



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

Tel 808 586-2594

David Y. Ige
Governor

Luis P. Salaveria
DBEDT Director

Members

Anthony Borge
Chairperson
Oahu

Harris Nakamoto
Vice Chairperson
Oahu

Barbara Bennett
2nd Chairperson
Kauai

Kyoko Y. Kimura
Maui

Robert Cundiff
Oahu

Nancy Atmospera-Walch
Oahu

Phillip Kasper
Maui

Garth Yamanaka
Hawaii

Director, DBEDT
Voting Ex Officio

AGENDA

Wednesday, June 24, 2015 ★ 9:30 a.m.
No. 1 Capitol District Building
250 South Hotel Street - Conference Room 436

I. Call to Order

II. Approval of May 20, 2015 Meeting Minutes

III. New Business

- A. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules, Title 3, Chapter 70, **Rules of the Stadium Authority**, promulgated by Department of Accounting and General Services – attached and incorporated as Exhibit 1
- B. Discussion and Action on Proposed New Chapter 7A, **Pertaining to the Housing Policy for the County of Kauai**, under the Kauai County Code, promulgated by the Kauai County Housing Agency – attached and incorporated as Exhibit 2
- C. Discussion and Action on Proposed Amendments to **Rules and Regulations of the Liquor Commission of the Department of Liquor Control of the County of Hawaii, Part I through VI**, promulgated by Hawaii County Department of Liquor Control – attached and incorporated as Exhibit 3

IV. Administrative Matters

- A. Discussion and Action to Appoint Board Members for “Discussion Leader” Assignments for the Counties and State Departments’ Administrative Rule Review

V. **Next Meeting:** Scheduled for Wednesday, July 15, 2015, at 9:30 a.m., Conference Room 436, Capitol District Building, Honolulu, Hawaii

VI. 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.

Don't Forget - Add "Discussion leader to Board Member's Agenda"

June 24, 2015 ~ SBRRB Meeting Checklist

Agenda

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair <i>AV</i>	NA	Oahu	Parking Pass	X
Barbara Bennett, 2nd Vice Chair	HA	Kauai	Parking Pass	X
Kyoko Kimura <i>AV</i>	HA	Maui	Parking Pass	X
Harris Nakamoto	NA	Oahu	NA	No
Director's ex officio - Mark Richey <i>AV</i>	NA	Oahu	NA	X
Robert Cundiff <i>AV</i>	NA	Oahu		X
Nancy Atmospera-Walch <i>AV</i>	NA	Oahu		X
Phillip Kasper Travel (attached) <i>AV</i>	HA	Maui		X
Garth Yamanaka Travel (attached) <i>AV</i>	HA	B.I.		X

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Make 12 - 15 copies of rule packages for board packets	✓
Poll board attendance	X
Prepare TAF's for Director's approval - ASAP (Linda) <i>Garth/Kyoko/Phillip</i>	✓✓
Airline booking ASAP - Linda <i>Garth/Kyoko/Phil</i>	✓✓
Draft Agenda to Chair	✓
Post approved agenda on 1) SBRRB website, 2) State Calendar, 3) Lte. Governor's Office	✓✓
Send Agendas to those people who requested it - IMPORTANT	✓
Mail approved agenda to Board members, Deputy AG	✓
Mail board packets June 17 and 18 <i>Important</i>	✓
Photographer - Contact David H. <i>July Request?</i>	No
Include parking permits in Board members' agenda packets.	✓

STAFF				
Margaret Ahn	<i>AV</i>			Yes
Dori Palcovich	<i>AV</i>			Yes

Post Meeting Checklist	

Agenda

*Phillip Kasper
NA = August*

Visitors Sign-in-Sheet - Small Business Regulatory Review Board - June 24, 2015


	Name	Title	Organization	Email	Phone
1	Düssel Velinda	ASO	Stadium	russel.t.uchida@hawaii.gov	483-2753
2	Scott S. Chen	manager	Pediatric Authority	scott.h.l.chen@hawaii.gov	483-2758
3	Zobya Pfahl	Procurement Specialist	State Procurement Office	rllpfahl@hawaii.gov	
4	Shawn Richey	Procurement Specialist	State Procurement Office	Shawn.L.Richey@hawaii.gov	586-0577
5	Lois Manin	Deputy Manager	AOLN Stadium	Lois.M.Manin@hawaii.gov	483-2751
6	Reg Baker	CPA	EBA	reg@regbaker.com	753-6026
7		Procurement Supervisor	SPO	Randall.S.Takasaka@hawaii.com	586-0588
8	RANDALL W. S. TAKASAKA	AG	AG	randall.s.w@hawaii.gov	586-1267
9	Charles T. Toquachi	Chair	Stadium Auth	ctoquachi@stadiumauth.com	201-0327
10	Gerald Takense	Director	Reg & Lic Control City of HI	gtakense@hawaii-city.gov	961-8218
11					
12					
13					
14					
15					
16					

Exhibit 1

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STADIUM AUTHORITY OF THE STATE OF HAWAII

Proposed Amendments to Chapter 3-70
Hawaii Administrative Rules

(Date of Adoption)

1. Section 3-70-11, Hawaii Administrative Rules, is amended by amending subsections (a), (b), and (c) to read as follows:

"§3-70-11 Rental charges, payment. (a) The authority establishes the following schedule of charges for the use of the stadium proper for each event or date:

- (1) [~~Hawaii~~] Hawaii-based high school and lower grade level events or activities - No rent shall be charged for school related events or activities;
- (2) University of Hawaii [~~intercollegiate regular season football~~] events or activities - [~~the~~] The stadium authority shall have discretion to determine rent, provided, however, that the amount shall not exceed seven and one-half per cent of gross ticket receipts or \$10,000 per date, whichever is greater;
- ~~(3) Other college events where no admission charge is imposed, excluding professionally promoted college football games -- \$500 per date;~~
- ~~(4) Professional and college football games professionally promoted by any person, partnership, corporation, or organization for profit -- \$10,000 per date, or ten percent of ticket receipts per date, whichever is greater;~~

- ~~(5)~~ (3) Post-season [~~intercollegiate and~~
collegiate
~~[all-star] football games [sponsored by any
person, partnership, corporation, or
organization of non-profit status] - [ten]~~
Ten per cent of gross ticket receipts or
\$10,000 per date, whichever is greater, but
not to exceed \$32,000 per date; [~~or such
greater amount as may be determined by the
authority. This amount shall not include
reimbursement for out-of-pocket costs that
may be imposed by section 3-70-10 nor any
charge that may be imposed by the
provisions as set forth in section 3-70-13;~~
- ~~(6)~~ Other sports events or collegiate events
where admission is charged and is not
otherwise specified in these rules - \$2,000
per date or ten percent of ticket receipts
per date, or if no tickets are sold, \$1 for
each person attending the event per date,
whichever is greater;
- ~~(7)~~ Concerts, rallies, conventions] (4)
Commercial events - [~~\$2,000] \$2,500 per
date or ten per cent of gross ticket
receipts per date, or if no tickets are
sold, \$1 for each person attending the
event per date, whichever is greater;~~
- ~~(8)~~ (5) Receptions, parties, and youth events (ages
high school and below) - [~~\$750] \$1,000 per
date; [~~or ten percent of ticket receipts,
or if no tickets are sold, \$1 for each
person attending the event per date,
whichever is greater;~~~~
- ~~(9)~~ For purposes of filming or recording a
commercial, and other activities involving
short-term use of the stadium during the
normal working hours of 7:30 a.m. through
3:30 p.m., Monday through Friday, excluding
holidays - \$200 per hour, but not more than
\$1,000 per date. Out-of-pocket expenses
including field lights and overtime

~~personnel costs shall be charged to the licensee pursuant to section 3-70-10;~~

- (6) Commercial media - \$500 per hour;
Non-commercial media - \$250 per hour; and
- ~~[(10) Notwithstanding paragraphs (6), (7), and (8), the rental charge for events sponsored by religious or charitable organizations for religious or charitable purposes where no admission is charged shall not exceed \$2,000 per date; and]~~
- (7) Charitable, religious, and other events or activities - \$2,500 per date or ten per cent of gross ticket receipts per date.
- ~~[(11) All other events or activities - \$750 per date or such greater amount as may be determined by the authority].~~

(b) The authority establishes the following schedule of charges for the use of the stadium parking lots:

- (1) ~~[For the use of the Kam lot for carnivals,]~~
Carnivals, fairs, and similar events -
~~[\$1,250] \$3,000 per date[;]~~ that the event is open to the public;
- (2) ~~[For purposes of filming or recording a commercial, and other activities involving short-term use of the parking lot area during the normal working hours of 7:30 a.m. through 3:30 p.m., Monday through Friday, excluding holidays - \$200 per hour, but not more than \$1,000 per date. Out-of-pocket expenses including parking lot lights and overtime personnel costs shall be charged to the licensee pursuant to section 3-70-10;]~~
Commercial media - \$500 per hour;
Non-commercial media - \$250 per hour;
- (3) ~~[For concerts]~~ Concerts - \$2,500 per date;
~~[or \$1 for each person attending the event per date as determined in the sole reasonable judgment of the manager or the manager's designee, whichever is greater;]~~

- (4) [~~For Hawaii~~] Hawaii-based high school and lower grade level events or activities - No rent shall be charged for school-related events or activities; and
- (5) [~~For all~~] All other events or activities, including youth (ages high school and below) - [~~\$750~~] \$1,000 per date. [~~or such greater amount as may be determined by the authority.~~

(c) The use of any office, or other space or facility on the stadium premises may be rented upon the terms and conditions, and at the rental rates [~~as may be~~] determined by the authority."

[Eff 6/12/81; am 9/17/82; am 8/25/88; am 1/17/05; am 3/4/06; am and comp 9/18/06; am 10/7/10; am] (Auth: HRS §109-2) (Imp: HRS §109-2)

2. Section 3-70-20, Hawaii Administrative Rules, is amended by amending subsections (a) to read as follows:

"§3-70-20 Parking rates, parking stalls. (a) Except as otherwise provided below, the authority establishes the following rates for the privilege of parking at the stadium for all events:

- (1) [~~\$5~~] \$7 per event per automobile for all events and shows except as provided in this subsection; rate will be \$8 beginning July 1, _____, and \$9 beginning July 1, _____;
- (2) [~~\$25~~] \$30 per event per passenger bus, limousine, or truck, other than pickups, regardless of the number of persons carried in such bus, limousine, or truck; provided that the authority delegates to the manager the power to waive such parking charges at the manager's discretion [~~for vehicles transporting groups of people attending an event where the athletes or performers at the event attend high school or lower grade level, or where the vehicles are transporting groups of people from non-~~

- ~~profit or charitable organizations]; rate will be \$31 beginning July 1, _____, and \$32 beginning July 1, _____;~~
- ~~[-(3)-~~ \$3 per event per automobile for all events and shows when the athletes or performers attend high school or lower grade levels;
- ~~-(4)-~~ (3) [\$10] \$15 per event per automobile for professional sports events and concerts with admission charges, except for Hawaiian cultural and music events; rate will be \$16 beginning July 1, _____, and \$17 beginning July 1, _____;
- ~~[-(5)-~~ (4) The authority delegates to the manager the power to waive parking charges, at the manager's discretion, in connection with an event or activity where the estimated out-of-pocket expenses for parking exceed the estimated parking revenues; provided that the out-of-pocket parking expenses be at the licensee's expense; [and
- ~~-(6)-~~ (5) The swap meet events held at the stadium and private events held in the stadium hospitality room shall be exempted from this subsection[-]; and
- (6) The manager shall have the authority to sell bulk parking, in whole or in part, to a licensee at a rate not less than the published rate for the contracted event or activity."

[Eff 6/12/81; am 9/17/82; am 8/27/84; am 9/1/87;
 am 8/12/02; comp 9/18/06; am 8/1/10; am
] (Auth: HRS §109-2) (Imp: HRS
 §109-2)

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

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

5. These amendments to chapter 3-70, 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.

Charles T. Toguchi, Chairman
Aloha Stadium Authority



Douglas Murdock, Comptroller
Department of Accounting and
General Services

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 2

ADMINISTRATIVE RULES

FOR THE

KAUA'I COUNTY HOUSING AGENCY

COUNTY OF KAUA'I

STATE OF HAWAI'I

THE ADMINISTRATION OF
CHAPTER 7A, KAUA'I COUNTY CODE,
PERTAINING TO THE HOUSING POLICY
FOR THE COUNTY OF KAUA'I

June 15, 2015

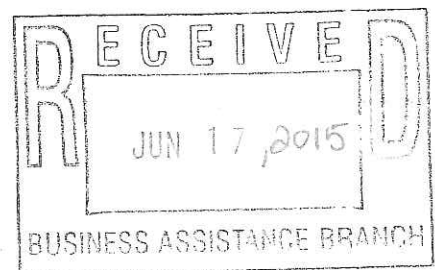


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The Administration of Chapter 7A, Kaua‘i County Code,
Pertaining to the Housing Policy for the County of Kaua‘i

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SUBCHAPTER 1

GENERAL PROVISIONS

1.1 TITLE

The rules in this Chapter shall be known as "The Administration of Chapter 7A, Kaua'i County Code, Pertaining to the Housing Policy for the County of Kaua'i".

1.2 PURPOSE

The purpose of these rules is to implement the goals and objectives of Chapter 7A, Kaua'i County Code.

1.3 DEFINITIONS

Words defined in Chapter 7A, Kaua'i County Code shall have the same meaning wherever used herein. Unless otherwise apparent from the context, the following definitions shall apply:

- a. "Affordable housing" means "workforce housing".
- b. "Council" means the Kaua'i County Council.
- c. "County" means the County of Kaua'i, a political subdivision of the State of Hawai'i.
- d. "Department" means the Kaua'i County Housing Agency.
- e. "Developer" means a land owner or authorized agent of a land owner of real property that: (1) seeks any County approval for development or subdivision of real property; (2) that has applied to the County for a State Land Use district boundary amendment, a zoning district boundary amendment, or an amendment to the Visitor Destination Area; or (3) that has previously obtained from the County a State Land Use district boundary amendment or zoning district boundary amendment, but has not yet satisfied an existing housing condition, or the County has not yet executed a written housing agreement specifying the means to satisfy all or any portion of an existing housing condition.
- f. "Director" means the director of the Kaua'i County Housing Agency, or the director's designated representative.
- g. "Eligible Developer", as defined in Chapter 201H-32, HRS, means any person; partnership; cooperative, including limited equity housing cooperatives as defined in Chapter 421H, HRS; firm; nonprofit or for-profit entity; or public agency determined by the Department:

- i. To be qualified by experience, financial responsibility, and support to construct housing of the type described and of the magnitude encompassed by the given project; and
 - ii. To have submitted plans for a housing project adequately meeting the objective of Chapter 201H, HRS, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes and rules; and
 - iii. To meet all other requirements the County deems to be just and reasonable, and all requirements stipulated in Chapter 201H, HRS.
- h. "Fast Track Permitting" means the process adopted by the County, pursuant to Section 7A-9.2, Kaua'i County Code, to expedite the permit process necessary for the development of:
 - i. The project site, including but not limited to, all subdivision applications, civil construction plan permits, and other plans and permits associated with the development of the project; but
 - ii. Building permits shall only be expedited for the workforce housing units.
- i. "HUD" means the United States Department of Housing and Urban Development.
- j. "HRS" means Hawai'i Revised Statutes, as amended.
- k. "Improved land" means land that has necessary infrastructural improvements to support a public use project or a use density of at least a single-family or a two-family residential building per acre, in conformity with State and County zoning laws and building permit requirements.
- l. "Income-qualified buyer" means a qualified buyer whose income is within the limits of the workforce housing income group that is targeted for the purchase of workforce housing units intended as affordable for that workforce housing income group.
- m. "Income-qualified renter" means a qualified renter whose income is within the limits of the workforce housing income group that is targeted to rent the workforce housing units intended as affordable for that workforce housing income group.
- n. "Kaua'i Median Household Income (KMHI)" means the median household income for the County of Kaua'i as determined annually by HUD.
- o. "KCC" means Kaua'i County Code, as amended.
- p. "*Kuleana*" means those lands granted to native tenants pursuant to L. 1850, p.202

entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges, as originally enacted and as amended.

- q. "Project" means the lots or parcels and any development thereon, included and approved in an application by a developer for zoning or building permit, subdivision or consolidation, State Land Use district boundary amendment, zoning amendment, or amendment into the Visitor Destination Area.
- r. "Rules" means these Administrative Rules for the Administration of Chapter 7A, Kaua'i County Code, Pertaining to the Housing Policy for the County of Kaua'i, as amended.
- s. "Subdivision" means improved or unimproved land or lands divided or consolidated, or proposed to be divided into two or more lots, parcels, sites, or other divisions of land for purposes of, whether immediate or future, sale, lease, rental, transfer of title or interest, in any or all of such parcels, and shall include resubdivision, and when appropriate to the context shall relate to the process and procedure of subdividing of the land being subdivided. Easements for roadway or access purposes shall be construed as subdivided land. The term includes a building or group of buildings, other than a hotel, containing or divided into three or more dwelling units. Planned unit developments and condominiums shall be considered subdivisions.
- t. "Workforce housing," "workforce unit," or "workforce housing unit" means a lot, single-family dwelling unit, or multiple-family dwelling unit that may be rented or sold at price levels that are affordable to households that earn from eighty percent (80%) and below of the Kaua'i Median Household Income to one hundred forty percent (140%) of the Kaua'i Median Household Income.
- u. "Unimproved land" means land not classified as improved land.

SUBCHAPTER 2

APPLICABILITY

2.1 APPLICABILITY

- a. The department shall use the criteria in Section 7A-1.4 (a) through (c), KCC, to determine the applicability of Chapter 7A, KCC, for completed subdivision applications, zoning permit application, and building permit applications for any new development, redevelopment, renovation; conversion to time share use; the subdivision of land; or the construction of single-family dwelling units, two-family dwelling units, multi-family dwellings, or hotels, whether constructed at one time or over several years.
- b. The director shall review and make the determination within thirty (30) days of receipt of the completed subdivision application, zoning permit application, or building permit application
- c. Pursuant to Section 7A-1.2, KCC, the purpose of Chapter 7A, KCC, is to establish that a portion of residential and resort developments shall provide workforce housing opportunities for Kaua'i residents. In determining whether a project is exempt, Chapter 7A, KCC, may not apply to a project that falls into one or more of the following categories, as determined by the director:
 - i. The project is exempt pursuant to Section 7A-10.1 through 10.4, KCC;
 - ii. The relocation of *kuleana* lots, where no additional lots or density are created by the resulting relocation;
 - iii. The consolidation of lots, including *kuleana* lots, involving not more than four (4) existing lots of record and re-subdivision where no additional lots or density are created by the resultant properties, provided that use of property does not change;
 - iv. A project by a government entity, a project pursuant to Section 201H-38, HRS, or a project developed by a Kaua'i community housing land trust pursuant to Section 7A-8.2, KCC; or
 - v. An applicant applying for zoning permits that does not incorporate residential or resort development. Should the zoning permits for the project be amended in the future, the project may be subject to Chapter 7A, KCC.

2.2 CONFIRMATION OF APPLICABILITY

- a. The director shall provide electronic or written confirmation to the receiving agency if Chapter 7A, KCC, is applicable to a project.
- b. The director shall notify the receiving agency by electronic or written confirmation when a workforce housing agreement has been fully executed for the project.
- c. Upon request from the receiving agency, the director may provide a copy of the executed workforce housing agreement for the project.
- d. The Department shall maintain records of all executed workforce housing agreements and written confirmations of applicability, non-applicability, or exemption in accordance with the Department's documentation retention policy.

2.3 ADJUSTMENT, REDUCTION, OR WAIVER OF REQUIREMENTS

- a. Upon receipt of the director's written determination that a project is subject to the requirements of Chapter 7A, KCC, and these rules, a developer may appeal to the Department for an adjustment, reduction, or waiver of the requirements. Any appeal of the Department's decision must be filed on or before thirty (30) days from the date on which the Department sent the electronic or written confirmation of the applicability.

SUBCHAPTER 3

RESIDENTIAL AND RESORT WORKFORCE HOUSING REQUIREMENTS

3.1 GENERAL REQUIREMENTS

- a. The amount or number of residential workforce housing units required by Chapter 7A, KCC, shall be in accordance with Section 7A-2.1 through 2.6, KCC.
- b. The Department shall require the developer to provide the Department with a copy of a settlement statement for all residential workforce for-sale units or lots and any documents and information required by the Department to verify eligibility of the buyers and sales price requirements pursuant to Section 7A-4.1 and 4.2, KCC.
- c. The Department shall require the developer to provide the Department with access to review executed leases or rental agreements for all for-rent units and any documents required to verify eligibility of the tenant(s) and rental rate requirements pursuant to Section 7A-4.1 and 4.3, KCC.
- d. The Department may request that the developer provide the following information to verify eligibility: (i) name of the owner or lessee who has purchased the unit, purchased the lot, or occupy the rental unit; (ii) the lessee's family size; (iii) the lessee's household income.

3.2 SATISFACTION ALTERNATIVES

- a. In determining whether the residential and resort workforce housing requirements of Chapter 7A, KCC, may be satisfied by an alternative measure pursuant to Section 7A-3.1, KCC, the director shall use, but not be limited to, the following criteria:
 - i. The director may determine on a case by case basis whether the alternative measure will accomplish the objective of producing as many workforce housing units as possible in a reasonable period of time;
 - ii. The director may determine on a case by case basis whether the alternative measure will result in greater added value of workforce housing units which may include, but not be limited to, factors such as: location, zoning designation, or infrastructure.
 - iii. The alternative measure satisfy the requirements of Section 7A-2.1, KCC, by providing for sale or for rental the required number of workforce housing units or lots to income-qualified buyers and income-qualified renters.

- b. **Density Restriction of Project.** Subject to the approval by the director, a density restriction of the project may be granted. Project density shall be restricted to no more than ten (10) dwelling units and shall be recorded on the deed for the property and shall be recorded with the Bureau of Conveyances of the State of Hawai'i so that the terms and conditions of the deed for the property run with the land and bind and constitute notice to all subsequent grantees, assignees, mortgages, lienors, and any other persons who may claim an interest in such property.
- c. **Payment of In-Lieu Fee.** Subject to the approval by the director, payment of in-lieu fees in accordance with Section 7A-3.1 (a), KCC, can be used to satisfy the requirements of Section 7A-2.1, KCC. The total amount of the in-lieu fee due and owing to the County, if not paid in advance, shall be secured by a lien recorded against the project property on which the market rate units will be situated. Said lien will be released by the County upon full payment of the in-lieu fee to the County.
- d. **Dedication of Land.** Subject to approval by the County Council, improved or unimproved land in-lieu may be dedicated to the County pursuant to Section 7A-3.1(b), KCC, as recommended by the director.
- e. **Rental Units.** Subject to the approval by the director, rental units may be substituted in place of for sale units pursuant to Section 7A-3.1(c), KCC.

