authority shall include, together with the requirements necessary to safeguard the health and safety of the public, the securing of adequate insurance to protect the State from any liability resulting from the repair work.

(f) Within the limits of any [public] park, it is unlawful for any person, where signs are posted prohibiting or restricting the activities, to operate, park, or stand a motor vehicle in violation of the prohibitions or restrictions. The signs may impose any prohibition or restriction upon the operation, parking, or standing of motor vehicles which the

executive director shall determine will maximize the enjoyment and use of any park by park users. The restrictions may include the installation of parking meters or parking toll booths in [public] parks. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-14 Animals in [public] parks.

(a) [Persons may bring animals into public] Adult persons may bring permissible animals into parks as provided in this section or in accordance with any other rules adopted by the authority pursuant to chapter 91, HRS. [For purposes of this section, "common domestic household pets" includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, horses, cattle, sheep, or pigs.]

(b) Permissible animals in the parks shall be constantly supervised by a legally responsible person.

(c) All permissible animals in the parks shall be leashed or crated and under the control of a legally responsible person.

(d) Permissible animals shall not be left unattended in the parks even if the permissible animal is leashed or crated.

(e) Animals which are not permissible animals are not allowed in the parks.

[(b)] (f) The executive director is authorized to designate areas in [public] parks for use by persons having custody and control of [common domestic household pets on a leash.] leash-free common domestic household pets. In designating parks or areas therein for [leashed] leash-free common domestic household pets, commonly known as "bark parks", the executive director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The executive director shall post signs that notify the public of

the designation that describe or map the park or park areas so designated. Signs for areas for [leashed] leash-free common domestic household pets shall further display the applicable requirements in subsection (c).

[(c)] (g) Persons bringing [permitted] permissible animals into [public] parks shall be held responsible for the sanitary use of the park, the protection of shrubbery, trees, turf, and other property, and the safety, health, and welfare of all park users, as well as the following specific responsibilities associated with bringing common domestic household pets into a [public] park:

- (1) [The] Except in designated leash-free areas, the person having custody and control of the common domestic household pets [to] shall restrain the common domestic household pets at all times on a leash, cord, chain, or other similar means of physical restraint of not more than eight feet in length;
 - (2) All common domestic household pets [in the park or park areas designated for leashed common domestic household pets to] shall display a valid license tag attached to the common domestic household pet's collar;
 - (3) The person having custody and control of the common domestic household pets [to] shall be eighteen years of age or older; and
 - (4) The person having custody and control of the common domestic household pets [to] shall carry equipment for the removal and disposal of the common domestic household pets' feces and [to] shall clean up and dispose of feces left by the common domestic household pets.
- [Eff 6/11/05; comp 5/25/07, am and
comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-210-15 Closing of areas. (a) The visiting hours for the parks shall be as noted on officially posted park hour signs. All persons shall observe and

abide by the officially posted signs designating closed areas and visiting hours.

(b) The authority or the [authority's authorized representative may establish a reasonable schedule] agent of the authority may establish other reasonable schedules of visiting hours for all or portions of the premises and close or restrict the public use of all or any portions thereof, when necessary for the maintenance or protection of the area or the safety and welfare of persons or [property, by the posting of appropriate signs indicating the extent and scope of closure.] property. Signs may be posted by the HCDA or the agent of the authority to provide notice of the change in park visiting hours or the closure of specified areas. All persons shall observe and abide by the [officially] HCDA approved posted signs designating closed areas and visiting hours.

[(b)] (c) Vehicles left unattended in closed areas may be impounded by the authority or the authority's authorized representative at any time.

[(c)] (d) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §§206E-4, 290-11)

§15-210-16 Abandoned property. [Abandoned property is subject to removal at the owner's expense.] (a) Prohibition.

(1) Abandoned property is prohibited and may be removed by the HCDA; and

(2) Moving abandoned property to another location on HCDA property and "left in, at, or on any HCDA property" is within the meaning of the "abandoned property" definition.

(b) Disposal, removal, notice and storage procedures for abandoned property.

- (1) Immediate disposal. The HCDA may dispose of immediately, in any manner without notice, verbal or written, abandoned property:
 - (A) Of a perishable nature, including but not limited to items that require refrigeration;
 - (B) Posing a threat to the health, safety, or welfare of the public, including but not limited to property containing flammable or otherwise hazardous chemicals, or similarly dangerous items that, if stored, could cause fire, explosion, identifiable disease;
 - (C) Deemed to be inappropriate for storage for health and safety reasons by the HCDA, including but not limited to property that is wet, soiled, dirty, sharp, odorous, contaminated by mold or infested with insects, roaches, or bed bugs; or
 - (D) Where the apparent owner of the property requests or permits such disposal;
 - (2) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided a reasonable opportunity to remove the property from HCDA property; and
 - (3) The HCDA shall photograph, video, and/or describe in writing any abandoned property immediately disposed of pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property.
- (c) Removal and storage. The HCDA may remove and store abandoned property that:
- (1) Interferes with the orderly management of HCDA property;
 - (2) Remains in a park after park closure hours;
or
 - (3) Where the apparent owner of the property requests or permits such removal:

- (A) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided an opportunity to remove the property from HCDA property;
- (B) The HCDA shall photograph, video and/or describe in writing any abandoned property removed pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property; and
- (C) Any removed abandoned property shall be stored for at least forty-five calendar days prior to it being disposed.
- (d) Exclusion from enforcement area.
 - (1) Members of the public may be excluded from the area within which the abandoned property is being removed by the HCDA; the exclusion area may extend up to ten feet from any property to be removed; and
 - (2) A person claiming ownership of the abandoned property shall be permitted to enter the exclusion area for purposes of removing that property so that the property will not be removed by the HCDA; provided, however, that moving abandoned property from HCDA property to another location within the same HCDA property, or to another HCDA property shall not be considered removal from HCDA property, and that the removal is done within forty-five minutes after the initial notice of removal is given.
- (e) Notice. Notice after removal of abandoned property:
 - (1) If physically feasible, a written notice shall also be left in the area/location from where the abandoned property was removed, and be prominently and conspicuously posted for at least three consecutive calendar days following removal of the abandoned property. The notice may be collected by the HCDA

- after three days have elapsed. This does not require the HCDA to ensure that the notice is in place seventy-two consecutive hours but requires only inspection at the end of the three-day period;
- (2) Written notice shall also be posted on HCDA's internet website for three consecutive days;
- (3) The written notice shall apprise the owner of the abandoned property of the description and location of the removed property and of the intent of the HCDA to sell, donate, or otherwise dispose of the property if not claimed within forty-five calendar days after removal. The notice shall also include:
- (A) Date and time the abandoned property was taken;
- (B) Date and time the written notice was originally posted; and
- (C) Contact information for the owner of the abandoned property to use if the person desires to reclaim the abandoned property and the time and location at which the owner needs to reclaim the abandoned property; and
- (4) To the extent possible based on information known to the HCDA, an additional written notice shall also be mailed to the person whose property was removed, at that person's last known mailing address.
- (f) Claiming of abandoned property.
- (1) The owner or any other person entitled to the stored abandoned property may claim the property prior to its disposal upon submitting to the HCDA satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the HCDA in connection with the proposed disposal of the stored abandoned property;

- (2) Such amounts may be waived by the HCDA upon satisfactory showing of inability to pay;
and
- (3) A dispute between the owner or other person entitled to the stored abandoned property who claimed the property, and another party shall not constitute a dispute to which the State of Hawaii or the HCDA is a party, and there is no right of action against the State of Hawaii or the HCDA. The State of Hawaii and may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (g) Disposal.
- (1) If any stored abandoned property is not claimed in forty-five calendar days, the HCDA may dispose of the property by disposing it;
- (2) Alternatively, if any singular item of abandoned property is determined by the HCDA to have an estimated value of \$1,000 or more, the HCDA may, in lieu of disposing the abandoned property, seek to publicly auction the property. In that event, the HCDA shall give public notice of the public auction, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was seized; provided that the disposal shall not take place less than five calendar days after public notice has been given. Following proper notices, any item of impounded personal property having an

estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the abandoned property may be sold by negotiation, disposed of or sold as junk, kept by the HCDA or donated to any other government agency or charitable organization; and

- (3) All expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the HCDA shall be deducted from the proceeds of any sale of the abandoned property. Any amount remaining shall be held in trust for the owner of the property for thirty calendar days after sale, after which time the proceeds shall be transferred to the department of budget and finance pursuant to the Unclaimed Properties Act.

(h) Records. Records relating to property not immediately disposed of shall be kept as a public record for a period of not less than two years from the date of disposal of the property.

(i) Complaint resolution.

- (1) All complaints by persons claiming ownership or entitlement to abandoned property stored or disposed of under these rules may contact the HCDA at (808) 594-0300; and
- (2) Any person claiming the property stored or disposed of under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the action or decision for which the contested case hearing is sought pursuant to section 15-219-45 et seq. The HCDA shall continue to store the abandoned property at issue in the contested case hearing while the case is pending. The HCDA may dispose of the abandoned property if the contested case hearing decision allows for such disposal.

[Eff and comp 5/25/07, am and

comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§§15-210-17 to 15-210-25 (Reserved)

SUBCHAPTER 3

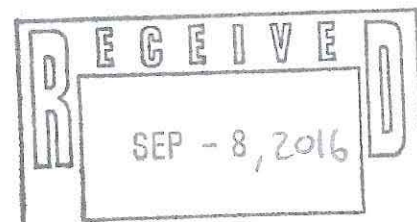
COMMERCIAL ACTIVITIES

§15-210-26 Advertisements. No person shall display, post, or distribute notices or advertisements except with the prior written permission of the authority or the [authority's authorized representative.] agent of the authority. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within or to be available within the premises and the notices and advertisements are found by the authority or the [authority's authorized representative to be desirable and necessary for the convenience and guidance of the public.] agent of the authority to be desirable and necessary for the convenience and guidance of the public and does not interfere with the normal use of the park. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-27 Business operations. No person shall engage in or solicit any business, except in accordance with the provisions of a permit, contract, license, lease, concession, or other written agreement with the authority or the [authority's authorized representative.] agent of the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-28 Commercial filming, photography, and videotaping. (a) Before any motion picture is filmed

Exhibit 1



Rules Amending Title 15
Hawaii Administrative Rules

(DATE TBD)

1. Chapter 210 of Title 15, Hawaii Administrative Rules, entitled "Rules, Regulations, Charges, and Fees for Parks" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 210

RULES, REGULATIONS, CHARGES, AND FEES
FOR [PUBLIC] PARKS

Subchapter 1 General Provisions

- \$15-210-1 Purpose
- \$15-210-2 Definitions
- \$15-210-3 Severability
- [~~\$15-210-3~~] \$15-210-4 Enforcement
- [~~\$\$15-210-4~~] \$\$15-210-5 to 15-210-12 (Reserved)

Subchapter 2 Use of [Public] Parks

- \$15-210-13 Park use
- \$15-210-14 Animals in [public] parks
- \$15-210-15 Closing of areas

§15-210-1

§15-210-16 Abandoned property

§§15-210-17 to 15-210-25 (Reserved)

Subchapter 3 Commercial Activities

§15-210-26 Advertisements

§15-210-27 Business operations

§15-210-28 Commercial filming, photography,
and videotaping

§15-210-29 Permit for commercial activities

§15-210-30 General commercial use permit
provisions

§15-210-31 Commercial use permit fees

§15-210-32 Commercial use permit
cancellation, revocation, or
termination

§15-210-33 Indemnification and hold harmless

§§15-210-34 to 15-210-45 (Reserved)

Subchapter 4 Permits and Fees for Use of Parks

§15-210-46 Permits

§15-210-47 Fees for use of facilities

§15-210-48 Fees for attendant or custodian
services

§15-210-49 Usage fee schedule

§§15-210-50 to 15-210-58 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§15-210-1 Purpose. The purpose of this chapter is to govern the use and protection of all parks under the jurisdiction, management, and operation of the Hawaii community development authority, providing passive and active, cultural, educational and commercial activities for the well-being of all who visit the [area.] area including permitted park uses.

If any provision of these rules, regulations, charges, and fees for parks or the application of such is held to be invalid, the remaining portions of these rules or the application of said portions shall not be affected. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless otherwise provided:

"Abandoned property" means any [and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels that have been left unattended in the public parks for a continuous period of twenty-four hours or more without the written permission of the authority or the authority's authorized representative. Anything herein to the contrary notwithstanding, personal property carried into the park and left after park hours will be considered abandoned property;] personal property that has been left in, at, or on any Hawaii community development authority property that is closed to the public, and/or the owner of the property is not otherwise permitted to be on the premises. The property of a person violating these rules and who is required to leave any Hawaii community development authority property shall be deemed abandoned;

"Admission fees" means a fee, charge, or assessment levied on permittees for the privilege of observing an event within the [public] parks;

"Agent of the authority" means a person, persons or entity authorized by the Hawaii community development authority to act on Hawaii community development authority's behalf;

"Animals" means all animals wild and domestic;

"Authority" means the Hawaii community development authority board established by section 206E-3, [HRS;] Hawaii Revised Statutes;

"Authority's authorized representative" means any person authorized by the authority to act for the

authority including the executive director and agents of the authority;]

"Camping" means the [possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia any time after park closure within the public park;] use of camping items;

"Camping items" means structures of any kind (except for permitted tents), sleeping bags, mattresses, tarpaulins or tarpaulin like items, laid directly on the ground which cover more than a four-foot by four-foot area;

"Carts" means any wheeled unmotorized device used for moving or carrying personal property which is physically pushed or pulled;

"Commercial activity" means the use of or activity in the [public] park for which compensation is received by any person or entity for the sale of goods or services or both rendered to customers or participants in that use or activity. Display of merchandise, demanding or requesting gifts, money, or services shall be considered a commercial activity. Commercial activities include activities whose base of operations are outside the boundaries of the park, [or provide transportation to or from the parks;] and for which transportation to and from the park is provided;

"Compensation" includes, but is not limited to, monetary fees, barter, or services in-kind;

"Disposal" means the process listed herein for dealing with abandoned property;

"Executive director" means the executive director [of] appointed by the authority;

"HCDA" means the Hawaii community development authority, the executive director, the executive director's staff this includes current officers, directors, board members, employees, representatives and authorized agents, or such authority's successor in interest established by section 206E-3, Hawaii Revised Statutes;

"HCDA property" means real property owned and managed by the HCDA and not leased to another entity within the Kakaako community development district. Such real property includes, but is not limited to,

parks, park roadways, parking lots, beaches and beach rights-of-way. HCDA property also includes improvements made by the HCDA or the agent of the authority. HCDA property is not limited to real property;

"HRS" means the Hawaii Revised Statutes;

"Kakaako makai gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako mauka gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako waterfront park facility" means the stage, bleachers, stands, parking [lot,] lots, landscaped, and other areas of the facility which is HCDA property as outlined in the [park] makai area plan;

"Kewalo basin park facility" means the parking lots, landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kolowalu makai park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Kolowalu mauka park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Law enforcement officer(s)" means any federal, state or county employee with law enforcement powers;

"Mother waldron playground" means the basketball and volleyball courts, play equipment, landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan;

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds,

[and dune buggies] dune buggies, golf carts, all-terrain vehicles (ATVs), segways, hoverboards, or any other vehicles which are mechanically propelled regardless of whether the vehicle is required by the State or any county to be licensed;

"Nude" means uncovered post-pubertal human genitals, pubic areas, or [the nipple or areola of post-pubertal human female breasts;] any portion of the female breast below the top of the areola;

"Park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other area that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties;

"Parking lot" means the area designated for the parking of vehicles within the [public] park;

"Permissible animals" means common domestic household pets which includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, chickens, horses, cattle, sheep, or pigs;

"Permitted tents" means a tent used to provide shade which is not fully enclosed. The addition of a side wall is allowed if it results in an enclosure of less than fifty per cent (i.e., pop up tents);

"Permittee" means the promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purpose of conducting a special event at a [public] park;

"Personal property" means property of any kind or nature, including but not limited to clothing, personal care items such as personal hygiene products and medicines, household items, materials, containers, cardboard, camping items, furniture, equipment,

fixtures, bicycles or mopeds or motorcycles as defined in section 291C-1, HRS;

"Picnic" means an outing with food or refreshments provided by members of a group and eaten in the [open;] open and may include games, music or other activities for the enjoyment of members;

"Play apparatus" means equipment installed in the park by the HCDA or with HCDA's express written permission, specifically designed for recreation and play such as swings and slides or other equipment so designated by these rules or sign;

"Premises" means any park land under the control, maintenance, and management of the [authority] HCDA including, but not limited to, the Kewalo basin park, Kakaako mauka gateway park, Kakaako makai gateway park, [and the] Kakaako waterfront [park;] park, Kolowalu mauka park and Kolowalu makai park;

["Public park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other unencumbered public land that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties; and]

"Soliciting" means engaging in unpermitted commercial activities;

"Storing" means to put aside or accumulate, to place or leave in a location;

"Structure" means any shelter built with construction or other materials which can include parts of a tent; and

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, [including mopeds, but excluding bicycles and other devices moved by human power.] but excluding bicycles. [Eff 6/11/05;

§15-210-2

am and comp 5/25/07, am and comp] (Auth:
HRS §206E-4) (Imp: HRS §§206E-2, 206E-4)

§15-210-3 Severability. These rules shall be liberally construed to protect and preserve the health, safety, and general welfare within the Kakaako community development district. Should any provision of the rules be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions. [Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

[§15-210-3] §15-210-4 Enforcement. (a) Citations. [Police officers and any other officer authorized shall] Law enforcement officer(s) and any other person authorized by the HCDA shall have the power(s) to issue a citation for any violation of the provisions of this chapter:

- (1) [There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this chapter for instances which do not mandate the physical arrest of the violators. The form and content of the citation shall be adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and rules of the State of Hawaii and the city and county of Honolulu;] Law enforcement officer(s) may use a form of citation that is authorized for use for violations of Hawaii Administrative Rules, ordinances, or HRS;
- (2) In every case when a citation is issued, a copy of the same shall be given to the

- violator, or in the case of a parking, standing, or stopping violation, a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);
- (3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original;
- (4) Whenever a motor vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this section, any [police officer and any other officer] law enforcement officer and any other person so authorized shall take the name, address, and driver's license number of the alleged violator and the license plate number of the vehicle or vehicle identification number of the motor vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the [complaint to be entered against the person at a place and at a time provided in the citation;] citation in writing at the address provided and by the date listed; and
- (5) Whenever any motor vehicle is parked, standing, or stopped in violation of this section, the [police officer and any other officer] law enforcement officer and any other person so authorized finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the [charge against the registered owner at a time and place specified in the citation.] citation in writing at the address provided and by the date listed. The registered

owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

- (A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or
- (B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for violation of a parking, standing, or stopping provision of this section, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle shall constitute prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the [vehicle; or] vehicle.

- [(6) If a person cited for violating any provision under this section does not appear in response to a citation, a penal summons shall be issued ordering the person's appearance in court.

(b) Police officers and any other officer so authorized may arrest in situations where:

- (1) The alleged violator refuses to provide the officer with the person's name and address and any proof thereof as may be reasonably available to the alleged violator;
- (2) When the alleged violator refuses to cease the person's illegal activity after being issued a citation; or
- (3) The alleged violator has previously been issued a citation for the same offense within a one-year period.] (b) Removed vehicles.

- (1) Complaint resolution may be initiated by persons claiming ownership or entitlement to

- vehicle towed under these rules by contacting the HCDA at (808) 594-0300; and
- (2) Any persons claiming ownership of the towed vehicle under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the vehicle being towed for which the contested case hearing is sought pursuant to section 15-219-45 et seq.

(c) Severability. If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions hereof.

(d) Penalty. [Except as otherwise provided in subsection (a)(1) through (a)(4), any person convicted of a violation of any section or provision of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than thirty days, or by both the fine and imprisonment; provided however, any person who violates or causes a vehicle to violate the provisions of the following sections shall be fined not less than \$25 but not more than \$500:

- (1) §15-210-13(a)(11);
- (2) §15-210-13(a)(14);
- (3) §15-210-13(b)(5); or
- (4) §15-210-13(f).]

Any person cited for a violation of any section or provision of this chapter shall be subject to a fine of \$50 for first time offense, \$100 for second or third time offenses, and \$500 for repeated offense beyond the third offense.

(e) Trespass. Any person(s) cited for repeated violation of any provisions of this chapter may be prohibited from use of the parks for a period of one year.

[(e)] (f) Injunction. The authority may maintain an action for an injunction to restrain any violation of this chapter and may take lawful action to prevent

or remedy any violation. [Eff 6/11/05; am and comp
5/25/07, am and ren §15-210-3, am and
comp] (Auth: HRS §206E-4) (Imp: HRS
§206E-4)

[§§15-210-4] §§15-210-5 to 15-210-12 (Reserved)

SUBCHAPTER 2

USE OF [PUBLIC] PARKS

- §15-210-13 Park use. (a) Within the limits of any [public] park, it is unlawful for any person to:
- (1) Wilfully or intentionally destroy, damage, or injure any property;
 - (2) Climb onto any tree, except those designated by signage for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play [apparatus;] apparatus which is a part of the park;
 - (3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
 - (4) Kindle, build, maintain, or use any fire, other than [in a grill or brazier;] in a HCDA designated barbeque pit;
 - (5) Annoy, molest, kill, wound, chase, shoot, launch or throw projectiles or missiles at any animal or bird;
 - (6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
 - (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
 - (8) [Construct] Construct, repair, or fabricate surfboards;

- (9) Permit any animal to enter and remain within the confines of any [public] park area except as otherwise provided in this chapter or authorized by permits issued by the authority or the [authority's authorized representative;] agent of the authority;
- (10) Feed any animal or bird [when signs are posted prohibiting the feeding unless authorized by a permit issued by the authority or the authority's authorized representative;] unless authorized by a permit issued by the authority or the agent of the authority;
- (11) Wash, polish, or repair cars or other vehicles;
- (12) Enter or remain in any [public] park during the posted hours that the park is [closed, provided that public notice of closure is made;] closed;
- (13) [Camp at any park not designated as a campground;] Camp at any parks or create a camp site;
- (14) Park any vehicle in the parking lot except while its passengers are within the [public] park;
- (15) Appear nude within the [public] park;
- (16) Defecate or urinate other than in public restrooms;
- (17) Dispose of any trash other than in designated rubbish bins;
- (18) [Launder clothes or wash any article of household use in barbecue areas, drinking fountains, irrigation systems, or restrooms;] Use any type of detergent or soap to launder clothes or wash any personal property within the park;
- (19) Hang or lay more than one article of clothing or [household use] personal property to dry anywhere in the park; [or]
- (20) Park vehicles outside of marked parking [stalls.] stalls;

- (21) Operate any vehicle within the park, excluding the parking lot, unless authorized by the authority or the agent of the authority;
- (22) Use skates, skateboards, hoverboards, segways, scooters, or other similar items;
- (23) Use inflatable bouncers or other similar items;
- (24) Insert stakes or spikes of any length into the grounds;
- (25) Smoking of cigarettes, cigars, etc. or utilizing e-cigs, e-cigarettes, vapor cigarettes or similar devices;
- (26) Personal use of fireworks of any type; or
- (27) Access water from any source within the park other than a park comfort station or park shower.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the authority, it is unlawful for any person, within the limits of any [public] park, to:

- (1) Cut or remove any wood, plant, grass, soil, rock, sand, or gravel;
- (2) Sell or offer for sale any services, merchandise, article, or thing, whatsoever;
- (3) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;
- (4) Repair or [condition] recondition any surfboard;
- (5) Operate a motorized scooter, motorized vehicle, or other motorized recreational equipment that is not regulated and licensed by the city and county of Honolulu;
- (6) Enter the [public park with a shopping cart or park any shopping cart or vehicle on grassed areas;] park with a cart with items in the cart stacked, piled, or placed exceeding a height of three feet;
- (7) Amplify music or use battery-operated loudspeakers (bullhorns);
- (8) Ride or drive any horse or any other animal;

- (9) Access electricity from any source within the park;
- [(9)] (10) Kindle, build, or maintain any campfire, fire torch, or fire knife;
- [(10)] (11) Serve, sell, or consume alcoholic beverages;
- [(11)] (12) Engage in or conduct any activity which creates any sound, noise, or music exceeding 80 dBA sound pressure level taken at a point ten feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the authority;
- [(12)] Use anchors, stakes, or any ground penetration for any purpose; or]
- (13) Placement of anchors, stakes, or any ground penetrating item for any purpose;
- (14) Bring wading pools, dunking tanks, inflatable pools, or portable hot [tubs.] tubs;
- (15) Burning or lighting of firecrackers or fireworks display in the parks;
- (16) Placement of any structures;
- (17) Holding any gathering with more than fifty people in attendance;
- (18) Digging holes; or
- (19) Access water from any backflow preventer or tamper with any backflow preventer and/or irrigation system.

(c) Within the limits of any [public] park, it is [unlawful] a violation of these rules for any person, wherever signs are posted prohibiting the activities, to:

- (1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;
- (2) Ride upon roller skates, roller blades, skate boards, scooters, wheelies, [or

bicycles; or] hoverboards, segways, or other wheeled devices;

(3) Engage in kite [flying.] flying;

(4) Engage in drone flying; or

(5) Ride bicycles anywhere except on designated paths or areas.

