DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

Adoption of Chapter 15-210
Hawaii Administrative Rules

May 4, 2005

SUMMARY

Chapter 15-210, Hawaii Administrative Rules, entitled "Rules, Regulations, Charges, and Fees for Public Parks", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 210

RULES, REGULATIONS, CHARGES, AND FEES FOR PUBLIC PARKS

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-210-1 Purpose. The purpose of this chapter is to govern the use and protection of all parks under the jurisdiction, management, and operation of the authority, providing passive and active, cultural, educational and commercial activities for the well-being of all who visit the area. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels that have been left unattended in the public parks for a continuous period of twenty-four hours or more without the written permission of the authority or the authority's authorized representative;

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

"Animals" means all animals wild and domestic;

"Authority" means the Hawaii community development authority established by section 206E-3, HRS;

"Authority's authorized representative" means any person authorized by the authority to act for the authority including the executive director and agents of the authority;

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

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

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

"Executive director" means the executive director of the authority;

"Kakaako waterfront park facility" means the stage, bleachers, stands, parking lot, landscaped, and other areas of the facility as outlined in the park plan;

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds, and dune buggies regardless of whether the vehicle is required by the State or any county to be licensed;

"Nude" means uncovered post-pubertal human genitals, pubic areas, or the nipple or areola of post-pubertal human female breasts;

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

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

"Picnic" means an outing with food provided by members of a group and eaten in the open;

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

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

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, but excluding bicycles and other devices moved by human power. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §§206E-2, 206E-4)

§15-210-3 Enforcement. (a) Citations. Police officers and any other officer so authorized shall issue a citation for any violation of the provisions of this chapter:

(1) There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this chapter for instances which do not mandate the physical arrest of the violators. The

form and content of the citation shall be adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and rules of the State of Hawaii and the city and county of Honolulu;

(2) In every case when a citation is issued, a copy of the same shall be given to the violator, or in the case of a parking, standing, or stopping violation, a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);

(3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original;

(4) Whenever a motor vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this section, any police officer and any other officer so authorized shall take the name, address, and driver's license number of the alleged violator and the license plate number of the vehicle or vehicle identification number of the motor vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the complaint to be entered against the person at a place and at a time provided in the citation;

(5) Whenever any motor vehicle is parked, standing, or stopped in violation of this section, the police officer and any other officer so authorized finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the

vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the charge against the registered owner at a time and place specified in the citation. The registered owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

(A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or

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

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

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

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

(1) The alleged violator refuses to provide the officer with the person's name and address and any proof thereof as may be reasonably available to the alleged violator;

(2) When the alleged violator refuses to cease the person's illegal activity after being issued a citation; or

(3) The alleged violator has previously been issued a citation for the same offense within a one-year period.

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

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

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

(e) Injunction. The authority may maintain an action for an injunction to restrain any violation of this chapter and may take lawful action to prevent or remedy any violation. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-4 to 15-210-12 (Reserved)

SUBCHAPTER 2

USE OF PUBLIC PARKS

§15-210-13 Park use. (a) Within the limits of any public park, it is unlawful for any person to:

(1) Wilfully or intentionally destroy, damage, or injure any property;

(2) Climb onto any tree, except those designated for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play apparatus;
(3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
(4) Kindle, build, maintain, or use any fire, other than in a grill or brazier;
(5) Annoy, molest, kill, wound, chase, shoot, or throw missiles at any animal or bird;
(6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
(7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
(8) Construct or fabricate surfboards;
(9) Permit any animal to enter and remain within the confines of any public park area except as otherwise provided in this chapter or authorized by permits issued by the authority or the authority's authorized representative;
(10) Feed any animal or bird when signs are posted prohibiting the feeding unless authorized by a permit issued by the authority or the authority's authorized representative;
(11) Wash, polish, or repair cars or other vehicles;
(12) Enter or remain in any public park during the hours that the park is closed, provided that public notice of closure is made;
(13) Camp at any park not designated as a campground;
(14) Park any vehicle in the parking lot except while its passengers are within the public park;

(15) Appear nude within the public park;
(16) Defecate or urinate other than in public restrooms; or
(17) Dispose of any trash other than in designated rubbish bins.