3.3 DEPARTMENTAL GUIDELINES

- a. In implementing Section 7A-2.1, KCC, the Department shall use the Kaua'i Median Household Income, as determined annually by HUD, to determine the workforce housing income group(s). Further, the Department shall use Chapter 7A, KCC, to determine the sale prices and rent limits for workforce units.

SUBCHAPTER 4

WORKFORCE HOUSING AGREEMENT

4.1 GENERAL

A Workforce Housing Agreement shall be used to incorporate the requirements of Section 7A-2.1, KCC, which shall be recorded on the deed for the project concurrent with final subdivision approval, or concurrent with final zoning approval, or prior to building permit approval, whichever occurs first.

- a. The Department shall require a developer to enter into a Workforce Housing Agreement with the Department that sets forth the detailed terms and conditions of compliance with Chapter 7A, KCC, pursuant to Chapter 7A, KCC, including but not limited to:
 - i. Sales or rental periods for the residential workforce housing units, which specify procedures for the release of units from the workforce housing requirements should units not be sold or rented following the expiration of the sales or rental periods;
 - ii. Identification of the number, type, and location of workforce housing units;
 - iii. Designation of workforce housing units for specific income and/or special housing target groups;
 - iv. Marketing process for the residential workforce housing units;
 - v. Eligibility of income-qualified households;
 - vi. Provision for residential workforce housing credits, as applicable;
 - vii. If applicable, payment of in-lieu fee or provision of in-lieu land;
 - viii. If applicable, incentives, pursuant to Section 7A-2.2 and 2.3, KCC, approved by the director; and
 - ix. Resale restrictions, which may include buy-back provisions, shared equity, and encumbrances.

- b. The Workforce Housing Agreement shall be recorded with the Bureau of Conveyances of the State of Hawai'i or the land court of the State as the case may be, so that the terms and conditions of the Workforce Housing Agreement run with the land and bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in such project property. The Workforce Housing Agreement shall be enforceable by the County by appropriate action at law or suit in equity against the developer, its successors, and assigns.

4.2 DRAFT HOUSING AGREEMENT

The Department may require the developer of a project that is subject to Chapter 7A, KCC, to provide the Department a draft Workforce Housing Agreement for review. The director shall approve or deny the draft Workforce Housing Agreement, or request modifications thereto.

SUBCHAPTER 5

GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING

5.1 WAIVER OF COUNTY FEES

- a. Pursuant to Section 7A-9.1, KCC, fees associated with the permitting of the portion of the project meeting a Workforce Housing Agreement may qualify for fee exemption.
- b. The developer may apply for a County fee exemption with the Department by completing a Fee Exemption Claims for Affordable Housing Project Form ("Form"). The director shall certify or deny the Form within thirty (30) days of receipt. A certified Form shall be attached to all project permits and applications submitted to the County departments to qualify for fee exemption consideration.

5.2 FAST TRACK PERMITTING

- a. Pursuant to Section 7A-9.2, KCC, eligible projects may utilize Fast Track Permitting to expedite the review and issuance of County permits necessary for the development of the project site, including but not limited to: subdivision applications, civil construction plan permits, and other plans and permits associated with the project or the project site. Building permits shall only be expedited for workforce housing units. [Eff 04/15/14] (Auth: Section 91-2, HRS, Section 7A-9.2, KCC) (Imp: Section 7A-9.2, KCC)
- b. Fast Track Permitting processing does not apply to any public hearing, hearing examiner, or County Council processes associated with any of the permits, approvals, or reviews. Fast Track Permitting permits shall proceed through public hearings the same as any other permit and without priority status.

5.3 SECTION 201H EXEMPTION PROJECTS

- a. Pursuant to Section 7A-9.3, KCC, Chapter 201H-38, HRS, may be used by an eligible developer to expedite requests to amend zoning; for zoning permit application, subdivision application, and building permit application; and to consider reduced development standards for a project that is at least fifty-one percent (51%) workforce housing.
- b. Purpose. Chapters 201H-38 and 46-15.1, HRS, authorizes the County to develop or assist in the development of housing projects with an eligible developer, or may assist under a government assistance program in the development of housing projects which are exempt from any statutes, ordinances, charter provisions, and rules of any governmental

agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon provided that:

- i. The project consists of at least fifty-one percent (51%) workforce housing units, consistent with the intent of Chapter 201H, HRS; and
- ii. The Department has determined the developer to be an "eligible developer", as defined in Chapter 201H-32, HRS; and
- iii. The development of the project does not contravene any safety standards, tariffs, rates, or fees approved by the public utilities commission for public utilities or the County of Kaua'i Board of Water Supply; and
- iv. The Council shall approve, approve with modification, or disapprove the project by resolution within forty-five (45) calendar days after the Department has submitted the preliminary plans and specification for the project, which is made a part of the certified 201H Exemption Application Packet to the Council. If, on the forty-sixth (46th) day, a project is not disapproved, it shall be deemed approved by the Council.
- v. Projects greater than 15 acres in size requiring exemptions for a State Land Use District Boundary Amendment shall seek approval of the Land Use Commission pursuant to Chapter 201H-38, HRS, after approval by the Council. Projects less than 15 acres in size requiring a State Land Use District Boundary Amendment shall follow the process pursuant to Chapter 11, KCC.

The State Land Use Commission shall approve, approve with modifications, or disapprove a boundary change within forty-five (45) days after the Department has submitted a petition to the commission as provided in Section 205-4, HRS. If, on the forty-sixth (46th) day, the petition is not disapproved, it shall be deemed approved by the State Land Use Commission.

- c. Affordability Requirements for 201H Projects. To be given consideration by the County for exemptions under Chapter 201H-38, HRS, a project must:
 - i. Provide for economically integrated housing, by stipulation and design, where at least fifty-one percent (51%) of the dwelling units in the project are developed as affordable dwelling units and provided at sales prices or rental rates affordable to households earning from eighty percent (80%) and below, to one hundred forty percent (140%) of the KMHI, according to the household income distribution specified in Subsection iii below;

- ii. For rental projects, units shall be affordable for a period of not less than forty (40) years or as designated in Chapter 7A, KCC, as amended, whichever is longer; and for ownership units, units shall be affordable for a period of not less than twenty (20) years, and shall be subject to the buyback provisions of the County;
- iii. Unless an entire project is affordable to households at or below eighty percent (80%) of KMHI, the total number of workforce housing units in the proposed project shall be distributed as follows:
 - a) A minimum of eleven percent (11%) of the total number of units in the project shall be affordable to low-income households earning annual incomes which do not exceed eighty percent (80%) KMHI, adjusted for family size;
 - b) A maximum of fifteen percent (15%) of the total number of units shall be affordable to moderate-income households earning annual incomes ranging between eighty percent (80%) and one hundred percent (100%) KMHI, adjusted for family size;
 - c) A maximum of fifteen percent (15%) of the total number of units shall be affordable to moderate-income households earning annual incomes ranging between one hundred percent (100%) and one hundred twenty percent (120%) KMHI, adjusted for family size;
 - d) A maximum of ten percent (10%) of the total number of units shall be affordable to gap group households earning annual incomes ranging between one hundred twenty (120%) and one hundred forty percent (140%) KMHI, adjusted for family size; and
 - e) A maximum of forty-nine percent (49%) of the total number of units may be sold or rented at other rates determined by the developer, including market rates.
 - f) As an alternative, distribution of workforce housing units may be based on current housing need on Kaua'i as projected by the most recent Hawai'i Housing Planning Study, or as supported by other market data and housing demand data, as resolved with and approved by the director.
- iv. Provided that a project meets the criteria set in Subsection iii above, the project shall have a minimum of twenty (20) affordable dwelling units. Projects

developed solely for persons with special living needs shall not be subject to this minimum dwelling unit requirement.

- v. Guideline for Affordable Sales Prices. Maximum for-sale price limits shall be resolved with the Department and not exceed current Affordable For Sale Housing Prices most currently published by the Department at the time of construction.
 - vi. Guideline for Affordable Rental Rates. Maximum rent charged shall be resolved with the Department and not exceed current Net Unit Rents in the Affordable Rental Housing chart most currently published by the Department at the time of construction.
 - vii. Guideline for Workforce Unit Sizes: The number of bedrooms of the workforce units shall be comparable to those of the market units, or based on housing need on Kaua'i as supported by the most current Hawai'i Housing Planning Study, and shall be subject to the approval of the director.
- d. Process. The Department shall administer the 201H Exemption process for projects for the County. The 201H Exemption process consists of four phases: (I) Pre-Consultation with the Department, with State and County Departments, with Public Utilities, and with the Public Community; (II) Submission of a Completed 201H Exemption Application Packet; (III) Determination of Eligibility by the Director; and (IV) Formal Project Review and Processing:
- i. Phase I: Pre-Consultation with the Department, with State and County Departments, with Public Utilities, and with the Public Community.
 - a) The Department shall require the developer to meet with the director to present the project and to consult and review the project's 201H Exemption eligibility; and
 - b) The Department shall require the developer to also conduct pre-consultation meetings with State and County departments and public utilities to discuss the project and its proposed exemptions; and
 - c) The department shall require the developer to also conduct a pre-consultation community meeting with the public, who reside within a five (5) mile radius of the proposed project site, to discuss the project and its proposed exemptions.

- ii. Phase II: Submission of a Completed 201H Exemption Application Packet. The department shall require the developer to complete a 201H Exemption Application Packet which includes, but is not limited to, a 201H Exemption Application ("201H Application"), available from the department, and all required exhibits and materials, including a preliminary Draft Environment Assessment (preliminary DEA) for the project.

For the purposes of public disclosure, the Department shall require the developer to fully detail the project's proposed exemptions and proposed alternate standards in the project's preliminary DEA. The Department shall require the developer to resolve exemption alternatives with the Department, with State and County departments, and public utilities in the preliminary DEA before the formal submittal of a Draft Environmental Assessment (DEA) to Office of Environmental Quality Control (OEQC).

- iii. Phase III: Determination of Eligibility by the Director. The director shall review the developer's submitted 201H Exemption Application Packet (1) to determine whether the project and the developer are eligible under Chapter 201H, HRS, and (2) to identify major concerns, if any, relating to the project. The director may request any additional information that is deemed necessary to make a decision as to developer and project eligibility. The director will notify the developer in writing of developer and project eligibility.

- iv. Phase IV: Formal Project Review and Processing.

- a) If the director has determined the developer and the project to be eligible for the 201H Exemption process, the developer shall be deemed an "Applicant".

- b) 201H Exemption Application Packet Review by State and County Departments and Public Utilities.

- 1) The Department shall request the Applicant to provide the Department with twenty (20) paper sets and one (1) digital file (in a file format approved by the County Building division for Electronic Plan Review) of the 201H Exemption Application Packet including all required exhibits and materials, and the project's preliminary DEA;

- 2) The Department shall coordinate distribution of the 201H Exemption Application Packets amongst applicable State and County departments and public utilities; and
- 3) The Department shall request the receiving State and County departments and public utilities to review the 201H Exemption Application Packet to ensure that the project, with the requested exemptions, meets minimum standards of health and safety and the project does not contravene any written safety standards, tariffs, rates or fees approved by the public utilities commission for public utilities or the County of Kaua'i Board of Water Supply. The Department shall request that written comments regarding the 201H Exemption Application Packet be provided to the Department within thirty (30) days after its receipt.

The Department shall require the Applicant to work with the Department, with State and County departments, and with public utilities, to resolve and address their concerns before the formal submittal of a Draft Environmental Assessment (DEA) to Office of Environmental Quality Control (OEQC) for publication. The Department shall require the Applicant or its representative to modify, if applicable, the 201H Application and its' exhibits and its' materials to address the Department, State and County departments, and public utilities concerns. The Department shall require the Applicant to provide adequate copies of all such modifications to the Department for distribution to all State and County departments and public utilities. After the Department's, State and County departments', and public utilities' concerns have been adequately addressed, these agencies shall confirm approval to both the Department and the Applicant in writing.

- c) Public Review Process. The Department shall require the developer to hold at least one (1) public information meeting in the community where the project site is located during the pre-consulting phase.
- d) Environmental Review Process. Once the 201H Exemption Application Packet has been reviewed and approved by the Department, by State and County departments, and by public utilities, the process or Environmental Review pursuant to the Hawai'i Environmental Policy Act (HEPA), HAR 11-200 is to be followed. For projects requiring National Environmental Policy Act (NEPA), refer to HAR 11-200-25. The Department shall be the approving agency for the NEPA process.

Prior to submission of the 201H Application Packet to Council, the Department also requires that:

- 1) A Final Environmental Assessment (FEA) and a FONSI has been published, or a Final Environmental Impact Statement (FEIS) has been accepted pursuant to Chapter 343, HRS, if significant impacts are anticipated;
- 2) If NEPA review is required, the final environmental document has been accepted by the responsible federal or state agency and a FONSI published or Record of Decision (ROD) has been filed, if required; and
- 3) The judicial challenge period for these review processes has expired.

e) County Council Review

- 1) The Department shall prepare and transmit to the Council a certified 201H Exemption Application Package consisting of, but not limited to: a 201H Application, it's required exhibits and materials; a draft agreement between the County and Applicant ensuring the project is built and operated as represented by the Applicant; and a draft resolution to approve, approve with modification, or disapprove the project.
- 2) The Council shall approve, approve with modification, or disapprove the project by resolution within forty- five (45) days after submittal of the 201H Exemption Application Package by the Department. If on the forty-sixth (46th) day a project is not disapproved, it shall be deemed approved by the Council.
- 3) County Council approval of the 201H Exemption Application Package shall constitute the final plans and specifications for zoning, building, construction, and subdivision standards for the proposed project.
- 4) The Department shall require the Applicant, or its authorized representative, to be present at all meetings of the Council and its Committees and at all public hearings for the project, to make

presentations and to respond to any questions or concerns regarding the proposed project.

f) Project Development Phase

- 1) If State Land Use District boundary Amendment is required, the Department shall require the Applicant to petition the Land Use Commission pursuant to Chapter 201H-38(a)(4), HRS to obtain approval, prior to proceeding with section 5.3 d. iv. f) 2) of these rules.
- 2) If the Applicant's 201H application is approved by Council, the Department shall require the Applicant to complete final plans and specifications for the proposed project and obtain necessary permit approvals from the State and County departments and public utilities. Final plans and specifications shall not substantially deviate or materially change from the preliminary plans and specifications approved by the County Council in the 201H application.
- 3) The Department shall require the Applicant to attach the approved County Council resolution to the all permit applications being submitted to the Department, State and County departments, and public utilities.

.....

End Administrative Rules

.....

Kaua'i County
Housing Agency

Chapter 7A,
Housing Policy

ADOPTION

COUNTY OF KAUA'I

RECOMMENDED BY:

FREDERICK KAMUELA COBB-ADAMS
Housing Director

Date

APPROVED AS TO FORM
AND LEGALITY:

STEPHEN HALL
Deputy County Attorney

Date

APPROVED BY:

BERNARD P. CARVALHO, JR.
Mayor

Date

Kaua'i County
Housing Agency

Chapter 7A,
Housing Policy

CERTIFICATION

It is hereby certified that the foregoing Administrative Rules for the Administration of Chapter 7A, Kaua'i County Code, Pertaining to the Housing Policy for the County of Kaua'i were adopted on INSERT DATE, by the Kaua'i County Housing Agency pursuant to the provisions of the Hawai'i Administrative Procedure Act, Chapter 91, Hawai'i Revised Statutes, as amended, and that the notice of public hearing on the foregoing document was published in *The Garden Island* on June 17, 2015.

Dated in Līhu'e, Kaua'i, Hawai'i, this DATE day of MONTH, 2015.

KAUA'I COUNTY HOUSING AGENCY

FREDERICK KAMUELA COBB-ADAMS
Housing Director

Received this _____ day of _____, 2015

CERTIFICATION OF COUNTY CLERK

I hereby certify that on _____, 2015, I have accepted for filing from the Kaua'i County Housing Agency the Administrative Rules for the Administration of Chapter 7A, Kaua'i County Code, Pertaining to the Housing Policy for the County of Kaua'i adopted by that body on _____, 2015.

JADE FOUNTAIN-TANIGAWA
County Clerk

Exhibit 3

**RULES AND REGULATIONS OF THE LIQUOR COMMISSION
OF THE DEPARTMENT OF LIQUOR CONTROL OF THE
COUNTY OF HAWAII, STATE OF HAWAII**

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**RULES AND REGULATIONS OF THE LIQUOR COMMISSION
OF THE DEPARTMENT OF LIQUOR CONTROL OF THE
COUNTY OF HAWAI'I, STATE OF HAWAI'I**

Pursuant to and by virtue of the authority set forth in Chapter 281 and Chapter 91 of the Hawai'i Revised Statutes, as amended, and Article VII, Chapter 3, and Section 13-7 of the Charter of the County of Hawai'i, the Liquor Commission of the Department of Liquor Control of the County of Hawai'i, State of Hawai'i, adopts the rules and regulations of the Liquor Commission as hereafter provided.

Part 1. RULES OF PRACTICE

RULE 1-1 DEFINITIONS. Words used in these rules and regulations in the singular, include the plural, and vice versa; words of any gender include any other gender. Words defined in Section 281-1 of the Hawai'i Revised Statutes, as amended, shall have the same meaning wherever used herein.

“Adjudication Hearing” means a proceeding held pursuant to Section 281-91, Hawai'i Revised Statutes, as amended, in which it is proposed to revoke or suspend any license issued, or assess and collect a penalty, or reprimand a licensee. The summary revocation of any special license is not included within the scope of this term.

“Ambient Noise” means the totality of sounds in a given place and time, independent of the sound contribution of the specific source being measured.

“Applicant” means a person who has filed any application for liquor license, management agreement, permit or its like, for consideration by the Director or Commission.

“Application” means the application or the required forms used in making the request and any information contained therein for a liquor license, renewal or transfer thereof, permit or the amendment of conditions placed on a license or a permit or any other request or petition, and any other forms or documents which may be prescribed from time to time by the Commission.

“Authorized Agent” means a person who is authorized in writing or in person by the licensee or applicant to act for or be the representative of the licensee or applicant in Commission or Board proceedings.

“Bartender” means a person who prepares or mixes alcoholic drinks in accordance with established recipes and procedures.

“Board” means the Liquor Control Adjudication Board of the County of Hawai'i.

“Caterer” means [~~a Class 2 Restaurant, Class 12 Hotel, Class 13 Caterer, Class 14 Brewpub~~] any licensee who provides off-premises liquor service in connection with the service of food at catered functions as provided in Section 281-31, Hawai‘i Revised Statutes, as amended.

“Commission” means the Liquor Commission of the County of Hawai‘i.

“County” means the County of Hawai‘i.

“dBA” means a unit or measurement of decibels at the “A” level. The “A” level is the total level of all noise as measured with a sound level meter using the “A” weighing network.

“dBC” means a unit or measurement of decibels at the “C” level. The “C” level is the total level of all noise as measured with a sound level meter using the “C” weighing network.

“Decibels” (dB) means the unit for measuring the volume of sound equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (0.0002) dynes per square centimeter.

“Department” means the Department of Liquor Control of the County of Hawai‘i.

“Direct Shipment” means the transport of intoxicating liquors from a valid holder of a manufacturer’s or wholesaler’s license within the State but not within the County of Hawai‘i, to the holder of a valid liquor license authorized to resell such liquors in this county. [~~Such direct~~] Direct shipment is applicable to shipments on orders placed by those holding valid solicitor’s permits; to pool buying agreements pursuant to law which provides that liquor shipped may be retrieved by the licensee or a licensed common carrier for delivery to the retail licensee.

“Director” means the Director of the Department of Liquor Control of the County of Hawai‘i.

“Draught” or **“Draft”** beer means a product which has been packed in containers of one gallon or more and is drawn from a tap or spigot, whether pasteurized or not, or beer which is bottled or canned, and if not pasteurized, has been sterile filtered.

“Gratuitous or Purely Gratuitous” means costing nothing; free; not involving a return benefit or compensation or consideration for anything.

“Host or Hostess” means a person who is either compensated or not compensated and allowed to sit with patrons, whether or not the individual, employee or entertainer is consuming nonalcoholic beverages while in the company of patrons. The host or hostess shall only be allowed to be employed or utilized under a Class 5 Dispenser, Category [4]D, liquor license. In other classes licensed for consumption thereon, a host or hostess shall be described as the person who greets and seats the patrons.

“Industry Member” means any person engaged in business as a distiller, brewer, rectifier, blender or other producer, or is an importer~~[-or]~~, wholesaler, ~~[including a Class 1 Manufacturer licensee, Class 3 Wholesale Dealer licensee, or Class 14 Brewpub licensee as related to its manufacturing operation; a bottler of distilled spirits; but excludes an agency of a State or political subdivision thereof, or an officer or employee of such agency.]~~ or retailer.

“Licensee” includes the holder of a license and all agents, servants, and employees of the holder of a license.

“Liquor Card” means a card issued by the Department to a person in active charge of the licensed premises, or to a person 18-20 years of age, who is deemed qualified by the Department upon successful completion of an examination on liquor laws.

“Meeting” means the convening of the Commission or Board for which a quorum is required in order to deliberate and make decisions on matters over which the Commission or Board has supervision, control, jurisdiction, or advisory power.

“Minibar” means an enclosed unit offering a selection of intoxicating liquors in its original packages which is located in a hotel or condominium hotel guest room with (a) access restricted by means of a locking device requiring the use of a key, magnetic card or similar device, or (b) if there is no locking device installed, stocking of liquors shall be permitted only at the specific request of the adult guest.

“New License or Original License” means a license which is issued for the first time. The reference in liquor laws pertaining to applications for a new or original license requires that the applicant follow application procedures pursuant to Sections 281-51 to 281-60 of the Hawai‘i Revised Statutes, as amended.

“Noise” means the presence of sound, as measured by standard testing devices, of a volume or in quantities and for durations which endangers human health, welfare or safety, or property, or which unreasonably interferes with the comfortable enjoyment of life and property in the county.

“Off-Premises” means licensed premises which are authorized to sell liquors in their original package for consumption off the premises.

“On-Premises License, Licensee, or Establishment” means any license, licensee or business authorized to sell liquors for consumption on the premises.

“Preliminary Hearing” is used as an agenda subtitle to mean the first of two public hearings held by the Liquor Commission on an application for a liquor license.