(d) Except in park areas specifically designated for the purposes, it is unlawful for any person to:

(1) Throw, cast, roll, or strike any bowling ball or golf ball;

(2) Engage in model [airplane] airplane, or drone flying;

(3) Engage in model boat sailing;

(4) Engage in model car, truck, or motorcycle driving;

(5) Discharge firearms for target practice only;

(6) Engage in archery for target practice and tournament only; [or]

(7) Launch model [rockets.] rockets; or

(8) Allow any domestic household pet to be off leash at any time.

(e) In addition to the requirements of subsection (b), the repair or [conditioning] reconditioning of any surfboard shall be performed only by a concessionaire of the authority who has a surfboard concession. The repair work shall be conducted only in an enclosed building or structure, approved by the authority, the Honolulu county department of planning and permitting, and the state department of health. The terms and conditions to be imposed by the authority shall include, together with the requirements necessary to safeguard the health and safety of the public, the securing of adequate insurance to protect the State from any liability resulting from the repair work.

(f) Within the limits of any [public] park, it is unlawful for any person, where signs are posted prohibiting or restricting the activities, to operate, park, or stand a motor vehicle in violation of the prohibitions or restrictions. The signs may impose any prohibition or restriction upon the operation, parking, or standing of motor vehicles which the

executive director shall determine will maximize the enjoyment and use of any park by park users. The restrictions may include the installation of parking meters or parking toll booths in [public] parks. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-14 Animals in [public] parks.

(a) [Persons may bring animals into public] Adult persons may bring permissible animals into parks as provided in this section or in accordance with any other rules adopted by the authority pursuant to chapter 91, HRS. [For purposes of this section, "common domestic household pets" includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, horses, cattle, sheep, or pigs.]

(b) Permissible animals in the parks shall be constantly supervised by a legally responsible person.

(c) All permissible animals in the parks shall be leashed or crated and under the control of a legally responsible person.

(d) Permissible animals shall not be left unattended in the parks even if the permissible animal is leashed or crated.

(e) Animals which are not permissible animals are not allowed in the parks.

[(b)] (f) The executive director is authorized to designate areas in [public] parks for use by persons having custody and control of [common domestic household pets on a leash.] leash-free common domestic household pets. In designating parks or areas therein for [leashed] leash-free common domestic household pets, commonly known as "bark parks", the executive director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The executive director shall post signs that notify the public of

the designation that describe or map the park or park areas so designated. Signs for areas for [leashed] leash-free common domestic household pets shall further display the applicable requirements in subsection (c).

[(c)] (g) Persons bringing [permitted] permissible animals into [public] parks shall be held responsible for the sanitary use of the park, the protection of shrubbery, trees, turf, and other property, and the safety, health, and welfare of all park users, as well as the following specific responsibilities associated with bringing common domestic household pets into a [public] park:

- (1) [The] Except in designated leash-free areas, the person having custody and control of the common domestic household pets [to] shall restrain the common domestic household pets at all times on a leash, cord, chain, or other similar means of physical restraint of not more than eight feet in length;
 - (2) All common domestic household pets [in the park or park areas designated for leashed common domestic household pets to] shall display a valid license tag attached to the common domestic household pet's collar;
 - (3) The person having custody and control of the common domestic household pets [to] shall be eighteen years of age or older; and
 - (4) The person having custody and control of the common domestic household pets [to] shall carry equipment for the removal and disposal of the common domestic household pets' feces and [to] shall clean up and dispose of feces left by the common domestic household pets.
- [Eff 6/11/05; comp 5/25/07, am and
comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-210-15 Closing of areas. (a) The visiting hours for the parks shall be as noted on officially posted park hour signs. All persons shall observe and

abide by the officially posted signs designating closed areas and visiting hours.

(b) The authority or the [authority's authorized representative may establish a reasonable schedule] agent of the authority may establish other reasonable schedules of visiting hours for all or portions of the premises and close or restrict the public use of all or any portions thereof, when necessary for the maintenance or protection of the area or the safety and welfare of persons or [property, by the posting of appropriate signs indicating the extent and scope of closure.] property. Signs may be posted by the HCDA or the agent of the authority to provide notice of the change in park visiting hours or the closure of specified areas. All persons shall observe and abide by the [officially] HCDA approved posted signs designating closed areas and visiting hours.

[(b)] (c) Vehicles left unattended in closed areas may be impounded by the authority or the authority's authorized representative at any time.

[(c)] (d) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §§206E-4, 290-11)

§15-210-16 Abandoned property. [Abandoned property is subject to removal at the owner's expense.] (a) Prohibition.

(1) Abandoned property is prohibited and may be removed by the HCDA; and

(2) Moving abandoned property to another location on HCDA property and "left in, at, or on any HCDA property" is within the meaning of the "abandoned property" definition.

(b) Disposal, removal, notice and storage procedures for abandoned property.

- (1) Immediate disposal. The HCDA may dispose of immediately, in any manner without notice, verbal or written, abandoned property:
 - (A) Of a perishable nature, including but not limited to items that require refrigeration;
 - (B) Posing a threat to the health, safety, or welfare of the public, including but not limited to property containing flammable or otherwise hazardous chemicals, or similarly dangerous items that, if stored, could cause fire, explosion, identifiable disease;
 - (C) Deemed to be inappropriate for storage for health and safety reasons by the HCDA, including but not limited to property that is wet, soiled, dirty, sharp, odorous, contaminated by mold or infested with insects, roaches, or bed bugs; or
 - (D) Where the apparent owner of the property requests or permits such disposal;
 - (2) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided a reasonable opportunity to remove the property from HCDA property; and
 - (3) The HCDA shall photograph, video, and/or describe in writing any abandoned property immediately disposed of pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property.
- (c) Removal and storage. The HCDA may remove and store abandoned property that:
- (1) Interferes with the orderly management of HCDA property;
 - (2) Remains in a park after park closure hours;
or
 - (3) Where the apparent owner of the property requests or permits such removal:

- (A) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided an opportunity to remove the property from HCDA property;
- (B) The HCDA shall photograph, video and/or describe in writing any abandoned property removed pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property; and
- (C) Any removed abandoned property shall be stored for at least forty-five calendar days prior to it being disposed.
- (d) Exclusion from enforcement area.
 - (1) Members of the public may be excluded from the area within which the abandoned property is being removed by the HCDA; the exclusion area may extend up to ten feet from any property to be removed; and
 - (2) A person claiming ownership of the abandoned property shall be permitted to enter the exclusion area for purposes of removing that property so that the property will not be removed by the HCDA; provided, however, that moving abandoned property from HCDA property to another location within the same HCDA property, or to another HCDA property shall not be considered removal from HCDA property, and that the removal is done within forty-five minutes after the initial notice of removal is given.
- (e) Notice. Notice after removal of abandoned property:
 - (1) If physically feasible, a written notice shall also be left in the area/location from where the abandoned property was removed, and be prominently and conspicuously posted for at least three consecutive calendar days following removal of the abandoned property. The notice may be collected by the HCDA

- after three days have elapsed. This does not require the HCDA to ensure that the notice is in place seventy-two consecutive hours but requires only inspection at the end of the three-day period;
- (2) Written notice shall also be posted on HCDA's internet website for three consecutive days;
- (3) The written notice shall apprise the owner of the abandoned property of the description and location of the removed property and of the intent of the HCDA to sell, donate, or otherwise dispose of the property if not claimed within forty-five calendar days after removal. The notice shall also include:
- (A) Date and time the abandoned property was taken;
- (B) Date and time the written notice was originally posted; and
- (C) Contact information for the owner of the abandoned property to use if the person desires to reclaim the abandoned property and the time and location at which the owner needs to reclaim the abandoned property; and
- (4) To the extent possible based on information known to the HCDA, an additional written notice shall also be mailed to the person whose property was removed, at that person's last known mailing address.
- (f) Claiming of abandoned property.
- (1) The owner or any other person entitled to the stored abandoned property may claim the property prior to its disposal upon submitting to the HCDA satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the HCDA in connection with the proposed disposal of the stored abandoned property;

- (2) Such amounts may be waived by the HCDA upon satisfactory showing of inability to pay;
and
- (3) A dispute between the owner or other person entitled to the stored abandoned property who claimed the property, and another party shall not constitute a dispute to which the State of Hawaii or the HCDA is a party, and there is no right of action against the State of Hawaii or the HCDA. The State of Hawaii and may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (g) Disposal.
- (1) If any stored abandoned property is not claimed in forty-five calendar days, the HCDA may dispose of the property by disposing it;
- (2) Alternatively, if any singular item of abandoned property is determined by the HCDA to have an estimated value of \$1,000 or more, the HCDA may, in lieu of disposing the abandoned property, seek to publicly auction the property. In that event, the HCDA shall give public notice of the public auction, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was seized; provided that the disposal shall not take place less than five calendar days after public notice has been given. Following proper notices, any item of impounded personal property having an

estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the abandoned property may be sold by negotiation, disposed of or sold as junk, kept by the HCDA or donated to any other government agency or charitable organization; and

- (3) All expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the HCDA shall be deducted from the proceeds of any sale of the abandoned property. Any amount remaining shall be held in trust for the owner of the property for thirty calendar days after sale, after which time the proceeds shall be transferred to the department of budget and finance pursuant to the Unclaimed Properties Act.

(h) Records. Records relating to property not immediately disposed of shall be kept as a public record for a period of not less than two years from the date of disposal of the property.

(i) Complaint resolution.

- (1) All complaints by persons claiming ownership or entitlement to abandoned property stored or disposed of under these rules may contact the HCDA at (808) 594-0300; and
- (2) Any person claiming the property stored or disposed of under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the action or decision for which the contested case hearing is sought pursuant to section 15-219-45 et seq. The HCDA shall continue to store the abandoned property at issue in the contested case hearing while the case is pending. The HCDA may dispose of the abandoned property if the contested case hearing decision allows for such disposal.

[Eff and comp 5/25/07, am and

comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§§15-210-17 to 15-210-25 (Reserved)

SUBCHAPTER 3

COMMERCIAL ACTIVITIES

§15-210-26 Advertisements. No person shall display, post, or distribute notices or advertisements except with the prior written permission of the authority or the [authority's authorized representative.] agent of the authority. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within or to be available within the premises and the notices and advertisements are found by the authority or the [authority's authorized representative to be desirable and necessary for the convenience and guidance of the public.] agent of the authority to be desirable and necessary for the convenience and guidance of the public and does not interfere with the normal use of the park. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-27 Business operations. No person shall engage in or solicit any business, except in accordance with the provisions of a permit, contract, license, lease, concession, or other written agreement with the authority or the [authority's authorized representative.] agent of the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-28 Commercial filming, photography, and videotaping. (a) Before any motion picture is filmed

or any video recordings, television production, or sound track is made, which involves the use of professional casts, models, settings, or crews, by any person other than [bonafide newsreel or news television personnel,] bona fide professional journalist, a person shall obtain a written permit from the authority or the [authority's authorized representative] agent of the authority which shall be subject to terms, conditions, and fees set by the authority.

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit from the authority or the [authority's authorized representative.] agent of the authority. The permit shall be subject to terms, conditions, and fees set by the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-29 Permit for commercial activities.

(a) No person shall engage in commercial activities of any kind without a commercial use permit from the authority or the [authority's authorized representative.] agent of the authority. The permit shall be subject to terms, conditions, and fees set by the authority.

(b) Applicants, at a minimum, shall meet the following criteria to qualify for a commercial use permit:

- (1) Be a duly organized business in good standing in the State of Hawaii or an individual over the age of eighteen;
- (2) Hold a current Hawaii state general excise tax license;
- (3) Hold a current Hawaii state tax clearance certificate; and
- (4) Submit an application for a permit at least forty-five days prior to the requested permit commencement date.

(c) A commercial use permit application may be denied if the authority or the [authority's authorized representative] agent of the authority determines that:

- (1) The proposed activity would be detrimental to the integrity of the park;
- (2) The proposed activity would be detrimental to the safety of the users of the park;
- (3) The requested area is already subject to an issued permit(s) and issuing additional [permits] permit(s) in the area would compromise the access and availability of the park or the enjoyment or safety of the general public;
- (4) The proposed activity will have a significant negative impact on park users and facilities;
- (5) Legitimate and verified complaints have been received regarding overuse and impairment of the condition or public enjoyment of the park area requested;
- (6) The applicant, its principals, subsidiaries, or affiliates has a prior record of noncompliance with permit conditions or violations of this chapter or other rules administered by the authority or any county;
- (7) The proposed commercial use is not allowed on the premises pursuant to the Kakaako community development district mauka and makai area plan and rules; or
- [(8) The executive director determines that the activity or event is not in the best interest of the resource or the public; or
- (9)] (8) Any other basis for denial exists that is provided for under this chapter.

(d) The authority or the [authority's authorized representative] agent of the authority shall issue a denial of an application in writing setting forth the reason for the denial. The applicant may appeal the denial in writing to the executive director within fifteen calendar days from receipt of the denial. The executive director's decision shall be final. [Eff

6/11/05; am and comp 5/25/07, am and
comp] (Auth: HRS §206E-4) (Imp: HRS
§206E-4)

§15-210-30 General commercial use permit provisions. All commercial use permits shall be subject to the following provisions:

- (1) Permits shall not be transferable or assignable, unless explicitly authorized in the approved permit;
- (2) Permits shall be site and use specific;
- (3) Persons or organizations to which permits are issued are bound by the permit conditions stipulated on or attached to the permit;
- (4) Permittee shall comply with all applicable laws, rules, and regulations of the federal, state, and county governments. Issuance of a permit is not a grant of any other approvals that may be required of the permittee for the permitted activity, nor does a permit exempt the permittee or the permitted activity from any applicable laws, rules, ordinances, and regulations of any federal, state, or county governments;
- (5) Permittee shall at all times have comprehensive general liability insurance in minimum amounts that may be set by the authority, listing the State of Hawaii as an additional insured;
- (6) Permittee shall have the permit at the site and produce it upon request;
- (7) Depending upon type and intensity of the commercial activity, a refundable security deposit may be required by the authority or the [authority's authorized representative.] agent of the authority. The security deposit shall be refunded if the area used by the permittee has been cleaned and restored to an acceptable condition upon expiration of the permit or if the permit is

anceled prior to use. The authority may retain all or part of the security deposit for cleaning and site restoration purposes. Retention of the security deposit shall not preclude the authority from pursuing other legal remedies to address cleaning and site restoration if required;

- (8) The use of the premises shall not be in support of any policy that discriminates against anyone based on race, religion, color, sex, national origin, marital status, sexual orientation, familial status, ancestry, physical handicap, disability, age, or HIV (human immunodeficiency [virus];] virus) status;
- (9) Permittee shall not transport onto the premises nor cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. "Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in or pursuant to the Resource Conservation Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule or bylaw, whether existing as of the effective date of these rules, previously enforced, or subsequently enacted or amended;
- (10) Any other restrictions or conditions may be imposed by the authority to protect the integrity, condition, and safety of, or access for the general public to the premises; provided restrictions and conditions may include, but are not limited to, the size of the area available for the activity, location of the activity, the type of activity, seasonal and weather restrictions, intensity of the activity or

- the requirement to hire licensed security services deemed necessary by the authority or the [authority's authorized representative;] agent of the authority;
- (11) The issuance of a permit shall not constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period;
 - (12) Failure to use the permit at the designated time and place, not due to an act of interference by the authority, shall not result in a refund or credit against paid fees;
 - (13) Permits are not automatically renewable. Granting of a permit does not entitle the permittee to re-issuance of the permit;
 - (14) Permittee shall be responsible for the cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permittee's activity; and
 - (15) Permittee may charge a reasonable admission fee to any person desiring to enter the premises for the purpose of observing the permitted event. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-31 Commercial use permit fees.

- (a) Applicants for a commercial use permit shall be charged an application fee of \$100 at the time of filing the application to defray the cost of processing, issuing, and administering commercial activity permits. A schedule of usage fees shall be set from time to time by the authority. The application fee shall be paid when the application is filed.
- (b) All payments of fees and charges shall be in cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the authority. [Eff 6/11/05; comp

5/25/07, comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-210-32 Commercial use permit cancellation, revocation, or termination. (a) The authority or the [authority's authorized representative] agent of the authority may cancel a permit on thirty calendar days' written notice.

(b) The authority or the [authority's authorized representative] agent of the authority may cancel, revoke, or terminate a permit without notice and hearing when:

- (1) An emergency is declared by the authority, the [authority's authorized representative,] agent of the authority, or other proper authority;
- (2) A permittee violates permit conditions or provisions of this chapter;
- (3) The permitted activity damages or threatens damage to the integrity or condition of the premises or the surrounding environment;
- (4) Non-use of the permit; or
- (5) The permitted activity poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises or surrounding lands.

(c) Except for good cause shown, as determined by the executive director, no refund will be given of any amounts paid when a permit is canceled, revoked, terminated, or voluntarily surrendered. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-33 Indemnification and hold harmless. The permittee shall hold the authority and the State harmless with respect to, and indemnify the authority and the State against, all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the

permittee, or the permittee's employees, officers, agents, or subcontractors with respect to any commercial activity conducted or any improvement constructed or installed at the [public parks.] parks, unless this requirements is waived or modified by the authority based on a finding of good cause. [Eff 6/11/05; comp 5/25/07, am and comp]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-34 to 15-210-45 (Reserved)

SUBCHAPTER 4

PERMITS AND FEES FOR USE OF PARKS

§15-210-46 Permits. (a) Required. Any person using the premises shall first obtain a permit from the authority for the following uses:

- (1) Picnic groups, consisting of fifty or more persons;
- (2) Sports activities conducted by a league, organization, association, group, or individual;
- (3) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals;
- (4) Meetings, gatherings, or other similar activity held by organizations, associations, or [groups;] groups consisting of fifty or more persons;
- (5) [Nonrecreational,] Non-recreational, public service activities, meetings, and gatherings held by organizations, communities, or [groups;] groups consisting of fifty or more persons;
- (6) The playing of musical instruments as solo or two or more instruments described as follows:

- (A) Musical instruments which are limited to two octaves or less, including, but not limited to, the following musical instruments:
 - [(i) Tuba;
 - (ii)] (i) Tympani;
 - [(iii)] (ii) Maracas;
 - [(iv)] (iii) Uliuli;
 - [(v)] (iv) Castanets;
 - [(vi)] (v) Tambourine; or
 - [(vii)] (vi) Percussion instruments in which a human hand or drumsticks are used to create sounds;
 - (B) Musical instruments which when played do not exceed the sound pressure level established in section 15-210-13(b)(11); and
 - (C) Musical instruments which are used or played continuously without a regular hourly break of thirty minutes, or for more than six hours within a day;
- (7) Hang gliding; or
 - (8) Commercial activities designed for profit, which include but are not limited to the exchange or buying and selling of commodities or the providing of services relating to or connected with trade, traffic, or commerce in general. The proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted.
- (b) Issuance standards for permits. The authority or the [authority's authorized representative] agent of the authority shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance

of a permit under this section, except as provided in this section. All permits issued by the authority shall:

- (1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users;
 - (2) Ensure proper, orderly, and equitable use of areas and facilities through scheduling and user controls;
 - (3) Ensure protection and preservation of areas and facilities by not overtaxing facilities; and
 - (4) Promote the health, safety, and welfare of the users of said areas and facilities.
- (c) General provisions.
- (1) Permits governing the use of public facilities and areas within the premises shall consist of the following types:
 - (A) Group use; or
 - (B) Special use; [or
 - (C) Temporary concession;]
 - (2) The authority or the [authority's authorized representative] agent of the authority may issue permits. Permits shall be obtained from the authority. The current address of the authority is: [677 Ala Moana Boulevard, Suite 1001,] 547 Queen Street, Honolulu, Hawaii 96813. Future change of address will be reflected on Hawaii community development authority's website (www.hcdaweb.org). The following conditions shall apply to all permits:
 - (A) Permits shall be issued on a first-come first-served basis;
 - (B) All responsible persons eighteen years of age or older shall be eligible to secure permits;
 - (C) Permits shall be requested no later than forty-five days before the requested permit date and, once issued, may be picked up between the hours of

- 8:00 a.m. and 4:00 p.m. on State of Hawaii regular working days;
- (D) Permits shall not be transferred;
 - (E) Persons or organizations to whom permits are issued are bound by the permit conditions stipulated on or attached to the permit and any applicable federal, state, and county laws, ordinances, rules, and regulations;
 - (F) The size of groups as well as the length of time any permit may be in effect may be limited by the authority or the [authority's authorized representative;] agent of the authority;
 - (G) Fees and charges as set by the authority shall be assessed for permits to defray the cost of park maintenance, special facilities, services, or supplies provided by the State, or to meet other conditions as the authority or the [authority's authorized representative] agent of the authority may prescribe to carry out the provisions of this chapter. Charges may be waived by the authority if, in its opinion, the waiver is in the public interest and benefits the State;
 - (H) Deposits. The authority or the [authority's authorized representative] agent of the authority may require a security deposit as a condition of issuing a permit. A deposit shall be collected from the applicant prior to issuance of the permit. This deposit is required to assure proper cleanup and restoration and shall be refunded by mail if the area used is cleaned and restored to the satisfaction of the authority or the [authority's authorized representative.] agent of

the authority. The amount of deposit shall be determined as follows:

<u>Activity/ Event Group Size</u>	<u>Deposit</u>
50 - 100	\$200
100 - 200	[400] <u>\$500</u>
More than 200	[500] <u>\$1,000</u>
<u>Events requiring special conditions or equipment</u>	<u>\$5,000+</u>

- (I) All payments of fees and charges shall be in cash, cashier's check, certified check, postal money order, or bank money order provided that personal or business checks may be used to pay for events that will occur thirty or more days after the date of the payment;
- (J) All permittees shall, upon request, show the permit to any law enforcement officer, the authority, or the [authority's authorized representative;] agent of the authority; and
- (K) Other procedures, terms, and conditions deemed by the authority or the [authority's authorized representative] agent of the authority necessary to carry out the provisions of this chapter, or any applicable federal, state, or county laws, ordinances, rules, or regulations;
- (3) Permits may be denied when:
 - (A) The premises or park facilities are closed or will be closed because of damages, or because of scheduled or [ongoing,] ongoing construction, repairs or maintenance activities, or because of other reasons;
 - (B) A state of emergency is declared by the authority, the [authority's authorized

- representative,] agent of the authority, or other proper authorities;
- (C) Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;
 - (D) There are inadequate facilities to meet the needs of the applicant for the permit;
 - (E) The premises or facilities will be used by another permittee; or
 - (F) The applicant has a prior record of noncompliance with permit conditions or violations or violations of this chapter; and
- (4) Permits may be canceled or terminated at any time without advance notice when:
- (A) A state of emergency is declared by the authority, the [authority's authorized representative,] agent of the authority, or other proper authorities;
 - (B) Natural or civil disturbances occur or threaten to occur including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;
 - (C) Permittee violates permit conditions or provisions of this chapter; or
 - (D) Fees, as required, are not paid.
- (d) Group use permits.
- (1) Any group larger than [twenty-five] fifty members shall be required to obtain a group use permit to remain within the premises;
 - (2) Group use permits may be denied to any person, group, organization, or association when space is inadequate to accommodate the group or as otherwise provided in subsection (c);
 - (3) Group use permits shall set forth the day and time the group shall be allowed to remain on the premises as follows:

- (A) Permits may be issued for [hours between 7:00 a.m. and 10:00 p.m. of the same day;] using the park between the hours of 5:00 a.m. and 10:00 p.m.;
 - (B) An earlier or later starting time may be granted by the authority or the [authority's authorized representative] agent of the authority to accommodate special functions; and
 - (C) Minors below the age of eighteen may be allowed to remain on the premises on their own if the adult who secures the permit for them will be responsible for them and also provided that their use is between the hours 7:00 a.m. to 7:00 p.m. of the same day. Minors staying beyond 7:00 p.m. in park areas that normally stay open past 7:00 p.m. shall be under the supervision of adults on a ten minors to one adult ratio. All minors from the same family, who are accompanied by at least one of their parents, shall be allowed to remain in the area past the 7:00 p.m. deadline, where permitted, without regard to the adult-minor ratio; and
- (4) The authority or the [authority's authorized representative] agent of the authority may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when [the number or persons under the permit is one hundred or more.] recommended by public safety and/or law enforcement officer.
- (e) Special use permits.
 - (1) Special uses shall be permitted only with a special use permit issued by the authority or the [authority's authorized representative.] agent of the authority. Special uses are all types of uses other

- than [temporary concession and] group use and are considered compatible with the functions and purposes of each individual area, facility, or unit of the premises;
- (2) Requests for permits for special uses shall each be considered on its own merits, including its effect on the park area, facilities, and the public's use and enjoyment;
 - (3) Special uses [~~include~~] include, but are not limited [~~to~~] to, such activities as assemblies, carnivals, celebrations, concerts, concessions, demonstrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, regattas, shows, sport events, weddings, and other community or ethnic oriented events, or activities, or other spectator attractions that are open to the general public or to restricted groups;
 - (4) Requests for permits shall be submitted to the authority a minimum of forty-five days before the date of use being requested for all special use activities or events including those involving the charging of fees, the sale of goods or services, and sponsorship or co-sponsorship by commercial establishments;
 - (5) Requests for special use permits shall be submitted in writing and shall provide the name, address, and phone number of the applicant, the date, time, duration, nature, and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement on how the profits will be used is required;
 - (6) Permits may be denied when:
 - (A) A prior permit for the same time and place has been or will be granted;

- (B) The event presents a clear and present danger to the public health or safety;
 - (C) The event is of a nature or duration that cannot reasonably be accommodated in the particular park area applied for;
 - (D) The event will significantly interfere or conflict with the public's general use and enjoyment of the particular park area applied for; or
 - (E) Applications or requests for permits are not received by the authority within the times specified in paragraph (4);
- (7) The permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, reasonable limitations on the time and area within which the event is permitted, and requirements for liability insurance coverage; [and]
- (8) The authority or the [authority's authorized representative] agent of the authority may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when [the number of persons under the permit is one hundred or more.] recommended by public safety and/or law enforcement officer; and
- [(f) Temporary concession permit.
- (1) Activities where donations or entry or registration fees are collected for the purpose of defraying expenses incurred by the permittee in conducting the event or activity or activities where the public is charged an admission fee or where a donation is accepted for the purpose of realizing a profit (fundraising activity) shall require a temporary concession permit;

- (2) The applicant must be a bonafide nonprofit organization as defined in Internal Revenue Code section 501(c)(3);
- (3) The authority may require a financial report if it deems necessary;
- (4) A temporary concession permit is allowed only if it is in conjunction with another activity or event which is authorized by a special use permit;
- (5) The temporary concession permit is issued to the nonprofit organization who is promoting, producing, staging, or conducting the event or activity;
- (6) Except for craft fairs and art marts, no person may profit from a temporary concession. All net profits earned from the temporary concession must be applied to the expenses of the nonprofit organization incurred in connection with events or activities directly related to the purpose for which it has been organized;
- (7) The nonprofit organization must procure a liability insurance certificate bearing their name with the authority as additional insured. Products liability shall be included if food or other items are sold;
- (8) If a commercial food caterer or lunchwagon is allowed to operate by prior arrangement with the nonprofit organization, liability insurance coverages, including products liability, shall be provided by both the nonprofit organization and commercial food caterer or lunchwagon; and]
- (9) Groups or applicants applying [for the temporary concession permit to sell food shall first obtain clearance] to sell food shall first obtain documentation demonstrating the proper approval from the department of health. The clearance certificate must be presented to the authority before the [temporary concession permit may be issued.] special use permit

may be issued. Liability insurance coverages, including products liability, shall be provided prior to the issuance of the special use permit. [Eff 6/11/05; am and comp 5/25/07, am and comp]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-47 Fees for use of facilities. (a) The executive director is authorized to issue a permit and charge a fee for the use of the parks or recreational facilities within the parks to help cover operating and maintenance expenses when the parks or facilities are used for special events. [A schedule of fees shall be set from time to time by the authority. The effective date of any change in fees shall be thirty days after posting the approved fee schedule on the Hawaii community development authority website. For purposes of this section, "special] "Special events" means:

- (1) Athletic practices and events involving:
 - (A) Professional teams;
 - (B) Collegiate teams;
 - (C) National amateur teams;
 - (D) For-profit organizations; or
 - (E) Teams and organizations utilizing the facilities for tournament play;
- (2) International, national, or regional events;
- (3) Entertainment events;
- (4) Educational events;
- (5) Promotional events; or
- (6) Fundraising events.