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

(1) Cut or remove any wood, plant, grass, soil, rock, sand, or gravel;
(2) Sell or offer for sale any services, merchandise, article, or thing, whatsoever;
(3) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;
(4) Repair or condition any surfboard;
(5) Operate a motorized scooter, motorized vehicle, or other motorized recreational equipment that is not regulated and licensed by the county of Honolulu;
(6) Enter the public park with a shopping cart or park any shopping cart or vehicle on grassed areas;
(7) Amplify music or use battery-operated loudspeakers (bullhorns);
(8) Ride or drive any horse or any other animal;
(9) Kindle, build, or maintain any campfire, fire torch, or fire knife;
(10) Serve, sell, or consume alcoholic beverages; or
(11) Engage in or conduct any activity which creates any sound, noise, or music exceeding 80 dBA sound pressure level taken at a point ten feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by authority.

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

(1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;

(2) Ride upon roller skates, roller blades, skate boards, scooters, wheelies, or bicycles; or

(3) Engage in kite flying.

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

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

(2) Engage in model airplane flying;

(3) Engage in model boat sailing;

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

(5) Discharge firearms for target practice only;

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

(7) Launch model rockets.

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

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

which the executive director shall determine will maximize the enjoyment and use of any park by park users. The restrictions may include the installation of parking meters or parking toll booths in public parks. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-14 Animals in public parks. (a) Persons may bring animals into public parks as provided in this section or in accordance with any other rules adopted by the authority pursuant to chapter 91, HRS. For purposes of this section, "common domestic household pets" includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, horses, cattle, sheep, or pigs.

(b) The executive director is authorized to designate areas in public parks for use by persons having custody and control of common domestic household pets on a leash. In designating parks or areas therein for leashed common domestic household pets, the executive director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The executive director shall post signs that notify the public of the designation that describe or map the park or park areas so designated. Signs for areas for leashed common domestic household pets shall further display the applicable requirements in subsection (c).

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

(1) The person having custody and control of the common domestic household pets to restrain

the common domestic household pets at all times on a leash, cord, chain, or other similar means of physical restraint of not more than eight feet in length;

(2) All common domestic household pets in the park or park areas designated for leashed common domestic household pets to display a valid license tag attached to the common domestic household pet's collar;

(3) The person having custody and control of the common domestic household pets to be eighteen years of age or older; and

(4) The person having custody and control of the common domestic household pets to carry equipment for the removal and disposal of the common domestic household pets' feces and to clean up and dispose of feces left by the common domestic household pets.

[Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-15 Closing of areas. (a) The authority or the authority's authorized representative may establish a reasonable schedule of visiting hours for all or portions of the premises and close or restrict the public use of all or any portions thereof, when necessary for the protection of the area or the safety and welfare of persons or property, by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours.

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

(c) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §§206E-4, 290-11)

§§15-210-16 to 15-210-25 (Reserved)

SUBCHAPTER 3

COMMERCIAL ACTIVITIES

§15-210-26 Advertisements. No person shall display, post, or distribute notices or advertisements except with the prior written permission of the authority or the authority's authorized representative. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within the premises and the notices and advertisements are found by the authority or the authority's authorized representative to be desirable and necessary for the convenience and guidance of the public. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-27 Business operations. No person shall engage in or solicit any business, except in accordance with the provisions of a permit, contract, license, lease, concession, or other written agreement with the authority or the authority's authorized representative. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-28 Commercial filming, photography, and videotaping. (a) Before any motion picture is filmed or any video recordings, television production, or sound track is made, which involves the use of professional casts, models, settings, or crews, by any person other than bonafide newsreel or news television personnel, a person shall obtain a written permit from the authority or the authority's authorized representative which shall be subject to terms, conditions, and fees set by the authority.

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit from the authority or the authority's authorized representative. The permit shall be subject to terms, conditions, and fees set by the authority.
[Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-29 Permit for commercial activities.
(a) No person shall engage in commercial activities of any kind without a commercial use permit from the authority or the authority's authorized representative.