“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 apartments or units as defined in Section 514A-3 and Section 514B-3, Hawai'i Revised Statutes, as amended, 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.

"Primary Liquor Service Area" means an area where the preponderance of sales is derived from intoxicating liquors or is otherwise dominated by the presence of liquor.

"Product" includes distilled spirits, wine or malt beverages as defined in the Federal Alcohol Administration Act.

"Property Owner" shall mean any owner and co-owner of record of real estate, lessee and co-lessee of record, and/or any owner of record of shares in a cooperative apartment situated within a distance of 500 feet of the proposed licensed premises.

"Public Hearing" is used as an agenda subtitle to mean the second and/or final public hearing held by the Liquor Commission on an application for a liquor license, at which a decision shall be made on the application.

"Resell or Authorized to Resell" means the authorization to sell liquors obtained from valid holders of a manufacturer or wholesale dealer license to the general public which authorization is granted to retail licensees holding a Class 2 [~~or Class 4 through 13~~, or a Class 14] , Class 4 through 6, 8 through 16, or Class 18 liquor license as related to its retail operation.

"Retail Licensee" means any licensee holding a Class 2[~~or Class 4 through Class 13~~] , 4 through 6, 8 through 13, or 15 license, and to a Class 1[~~and~~], Class 14, Class 16 and Class 18 license applicable only to its retail operations.

"Rule" or **"Rules"** means the Rules and Regulations of the Liquor Commission which have the force and effect of law.

"State" means the State of Hawai'i.

"Tour or Cruise Vessel" means any boat, tour or cruise boat which is home ported in the county.

"Transient Vessel" means any cruise ship which temporarily docks within the county.

"Valid License" means a liquor license that has been issued in accordance with Chapter 281 and has not been cancelled or revoked.

“Written” or “Writing” includes printing, computer output and typewriting.

- RULE 1-2 AUTHORITY.** These rules governing practices and procedures before the Liquor Commission of the County of Hawai‘i, are promulgated pursuant to Chapters 91, 92 and 281 of the Hawai‘i Revised Statutes, as amended, and the Charter of the County of Hawai‘i.
- RULE 1-3 CONSTRUCTION OF RULES.** The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every proceeding.
- RULE 1-4 LIMITATION OF JURISDICTION.** The jurisdiction of the Commission is limited to those matters covered under the provisions of Chapters 91, 92, 244D, and 281 [~~and 244~~] of the Hawai‘i Revised Statutes, as amended, the Charter of the County of Hawai‘i and the Rules and Regulations of the Liquor Commission of the County of Hawai‘i.
- RULE 1-5 MEETINGS.** Regular meetings or rescheduled meetings of the Commission shall be held on the first Thursday of each month [~~at 9:30 A.M.~~] in the Meeting Room of the Department of Liquor Control, Hilo Lagoon Centre, 101 Aupuni Street, [Suite] Unit 230, Hilo, Hawai‘i, or at the West Hawai‘i Civic Center, 74-5044 Anekeohokalole Highway, Building B, 2nd Floor, Kailua-Kona, Hawai‘i, or other public place announced in advance; provided, however, that the date and time may be changed for the convenience of the public if announced at a regular meeting. All meetings shall be conducted according to Chapter 91, Hawai‘i Revised Statutes, as amended, and Robert’s Rules of Order Newly Revised.

A quorum is required in order for the Commission to take any action. A quorum is defined as the majority of the members to which the Commission is entitled.

Meeting agendas shall include all of the items to be considered by the Commission. Said agenda shall be on file at the office of the County Clerk or its designated notice site, as well as at the office of the Department of Liquor Control for inspection at least [~~six (6)~~] 6 days before the meeting. Additionally, agendas for meetings held at locations other than the office of the Department shall be posted at the meeting site on the day of the meeting. The Commission shall not add items to the agenda, once filed, without a [~~two-thirds~~] 2/3 recorded vote of all members to which the Commission is entitled, provided that no item shall be added to the agenda in the manner provided herein if the item is of substantial and significant interest which may affect the public.

A special meeting may be called when the date, time and place are announced prior to adjournment of a regular meeting; otherwise a special meeting can be called only upon publication of a notice of such meeting in a newspaper of general circulation in this County at least [~~twenty-four~~] 24 hours in advance of such meeting. If the requirement for publication of notice cannot be met because of insufficient time, the meeting notice shall be made by broadcasting a minimum of three announcements in the English language over FCC licensed public radio stations in this County or television stations with local audience. Such announcements shall be broadcast [~~twenty-four (24)~~] 24 hours in advance of such meeting and shall be programmed to be heard between the hours of

7:00 A.M. to 5:00 P.M. Notice of such special meeting shall also be posted on the bulletin board of the County Building in East and West Hawai'i.

RULE 1-6 HEARINGS. All parties of standing shall be afforded an opportunity for hearing after reasonable notice.

- A. NOTICE.** The notice shall include a statement of the date, time, location and nature of the hearing, the legal authority under which the hearing is held, where applicable, and the particular sections of statute or rule involved or specific description of the application before the Commission.
- B. FILING APPLICATIONS, WHEN.** All applications for licenses and permits or other requests requiring Commission approval shall be submitted at least 30 days prior to the desired meeting date, together with all required documents, except as otherwise provided. Such applications shall be processed in the order of receipt by the Department. Failure to comply with provisions of this rule may cause a delay in scheduling the application for a hearing or delay obtaining approval of the application by a particular date.
- C. NOTICE, APPLICATIONS, ADJUDICATIONS.** Except as otherwise provided by law, in any proceeding involving an application for the issuance or transfer of a license by the Commission or the revocation or suspension of a license or other disciplinary action by the Commission or Board, which by law is required to be determined after an opportunity for a hearing, the following shall apply:
1. The applicant or licensee shall be notified in writing of the hearing and such notice shall conform with Chapter 91 and Chapter 281, Hawai'i Revised Statutes, as amended, and shall be furnished to the applicant not less than 48 hours before such hearing unless otherwise waived by the applicant or licensee in cases related to late applications.
 2. The determination shall be subject to such limitations or standards as may be prescribed by law.
 3. If the Commission or Board decides in favor of the applicant or licensee, the applicant or licensee shall be notified of such decision promptly.
 4. If the Commission or Board renders an adverse decision to any applicant or licensee, said decision shall be in writing in the form of a Findings of Fact and Conclusions of Law, and the applicant or licensee shall be served with a certified copy of same within a reasonable time.
- D. SEPARATE HEARINGS.** Except as otherwise provided by law, applications for liquor licenses shall be heard at ~~two~~ 2 separate hearings, a preliminary hearing and a public hearing, and are noted on the agenda as such. Both hearings are open to the public.
- E. STIPULATIONS.** Except as otherwise provided by law, any of the foregoing procedures may be modified or waived by stipulation of the parties and informal

dispositions may be made of any contested case by stipulation, agreed settlement, consent order, or default.

F. JUDICIAL REVIEW. Judicial review shall be as provided by law.

RULE 1-7 **PROTESTS**. No protest against the granting of a liquor license shall be considered by the Commission unless such protest is filed in accordance with this rule.

- A. Oral or written protests shall be filed with the Commission at or before the preliminary hearing and/or the public hearing.
- B. The protest shall designate the application for which the protest is being filed.
- C. Each person whose written protest is to be considered shall date, print name and sign such protest. Separate signatures are required for each spouse, co-owner or co-lessee filing a protest. Protests by owners or lessees of real estate or owners of record of shares in a cooperative apartment shall include the tax map key(s) and unit number(s), when applicable, on the letter or petition of protest.
- D. The protest shall contain the name and address of each person submitting a protest.
- E. Each person submitting a protest shall indicate whether such person is a registered voter for the area within five hundred feet of the nearest point at which the applicant proposes to establish or continue the business under the license applied for, or whether such person is an owner or lessee of record of real estate, or is the owner of record of shares in a cooperative apartment situated within a distance of [~~five hundred~~] 500 feet from the nearest point of the premises for which a license is asked, or both.
- F. A protest filed by a person who is not a property owner or is not a registered voter within 500 feet of the proposed licensed premises shall indicate the nature of the protestor's interest. These protests shall not be included in the calculation of a [~~forty~~] 40 percent protest affecting an automatic refusal pursuant to Section 281-39.5, Hawai'i Revised Statutes, as amended, or in the calculation of a majority protest affecting an automatic refusal of an application pursuant to Section 281-59, Hawai'i Statutes, as amended.
- G. When a protest against an application for a liquor license is duly filed by a property owner who owns more than one parcel of real estate within 500 feet of the proposed licensed premises, such protest shall be applicable and counted for each parcel held within 500 feet of the proposed premises.
- H. When the property owner within 500 feet of the proposed premises is held by a trust, protests may be filed by [~~each~~] the named trustee of record.
- I. Protests to an application may be submitted in the form of a petition provided that the petition shall be filed in its original form and shall clearly identify the application for

which the protest is being filed, include a statement indicating opposition to the application, and the reasons for the protests. The petition shall be legible and shall include the following:

1. The printed name, signature and address of the protestor; and
 2. Information whether the protestor is an owner or lessee of record of real estate or owner of record of shares in a cooperative apartment within 500 feet of the premises and/or is a registered voter within 500 feet of the premises. The coordinator of the petition shall file an affidavit that the contents of the petition are true and correct. If any of the contents of the petition are found to be incomplete, untrue or incorrect, the Commission may, by its own motion, declare that portion of the petition to be invalid and shall determine which protests shall be void or it may declare the entire petition to be invalid.
- J. A protest which is incomplete or not legible shall be invalid.
- K. In any application where there are significant numbers of protests~~[-]~~ or issues that require verification, the Commission may delay decision-making on the application pending verification of the protests~~[-]~~ or issues. The Commission may, by its own motion, close the public hearing, and in such instance, no further public testimony including protests shall be admitted. The Commission may, by its own motion, re-open the hearings. The Commission shall schedule a hearing date at which the decision shall be made~~[-]~~ within 90 days after the hearing or within 120 days upon proper public notice.
- L. Pursuant to Section 281-59, Hawai‘i Revised Statutes, as amended, an application shall be automatically refused if:
1. The majority of owners or lessees of record of real estate, or owners of record of shares in a cooperative apartment situated within a distance of ~~[five hundred]~~ 500 feet from the nearest point of the premises for which a license is asked have filed protests against the granting the license; or
 2. The majority of registered voters within a distance of ~~[five hundred]~~ 500 feet from the nearest point of the premises for which a license is asked have filed protests against the granting of the license.

For purposes of defining “a majority of owners and lessees of record of real estate and owners of record of shares in a cooperative apartment,” each property counts only once~~[-]~~, excluding roadways. A protest submitted by the majority of the co-owners or the majority of the co-lessees of a property shall constitute a protest by all the owners or lessees of record of that property. ~~[Owners or lessees who own more than one property may count each property.]~~

For purposes of this section, majority protests by registered voters shall be based on the current voter registration list as of the published date of the final public hearing.

M. Pursuant to Section 281-39.5, Hawai'i Revised Statutes, as amended, an application for a license which allows the sale, service and consumption of liquors on the premises within 500 feet of a public or private elementary, intermediate or high school or public playground utilized extensively by minors shall be automatically refused if:

1. [~~Forty~~] 40 percent of owners or lessees of record of real estate, or owners of record of shares in a cooperative apartment situated within a distance of [~~five hundred~~] 500 feet from the nearest point of the premises for which a license is asked have filed protests against the granting the license; or
2. [~~Forty~~] 40 percent of the registered voters within a distance of [~~five hundred~~] 500 feet from the nearest point of the premises for which a license is asked have filed protests against the granting of the license.

N. The protest list shall be available to the applicant and any protestor for review. All applicants and protestors may submit corrections, additions, and subtractions to the master list and the protest list at the public hearings[~~-~~], provided that additions or corrections to the voter registration list shall be certified by the clerk of the county. The Commission shall rule on proposed corrections, additions, and subtractions and give reasons for the ruling upon sufficient proof thereof.

RULE 1-8 VOTING. All matters shall be determined by an affirmative vote of the majority of the membership to which the Commission is entitled. If the Commission is unable to approve, deny or render a decision on any item and no other motions regarding the matter are passed, the matter shall be considered to be denied.

Unless a member is disqualified or excused from voting, their silence or refusal to vote shall be recorded as an affirmative vote for the motion on the floor.

RULE 1-9 PETITION FOR REHEARING.

- A. An applicant desiring a rehearing after an application for a license, permit or other request has been refused by the Commission, may file a petition for rehearing. Said petition shall be filed within 15 days from the date on which the notice of refusal is sent to said applicant and/or licensee.
- B. The petition shall allege facts and grounds for consideration which are newly discovered or mistake of facts, or any other matter of fact which may in the judgment of the Commission, be deemed sufficient to warrant a rehearing.
- C. The petition shall be in writing and submitted in [~~eight~~] 12 copies to the office of the Department.
- D. If the Commission decides in favor of the petitioner, it shall fix a day for a public hearing of the petition [~~and notice shall be given to the petitioner and other persons affected by said petition by publication or otherwise as the Commission shall direct.~~ Notice of the hearing shall be given to the petitioner. The Commission shall

determine to whom and the manner in which notice shall be provided and petitioner shall be responsible for the cost of mailing. The notice shall be mailed at least 30 days prior to the public hearing and the petitioner shall provide an accountable mailing form or like document verified by the United States Postal Service. The publication of notice and notice provided to interested parties shall state the name and address of the petitioner, a statement of the position or contention of the petitioner, and the date, time and place of the hearing. The petitioner shall deposit a fee equal to the cost of publication of notice and notice[to other persons affected by said petition].

- E. If the Commission decides to refuse a petition for rehearing, it shall issue an appropriate Findings of Fact, Conclusions of Law and Decision and Order. The Commission shall, within a reasonable time, send a certified copy thereof to the petitioner.
- F. A petition for rehearing by an applicant whose application has been refused pursuant to (1) protests filed by the majority of property owners within 500 feet of the nearest point of the premises or by the majority of registered voters within 500 feet of the nearest point of the premises, or (2) protests filed by [~~forty~~] 40 percent of owners or lessees of record of real estate, or owners of record of shares in a cooperative apartment or by [~~forty~~] 40 percent of the registered voters within a distance of [~~five hundred~~] 500 feet from a private elementary, intermediate or high school or public playground utilized extensively by minors, shall be restricted to facts or grounds which are directly related to the protests filed and/or its verification thereof as provided in Section 281-59, Hawai'i Revised Statutes, as amended.
- G. Any interested person aggrieved by the decision of the Commission may file a petition for rehearing and shall file said petition within 15 days from the date of the decision, provided that such interested person shall have been a participant of record in the public hearing process of the application. The petition for rehearing shall be filed in the form and substance as contained in this rule.

RULE 1-10 PUBLIC INFORMATION. The public may obtain information as to matters within the jurisdiction of this Commission by inquiring at:

- A. The office of the Lieutenant Governor of the State of Hawai'i where there are on file all rules of the Commission; or
- B. The office of the Clerk of the County of Hawai'i where there are on file all rules of the Commission; or
- C. The office of the Department, where all rules, order, forms, permits or opinions of the Commission are available for public inspection. Copies of documents are available to the public at a price to be fixed by the Department or the County to cover mailing and publication costs.
- D. Pursuant to Chapter 92F, Hawai'i Revised Statutes, as amended, any person may inspect public records. Such inquiries may be made in person at the Department

during regular business hours, or by submitting a request for information in writing to the Department. Requests for copies of records shall be distributed in a timely manner and upon payment of the fixed cost as provided by County ordinance.

RULE 1-11 ADOPTION, AMENDMENT OR REPEAL OF RULES.

A. PETITION. Any interested person may petition the Commission to request the adoption, amendment or repeal of any rule of the Commission and shall file the petition at the office of the Department. The petition shall be typewritten, submitted in [~~eight~~] 12 copies and shall include:

1. A statement of the nature of the petitioner's interest.
2. A draft of the substance of the proposed rule or amendment or a designation of the provision sought to be repealed.
3. An explicit statement of the reasons in support of the proposed rule, amendment or repeal.
4. The name, address and telephone number of each petitioner.
5. The signature of the petitioner.

The petition shall be filed 30 days prior to the Commission hearing date which is held the first Thursday of each month, except as otherwise scheduled, at the office of the Department. Any petition which does not conform to the foregoing requirements may be rejected. The Commission shall, within a reasonable time after the submission of the petition, either deny the petition in writing, stating its reason for such denial, or initiate proceedings in accordance with Chapter 91, Hawai'i Revised Statutes, as amended, for the adoption, amendment or repeal of the rule, as the case may be.

B. PROCEDURES. Prior to the adoption, amendment or repeal of the Rules and Regulations of the Liquor Commission, the Commission shall:

1. Give at least 30 days notice for a public hearing. Such notice shall include a statement of the substance of the proposed rule, the date, time and place of the hearing. The notice, together with the proposed rule for adoption, amendment or repeal, shall be distributed to all licensees and to all persons who have made a timely written request to the agency for advance notice of its rule-making proceedings. Any interested person may request a copy of the proposed rule to be adopted, amended or repealed. The proposed rules, in entirety or in summary form, shall be published at least once in a newspaper of general circulation in East and West Hawai'i.
2. Afford all interested persons the opportunity to submit data, views or arguments, orally or in writing. The Commission may make its decision at the public hearing or announce a date as to when it intends to make a decision. Upon the adoption, amendment or repeal of a rule, the Commission shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

The Commission may amend its rules as originally presented after a public hearing. However, if the amendments to the rules amount to substantial changes as presented at the public hearing, then a new public hearing may be required.

A rule which has been adopted, amended or repealed, upon the approval of the Mayor of the County, shall become effective [~~ten~~] 10 days after the filing with the County Clerk; provided that where there is an adoption or amendment to the liquor license fee structure, the approval of the County Council of the County of Hawai'i shall also be required.

RULE 1-12 DECLARATORY RULING BY COMMISSION.

- A. Any interested person may petition the Commission for a declaratory order as to the applicability of any statute, ordinance or of any rule or order of the Commission. The petitioner shall be assessed a fee equal to the cost of publishing the notice of public hearing in a newspaper of general circulation.
- B. The petition shall be typewritten and submitted in [~~eight~~] 12 copies and shall contain:
 - 1. The name, residence address, and telephone number of the petitioner.
 - 2. A statement of the nature of petitioner's interest, including reasons for the submission of the petition.
 - 3. A designation of the specific statute, ordinance, rule or order in question.
 - 4. A complete statement of facts.
 - 5. A statement of the position or contention of the petitioner.
 - 6. A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.
 - 7. The signature of the petitioner.
- C. Any petition which does not conform to the foregoing requirements may be rejected.
- D. The Commission may, for good cause, refuse to issue a declaratory ruling. Without limiting the generality of the foregoing, the Commission may so refuse where:
 - 1. The question is speculative or purely hypothetical and does not involve existing fact or facts which can reasonably be expected to exist in the near future.
 - 2. The petitioner's interest is not of the type which would give the petitioner standing to maintain an action if the petitioner were to seek judicial relief.
 - 3. The issuance of the declaratory ruling may adversely affect the interests of the State and/or County of Hawai'i, the Commission or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.
 - 4. The matter is not within the jurisdiction of the Commission.

- E. Where any question of law is involved, the Commission may refer the matter to the Corporation Counsel. The Commission may also obtain the assistance of other agencies, where necessary or desirable.
- F. The Commission shall consider each petition submitted and, within a reasonable time thereof, either deny the petition in writing, stating its reason for the denial, or issue a declaratory order on the matters contained in the petition.
- G. Orders disposing of petitions shall have the same status as other Commission orders. Orders shall be applicable only to the fact situation alleged in the petition or set forth in the order. They shall not be applicable to different fact situations or where additional facts not considered in the order exist.

RULE 1-13 APPEAL TO THE LIQUOR COMMISSION.

- A. Where a licensee is aggrieved by a decision of the Director the licensee may file an appeal. The appeal shall be in writing and submitted in [~~eight~~] 12 copies at least 30 days prior to the first Thursday of each month and shall contain:
 - 1. The name, residence and mailing address, and telephone number of the appellant;
 - 2. A statement of the nature of appeal;
 - 3. A designation of the specific statute, rule, order or decision in question;
 - 4. A complete statement of facts;
 - 5. A statement of the position or contention of the appeal;
 - 6. A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention; and,
 - 7. The signature of the appellant.
- B. Any appeal which does not conform to the foregoing requirements may be rejected by the Commission.
- C. The Commission may, for good cause, refuse to consider the appeal. Without limiting the generality of the foregoing, the Commission may so refuse where:
 - 1. The question is speculative or purely hypothetical and does not involve existing fact or facts which can reasonably be expected to exist in the near future.
 - 2. The issuance of a ruling may adversely affect the interests of the State and/or County of Hawai'i, the Commission or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.
 - 3. The matter is not within the jurisdiction of the Commission.
- D. The Commission shall consider each appeal submitted and, within a reasonable time thereof, set a date for hearing such appeal. Notice of the hearing shall be given to the appellant at least [~~two~~] 15 days before the date of the hearing. Notice of the Commission's decision shall be given to the licensee within [~~45~~] 90 days of such hearing.

RULE 1-14 FILING COMPLAINTS. Any aggrieved party may file a complaint with the Commission relative to any provision of the license or a permit, provided that such complaint shall be within the jurisdiction of the Commission in accordance with Chapter 281, Hawai'i Revised Statutes, as amended, and the rules. When a complaint may result in a violation of liquor law, the complaint may be referred to the Department for action.

The complaint shall be in writing and filed at the office of the Department and shall indicate the name of the licensed premises, the nature of the complaint together with any other facts for consideration by the Commission. The Commission shall conduct a hearing in accordance with Chapter 91 of the Hawai'i Revised Statutes, as amended, and disposition of such complaint shall be in accordance with the powers and jurisdiction granted to the Commission.

RULE 1-15 CAUSE FOR DISCIPLINE. Any act contrary to Chapter 281, Hawai'i Revised Statutes, as amended, the Rules and Regulations of the Liquor Commission, or a Decision and Order of the Liquor Commission or the Liquor Control Adjudication Board, whether committed on or off the licensed premises, which is directly related to the business of the licensed premises, shall be cause for hearing before the Commission or Adjudication Board. Upon a proper hearing thereof, a licensee shall be subject to disciplinary action in accordance to law.

RULE 1-16 HEARINGS, AMENDING CONDITIONS.