(b) Permittee may charge a reasonable admission fee to any person desiring to attend the special event within the park or at a recreational facility within the park; provided however, that the permittee may not exclude members of the public from entering or remaining on portions of the park or facility that are not subject to the permit.

(c) The executive director may consider waiver of permit fees on a case-by-case basis.

(d) The executive director shall provide the authority with an annual report setting forth the permit fees established for special events at the parks or recreational facility within the park and the amount of fees collected for each park or facility. The report shall be submitted no later than sixty days following the end of the Hawaii community development authority's fiscal year. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-48 Fees for attendant or custodian services. Organizations whose use of state recreational facilities requires an attendant or custodian, shall pay the cost of the attendant or custodian service fees to the authority. [Eff 6/11/05; comp 5/25/07, comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-49 Usage fee schedule.

<u>Activity</u>	<u>Daily</u>	<u>Monthly Permit</u>	<u>Annual Permit</u>
Commercial:			
Carnivals	\$1,000	N/A	N/A
Concerts	\$1,000 per 100 projected attendees	N/A	N/A
Demonstrations (non-political)	\$200	N/A	N/A
Festivals	\$500	N/A	N/A
Fitness training	[\$10] <u>\$100</u>	[\$100] \$1,000	[\$500] \$4,000
Food/beverage sales	[\$20] <u>\$100</u>	[\$500] \$1,000	\$4,000

§15-210-49

Ocean recreational activities (surfing, scuba diving, kayaking, etc.)	[\$10] <u>\$100</u>	[\$100] <u>\$1,000</u>	[\$500] <u>\$5,000</u>
Other	\$500	N/A	N/A
Pageants	\$500	N/A	N/A
T-shirt sales	\$100	\$500	\$2,000
Wedding ceremonies	[\$50] <u>\$100</u>	[\$200] <u>\$1,000</u>	[\$1,000] <u>\$5,000</u>
Commercial filming/videotaping	\$300	\$2,500	\$10,000
Commercial photography	[\$20] <u>\$100</u>	[\$100] <u>\$500</u>	[\$1,000] <u>\$3,000</u>
[Commercial videotaping	\$300	\$2,500	\$10,000]
Special Events:			
Athletic practices and events as specified in §15-210-47(a)(1) (A through E)	\$500	N/A	N/A
International, national, or regional events	\$500	N/A	N/A
Entertainment events	[\$500] <u>\$1,000</u>	N/A	N/A
Educational events	\$100	N/A	N/A
Promotional events	[\$200] <u>\$500</u>	N/A	N/A
[Fundraising events] Other	[\$100] <u>\$500</u>	N/A	N/A

[Eff and comp 5/25/07, am and comp]
 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-50 to 15-210-58 (Reserved) "

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 15-210, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

AEDWARD LOS BANOS
Interim Executive Director
Hawaii Community Development
Authority

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 2

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Repeal of Chapter 3-181
and Adoption of Chapter 3-181.1

Hawaii Administrative Rules

SUMMARY

1. Chapter 3-181, Hawaii Administrative Rules, entitled "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2006 Edition", is repealed.

2. Chapter 3-181.1, Hawaii Administrative Rules, entitled "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2015 Edition", is adopted.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendment and Compilation of Chapter 3-181.1

Hawaii Administrative Rules

1. Chapter 3-181, Hawaii Administrative Rules, entitled "State Energy Conservation Code", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 14

STATE BUILDING CODE COUNCIL

CHAPTER 181.1

STATE ENERGY CONSERVATION CODE"

Subchapter 1 Rules of General Applicability

- §3-181.1-1 Purpose
- §3-181.1-2 Scope
- §3-181.1-3 Definitions
- §3-181.1-4 Adoption of the *International Energy Conservation Code*
- §3-181.1-5 Permit authorization

§3-181.1-1

Subchapter 2 Amendments to the 2015 *ICC*
International Energy Conservation Code

§3-181.1-6	Title
§3-181.1-7	General
§3-181.1-8	Low-energy use buildings
§3-181.1-9	Thermal resistance of above-grade walls
§3-181.1-10	Area-weighted SHGC
§3-181.1-11	Door switches
§3-181.1-12	Specific application controls
§3-181.1-13	Sub-metering (mandatory)
§3-181.1-14	Compliance
§3-181.1-15	Roof replacement
§3-181.1-16	General
§3-181.1-17	Compliance
§3-181.1-18	Tropical zone
§3-181.1-19	General (prescriptive)
§3-181.1-20	Specific insulation requirements (prescriptive)
§3-181.1-21	Fenestration (prescriptive)
§3-181.1-22	Solar water heating
§3-181.1-23	Ceiling fans (mandatory)
§3-181.1-24	Simulated performance alternative
§3-181.1-25	Points option
§3-181.1-26	Compliance
§3-181.1-27	Building envelope

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§3-181.1-1 Purpose. The purpose of this chapter is to adopt the state energy conservation code as required by section 107-25, Hawaii Revised Statutes (HRS). [Eff 5/24/10; am and comp] (Auth: HRS §107-29)
(Imp: HRS §§107-24, 107-25)

§3-181.1-2

§3-181.1-2 Scope. This chapter sets forth minimum requirements for the design and construction of buildings for the effective use of energy and is intended to provide flexibility to allow the use of innovative approaches and techniques to achieve the effective use of energy. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-3 Definitions. In this chapter, unless the context otherwise requires:

"ICC" means the International Code Council.

"IECC Section" means a section of a chapter of the *International Energy Conservation Code*.

"IECC" means the ICC, *International Energy Conservation Code*, 2015 edition, as copyrighted by the International Code Council. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-4 Adoption of the *International Energy Conservation Code*. The "*International Energy Conservation Code, 2015 Edition*" as copyrighted and published in 2015 by International Code Council, Incorporated, 500 New Jersey Avenue, 6th Floor, Washington, DC 20001, is adopted by reference and made a part of this chapter. This incorporation by reference includes all parts of the *International Energy Conservation Code* subject to the amendments hereinafter set forth. The appendices of the ICC, IECC are not adopted except as provided in this chapter. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-5 Permit authorization. Each county may, by ordinance, require that a permit be obtained from the building official for any area regulated by this chapter. [Eff 5/24/10; am and comp] ((Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-6

SUBCHAPTER 2

The 2006 Energy Conservation Code of the State of Hawaii shall be deleted in its entirety and replaced by the 2015 International Energy Conservation Code with the proposed amendments.

**AMENDMENTS TO THE 2015 ICC INTERNATIONAL ENERGY
CONSERVATION CODE**

§3-181.1-6 Title. IECC 101.1 is amended to read as follows:

“101.1 Title. This code shall be known as the Energy Conservation Code of the State of Hawaii, and shall be cited as such. It is referred to herein as “this code.”
[Eff 5/24/10; am and comp] (Auth:
HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-7 General. IECC section C103.1 is deleted in its entirety and replaced with the following:

“103.1 General. When the requirements in this code apply to a building as specified in Section C101.4, plans, specifications or other construction documents submitted for a building, electrical or plumbing permit required by the jurisdiction shall comply with this code and shall be prepared, designed, approved and observed by a design professional. The responsible design professional shall provide on the plans a signed statement certifying that the project is in compliance with this code.

Exception: Any building, electrical or plumbing work that is not required to be prepared, designed, approved or observed by a licensed professional architect or engineer pursuant to chapter 464 Hawaii Revised Statutes.” [Eff 5/24/10; am and comp
] (Auth: HRS §107-29) (Imp: HRS §§107-24,
107-25)

§3-181.1-8

§3-181.1-8 Low-energy use buildings. IECC section C402.1.1 is amended to read as follows:

"C402.1.1 Low-energy use buildings. The following low energy buildings, or portions thereof separated from the remainder of the building by building thermal envelope assemblies complying with this section, shall be exempt from the building thermal envelope provisions of Section C402.

1. Those with a peak design rate of energy usage less than 3.4 Btu/h-ft² (10.7 W/m²) or 1.0 watt per square foot (10.7 W/m²) of floor area for space conditioning purposes.
2. Unconditioned space that does not contain habitable space.
3. Greenhouses.

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-9 Thermal resistance of above-grade walls. IECC section C402.2.3 is amended to read as follows:

"C402.2.3 Thermal resistance of above-grade walls. The minimum thermal resistance (R-value) of materials installed in the wall cavity between framing members and continuously on the walls shall be as specific in Table C402.3, based on framing type and construction materials used in the wall assembly.

Exceptions:

Continuous insulation for wood and metal framed walls are not required when one of the following conditions are met:

1. Walls have a covering with a reflectance of ≥ 0.64 ; or
2. Walls have overhangs with a projection factor equal to or greater than 0.3. The projection factor is the horizontal distance from the

§3-181.1-10

surface of the wall to the farthest most point of the overhang divided by the vertical distance from the first floor level to the bottom most point of the overhang.

The R-value of integral insulation installed in concrete masonry units shall not be used in determining compliance with Table C402.1.3.

Mass walls shall include walls:

1. Weighing not less than 35 psf (170 kg/m²) of wall surface area.
2. Weighing not less than 25 psf (120 kg/m²) of wall surface area where the material weight is not more than 120 pcf (1900 kg/m³).
3. Having a heat capacity exceeding 7 Btu/ft²·°F (144 cal/m²·K).
4. Having a heat capacity exceeding 5 Btu/ft²·°F (103 kJ/m²·K), where the material weight is not more than 120 pcf (1900 kg/m³."

[Eff 5/24/10; am and comp
§107-29) (Imp: HRS §§107-24, 107-25)

] (Auth: HRS

§3-181.1-10 Area-weighted SHGC. Section C402.4.3.5 is added to the IECC to read as follows:

"C402.4.3.5 Area-weighted SHGC. In commercial buildings, an area-weighted average of fenestration products shall be permitted to satisfy SHGC requirements."

[Eff 5/24/10; am and comp
§107-29) (Imp: HRS §§107-24, 107-25)

] (Auth: HRS

§3-181.1-11 Door switches. Section C403.2.4.2.3 is added to the IECC to read as follows:

"C403.2.4.2.4 Door switches. Opaque and glass doors opening to the outdoors in hotel and motel sleeping units, guest suites and time-share condominiums, shall be provided with controls that disable the mechanical cooling, or reset

§3-181.1-12

the cooling setpoint to 90° F or greater within five minutes of the door opening. Mechanical cooling may remain enabled if the outdoor air temperature is below the space temperature." [Eff 5/24/10; am and comp]
(Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-12 Specific application controls. IECC section C405.2.4 is amended to read as follows:

"C405.2.4 Specific application controls. Specific application controls shall be provided for the following:

1. Display and accent light shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space.
2. Lighting in cases used for display case purposes shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space.
3. Hotel and motel sleeping units, guest suites and time-share condominiums shall have a master control device that is capable of automatically switching off all installed luminaires and switched receptacles within 20 minutes after all occupants leave the room.

Exception: Lighting and switched receptacles controlled by captive key systems.

4. Supplemental task lighting, including permanently installed under-shelf or under cabinet lighting, shall have a control device integral to the luminaires or be controlled by a wall-mounted control device provided that the control device is readily accessible.
5. Lighting for nonvisual applications, such as plant growth and food warming, shall be controlled by a dedicated control that is independent of the controls for other lighting within the room or space.
6. Lighting equipment that is for sale or for demonstrations in lighting education shall be controlled by a dedicated control that is independent

§3-181.1-13

of the controls for other lighting within the room or space. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-13 Sub-metering (Mandatory). Section C405.10 is added to the IECC to read as follows:

"C405.10 Sub-metering (Mandatory). In new buildings with tenants, metering shall be collected for the entire building and individually for each tenant occupying 1,000 ft² (total enclosed and unenclosed) (93 m²) or more. Tenants shall have access to data collected for their space. A tenant is defined as "one who rents or leases from a landlord." [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-14 Compliance. IECC section C501.4 is amended to read as follows:

C501.4 Compliance. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions and regulations for *alterations, repairs, additions* and changes of occupancy or relocation, as adopted by the authorities having jurisdiction. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-15 Roof replacement. Section C503.3.1 is amended to read as follows (note that options are provided for this amendment):

C503.3.1 Roof replacement. Roof replacements shall comply with Table C402.1.3 or C402.1.4 where the existing roof assembly is uninsulated and is part of the *building thermal envelope*. [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-16

§3-181.1-16 General. IECC section R103.1 is deleted in its entirety and replaced with the following:

"R103.1 General. When the requirements in this code apply to a building as specified in Section R101.4, plans, specifications or other construction documents submitted for a building, electrical or plumbing permit required by the jurisdiction shall comply with this code and shall be prepared, designed, approved and observed by a design professional. The responsible design professional shall provide on the plans a signed statement certifying that the project is in compliance with this code.

Exception: Any building, electrical or plumbing work that is not required to be prepared, designed, approved or observed by a licensed professional architect or engineer pursuant to chapter 464 Hawaii Revised Statutes." [Eff 5/24/10; am and comp
] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-17 Compliance. IECC section R401.2 is amended to read as follows:

R401.2 Compliance. Projects shall comply with one of the following:

1. Sections R401.3 through R404
2. Sections R405 and the provisions of Section R401 through R404 labeled "Mandatory."
3. An energy rating index (ERI) approach in Section R406.
4. The Tropical zone requirements in Section R401.2.1.

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-18

§3-181.1-18 Tropical zone. IECC Section R401.2.1 is amended to read as follows:

"R401.2.1 Tropical zone. Residential buildings in the tropical zone at elevations below 2,400 feet (731.5 m) above sea level shall be deemed to comply with this chapter where the following conditions are met:

1. Not more than one-half of the dwelling unit is air conditioned
2. The dwelling unit is not heated.
3. Solar, wind or other renewable energy source supplies not less than 90 percent of the energy for service water heating.
4. Glazing in dwelling units shall have a maximum solar heat gain coefficient as specified in Table R402.2.1.

Table R402.2.1. Window SHGC Requirements

Projection Factor of overhang from base of average window sill ^b	SHGC
< .30	.25
.30 - .50	.40
≥.50	N/A

^bException: North-facing windows with pf > .20 are exempt from the SHGC requirement. Overhangs shall extend 2 feet on each side of window or to nearest wall, whichever is less.

5. Skylights in dwelling units shall have a maximum U-factor as specified in Table R402.1.2.
6. Permanently installed lighting is in accordance with Section R404.
7. The roof/ceiling complies with one of the following options:

§3-181.1-19

1. Comply with one of the roof surface options in Table C402.3 and install R-13 insulation or greater.
2. Install R-19 insulation or greater.

If present, attics above the insulation are vented and attics below the insulation are unvented.

Exception: The roof/ceiling assembly are permitted to comply with Section R407.

8. Roof surfaces have a minimum slope of $\frac{1}{4}$ inch per foot of run. The finished roof does not have water accumulation areas.
9. Operable fenestration provides ventilation area equal to not less than 14 percent of the floor area in each room. Alternatively, equivalent ventilation is provided by a ventilation fan.
10. Bedrooms with exterior walls facing two different directions have operable fenestration or exterior walls facing two different directions.
11. Interior doors to bedrooms are capable of being secured in the open position.
12. A ceiling fan or ceiling fan rough-in is provided for bedrooms and the largest space that is not used as bedroom.
13. Jalousie windows shall have an air infiltration rate of no more than 1.2 cfm per square foot (6.1 L/s/m^2).
14. Walls, floors and ceilings separating air conditioned spaces from non-air conditioned spaces shall be constructed to limit air leakage in accordance with the requirements in Table R402.4.1.1. [Eff 5/24/10; am and comp]
(Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-19 General (Prescriptive). IECC section R402.1 is amended to read as follows:

"C402.1.1 Low-energy use buildings. The following low energy buildings, or portions thereof separated from the remainder of the building by building thermal envelope assemblies complying with this section, shall be exempt

§3-181.1-20

from the building thermal envelope provisions of Section R402.

1. Those with a peak design rate of energy usage less than 3.4 Btu/h-ft² (10.7 W/m²) or 1.0 watt per square foot (10.7 W/m²) of floor area for space conditioning purposes.
2. Unconditioned space that does not contain habitable space.

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-20 Specific insulation requirements

(Prescriptive). IECC section R402.2 is amended to read as follows:

"R402.2 Specific insulation requirements

(Prescriptive). In addition to the requirements of Section R402.1, insulation shall meet the specific requirements of Sections R402.2.1 through R402.2.13.

Exception:

Above-grade walls and ceilings shall be permitted to comply with Section R407."

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-21 Fenestration (prescriptive). IECC section R402.3.2 is amended to read as follows:

"R402.3.2 Glazed fenestration SHGC. Fenestration shall have a maximum *solar heat gain coefficient* as specified in Table R402.1.2. An area-weighted average of fenestration products more than 50-percent glazed shall be permitted to satisfy the SHGC requirements.

Dynamic glazing shall be permitted to satisfy the SHGC requirements of Table R402.1.2 provided the ratio of the higher to lower labeled SHGC is greater than the or

§3-181.1-22

equal to 2.4 and the *dynamic glazing* is automatically controlled to modulate the amount of solar gain into the space in multiple steps. *Dynamic glazing* shall be considered separately from other fenestration, and area-weighted averaging with other fenestration that is not *dynamic glazing* shall not be permitted.

Exception: *Dynamic glazing* is not required to comply with this section when both the lower and higher labeled SHGC already comply with the requirements of Table R402.1.1." [Eff 5/24/10; am and comp]
(Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-22 Solar water heating. Section R403.5.4 is added to the IECC to read as follows:

"Section R403.5.5 Solar water heating. Solar water heating systems are required for new single-family residential construction pursuant to section 196-6.5, HRS." [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-23 Ceiling fans (mandatory). IECC section R404.2 is added to read as follows:

"R404.2 Ceiling fans (mandatory). A ceiling fan or ceiling fan rough-in is provided for bedrooms and the largest space that is not used as bedroom." [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-24

§3-181.1-24 Simulated performance alternative. IECC Table R405.5.2(1) is amended to read as follows:

Table R405.5.2(1) SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS		
BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Heating Systems	<p>[As proposed for other than electric heating without a heat pump, where the proposed design utilizes electric heating without a heat pump the standard reference design shall be an air source heat pump meeting the requirements of section C403 of the ICC-Commercial Provisions.]</p> <p>Fuel type: same as proposed design</p> <p>Efficiencies: Electric: Air-source heat pump with prevailing federal minimum standards Nonelectric furnaces: natural gas furnace with prevailing federal minimum standards Nonelectric boilers: natural gas boiler with prevailing federal minimum standards</p> <p>Capacity: sized in accordance with Section R403.7</p>	<p>As proposed</p> <p>As proposed</p> <p>As proposed</p> <p>As proposed</p> <p>As proposed</p>
Cooling systems	<p>[As proposed]</p> <p>Fuel type: Electric</p> <p>Efficiency: in accordance with prevailing federal minimum standards</p> <p>Capacity: sized in accordance with Section R403.7</p>	<p>As proposed</p> <p>As proposed</p>
Service water heating	<p>[As proposed]</p> <p>Fuel type: same as proposed design</p> <p>Efficiency: in accordance with prevailing federal minimum standards</p> <p>Use: Same as proposed design</p>	<p>As proposed</p> <p>As proposed</p> <p>gal/day = 30 + (10x Nbr)</p>

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-25 Points option. Section R407 is added to the IECC to read as follows:

"SECTION R407

POINTS OPTION

R407.1 General (Prescriptive). Above-grade walls and roofs are permitted to comply with the points option as an alternative to complying with Section R401.2.1 and R402.2.

R407.2 Requirements. One or more efficiency measures shall be selected for roof and *above-grade* wall systems from Table R407.1 that cumulatively equal or exceed 0 (zero) points.

As an alternative, *above-grade walls* and roofs are permitted to comply separately by scoring 0 (zero) or greater.