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

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

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

(1) The proposed activity would be detrimental to the integrity of the park;
(2) The proposed activity would be detrimental to the safety of the users of the park;
(3) The requested area is already subject to an issued permit(s) and issuing additional permits in the area would compromise the access and availability of the park or the enjoyment or safety of the general public;

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

(d) The authority or the authority's authorized representative shall issue a denial of an application in writing setting forth the reason for the denial. The applicant may appeal the denial in writing to the executive director within fifteen calendar days from receipt of the denial. The executive director's decision shall be final. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-30 <u>General commercial use permit provisions.</u> All commercial use permits shall be subject to the following provisions:
(1) Permits shall not be transferable or assignable, unless explicitly authorized in the approved permit;
(2) Permits shall be site and use specific;
(3) Persons or organizations to which permits are issued are bound by the permit conditions stipulated on or attached to the permit;

(4) Permittee shall comply with all applicable laws, rules, and regulations of the federal, state, and county governments. Issuance of a permit is not a grant of any other approvals that may be required of the permittee for the permitted activity, nor does a permit exempt the permittee or the permitted activity from any applicable laws, rules, ordinances, and regulations of any federal, state, or county governments;

(5) Permittee shall at all times have comprehensive general liability insurance in minimum amounts that may be set by the authority, listing the State of Hawaii as an additional insured;

(6) Permittee shall have the permit at the site and produce it upon request;

(7) Depending upon type and intensity of the commercial activity, a refundable security deposit may be required by the authority or the authority's authorized representative. The security deposit shall be refunded if the area used by the permittee has been cleaned and restored to an acceptable condition upon expiration of the permit or if the permit is canceled prior to use. The authority may retain all or part of the security deposit for cleaning and site restoration purposes. Retention of the security deposit shall not preclude the authority from pursuing other legal remedies to address cleaning and site restoration if required;

(8) The use of the premises shall not be in support of any policy that discriminates against anyone based on race, religion, color, sex, national origin, marital status, sexual orientation, familial status, ancestry, physical handicap, disability, age, or HIV (human immunodeficiency virus);

(9) Permittee shall not transport onto the premises nor cause or permit the escape,

disposal, or release of any hazardous materials except as permitted by law. "Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in or pursuant to the Resource Conservation Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule or bylaw, whether existing as of the effective date of these rules, previously enforced, or subsequently enacted or amended;

(10) Any other restrictions or conditions may be imposed by the authority to protect the integrity, condition, and safety of, or access for the general public to the premises; provided restrictions and conditions may include, but are not limited to, the size of the area available for the activity, location of the activity, the type of activity, seasonal and weather restrictions, intensity of the activity or the requirement to hire licensed security services deemed necessary by the authority or the authority's authorized representative;

(11) The issuance of a permit shall not constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period;

(12) Failure to use the permit at the designated time and place, not due to an act of interference by the authority, shall not result in a refund or credit against paid fees;

(13) Permits are not automatically renewable. Granting of a permit does not entitle the permittee to re-issuance of the permit;

(14) Permittee shall be responsible for the cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permittee's activity; and

(15) Permittee may charge a reasonable admission fee to any person desiring to enter the premises for the purpose of observing the permitted event. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-31 Commercial use permit fees. (a) Applicants for a commercial use permit shall be charged an application fee of $100 at the time of filing the application to defray the cost of processing, issuing, and administering commercial activity permits. A schedule of usage fees shall be set from time to time by the authority. The application fee shall be paid when the application is filed.

(b) All payments of fees and charges shall be in cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the authority. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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

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

(1) An emergency is declared by the authority, the authority's authorized representative or other proper authority;

(2) A permittee violates permit conditions or provisions of this chapter;

(3) The permitted activity damages or threatens damage to the integrity or condition of the premises or the surrounding environment;

(4) Non-use of the permit; or

(5) The permitted activity poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises or surrounding lands.

(c) Except for good cause shown, as determined by the executive director, no refund will be given of any amounts paid when a permit is canceled, revoked, terminated, or voluntarily surrendered.

[Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-33 Indemnification and hold harmless. The permittee shall hold the authority and the State harmless with respect to, and indemnify the authority and the State against, all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the permittee, or the permittee's employees, officers, agents, or subcontractors with respect to any commercial activity conducted or any improvement constructed or installed at the public parks.

[Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-34 to 15-210-45 (Reserved)

SUBCHAPTER 4

PERMITS AND FEES FOR USE OF PARKS

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

(1) Picnic groups, consisting of fifty or more persons;

(2) Sports activities conducted by a league, organization, association, group, or individual;

(3) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals;

(4) Meetings, gatherings, or other similar activity held by organizations, associations, or groups;

(5) Nonrecreational, public service activities, meetings, and gatherings held by organizations, communities, or groups;

(6) The playing of musical instruments as solo or two or more instruments described as follows:

(A) Musical instruments which are limited to two octaves or less, including, but not limited to, the following musical instruments:

(i) Tuba;

(ii) Tympani;

(iii) Maracas;

(iv) Uliuli;

(v) Castanets;

(vi) Tambourine; or

(vii) Percussion instruments in which a human hand or drumsticks are used to create sounds;

(B) Musical instruments which when played do not exceed the sound pressure level established in section 15-210-13(b)(10); and

(C) Musical instruments which are used or played continuously without a regular hourly break of thirty minutes, or for more than six hours within a day;

(7) Hang gliding; or

(8) Commercial activities designed for profit, which include but are not limited to the exchange or buying and selling of commodities or the providing of services

relating to or connected with trade, traffic, or commerce in general. The proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted.

(b) Issuance standards for permits. The authority or the authority's authorized representative shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance of a permit under this section, except as provided in this section. All permits issued by the authority shall:

(1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users;

(2) Ensure proper, orderly and equitable use of areas and facilities through scheduling and user controls;

(3) Ensure protection and preservation of areas and facilities by not overtaxing facilities; and

(4) Promote the health, safety, and welfare of the users of said areas and facilities.

(c) General provisions.

(1) Permits governing the use of public facilities and areas within the premises shall consist of the following types:

(A) Group use;

(B) Special use; or

(C) Temporary concession;

(2) The authority or the authority's authorized representative may issue permits. Permits shall be obtained from the authority. The address of the authority is: 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813. The following conditions shall apply to all permits:

(A) Permits shall be issued on a first-come first-served basis;

(B) All responsible persons eighteen years of age or older shall be eligible to secure permits;

(C) Permits shall be requested no later than forty-five days before the requested permit date and, once issued, may be picked up between the hours of 8:00 a.m. and 4:00 p.m. on regular working days;

(D) Permits shall not be transferred;

(E) Persons or organizations to whom permits are issued are bound by the permit conditions stipulated on or attached to the permit and any applicable federal, state, and county laws, ordinances, rules, and regulations;

(F) The size of groups as well as the length of time any permit may be in effect may be limited by the authority or the authority's authorized representative;

(G) Fees and charges as set by the authority shall be assessed for permits to defray the cost of special facilities, services, or supplies provided by the State, or to meet other conditions as the authority or the authority's authorized representative may prescribe to carry out the provisions of this chapter. Charges may be waived by the authority if, in its opinion, the waiver is in the public interest and benefits the State;

(H) Deposits. The authority or the authority's authorized representative may require a security deposit as a condition of issuing a permit. A deposit shall be collected from the

applicant prior to issuance of the permit. This deposit is required to assure proper cleanup and restoration and shall be refunded by mail if the area used is cleaned and restored to the satisfaction of the authority or the authority's authorized representative. The amount of deposit shall be determined as follows:

Activity/ Event Group Size	Deposit
50 - 100	$200
100 - 200	400
More than 200	500

(I) All payments of fees and charges shall be in cash, cashier's check, certified check, postal money order, or bank money order provided that personal or business checks may be used to pay for events that will occur thirty or more days after the date of the payment;

(J) All permittees shall, upon request, show the permit to any law enforcement officer, the authority, or the authority's authorized representative; and

(K) Other procedures, terms, and conditions deemed by the authority or the authority's authorized representative necessary to carry out the provisions of this chapter, or any applicable federal, state, or county laws, ordinances, rules, or regulations;

(3) Permits may be denied when:

(A) The premises or park facilities are closed or will be closed because of damages, or because of scheduled or ongoing, construction, repairs or

maintenance activities, or because of other reasons;

(B) A state of emergency is declared by the authority, the authority's authorized representative, or other proper authorities;

(C) Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;

(D) There are inadequate facilities to meet the needs of the applicant for the permit;

(E) The premises or facilities will be used by another permittee; or

(F) The applicant has a prior record of noncompliance with permit conditions or violations or violations of this chapter;

(4) Permits may be canceled or terminated at any time without advance notice when:

(A) A state of emergency is declared by the authority, the authority's authorized representative, or other proper authorities;

(B) Natural or civil disturbances occur or threaten to occur including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;

(C) Permittee violates permit conditions or provisions of this chapter; or

(D) Fees, as required, are not paid.