- A. Where the Commission has placed conditions on a license or permit, the [~~applicant~~] licensee or interested party of record may file an application to the Commission to amend such conditions. No application shall be accepted until [~~180 days~~] one year after the effective date of the Commission's original decision.
- B. The application shall be in writing and submitted in [~~eight~~] 12 copies and shall contain:
 1. The name, address and telephone/facsimile number of the licensee.
 2. A statement of the current condition imposed by the Commission.
 3. A statement of the proposed request, together with any facts or evidence in support of such request.
 4. A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.
 5. The signature of the applicant.
- C. The Commission may reject the application when there is no new evidence to support the request or when the application does not conform to the foregoing requirements.
- D. Upon acceptance of the application to amend a license or condition, the Commission shall fix a day for a public hearing and may set forth the conditions of notice and publication.

- E. When such applications may negatively affect the neighborhood or if the neighborhood has previously filed protests or concerns, the Commission shall determine to whom and the manner in which notice and publication shall be provided by the applicant. The notice shall set forth the date, time and place of the hearing, a statement of the current restrictions or conditions placed on the license, the proposed amendment to the restriction, and the manner in which protests may be filed pursuant to Rule 1-7.

~~[Such]~~ When an applicant is required to provide notice to the neighborhood, the notice shall be mailed at least 45 days prior to the public hearing. If the Commission requires publication, notices shall be published at least once in a newspaper of general circulation in the area where the license is located which is published in the English language. The applicant shall file an affidavit of mailing and an Accountable Mailing form or like document as verified by the U.S. Postal Service at least 10 days prior to the hearing indicating that notices have been mailed in compliance with this rule.

The applicant shall deposit a fee equal to the cost of publication.

Pursuant to Section 281-59, Hawai'i Revised Statutes, as amended, the provisions for majority protests by property owners or registered voters within 500 feet of the premises which requires an automatic refusal of the application shall not be applicable to this kind of application.

- F. If the application is denied, no further application shall be considered for one year from the date of denial.

RULE 1-17 AUTHORIZED REPRESENTATIVES. The Director may require the applicant or licensee to provide written authorization for any other individual to represent the applicant or licensee before the Commission or Board. When a representative of the applicant/licensee appears in a proceeding before the Commission or Board, that personal appearance shall constitute a representation that such individual is lawfully authorized and qualified to act on behalf of the applicant/licensee. It is the responsibility of the applicant to ensure that the authorized representative is fully aware of the proposed operations and is able to respond to inquiries from the Commission and the public. The inability of the representative to provide satisfactory responses shall be cause for the Commission to continue the hearing.

RULE 1-18 FURTHER APPLICATIONS.

- A. ~~[Pursuant to Section 281-60, Hawai'i Revised Statutes, as amended, if]~~ If an applicant for an original application, including a transfer application for a Class 5 or Class 11 license, has, at any time been denied or refused a license, the Commission shall not consider another application submitted by the applicant for the same premises, building location or site location, for one year from the date of denial or refusal~~[-]~~ and the next application shall comply with the provisions of Section 281-60, Hawai'i Revised Statutes, as amended.

For purposes of this rule, "applicant" shall mean all persons identified in the original application, including stockholders of a corporation, partners of a general partnership, limited liability partnership or limited partnership, or members and managers of a limited liability company. "Building location" shall mean the structure or site of any proposed licensed premises for which the original application was denied or refused.

- B. If an application pertaining to a particular premises or building location is denied, refused or withdrawn, the next application from any applicant for that premises or building location shall include a report prepared by the applicant evidencing a substantial change in the circumstances that caused the previous denial, refusal, or withdrawal.
- C. In complying to provisions of this section, an applicant for a liquor license shall obtain from the Department copies of minutes and protests or concerns known to the Department, from which confidential information has been removed, related to the application which was denied or refused, and shall submit a report evidencing a substantial change in the circumstances which caused the original denial, refusal or withdrawal. ~~[Said]~~The report and relevant documents shall be submitted in ~~[eight]~~ 12 copies to the Department at least 10 days prior to the preliminary hearing.

PART II. COMMISSION, BOARD, DIRECTOR

RULE 2-1 LIQUOR COMMISSION. There shall be a Liquor Commission consisting of ~~[nine]~~ 9 members who shall be appointed by the Mayor and confirmed by the Council in the manner prescribed in Section 13-4, of the County Charter, County of Hawai'i. One member shall be a resident of each council district.

- A. The Liquor Commission shall:
 - 1. Adopt rules and regulations having the force and effect of law for the administration of liquor control in the county, incorporate and carry out provisions of the liquor control laws of the State.
 - 2. Grant, renew or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.
 - 3. Have such other powers and duties as may be provided by law, not in conflict with the provisions of Section 7-3.2 of the Charter.
 - 4. Designate a chairperson and vice chairperson by the affirmative vote of a majority of all members of the Commission, whose term shall be from January to December. In the absence of the chairperson and vice chairperson, the most senior member will preside.
 - 5. Transact business only when a majority of the members are present at the meeting, and who constitute a quorum.
- B. Any Decision and Order of the Commission shall have the force and effect of law. Violations of such Decision and Order shall be subject to disciplinary action.

C. In addition to powers provided by law, the Commission shall have the power to:

1. Conduct hearings, regulate the course and conduct of the hearing and issue notices;
2. Administer oaths and affirmations as administered by the presiding chairperson;
3. [~~To consolidate~~] Consolidate or sever proceedings; provided that those actions shall be conducive to the ends of justice and shall not unduly delay the proceedings or hinder, harass or prejudice any party;
4. [~~To subpoena~~] Subpoena or compel the attendance of witnesses and to examine witnesses;
5. [~~To receive~~] Receive evidence, and to exclude evidence which is irrelevant, immaterial, unduly repetitious or cumulative, and accordingly, may restrict lines of questioning or testimony, except that the Commission or Board and each member thereof shall not be bound by the strict rules of evidence;
6. [~~To remove~~] Remove disruptive individuals; and
7. [~~To rule~~] Rule on motions and dispose of procedural matters.

D. The Commission shall also have the power to:

1. Enact emergency rules in the event of national, State or local emergency, for the health, safety or welfare of the public or the protection of life and property for the duration of the emergency;
2. Prescribe by rule, the conditions of employment of all classes of licenses; and
3. [~~To set~~] Set conditions on licenses and permits, including hours of operation, and to prescribe by rule, the procedure to amend such conditions.

RULE 2-2 LIQUOR CONTROL ADJUDICATION BOARD. There shall be a Liquor Control Adjudication Board consisting of [~~five~~] 5 members who shall be appointed by the Mayor and confirmed by the Council in the manner prescribed in Section 13-4, of the County Charter, County of Hawai'i. The Liquor Control Adjudication Board shall hear and determine all complaints regarding violations of the liquor control laws of the State, or complaints regarding violations of rules and regulations established by the Liquor Commission and impose such fines or punishment as may be provided by law upon the conviction thereof.

In accordance with Chapter 281, Hawai'i Revised Statutes, as amended, and the Charter of the County of Hawai'i, the Liquor Control Adjudication Board is granted the authority to hear all matters involving a violation of the liquor laws and to take appropriate action against a licensee in accordance with Section 281-91, Hawai'i Revised Statutes, as amended, and the Charter of the County of Hawai'i. The Board shall be authorized to adopt its Rules of Practice and Procedures in accordance with the Charter of the County of Hawai'i. Any Rule or Decision and Order of the Board shall have the force and effect of law. Violations of such Rule or Decision and Order shall be subject to disciplinary action.

RULE 2-3 DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL. The Director of the Department of Liquor Control shall be appointed by the Commission and may be

removed by the Commission[-] in accordance with the provisions of Section 7-3.4(a) of the Hawai'i County Charter. The Director of the Department of Liquor Control shall:

- A. Be the administrative head of the department.
- B. Provide clerical and administrative services for and on behalf of the Commission and the Board, including the submission of a budget for the operation of the Department.
- C. Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the Commission and report such violations to the prosecuting officer of the County, provided that the Director shall be authorized to subpoena any witnesses or records for the purpose of an investigation where there is a cause to believe that a violation of liquor laws has occurred.
- D. Be authorized to enact emergency rules in the event of national, state or local emergency, for the health, safety or welfare of the public or the protection of life and property. Such emergency rule may be adopted without notice of hearing or publication and shall be subject to the approval of the Mayor and shall be in effect for the duration of the emergency.
- E. Be authorized to designate a portion of fine monies collected for use in programs to promote compliance to liquor laws. Such programs may include, but is not limited to enforcement, public service announcements promoting responsible drinking and driving, youth programs and education.

PART III. LICENSES, PERMITS, FEES, HOURS

RULE 3-1 LICENSES, CLASSES.

- A. **GENERAL.** It shall be unlawful for any person not having a valid license to manufacture, import or sell any liquor. Licenses may be granted by the Liquor Commission as provided in Chapter 281, Hawai'i Revised Statutes, as amended, and the Rules of the Commission. Licenses granted in this County shall permit the licensee to conduct business only in this County, except as otherwise provided by law.
- B. **CLASS 1. MANUFACTURER LICENSE.** A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell ~~the same at wholesale~~ it in original packages to any ~~person~~ wholesaler who holds a license to resell the same, and to sell draught beer~~[-er]~~, wine or other specified liquor manufactured or distilled on the licensee's premises ~~manufactured~~ from ~~grapes or other~~ fruits or other products grown in the State, in any quantity to any person for private use and consumption which retail sale shall be conducted only on the manufacturer's licensed premises.

Under this license no liquor shall be consumed on the premises except as authorized by the Commission or Director. Requests for consumption of liquor may be submitted for special events such as a grand opening or anniversaries, which shall be purely gratuitous to patrons, and requests for live music and entertainment at these special events may be submitted for approval.

Requests for product tasting of the manufactured liquor on the manufacturer's premises may be approved by the Commission during the public hearing on the application for a liquor license. The approval shall be valid for the term of the license held by the licensee and shall not be transferable. Product tastings shall be restricted to the licensed premises in an area set aside for such tastings. Tastings shall be restricted to adult patrons provided that the licensee shall ensure that consumption shall not be cause for intoxication.

An Application for Product Tasting shall be submitted for product tastings to be conducted outside of the manufacturer's licensed premises. Tastings on retail licensed premises are prohibited except when such functions are part of a trade show, special license or for private functions. The application and the conduct of such tastings shall be in accordance to Rule 3-2-D-11.

Of this class there shall be the following kinds:

1. Beer;
2. Wine;
3. Alcohol;
4. Other specified liquor.

All manufacturers shall keep separate and distinct records of account wherein shall be entered the name of the licensee, license number, place of business, the day, month and year in which the sale [as] is made and the quantity and price of liquor sold to each licensee. It shall be unlawful for any holder of a manufacturer's license to acquire or hold any interest whatsoever in the license or licensed premises of any [~~retail or brewpub~~]other license. 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.

A manufacturer of beer or wine or other specified liquors who conducts retail sales to persons for private use and consumption shall be required to have an authorized person in active charge of the premises on duty pursuant to Rule 5-2.

C. CLASS 2. RESTAURANT LICENSE.

1. A license under this class shall authorize the licensee to sell liquors herein specified for consumption on the premises, except that a restaurant licensee may provide off premises catering which shall permit the licensee to provide liquor for sale and consumption at the catered premises while performing food catering functions. The catering activity shall be directly related to the licensee's

operation as a restaurant[-] provided that the Director shall be authorized to establish the perimeter and consumption area for the catered premises for the sale, service and consumption of liquor. The licensee shall obtain a certificate of approval from the Director for each catering function in accordance with the pertinent provisions of Rule 3-1-N-2.

A licensee who fails to meet the requirement where [thirty] 30 percent of the establishment's gross revenues of food and liquor is derived from food sales shall be prohibited from catering liquor off premises until such time that said requirement has been re-established.

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

- A. A standard bar: premises in which recorded music is permitted; or
- B. A premises in which live entertainment or recorded music is provided and/or facilities for dancing by the patrons may be permitted as provided in the subcategories listed herein:
 - 1. A premises in which recorded music and live entertainment are provided;
 - 2. A premises in which recorded music, live entertainment and dancing are provided.

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.

For each category of Class 2 licenses there shall be the following kinds:

- 1. General (includes all liquors except alcohol);
 - 2. Beer and wine;
 - 3. Beer.
2. ~~[Any licensee holding a different class of license on the effective date of this amendment and who would otherwise come within this class of license shall not be required to apply for a new license provided that the licensee shall submit an application for change to restaurant license for Commission approval.]~~
Notwithstanding Section 281-57, Hawai'i Revised Statutes, as amended, the Commission may approve at one public hearing and without notice the change to a Class 2 Restaurant License by a Class 5 Dispenser License who meets the requirements of a Class 2 license.

Whenever a licensee is authorized to provide dancing by patrons, each area where dancing will be provided shall contain no less than 100 square feet and shall not obstruct the normal flow of traffic.

D. CLASS 3. WHOLESALE DEALER LICENSE. [~~A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods; provided that samples of liquor may be sold back to the manufacturer. The license may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption if the licensee files an affidavit with the Commission that there is not a Class 4 Retail Dealers licensee available to sell the wholesaler's brand of draught beer.~~] A license for the sale of liquors 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.

Under [~~the license~~] a Class 3 license no liquor shall be consumed on the premises except as authorized by the Commission or Director. Requests for consumption of liquor may be submitted for product tastings or special events such as a grand opening or anniversaries which shall be purely gratuitous to patrons, and that requests for live music and entertainment at these special events may be submitted for approval.

Of this class there shall be the following kinds:

1. General (includes all liquors except alcohol);
2. Beer and wine;
3. Alcohol.

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 has the dealer's license. Nothing [~~herein~~] in this subsection shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, [~~army or navy officers'~~] clubs, or like organizations located on [~~army or navy~~] military reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise [~~as a common carrier, under~~] subject to Chapter 269, Hawai'i Revised Statutes, as amended, and engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

All wholesale dealers and solicitors shall keep separate and distinct records of account wherein shall be entered the name of the licensee, license number, place of business, the day, month and year in which the sale was made and the quantity and price of liquor sold to each licensee.

It shall be unlawful for any holder of a wholesale dealer license to acquire or hold any interest whatsoever in the license or licensed premises of a retail or brewpub licensee.

E. CLASS 4. RETAIL DEALER LICENSE.

1. **GENERAL.** A license to sell liquors at retail or to Class 10 [~~licenses,~~]licensees, shall authorize the licensee to sell the liquors therein specified in their original packages. Sales shall be conducted only on the licensed premises except as otherwise provided herein. Licensees may advertise products and prices via computer or electronic means.

Under [~~the license]~~a Class 4, no liquor shall be consumed on the premises except as authorized by the Commission or Director for product tastings or for special events such as a grand opening or anniversaries, which shall be purely gratuitous to patrons, and that requests for live music and entertainment at these special events may also be submitted for approval.

As authorized by the Commission or Director, a retailer may charge for product tasting to help offset costs.

Of this class there shall be the following kinds:

1. General (includes all liquors except alcohol);
2. Beer and wine;
3. Alcohol.

Alcohol may be sold for non-beverage purposes by a retail alcohol licensee. The sale of alcohol shall be made only to a person holding an alcohol purchase permit approved by the Commission. The licensee shall maintain permanent records of the sale, including the name of the permittee, the date and quantity of alcohol sold.

The retail dealer may have radios, television and any other system providing recorded music on the premises without a permit issued by the Department, provided that the license shall be subject to compliance to Rule 6-4, relating to noise, as provided herein.

2. **DELIVERY.** A licensee who desires to provide delivery service of liquor shall be required to submit a written request to the Commission for consideration. Any approvals by the Commission shall be valid for the term of the license held by the licensee and shall not be transferable. The Commission reserves the right to deny, approve and condition any approval of delivery service, and to withdraw such approval upon proper notice and hearing when the licensee fails to comply with the provisions of this rule. Delivery service shall be subject to the following conditions:
 - A. A customer or authorized agent, [~~twenty-one]~~ 21 years or older, shall place liquor orders directly to the licensed premises and deliveries shall be restricted to patrons within this County upon a bona fide order thereof, provided that payment shall be made at the licensee's place of business. The buyer shall file a written statement of authorization with the names of persons 21 years or

older who are authorized to order or receive liquors. The exchange of monies at other than the licensed premises is prohibited.

- B. The licensee shall be required to ensure that the buyer and authorized agent is of legal age, and shall maintain a customer file with a copy of the identification card which shall clearly identify the patron's name, birth date, signature, and address. Deliveries shall be within the legal hours of sale.
 - C. The order and delivery form shall be legible and contain the customer's name and address of delivery. Upon delivery, the licensee shall cause the buyer or authorized agent to sign the delivery form. Such records shall be kept for [~~two (2)~~] 2 years.
 - D. Delivery shall be made only to the person ordering or the authorized agent, provided that no licensee shall deliver liquors when it is apparent that the liquors may be consumed by minors.
3. **GIFT BASKETS.** The licensee shall be permitted to sell gift baskets containing liquor and non-liquor products provided that the cost of the gift basket must reflect the cost of each item contained therein. Such sales shall be considered sales of intoxicating liquors unless the product contains separate liquor and non-liquor codes.

F. CLASS 5. DISPENSER LICENSE.

1. **GENERAL.** A license under this class shall authorize the licensee to sell liquors herein specified for consumption on the premises. No liquor may be allowed to be carried off the licensed premises except as otherwise provided in Rule 3-1-W. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:
- A. A standard bar; a premises in which recorded music is [~~provided;~~] permitted;
 - ~~B. A premises in which a person performs or entertains in attire restricted to use by entertainers pursuant to Commission rules;~~
 - [~~C~~] B. A premises in which live entertainment or recorded music is [~~provided~~] permitted and facilities for dancing by the patrons may be permitted as provided by Commission rules in the subcategories as listed herein:
 - 1. A premises in which recorded music and live entertainment is [~~provided~~] permitted;
 - 2. A premises in which recorded music, live entertainment and dancing is [~~provided; or~~] permitted;

C. A premises in which a person performs or entertains in attire restricted to use by entertainers pursuant to Commission rules; or

D. A 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 such patrons pursuant to Commission rules. If a licensee under Class 5 desires to change the category or subcategory of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of Class 5 licenses there shall be the following kinds:

1. General (includes all liquors except alcohol);
2. Beer and wine;
3. Beer.

Whenever a licensee is authorized to provide dancing by patrons, each area where dancing will be provided shall contain no less than 100 square feet and shall not obstruct the normal flow of traffic.

2. **RELATING TO CATEGORY [B,]C.** An applicant for or a licensee holding a Class 5 Dispenser liquor license shall obtain a Category [2]C designation when the applicant or licensee proposes to offer entertainment in attire restricted by Commission rules or proposes entertainment which is sexually suggestive. "Attire restricted by Commission rules" shall mean beach attire, such as bikinis or speedos, which covers the female breast, and buttocks and genitals of the performers.

A licensee holding a Class 5, Category [2,]C, license shall not permit a person to perform or entertain in a licensed premises while such person is unclothed or is in attire which exposes any portion of the pubic hair, anus, cleft of the buttocks, genitals, or the areola of the female breast. No attire shall be removed during the performance. Said entertainers shall not be permitted to remain on the licensed premises before, between and after such performances while in such attire.

Performers shall be 18 years of age or older. The licensee shall obtain a Minor Entertainment Permit for performers 18-20 years of age, in accordance to Rule 3-2-D-8-a. Performers are prohibited from commingling with patrons during the performance and no tipping of money or other gifts on the performer's person or attire is permitted. The licensee shall provide barriers sufficient to obstruct the view of anyone outside the premises whenever any entertainer is performing therein. A licensee of this category shall post a copy of this rule and shall ensure that all performers are familiar with this rule.

3. **RELATING TO CATEGORY D.** A licensee holding a Class 5, Category [4,] D, license permits designated employees, hereinafter referred to as "hostesses," to sit, dance or entertain with patrons. Hostesses shall be required to register at the

office of the Department prior to such employment. To register, a Category [4] D licensee shall submit a letter of employment indicating the name, address, birth date and date of employment of the hostess. The hostess shall be required to produce a valid identification card with picture. A registered hostess shall be issued a photo identification card which shall be valid for a period of two years from the date of issue and the fee for such identification card shall be assessed in accordance to the cost of materials. A hostess shall be required to register at the office of the Department for each Category [4] D premises it is employed at.

The licensee shall maintain daily time sheets of all hostesses on duty and shall include records of compensation. Hostesses are permitted to solicit only nonalcoholic beverages as a gift from or at the expense of the patron. A Category [4] D licensee shall:

- a. Post prices of alcoholic and nonalcoholic beverages which shall be visible to all patrons, and
- b. Cause all liquor and nonliquor sales to be recorded and readily identified by a code.

G. CLASS 6. CLUB LICENSE.

1. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors 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.

For purposes of a Class 6 Club license, membership is as defined in the bylaws of the organization or by reciprocal agreement and includes members of the same club under a state, national or international charter.

A club member shall also be authorized to keep in the member's private locker on the premises a reasonable quantity of liquor, if owned by the member, for the member's own personal use and not to be sold, and which may be consumed only by the member on the premises[-], provided that if private lockers are not available this privilege shall be prohibited.

The club may host teen events pursuant to Rule 3-2-D-12, whether or not the teens are members.

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

- A. A standard bar; a premises in which recorded music is permitted; or
- B. A premise in which recorded music or live entertainment is [~~provided~~ permitted] and/or facilities for dancing by the patrons may be permitted as provided in the subcategories listed herein:

1. A premise in which recorded music and live entertainment are ~~[provided;]~~ permitted;
 2. A premise in which recorded music, live entertainment and dancing are ~~[provided;]~~ permitted.
2. Each licensed club shall keep a complete list of the members which shall be convenient for inspection on the licensed premises. A guest of a member or a bona fide guest enjoying the privileges of membership shall register to gain entry into the premises. Such registration shall include the name of the guest, date, and name of host and shall be produced whenever required by the Commission and/or by its investigator. ~~[Under no circumstances shall said guest be permitted to purchase any liquor on the premises.]~~ A club licensee shall be authorized to host charitable functions that are open to the general public only pursuant to Commission authorization. Club records shall be kept for at least ~~[three]~~ 3 years.

H. CLASS 7. ~~[VESSEL LICENSES.]~~ ~~A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the City and County of Honolulu. If on any vessel for which no license has been obtained under Chapter 281, Hawai'i Revised Statutes, any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of Chapter 281, Hawai'i Revised Statutes.]~~
RESERVED.

I. CLASS 8. TRANSIENT VESSEL LICENSE. A general license may be granted to the owner of any vessel ~~[which does not fall within Class 7]~~ for the sale of liquor (other than alcohol) on board the vessel while en route within the jurisdictional limits of the State and in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel~~[-]~~ during hours established by the operator/licensee. The application for the license may be made by any agent representing the owner.