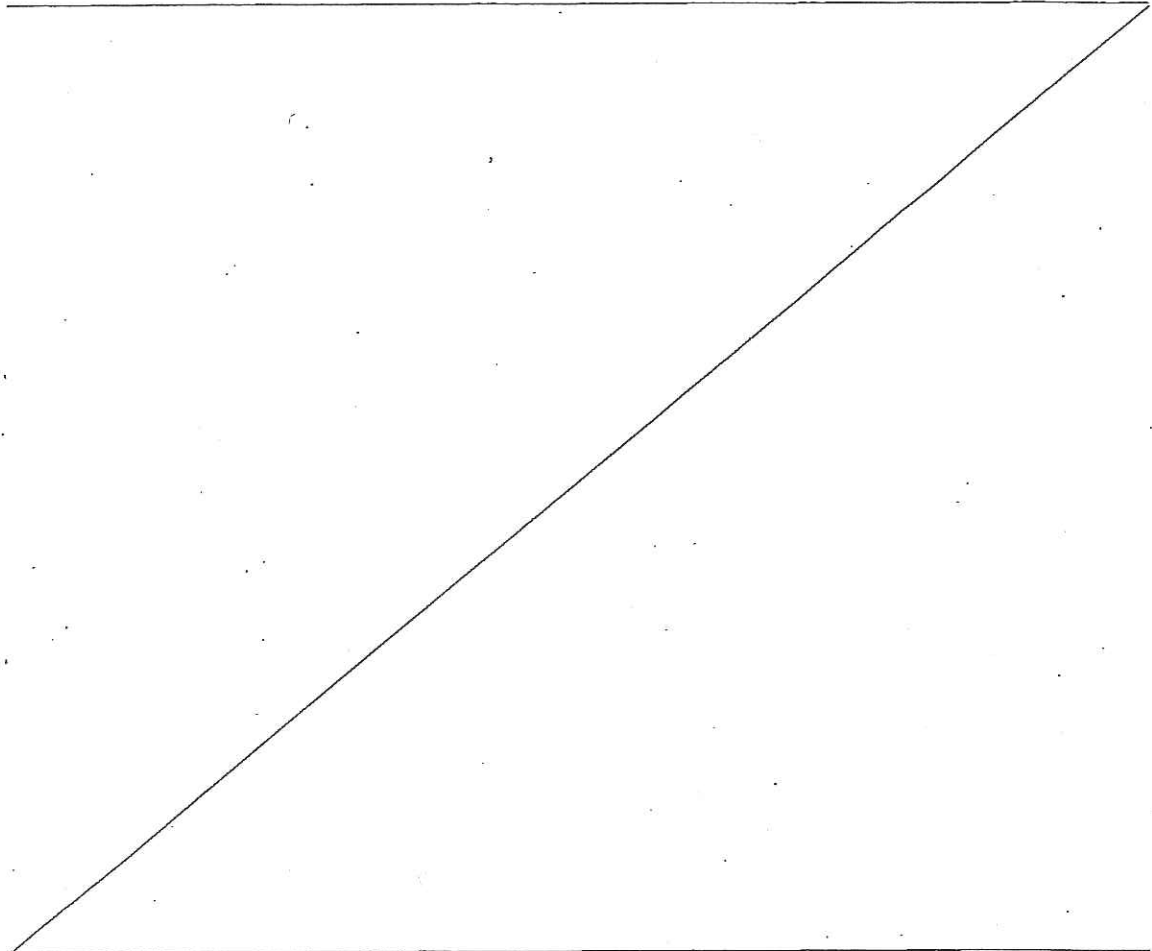


TABLE R407.1
POINTS OPTION

Walls		Standard Home Points	Tropical Home Points
Wood Framed			
	R-13 Cavity Wall Insulation	0	1
	R-19 Roof Insulation	-1	0
	R-19 Roof Insulation + Cool roof membrane ¹ or Radiant Barrier ³	0	1
	R-19 Roof Insulation + Attic Venting ²	0	1
	R-30 Roof Insulation	0	1
	R-13 Wall Insulation + high reflectance walls ⁴	1	2
	R-13 Wall insulation + 90% high efficacy lighting and Energy Star Appliances ⁵	1	2
	R-13 Wall Insulation + exterior shading wpf=0.3 ⁶	1	2
	Ductless Air Conditioner ⁷	1	1
	1.071 X Federal Minimum SEER for Air Conditioner	1	1
	1.142 X Federal Minimum SEER for Air Conditioner	2	2
	No air conditioning installed	Not Applicable	2
	House floor area ≤ 1,000 ft ²	1	1
	House floor area ≥ 2,500 ft ²	-1	-1
	Energy Star Fans ⁸	1	1
	Install 1 kW or greater of solar electric	1	1
Metal Framed			
	R-13 +R 3 Wall Insulation	0	1
	R-13 cavity Wall insulation + R-0	-1	0
	R-13 Wall Insulation + high reflectance walls ⁴	0	1

R-13 wall insulation + 90% high efficacy lighting and Energy Star Appliances ⁵	1	2
R-13 Wall Insulation + exterior shading wpf=0.3 ⁶	0	1
R-30 Roof Insulation	0	1
R-19 Roof Insulation	-1	0
R-19 + Cool roof membrane ¹ or Radiant Barrier ³	0	1
R-19 Roof Insulation + Attic Venting ²	0	1
Ductless Air Conditioner ⁷	1	1
1.071 X Federal Minimum SEER for Air Conditioner	1	1
1.142 X Federal Minimum SEER for Air Conditioner	2	2
No air conditioning installed	Not Applicable	2
House floor area ≤ 1,000 ft ²	1	1
House floor area ≥ 2,500 ft ²	-1	-1
Energy Star Fans ⁷	1	1
Install 1 kW or greater of solar electric	1	1

¹ Cool roof with three-year aged solar reflectance of 0.55 and 3-year aged thermal emittance of 0.75 or 3-year aged solar reflectance index of 64.

² One cfm/ft² attic venting.

³ Radiant barrier shall have an emissivity of no greater than 0.05 as tested in accordance with ASTM E-408. The radiant barrier shall be installed in accordance with the manufacturer's installation instructions.

⁴ Walls with covering with a reflectance of ≥ 0.64.

⁵ Energy Star rated appliances include refrigerators, dishwashers, and clothes washers and must be installed for the Certificate of Occupancy

⁶ The wall projection factor is equal to the horizontal distance from the surface of the wall to the farthest most point of the overhang divided by the vertical distance from the first floor level to the bottom most point of the overhang.

⁷ All air conditioning systems in the house must be ductless to qualify for this credit.

⁸ Install ceiling fans in all bedrooms and the largest space that is not used as a bedroom."

[Eff 5/24/10; am and comp
29) (Imp: HRS §§107-24, 107-25)

] (Auth: HRS §107-

§3-181.1-26

§3-181.1-26 Compliance. IECC section R501.4 is amended to read as follows:

"R501.4 Compliance. *Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions and regulations for alterations, repairs, additions and changes of occupancy or relocation, as adopted by the authorities having jurisdiction.*" [Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-181.1-27 Building envelope. IECC section R503.1.1 is amended to read as follows:

"R503.1.1 Building envelope.

5. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during a roof replacement shall meet one of the following:

1. R-30 cavity insulation or the cool roof requirements in Section C402.3 for *residential buildings.*
2. R-19 cavity insulation or the cool roof requirements in Section C402.3 for *Tropical Zone residential buildings."*

[Eff 5/24/10; am and comp] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

The repeal of chapter 3-181, "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2006 Edition," and the adoption of chapter 3-181.1, "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2015 Edition," Hawaii Administrative Rules, on the Summary Page dated _____, was adopted on _____ following a public hearing held on _____ after public notice was given in the Honolulu Star Advertiser on _____.

The repeal of chapter 3-181, "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2006 Edition," and the adoption of chapter 3-181.1, "State Energy Conservation Code" adopting and amending the "International Energy Conservation Code, 2015 Edition," Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

SOCRATES BRATAKOS, Chairperson
State Building Code Council

DOUGLAS MURDOCK, State Comptroller
Department of Accounting and
General Services

APPROVED AS TO FORM:

Deputy Attorney General

DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

Filed

Exhibit 3

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

CHAPTER 182

STATE ELECTRICAL CODE

Repealed

§§3-182-1 to 3-182-5 Repealed. [R

]

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 14

STATE BUILDING CODE COUNCIL

CHAPTER 182.1

STATE ELECTRICAL CODE

Subchapter 1 Rules of General Applicability

- §3-182.1-1 Purpose
- §3-182.1-2 Scope
- §3-182.1-3 Definitions
- §3-182.1-4 Adoption of the National Electrical Code
- §3-182.1-5 Permit authorization

Subchapter 2 Amendments to the 2014 NFPA 70,
National Electrical Code

- §3-182.1-6 Title
- §3-182.1-7 Ground-fault circuit interrupter
protection for receptacles on 15 kW or
smaller portable generators.
- §3-182.1-8 Receptacle identification
- §3-182.1-9 Receptacles
- §3-182.1-10 Rating
- §3-182.1-11 Receptacle outlets not part of permanent
wiring
- §3-182.1-12 Applications of listed coaxial cables in
buildings

SUBCHAPTER 1
RULES OF GENERAL APPLICABILITY

§3-182.1-1 Purpose. The purpose of this chapter is to adopt the State Electrical Code as required by section 107-25, Hawaii Revised Statutes (HRS).
[Eff _____] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-2 Scope. This chapter sets forth minimum requirements for the practical safeguarding of persons and property from hazards arising from the installation and use of electricity not regulated by the Public Utilities Commission of the State of Hawaii. [Eff _____] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-3 Definitions. In this chapter, unless the context otherwise requires:

"Article" means an article of a chapter of the National Electrical Code.

"Building official" means the officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

"Chapter" means this chapter.

"NEC" means the National Electrical Code, NFPA 70, 2014 edition, as copyrighted by the National Fire Protection Association.

"NFPA" means the National Fire Protection Association. [Eff _____] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-4 Adoption of the National Electrical Code. The "National Electrical Code, 2014 Edition",

§3-182.1-4

published by the National Fire Protection Association is made a part of this chapter. [Eff]
(Auth: HRS §107-29)(Imp: HRS §§107-24, 107-25)

§3-182.1-5 Permit authorization. Each county, by ordinance, may require that a permit be obtained from the building official for any area regulated by this chapter. [Eff] (Auth: HRS §107-29)(Imp: HRS §§107-24, 107-25)

SUBCHAPTER 2

AMENDMENTS TO THE 2014 NFPA 70, NATIONAL ELECTRICAL CODE

§3-182.1-6 Title. Section 90.1.1 is added to read as follows: "This code shall be known as the State Electrical Code, may be cited as such, and will be referred to in this chapter as this code."
[Eff] (Auth: HRS §107-29)(Imp: HRS §§107-24, 107-25)

§3-182.1-7 Ground-fault circuit interrupter protection for receptacles on 15 kW or smaller portable generators. Section 445.20 is amended to read as follows: "445.20. Ground-Fault Circuit Interrupter Protection for Receptacles on 15 kW or Smaller Portable Generators. All 125-volt, single-phase, 15- and 20-ampere receptacle outlets that are a part of a 15-kW or smaller portable generator either shall have ground-fault circuit-interrupter protection for personnel integral to the generator or receptacle or shall not be available for use when the 125/250-volt locking-type receptacle is in use. If the generator was manufactured or remanufactured prior to January 1, 2015, listed cord sets or devices

incorporating listed ground-fault circuit-interrupter protection for personnel identified for portable use shall be permitted. If the generator does not have a 125/250-volt locking-type receptacle, this requirement shall not apply." [Eff] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-8 Receptacle identification. Section 517.41(E) is revised by deleting the second paragraph in this section. [Eff] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-9 Receptacles. Section 520.45 is revised by adding "Section 406.15 shall not apply." after the second sentence in this section. [Eff] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-10 Rating. Section 530.21(A) is revised by adding "Section 406.15 and" to the last sentence to read as follows: "Section 406.15 and Table 210.21(B) (2) shall not apply. [Eff] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-11 Receptacle outlets not part of permanent wiring. Section 590.6(A) (1) is amended to read as follows: "(1) Receptacle Outlets Not Part of Permanent Wiring. All 125-volt, single-phase, 15-, 20-, and 30-ampere receptacle outlets that are not a part of the permanent wiring of the building or structure and that are in use by personnel shall have ground-fault circuit-interrupter protection for personnel. In addition to this required ground-fault circuit-interrupter protection, listed cord sets or

§3-182.1-11

devices incorporating listed ground-fault circuit-interrupter protection for personnel identified for portable use shall be permitted." [Eff]
(Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

§3-182.1-12 Applications of listed coaxial cables in buildings. Two rows in Table 820.154(a) are revised to read as follows:

Applications		Cable Type			
		CATVP	CATVR	CATV	CATVX
In Other Spaces Used for Environmental Air as Described in 300.22(C)	In plenum communications raceways	Y*	N	N	N
	In plenum cable routing assemblies	NOT PERMITTED			

[Eff] (Auth: HRS §107-29) (Imp: HRS §§107-24, 107-25)

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

The repeal of chapter 3-182 and the adoption of chapter 3-182.1, Hawaii Administrative Rules, on the Summary Page dated _____ were adopted on _____, following a public hearing held in Honolulu, Hawaii on _____, after public notice was given in the Honolulu Star Advertiser on _____.

The repeal of chapter 3-182 and the adoption of chapter 3-182.1 shall take effect ten days after filing with the Office of the Lieutenant Governor.

DOUGLAS MURDOCK, State Comptroller
Department of Accounting and
General Services

DAVID Y. IGE
Governor
State of Hawaii

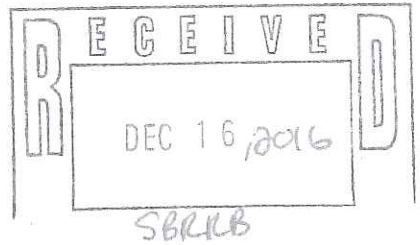
Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed

Exhibit 4



Ramseyer Format 3/23/15

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapters 13-167, 13-168, and 13-169
Hawaii Administrative Rules

(Date of adoption)

1. Section 13-167-10, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Any person who violates any provision of this title or any permit condition or limitation established pursuant to this title or who negligently or willfully fails to or refuses to comply with any final order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed [\$1,000] \$5,000 per violation. For a continuing offense, each day during which the offense is committed is a separate violation." [Eff 5/27/88; am] (Auth: HRS §§174C-8,) (Imp: HRS §§174C-15)

2. Section 13-168-3, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed [\$1,000] \$5,000 per violation. For a continuing offense, each day's continuance is a separate violation." [Eff 5/27/88; am] (Auth: HRS §174C-8) (Imp: HRS §174C-15)

3. Section 13-169-3, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed [~~\$1,000~~] \$5,000 per violation. For a continuing offense, each day's continuance is a separate violation." [Eff 5/27/88; am]
(Auth: HRS §174C-8) (Imp: HRS §174C-15)

4. Material, except source notes, to be repealed is bracketed. New material is underscored.

5. Additions to update source notes to reflect these amendments are not underscored.

6. These amendments to chapters 13-167, 13-168, and 13-169, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

CARTY S. CHANG
Acting Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

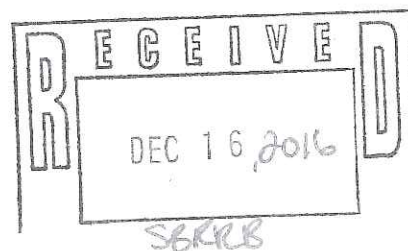
Deputy Attorney General

COMMISSION ON WATER RESOURCE MANAGEMENT

Amendment to Title 13
Chapter 13-168
Hawaii Administrative Rules

SUMMARY

1. Section 13-168-12 is amended.



1. Section 13-168-12, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) No well shall be constructed, altered, or repaired and no pump or pumping equipment shall be installed, replaced, or repaired without an appropriate permit from the commission. [An]Each application for a well construction or pump installation permit shall be accompanied by a non-refundable filing fee of [~~\$25.00~~] \$300.00, excepting government agencies, and shall be required for all areas of the state, including water management areas. The owner of a well shall make application or cause an application to be made by the well driller who will construct the well or by the pump installation contractor who will install the pump and pumping equipment, as the case may be." [Eff 5/27/88; am] (Auth: HRS §174C-8, 174C-61) (Imp: HRS §§174C-48, 174C-61, 174C-84)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. This amendment to section 13-168-12, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, by the Commission on Water Resource Management and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chair
Commission on Water Resource
Management

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

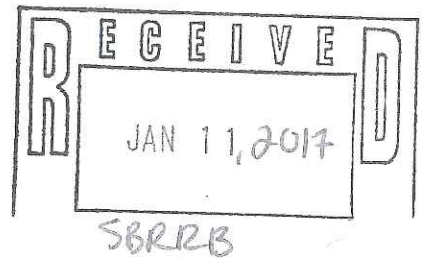
Exhibit 5

DEPARTMENT OF AGRICULTURE

Adoption of Chapter 4-161
Hawaii Administrative Rules

<Date of Adoption>

1. Chapter 4-161, Hawaii Administrative Rules, entitled "HAWAII-GROWN INDUSTRIAL HEMP," is adopted to read as follows: _____



DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 161

HAWAII-GROWN INDUSTRIAL HEMP

§4-161-1	Definitions
§4-161-2	Licensing
§4-161-3	Reports
§4-161-4	Duties
§4-161-5	Testing and Sampling
§4-161-6	Violations
§4-161-7	Profits
§4-161-8	Waiver
§4-161-9	Reserved

§4-161-1 Definitions. As used in this chapter:
"Program" means the industrial hemp pilot program.

"Applicant" means a person that is an individual residing in Hawaii or an institution of higher education, a sole proprietorship, partnership, association, corporation, limited liability corporation, limited liability partnership, or any other business entity having any:

- (1) Place of business permanently located within the State;
- (2) Employees permanently assigned to work stations or areas located within the State;
or
- (3) Tangible assets permanently located within the State.

"Board" means the board of agriculture or the board's designee.

"Chairperson means the chairperson of the board of agriculture or the chairperson's designee.

"Department" means the department of agriculture.

"Industrial hemp" means the plant *Cannabis sativa* L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry matter basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater, that is cultivated.

"Law enforcement" means the federal, state, and local agencies responsible for maintaining public order and enforcing the law.

"Licensed land area" means a contiguous land area registered with the department on which a licensee plans to cultivate industrial hemp. A licensed land area may include land and buildings that are not used for cultivation.

"Licensure" means authorization by the department for any individual or legal entity to grow industrial hemp on a licensed land area.

"Movement" means the shifting of industrial hemp from a licensed land area to another location, or into a licensed land area from another location.

"Seed cultivar" means a variety of industrial hemp.

"Variety" means a group of individual plants that exhibit the same observable physical characteristics of have the same genetic composition.

[Eff] (Auth: HRS §141-40) (Imp: HRS §141-31)

§4-161-2 Licensing. (a) Each applicant for an industrial hemp license shall submit a signed, complete, accurate, and legible application, on a form provided by the department, between January 1 to April 1 of the year in which the applicant plans to grow industrial hemp, which shall include the following:

- (1) The applicant's name, mailing address, and phone number in Hawaii and, if applicable electronic mail address;

- (2) If the applicant is an individual or partnership, the date of birth of the individual or partners;
- (3) If the applicant is any business entity other than an individual, partnership, or institution of higher education documentation that the entity is authorized to do business in Hawaii;
- (4) The cultivated variety that will be sown;
- (5) The source and amount of seed, cuttings, or seedlings to be used;
 - (A) If seed importation assistance from the department is requested, the applicant shall be responsible for all costs associated with the seed purchase and importation.
 - (B) If cuttings or seedlings are the applicant's initial source and are approved in a pre-planting report, a movement report shall be submitted prior to any movement of the cuttings or seedlings and shall include the location from which the product will be moved, the mode of transportation, the location to which the product will be moved, and the seed cultivar of the product. The department may require inspection or sampling of the product prior to movement.
- (6) The number of acres to be cultivated for seed, viable grain, industrial products, or any combination thereof;
- (7) The global positioning system coordinates in decimal degrees from the central most point of the licensed land area and a map showing the location of the licensed area in terms of its legal address or legal description;
- (8) A statement that the applicant is the fee simple owner of the licensed land area to be used for the cultivation or a statement signed by the fee simple owner of the

licensed land area indicating that the owner has consented to that use;

- (9) The address of the place in Hawaii where the applicant will keep the records, books, electronic data, or other documents that are required by this chapter;
- (10) The name and address of each place where the industrial hemp is to be stored, sold, or provided, indicating for each place the form of the industrial hemp; and
- (11) The applicant's acknowledgement and agreement to the following terms and conditions:
 - (A) Any information obtained by the department may be publicly disclosed and provided to law enforcement without further notice to the applicant or licensee;
 - (B) The applicant has the legal authority to grant the department access to the proposed licensed land area for inspection and sampling and agrees to allow any inspection and sampling the department deems necessary;
 - (C) The applicant agrees to pay for any sampling and analysis cost the department deems necessary;
 - (D) The applicant agrees to submit all required reports by the applicable due dates specified by the department; and
 - (E) The applicant and any partners, directors, or members have not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form in this or any other country.

(b) An application may be received between January 1 and April 1 of each year and shall be signed by the applicant or, in the case of a business entity, one of its officers, directors, or partners, as the case may be, and indicate that all information and

documents submitted in support of the application are correct and complete to the best of the applicant's knowledge.

(c) Any incomplete application for a license or an application received after April 1 of any year, shall be denied.

(d) In addition to the application form, each applicant for a license shall submit a non-refundable \$500 application fee by certified check or cashier's check delivered or mailed by certified mail, return receipt. If the fee does not accompany the application, the application for a license shall be deemed incomplete.

(e) The annual license fee for production of industrial hemp shall be \$250 plus \$2 per acre, unprorated. The initial license fee shall be due prior to the issuance of a license, by certified check or cashier's check delivered or mailed by certified mail, return receipt. The subsequent annual license fee shall be due prior to one year after the date of issuance of the license. Failure to pay any license fees may result in denial, suspension, or revocation of a license and other penalties set forth in section 4-161-6.

(f) Each license shall allow a licensee to cultivate up to a maximum of ten acres of industrial hemp on a single contiguous licensed land area. Additional or non-contiguous acreage shall require a separate license.

(g) Licenses shall be issued to successful applicants on a quarterly basis, in March, June, September, and December of the application year. Any changes to information in an application occurring prior to the issuance of a license shall be immediately reported to the department. Failure to report any changes may result in denial, suspension, or revocation of a license and other penalties set forth in section 4-161-6.

Upon successful application, return of a signed license agreement, and remittal of the license fee by certified check or cashier's check, the applicant

shall receive a license with a date of issuance according to the quarterly issuance schedule.

(h) All licenses shall be valid for two years from the date of issuance, subject to renewal or revocation by the department as set forth in this chapter.

(i) To renew a license, applicants shall:

(1) Submit an application form at least sixty days prior to the expiration date of the license specifying that it is an application to renew a previous unrevoked license, along with a renewal application fee of \$350, by certified check or cashier's check delivered or mailed by certified mail, return receipt.

(2) Upon successful application, return of a new signed license agreement, and remittal of the license fee by certified check or cashier's check, the applicant for renewal shall receive a renewed license valid for two years from the date of issuance, subject to renewal or revocation by the department as set forth in this chapter.

(j) Any licensee who wishes to alter the licensed land area on which the licensee shall conduct industrial hemp cultivation shall, before altering the area, submit to the department an updated address, global positioning system location, and map specifying the proposed alteration. If the department approves the altered land area, the department shall notify the licensee in writing that the licensee may begin to cultivate industrial hemp on the altered land area.

(k) A licensee who wishes to change the cultivar grown shall submit to the department the name of the new, approved cultivar to be grown. If the department approves the change to the cultivar, the department shall notify the licensee in writing that the licensee may begin to cultivate the new, approved cultivar.

(l) Licenses shall not be sold, assigned, transferred, or encumbered.

(m) No land area shall be included in more than one license at the same time.

(n) Each non-contiguous land area on which industrial hemp is grown shall require a separate license.

(o) Incomplete applications shall not be processed, and application fees shall not be refunded.

(p) Any change to information provided in the application shall be submitted within ten days of when the change occurs. Failure to provide accurate information or to update any information in a timely manner may result in denial, suspension, or revocation of a license and other penalties set forth in section 4-161-6. [Eff] (Auth: HRS §141-40)
(Imp: HRS §141-33)

§4-161-3 Reports. (a) Pre-planting report.

Prior to planting any industrial hemp, a licensee shall file for the department's approval, on a form provided by the department, a pre-planting report that includes a description of the industrial hemp varieties to be planted on the licensed land area, and a map showing where they will be planted.

(b) Planting Report. Within ten days after planting any industrial hemp in a licensed land area, each licensee shall file, on a form provided by the department, a planting report that includes:

- (1) A list or description of all varieties of industrial hemp planted, or of volunteer industrial hemp plants that have emerged from a previous planting and are not destroyed, within a licensed land area; and
- (2) The location and actual acreage or square feet of each variety of industrial hemp planted, or of volunteer industrial hemp plants that have emerged and are not destroyed, within a licensed land area;

A planting report shall be filed any time industrial hemp is planted in, moved within, or moved into a licensed land area, except when the industrial hemp is replanted into a larger container within the same

indoor location in the licensed land area. Planting reports shall be filed for industrial hemp grown from seed, industrial hemp grown from cuttings, and industrial hemp moved into the licensed land area whether as mature plants or as seedlings.

(c) Harvest Report. At least thirty days prior to harvest, a licensee shall file, on a form provided by the department, a harvest report that includes:

- (1) The harvest dates and location of each variety cultivated within a licensed land area.
 - (A) A licensee shall immediately notify the department of any changes in the reported harvest dates in excess of five days. If any changes to the harvest dates are made, the department may require additional inspection or sampling prior to the harvest.
- (2) Documentation that the licensee has entered into a purchase agreement with an industrial hemp processor. If the licensee has not entered into a purchase agreement, the licensee shall include a statement of intended disposition of its industrial hemp crop, and shall confirm in writing its intended disposition within seven days prior to harvest.
 - (A) Licensees shall immediately notify the department of any changes to the purchase agreement or disposition statement.

(d) Movement Report. At least two business days prior to the movement of industrial hemp grain or plant material from a licensed land area, the licensee shall file, on a form provided by the department, an application for movement permit and movement report. The report shall include the intended date of the move, the location from which the product will be moved, the mode of transportation, and the location to which the product will be moved. The department may require inspection or sampling of the product prior to movement.

[Eff] (Auth: HRS §141-40) (Imp:
HRS §§141-34, 141-36)

§4-161-4 Duties. (a) The licensee shall continually ensure that all information provided to the department is accurate and up to date, and shall notify the department within the time specified in this chapter, or if not specified, at least ten days prior to any changes, or immediately upon discovery of the change if ten days prior is not possible. Failure to provide and maintain accurate and up to date information on file with the department may result in the penalties set forth in section 4-161-6.

(b) The licensee shall conduct all agricultural operations in a lawful manner consistent with the standards befitting of an official of the State, provided that such standards are subject to the sole discretion and direction of the department.

(c) The licensee shall abide by all applicable laws and regulations incident to the growth, cultivation, or marketing of industrial hemp.

(d) The licensee shall indemnify, hold harmless and release forever the State and its departments, agencies, officers, employees, and agents of any kind from all liability claims arising out the licensee's actions involving the growth, cultivation, or marketing of industrial hemp.

(e) The licensee shall warrant that the licensee is not an employee of the State and shall assume total and sole responsibility for any of the licensee's acts or omissions involving the growth or production of industrial hemp or arising out the licensee's participation in the industrial hemp pilot program.

(f) The licensee shall allow any institution of higher education in the State to access the sites registered by the licensee with the department for production of industrial hemp for all purposes, as determined at the discretion of the department related to research, growth, cultivation, and marketing of industrial hemp.

(g) The licensee shall allow federal, state, or local authorities to inspect and sample the industrial hemp licensed land area, plants, plant materials, seeds, equipment, or facilities incident to the growth or production of industrial hemp.

(h) The licensee shall remit to the department when due, all fees and other expenses required under this chapter.

(i) The licensee shall adhere narrowly to the research focus of the area in which the licensee is participating in the industrial hemp pilot program. The areas include one or more of the following:

- (1) Planting and growing - tracking vital statistics and yield rates with respect to industrial hemp varieties and growing variables, including seed planting rate, soil composition, water usage, and planting and growing season;
- (2) Pest - tracking the occurrence of pests and effectiveness of various preventative measures in correlation with the industrial hemp varieties;
- (3) Cost centers and financing - tracking average cost estimates of producing industrial hemp varieties, taking into account costs of participation in the industrial hemp pilot program, product acquisition, water usage, equipment, labor, and security measures and reporting financial resources available for production of industrial hemp; or
- (4) Marketing and industrial development - reporting market demand for industrial hemp varieties, raw materials and end products, including identification of actual or potential hemp products, processors, product manufacturers, wholesalers, retailers, and targeted consumers.

(j) The licensee shall gather information and data generated by its industrial hemp research activities, and provide them to the department at the end of each license period in the form of a research

report. A failure to submit the research report may result in the penalties set forth in section 4-161-6.

(k) The licensee shall complete and submit all reports and statements requested by the department relative to the licensee's production of industrial hemp. A failure to submit any required or requested report may result in revocation of the licensee's license and other penalties set forth in section 4-161-6.

(l) The licensee shall, at the discretion of and in a manner determined by the department, destroy or dispose of any industrial hemp crop, plant, plant material, or seed determined by the department or law enforcement to be non-compliant with applicable laws and regulations. The licensee shall be responsible for all costs associated with the destruction or disposal of non-compliant crops, plants, plant material, or seeds.

(m) The licensee shall use best management practices for growth and production of industrial hemp, as available, including the any best management practices specified in chapter 141, Part II, Hawaii Revised Statutes, and any county-specific best management practices. The licensee shall further take reasonable precaution to prevent unauthorized growth or distribution of industrial hemp, including but not limited to:

- (1) Taking the precautionary measures, as applicable, specified in chapter 141, part II, Hawaii Revised Statutes;
- (2) Reporting theft of industrial hemp plants, plant materials, or seeds to law enforcement and providing the department with a copy of the police report; and
- (3) Reducing the likelihood of cross pollination between varieties of industrial hemp and among the other plants by, when practicable, using feminized seed and eliminating male plants upon identification to prevent unnecessary pollen. [Eff]
(Auth: HRS §141-40) (Imp: HRS §141-36)

§4-161-5 Inspection and sampling. (a) All licensees are subject to inspection and sampling of their industrial hemp crop to verify that the delta-9-tetrahydrocannabinol concentration does not exceed 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater.

(b) During the inspection, the licensee or the licensee's authorized representative shall be present at the licensed land area and shall provide the department with complete and unrestricted access to all industrial hemp plants, plant materials, and seeds within a licensed land area whether growing or harvesting, all land, buildings, and other structures, and all documents and records pertaining to the licensee's industrial hemp growing business.

(c) Sampling of industrial hemp shall occur in the following manner:

- (1) Individual and composite samples of each variety of industrial hemp may be sampled from the growing areas.
- (2) Quantitative laboratory determination of the delta-9-tetrahydrocannabinol concentration on a dry weight basis shall be performed.
- (3) A sample test result greater than 0.3 per cent of delta-9-tetrahydrocannabinol concentration or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater, shall be considered conclusive evidence that at least one cannabis plant or part of a plant in the growing area contains a delta-9-tetrahydrocannabinol concentration over the limit allowed of for industrial hemp and that the licensee of that growing area is therefore not in compliance with this chapter. Upon receipt of such a test result, the department may summarily suspend or revoke the licensee's license. The department shall furnish the licensee a portion of the violative sample if the

licensee requests it in writing within thirty days of the date of the department's notification of non-compliance to the licensee.

(d) Test results from tests performed according to methods approved by the department from an institution of higher education may, at the department's discretion, be accepted in lieu of the department sampling.

(e) Licensees shall pay a charge of \$35 per hour per inspector for actual drive time, mileage, inspection, and sampling time. Payment shall be remitted within thirty days of the date of the invoice.

(f) Licensees shall reimburse the department for all laboratory analysis costs incurred. Payment shall be remitted within thirty days of the date of the invoice.

(g) All licensees are subject to routine inspection and sampling to verify that the delta-9-tetrahydrocannabinol concentration of the industrial hemp planted within a licensed land area does not exceed 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater. All licensees are further subject to routine inspection and sampling to verify compliance with the reporting requirements of this chapter. The department may select up to one hundred per cent of licensees to be inspected. The department shall send notification to each licensee of their selection. The notification shall inform the licensee of the scope and process of the inspection and require the licensee to contact the department within ten days of the date of the notification to set a date and time for the inspection to occur. Failure to contact the department as required may result in the penalties set forth in section 4-161-6.

(h) In addition to routine inspection and sampling under subsection (g), the department may inspect and take samples from any licensed land area during normal business hours without advance notice if the department has reason to believe a violation of

this chapter may be occurring. The department may also conduct such additional inspection and sampling as necessary to verify compliance with the reporting requirements of this chapter. [Eff]
(Auth: HRS §141-40) (Imp: HRS §§141-36, 141-37)

§4-161-6 Violations. (a) In addition to any violations of any provisions of this chapter, the following acts and omissions by any licensee or authorized representative thereof constitute violations for which civil penalties up to \$500 and disciplinary sanctions, including suspension or revocation of a license and cease and desist orders, may be imposed by the department:

- (1) Refusal or failure by a licensee or authorized representative to fully cooperate and assist the department with the inspection process;
- (2) Failure to provide any information required or requested by the department for purposes pursuant to this chapter;
- (3) Providing false, misleading, or incorrect information pertaining to the licensee's cultivation of industrial hemp to the department by any means, including but not limited to information provided in any application form, report, record, or inspection required or maintained pursuant to this chapter;
- (4) Growing industrial hemp that when tested is shown to have a delta-9-tetrahydrocannabinol concentration greater than 0.3 per cent on a dry weigh basis or tetrahydrocannabinol concentration allowed by federal law, whichever is greater;
- (5) Failure to pay any fees or costs, when due, that are assessed by the department pursuant to this chapter; or
- (6) Possessing, outside of a field of lawful cultivation, resin, flowering tops, or leaves that have been removed from the hemp

plant, provided that the presence of de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not apply to this paragraph.

[Eff _____] (Auth: HRS \$141-40) (Imp: HRS \$141-38)

§4-161-7 Profits. The department shall forego any income or profit that licensees lawfully obtained through the disposition of the licensees' industrial hemp crop, provided that the licensee reports to the department:

- (1) Any movement of the licensee's hemp plants, plant materials, or seeds outside the licensed area;
- (2) Any sale of, or benefit received in exchange for, the licensee's industrial hemp plants, plant materials, or seeds; and
- (3) Any commercial details of such movement, sale, or exchange for use by the department to research the marketability and logistical production of industrial hemp in the State.

[Eff _____] (Auth: HRS \$141-40) (Imp: HRS \$141-39)

§4-161-8 Waiver. (a) If a sample of a licensee's industrial hemp tests higher than 0.3 per cent but not more than 1 per cent delta-9-tetrahydrocannabinol concentration the licensee may request a waiver to the revocation or suspension of its license if the crop is destroyed or utilized on the licensed land area in a manner approved and verified by the department.

(b) Licensees shall have ten days from the date of the notification of a test result higher than 0.3 per cent but not more than 1 per cent delta-9-tetrahydrocannabinol concentration to request a waiver. [Eff _____] (Auth: HRS \$141-40) (Imp: HRS \$141-36)

Exhibit 6

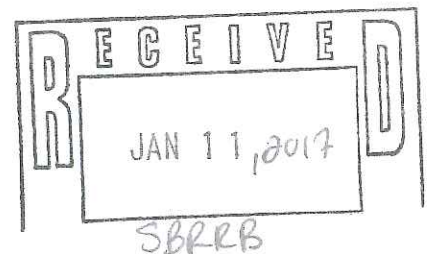
DEPARTMENT OF HEALTH

Adoption of Chapter 11-103
Hawaii Administrative Rules

(Date of adoption)

SUMMARY

Chapter 11-103, Hawaii Administrative Rules,
entitled "Licensure and Certification Fees for Health
Care Facilities and Agencies", is adopted.



HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 103

LICENSURE AND CERTIFICATION FEES FOR HEALTH CARE
FACILITIES AND AGENCIES

\$11-103-1	Purpose
\$11-103-2	Definitions
\$11-103-3	Method and manner of payment
\$11-103-4	Initial licensure and licensure renewal fees and initial certification and certificate renewal fees
\$11-103-5	Initial licensure and certification fee requirements
\$11-103-6	Licensure renewal and certification renewal fee requirements
\$11-103-7	Reduced licensure or certification renewal fee
\$11-103-8	Deposit of fees

§11-103-1 Purpose. The purpose of this chapter is to establish fees for the initial issuance by the department of a license or certificate of approval to a health care facility or health care agency, and the renewal of a health care facility's or health care agency's license or certificate of approval.
[Eff _____] (Auth: HRS §§321-9, 321-11, 321-11.5) (Imp: HRS §§321-1.4, 321-11.5)

§11-103-2 Definitions. As used in this chapter: "Adult day care center" or "center" means a licensed facility that meets the requirements of chapter 17-1424.

"Adult residential care home" or "ARCH" means a facility that meets the requirements of section 321-15.6, HRS.

"Applicant" means a person or group of persons, firm, corporation, institution, association, organization or other entity that applies to the department for licensure or certification to operate a health care facility or agency as required by state law.

"Assisted living facility" or "ALF" means a facility that meets the requirements of section 321-15.1, HRS.

"Broad service hospital" or "hospital" means a hospital that is staffed and equipped to provide inpatient medical or surgical care, or both, for acute and chronic illness, injury or obstetrics.

"Certificate of approval" or "certificate" means the certificate issued by the department or its designee that authorizes a person, agency, or organization to operate a health care facility or agency.

"Certification" means the issuance by the department or its authorized agents of a certificate of approval to a health care facility or agency including "initial certificate", "certificate renewal", and "amended certificate".

"Clinical laboratory" means a facility that meets the requirements of section 11-110.1.

"Community care foster family home" means a facility that meets the requirements of chapter 17-1454.

"Day" means a calendar day, unless otherwise indicated.

"Department" means the department of health, State of Hawaii.

"Developmental disability domiciliary home" means a residence that meets the requirements of section 321-15.9, HRS.

"Director" means the director of health, State of Hawaii, or the director's designee.

"Expanded ARCH" means a facility that meets the requirements of section 321-15.62, HRS.

"Freestanding adult day health center" or "ADHC" means a facility that meets the requirements of chapter 11-96.

"Freestanding birthing center" means a facility that meets the requirements of chapter 11-93.2.

"Freestanding outpatient surgical facility" means a facility that meets the requirements of chapter 11-95.

"Health care agency" means a home and community-based case management agency, home care agency, home health agency, and any other entity required by law to be licensed or certified by the department.

"Health care facility" means a hospital, nursing home, intermediate care facility for individuals with intellectual disabilities, freestanding outpatient surgical facility, freestanding adult day health center, freestanding birthing center, adult day care center, laboratory, adult residential care home, expanded adult residential care home, community care foster family home, developmental disability domiciliary home, assisted living facility, therapeutic living program, special treatment facility, and any other entity required by law to be licensed or certified by the department.

"Home and community-based case management agency" means any person, agency, or organization that meets the requirements of chapter 17-1454.

"Home care agency" means an agency or organization that meets the requirements of section 321-14.8, HRS.

"Home care services" includes but is not limited to:

- (1) Personal care, including assistance with dressing, feeding, and personal hygiene to facilitate self-care;
- (2) Homemaker assistance, including housekeeping, shopping, and meal planning and preparation; and
- (3) Respite care and assistance and support provided to the family.

to an applicant unless all applicable fees required by this chapter have been paid in full.

(b) All license fees collected pursuant to this chapter shall be paid by corporate check, bank or other financial institution check, or money order made payable to the order of "State of Hawaii Office of Health Care Assurance Special Fund", or electronically, if the method is available, and are non-refundable. No applicant or licensee shall pay fees by personal check or cash and neither personal checks nor cash shall be accepted by the department.

(c) Each dishonored check or insufficient funds shall be considered a failure to pay and shall constitute an incomplete application for initial licensure or licensure renewal, or initial certification or certificate renewal. [Eff]
(Auth: HRS §§321-1.4, 321-9, 321-11, 321-11.5) (Imp: HRS §§321-1.4, 321-11.5)

§11-103-4 Initial licensure and licensure renewal fees and initial certification and certificate renewal fees. (a) All fees adopted in this chapter shall be effective thirty days after the effective date of this chapter. All fees adopted by an amendment to this chapter shall be effective thirty days after the effective date of the amendment to this chapter.

(b) The department adopts the fees set forth in the following fee schedules:

- (1) Exhibit A entitled, "Initial Licensure and Certification Fee Schedule", dated 8/1/16, located at the end of this chapter, which is made a part of this section; and
- (2) Exhibit B entitled, "Licensure and Certification Renewal Fee Schedule", dated 8/1/16, located at the end of this chapter, is made a part of this section.
[Eff] (Auth: HRS §§321-1.4, 321-9, 321-11, 321-11.5) (Imp: HRS §§321-1.4, 321-11.5)

§11-103-5 Initial licensure and certification fee requirements. (a) The department shall conduct a survey prior to the issuance of each initial license and certificate. Following the licensure or certification survey, the department shall notify the prospective licensee in writing either that the prospective licensee is in full compliance with initial licensure or certification requirements, or that the prospective licensee is required to address certain deficiencies in a written plan of correction.

(b) The prospective licensee in full compliance shall deliver, or if available, electronically submit to the department within ten days of its receipt of the department's notice, its payment of the initial licensure or certification fee required by this chapter. [Eff] (Auth: HRS §§321-9, 321-11, 321-11.5) (Imp: HRS §§321-1.4, 321-11.5)

§11-103-6 Licensure renewal and certification renewal fee requirements. (a) A licensee shall pay the license or certificate renewal fee at least thirty days before the license or certificate renewal date.

(b) The department may extend the term of a license or certificate that is due to renew prior to the license or certificate renewal date to complete the administrative processing of the license or certificate renewal application form provided the licensee has paid the applicable fee.

(c) Failure, neglect, or refusal of any licensee to pay the licensure or certification renewal fee as directed by the department shall constitute a forfeiture of the license or certificate effective on the licensure or certificate renewal date.

[Eff] (Auth: HRS §§321-9, 321-11, 321-11.5) (Imp: HRS §§321-1.4, 321-11.5)

§11-103-7 Reduced licensure or certification renewal fee. The department shall reduce the licensure or certification renewal fee required by

DEPARTMENT OF HEALTH

Chapter 11-103, Hawaii Administrative Rules, on the Summary Page dated _____, was adopted on _____, following a public hearing held on _____, after public notice was given in the Honolulu Star Advertiser on _____.

The adoption of chapter 11-103 shall take effect ten days after filing with the Office of the Lieutenant Governor.

VIRGINIA PRESSLER, M.D.
Director
Department of Health

APPROVED AS TO FORM:

Deputy Attorney General

DAVID Y. IGE
Governor
State of Hawaii

Date:

Filed

Exhibit A

HAR CHAPTER 11-103

Initial Licensure and Certification Fee Schedule
8/1/16

Facility or Service	Initial Licensure and Certification Fee (in \$)
Adult Day Care Center	962
Adult Residential Care Home Type I	300
Adult Residential Care Home Type II	300
Assisted Living Facility	600
Broad Service Hospital or Hospital	1,247 plus 12 per bed
Clinical Laboratory	113
Community Care Foster Family Home	161
Developmental Disability Domiciliary Home	300
Expanded Adult Residential Care Home Type I	300
Expanded Adult Residential Care Home Type II	300
Freestanding Adult Day Health Center	1,397
Freestanding Birthing Center	1,397
Freestanding Outpatient Surgical Facility	2,793
Home and Community Based Case Management Agency	161

Home Care Agency	1,397
Home Health Agency	2,793
Intermediate Care Facility for Individuals with Intellectual Disabilities	1,027 plus 16 per bed
Intermediate Care Facility (ICF), Skilled Nursing Facility (SNF), or ICF/SNF	1,027 plus 16 per bed
Special Treatment Facility	300
Therapeutic Living Program	300

Exhibit B

HAR CHAPTER 11-103

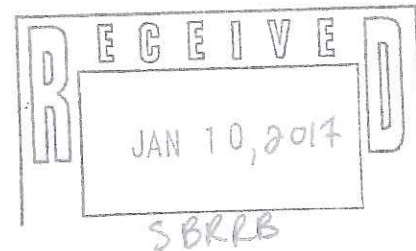
Licensure and Certification Renewal Fee Schedule
8/1/16

Facility or Service	Licensure and Certification Renewal Fee (in \$)
Adult Day Care Center	641
Adult Residential Care Home Type I	200
Adult Residential Care Home Type II	200
Assisted Living Facility	400
Broad Service Hospital or Hospital	831 plus 9 per bed
Clinical Laboratory	75
Community Care Foster Family Home	107
Developmental Disability Domiciliary Home	200
Expanded Adult Residential Care Home Type I	200
Expanded Adult Residential Care Home Type II	200
Freestanding Adult Day Health Center	931
Freestanding Birthing Center	931
Freestanding Outpatient Surgical Facility	1,862
Home and Community Based Case Management Agency	107

Home Care Agency	931
Home Health Agency	1,862
Intermediate Care Facility for Individuals with Intellectual Disabilities	685 plus 10 per bed
Intermediate Care Facility (ICF), Skilled Nursing Facility (SNF), or ICF/SNF	685 plus 10 per bed
Nursing Facility	685 plus 10 per bed
Special Treatment Facility	200
Therapeutic Living Program	200

Exhibit 7

Amendment to Title 08, Chapter 101,
Rules Governing the Manufacture and Sale
of Intoxicating Liquor of the County of Maui



1. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of "condominium hotel" to read as follows:

"Condominium hotel" means an establishment consisting of one or more buildings that includes:

(a) Guest rooms that are units, as defined in section 514B-3, HRS, which are used to provide transient lodging for periods of less than thirty days under a written contract with the owner of a unit in the condominium hotel operation; and

(b) Guest rooms that are units, owned or managed by the condominium hotel operator providing transient lodging for periods of less than thirty days, which are offered for adequate pay to transient guests[; and].

[(c) A suitable and adequate kitchen and dining room, where meals are regularly prepared and served to guests and other customers.]

A condominium hotel does not include a hotel that may be part of a condominium property regime established under chapter 514B, HRS, that does not have guest rooms that are separate units, as defined in section 514B-3, HRS. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)"

2. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of "hotel" to read as follows:

"Hotel" means a premises consisting of one or more buildings which contain at least forty separate rooms, units, or apartments, providing sleeping accommodations for adequate pay to transient or permanent guests[, and a suitable and adequate kitchen and dining room, where meals are regularly prepared and served to hotel guests and other customers]. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)"

3. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of "open for business" to read as follows:

““Open for business” means whenever any type of service or consumption is performed within the licensed premises; or when the licensee solicits and receives an order for; have or keep or offer or expose for sale; deliver for value or in any other way, including purely gratuitously; peddle; keep with intent to sell; or traffic in any liquor or merchandise[; or when any person other than an on-duty employee of the licensee is within the premises]. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

4. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of “premises” or “licensed premises” to read as follows:

““Premises” or “licensed premises” means the building and property that houses the establishment for which a license has been or is proposed to be issued; provided that in the case of a class 12 hotel license, “premises” includes the hotel premises; provided further that in the case of a class 15 condominium hotel license, “premises” includes [units,] apartments, as defined in section 514B-3, HRS, that are used to provide transient lodging for periods of less than thirty days under a written contract with the owner or owners of each unit in, and common elements for access purposes as established by the declaration of condominium property regime of the condominium hotel; and provided further that if an establishment is in a retail shopping complex the businesses of which have formed a merchants association, “premises” means the establishment. As used in this definition, “establishment” means a single physical location where the selling of liquor takes place. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

5. Section 08-101-10, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) The commission is established in accordance with the provisions of chapter 281, HRS, and chapter 13 of the [Charter of the County.] revised charter of the County of Maui (1983), as amended. The commission shall have the sole jurisdiction, power, authority, and discretion, subject to the rules of the commission and chapter 281, HRS:

- (1) To grant, refuse, suspend, and revoke any licenses for the manufacture, importation, and sale of liquors;
- (2) To take appropriate action against a person who, directly or indirectly, manufactures, sells, or [sells] purchases any liquor without being authorized pursuant to the rules of the commission; provided the liquor control adjudication board shall have the jurisdiction, power, authority, and discretion to hear and determine administrative complaints of the director regarding violations of the

liquor laws of the State or of the rules of the liquor commission, and impose penalties for violations thereof as may be provided by law;

- (3) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education, provided that any educational program shall be limited to the commission staff, commissioners, liquor control adjudication board members, licensees, and their employees and shall be financed through the money collected from the assessment of fines against licensees; provided that fine moneys, not to exceed ten percent a year of fines accumulated, may be used to fund public liquor related educational or enforcement programs;
- (4) From time to time to make, amend, and repeal such rules, not inconsistent with chapter 281, HRS, as in the judgment of the commission seem appropriate for carrying out the provisions of chapter 281, HRS, and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission, which rules, when adopted as provided in chapter 91, HRS, shall have the force and effect of law;
- (5) Subject to chapters 76 and 77, HRS, to appoint and remove a director, who may also be appointed an investigator, and who shall be responsible for the operations and activities of the staff. The director may hire and remove hearings officers, investigators, and clerical, or other assistants as its business may from time to time require, to prescribe their duties, and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every investigator within the scope of the investigator's duties shall have the powers of a police officer[. A commission employee may support, advocate, or aid in the election or defeat of any candidate for public office, or run for public office; provided the employee:
 - (a) Notifies the commission in writing of the employee's intent to support, advocate, or aid in the election or defeat of a candidate for public office; and
 - (b) If a candidate for public office, takes a leave of absence in accordance with section 78-23, HRS, for a period beginning prior to the initiation of political activities related to the candidacy and ending the day following the general election for the office;Notwithstanding chapter 11, HRS, or any other law to the contrary, no commission employee shall solicit or receive contributions, or receive or transfer money or anything of value from a licensee for the purpose of supporting, advocating, or aiding in the election or defeat of a candidate for public office. Violation of this subsection shall be:
 - (a) Punishable by summary dismissal of the employee; and

- (b) Subject to fines in accordance with section 11-410, HRS];
- (6) To limit the number of licenses of any class or kind within the County or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations are in the public interest;
 - (7) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement of any indemnity deemed appropriate to the case;
 - (8) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the County as to each class respectively;
 - (9) To prescribe all forms to be used for the purposes of the rules of the commission not otherwise provided for in the rules of the commission, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
 - (10) To investigate violations of the rules of the commission, State liquor laws, State liquor tax laws, and, violations of the applicable department of health's allowable noise levels, through its investigators or otherwise, and to report such violations to the prosecuting officer for prosecution and, where appropriate, the [director] department of taxation to hear and determine complaints against any licensee;
 - (11) To prescribe by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of liquor licenses;
 - (12) To prescribe by rule, the term of any license or solicitor's and representative's permit authorized by the rules of the commission, the annual or prorated amount and the manner of payment of fees for such licenses and permits, and the amount of filing fees; and
 - (13) To prescribe by rule, the circumstances and penalty for the unauthorized manufacturing or selling of any liquor. [Eff 7/1/00; am and comp 4/22/12; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)"

6. Section 08-101-19, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-19 [(Reserved)] Political activities of commission employees. (a) A commission employee may support, advocate, or aid in the election or defeat of any candidate for public office, or run for public office; provided the employee:

(1) Notifies the commission in writing of the employee's intent to support, advocate, or aid in the election or defeat of a candidate for public office; and

(2) If a candidate for public office, takes a leave of absence in accordance with section 78-23, HRS, for a period beginning prior to the initiation of political activities related to the candidacy and ending the day following the general election for the office.