J. 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; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of this County, or while the vessel is in port for a period not to exceed ~~[sixty]~~ 60 minutes prior to and after the sail, within the legal hours of sale for this class of license. ~~[If the vessel has a home port in the State the]~~ The license shall be issuable in the county [wherein] where the home port of the vessel is situated, otherwise in the City and County of Honolulu. If on any vessel for which no license has been obtained under Chapter 281, Hawai'i Revised Statutes, as amended, any liquor is sold or served within

[three] 3 miles of the shore of any island of the State, the same shall constitute a violation of said chapter.

2. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishment shall be as follows:
 - A. A standard bar: premises in which recorded music is permitted; or
 - B. A premises in which recorded music or live entertainment is ~~provided~~ permitted and/or facilities for dancing by the patrons may be permitted as provided in the subcategories listed herein:
 1. A premises in which recorded music and live entertainment are ~~provided;~~ permitted;
 2. A premises in which recorded music, live entertainment and dancing are ~~provided;~~ permitted.

- K. CLASS 10. SPECIAL.** A special license may be granted for the sale of liquor for consumption on the premises for a period not to exceed one day or for a period not to exceed ~~three~~ 3 days and the event shall be open ~~for public use;~~ to the public. The issuance of special licenses shall be restricted to not-for-profit organizations, to political parties and/or political candidates~~seeking public office~~. Of this class there shall be the following kinds:
1. General; (includes all liquor except alcohol);
 2. Beer and wine;
 3. Beer.

An organization shall be required to obtain a special license whenever ~~the conditions of sale fall within the definition of "sell" pursuant to Rule 1. For purposes of this section,~~ any ticket sale, entry fee, request for donation or any other type of payment necessary for entry or participation in the function ~~shall constitute a requirement to obtain a special license.~~ is required to consume liquor.

Any registered educational or charitable nonprofit organization may sell ~~wines~~ liquor in their original package for off-premises consumption provided that such sales shall be by auction only and shall not exceed ~~three~~ 5 cases of wine or 3 cases of distilled spirits, or 12 cases of beer per event, ~~with each case containing not more than nine liters.~~

Applications shall be on a form prescribed by the Commission and shall include: (1) a rental agreement or like document granting possession and control of the premises to the applicant; (2) tax clearance certificates; (3) a written statement signed by the owner or representative of the property consenting to the sale and consumption of liquor and acknowledging that such function will be subject to the liquor laws and to inspection by investigators; and (4) a sketch of the premises designating the area for the sale and consumption of liquors and ingress and egress for the premises. The Commission at its discretion may require that security personnel be provided.

Applicants for special licenses not to exceed one day will not be assessed fees for their first [~~four~~] 4 applications in a license year, provided that fees in accordance with Rule 3-3 shall be assessed for any application thereafter.

Applicants for special licenses not to exceed [~~three~~] 3 days shall be subject to fees in accordance with Rule 3-3. A special licensee shall be required to have a person in active charge of the premises who shall be responsible to ensure that the license is being exercised in accordance with liquor laws provided that such person shall not be subject to an examination pursuant to Rule 5-2.

The Director may approve and issue special licenses subject to subsequent ratification by the Commission.

A premises licensed for consumption of liquor thereon may permit the use of a designated area of its premises to a qualified applicant for a special license with prior approval of the Director or the Commission. The licensee shall submit a written statement granting permission to the applicant for a special license and shall designate the area, date and time of the event. The special licensee and the licensee of the licensed premises may both be held accountable for any violations of the liquor laws.

A final report of gross liquor sales shall be submitted within 30 days of the expiration of the special license on a form prescribed by the Liquor Commission. Failure to file a report may result in refusal of subsequent applications for liquor licenses.

- L. CLASS 11. CABARET LICENSE.** A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, and live or amplified recorded music or professional entertainment, is [~~prohibited.~~] provided. Professional entertainment by a person who performs or entertains unclothed is prohibited. Attire for professional entertainment shall be restricted to beach attire, such as bikinis or speedos, which shall cover the female breast, the buttocks and genitals of the performer. Entertainment which is sexually suggestive, striptease entertainment, or the like, [~~are~~] is prohibited.

Performers shall be 18 years or older. Performers between the ages of 18 and 20 years of age shall obtain a minor entertainment permit pursuant to Rule 3-2-D-8. Performers are prohibited from commingling with patrons during the performance and tips of money or other gifts on the performer's person or attire shall be prohibited.

Meals prepared in suitable kitchen facilities connected therewith, containing the necessary equipment and supplies for cooking an assortment of foods, shall be available to patrons while the premises is open for business. The premises shall have a minimum of 100 square feet suitable for dancing. Each area where dancing by patrons will be provided shall contain no less than 100 square feet which shall not obstruct the normal flow of traffic.

M. CLASS 12. HOTEL LICENSE. A hotel license shall be general only, excluding alcohol, and shall authorize the sale of liquor for consumption on the premises. The licensee shall be authorized to provide entertainment and dancing on the hotel premises, provided that in such area where dancing will be provided the floor area set aside for dancing shall contain no less than 100 square feet and shall not obstruct the flow of traffic. A hotel licensee may provide off-premises catering of food and liquor which shall permit the licensee to provide liquor for sale and consumption off the premises while performing food catering functions. The catering activity shall be directly related to the licensee's operation as a hotel. The licensee shall obtain a certificate of approval from the Director for each catering function in accordance with the pertinent provisions of Rule 3-1-N-2.

A holder of a hotel license shall provide and maintain no less than 40 rooms for sleeping accommodations which shall be offered for compensation to transient or permanent guests ~~and a dining room and suitable kitchen where meals are regularly prepared and served to the public.~~

Procedures such as room service, self-service (no-host), minibars or the like in guest rooms, and service at private parties in areas which are on the property of and contiguous to the hotel are permitted.

Licensees shall be restricted from selling liquors 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.

N. CLASS 13. CATERER LICENSE.

1. APPLICATION. A general license may be granted to any [~~Class 5 Dispenser General, or Class 11 Cabaret, Class 14 Brewpub licensee~~] applicant who serves food as part of their operation for the sale and consumption of liquor, excluding alcohol, while performing food catering functions on the catered premises. The licensee must possess a bone fide and certified kitchen offering a full service menu. Additionally, at least [~~thirty~~] 30 percent of the establishment's gross revenue must derive from the sale of foods.

An application for a caterer's license shall be submitted for [~~consideration~~] approval by the Commission. The application shall be considered at one hearing and shall not be subject to the requirements of [~~Section 281-~~ Sections 281-57 to 60, Hawai'i Revised Statutes[-], as amended. Fees for the caterer's license shall be in accordance with Rule 3-3.

2. CATERING REQUIREMENTS.

- A. All licensees who are authorized to provide catering of food and liquor shall comply with this section and shall report sales of liquors, including sales of catering functions, on the gross sales report pursuant to Rule 3-6.
- B. An application for a catering permit [~~for the service and/or sale of liquor off the licensee's premises~~] shall be permitted only when the catering contract indicates that the licensee is providing food, including a selection of entrees and establishes that [thirty] 30 percent or more of the food to be served is provided by the licensee, as determined by the total cost of the food contract[-] for the event.

The licensee shall submit an Application for a Catering Permit for approval by the Director at least [~~seven~~] 7 days prior to the event. The licensee shall state the date, time, and location of the proposed event, include a copy of the executed catering contract and a written statement signed by the owner or representative of the property that such function will be subject to the liquor laws and to inspection by investigators, and designate a person in active charge of the premises who shall be on duty at each function pursuant to Rule 5-2. Catered functions for which the owner of the property is being compensated for the use of the property and to which patrons are being assessed a fee or payment of monies for food or liquor, shall be limited to properly zoned districts. The approved catering permit shall be conspicuously posted at the liquor service area. The licensee shall immediately notify the Department of any cancellation of a catered event.

- C. A licensee authorized to dispense liquor for consumption thereon shall not permit the catering of liquor on said premises by any other licensee authorized to provide catering, except as approved by the Director during emergencies.
- D. The premises of a catered event shall be considered a licensed premises and is subject to inspection and compliance to all liquor laws and to adjudications. Complaints of operations contrary to the liquor laws, or which adversely affect the neighborhood, including noise complaints, may be cause for the Commission or Director to impose conditions or restrictions on any proposed catering event at the same premises or may be cause to deny the application for catering permit.
- E. 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 is prohibited, and applications for use of said premises may be denied by the Director.

F. Where a licensee is contracted to provide entertainment, the entertainment shall be restricted to recorded and live music [~~in accordance to the category of license issued to the licensee~~].

O. CLASS 14. BREWPUB LICENSE. A Brewpub licensee:

- ~~[1. Shall manufacture not more than ten thousand barrels of malt beverages on the licensee's premises during the license year;]~~
- ~~[2.]~~1. May sell malt beverages manufactured on the licensee's premises for consumption on the premises;
- ~~[3.]~~2. May sell malt beverages manufactured by the licensee in brewery-sealed packages to Class 3 Wholesale Dealer licensees [~~;~~ and] pursuant to conditions imposed by the County by ordinance or rules; and
- ~~[4.]~~3. May sell intoxicating liquor purchased from valid holders of [~~Class 1 Manufacturer or~~] Class 3 Wholesale Dealer licenses in the State to consumers for consumption on the licensee's premises provided that the premises is owned and operated by the licensee.
- 4. 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-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;
- 5. 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;
- 6. Shall comply with all regulations pertaining to Class 4 Retail Dealer licensees when engaging in the retail sale of malt beverages;
- 7. 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 16 Winery, 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

8. May conduct the activities under paragraphs (1) to (7) at a location other than the licensee's premises; provided that:

- A. The manufacturing takes place in Hawai'i; and
- B. The other location is properly licensed under the same ownership.

[5-]9. The categories of establishments shall be as follows:

- A. A standard bar: a premises in which recorded music is [~~provided;~~ permitted; or
- B. A premises in which live entertainment or recorded music is [~~provided~~ permitted and facilities for dancing by the patrons may be permitted, as provided in the subcategories listed herein:
 - 1. A premises in which recorded music and live entertainment are provided; or
 - 2. A premises in which recorded music, live entertainment and dancing are provided.

Whenever a licensee is authorized to provide dancing, each area where dancing is provided shall contain no less than 100 square feet and shall not obstruct the normal flow of traffic.

[6-]10. Shall be subject to assessment of a percentage fee on retail sales of liquor, pursuant to Rule 3-3.

P. CLASS 15. CONDOMINIUM HOTEL LICENSE. 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; provided further that the catering activity is directly related to the licensee's operation as a condominium hotel.

Procedures such as room service, self-service no-host minibars or similar service in apartments, and service at private parties in areas that are the property of and contiguous to the condominium hotel are permitted with Commission approval.

A condominium hotel licensee shall not sell liquor in the manner authorized by a Class 4 Retail Dealer license.

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.

Q. CLASS 16. WINERY LICENSE. A winery licensee:

- 1. Shall manufacture not more than 12,000 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 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, Class 16 Winery, and Class 18 Small Craft Producer Pub licensees pursuant to conditions imposed by County Planning and Public Works Departments and rules governing Class 3 Wholesale Dealer licensees.
8. May sell intoxicating liquor purchased from valid holders of Class 1 Manufacturers or Class 3 Wholesale Dealers licenses in the State to consumers for consumption on the licensee's premises provided that the premises is owned and operated by the licensee.
9. The categories of establishments shall be as follows:
 - A. A standard bar: a premises in which recorded music is permitted; or
 - B. A premises in which live entertainment or recorded music is permitted and facilities for dancing by the patrons may be permitted, as provided in the subcategories listed herein:
 1. A premises in which recorded music and live entertainment are permitted; or
 2. A premises in which recorded music, live entertainment and dancing are permitted.

Whenever a licensee is authorized to provide dancing, each area where dancing is permitted shall contain no less than 100 square feet and shall not obstruct the normal flow of traffic.

10. Shall be subject to assessment of a percentage fee on retail sales of liquor, pursuant to Rule 3-3.

R. 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 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) to (8) at one location other than the licensee's premises; provided that:
 - (A) The manufacturing takes place in Hawai'i; and
 - (B) The other location is properly licensed under the same ownership.

10. The categories of establishments shall be as follows:

- A. A standard bar: a premises in which recorded music is permitted; or
- B. A premises in which live entertainment or recorded music is permitted and facilities for dancing by the patrons may be permitted, as provided in the subcategories listed herein:
 - 1. A premises in which recorded music and live entertainment are permitted;
or
 - 2. A premises in which recorded music, live entertainment and dancing are permitted.

Whenever a licensee is authorized to provide dancing, each area where dancing is permitted shall contain no less than 100 square feet and shall not obstruct the normal flow of traffic.

11. Shall be subject to assessment of a percentage fee on retail sales of liquor, pursuant to Rule 3-3.

[P.] S. RETAILER PURCHASES. It shall be unlawful for any retail licensee, except a Class 10 licensee, to purchase, acquire or sell liquor from any person other than a wholesale dealer or manufacturer licensed pursuant to this chapter, and shall not

permit any person to bring their own liquors onto the premises or remove liquors from the premises, except as authorized in accordance to these rules.

~~[Q.]~~ **T. VESSEL LICENSING.** Sections 281-57 to 281-61, Hawai'i Revised Statutes, as amended, shall not apply to Classes ~~[7]~~8 through 10 and 13.

~~[R.]~~ **U. NO CONSUMPTION IN UNLICENSED AREAS.** ~~[The consumption of liquor is prohibited]~~ An on-premises licensee shall prohibit consumption of liquors on premises connected therewith and in non-designated liquor consumption areas of the premises of the on-premises licensee except as otherwise requested and approved by the Director.

~~[S.]~~ **V. ENTERTAINMENT.** Karaoke and entertainment provided by a disc jockey shall be defined as live entertainment. Licensees who provided karaoke prior to September 25, 1998 shall be permitted to retain the privilege of providing karaoke until such time that the license is transferred, including 100% stock transfers. If there are noise complaints from the surrounding neighborhood, this privilege may be revoked upon hearings held by the Commission. The licensee may then file an application for a change of category as provided herein.

All forms of music and entertainment are prohibited on a premises licensed for consumption thereon except where and when specifically permitted by the class and category/subcategory of entertainment of the liquor license held.

Impromptu entertainment ~~[by adult patrons]~~ and dancing which is unpaid and unscheduled, is permitted ~~[.]~~ for reasonable periods of time.

Entertainment shall not be offensive to common propriety and shall not cause undue noise or disturbance to the neighborhood.

Entertainment by persons partially or fully unclothed or entertainment where articles of clothing are removed during a performance is prohibited. The placement of articles of value or money on the entertainer's person or attire is prohibited.

Any performance on the premises which is sexually suggestive, including lap dancing, which may be construed to be obscene, lewd or offensive to common propriety, and which may create a greater propensity for misconduct on the premises, shall be prohibited.

~~[T.]~~ **W. RESEALED LIQUOR.** ~~[A Class 2 Restaurant, Class 6 Club, Class 11 Cabaret, Class 12 Hotel and a Class 14 licensee may allow a patron who has purchased a bottle of wine for consumption with a meal to remove from the premises a partially consumed bottle of wine which has been resealed in its original package.]~~ A patron may remove from any class licensed for on-premise consumption thereon 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.

[U.] **X. CATEGORIES.** Licensees affected by the numeric and alphabetic changes to the categories and subcategories shall be recategorized in accordance to these amendments upon renewal of its liquor license.

RULE 3-2 PERMITS.

- A. GENERAL PROVISIONS.** Permits may be granted by the Commission or Director as provided in this section. Applications for permits shall be requested and approved prior to the conduct of the activity requested. The Commission shall from time to time prescribe the kinds, terms and provisions of permits. The Commission shall have the sole discretion to impose, amend or withdraw conditions to a permit and/or to suspend or cancel a permit upon proper notice of hearing to the licensee and to any aggrieved party, when applicable. The Director shall have authority to approve applications for permits meeting the requirements for such applications, and such approvals shall be subject to the subsequent ratification by the Commission.
- B. RESTRICTIONS ON PERMITS, ACTIVITIES.** The Commission shall have the discretion to impose conditions or restrictions or deny any activity, game, or contest offered within or by a licensed premises for the purpose of preventing activity within the licensed premises of adjacent areas, such as stages, entertainment areas, lanais and parking areas, which is potentially injurious to the health, safety and welfare of the public, or is offensive to common propriety.
- C. APPLICATION.** Permit applications shall be submitted on forms prescribed by the Commission and may be obtained at the office of the Department[-] or the Department's website.
- D. TYPES OF PERMITS.** Permits shall be issued by the Commission or Director, and shall be required for the following and posted at all times:
- 1. ALTERATION PERMIT.** An alteration permit is required for any proposed change to the licensed premises and shall be applicable to interior and exterior renovations requiring a building permit. The applicant shall route the application for an alteration permit to the County Department of Public Works for its written determination on whether a building permit is required. The applicant shall submit the Application for Alteration Permit to the Department together with a sketch of the premises which shall clearly denote the proposed alteration and a copy of the building permit, when required. Prior to utilization of the altered area, the licensee shall obtain a final inspection by the Department. If a building permit is not required, the Department shall conduct an endorsement of the sketch for record only.
 - 2. ENTERTAINMENT AND CONSUMPTION PERMIT FOR CLASSES 1, 3 AND 4 LICENSEES.** An application for an entertainment and consumption permit may be submitted for approval by a Class 1, Class 3 and Class 4 licensee to provide live music and entertainment for special events, including but not

limited to grand openings and store anniversaries, provided that entertainment shall be between the hours of 8:00 a.m. to 9:00 p.m. and shall be subject to the provisions of and in accordance with Rule 6-4.

3. **GAME PERMIT.** Any game or game device which simulates or resembles any game commonly associated with gambling or which may create a greater propensity for gambling is prohibited except as [~~otherwise provided herein.~~] permitted by the Commission.

An application for a game permit shall be required for any event at which games or game devices which simulate or resemble any game commonly associated with gambling will be used.

A permit may be granted to allow for the use of these games or game devices for a period not to exceed one day for events not open to the general public. No fees to participate shall be charged. Gambling for money or items of value or the use of game devices in violation of Sections 712-1220 and 712-1231, Hawai'i Revised Statutes, as amended, is prohibited.

4. **SOLICITOR PERMIT.** Pursuant to Section 281-39 of the Hawai'i Revised Statutes, as amended, any person desiring to act as the authorized solicitor of a manufacturer or [~~whole~~] wholesale dealer licensed in any other county is required to have a solicitor's permit to act as a solicitor in this County, provided that no solicitor's permit shall be granted to a common carrier. No solicitor shall be permitted to have, own or control any liquor for sale or delivery. The solicitor shall be required to provide its business address which shall be subject to inspection. The solicitor shall be authorized to:

- a. Take orders of intoxicating liquors, which orders shall be filled by the wholesaler by direct shipment.
- b. Upon Commission approval, possess liquors to conduct samplings and the Commission shall determine the quantity of inventory a solicitor may possess.
- c. Conduct sampling to liquor buyers representing the retail licensee which shall be out of public view.
- d. Assist a retail licensee who conducts a product tasting in the presentation of the product(s) provided that in no case shall the solicitor assume duties normally conducted by an employee of the retail licensee.
- e. Stock, rotate, setup liquor displays and [~~clear~~] clear shelf space of its own product.

5. **OUTSIDE STORAGE PERMIT.** A permit for storage of liquor outside of the licensed premises is required. The application shall include the name of the licensee, the street address and tax map key of location of outside storage area, a lease agreement, if applicable, and a floor plan drawn to scale. The permit shall be approved by the Liquor Commission, and such approval shall be valid for the term of the license held by the licensee and shall not be transferable. The licensee

shall keep records within the warehouse of all liquors received and removed from the warehouse. Liquors removed from the warehouse shall be delivered directly to the licensed premises of the licensee. The conduct of business from the outside storage area is prohibited. Where a storage area is utilized by more than one business, the licensee shall install permanent partitions to separate the inventory.

6. **ALCOHOL PURCHASE PERMIT.** Any person desiring to purchase alcohol, as defined in Section 281-1 of the Hawai‘i Revised Statutes, as amended, shall file an application for a permit to purchase alcohol which shall include the quantity and nature of use of the alcohol. The permit shall be valid for one year from the date of issuance or upon purchase of the total quantity of alcohol approved on the permit, whichever occurs first. The permit shall be renewable upon submittal of an application to the Commission.

The applicant shall file personal history statements of all owners and a sketch of the premises to include designation of the alcohol storage area. The premises shall be subject to inspection during the term of the permit. The Department may, at any time, require the permittee to submit verification of invoices indicating alcohol purchases. When the permittee has purchased the total quantity of alcohol approved by the Commission, the permittee shall submit copies of invoices, or the like, verifying the quantity purchased, and the permit shall be deemed null and void.

7. **INDIVIDUAL IMPORTATION OF LIQUOR PERMIT.** Any unlicensed adult person desiring a permit to allow the importation of liquor from outside the State pursuant to ~~[Chapter]~~ Section 281-33.1, Hawai‘i Revised Statutes, as amended, shall file an application which shall include an inventory of the liquor to be imported~~[-]~~ and the fee prescribed in Rule 3-3.

~~A fee shall be submitted to the Department by the applicant with the application as prescribed in Rule 3-3.~~

This section shall not apply to residents of the State who participate in ~~[receipt]~~ direct shipments of wine pursuant to State law.

8. ~~PERMIT FOR ENTERTAINMENT BY A PERSON LESS THAN 21 YEARS OF AGE. MINOR ENTERTAINMENT PERMIT.~~

- a. An on-premises licensee shall submit an application for any person less than 21 years of age for a permit to allow said person to work as an entertainer within said licensed premises, whether compensated or not, prior to the performance. The licensee shall submit the dates and times of performances, name and birth date of participating minors and name and address of the person primarily responsible for said minors on a form as prescribed by the Commission. The licensee shall comply with all of the requirements of the Child Labor Laws of the State of Hawai‘i.

b. Entertainers who are less than 21 years of age shall be prohibited from commingling with patrons of the licensed premises.