(b) Notwithstanding chapter 11, HRS, or any other law to the contrary, no commission employee shall solicit or receive contributions, or receive or transfer money or anything of value from a licensee for the purpose of supporting, advocating, or aiding in the election or defeat of a candidate for public office. Violation of this subsection shall be:

(1) Punishable by summary dismissal of the employee; and

(2) Subject to fines in accordance with section 11-410, HRS. [Eff]

(Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

7. Section 08-101-21, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-21 Licensee purchases from class 1 manufacturers, [and] class 3 wholesalers, class 14 brewpub licensee, class 16 winery licensee, and class 18 small craft producer pub licensee only.

(a) It shall be unlawful for any licensee, except a class 1, 3, or 10 licensee, to purchase, acquire, possess, serve, or sell any liquor from any person other than a class 1[,] manufacturers' licensee, or a class 3[,] wholesale dealers' licensee, class 14 brewpub licensee, class 16 winery licensee, and class 18 small craft producer pub licensee, or a person authorized by the commission as a solicitor or representative of a manufacturer or wholesale dealer, pursuant to this rule, except as otherwise provided in this chapter.

(b) It shall be unlawful for any licensee to obtain any liquor from a class 1[,] manufacturers' licensee, or a class 3[,] wholesale dealers' licensee, class 14 brewpub licensee, class 16 winery licensee, and class 18 small craft producer pub licensee, or a person authorized by the commission as a solicitor or representative of a manufacturer or wholesale dealer except for use under the terms of their license. [Eff 7/1/00; am and comp 4/22/12; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

8. Section 08-101-22, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-22 Licenses, classes. (a) Licenses may be granted by the commission as provided in this rule.

(b) Class 1. Manufacturer license.

(1) A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell it at wholesale in original packages to any person who holds a license to resell it and to sell draught beer or wine manufactured from grapes or other fruits grown in the [state] State in any quantity to any person for private use and consumption.

(2) Under this license, no liquor shall be consumed on the premises except as authorized by the commission.

(3) Of this class, there shall be the following kinds:

(A) Beer;

(B) Wine;

(C) Alcohol; and

(D) Other specified liquor.

(4) It shall be unlawful for any holder of a manufacturer license to have any interest whatsoever in the license or licensed premises of any other licensee, except as may be provided within section 08-101-106 of the rules of the commission. This subsection shall not prevent the holder of a manufacturer license under this chapter or under the law of another jurisdiction from maintaining any interest in the license or licensed premises of a wholesale dealer licensee under this chapter.

(c) Class 2. Restaurant license.

(1) A license under this class shall authorize the licensee to sell liquor specified in this section for consumption on the premises; provided that a restaurant licensee, with commission approval, may provide off-premises catering of food and liquor by applying and obtaining approval for a catering permit while performing food catering functions; provided further that the catering activity shall be directly related to the licensee's operation as a restaurant. A license under this class shall also authorize the licensee to sell beer, malt beverages, or cider for off-premises consumption, provided that the licensee has the appropriate kind of license pursuant to paragraph (4); and provided further that the beer, malt beverage, or cider is sold in a securely sealed or covered glass, ceramic, or metal container that is sold to or provided by the patron, and each sealed or covered glass, ceramic, or metal container does not exceed a maximum capacity of one-half gallon.

(2) A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories shall be:

(A) A standard bar; or

- (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by the rules of the commission. The subcategories of this category shall be:
 - (i) Premises in which recorded background music is provided; and
 - (ii) Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by the rules of the commission.
- (3) If a licensee under class 2 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.
- (4) Of this class, there shall be the following kinds:
 - (A) General (includes all liquor except alcohol);
 - (B) Beer and wine; and
 - (C) Beer.
- (5) Notwithstanding section 281-57, HRS, the commission may approve at one public hearing and without notice the change to a class 2 restaurant license of a licensee holding and operating a class 5 dispenser license who meets the requirements of a class 2 license.
- (6) Restaurant license may be granted to a place, which regularly, and in a bona fide manner, is used and kept open for the serving of meals to patrons for compensation, and which has suitable State department of health and County of Maui department of fire control approved kitchen facilities within, containing the necessary equipment and supplies for cooking an assortment of foods, which may be required for ordinary meals. Additionally, the premises must have been continuously operated for one year prior to any application, and the applicant must provide a financial report of gross revenue of that year of which at least thirty percent of the establishment's gross revenue must be derived from the sale of foods.
- (d) Class 3. Wholesale dealer license.
 - (1) A license for the sale of liquor at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell the liquor specified by the license but are not by law required to hold a license provided that a class 3 licensee may sell samples of liquor back to the manufacturer.
 - (2) Under a class 3 license no liquor shall be consumed on the premises except as authorized by the commission.
 - (3) Of this class, there shall be the following kinds:
 - (A) General (includes all liquor except alcohol);
 - (B) Beer and wine; and
 - (C) Alcohol.

- (4) If any wholesale dealer solicits or takes any orders in any county other than that where the dealer's place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer holds the dealer license. Nothing in this subsection shall prevent a wholesaler from selling liquor to post exchanges, ships' service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the [state,] State, or to aviation companies who operate an aerial transportation enterprise subject to chapter 269, HRS, and engaged in flight passenger services between any two or more airports in the [state] State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the [state.] State.
- (e) Class 4. Retail dealer license.
- (1) A license to sell liquor at retail or to class 10 licensees, shall authorize the licensee to sell the liquor therein specified in their original packages.
- (2) Under a class 4 license, no liquor shall be consumed on the premises except as authorized by the commission.
- (3) Of this class, there shall be the following kinds:
- (A) General (includes all liquor except alcohol);
 - (B) Beer and wine; and
 - (C) Alcohol.
- (f) Class 5. Dispenser license.
- (1) A license under this class shall authorize the licensee to sell liquor specified in this subsection for consumption on the premises.
- (2) A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories shall be:
- (A) A standard bar;
 - (B) Premises in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to the rules of the commission;
 - (C) Premises in which live entertainment or recorded music is provided. The subcategories of this category shall be:
 - (i) Premises in which recorded background music is provided;
 - (ii) Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by the rules of the commission; or

- (D) Premises in which employees or entertainers are compensated to sit with patrons, whether or not the employees or entertainers are consuming nonalcoholic beverages while in the company of the patrons, pursuant to the rules of the commission[. The restrictions of this category shall be:
- (i) Employees, entertainers, or any other persons therein shall be twenty-one years of age or older.
 - (ii) There shall be no more than twelve category D, class 5, dispenser licenses in the County.]; provided that all employees, entertainers, or other persons or patrons therein shall be twenty-one year of age or older.
- (3) If a licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.
- (4) Of this class, there shall be the following kinds:
- (A) General (includes all liquor except alcohol);
 - (B) Beer and wine; and
 - (C) Beer.
- (5) Any licensee holding a different class of license and who would otherwise come within this class with the same or downgrade of kind or category of license, or both, shall not be required to apply for a new license.
- (g) Class 6. Club license.
- (1) A club license shall be general only but shall exclude alcohol and shall authorize the licensee to sell liquor to members of the club, and to guests of the club enjoying the privileges of membership for consumption only on the premises kept and operated by the club; provided that the license shall also authorize any club member to keep in the member's private locker on the premises a reasonable quantity of liquor owned by the member, for the member's own personal use and not to be sold that may be consumed only on the premises. A clublicensee shall be authorized to host charitable functions that are open to the general public in accordance with commission rules.
- (2) Club licensees shall keep a complete list of its members, which list shall at all times be conspicuously posted and exposed to view, convenient for inspection on the licensed premises. The categories of this class shall be as follows:
- (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by the rules of the commission. The subcategories of this category shall be:
 - (i) Premises in which recorded music is provided; or

- (ii) Premises in which live entertainment or recorded music is provided.
- (3) Any person enjoying the guest privileges of a club and to whom liquor may be sold must be a bona fide guest of a member of the club, and the member must be present at all times within the premises with his or her guest(s).
- (4) Clubs shall keep records as to registration of guests for at least one year, which records shall be produced whenever required by the director.
- (5) Licensee shall have readily available at all times a guest book on the licensed premises and shall be responsible for its member signing in his or her guest(s) at the time his or her guest(s) enter the licensed premises.
- (h) Class 8. Transient vessel license.
 - (1) A general license may be granted to the owner of any vessel for the sale of liquor (other than alcohol) on board the vessel while en route within the jurisdictional limits of the [state] State and within any port of the [state.] State.
 - (2) Sales shall be made only for consumption by passengers and their guests on board the vessel.
 - (3) The license shall be issuable in each county where the sales are to be made.
 - (4) The application for the license may be made by any agent representing the owner.
- (i) Class 9. Tour or cruise vessel license.
 - (1) A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor other than alcohol on board the vessel while in the waters of the [state;] State; provided that sales be made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the [state,] State, unless otherwise approved by the commission.
 - (2) The license shall be issuable in the county where the home port of the vessel is situated.
 - (3) If on any vessel for which no license has been obtained under the rules of the commission, any liquor is sold or served within three miles off the shore of any island of the County, the same shall constitute a violation of the rules of the commission.
 - (4) A license under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories shall be:
 - (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by the rules of the commission.
- (j) Class 10. Special license.

- (1) A special license may be granted by the director for the sale of liquor for a period not to exceed three consecutive days at the same location for fundraising events by nonprofit organizations, political candidates, and political parties; provided that any registered educational or charitable nonprofit organization may sell liquor in its original package for off-premises consumption.
- (2) Special licenses shall be issued only to charitable or educational nonprofit organizations, to political parties and to candidates seeking public office from which organization no person is entitled to or takes, directly or indirectly, any share of the profits thereof. Nonprofit charitable or educational organizations shall be required to attach their U.S. Internal Revenue's section 501(c)(3), 501(c)(4), 501(c)(10), or 501(c)(19) exemption letter and political candidates shall be required to attach a copy of their organizational report filed with the [state] State campaign spending commission, to their application.
- (3) Of this class, there shall be the following kinds:
 - (A) General (includes all liquor except alcohol);
 - (B) Beer and wine; and
 - (C) Beer.
- (4) Liquor sold under a class 10 license shall be consumed on the premises.
- (k) Class 11. Cabaret licenses.
 - (1) A cabaret license shall be general only but shall exclude alcohol and shall authorize the sale of liquor for consumption on the premises.
 - (2) This license shall be issued only for premises where:
 - (A) Food is served;
 - (B) Facilities for dancing by the patrons are provided, including a dance floor of not more than one hundred square feet; and
 - (C) Live entertainment other than by a person who performs or entertains unclothed, is visible and audible to all patrons.
 - (3) Professional entertainment by persons who perform or entertain unclothed shall only be authorized by:
 - (A) A cabaret license for premises where professional entertainment by persons who perform or entertain unclothed was presented on a regular and consistent basis immediately prior to June 15, 1990; or
 - (B) A cabaret license that, pursuant to rules adopted by the commission, permits professional entertainment by persons who perform or entertain unclothed.
 - (4) A cabaret license under subparagraphs (3)(A) or (3)(B) of this subsection authorizing professional entertainment by persons who perform or entertain unclothed shall be transferable through June 30, 2000.
 - (5) A cabaret license under subparagraphs (3)(A) or (3)(B) authorizing professional entertainment by persons who perform or entertain

unclothed shall not be transferable after June 30, 2000, except upon approval by the commission, and pursuant to rules adopted by the commission.

- (6) [Notwithstanding any rule of the commission to the contrary, cabarets in] A cabaret license in a resort areas may be open for the transaction of business until 4:00 a.m. throughout the entire week.
 - (7) Any cabaret premises not located within a county zoned resort district shall operate only during the hours prescribed for dispenser premises.
 - (8) All bars in cabaret premises, in order to operate during hours prescribed for cabarets must confine liquor service to patrons within an area where live entertainment is visible and audible to all patrons. Bars in cabaret premises which do not comply with the foregoing requirements shall operate only during the hours prescribed for dispenser premises.
- (1) Class 12. Hotel license.
 - (1) A license to sell liquor in a hotel shall authorize the licensee to provide entertainment and dancing on the hotel premises and to sell all liquor, except alcohol for consumption on the premises; provided that a hotel licensee, with commission approval, may provide off-premises catering of food and liquor if the catering activity is directly related to the licensee's food service.
 - (A) A hotel licensee may be granted a catering permit while performing food catering functions.
 - (B) No catering service for the sale of liquor will be performed off the licensee's premises unless prior written application for the service has been delivered to the department and approved by the director. The director shall not approve any catered function unless it includes a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and to inspection by investigators. Application shall be submitted at least seven days prior to the catered function.
 - (C) The director will not approve catering functions on premises not zoned to allow commercial activities thereon unless the catered function is requested and hosted by the owner or the lessee or its like of the property or anyone with written authorization for the use of the property.
 - (2) Procedures such as room service, self-service [no host,] no-host minibars, or similar service in guest rooms, and service at parties in areas that are the property of, and contiguous to the hotel are permitted subject to liquor laws, rules of the commission, and the following conditions:
 - (A) Except as provided in paragraph (3) of this subsection, hotel licensees are prohibited from selling liquor as authorized by retail dealers' licenses.

- (B) Room service:
- (i) Liquor may be sold by the individual drink, or in its original manufacturer sealed container for consumption within a registered guest's room;
 - (ii) Current prices of alcoholic beverages shall be conspicuously posted and exposed to view or within the guest's room service menu at all times within the interior of each guest room; and
 - (iii) The sale and service of liquor shall be made by an employee approved by the director.
- (3) A license to sell liquor within a hotel shall, upon written approval of the commission, authorize the sale of liquor of any kind or brand to hotel guests for consumption within their respective hotel rooms, subject to the following conditions:
- (A) Minibars or honor bars:
- (i) Storage of any liquor authorized for sale under this rule shall be completely enclosed in a secured cabinet or other suitable container and shall be accessible by means of a key or other similar device provided to the hotel guests;
 - (ii) A written schedule of selling prices shall be conspicuously posted in a manner convenient for inspection within the hotel rooms or selling prices shall be affixed to each bottle of liquor;
 - (iii) Retail sales shall be limited to not more than the following container sizes: distilled spirits, 50 milliliters; beer, 12 ounces; and wine, 375 milliliters; and
 - (iv) At no time nor under any circumstances shall any licensee or its employee issue the key or similar device to the enclosed liquor cabinet or other suitable liquor container to anyone under twenty-one years of age.
- (B) At no time nor under any circumstances shall a licensee permit liquor to be furnished:
- (i) To any person under twenty-one years of age;
 - (ii) To any person, who at the time, is under the influence of liquor; or
 - (iii) To any person when there is reasonable grounds to believe that such person is permitting any person under twenty-one years of age to consume said liquor.
- (C) The licensee shall fully comply with any additional condition or restriction which the commission, in its discretion, may impose to protect the health, safety, and welfare of the public.
- (4) Licensees shall be restricted from selling liquor in its original packages except via room service and in minibars installed in hotel guest rooms. Said service shall be initiated at the request of the

adult guest. Minibar and room service sales shall be restricted to registered guests of the hotel of legal drinking age and consumption of liquor shall be restricted to the hotel guest room.

- (5) Unless authorized by law, hotel licensees shall not sell liquor in the manner authorized by the retail dealer's licenses.

Notwithstanding section 281-57, HRS, the commission may approve at one public hearing and without notice the change to a class 2 restaurant license(s) of a licensee holding and operating a class 12 hotel license, who meets the requirements of a class 2 license.

(m) Class 13. Caterer license.

- (1) A general license may be granted to any class 2[,] restaurant licensee, or any applicant, who is authorized to sell liquor for on-premises consumption who has on file with the department an approved one year financial report showing thirty percent of the establishment's gross revenue is derived from the sale of food that is prepared and cooked within its department of health and department of fire control approved kitchen facilities and served for consumption by patrons within its premises, and who serves food as part of their operation for the sale of liquor (other than alcohol) while performing food catering functions. At least thirty percent of the gross revenues of the catered event shall be food sales.
- (2) No catering service for the sale of liquor shall be performed off the licensee's premises unless prior written application for the service has been delivered to the department and approved by the director. Off premises catering will only be authorized upon issuance by the department and the licensee receiving a class 13[,] caterer's license. The commission shall not approve any catered function unless it includes a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and to inspection by investigators.
- (3) The commission shall not issue a caterer's license to any licensee whose original license does not authorize the licensee to sell and serve alcoholic beverages for consumption on the premises.
- (4) The commission shall not approve catering functions on premises not zoned to allow commercial activities thereon unless the catered function is requested and hosted by the owner of the property or anyone authorized the use of the property. Catered functions for which the owner or the lessee or its like of the property is being compensated for the use of the property shall be limited to properly zoned property.
- (5) The application for a caterer license shall be submitted to the department at least seven working days prior to the catered function and shall include, but not be limited to, a floor plan showing the boundaries of the proposed catered licensed premises; the date, times, and location of the event; a lease, rental agreement or authorization which allow the applicant the use and exclusive

control of the property for the sale, service, and consumption of liquor, and obtaining a statement from the licensee that all required governmental clearances were obtained for the catered function.

- (6) A caterer license may be granted by the director for the sale of liquor for a period not to exceed one day for any occasion or location, provided a class 12[,] hotel licensee, may be granted a caterer license by the director for sale of liquor for a period not to exceed three consecutive days for any occasion or location, whose catering function is directly related to its operation and the catered group consists of permanent or transient hotel guests that registered for and provided sleeping accommodations at the licensed premises.
- (7) Catered functions for which patrons are being assessed a fee is prohibited. The privilege of catering is to permit legitimate catered functions and is not intended to be utilized to circumvent the liquor laws by allowing a licensee to operate its liquor license outside of its licensed premises. Any use of property for catered events by a licensee which appears to be an extension of the licensee's premises, place the health, safety and welfare of the public at risk, or appears to be excessive where a liquor license for class 2, class 5, or a similar class which allows consumption at its premises should be obtained, applications for use of said premises may be denied by the director.
- (8) A licensee who is authorized to provide catering shall report the gross sales of liquor and pay the applicable fees pursuant to section 08-101-50 of the rules of the commission.
- (n) Class 14. Brewpub license.
 - (1) A brewpub licensee:
 - (A) May sell malt beverages manufactured on the licensee's premises for consumption on the premises;
 - (B) May sell malt beverages manufactured by the licensee in brewery-sealed packages to class 3[,] wholesale dealer licensees pursuant to conditions imposed by the [county] County by ordinance or rule;
 - (C) May sell intoxicating liquor purchased from a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises;
 - (D) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in brewery-sealed kegs and growlers for off-premise consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;
 - (E) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and

are securely sealed on the licensee's premises to consumers for off-premises consumption;

- (F) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages;
 - (G) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises in brewery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by the county departments of planning, public works, and environmental management and regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and
 - (H) May conduct the activities under paragraphs (A) through (G) at one location other than the licensee's premises; provided that:
 - (i) The manufacturing takes place in Hawaii; and
 - (ii) The other location is properly licensed under the same ownership.
- (2) The categories of establishments shall be as follows:
- (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by the rules of the commission. The subcategories of this category shall be:
 - (i) Premises in which recorded music is provided; or
 - (ii) Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by the rules of the commission.
- (o) Class 15. Condominium hotel license.
- (1) A license to sell liquor in a condominium hotel shall authorize the licensee to provide entertainment and dancing on the condominium hotel premises and to sell all liquor except alcohol for consumption on the premises; provided that a condominium hotel licensee, with commission approval, may provide off-premises catering of food and liquor if the catering activity is directly related to the licensee's food service by applying and obtaining approval for a catering permit while performing food catering functions.

- (A) A condominium hotel licensee may be granted a catering permit while performing food catering functions.
 - (B) No catering service for the sale of liquor will be performed off the licensee's premises unless prior written application for the service has been delivered to the department and approved by the director. The director shall not approve any catered function unless it includes a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and to inspection by investigators. Application shall be submitted at least seven days prior to the catered function.
 - (C) The director will not approve catering functions on premises not zoned to allow commercial activities thereon unless the catered function is requested and hosted by the owner or the lessee or its like of the property or anyone with written authorization for the use of the property.
- (2) Room service, self-service no host minibars, or similar service in apartments, and service at parties in areas that are the property of and contiguous to the condominium hotel are permitted with commission approval and subject to the following conditions:
- (A) Room [Service:] service:
 - (i) Liquor may be sold by the individual drink, or in its original manufacturer-sealed container for consumption within a registered guest's apartment.
 - (ii) Current prices of alcoholic beverages shall be conspicuously posted and exposed to view or within the apartment's room service menu at all times within the interior of each guest apartment.
 - (iii) The sale and service of liquor shall be made by an employee approved by the director.
 - (B) Minibars or honor bars:
 - (i) Storage of any liquor authorized for sale under this rule shall be completely enclosed in a secured cabinet or other suitable container and shall be accessible by means of a key or other similar device provided to the hotel guests[;].
 - (ii) A written schedule of selling prices shall be conspicuously posted in a manner convenient for inspection within the hotel rooms or selling prices shall be affixed to each bottle of liquor.
 - (iii) Retail sales shall be limited to not more than the following container sizes: distilled spirits, 50 milliliters; beer, 12 ounces; and wine, 375 milliliters[;].
 - (iv) At no time or under any circumstances shall any licensee or its employee issue the key or similar device

to the enclosed liquor cabinet or other suitable liquor container to anyone under twenty-one years of age.

- (3) At no time or under any circumstances shall a licensee permit liquor to be furnished:
 - (A) To any person under twenty-one years of age;
 - (B) To any person, who at the time, is under the influence of liquor; or
 - (C) To any person when there is reasonable grounds to believe that such person is permitting any person under twenty-one years of age to consume said liquor.
- (4) The licensee shall fully comply with any additional condition or restriction which the commission, in its discretion, may impose to protect the health, safety, and welfare of the public.
- (5) Licensees shall be restricted from selling liquor in its original packages except via room service and in minibars installed in condominium hotel guest rooms. Said service shall be initiated at the request of the adult guest. Minibar and room service sales shall be restricted to registered guests of the condominium hotel of legal drinking age and consumption of liquor shall be restricted to the condominium hotel guest room.
- (6) Unless authorized by law, a condominium hotel licensee shall not sell liquor in the manner authorized by a class 4 retail dealer license.
- (7) Any licensee who would otherwise meet the criteria for the condominium hotel license class but holds a different class of license may be required to apply for a condominium hotel license.
- (p) Class 16. Winery license.
A winery licensee:
 - (1) Shall manufacture not more than twenty thousand barrels of wine on the licensee's premises during the license year;
 - (2) May sell wine manufactured on the licensee's premises for consumption on the premises;
 - (3) May sell wine manufactured by the licensee in winery-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the county by ordinance or rule;
 - (4) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises to consumers in winery-sealed kegs and magnums to consumers for off-premises consumption; provided that for purposes of this paragraph, "magnum" means a glass container not to exceed one half-gallon, which may be securely sealed;
 - (5) May, subject to federal labeling and bottling requirements, sell wine manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed one gallon per container and are securely sealed on the licensee's premises to consumers for off-premises consumption;

- (6) Shall comply with all rules pertaining to class 4 retail dealer licensees when engaging in the retail sale of wine; and
- (7) May sell wine manufactured on the licensee's premises in winery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, and class 18 small craft producer pub licensees, pursuant to conditions imposed by the county departments of planning, public works, and environmental management and rules governing class 3 wholesale dealer licensees.
- (q) Class 18. Small craft producer pub license. A small craft producer pub licensee:
 - (1) Shall manufacture not more than:
 - (A) Sixty thousand barrels of malt beverages;
 - (B) Twenty thousand barrels of wine; or
 - (C) Seven thousand five hundred barrels of alcohol on the licensee's premises during the license year; provided that for purposes of this paragraph, "barrel" means a container not exceeding thirty one gallons or wine gallons of liquor;
 - (2) May sell malt beverages, wine, or alcohol manufactured on the licensee's premises for consumption on the premises;
 - (3) May sell malt beverages, wine, or alcohol manufactured by the licensee in producer-sealed packages to class 3 wholesale dealer licensees pursuant to conditions imposed by the [county] County by ordinance or rule;
 - (4) May sell intoxicating liquor purchased from a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises. The categories of establishments shall be as follows:
 - (A) A standard bar; or
 - (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules;
 - (5) May, subject to federal labeling and bottling requirements, sell malt beverages manufactured on the licensee's premises to consumers in producer-sealed kegs and growlers for off-premises consumption; provided that for purposes of this paragraph, "growler" means a glass or metal container, not to exceed one half-gallon, which shall be securely sealed;
 - (6) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, or alcohol manufactured on the licensee's premises in recyclable containers provided by the licensee or by the consumer which do not exceed:
 - (A) One gallon per container for malt beverages and wine; and

- (B) One liter for alcohol; and are securely sealed on the licensee's premises to consumers for off-premises consumption;
- (7) Shall comply with all regulations pertaining to class 4 retail dealer licensees when engaging in the retail sale of malt beverages, wine, and alcohol;
- (8) May, subject to federal labeling and bottling requirements, sell malt beverages, wine, and alcohol manufactured on the licensee's premises in producer-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, class 14 brewpub licensees, class 15 condominium hotel licensees, class 18 small craft producer pub licensees, and consumers pursuant to conditions imposed by county regulations governing class 1 manufacturer licensees and class 3 wholesale dealer licensees; and
- (9) May conduct the activities under paragraphs (1) through (8) at one location other than the licensee's premises; provided that:
 - (A) The manufacturing takes place in Hawaii; and
 - (B) The other location is properly licensed under the same ownership.

(r) Restaurants, retail dealers, dispensers, clubs, cabarets, hotels, caterers, brewpubs, condominium hotels, and small craft producer pubs licensed under class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, class 15, and class 18 shall maintain at all times liquor liability insurance coverage in an amount not less than \$1,000,000; provided that convenience minimarts holding a class 4 license shall not be required to maintain liquor liability insurance coverage in that amount. Proof of coverage shall be kept on the premises and shall be made available for inspection by the commission at any time during the licensee's regular business hours. In the event of a licensee's failure to obtain or maintain the required coverage, the commission shall refuse to issue or renew a license, or shall suspend or terminate the license as appropriate. No license shall be granted, reinstated, or renewed until after the required insurance coverage is obtained.

(s) It shall be unlawful for any licensee to utilize any liquor, acquired or purchased from a class 1[,] manufacturers' licensee, or a class 3[,] wholesale dealers' licensee, or a person authorized by the commission as a solicitor or representative of a manufacturer or for personal or private use or consumption, except as authorized by the commission. All liquor shall be sold as authorized by the license issued.

(t) A patron may remove from a class 2 restaurant licensee, class 5 dispenser licensee, class 6 club licensee, class 12 hotel licensee, class 14 brewpub licensee, class 15 condominium hotel licensee, and class 18 small craft producer pub licensee, licensed premises, who has on file with the department a current yearly approved financial report that shows at least thirty percent of

establishment's gross revenue is derived from the sale of food that is prepared and cooked at the time of ordering within its State of Hawaii department of health and County of Maui, department of fire and public safety approved kitchen facilities, any portion of wine, liquor, or beer that was purchased on or brought onto the premises of the licensee, for consumption with a meal; provided that it is recorked or resealed in its original container as provided in section 281-31(u), HRS. A licensee wishing to exercise this privilege shall inform the patron of the State of Hawaii "open container" law as stated in sections 291-3.1, 291-3.2, 291-3.3 and 291-3.4 of the Hawaii Revised Statutes. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

9. Section 08-101-25, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

"(a) Hours during which licensed premises may be open for the transaction of business shall be as follows:

- (1) Dispensers, restaurants, clubs, transient vessels, tour or cruise vessels, and specials: any hour of the day from [8:00] 6:00 a.m. to 2:00 a.m., the following day.
- (2) Cabarets: any hour of the day from [8:00] 6:00 a.m. to 4:00 a.m., the following day.
- (3) Hotels and condominium hotels: any hour of the day [from 6:00 a.m. to 4:00 a.m., the following day].
- (4) Retailers: any hour of the day [from 6:00 a.m. to 11:00 p.m].
- (5) Manufacturers and wholesalers: any hour of the day [from 6:00 a.m. to 9:00 p.m].
- (6) [Brewpub:] Brewpubs: any hour of the day from [8:00] 6:00 a.m. to 2:00 a.m., the following day for on-premises consumption liquor sales and 6:00 a.m. to 11:00 p.m. for off-premises retail liquor sales.
- (7) Small craft producer [pub:] pubs: any hour of the day from [8:00] 6:00 a.m. to 2:00 a.m., the following day for [of-premise] on-premises consumption liquor sales, any hour of the day for manufacture and wholesale, and 6:00 a.m. to 11:00 p.m. for [off-premise] off-premises retail liquor sales.
- (8) Caterers: any hour of the day from 6:00 a.m. to 2:00 a.m., the following day.
- (9) Wineries: any hour of the day for manufacture and wholesale, and from 6:00 a.m. to 11:00 p.m. for off-premises retail sales and on premises wine tasting activities. [Eff 7/1/00; am and comp 6/18/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)"

10. Section 08-101-28, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-28 Special conditions for class 4[,] retail dealer's licenses. (a) Every retail licensee shall display and expose for view, within the liquor sales area of the licensed premises, a price for each size of each brand of liquor sold.

(b) If a retail dealer's licensed premises are open to the public during hours when the sale of liquor is not permitted, the licensee shall post conspicuous signs in the area or areas where liquor sales are usually made, giving notice to customers that the sale of liquor is prohibited during that time.

(c) Customers making purchases at retail premises must enter the licensed premises to purchase liquor. The drive-in method whereby the customer orders from a motor vehicle or the licensee delivers liquor to the vehicle, or both, is prohibited.

(d) This section shall not be construed to prohibit assistance to any person who is physically unable to walk, lift, or carry purchases of liquor due to a disability, or allowing the delivery of liquor product to a physically challenged person's vehicle or primary residence. Liquor orders may be made on the licensee's website or by telephone call to the licensed premises. Deliveries of liquor products to private residences or businesses with a bona fide order from the purchaser by a class 4[,] retail dealers' licensee is permitted, provided:

- (1) An employee of the licensee, who is approved by the director pursuant to section 08-101-70 of the rules of the commission, makes the delivery of the liquor product directly to the purchaser;
- (2) That the employee ensures that the person receiving the delivery is twenty-one years of age or older, licensee produces a receipt of delivery signed by a person verified to be of legal age and the person receiving the product is not under the influence of liquor or drug(s) at the point of delivery; and
- (3) The licensee or employee is not in violation of any rules or State laws.

(e) It shall be unlawful for any holder of a retail dealers' license, or any person acting as an agent or representative for any holder of a retail dealers' license, directly or indirectly, or through any subsidiary or affiliate to solicit or obtain any financial assistance, or anything of value from any industry member.

(f) Retail licensee shall be permitted to offer discounts on liquor in connection with the sale of the same or other liquor provided the discount price shall be posted and liquor shall not be sold below cost of liquor. Cost of liquor shall mean the licensee's wholesale purchase price including any tax, shipping, and handling cost. [Eff 7/1/00; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

11. Section 08-101-30, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) Applications for liquor licenses, renewals, transfers, management agreement, solicitor's permit, or change of partner(s) in a partnership, limited

liability partnership, member, manager, organizer or any person of a limited liability company, or officer(s), director(s), and stockholder(s) owning or controlling twenty-five percent or more of the outstanding stock or ownership of a corporation, thereof, and all notices of public hearing sent, and affidavits filed by applicants in connection with and part of such applications, shall be in the respective original forms and accompanied by the following necessary documentation and any other original forms or documents which may be prescribed from time to time by the commission, which shall be considered as part of the application.

- (1) Department of health clearance;
- (2) State and federal tax clearances or that the applicant has entered into and is complying with an installment plan agreement with the department of taxation for the payment of delinquent taxes in installments;
- (3) Floor plans (not construction plans) drawn to scale;
- (4) Tax map (drawn to scale) and list of all tax map key numbers, names and addresses of property owners, and lessees and owners of record of shares in a cooperative apartment situated within a radius of five hundred feet of the proposed premises;
- (5) Personal history statement;
- (6) Verification of any corporation, partnership, association, limited liability company, limited liability partnership, or any other entity;
- (7) Affidavit of mailing of notices of public hearing and certificate of mailing as verified by the United States Postal Service;
- (8) Transferor's gross sales report;
- (9) Transferor's endorsement of transfer;
- (10) Executed copy of agreement of sale, lease, rental agreement, which states that the premises and its operation must be under the licensee's exclusive control at all times;
- (11) Additional fee assessment agreement;
- (12) Coast guard documentation;
- (13) Zoning clearance;
- (14) Building permit;
- (15) Criminal history record check;
- (16) Stockholder's list;
- (17) Certificate of occupancy, miscellaneous inspection report, and clearance from the department of fire control (miscellaneous inspection report and clearance from the department of fire control shall indicate that all governmental regulations and administrative rules have been complied with);
- (18) Guaranty or bond; and
- (19) Copy of a federal or [state] State governmental picture identification and social security card for each person. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

12. Section 08-101-30, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsections (e) and (f) to read as follows:

“(e) The director may reject, refuse to accept, or return any application or request that is incomplete, illegible, or does not meet any requirement(s) of or not in compliance with any rule of the commission or section of chapter 281, HRS, or revoke any action taken after discovering that any information contained within the application, any document submitted or affidavit is false.

(f) Licensee shall apply for and secure the commission's approval, in writing, prior to a change in ownership of any number of shares of the stock which results in a person thereof becoming the owner of twenty-five percent or more of the outstanding voting capital stock. In addition, the partnership, limited liability partnership, limited liability company, corporate licensee, or any other person, or any person in a subdivision, or management agreement thereof, shall, on the proper application forms and the filing of all required documents, within thirty days from the date of admission, election, or withdrawal of any partner in a partnership or limited liability partnership, officer, or director of a corporation, or member, manager, organizer, or person of a limited liability company, or any other person, or any person within a subdivision, or management agreement thereof, notify the commission in writing of the change. If the commission finds any partner in the partnership, limited liability partnership, member, manager, organizer, or any other person of a limited liability company, or officer, director, or any person owning or controlling twenty-five percent or more of the outstanding stock of the corporation, or any subdivision, or management agreement thereof, an unfit or improper person to hold a license in their own right pursuant to section 281-45, HRS, or the rules of the commission, it may revoke the license or suspend the license until a new transfer of such capital stock or ownership is effected to a fit or proper person pursuant to section 281-45, HRS, or the rules of the commission, or until the unfit or improper partner, officer, member, manager, organizer, director, or any person, or any person in a subdivision, or management agreement thereof, is removed or replaced by a fit and proper person pursuant to section 281-45, HRS, or the rules of the commission.

Application for the admission, election, or withdrawal of any officer, director, or a person owning or controlling twenty-five percent or more of the corporate stock, member of a limited liability company, or partner in a partnership or limited liability partnership, or any person, or any person of a subdivision, or management agreement thereof, shall include, but not limited to, the application form, corporate minutes, secretary's certification of the minutes, or its like submitted by the licensee which shall include the listing of all the officers, directors, and any person owning or controlling twenty-five percent or more of the corporate stock, members in a limited liability company, or partners of a partnership or limited liability partnership, or any person, or any subdivision or any person of a subdivision, or management agreement thereof, and all other

requirements. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

13. Section 08-101-31, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-31 No license issued, when. No license shall be issued:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license; provided that the commission may grant a license under the rules of the commission to a partnership, trust, association, limited liability partnership, limited liability company, corporation, or any other person, that has been convicted of a felony where the commission finds that the partner, member, manager, organizer, or any person of a limited liability partnership, limited liability company or organization’s officers, directors, and any person owning or controlling twenty-five percent or more of the outstanding stock are fit and proper persons to have a license;
- (2) To any partner in a partnership, or a corporation, trust or association, the officers, directors, or any other person of which, or any of them, would be disqualified under subsection (1) from obtaining the license individually, or any person of which, owning or controlling twenty-five percent or more of the outstanding capital stock, or any other person, would be disqualified under such subsection (1) from obtaining the license individually;
- (3) To any applicant for a license, or a renewal of a license, or in the case of a transfer of a license, where both the transferor and the transferee, failed to present to the issuing agency a [signed] tax clearance certificate from the [director] department of taxation, and from the Internal Revenue Service showing that the applicant or the transferor and transferee do not owe the State or federal governments any delinquent taxes, penalties, or interest; or that the applicant, or in the case of a transfer of a license, the transferor or transferee, has entered into an installment plan agreement with the department of taxation and the Internal Revenue Service for the payment of delinquent taxes in installments and that the applicant is or the transferor or transferee is, in the case of a transfer of a license, complying with the installment plan agreement;
- (4) To any applicant who has a partner in the partnership, limited liability partnership, member, manager, agent, organizer, or any person owning or controlling twenty-five percent or more of a limited liability company, or any officer, director or any person owning or controlling twenty-five percent or more of the outstanding stock of any corporation, trust, or association, or any other person, who has had any liquor license revoked less than two years previous to the

date of the application for any like or other license under the rules of the commission;

- (5) To any person owning or controlling twenty-five percent or more of the outstanding stock of the corporation, trust, or association of a licensee, who is currently delinquent in filing the gross liquor sales report of any license that was issued, or currently owing any fees or monies due to the department, or both. "Any fees or monies" shall include but not be limited to license fees, publication fees, and any assessment of a penalty imposed by the department, commission, or board. Any licensee, who has any person, or person owning or controlling twenty-five percent or more of the outstanding stock of a corporation, trust, or association of a licensee, who is delinquent in filing the gross liquor sales report of any other license that was issued, or currently owing any fees or monies to the department, shall not exercise its license until the gross sales report is filed and percentage fee paid;
- (6) To a limited liability company, the members, managers, organizers, or any person, of which or any of them, would be disqualified under subsection (1) from obtaining the license individually, would be disqualified under that paragraph from obtaining the license individually;
- (7) To a limited liability company, partnership, limited liability partnership, or corporation, that may consist of a limited liability company, partnership, limited liability partnership, corporation, or any other person or any combination thereof, the members, managers, organizers, partners, officers, directors, or any person thereof, of which any of them would be disqualified under subsection (1) from obtaining the license individually, or a person owning or controlling twenty-five percent or more of the outstanding stock of such corporation would be disqualified under that paragraph from obtaining the license individually; or
- (8) To an applicant for a class 2, class 4 except for convenience minimarts, class 5, class 6, class 11, class 12, class 13, class 14, class 15, or class 18 license, unless the applicant for issuance of a license or renewal of a license, both the transferor and the transferee, present to the issuing agency proof of liquor liability insurance coverage in an amount of \$1,000,000. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

14. Section 08-101-32, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (b) to read as follows:

"(b) No license shall be transferred unless the transferor's licensed premises was operated and open for business throughout the year prior and up

to the filing of the application for transfer, except for good cause shown to the commission. [Eff 7/1/00; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

15. Section 08-101-33, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) Other than for good cause, the renewal of an existing license shall be granted upon the filing of a completed application, payment of the basic fee, submission of State and [Federal] federal tax clearances, and other required documents. State and federal tax clearances shall be dated within sixty days of the acceptance of the application by the department. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

16. Section 08-101-41, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-41 Criminal history record check. (a) The commission shall request a background check on an applicant for a liquor license. For the purposes of this section, "criminal history record check" means an examination or search for evidence of an individual's criminal history by means of:

- (1) A search for the individual's fingerprints in the national criminal history record files and, if found, an analysis and any other information available pertaining thereto; and
 - (2) A criminal history record check conducted by the Hawaii criminal justice data center, Maui police department, or any governmental agency; provided that the Hawaii criminal justice data center, Maui police department, or any other governmental agency may charge a reasonable fee for criminal history record checks performed.
- The background check, at a minimum, shall require the applicant to disclose whether:
- (A) The applicant has been convicted in any jurisdiction of a crime that would tend to indicate the applicant may be unsuited for obtaining a liquor license; and
 - (B) The judgment of conviction has not been vacated.

For the purpose of this section, the criminal history disclosure made by the applicant may be verified by the commission by means of information obtained through the Hawaii criminal justice data center, Maui police department, or any other governmental agency. The applicant shall provide the Hawaii criminal justice data center, Maui police department, or any other governmental agency with personal identifying information which shall include, but not limited to, at a minimum, the applicant's name, social security number, date of birth, sex, and the applicant's fingerprints. This information shall be

secured only for the purpose of conducting the criminal history record check authorized by this section.

(b) The applicant shall submit to the commission:

- (1) A statement signed under penalty of perjury whether the applicant has ever been convicted of a crime other than a minor traffic violation;
- (2) Written consent to the commission to request and obtain criminal history record information for verification;
- (3) Permission to be fingerprinted and completed fingerprint card; and
- (4) Any reasonable fee assessed for criminal history record checks performed by the Hawaii criminal justice data center, Maui police department, or any governmental agency, which shall be submitted at the time of the submittal of application and made payable to the governmental agency performing the criminal history record check.

(c) The commission shall obtain criminal history record information through the Hawaii criminal justice data center, Maui police department, or any other governmental agency on the applicant. The information obtained shall be used exclusively for the stated purpose for which it was obtained and shall be subject to applicable State or [Federal] federal laws or rules currently or hereafter in effect.

(d) Any applicant, including but not limited to, all persons, partners in the partnership or limited liability partnership, officers, directors, or persons owning or controlling twenty-five percent or more of the applicant's outstanding corporate stock, members, managers, organizers, or any persons of a limited liability company, or any person, or entity or any person within an entity or its subdivision, that is in good standing and can legally do business in the State is required to submit all completed criminal history request(s) and fingerprint card(s) at the time of filing of the application to the department and to have local, [state,] State, and national criminal law enforcement agencies provide such person's criminal history abstract directly to the department, if said abstracts cannot otherwise be obtained by the department. The commission may waive this requirement upon the applicant showing of good cause. Good cause shall include, but not limited to, applicant's inability to obtain the necessary clearance after due diligence, or have on file with the department a criminal record check that is less than [one year] two years old, had the criminal record check process through the Federal Bureau of Investigation "Rap Back" program, or the applicant's fingerprints are not adequate for accurate classification and/or identification due to applicant's age, medical reason, disfigurement, or other abnormalities.

(e) Fingerprint cards. All fingerprint cards submitted by the applicant shall contain the required fingerprints and be completely filled out. Those fingerprinted by any personnel other than from the department or the Maui police department, must be accompanied by a letter from the fingerprint technician which contains the following:

- (1) Fingerprint technician's name, signature, address, telephone number, and fingerprint technician's certification issued by a law

enforcement agency; and identity, social security number, and date the person was fingerprinted; [or]

- (2) The identity of the law enforcement agency that the fingerprint technician represents, the law enforcement agency's address, and telephone number; or
- (3) Fingerprint technician's name, signature, address, telephone number, identity of the entity the fingerprint technician represents, and a letter of certification issued by a law enforcement agency that the entity the fingerprint technician is employed at is in good standing and have provided fingerprinting service to, and the fingerprints have been accepted by the law enforcement agencies within the [state.] State.

(f) The department may utilize criminal history record clearance obtained from an approved governmental agency.

(g) Licensee or any applicant shall submit, within thirty [calender] calendar days, a completed fingerprint card of any person whose fingerprints appearing on the fingerprint card that was not adequate for accurate classification and/or identification by the Federal Bureau of Investigation and the required processing fee, upon receipt of notification. Any licensee who fails to comply shall not exercise the license until said completed fingerprint card is duly processed by the department.

(h) The license applicant or licensee shall be responsible to ensure that every person named in an application discloses to the commission any felony conviction. The obligation to disclose such information shall be continuing even after the license is issued. [Eff 7/1/00; am and comp 4/22/12; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)"

17. Section 08-101-50, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsections (c) and (d) to read as follows:

“(c) Temporary, solicitors', representatives', duplicate license, certificate for registration of employee approved by the director, minor, employee of class 5, category D, or any duplicate thereof, alcohol, and other fees.

- (1) Temporary license. The fee for a temporary license of any class and kind shall be \$200 for an initial period of one hundred twenty (120) days, or any part of such initial period, and an additional \$200 for one additional one hundred twenty (120) day renewal or any part of such renewal period of such license.
- (2) The fees for solicitors' and representatives' permits shall be for each license year commencing July 1 and ending on the succeeding June 30 or fraction thereof and shall be in the following amounts:
 - (A) General \$1,800
 - (B) Beer and Wine \$1,200
 - (C) Alcohol \$ 200

Every individual solicitor and or representative is required to obtain an individual permit in his or her name.

- (3) The annual fee for a permit to purchase alcohol for non-beverage purposes shall be \$50 for each fiscal year, commencing July 1 and ending the succeeding June 30, or a fraction thereof. The director may waive the fee for a permit to purchase alcohol for non-beverage purposes for any County or State governmental agencies.
- (d) Percentage fee.
- (1) Licensees in classes 2(A), (B) and (C), 4(A) and (B), 5(A), (B) and (C), 6, 9, 11, 12, 13, 14, 15, 16, 18, and temporary license, as defined in subsection (b) of this section, shall be subject to the basic fee plus a percentage fee. Licensees in class 1 (other than a class 1 manufacturer, whose wine is manufactured from fruits grown in the State), and class 3, as defined in subsection (b) of this section, shall be subject to basic fee plus the percentage fee of retail liquor sales to any person for private use and consumption. Licensees in class 9, as defined in subsection (b) of this section, shall be subject to basic fee plus percentage fee of four times the total amount of liquor purchased from class 1[,] manufacturers' licensee, class 3[,] wholesale dealers' licensee, class 14[,] brewpub licensee, class 16[,] winery licensee, and class 18[,] small craft producer pub licensee. Licensee shall report the retail value of any complimentary drinks or donated liquor, or both, in their annual gross sales report.
- (2) The percentage fee for each current fiscal year shall be based upon the following formula, which shall establish the percentage to be applied to the gross sales or four times the total amount of liquor purchased of each licensee:

$$\frac{EE - BF - C}{EGS} = \text{Percentage}$$

EE = Estimated Expenditures (current fiscal year)

BF = Basic Fees (current fiscal year)

C = Carryover (prior fiscal year)

(Carryover in excess of twenty per cent as provided in section 281-17.5, HRS)

EGS= Estimated Gross Sales (prior fiscal year)

- (3) Licensees in the above-mentioned classes shall file with the director on a form prescribed by the commission a report showing true and accurate gross sales of liquor and any other pertinent record or records requested therein. The form shall be furnished by the director and shall be completed, filed at, and accepted by the department not later than 4:30 p.m. on July 31 after the date of expiration of such licenses, and at such other times or intervals as the director may require. If the 31st of July falls on Saturday, Sunday, or legal County of Maui holiday, the last day for the filing

of the gross liquor sales report shall be 4:30 p.m. on the first County of Maui working day following. The gross sales of liquor report shall be on the original form(s) and contain the original signature; duplicates or copies shall not be accepted.

The director may reject, refuse to accept, or return any gross liquor sales report that is inaccurate, incomplete, illegible, or does not meet any requirement(s) of or not in compliance with any rule of the commission or chapter 281, HRS.

- (4) After a tally of all total gross liquor sales filed by the due date by the licensees, the percentage fee due and payable shall be assessed each licensee and shall be paid within thirty-one calendar days of receipt of said assessment.
- (5) In case of transfer of such licenses, the report shall be filed and paid by the transferor immediately after approval by the commission and before the actual transfer of the license and the business of the licensee-transferor. The percentage fee based on the current applicable percentage fee shall be paid prior to the issuance of the license.
- (6) Any licensee who fails to file the report or fails to pay the percentage fee due on or before the due date shall not exercise his license after the due date and until said report has been filed or percentage fee paid, or both.
- (7) Where licenses are revoked, expired, or canceled, or the licensee closes out the business for which the license is held, the report shall be filed and the percentage fee due paid within five calendar days of the revocation, expiration, cancellation or closing out the business. The percentage fee due shall be based on the current applicable percentage.
- (8) Any licensee who fails to pay the percentage fee by the due date shall be assessed a late charge of five percent per month on the balance due until such fees are paid in full. The five percent late charge shall be a flat fee (not be prorated) that will be charged for any portion of the month payment is due.
- (9) Any licensee who fails to pay the percentage fee within ninety days of the due date, shall be notified and scheduled for hearing. Upon satisfactory proof of such prohibited activity, the license shall be revoked.
- (10) No licensee shall fail to accurately report revenues from gross liquor sales or to properly complete the gross liquor sales report. It shall be the licensee's responsibility to maintain complete and accurate records in order to properly complete and submit the gross liquor sales report pursuant to the rules of the commission. Records shall be maintained for a period of four years.
- (11) All licensees shall have available for inspection within the County, books or records, or both, showing all income, purchases, and expenses of their liquor license business. These books and records,

including but not limited to daily sales records, price lists, employee time sheets, and invoices, shall be made available for inspection or auditing, or both, by the department, through its auditor(s) or otherwise, at any time upon demand and shall be preserved for a period of four years, except that the commission may, in its discretion, consent to destruction of such books and records within such period or may require that they be kept longer. Licensee or its employees shall record the sale of liquor at the time of the transaction on its daily sales records.

- (12) Any licensee who fails to pay any fee due on or before the due date or when any check, money order, or the like that is utilized by the licensee for payment of such fee is returned by any financial institution for non-payment due to insufficient funds or for any other reason, shall not exercise the license until said fee and any related service charges are paid in cash, certified check, or money order, and such payment is duly processed by the department.
- (13) Any licensee who failed to file the gross sales of liquor report by the due date, shall be assessed the percentage fee equal to the highest percentage fee due and payable by the licensee of the same class or the highest percentage fee due and payable by any licensee if there is no licensee in the same class. [Eff 7/1/00; am and comp 7/15/02; am and comp 6/18/15; am and comp 9/3/16; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

18. Section 08-101-63, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsections (a) and (b) to read as follows:

“(a) No licensee shall have any illegal liquor or liquor not purchased from a class 3[,] wholesale dealers’ licensee, or a class 1[,] manufacturers’ licensee, class 14 brewpub licensee, class 16 winery licensee, and class 18 small craft producer pub licensee, or a person authorized by the commission as a solicitor or representative of a manufacturer or wholesale dealer, on any portion of the licensed premises; provided that a class 2 restaurant licensee, class 5 dispenser licensee, class 12 hotel licensee and class 15 condominium hotel licensee may allow patrons to bring wine onto the licensed premises for consumption with a meal.