- 9. TRADE SHOW.** A permit is required in accordance with provisions of Section 281-32.5 of the Hawai'i Revised Statutes, as amended, to authorize the display and consumption of liquors at a trade exhibition site on a not-for-sale basis. The application shall include the name and address of the applicant, the date and location of the trade show and an inventory list of liquors to be displayed and sampled and shall indicate the value of the liquors. The dispensing of liquors for consumption may be permitted between the hours of 8:00 A.M. and 11:00 P.M. on any day of the week. Within 30 days after the close of the trade show, the permittee shall provide proof of the disposition of open or unused liquors to the Commission, provided that the sale of said liquors is prohibited.
- 10. PRIVATE HOST.** A private host permit is required to allow a private host to provide liquor and entertainment as authorized by the licensee of the licensed premises. The licensee shall submit the name of the host, date and time of the event, type of function and shall designate whether the host is to provide entertainment and/or liquor. The licensee shall remain subject to compliance with all liquor laws and rules and regulations of the Commission. Unused portions of liquors shall be removed from the premises by the private host.
- 11. PRODUCT TASTING.** A permit is required for the tasting of wine, beer and spirits subject to the following conditions: (1) liquor shall be sampled in its original form; may be mixed to show its versatility; (2) each serving shall be no more than one ounce per customer for distilled spirits, no more than five ounces per customer for wine, and no more than 12 ounces per customer for beer; ~~but not in combination;~~ (3) no minors shall be allowed to consume liquor; and (4) tasting shall be conducted only on the licensee's premises. Tastings shall be in a designated area only and the permit shall be conspicuously posted for public view. All tasting shall be conducted at the expense of the licensee.

Industry members may assist a retail licensee who conducts a product tasting provided that in no case shall they assume duties normally conducted by an employee of the retail licensee.

As authorized by the Commission or Director, a retailer may charge for product tasting to help offset costs.

- 12. TEEN EVENT.** A permit is required to allow a licensee licensed for consumption thereon to host teen events. An application for a teen event permit is required for each event and shall be submitted to the Director on a form prescribed by the Department of Liquor Control, at least [~~seven (7)~~] 7 days prior to the event. Teen events shall be defined as events for minors from the age of 13-20 that are sponsored by the licensees or are events open to the public. The issuance of the permit shall be conditional upon the following:

- a. The sale, service and consumption of liquors shall be prohibited and all intoxicating liquors shall be removed from service areas or locked in storage.
- b. The hours of operation shall not exceed 12:00 o'clock midnight, except that the Director shall be authorized to extend such hours for school-related events.
- c. The licensee shall be responsible for complying with all liquor and curfew laws.
- ~~d. Contests or games to be held during such events must be specifically approved by the Director.]~~

A permit may be denied or revoked upon the past or existing noncompliance by the licensee of any of the conditions listed above or for violation of the liquor laws. In the event of a denial or revocation of a permit or any provisions of the permit by the Director, the licensee may appeal the decision to the Liquor Commission.

A licensee may apply for a teen event permit which will occupy only a portion of the premises, provided that said area shall have its own separate entrance whereby ingress or egress by minors shall not be through the liquor consumption area of the premises~~[-]~~ and there will be no commingling of minors and adults.

RULE 3-3 LICENSE FEES, PERMIT FEES, SCHEDULE. All licensees shall pay an annual fee which shall be the basic fee as defined in Rule 3-3-A, plus the percentage fee as defined in Rule 3-3-B.

A. BASIC FEE. The basic fee for the licenses of each of the several classes and kinds shall be as set forth herein and shall be due as provided in Rule 3-4.

<u>CLASS</u>	<u>KIND</u>	<u>FEE</u>
1. Manufacturers (including rectifiers)	(a) Beer.....	\$400.00
	(b) Wine.....	400.00
	(c) Alcohol.....	200.00
	(d) Other liquors.....	640.00
2. Restaurant	(a) General.....	600.00
	(b) Beer and Wine.....	300.00
	(c) Beer.....	150.00
3. Wholesale	(a) General.....	1,200.00
	(b) Beer and Wine.....	420.00
	(c) Alcohol.....	32.00
4. Retail	(a) General.....	560.00
	(b) Beer and Wine.....	260.00
	(c) Alcohol.....	16.00

5.	Dispenser	(a)	General.....	600.00
		(b)	Beer and Wine.....	300.00
		(c)	Beer.....	150.00
6.	Club.....			320.00
7.	[Vessel.....			210.00]
	<u>Reserved</u>			
8.	Transient vessel licenses per day per port.....			25.00
9.	Tour or Cruise vessel.....			210.00
10.	Special licenses	(a)	Beer.....	15.00
		(b)	Beer and Wine.....	20.00
		(c)	General.....	35.00
11.	Cabaret.....			750.00
12.	Hotel.....			1,200.00
13.	Caterer.....			[120.00] <u>600.00</u>
14.	Brewpub.....			1,000.00
15.	Condominium hotel.....			<u>1,200.00</u>
16.	Winery.....			<u>1,000.00</u>
17.	Small craft producer pub.....			<u>1,000.00</u>
[15.] 18.	Solicitors and representative permits	(a)	Alcohol.....	5.00
		(b)	Beer and Wine.....	120.00
		(c)	General.....	180.00
[16.] 19.	Temporary.....			50.00
[17.] 20.	Importation permit.....			2.50
[18.] 21.	Trade show permit.....			25.00
[19.] 22.	Trade name change.....			25.00
[20.] 23.	Duplicate license, permit, ID <u>cards</u>			2.00
24.	<u>Direct Wine Shipper's Permit</u>			<u>48.00 annual</u>

B. PERCENTAGE FEE. Licensees ~~in~~ holding Classes 2, 4, 5, 6, 9, 11, 12 ~~and~~, 13, 14, 15, 16, and 18 liquor licenses shall be subject to the basic fee plus a percentage fee on retail sales which shall not exceed ~~one percent (1%).~~ 1%. The Final Gross Liquor Sales of each licensee multiplied by the percentage shall constitute the percentage fee. The percentage to be applied to the Final Gross Liquor Sales of each licensee for each current fiscal year shall be based upon the following formula:

$$\frac{EE - (BF + C)}{TFGS} = \text{Percentage Not to Exceed 1\%}$$

EE = Estimated Expenditures (current fiscal year)

BF = Basic Fee (current fiscal year)

C = Carryover (excess fees from prior fiscal year)

TFGS = Total Final Gross Sales (prior license year)

C. COMPUTATION. Licensees in the above-mentioned classes shall file with the Director on a form prescribed by the Commission a report showing 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 and filed no later than July 31 after the date of expiration of such licenses, and at such other times or intervals as the Director may require. After a tally of the total gross sales of all licensees, the percentage fee due and payable shall be assessed each licensee. Notice of Percentage Fee Due shall be ~~mailed~~ provided to each licensee and shall be paid within 30 days from the date of such notice or as otherwise provided by the Director.

RULE 3-4 LICENSE FEES; WHEN DUE; HOW RECEIVED.

A. FEES DUE, WHEN. The basic fee as prescribed by Rule 3-3-A for any license or permit issued hereunder shall be due and payable in advance of or on June 30 of each year. The fee for a license or permit issued July 1 shall be for a full year.

Full payment of a prorated license fee is due and payable at the time the license is issued and the fee paid shall be reckoned proportionally from the first day of the month on which the license or permit is issued to the expiration date.

Additional vessel, special and temporary license fees shall be paid in full at the time of filing the application.

The fee for a solicitor or representative's alcohol permit~~;~~ or a direct shipper's permit regardless of when the same is issued shall be the full amount of the basic annual fee.

B. CHANGE TO HIGHER KIND OR DIFFERENT CLASS. A holder of a license who applies for a higher kind of license within the class of the existing liquor license or a higher class of license on the same premises shall be credited with the unused portion of the current basic license fee in computing the fee for the new license.

- C. **CHANGE TO LOWER CLASS OR KIND.** A licensee who desires to lower the class or kind of license, pursuant to Sections 281-31 and 281-52 of the Hawai'i Revised Statutes, as amended, or terminate a category of license shall file written notice to the Commission for its approval and state the effective date of the change.
- D. **FORFEITURE OF FEES; WHEN.** Upon termination of business by a licensee and upon revocation, cancellation, or change to lower class or kind of license, all fees paid for the remaining unexpired term shall be forfeited.

RULE 3-5 FINAL REPORT, PAYMENT OF FEES UPON TRANSFER OF LICENSE.

- A. **FINAL REPORT AND PERCENTAGE FEE BY TRANSFEROR.** Prior to the transfer of a license, the transferor shall file a Final Report of Gross Liquor Sales together with payment of percentage fees due. The transferor shall be notified of the percentage fee and the transfer shall not be complete until the percentage fee is paid.
- B. **FINAL REPORT AND PERCENTAGE FEE BY TRANSFEREE; WHEN.** If the transferor fails to submit a Final Report of Gross Liquor Sales and/or fails to pay the percentage fees upon transfer of such a license, the transferee shall be responsible for any percentage fee based on the total gross liquor sales for the entire term for which the license was exercised by the transferor[-] before the license can transfer.

RULE 3-6 GROSS LIQUOR SALES REPORT, PERCENTAGE FEE, RECORDS[-], PAYMENTS.

- A. **FILING.** Licensees holding Classes 1, 2, 4, 5, 6, 9, 11, 12, [~~and~~]13, 14, 15, 16 and 18 licenses shall file, on a form provided by the Department, a report showing the true and accurate gross sales of liquor for the license year. Reports shall be completed and filed with the Department as follows:
 1. On or before January 31, an Initial Gross Sales Report for the report period July 1 to December 31.
 2. On or before July 31, a Final Gross Sales Report for the license year.
 3. Within 30 days of the closing of business or cancellation or revocation of the license, a Final Gross Sales Report.
 4. At such other time as the Commission or Director may direct.

For purposes of this rule, reports postmarked or e-mailed on the due date shall be acceptable. Where the due date falls on a holiday or weekend, the report shall be delivered to the office of the Department on the first working day thereafter.

- B. **ADJUSTMENTS.** In order to establish the percentage fee due and payable for the license year, all adjustments to the Final Report of Gross Liquor Sales shall be

completed by September 30 of the license year. No adjustments shall be accepted thereafter.

- C. PERCENTAGE FEE DUE; WHEN.** The percentage fee based on gross sales of liquor shall be due and payable in full or in two equal payments with the first payment being due or postmarked no later than November 15 and the final payment being due or postmarked no later than January 15 of each license year. Alternative payment plans may be worked out with the Director.

In case of revocation or cancellation of such license, the percentage fee chargeable against such license shall become due and payable within 30 days from the date of the Notice of Percentage Fee Due.

Any licensee who fails to pay its percentage fee on the due date shall be issued a notice of violation for every day payment has not been made and be subject to penalties as stated in Section 281-91, Hawai'i Revised Statutes[-], as amended.

- D. RECORDS AND ACCOUNTS.** All licensees shall keep, within the State of Hawai'i, a set of books or records which shows all income, purchases and expenses of the liquor licensed business for a period of [~~two~~] 2 years. These books and records, including but not limited to daily sales records, employee time sheets, and invoices, shall be made available for inspection and/or auditing by the Department as indicated on the Notice of Inspection and Audit by the Director.

- E. PAYMENTS.** Any payment returned to the department for insufficient funds shall be cause for the licensee to immediately cease the sale and service of liquor. Failure to cease the sale and service of liquor shall be cause for a penalty for each day that liquors are sold.

RULE 3-7 DIRECT SHIPMENT OF WINE BY WINERIES.

- A.** Any manufacturer of wine who desires to ship wines to residents of the County of Hawai'i shall obtain a Direct Wine Shipper Permit from the Department [~~of Liquor Control, County of Hawai'i~~]. The permit may be granted by the Director to any person holding:
1. A General Excise Tax license from the State of Hawai'i, Department of Taxation; and
 2. Either:
 - a. A Class 1 license to manufacture wine under Section 281-31, Hawai'i Revised Statutes; as amended, or
 - b. A license to manufacture wine issued by another state.
- B.** The term of the permit shall be for one calendar year. The applicant for a permit shall submit:

1. An application form;
2. Copy of the State of Hawai‘i, Department of Taxation, General Excise Tax license;
3. Copy of the Class 1 license to manufacture wine under Section 281-31, Hawai‘i Revised Statutes, as amended, or license to manufacture wine issued by another state; and
4. Payment of an annual permit fee of \$48.00 provided that the annual permit fee for a manufacturer of wine licensed under Section 281-31, Hawai‘i Revised Statutes, as amended, shall be inclusive and part of its annual license fee. [~~For purposes of this rule, permit fees shall be prorated.~~]

No permit shall be issued unless the applicant has met the foregoing requirements.

C. The direct wine shippers may select a 2 calendar year permit following the same requirements as set forth above with submittal of a \$96.00 biennial fee.

~~[C.]~~D. The holder of a Direct Wine Shipper Permit may sell and annually ship to any person [~~twenty-one~~] 21 years of age or older in this County no more than [~~six nine-liter~~] 6 9-liter cases of wine per household for personal use only and not for resale and shall:

1. Ship wine directly to the person only in containers that are conspicuously labeled with the words containing or similar to:
“CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
21 YEARS OR OLDER REQUIRED FOR DELIVERY.”
2. Require that the carrier of the shipment obtain the signature of any person [~~twenty-one~~] 21 years of age or older before delivering the shipment.
3. Report no later than January 31 of each year to the [~~liquor~~] Department the total amount of wine shipped to persons in this County during the preceding calendar year;
4. Pay all applicable general excise and gallonage taxes. For gallonage tax purposes, all wine sold under a Direct Wine Shipper Permit shall be deemed to be wine sold in the State; and,
5. Be subject to audit by the [~~liquor~~] Department.

~~[D.]~~E. The holder of a license to manufacture wine issued by another state shall annually renew a Direct Wine Shipper Permit by providing the [~~liquor~~] Department with a renewal application, a copy of the current license to manufacture wine, and payment of the annual fee.

~~[E.]~~**F.** The sale and shipment of wine directly to a person in this state by a person that does not possess a valid Direct Wine Shipper Permit is prohibited. Knowingly violating this law is a misdemeanor.

RULE 3-8 HOURS OF BUSINESS. There shall be no sale, service or consumption of liquor on or within any licensed premises before or after the hours of business established by the Commission. On a premises licensed for consumption thereon, no patron shall remain on the premises after the legal closing hour of the licensed premises, provided that this shall not apply to open areas of a hotel premises and hotel guest rooms or to premises which operate beyond the legal closing hours offering ~~[restaurant]~~food service who may be permitted to offer recorded music, provided that any noise which disturbs the neighborhood shall be cause to prohibit recorded music after the legal closing hours. Entertainment and activities authorized under conditions of the license or permits held by the licensee shall be conducted within the legal hours of business, except as otherwise authorized by the Commission.

- A. RETAIL DEALERS.** The licensed premises of retail dealers may be open for the sale of liquor between 6:00 A.M. and 11:00 P.M. on any day of the week.
- B. CLUBS, DISPENSERS, RESTAURANTS, ~~[TRANSIENT VESSELS,]~~ AND TOUR OR CRUISE VESSELS.** The licensed premises of clubs, dispenser, vessels, transient vessels, and tour or cruise vessels, may be open for the sale or service of liquor between 6:00 A.M. of any day of the week and 2:00 A.M. the following day.
- C. CABARETS.** The licensed premises of cabarets may be open for the sale or service of liquor between 8:00 A.M. of any day of the week and 4:00 A.M. of the following day.
- D. MANUFACTURERS AND WHOLESALERS.** The licensed premises of manufacturers and wholesalers may be open for the sale or delivery of liquor between 6:00 A.M. to 9:00 P.M. on any day of the week.
- E. HOTELS[-], CONDOMINIUM HOTELS, AND TRANSIENT VESSELS.** The licensed premises of hotels , condominium hotels, and transient vessels may be open for the sale and service of liquor between 6:00 A.M. of any day of the week and 4:00 A.M. of the following day.
- F. CATERERS.** A licensee authorized to provide catering may provide the sale and service of liquor between 8:00 A.M. to 12:00 midnight of any day of the week.
- G. SPECIAL.** The licensed premises of a special license may be open for the sale and service of liquor between 8:00 A.M. to 12:00 midnight.
- H. BREW PUBS[-] WINERIES AND SMALL CRAFT PUBS.** The licensed premises of a brewpub, winery, and small craft pub license may be open for the manufacture, sale and service of liquor from 6:00 A.M. to 2:00 A.M. of the following day.

PART IV. PROCEDURE FOR OBTAINING A LICENSE

RULE 4-1 LICENSE REQUIRED. No person shall sell intoxicating liquor unless said person is a valid holder of a liquor license approved by the Commission. Conduct of the business shall be restricted to the licensed premises except as otherwise authorized by the Commission or the Director. Procedures for filing an application for a liquor license or permit(s) and application form(s) are on file and may be obtained at the office of the Department or on the Department's website by the applicant or its authorized representative. Applications and required forms shall be signed by the applicant.

RULE 4-2 LICENSE APPLICATION.

- A. FORMS.** ~~[All applications]~~ Applications for licenses ~~[and all]~~, notices of public hearing ~~[sent]~~ and affidavits filed by applicants in connection with such applications shall be on respective forms prescribed therefore from time to time by the Commission ~~[.]~~ and in compliance with requirements of Chapter 281, Hawai'i Revised Statutes, as amended.
- B. FILING FEE.** The filing fee to be paid with an application for license shall be \$50.00 ~~[.]~~ for an original license, transfer of license, change of class, change to a higher kind, change of category or sub-category, change of location or an increase in premises requiring notice to property owners. The filing fee shall be applied to payment of the fee required by Rule 3-3 when the license is granted and shall become a realization of the Department when the license is denied or the application is withdrawn. Any payment returned to the department for insufficient funds shall be cause for the licensee to immediately cease the sale and service of liquor. Failure to cease the sale and service of liquor shall be cause for a penalty for each day that liquors are sold.
- C. LICENSE YEAR.** The license year shall be from July 1 to June 30. Every license or permit whenever issued shall expire with the close of June 30 next succeeding its issue ~~[.]~~, except where provided for elsewhere.
- D. APPLICATION REQUIREMENTS.** An applicant for a new license or a transfer of a license other than a special or temporary license shall file as part of the application:
- ~~1. A full, true and correct statement of financial condition, which statement shall not be over one year old.~~
 - ~~2. A tax clearance certificate from the State Department of Taxation;~~
 - ~~3. A tax clearance certificate from the Internal Revenue Service;~~
 4. Notarized personal history forms of applicants, whether an individual, a partnership, uniform limited partnership, limited liability company, and, if a

~~corporate applicant, its officers and directors, and, all persons holding 25% or more of stock, which shall include a statement of criminal history.~~

- ~~5. If the applicant is a partnership, a partnership agreement as registered with the Department of Commerce and Consumer Affairs, State of Hawai'i, and the current annual report.~~
- ~~6. If the applicant is a corporation, the articles of incorporation as registered with the Department of Commerce and Consumer Affairs, State of Hawai'i, the current annual report and certificate of good standing where applicable, and if a private corporation a list of stockholders, and percentage of stock held by each stockholder.]~~

1. An executed application.
 2. A filing fee of \$50.
 3. A tax clearance certificate from the State Department of Taxation or Hawai'i Compliance Express.
 4. A tax clearance certificate from the Internal Revenue Service or Hawai'i Compliance Express.
 5. Notarized personal history forms of applicants, whether an individual, or members of a partnership, uniform limited partnership, limited liability partnership, limited liability company, or unincorporated association, and, if a corporate applicant, its officers and directors, and all persons holding 25% or more of stock, which shall include a statement of criminal history.
- If a partnership, uniform limited partnership, limited liability partnership, limited liability company or a corporation, copies of all registration documents filed with the Department of Commerce and Consumer Affairs, State of Hawaii including, but not limited to, renewal registrations, current annual reports, certificates or other proof of good standing, names of all stockholders and percentage of stock held by each stockholder.
6. Proof of liquor liability insurance in an amount not less than one million dollars for a class 2, 4 (except convenience marts), 5, 6, 11,12,13, 14, 15, 16, and 18 liquor license, which shall be submitted prior to the issuance of a license.
 7. Document showing ownership of the premises or a lease or rental agreement granting exclusive possession and control of the place of business of at least one-year duration, unless special conditions prevail, with option to renew if applicable; together with applicable legal documents to include, but is not limited to, purchase agreements, management agreements, merger documents or the like.

8. A floor plan drawn to scale which shall show the detailed description of the proposed premises and a plot plan showing the location of the building on the property and ingress and egress to the premises.
9. An applicant for a transient vessel license shall file an application together with tax clearances from the Internal Revenue Service and the State Department of Taxation or Hawai'i Compliance Express for the agent or owner of said vessel.

Applications shall be filed for each vessel, and may be filed annually during the month of June. Licenses issued shall be valid for the upcoming fiscal year. Tax clearances of the agent or owner shall be applicable to all applications for transient vessel licenses that are filed by the agent or owner during that fiscal year. Annual applications shall include a list of dates, ports of call and an annual payment of fees per port of call.

Applications for transient vessel licenses may be filed per port of call, including additional ports of call by a licensee who files annually, pursuant to this section.

When inclement weather forces a vessel to shift its port of call to the Island of Hawai'i, and the vessel has a valid transient vessel license issued by another jurisdiction within the State of Hawai'i, said license shall be valid in the County of Hawai'i[;] without requirement for an application or fee, provided that notification of such change of port shall be sent to the Department.

E. [ADDITIONAL] NOTICE REQUIREMENTS. ~~[An]~~ Except for an application for a class 8, 9, 10, or 13 liquor license, an applicant for a new license, [other than a vessel, transient vessel, tour or cruise vessel, or special license, and an applicant for] or a transfer of a Class 5 or Class 11 license, or any application requiring notice to property owners, shall be subject to notice requirements pursuant to ~~[Section 281-51 and]~~ Sections 281-57 through 281-60, Hawai'i Revised Statutes, as amended, and shall also file as part of the application:

1. A tax map drawn to scale with two circles showing all property owners and lessees of record within 500 feet and 100 feet, respectively, of the proposed premises; and
2. A list of property owners and lessees of record of the properties within 500 feet and 100 feet of the proposed premises.

F. TRANSFER APPLICATION. An ~~[application]~~ applicant for a transfer of license shall [indicate] , in addition to the requirements of Subsection D, submit a copy of the purchase agreement or similar document which shall indicate the price to be paid [to] for the purchase of the licensed premises and inventory, and written request for a temporary license, if so desired. ~~[The temporary license shall not be issued until the preliminary report of gross liquor sales is received.]~~

Except as otherwise approved by the Commission, if the licensee takes in any partner or associate, or transfers to any other person, or permits the conduct of any business by any other person, either openly or under any undisclosed agreement, in part or in whole of any portion of the business conducted on the licensed premises, the same shall be deemed to be a transfer of the license which requires Commission approval.

When an application for a transfer of license is denied, withdrawn, cancelled, or for any cause whereby the transferee discontinues and vacates its business, the Commission may approve the reinstatement of the license to the transferor upon request by the transferor, ~~[pending verification of]~~ and submittal of a lease or like document indicating possession and control of the licensed premises ~~[-by the transferor]~~, tax clearances from the state Department of Taxation and Internal Revenue Service or Hawai'i Compliance Express, and where applicable, proof of liquor liability, otherwise the license shall be cancelled.