(b) The finding of any illegal liquor or liquor not purchased through the liquor license issued from a class 3[,] wholesale dealers’ licensee, [or a] class 1[,] manufacturers’ licensee, class 14 brewpub licensee, class 16 winery licensee, or class 18 small craft producer pub licensee, on a licensed premises under circumstances warranting the belief that it is being kept, served, or distributed by the licensee shall be sufficient evidence for summary suspension or revocation of the license covering such premises. [Eff 7/1/00; am and comp 4/22/12; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

19. Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by adding a new section to be appropriately designated and to read as follows:

“§08-101-65.1 Obstructing departmental operations. No licensee shall allow the obstruction, hampering, or interfering with investigation and inspections or any of the department’s operation in any way, including but not limited to, the sounding of alarms, flashing of lights, or use of a public address system or other advance warning announcing the arrival or presence of the department’s liquor control officers. [Eff] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

20. Section 08-101-69, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) No licensee of any premises licensed to sell liquor for consumption on the premises shall:

- (1) Sell, advertise, or offer to sell "all the liquor you can drink", or more than two drinks of alcoholic beverage for a fixed price; or encourage, sponsor, permit or have any promotion, game or contest that involves the consumption of liquor or the awarding of liquor as a prize;
- (2) Serve an unlimited amount of liquor during a set period of time for a fixed price, provided this provision does not apply to class 2, class 9, and class 12 licensees:
 - (A) When such function is not open to the general public and for which a hosted bar is utilized such as weddings, private parties, and fundraising functions; [or]
 - (B) Where champagne may be inclusive with brunch; [or]
 - (C) Where liquor may be inclusive with luaus; or
 - (D) Where liquor may be inclusive with tour or cruise vessel operations;
- (3) Employ any person for the purpose of selling, furnishing or serving liquor under any scheme, plan, or arrangement involving the payment for such services on the basis of any commission, percentage, or such similar method of payment without the prior approval of the commission. [Eff 7/1/00; am and comp 4/2/07; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

21. Section 08-101-82, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-82 Rules available at all times. Every licensee shall have a copy of the current rules of the commission and chapter 281, HRS, available at all

times on the licensed premises for examination by employees and customers. [Eff 7/1/00; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

22. Section 08-101-84, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-84 Preparation of drinks; clearing of tables. (a) On the premises licensed for the sale and consumption of liquor thereon, liquor service to a customer shall be made by the licensee or an employee of the licensee, except by special permit.

(b) No more than two drinks of any liquor at one time to an individual shall be permitted; provided however, distilled spirits may be served in container(s) up to one quart in capacity for any special occasion upon obtaining a special permit therefor from the director. Beer or wine may be served in a container, not to exceed the U.S. liquid measurement of one quart (.946 liter) to two or more persons.

(c) Any drink consisting of one kind of liquor and a mixer or water without other ingredients, which is prepared, served, sold, or offered for sale by any licensee upon whose premises liquor is permitted to be sold or consumed, shall contain not less than one fluid ounce of liquor, when said liquor is poured into the service glass by the licensee or any employee the drink shall be presumed to have been prepared for service or sale, notwithstanding the fact that the mixer or water has not been added. A measuring device which measures not less than one fluid ounce shall be utilized at all times in the preparation of any drink consisting of any liquor. The foregoing requirement shall not apply to a drink served in a jigger as a straight drink with or without a chaser. Any straight drink shall be served in a jigger of not less than one fluid ounce capacity.

(1) Any drink consisting of one kind of liquor and a mixer or water without other ingredients, which is prepared, served, sold, or offered for sale by any licensee upon whose premises liquor is permitted to be sold or consumed, may contain not less than one-half fluid ounce of liquor, when the following apply:

(A) The patron requests a drink that contains less than one fluid ounce of liquor and is informed at the time of service that the drink does contain less than one fluid ounce of liquor and the fraction of ounce of liquor that the drink contains; or

(B) When all of the following apply:

(i) The licensee lists all alcoholic beverages that contains less than one fluid ounce of liquor, which shall at all times be conspicuously posted and exposed to view of patrons within the interior of the licensed premises authorized to sell liquor for consumption on the premises. The listing shall clearly state the fraction of ounce of liquor each drink contains. For the purpose of this rule, either legible posters, signs, menus, or table tents are acceptable;

- (ii) The patron requests a drink that contains less than one fluid ounce of liquor; and
- (iii) The licensee or employee must inform the patron at the time of ordering and time of service that the drink contains less than one fluid ounce of liquor and the fraction of ounce of liquor that the drink contains.

(d) If the portion of the licensed premises open to customers is equipped with a bar, the preparation of all drinks shall be on the top surface of the bar in such manner as to permit any interested customer or customers to have a clear and unobstructed view of the bartender's operations.

(e) All empty glasses and containers shall be removed by the persons serving the customers at the time of or before serving another drink. Any and all containers of liquor including, but not limited to, glasses, cups, or open bottles, shall be removed from all areas of the licensed premises which are open to the public no later than the legal closing time for liquor sales.

(f) All mixed alcoholic drinks shall be freshly made for immediate consumption. Pre-mixed drinks may be utilized by obtaining a permit, pursuant to subsection (b), or an approval letter from the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, or both, and filing such document(s) with this department.

[(g) A patron may remove from any class of licensed premises any portion of wine, liquor, or beer that was purchased on or brought onto the premises of the licensee engaged in meal service for consumption with a meal; provided that it is recorked or resealed in its original container.

(h) The licensee may store a bottle of distilled spirits or wine purchased from the licensee at the guest's request, properly labeled identifying the bottle to be for the guest only, for future use by the guest provided that licensee obtains a Bottle Service permit from the director. Pouring of the bottle of liquor (along with any mixers) or wine may be made at the guest's table provided that an on-duty employee of the licensee provides this service and that guests shall not serve their own drinks.] [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

23. Sections 08-101-88 and 08-101-89, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, are amended to read as follows:

"[§§08-101-88 to 89 (Reserved)] §08-101-88 Posting of license. The original license issued and in effect under this chapter shall at all times be conspicuously posted and exposed to view, convenient for inspection, and on the licensed premises. For failure thereof the license may be suspended or revoked by the liquor commission or liquor control adjudication board pursuant to section 281-71, HRS. [Eff] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)

§08-101-89 Posting of HRS sanctions. All licensed premises shall post a sign in or about the premises containing and notifying all customers and other

persons of the possible sanctions that may be imposed for operating a vehicle under the influence of an intoxicant under sections 291E-41 and 291E-61, HRS. The sign shall be conspicuously positioned in order to be seen by an ordinarily observant person. [Eff] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

24. Section 08-101-94, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) All licensed premises, authorized to sell and serve liquor for consumption on premises, shall contain separate and adequate toilet facilities for males and females which have been approved by the State department of health, provided the commission may approve the use of toilet facilities located outside the licensed premises if located within a reasonable distance from the licensed premises. The entire walkway to the approved outside bathroom facilities shall be properly well lighted. Approval of use of toilet facilities located outside of the licensed premises shall be subject to the applicant or licensee obtaining the necessary [clearance] clearances from the [state,] State department of health, and other governmental agencies. [Eff 7/1/00, am and comp 7/15/02; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

25. Section 08-101-99, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (b) to read as follows:

- “(b) Additional non-consumption areas for class 12 hotel licensees:
- (1) Parking areas;
 - (2) Roadways;
 - (3) Main lobby areas up to ten feet from check-in counter;
 - (4) Retail outlets;
 - (5) [Swimming pools, spas] Swimming pool slides and saunas, except by commission approval[, and excluding all grassed, paved, tiled and other surfaced areas abutting a swimming pool]; and
 - (6) Tennis courts. [Eff 4/22/12; am and comp] (Auth: HRS §§91-2, 281-17, 281-78) (Imp: HRS §281-17)”

26. Section 08-101-100, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-100 Deliveries by manufacturers, wholesalers, retailers; peddling prohibited; exception.

(a) Except as specifically allowed herein, peddling in any sense is strictly prohibited. Before removing any liquor from a licensed premises for delivery to a customer under the manufacturer's or wholesaler's and/or retail dealer's license, the licensee must have in hand in his office, store, or warehouse, a bona fide order therefor. Provided, however, duly licensed wholesale dealers

may, without a bona fide and specific order therefor, remove beer from licensed premises to delivery vehicles for the purpose of selling said beer directly to persons who may lawfully sell liquors at retail in their original packages or dispense liquor for consumption on the premises.

(b) A manufacturer or wholesaler licensee shall deliver any liquor ordered or purchased by a retailer into the retailer's premises. Delivery of any liquor to any other location except the retailer's licensed premises is strictly prohibited. Provided, however, any retailer or its duly authorized employee may pick up any order of liquor directly from the wholesaler's or manufacturer's licensed premises, and such liquor must come to rest within the retailer's premises prior to any sale.

(c) Deliveries to a licensee's catered or other location by permit. [Eff 7/1/00; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

27. Section 08-101-106, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

"§08-101-106 Manufacturer, brewpub, and wholesale dealer licensees; special restrictions. The control of alcoholic beverages in the County has been established by the commission, as a "three-tier system." The three tiers of this system are designated as manufacturer, wholesaler, and retailer. Each of these three tiers shall operate separately and apart from each other for the purpose of control. In order for this control to be effectively administered, it is necessary to prevent any type of direct interlocking interest by and between the three separate levels.

(a) It shall be unlawful for any person holding a manufacturers' license, or a wholesale dealers' license, within or without the County or State, or any person acting as an agent or representative for any manufacturer or wholesale dealer licensee, within or without the County or State, directly or indirectly, or through any subsidiary or affiliate, to:

- (1) Acquire or hold any interest in any license of a retailer;
- (2) Acquire any interest in the real or personal property owned, occupied, or used by a retailer in the conduct of its business, unless the holding of such interest is permitted under the rules of the commission[.];
- (3) Furnish, give, rent, lend, or sell to any licensee any equipment, fixtures, signs, supplies, money, services or anything of value, subject to the exceptions contained in this section. Any service or anything of value as provided by the exceptions contained in this section, shall be offered to all retailers on the same terms without business reasons present to justify the difference in treatment[.]; or
- (4) Deliver, traffic in, ship or cause to be shipped, any liquor to any person who is not a liquor licensee within the County for display, sampling, or tasting on a not-for-sale basis, who:

(A) Is not permitted or authorized to receive such shipments of liquor, pursuant to chapter 281, HRS, or the rules of the commission; and

(B) Who has not applied for and received approval from the commission or its director to receive such shipment of liquor. Liquor shipped into the County under this subsection shall be in 750 milliliter-sized containers, be appropriately marked "Sample - Not For Resale," and shall come to rest at the warehouse of a holder of a class 3[,] wholesale dealers' licensee, within the County, and be held in the licensed premises for at least forty-eight hours before delivery to or picked up by the person who was issued a permit to receive such liquor.

(b) It shall be unlawful for any person holding a brewpub license from within or without the County or State, to:

(1) Acquire or hold any interest in any license of a class 3[,] wholesale dealers' license, or a class 2 or class 4 through 13 license; or

(2) Acquire any interest in the real or personal property owned, occupied, or used by a class 3[,] wholesale dealers' license, or a class 2 or class 4 through 13 license in the conduct of its business, unless the holding of such interest is permitted under the rules of the commission or statement thereof has been filed with and approved by the commission.

(c) Non-beer manufacturer licensee. Section 08-101-22(b)(4) of the rules of the commission shall not apply to the holder of a non-beer manufacturer license under the rules of the commission, chapter 281, HRS, under the law of another jurisdiction, or from within or without the County, from maintaining an indirect interest in the license or licensed premises of a wholesale dealer licensee. The holder of any non-beer manufacturer license, from within and without the State, is prohibited from having a direct ownership of a wholesale dealers' license, or direct ownership of a partnership share, one or more shares of stock, or similar proprietary stake in the wholesale dealers' license; or having any interlocking officers or directors in the corporation, managers or members in any limited liability company, partner in a partnership, or its like, in the establishment, maintenance, or operations in the business of any wholesaler; except as may be provided in the rules of the commission, or in section 281-97, HRS[; or].

(d) Beer manufacturer licensee. Section 08-101-22(b)(4) of the rules of the commission shall not apply to the holder of a beer manufacturer license under the rules of the commission, chapter 281, HRS, under the law of another jurisdiction, or from within or without the County or State, from maintaining an indirect interest in the license or licensed premises of a beer and wine wholesale dealers' licensee. Any beer manufacturer from within and without the State, is restricted to maintaining an indirect interest in the license or licensed premises of a beer and wine wholesale dealer, who shall be limited to wholesale distribution of beer. The holder of any beer manufacturer license, from within and without the State, is prohibited from having a direct ownership of a

wholesale dealers' license, or direct ownership of a partnership share, one or more shares of stock, or similar proprietary stake in the wholesale dealers' license; or having any interlocking officers or directors in the corporation, managers or members in any limited liability company, partner in a partnership, or its like, in the establishment, maintenance, or operations in the business of any wholesaler; except as may be provided in the rules of the commission, or in section 281-97, HRS[; or].

(e) No manufacturer or wholesaler, within or without the County or State, shall have any financial interest, directly or indirectly, by stock ownership, or through interlocking partners, officers, directors, or any person owning outstanding stock in the corporation, any member or manager of a limited liability company, partner in a partnership or its subdivision thereof, or otherwise in the establishment, maintenance, or operation in the business of any retail licensee, except as may be provided in section 281-97, HRS, or this section. No manufacturer or wholesaler, within or without the County or State, shall acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, any interest in the premises of a retailer.

(f) No employee of an industry member from within or without the State, shall be employed by a retailer in any managerial capacity or in a position where such employee, directly or indirectly, place orders for, orders, or purchase any liquor from any industry member, or representative or solicitor of an industry member.

- (g) No industry member, within or without the County or State, shall:
- (1) Directly or indirectly pay or credit any retailer for using or distributing point of sale advertising materials or consumer advertising specialties.
 - (2) Require a retailer to take and dispose of any quota of distilled spirits, wine, or malt beverages.
 - (3) Sell, offer to sell, or contract to sell to any retailer or for any such retailer to purchase, offer to purchase, or contract to purchase any liquor product that have any back end discounts on liquor products sold. All discounts shall be given or credited directly to the licensee's account at the time of the initial purchase. Back end discount shall mean any discount given after the time of the initial purchase of the liquor product by the retailer or any discount offered or given contingent on the amount of liquor sold.
 - (4) Sell, offer to sell, or contract to sell to any retailer, or for any such retailer to purchase, offer to purchase, or contract to purchase any liquor products on consignment; or under conditional sale; or with the privilege of return; or on any basis other than a bona fide sale, except as provided in this section.
 - (5) Rearrange or reset of all or part of a retail dealers' licensee's store or department.
 - (6) Block access in a retailer's premises to other manufacturer's or wholesaler's product.

- (7) Subsection (g) applies only to transactions between industry members and retailers. It does not apply to transaction between industry members, for example, manufacturer and a wholesaler.
- (8) Furnish, give, rent, lend, or sell, directly or indirectly, equipment, fixtures, signs, supplies, money, services, or other things of value by an industry member to a third party, where the benefits resulting from such things of value flow to individual retailers, and such act(s) is considered furnishing of things of value within the meaning of the rules of the commission. Furnishing of a thing of value includes, but is not limited to, making payments or furnishing any thing of value for advertising to a retailer association, any media company, a display company, or any person where the resulting benefits flow to individual retailers, or the industry member's payment or furnishing any thing of value to a third party, where the thing of value benefits an individual retailer.
- (9) Directly or indirectly, furnish or pay for any advertising for, or with respect to, any one or more retailer by means of radio, television, magazine, or any type of media advertising, or pay for any media announcements of any on-site product sales promotion.
- (10) Deliver or ship to any licensee any liquor product that was not ordered by the licensee. Upon receiving notification by the licensee of receiving liquor product not ordered, the industry member shall, within five calendar days, retrieve the liquor products, return monies to, credit, or adjust the billing of the licensee for products delivered that were not ordered. Industry member shall not assess any cost for shipping, handling, restocking or its like to any licensee for any products delivered that were not ordered. Industry member shall be responsible for any cost, including, but not limited to, shipping, handling, transportation, labor or its like which the retailer may incur to return any product delivered that was not ordered. Any product that was delivered and not ordered by the licensee which has not been retrieved by the wholesale dealers' licensee or the manufacturers' licensee within five ~~[calender]~~ calendar days from the date of notification by the retailer, shall become the property of the retailer without cost.
- (h) Manufacturers' or wholesale dealers' licensee, may:
 - (1) Furnish or give a sample of distilled spirits, wine or malt beverages to a retailer who has not purchased the brand from that industry member within the last twelve months. Industry member may give a sample of not more than three gallons of malt beverage, not more than three liters of any brand of wine, and not more than three liters of distilled spirits, which shall be invoiced and clearly marked "sample" on each container.
 - (2) Conduct tasting and sampling activities at a licensed premises authorized for on-premises consumption. Industry member must purchase the products used from the licensee, but may not

purchase them from the licensee for more than the ordinary retail price. Industry members may, conduct tasting and sampling activities upon its licensed premises for the introduction of new products, upon obtaining a permit from the director.

- (3) Give or sponsor educational seminars for employees of retailers either at the wholesaler's or manufacturer's premises or at the retailer's premises. Examples would be seminars dealing with the use of a retailer's equipment, training seminars for employees of retailers, or tours of wholesaler's or manufacturer's premises. This section does not authorize the wholesaler or manufacturer to pay a retailer's or its employee's expense in conjunction with an educational seminar such as travel and lodging, nor does it allow the consumption of liquor by any on-duty employee. This does not preclude providing nominal hospitality during the event.
- (4) Give or sell point of sale advertising specialties to a retailer if these items bear advertising matter and are primarily valuable to the retailer as point of sale advertisement. These items include such things as posters, placard, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, backbar mats, thermometers, clocks, t-shirts, hats, and calendars. An industry member may add the name or name and address of the retailer to the advertising specialty.
 - (A) The total value of all advertising specialties furnished by an industry member to a retailer may not exceed \$300 per brand in any one calendar year per licensed premises. The value of the advertising specialty is the actual cost of that item to the industry member who initially purchased it. Transportation and installation costs are excluded;
 - (B) Industry members may not pool or combine their dollar limitation in order to provide a retailer with retail advertising specialties valued in excess of \$300 per brand;
 - (C) All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed; or
 - (D) Industry members and retailers are required to keep and maintain records on the licensed premises for a three-year period of all items furnished to retailers.
- (5) Accept the return of any liquor product from a retailer for "ordinary and usual commercial reasons" after the product has been purchased, so long as the product meets the following conditions and limitations for such returns:

- (A) Defective products which are unmarketable due to product deterioration, leaking containers, damaged labels, or mutilated and missing strip stamps;
- (B) Error in products delivered where there is a discrepancy between products ordered and delivered may be corrected within a reasonable period of time of not more than five calendar days;
- (C) Products which may no longer be lawfully sold due to a change in law or regulation, a particular size or brand is no longer permitted to be sold; or there is a change in the formula, proof, label or container of the product, or where the industry member has discontinued the production or importation of a product; or
- (D) Termination of business where the licensee may return products on hand at the time the licensee terminates the operation of the business.

An industry member is under no obligation nor required to accept the return of products for the reasons listed.

- (6) Give or sell product displays to a retailer, subject to the following limitations:
 - (A) The total value of all product displays furnished by an industry member under this section may not exceed \$300 per brand in use at any one time in any one retail establishment. The value of a product display is the actual cost to the industry member who initially purchased it with transportation and installation costs excluded;
 - (B) Product display means any wine racks, bins, barrels, casks, shelving and the like from which distilled spirits, wine, or malt beverages are displayed on and sold;
 - (C) Industry member may not pool or combine their dollar limitations in order to provide a retailer a product display in excess of \$300 per brand;
 - (D) Product display shall bear conspicuous and substantial advertising matter; and
 - (E) Industry member may assist a retailer in setting a product display in a retail premises.
- (7) Give or sell outside signs to a retailer, providing:
 - (A) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed;
 - (B) The retailer is not compensated, directly or indirectly, such as through a sign company, for displaying the signs; and
 - (C) The cost of the signs may not exceed \$400.
- (8) Provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages.

(i) Manufacturers' or wholesale dealers' licensee, shall, at all liquor establishments, stock, rotate, and affix the prices to distilled spirits, wine, or malt beverages which they sell, and check for outdated or spoiled liquor products, at least once a month and at the time of delivery of any liquor product, unless the retailer requests in writing that this service not be provided or be discontinued. [Eff 7/1/00; am and comp 7/15/02; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

28. Material, except source notes, to be repealed is bracketed. New material is underscored.

29. Additions to update source notes to reflect these amendments are not underscored.

30. These amendments to Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, shall take effect ten days after filing with the Office of the County Clerk.

Adopted this _____ day of _____, 2017, at Wailuku, Maui,
Hawaii.

By _____
ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

Approved this ____ day of
_____, 2017.

ALAN M. ARAKAWA
Mayor, County of Maui

APPROVED AS TO FORM
AND LEGALITY:

GARY Y. MURAI
Deputy Corporation Counsel
County of Maui

Received this _____ day of
_____, 2017.

Clerk, County of Maui

CERTIFICATION

I, ROBERT TANAKA, Chairperson of the Liquor Commission of the Department of Liquor Control, County of Maui, do hereby certify:

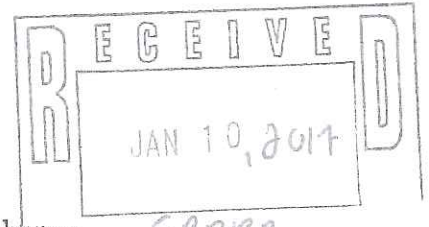
1. That the foregoing is a copy of the amendments to the Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the ____ day of _____, 20____, by affirmative vote of the proper majority following a public hearing on February 8, 2017, and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing amendments to the rules was published in The Maui News and The Honolulu Star-Advertiser on the ____ day of _____, 20____.

COUNTY OF MAUI

ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

2016-1770
2017-01-06 Admin Rules Chapter 101



Amendment to Title 08, Chapter 102,
Rules Governing Administrative Practices and Procedures
of the Liquor Commission and Liquor Control Adjudication Board
of the County of Maui

1. Section 08-102-27, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui, is amended by amending subsection (c) to read as follows:

“(c) The commission shall maintain a list of names and addresses of persons who request notification of meetings and shall mail, electronic mail (email), or send by facsimile a copy of the notice to such person at their last recorded address, email address, or facsimile number no later than the time the agenda is filed at the office of the county clerk. The list of names and addresses, email addresses, or facsimile numbers of persons who request notification of meetings shall be valid only for the calendar year of the request received. Notification for renewal shall be mailed, emailed, or facsimiled in November to all persons on the existing list. [Eff 2/7/00; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

2. Section 08-102-31, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui, is amended by amending subsection (c) to read as follows:

“(c) Unless a commission member states that the member is disqualified or excused from voting pursuant to section 08-102-33 of the rules of the commission, the member’s silence or refusal to vote shall be recorded as an [affirmative vote.] abstention, an abstention is not a vote and is not counted as a vote. [Eff 2/7/00; am and comp 4/26/02; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

3. Section 08-102-71, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui, is amended to read as follows:

“§08-102-71 Charges against commission or board members. Any charges herein called complaints or inquiries of the conduct against [the] commission or [the] board members shall be documented and forwarded to the:

- (1) Mayor;
- [(2) Board of ethics;
- (3)](2) Corporation counsel;

[(4)(3) Prosecuting attorney, [if applicable,] for investigation [and] and/or disposition. [Eff 2/7/00; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

4. Material, except source notes, to be repealed is bracketed. New material is underscored.

5. Additions to update source notes to reflect these amendments are not underscored.

6. These amendments to Chapter 102, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui, shall take effect ten days after filing with the Office of the County Clerk.

Adopted this _____ day of _____, 2017, at Wailuku, Maui,
Hawaii.

By _____
ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

Approved this ____ day of
_____, 2017.

ALAN M. ARAKAWA
Mayor, County of Maui

APPROVED AS TO FORM
AND LEGALITY:

GARY Y. MURAI
Deputy Corporation Counsel
County of Maui

Received this _____ day of
_____, 2017.

Clerk, County of Maui

CERTIFICATION

I, ROBERT TANAKA, Chairperson of the Liquor Commission of the Department of Liquor Control, County of Maui, do hereby certify:

1. That the foregoing is a copy of the amendments to the Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui, drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the ____ day of _____, 20__, by affirmative vote of the proper majority following a public hearing on February 8, 2017, and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing amendments to the rules was published in The Maui News and The Honolulu Star-Advertiser on the ____ day of _____, 20__.

COUNTY OF MAUI

ROBERT TANAKA
Chairperson
LIQUOR COMMISSION

2016-1770
2017-01-06 Admin Rules Chapter 102