No license shall be transferred while an investigation is ongoing which may result in an adjudication hearing or while an adjudication hearing is pending and there are outstanding assessments or penalties for liquor law violations unless both the transferor and transferee provide written consent to assume responsibility for actions as may be ordered by the Board. An application for a license which has been approved but which license has not been issued shall not be transferable.

G. TOUR OR CRUISE VESSEL AND TRANSIENT VESSEL LICENSE

APPLICANTS. An Applicant for a tour or cruise vessel license or a transient vessel license shall include as part of the application:

1. Copies of the commercial and mooring permits issued by the State Department of Transportation, Harbors Division, where applicable.
2. Copy of the Certificate of Inspection as issued by the U.S. Coast Guard.

H. COMPLIANCE WITH FEDERAL, STATE AND COUNTY

REQUIREMENTS. All applicants and licensees shall comply with all applicable Federal, State, and County requirements or laws applicable to the business, whether in existence at the time of issuance of such license or as adopted or changed from time to time.

I. ~~[LIMITED LIABILITY COMPANY.]~~ ADDITIONS, WITHDRAWALS. ~~[When an applicant (1) is a limited liability company, (2) desires a conversion or merger into or from a limited liability company, (3) withdraws a member, or (4) admits a new member, the applicant shall submit all documents as filed with the Department of Commerce and Consumer Affairs as required under Chapter 428, Hawai'i Revised Statutes.~~

~~A conversion or merger into and from limited liability companies which conforms to Chapter 428, Hawai'i Revised Statutes, shall not be considered a transfer of the liquor license provided that the applicant shall submit all documents to the Commission for~~

~~its approval prior to the conversion or merger. A conversion or merger which does not conform to Chapter 428 shall be required to file an application for a transfer of a liquor license.]~~

A licensee shall submit a notice of withdrawal of a member~~[prior to the withdrawal or the admission.]~~, partner, or stockholder holding 25% or more stock within 30 days of the withdrawal.

A licensee shall submit a notice of admission of a new member, partner or stockholder for Commission approval prior to the admission~~[of the member]~~. The notice shall include a personal history statement of the new member~~[.]~~, partner or stockholder.

J. CONVERSIONS, MERGERS. The conversion of an entity into any other form of entity or the merger of any entity with any other entity shall not be deemed a transfer of the license; provided that prior to the date of the conversion or merger, the licensee shall apply for and secure the approval of the commission for such action, at one hearing, without the requirement for publication of notice,

Entity shall mean a corporation, partnership, limited partnership, limited liability partnership or limited liability company.

The licensee shall submit a completed Notice of Conversion or Merger form, together with copies of all documents required to be filed with the Department of Commerce and Consumer Affairs, State of Hawaii.

[J.]K. NOTICE OF MAILING TO PROPERTY OWNERS.

1. ~~{Applicants}~~ Except for an application for a class 8, 9, 10, or 13 liquor license applicants for a new license, transfer of a Class 5 or Class 11 license, change of location, change of category or subcategory, or a change in class [and]and/or higher kind, or an increase in premises requiring notice, shall be required to notify property owners and lessees of record of real estate or owners of record of shares in a cooperative apartment, and, where applicable, notice to the condominium manager, within 500 feet of the premises pursuant to Section 281-57, Hawai'i Revised Statutes, as amended.

Applicants shall file the current list and addresses of one hundred percent of the property owners and lessees of record of real estate or owners of record of shares in a cooperative apartment and a map indicating the 100-foot and 500-foot radius, as filed with the County of Hawai'i Real Property Tax Office which shall include identification of all public and private highways and rights of ways. The radius shall be measured from the perimeter of the proposed premises which is under the exclusive control and possession of the applicant, excluding common areas which are shared by other businesses.

2. Upon approval of the preliminary hearing, the applicant shall mail notices to ~~[three-fourths]~~ 3/4 of the property owners within 100 feet and ~~[two-thirds]~~ 2/3 of the property owners and lessees of record of real estate or owners of record of shares in a cooperative apartment, and, where applicable, notice to the condominium manager, within 500 feet, no later than ~~[forty-five]~~ 45 days prior to the final public hearing on the application. Mailing of notices shall be verified by a certificate of mailing.

Upon completion of the mailing, the applicant shall submit the following documents to the Department no later than ~~[seven]~~ 7 business days from the date of mailing (a) a list of ~~[a list of one hundred percent]~~ 100% of the property owners and a list which indicates to whom notices were mailed; (b) an affidavit of mailing; and (c) a copy of the certificate of mailing~~[-]~~ as verified by the United States Postal Service.

Procedures, forms and formatting of documents shall be in accordance with Department requirements which are on file at the office of the Department.

3. If the list of property owners and lessees of record of real estate or owners of record of shares in a cooperative apartment is found to be invalid at any time prior to or at the final public hearing, or the applicant has failed to meet one or more of the requirements set forth in Section 281-57, Hawaii Revised Statutes, as amended, the Commission may suspend or continue the application and require the applicant to resubmit an accurate list of property owners and lessees of record of real estate or owners of record of shares in a cooperative apartment and to re-mail notices to property owners[-] and lessees of record of real estate or owners of record of shares in a cooperative apartment and will be cause for republication of notice and assessment of publication fee.
4. When protests are filed by persons who are not listed as a property owner or lessees of record of real estate or owners of record of shares in a cooperative apartment but who indicate they are property owners, the protestor shall provide proof of such ownership.

[K.]L. FINAL INSPECTION. A final inspection of the premises shall be applicable to the issuance of a new or transferred license, or use of an area that has been increased or altered, or as otherwise required by Commission or Director.

A final inspection may be waived in circumstances that indicates, but is not limited to changes in ownership entities including, conversions, mergers, a change from an individual to a partnership, corporation or a limited liability company; or from a partnership to a corporation or limited liability company; or from a corporation to a limited liability company or like changes; or a new application which holds a temporary license for a premises; or to a transfer application. In every case where an inspection is waived, the Department shall ensure that no alterations have occurred which may compromise the safety of patrons. A final inspection shall include inspection clearances from Federal, State and County agencies having jurisdiction

over the business, including, but not limited to, the State Department of Health and the County's Planning, Public Works and Fire Departments. No liquor license shall be issued until inspection clearances have been received from appropriate County and State agencies and the Department, except as otherwise provided herein.

[L.]M. APPROVAL AND ISSUANCE OF LICENSE. The approval of ~~the~~an application for the liquor license shall be valid for one year ~~thereafter~~from the date of approval within which time the applicant shall cause the license to be issued. A request for extension may be submitted for good cause for an additional 6 months~~[-]~~, provided that the applicant may request an additional 6-month extension upon proof that the project is actively under construction and/or is seeking compliance to another agency's regulations. Thereafter, the approval of the application ~~shall~~ may be cancelled and the applicant ~~shall~~ may be required to apply for a new license.

[M.]N. ISSUANCE OF CERTAIN LICENSES BY DIRECTOR. The Director may approve and issue special licenses, tour or cruise vessel and transient vessel licenses with subsequent ratification by the Commission.

[N.]O. PUBLICATION COST DEPOSITS. ~~[A deposit to cover payment]~~The applicant shall be responsible for the payment of the cost of publishing the notice of public hearing~~[must accompany all applications for a license].~~ Failure to pay or payments returned for insufficient funds shall be cause to delay issuance of the permanent license.

[O.]P. PUBLIC PLACE. A license may be granted only for those public places as defined by Section 281-1, Hawai'i Revised Statutes, as amended, except as otherwise provided.

[P.]Q. LICENSED PREMISES. The area designated on the floor plans, when approved by the Commission, shall be known as the licensed premises. No change of or to the premises shall be permitted except when authorized by the Commission pursuant to Chapter 281, Hawai'i Revised Statutes~~[-]~~, as amended. The conduct of business or an offer of services, whether or not such service includes liquor, by the licensee or any person which is located off or adjacent to a licensed premises, and is performed for the direct or indirect financial benefit to the licensee, is prohibited.

[Q.]R. CONDITIONS. The Commission reserves the right to impose conditions to the liquor license or permits.

[R.]S. MANAGEMENT AGREEMENT. A licensee shall apply for and secure the approval of the Commission for any management agreement prior to the agreement taking effect. The licensee shall submit an executed agreement which shall indicate that the licensee is in possession and control of the business, and shall be ultimately responsible for the fiscal and operational requirements of the business. A management company shall not ~~invest~~ invest or deposit any monies into the licensee's business. The Commission reserves the right to deny an agreement which is contrary to this section.

T. LIQUOR LIABILITY INSURANCE. Restaurants, retail dealers, dispensers, clubs, cabarets, hotels, caterers, brewpubs, condominium hotels, wineries, 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, class 16, and class 18 shall maintain at all times liquor liability insurance coverage in an amount of \$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.

RULE 4-3 TEMPORARY LICENSE. A temporary license of any class and kind may be granted under the following conditions:

- A. The premises shall have been operated under the license of the same class and kind and category issued by the Commission at least one year immediately prior to the date of filing of this application for a temporary license, except as otherwise ~~provided by law.~~ approved by the Commission.
- B. The applicant for a temporary license shall have filed with the Commission an application for the license of the same class and ~~kind~~ category then in effect.
- C. Upon denial or withdrawal of an application, the temporary license fee shall become a realization of the Department.
- D. The term of a temporary license shall be for a period of 120 days and may be renewed at the discretion of the Commission for not more than one additional term of ~~sixty~~ 120 days and upon payment of an additional fee of \$50.00. When a temporary license has expired and no permanent license has been issued, the sale and service of liquor shall cease until the permanent license is issued provided that the permanent license must be issued no later than 24 months from the date of the approval of the application at the public hearing; and in the case of a transfer application, the license shall be renewed by the holder of the temporary license.
- E. A temporary license shall authorize the applicant for a license to assume control of the licensed premises upon Commission approval at the preliminary hearing, provided that ~~[when unforeseen circumstances arise,]~~ the Director is authorized to approve an application for a temporary license if the applicant has complied with the requirements for the filing of a license, including the filing of a preliminary report of gross liquor sales by the transferor. Such approval shall be subject to the subsequent ratification by the Commission.
- F. A temporary license shall authorize the licensee to purchase liquor only by payment in currency or certified check for the liquor before or at the time of delivery of the liquor to the licensee.

For purposes of this section, payment by currency or certified check may be waived when (1) a licensee transfers ownership to another entity held in whole or in majority part by that licensee; or (2) when a partnership adds another partner if the partnership

entity remains the same; or (3) when an existing licensee purchases or establishes another licensed premises. In each case, the licensee must be in good standing with the industry member and the industry member shall have the discretion to grant or refuse such waiver of payment.

- G. The license of the same class and [~~kind~~] category then in effect for the premises shall be surrendered in such manner and at such time as the Commission shall direct.
- H. A temporary license may be issued to an applicant for an original license only upon the following circumstances:
 - 1. A liquor license of the same class, kind and category must have previously been in operation for at least one year prior to the original application.
 - 2. The application for the original and/or temporary licenses must be filed within 45 days of the cancellation or nonrenewal of the previous license.
 - 3. The applicant must apply for the same class, kind, category and subcategory of license as was previously issued to the premises.

Where a temporary license is issued and the application for an original license is denied or withdrawn, the temporary licensee shall be responsible for filing a final gross sales report together with percentage fee due for the duration that the temporary license was in effect.

RULE 4-4 RESERVED.

RULE 4-5 RESERVED.

RULE 4-6 CORPORATIONS AND PARTNERSHIPS.

A. TRANSFER OF STOCKS.

- 1. In the event of a change of ownership of any outstanding capital stock of a corporate licensee which would result in the transferee thereof becoming the owner of [~~twenty-five~~] 25 percent or more of the outstanding capital stock, the corporate licensee shall, prior to the date of such transfer, apply for and secure the approval of the transfer from the Commission in writing. A stock purchase offer or similar document shall be submitted; provided, however, that the requirements shall be waived if the stock transfer is between approved family members, or to a trust established in the member's name, or between existing approved stockholders. If the Commission finds that the proposed transferee is an unfit or improper person to hold a license in the person's own right pursuant to Section 281-45, Hawai'i Revised Statutes, as amended, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the Commission, the Commission may in its discretion revoke or suspend the license until it determines that the transferee is a fit and proper person, and if the

Commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person.

2. In the event of any change of ownership of outstanding capital stock less than [~~twenty-five~~] 25 percent a corporate licensee shall provide notice of such change to the department within [~~sixty~~] 60 days of such change.

B. CHANGE OF CORPORATE OFFICER OR DIRECTOR. A corporate licensee shall, within [~~thirty~~] 60 days from the date of election of any officer or director, notify the Commission in writing of the election and shall submit a personal history form for each new officer or director which shall include a statement of criminal history. If the Commission finds the officer or director an unfit or improper person to hold a license in his own right pursuant to Section 281-45, Hawai'i Revised Statutes, as amended, it may in its discretion revoke the license or suspend the license until the unfit or improper officer or director is removed or replaced by a fit and proper person.

C. PARTNERSHIP.

1. **DEATH OR WITHDRAWAL OF PARTNER.** Where a license is held by a partnership, the Commission may transfer the license upon the death or withdrawal of a member of the partnership to any remaining partner or partners without publication of notice and without public hearing.
2. **ADMISSION OF PARTNER.** Where a license is held by a partnership, the admission of a partner (a) shall not constitute a transfer of the license if the partnership entity remains the same, provided that the partner to be admitted shall meet the qualifications pursuant to Section 281-45, Hawai'i Revised Statutes, as amended, and be subject to Commission approval, or (b) if the partnership entity changes, the licensee shall be subject to an application for a transfer of a license pursuant to Sections 281-51 to 281-60, Hawai'i Revised Statutes, as amended.

D. ADMISSION OR WITHDRAWAL OF LIMITED PARTNER. Where a license is held by limited partnership, the admission or withdrawal of a limited partner with a 25% share or greater shall not be deemed a transfer of the license held by the partnership, but the licensee shall, prior to such admission or withdrawal, so notify the Commission in writing, stating the name of the partner or partners who have withdrawn and the name, age, place of residence of the partner or partners who have been admitted. If the Commission finds a limited partner to be an unfit or improper person to hold a license in his own right pursuant to Section 281-45, Hawai'i Revised Statutes, as amended, it may revoke or suspend the license of the partnership until the unfit or improper partner is removed or replaced.

E. GENERAL NOTIFICATION REQUIREMENTS. For any admission of a partner or partners in a limited partnership, change in ownership of any outstanding capital stock of a corporate licensee which would result in the transferee becoming the owner of [~~twenty-five percent~~] 25% or more of such stock, or the election of any officer or director, the licensee shall, along with the notification required in this rule, provide

the Commission with the name, age, place of residence, and personal history of such partner, transferee, officer or director on a form designated for such purpose by the Commission.

RULE 4-7 RENEWAL.

A. REQUIREMENTS. Application for renewal of the liquor license and annual permits, except temporary or special licenses, shall be submitted after June 1 and by June 30, of each year and the licensee shall file as part of the renewal application:

1. The minimum license fee as prescribed in Rule 3-3.
2. Tax clearance certificates from the Internal Revenue Service and the State Department of Taxation[-] or Hawai'i Compliance Express or copy of an executed installment agreement with the Internal Revenue Service or the State Department of Taxation for the payment of delinquent taxes in installments and, where applicable, notice that the applicant for the license renewal of a license is complying with the installment plan agreement. Notice of failure to comply with the installment plan agreement, whether received at renewal or at any time, shall be cause to deny the renewal or to place the license on an inactive status wherein liquors shall not be sold or served pending notice of compliance to the installment plan agreement from the appropriate tax office.
3. If a private corporation, a list of stockholders and percentage of stock held by each stockholder.
4. Requests for renewal of entertainment and/or game device permits, if applicable.
5. Report of gross revenues of licensees to retain Class 2 restaurant licenses shall cover [~~three~~] 3 completed general excise tax quarters pursuant to Rule 3-1-C. In the event the license has been issued less than [~~six~~] 6 months prior to the filing of the renewal application, the report shall cover the effective period of the restaurant license to May 31 of the license year.
6. Liquor liability insurance coverage in an amount of \$1,000,000 as set forth in Rule 4-2-T.

B. CONDITIONS.

1. If on June 30 the applicant has met all of the above-stated requirements except for the submission of the tax clearance certificates, the applicant shall have up to and including July 31 of the year for which the applicant seeks renewal of the license in which to present said tax clearance certificates. Such applicant shall not be permitted to sell liquor until such time as the license is renewed. Failure to file tax clearances by July 31 shall make the application for renewal of the liquor license null and void[-]; however, if licensing fees are paid, the licensee may be placed on inactive status for a period not to exceed the license year. The renewal

of permits shall be concurrent with the status of the application for renewal of the liquor license.

2. The Director may approve and issue renewals of licenses and permits subject to the subsequent ratification by the Commission.
3. Where a temporary license is in effect during the license renewal period, the application for renewal shall be filed by the transferor.

RULE 4-8 REDUCTION OR INCREASE IN LICENSED PREMISES. No licensee shall increase, reduce or change the area of the premises without Commission approval.

Applicants for an increase or change in premises shall submit an application, which form may be obtained from the office of the Department~~[,]~~ or the Department's website, together with a description and sketch of the premises, a description of the intended use and a copy of the lease or like document. The Commission may approve the application for an increase in licensed premises, at its discretion, pursuant to Sections 281-51 to 60 or Section 281-62, Hawai'i Revised Statutes, as amended.

A licensee desiring a reduction in the area of his premises shall ~~[file a written notice to the Department]~~ submit an application, which form may be obtained from the office of the Department, or the Department's website, describing the area to be reduced, together with a sketch showing the area to be reduced. The Director shall approve the request subject to the subsequent ratification of the reduction by the Commission.

An application for a temporary increase in premises for the sale, service and consumption of liquors shall be filed with the Department and approved by the Commission or Director, subject to the ratification by the Commission. Each application shall be for a one day increase only. Applications shall be limited to no more than ~~[four]~~ 6 applications per license year and shall be filed no later than ~~[two]~~ 2 weeks prior to the event.

The application shall be on a form prescribed by the Department and shall include a sketch of the proposed area which shall be connected to or adjacent to the licensed premises and consent to the temporary increase by the landlord or its authorized agent.

The Commission or Director may set conditions to its approval, including, but not limited to the consumption area, hours of operation, proposed activities and entertainment (which shall be in accordance to the class, kind and category of license held), and the hiring of security personnel. The hours of operation shall not exceed 12:00 a.m.

The Commission or Director may deny an application for temporary increase when violations of law have occurred at previously approved applications for temporary increases or when the Department's staff, Police Department or complaints from the public indicate that the site or proposed activities may be potentially injurious to the health, safety and welfare of the public.

Part V. GENERAL PROVISIONS RELATING TO LICENSEES

RULE 5-1 EMPLOYEE RECORDS

- A. REGISTRATION OF EMPLOYEES.** A Class 5, Category [4,] D, licensee who is authorized to sell and serve liquor for consumption on the premises shall not employ any person, including entertainers, who shall be compensated to sit and entertain patrons in that section of the licensed premises where liquor is sold, served or consumed unless that person first presents to the licensee a valid certificate of registration with the Department prior to employment. Persons who apply to the Department for registration shall apply in person and present (1) positive identification in the form of a passport, driver's license or other laminated government identification with photograph; (2) Social Security number; (3) alien registration document if not a U.S. citizen; and (4) any other information that the Department deems pertinent.

The Department may for good and sufficient reason refuse to register an applicant for employment in a premises licensed for consumption thereon or suspend or terminate the registration of an employee. Each person registered will be photographed and issued ~~[a laminated]~~ an identification card which shall be valid for a period of ~~[five]~~ 5 years. Identification cards will be retained by each employee and not surrendered to or held by their employers. ~~[A fee of \$2.00 will be charged each registrant for the identification card issued to cover the cost of materials.]~~

A licensee who employs a person who is duly registered with the Department for employment in another premises licensed for Class 5, Category [4,] D, must notify the Department in writing of the employment of that person prior to the start of employment. This notice of employment shall be on a form prescribed by the Commission and shall include the employee's present address, the nature of work on the licensed premises, the date employment shall commence and such other information as the Commission may deem pertinent to the registration of the employee.

- B. RECORDS.** A licensee shall maintain records of all persons employed to sell or serve liquors including records of employees or entertainers who are compensated to sit with patrons under a Class 5, Category [4,] D, license. Employee records shall include, but are not limited to name, birth date, current address, social security number, and U.S. residence status. A licensee shall maintain and post a daily schedule of employees on duty. All records shall be readily available for inspection. Employers shall be responsible to verify that all such employees are ~~[eighteen]~~ 18 years or older.
- C. COMPENSATION.** No Class 5, Category [4,] D, licensee shall employ a host or hostess to sit and entertain patrons whose earnings are based on commissions, percentages or similar methods of payment unless such compensation is authorized by the Commission. A host or hostess shall be considered an employee of the premises and subject to compliance of these rules. The licensee shall be required to

maintain compensation records for each host or hostess, including a record of sales of alcoholic and nonalcoholic beverages for each employee upon which such compensation is based.

RULE 5-2 PERSON IN ACTIVE CHARGE OF PREMISES. Each licensee shall have a person in active charge of the premises who shall provide proper supervision in the exercise of the liquor license in accordance with the liquor laws. A person duly approved to serve as a person in active charge of the premises shall be on duty at all times while the premises are open for business, even during hours in which liquor service is not offered. No sales of liquor should take place where no person in active charge is on duty and in the licensed premises, except in Class 1, 3, [7] and 8 licensed premises.

To become eligible for approval as a person in active charge of the premises, the licensee or the licensee's authorized representative shall in writing appoint the applicant, who shall not be less than 21 years of age, as a person to be in active charge of the premises. The applicant shall take an examination on all applicable laws, rules and regulations of the Commission and pertinent information relating to liquor and shall be registered on a form prescribed by the Commission. Upon successful completion of the examination, the applicant shall be issued a liquor card which shall be valid for a period of [~~five~~] 5 years from the date of issue, and shall be renewable by reexamination every [~~five~~] 5 years.

A liquor card which is valid and issued by another county liquor jurisdiction in the State shall be honored in this County, subject to verification and renewal upon its expiration.

The Commission may revoke or suspend the exercise of a liquor card for just cause upon proper notice and hearing thereof to the person holding the liquor card. If a suspension is ordered, the person shall not be authorized to be the person in active charge of the premises and shall be required to retake the examination on liquor laws prior to reinstatement of the liquor card. Nothing herein shall prevent such person from participating in the sale, service or consumption of intoxicating liquors. For purposes of this section, just cause may include but is not limited to (1) the failure to provide proper supervision and compliance to liquor laws as adjudicated by the Board, and (2) drinking on duty.

RULE 5-3 ANNUAL LISTING OF [~~EMPLOYEES WITH LIQUOR CARDS.~~] PERSONS IN ACTIVE CHARGE OF PREMISES. Annually, within the anniversary month of the issuance of its license, each licensee licensed to sell or serve liquor shall submit to the Department the name of every person then employed on the licensed premises who has been appointed and approved as a person in active charge of the premises. Any person previously approved by the department whose name does not appear on the list shall be considered terminated. The licensee shall be required to submit a new letter of appointment to reinstate said person as an approved person in active charge of the premises. The department shall issue a listing of approved persons in active charge of the premises which shall be posted within the licensed premises readily available for inspection. The listing may be amended from time to time.

RULE 5-4 CONDUCT OF EMPLOYEES AND PERSONS IN PREMISES LICENSED FOR CONSUMPTION THEREON.

- A. Licensees shall be held strictly accountable for the conduct of all employees and other persons on the licensed premises. For the purpose of this rule, any person who performs a service usually or normally done, on or within the licensed premises, whether under contract or commission, registered or not registered, compensated or not compensated, is considered to be an employee on duty and shall be subject to this rule. An entertainer shall be deemed to be an employee of the licensee during the time the entertainer is performing or on the platform or stage or in any other area set aside for the performance. This definition does not apply to vendors, tradesmen, maintenance people and the like, who in the normal course of their duties service licensed premises.
- B. Employees on duty, including persons who are authorized to sit or dance or otherwise entertain customers in a Class 5, Category [4,] D, liquor license, shall not consume liquor, provided that wine stewards, [~~twenty-one~~] 21 years or older, in the normal course of duty, shall be permitted to taste liquors to determine quality of product. No employee in any licensed premises shall sit or dance with or otherwise entertain patrons except as provided by law.
- C. No licensee shall encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals or to permit behavior that is offensive to common propriety.
- D. No person shall be allowed to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

RULE 5-5 PREPARATION OF DRINKS.

- A. **LOCATION.** The preparation of all drinks in a premises licensed for consumption thereon shall be conducted at a service bar in such a manner as will permit any interested customer to view the bartender's operation.

With the prior approval of the Commission, a hotel or restaurant which maintains one or more service bars on the premises may install a service bar within the kitchen premises to accommodate patrons in the dining room.

- B. **QUANTITY.** Any drink whether a straight drink or a drink consisting of one kind of liquor and mixer or water which is served or sold shall contain not less than one fluid ounce or its equivalent of liquor, unless otherwise requested by the patron for less than one fluid ounce of liquor.

- RULE 5-6 STACKING OF LIQUOR.** The stacking of liquor for consumption by patrons is prohibited. "Stacking" is defined as having more than two standard servings of drinks before a customer at any one time. A standard serving means a drink containing distilled spirits in a container not to exceed [~~ten~~] 10 ounces, or [~~five~~] 5 ounces of wine or [~~twelve~~]

24 ounces of beer; provided that a serving in excess of these amounts shall be limited to one per customer. A pitcher; or container not to exceed [60] 100 ounces, [may] shall be served to [two] 2 or more persons[-] and no person shall be permitted to consume directly from the pitcher or container.

At last call, pitcher service or any drink exceeding a single standard serving shall be prohibited.

RULE 5-7 QUALITY OF LIQUOR. Liquors sold in the County shall be of pure quality. Draught beer sold or served shall be freshly drawn. The selling and serving of stale or slop beer is prohibited. Draught beer shall not be sold unless upon the faucet, spigot, or outlet wherefrom the beer is drawn there is attached a clear and legible notice, placard or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the draught beer.

RULE 5-8 PREMISES; CONDITIONS.

A. ENTRANCES. Street entrance or entrances to any premises licensed to sell or serve liquor for consumption thereon shall be kept unlocked while open for business. Entrances to booths shall not be enclosed in any manner, and all parts of the premises must be well and properly lighted so as to permit visibility for at least [~~ten~~] 10 feet to anyone with normal vision.

B. ACCESS TO CERTAIN UNLICENSED PREMISES. No premises licensed to sell liquor for consumption thereon shall be connected with and directly accessible to any unlicensed premises without Commission approval.

C. RESTROOMS. There must be installed within a licensed premises upon which liquor is consumed, separate and adequate restroom facilities for males and females which shall be kept in a sanitary condition at all times. The Commission may approve the use of restroom facilities adjacent to the licensed premises, with the approval of the State Department of Health.

RULE 5-9 EMPLOYEE REQUIRED TO MAINTAIN ORDER. The Commission may in its discretion require that an employee be on duty to maintain order during such times that it deems necessary.

RULE 5-10 POSSESSION OF LIQUOR LAWS, AND OTHER REQUIRED DOCUMENTS.

A. Every licensee shall have a copy of the Rules and Regulations of the Commission and Chapter 281, Hawai'i Revised Statutes, as amended, available at all times on the licensed premises. Licensees and employees who participate in the sale and service of intoxicating liquors shall be presumed to know the Rules and Regulations of the Commission and Chapter 281, Hawai'i Revised Statutes[-], as amended.

B. Every licensee shall post signs regarding (1) illegal sales of alcohol to minors; (2) any signs as required by the Commission; and (3) any other signs required by law.

RULE 5-11 TEMPORARY CLOSING OF LICENSED PREMISES.

- A. No licensee shall temporarily close a licensed premises for [~~five~~] 5 or more consecutive days without first notifying the Department in writing of the intention to do so, the approximate period that such premises shall be so closed and the reason, if any, for such action.
- B. Temporary closing of licensed premises may be ordered by the Commission or the Director at the request of the Police Department and/or in any emergency as deemed necessary for the protection of life and property for a period not to exceed 48 hours.

RULE 5-12 SURRENDER OF LICENSE UPON REVOCATION OR CLOSING OF BUSINESS, INACTIVE. The holder of a license must immediately surrender the license to the Department upon revocation thereof, or within [~~five~~] 5 days after closing the business if it be otherwise discontinued in accordance with the procedures established by the Department.

A liquor license may be placed on inactive status which will cause the temporary cessation of the sale, service and/or consumption of intoxicating liquors and shall only be applicable if the licensee retains possession and control of the premises, or if the licensee loses possession of the premises and immediately files an application for a change of location.

The licensee shall submit a written request to the Commission, and upon Commission approval, shall surrender its license to the Department for safekeeping and be subject to closing procedures. An inactive license may be renewed only if the licensee maintains possession and control of the premises.

The licensee shall notify the Department of the reactivation of such license and may be subject to final inspection pursuant to Rule [~~4-2-K~~] 4-2-L.

RULE 5-13 ADVERTISEMENTS.

- A. **ADVERTISEMENT.** Liquor advertisements, posters and signs are permitted in or about the licensed premises provided that licensees shall not, directly or indirectly, permit misleading or deceptive advertising or advertising that is lewd or obscene or, promotions or advertising which promotes the excessive consumption of liquors. Signs shall conform with the sign ordinances of the County of Hawai'i. The Commission reserves the right to approve or deny any advertisement or advertisement scheme in relation to liquors.

It shall be unlawful for any person acting as agent or representative of a nonresident principal or for any licensee directly or indirectly, or through any subsidiary or affiliate, to give any premium or free goods of liquor or other merchandise in connection with the sale of any liquor or to give any premium or free goods of liquor

in connection with the sale of other merchandise. [~~The Commission reserves the right to approve or deny any advertisement or advertisement scheme in relation to liquors.~~]

- B. LIQUOR STORAGE.** Storerooms or other areas used for the storage of liquor in retail premises shall receive the prior approval of the Director. During prohibited hours of sale, unless the liquor stock is kept under lock, a sign shall be conspicuously posted at each liquor sales area to give notice of the permitted hours of sale and consumption at the licensed premises.

RULE 5-14 TRADE NAMES; UNAUTHORIZED USE. A new or transferred license shall have a trade name which shall be registered with the Department prior to its use. Whenever a licensee changes an existing trade name, the licensee shall register the new trade name with the Department and pay a fee of \$25.00 to the Department prior to its use by the licensee. The use of any trade name which is identical to or so similar as to be confused with another trade name registered with the Department is prohibited.

RULE 5-15 SALE OF LIQUOR WITHOUT A LICENSE.

- A.** Pursuant to Section 281-97, Hawai'i Revised Statutes, as amended, in cases where a license is revoked, cancelled or not renewed, the licensee may sell intoxicating liquors then in their possession upon written approval and conditions set by the Commission, unless under this Chapter the same are seized or forfeited.

On the day of closing, the licensee shall conduct an inventory of liquors and indicate its value and submit a copy to the Department. Liquor shall be stored until such time as approval from the Commission is granted. The sale of liquors shall be limited to products in their original package and shall be sold only on the specific date(s) authorized by the Director. Such liquors may be sold to a retail licensee.

- B.** In an application for a transfer of liquor license, the transferor may sell its liquor inventory to the transferee, upon written application and approval from and upon the conditions set by the Commission. A purchase agreement for the liquors shall be submitted to the Department and shall include the inventory, its value, and the purchase price of the inventory.

RULE 5-16 TRADE PRACTICES.

- A. DISCOUNTS.** Retail licenses shall be permitted to offer coupons or discounts on liquor or merchandise in connection with the sale of liquor or merchandise.
- B. QUANTITY DISCOUNTS.** Industry members shall apply quantity discounts to a retail licensee only on a single order/purchase.
- C. COMBINATION PACKAGES.** Industry members may package and distribute liquors in combination with other nonalcoholic items. For purposes of this section, combination packages sold by the industry member shall reflect cost of the liquor and the fair market value of all nonalcoholic items.

An industry member may assemble specialty packages specific to a retailer to include nonalcoholic items furnished by the retailer in which case the industry member shall maintain a record of items furnished by the retailer, assess normal assembly charges and the cost of the nonalcoholic items shall not be included in the invoice of that combination package. The retailer shall be responsible to ensure that all cost of items in the combination package ~~[are]~~ are reflected in the sales price to customers.

D. CONSUMER PROMOTIONS.

1. Industry members may furnish consumer coupons which are redeemable at a retail establishment. An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons. Payments for the redemption of coupons shall be made directly to the retail licensee to reduce the cost of sales. The coupons shall not specify a particular retailer or group of retailers where such coupons can be redeemed.
2. Direct offerings via contest prizes, premium offers, refunds, and the like may be offered by industry members or retail licensees directly to consumers. The direct offering shall be to persons 21 years or older and shall not require proof of purchase of a liquor product in order to participate in the offering. The industry member shall provide sufficient entry forms and the retailer shall ensure that entry forms are available or that instructions to obtain additional entry forms are conspicuously posted.

For purposes of this section, items of nominal value not to exceed \$10.00 may be included in in-pack promotions. Offers in which entry forms are contained in-pack shall be permitted only when entry forms or instructions to obtain additional forms are available on premises.

- E. STOCK, ROTATE, PRICING.** Industry members, including solicitors authorized to conduct business in this County, may stock, rotate, and affix prices to products they sell and provide shelf plans or schematics. Industry members shall not (1) alter or disturb products of other industry members, and (2) rearrange or reset all or part of a store or liquor department.
- F. RETAIL LICENSEE SOLICITATIONS.** No retail licensee shall solicit or accept, either directly or indirectly, a premium or free goods of any nature, from an industry member, except as otherwise authorized by law.
- G. RETAIL LICENSEE SOLICITATION EXEMPTIONS.** No retail licensee shall solicit the performance of services except as authorized by State or County liquor laws, and the rules, regulations and decisions of the ~~[Bureau of Alcohol, Tobacco and Firearms]~~ Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury Department.

RULE 5-17 LICENSES. SUSPENDED OR INACTIVE. A liquor licensee whose license has been suspended shall post for the duration of the suspension in an area visible to the general public a notice of the suspension and the dates of the suspended term. During the suspension the licensee shall be prohibited from selling, serving or furnishing liquors to patrons. The licensee shall be subject to compliance to liquor laws. The licensee may allow patrons to bring in their own liquors for consumption upon application and approval of a private host permit and the licensee shall be permitted to assess a corkage fee.

PART VI. PROHIBITIONS

RULE 6-1 GENERAL PROHIBITIONS.

A. LIQUOR SHALL NOT BE SOLD OR FURNISHED. At no time under any circumstances shall any licensee or its employee permit the possession, consumption, sale or furnishing of any liquor to:

1. Any minor;
2. Any person at the time under the influence of liquor;
3. Any person known to the licensee to be addicted to the excessive use of liquor;
4. Any person for consumption in any vehicle which is licensed to travel on public highways; and
5. Any person 21 years and older when there is reasonable cause to believe that such person is permitting any minor to consume or use any liquor.

B. UNLAWFUL DISCRIMINATION.

1. No licensee whose premises are open for business to the general public shall refuse, withhold from, or deny to any person, the full and equal enjoyment of any of the licensee's accommodations, advantages, facilities, goods, privileges, or services on the basis of that person's race, religion, sex, or ancestry.
2. For purposes of this rule, any licensee that caters, sells, extends, offers, or otherwise makes available to the general public its accommodations, advantages, facilities, goods, privileges, or services, for a fee or charge shall be deemed to be open for business to the general public.
3. This rule shall not apply to clubs which are not in fact open to the general public except to the extent that the accommodations, advantages, facilities, goods, privileges, or services of the club are made available to the general public.

4. Nothing in this rule shall be construed or interpreted to prohibit a licensee from the right to deny service to any person for failure to conform to the usual and regular requirements, standards, and regulations for the licensed premises so long as said denial, requirements, standards, and regulations are uniformly applied to all persons without regard to race, religion, sex or ancestry.

C. DISORDERLY PERSONS; PERSONS UNDER THE INFLUENCE OF LIQUOR. No licensee shall:

1. Knowingly permit any person under the influence of liquor or disorderly person to be or remain on the licensed premises.
2. Fail [~~immediately~~] to timely prevent or suppress any violent, quarrelsome, disorderly, lewd or unlawful conduct of any person on the premises.

D. MINORS IN LICENSED PREMISES. A minor's employment, entry and participation in activities in a licensed premises, shall be in accordance with Rule 3-2-D-12, Teen Event Permit, and as follows:

1. **MINOR EMPLOYEES.** Minor employees, ages 18 to [~~24,~~] 20, may be permitted to sell liquors under proper supervision provided by a person with a liquor card. Minor employees, ages 20 and under, may be in possession of liquors in a licensed premises when the minor is employed by the licensee and whose duties include the handling of liquors such as warehousing, stocking, pricing, bagging, or bussing.
2. **MINOR PATRON IN RETAIL DEALER'S PREMISES.** A minor patron in a retail dealer's establishment may assist the adult family member or a physically challenged person in the transport of such liquors in a shopping cart or to a vehicle.
3. **DINING.** A minor shall be permitted to enter all classes of licenses for the purpose of dining only when the area is deemed the primary food service area where the preponderance of sales is derived from food. Upon completion of dining, said minor(s) shall leave the premises.

The holder of a Class 5, Category [~~2-or-4~~] C or D designation, or a Class 11 licensee shall not be permitted to conduct entertainment and/or hostess activities during dining hours.

Minors shall be prohibited from entering a premises when food service is complementary to the bar operation, as evidenced by a pupu and/or light menu or the like.

4. **ENTERTAINMENT AND DANCING.** Minors, when accompanied by a parent or adult 21 years or older, shall be permitted to enter into classes of licenses authorized to have live entertainment or dancing only during times when live

entertainment or dancing is offered~~[-]~~ except a premises holding a Class 5 Category C and/or D designation. Minors 16 years of age or older shall be permitted to dance. The parent or adult shall be responsible for the minor during the entire stay provided that the licensee may exercise its right to remove the minor(s) if there is cause to believe that said adult is not responsible for the minor(s)~~[-]~~ and if no action is taken to remove the minors, the licensee shall be held in violation of this rule.

5. CONCERTS. Minors are permitted to attend concerts except that if liquor service is provided, the licensee shall cause all adults desiring liquor service to be clearly identified.

~~[6.]~~ **6. IMPROMPTU ENTERTAINMENT.** ~~No minor shall participate in impromptu entertainment, except as otherwise provided by law.~~

~~7.]~~ **6. GAMES.** In a premises licensed for consumption thereon, a minor shall be prohibited from playing any game or game devices in an area designated a primary liquor service area of the premises. Minors may be permitted to play games in a retail dealer's licensed premises.

~~[8.]~~ **7. CONTESTS.** A minor shall be prohibited from entering or participating in contests or tournaments or the like, except that a minor may participate in golf, bowling, or tennis tournaments.

An on premises licensee shall obtain approval from the Director or Commission for any other games or contests to which minors may be asked to participate.

~~[9.]~~ **8. PRIVATE GATHERINGS.** A premises which hosts a private gathering to which the public does not have access may permit minor guests of all ages to participate in games, dance, song and entertainment.

~~[10.]~~ **9. PROHIBITIONS.**

- a. No minor shall be permitted to be in the area designated as the primary liquor service area, commonly known as the bar or lounge area.
- b. No minor, at any time, shall be permitted to sit at any bar or counter.

E. BUSINESS PRACTICES; EXCEPTION. Except as specifically allowed herein, peddling in any sense is strictly prohibited. Before removing liquor from licensed premises for delivery to a customer under a manufacturer's or wholesale or retail dealer's license, the licensee must have received a bona fide and specific order therefore. Provided, however, duly licensed wholesale dealers may, without a bona fide and specific order therefore, remove beer from the 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. A licensee of any premises licensed to sell liquor for consumption on the premises or any employee of such premises shall not be permitted to solicit business

from any other licensed premises or from any person directly outside of the premises connected therewith. No licensee shall employ any person for the purpose of selling or serving liquor to patrons whose sole source of earnings is based on payments for such service on the basis of any commission, percentage or similar methods of payment. Additionally, the Commission reserves the right to review and approve any plan or arrangements involving any commission, percentage or similar methods of payment.

RULE 6-2 DRIVE-IN RETAIL SALES PROHIBITED. Customers making purchases at retail premises must enter the licensed premises for the purpose of making purchases of liquor. The drive-in method whereby the customer orders from a motor vehicle and the licensee delivers liquor to the vehicle is prohibited. Nothing in this rule shall be construed to prohibit assistance to any person who is physically unable to walk, lift and/or carry purchases of liquor because of a disability.

RULE 6-3 PRACTICES TO PROMOTE CONSUMPTION OF LIQUOR; PROHIBITED. No person licensed to sell liquor for consumption on the premises shall:

~~A. Increase the volume of liquor provided to one person without increasing proportionally the price charged, except as otherwise provided by law;~~

[B.] A. Encourage or permit, on the licensed premises, any game or contest which involves the consumption of liquor or the awarding of liquor as a prize.

RULE 6-4 NOISE.

A. NOISE PROHIBITED. No licensee within the County, including licensed vessels operating within [~~three~~] 3 miles of shore of the County, shall make, cause the making of, or continue to make, suffer, or permit any reproducible noise or noise from patrons from the licensed premises or any adjacent premises under the licensee's control which results in a complaint from residents in the vicinity and exceeds the maximum permissible sound levels as set forth in this section.

B. DEFINITIONS:

"MPSL" shall mean the maximum permissible sound level.

"Ambient noise" means the totality of sounds of a given place and time, not including the specific source being measured. The ambient noise level may be estimated from the sound levels measured during nonoperation of the noise source or by sound levels measured at one or more points near the point of measurement where the noise source is inaudible.

C. ZONING DISTRICTS. Classification of zoning districts are:

"Class A" which include all areas equivalent to County lands zoned conservation, residential or similar.

“Class B” which include all areas equivalent to County lands zoned apartment, business, commercial, hotel, resort or similar.

“Class C” shall include all areas equivalent to County lands zoned agriculture, industrial or similar.

For any area not zoned or interim zoned, the comparable State Land Use classification shall apply.

D. NOISE LEVELS. Maximum permissible sound levels in dBA shall be:

ZONING DISTRICT	DAYTIME	NIGHTTIME
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
CLASS A	55	45
CLASS B	60	50
CLASS C	70	70

E. VIOLATIONS, LAND/FIXED PREMISES. There shall be a violation of this section if the noise levels exceed the allowable MPSL for a combined total of ~~ten~~ 10 percent or more of any ~~twenty-minute~~ 20-minute period and which measurement shall be at or within the property lines of the complainant.

For purposes of this section, where mixed zoning districts or uses exist, the lowest MPSL shall apply. As an example, where residential use is permitted in a commercial district, the noise level for residential use shall apply.

Measurements shall normally not be used for enforcement unless the noise level at a point of measurement is more than 3 decibels greater than the ambient or background noise level.

F. VIOLATIONS, VESSELS IN TRANSIT. Vessels in transit shall be exempt from zoning and MPSL standards as provided in this section. Any reproducible noise or noise emanating from patrons on board or disembarking the vessel which is audible and disturbing to the neighborhood shall be a violation.

G. AUTHORITY TO AMEND NOISE LEVELS. The Liquor Commission shall be authorized to set a lower MPSL for a license upon findings that the location of the licensed premises and the unusual nature of the existing or proposed uses surrounding the premises are such that a standard MPSL are insufficient to permit reasonable conduct of the existing or proposed uses including, but not limited to, hospitals, nursing homes or health care facilities, and that without such lower MPSL, the license application or renewal will more likely than not be denied.

Where such action is proposed by the Commission, notice of hearing shall be provided to the licensee or the applicant for the license pursuant to Chapter 91, Hawai'i Revised Statutes, as amended, and such notice shall be published at least once in a paper of general circulation in the district in which the establishment is located.

H. AUTHORITY TO IMPOSE CONDITIONS. The Commission may impose conditions to provide corrective measures on the licensee, including soundproofing, and on any permits related to the license, the Commission may pursue action pursuant to Section 281-61, Hawai'i Revised Statutes[-], as amended.

PART VII. SEVERABILITY

RULE 7

SEVERABILITY. If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the Rules and Regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these Rules and Regulations are declared to be severable.

Dated: Hilo, Hawai'i, _____

LIQUOR COMMISSION OF THE
DEPARTMENT OF LIQUOR CONTROL,
COUNTY OF HAWAI'I, STATE OF HAWAI'I

By: _____
_____, Its Chairperson

Notice of Public Hearing:
Hawai'i Tribune-Herald:
West Hawai'i Today:

Date and Place of Public Hearing:

APPROVED:

MAYOR, County of Hawai'i
Date: _____

APPROVED AS TO FORM:

Deputy Corporation Counsel

Date: _____

I hereby certify that the foregoing amendments and revisions to the Rules and Regulations of the Liquor Commission of the County of Hawai'i was received and filed in my office this ____ day of _____.

County Clerk