(d) Group use permits.

(1) Any group larger than twenty-five members shall be required to obtain a group use permit to remain within the premises;

(2) Group use permits may be denied to any person, group, organization, or association when space is inadequate to accommodate the

group or as otherwise provided in subsection (c);

(3) Group use permits shall set forth the day and time the group shall be allowed to remain on the premises as follows:

(A) Permits may be issued for hours between 7:00 a.m. and 10:00 p.m. of the same day;

(B) An earlier or later starting time may be granted by the authority or the authority's authorized representative to accommodate special functions; and

(C) Minors below the age of eighteen may be allowed to remain on the premises on their own if the adult who secures the permit for them will be responsible for them and also provided that their use is between the hours 7:00 a.m. to 7:00 p.m. of the same day. Minors staying beyond 7:00 p.m. in park areas that normally stay open past 7:00 p.m. shall be under the supervision of adults on a ten minors to one adult ratio. All minors from the same family, who are accompanied by at least one of their parents, shall be allowed to remain in the area past the 7:00 p.m. deadline, where permitted, without regard to the adult-minor ratio;

(4) The authority or the authority's authorized representative may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when the number or persons under the permit is one hundred or more.

(e) Special use permits.

(1) Special uses shall be permitted only with a special use permit issued by the authority or the authority's authorized representative. Special uses are all types

of uses other than temporary concession and group use and considered compatible with the functions and purposes of each individual area, facility, or unit of the premises;

(2) Requests for permits for special uses shall each be considered on its own merits, including its effect on the park area, facilities, and the public's use and enjoyment;

(3) Special uses include but are not limited to such activities as assemblies, carnivals, celebrations, concerts, demonstrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, regattas, shows, sport events, weddings, and other community or ethnic oriented events, or activities, or other spectator attractions that are open to the general public or to restricted groups;

(4) Requests for permits shall be submitted to the authority a minimum of forty-five days before the date of use being requested for all special use activities or events including those involving the charging of fees, the sale of goods or services, sponsorship or co-sponsorship by commercial establishments;

(5) Requests for special use permits shall be submitted in writing and shall provide the name, address, and phone number of the applicant, the date, time, duration, nature, and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement on how the profits will be used is required;

(6) Permits may be denied when:

(A) A prior permit for the same time and place has been or will be granted;

(B) The event presents a clear and present danger to the public health or safety;

(C) The event is of a nature or duration that cannot reasonably be accommodated in the particular park area applied for;

(D) The event will significantly interfere or conflict with the public's general use and enjoyment of the particular park area applied for; or

(E) Applications or requests for permits are not received by the authority within the times specified in paragraph (4);

(7) The permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, reasonable limitations on the time and area within which the event is permitted, and requirements for liability insurance coverage; and

(8) The authority or the authority's authorized representative may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when the number of persons under the permit is one hundred or more.

(f) Temporary concession permit.

(1) Activities where donations or entry or registration fees are collected for the purpose of defraying expenses incurred by the permittee in conducting the event or activity or activities where the public is charged an admission fee or where a donation is accepted for the purpose of realizing a profit (fundraising activity) shall require a temporary concession permit;

(2) The applicant must be a bonafide nonprofit organization as defined in Internal Revenue Code section 501(c)(3);

(3) The authority may require a financial report if it deems necessary;

(4) A temporary concession permit is allowed only if it is in conjunction with another activity or event which is authorized by a special use permit;

(5) The temporary concession permit is issued to the nonprofit organization who is promoting, producing, staging, or conducting the event or activity;

(6) Except for craft fairs and art marts, no person may profit from a temporary concession. All net profits earned from the temporary concession must be applied to the expenses of the nonprofit organization incurred in connection with events or activities directly related to the purpose for which it has been organized;

(7) The nonprofit organization must procure a liability insurance certificate bearing their name with the authority as additional insured. Products liability shall be included if food or other items are sold;

(8) If a commercial food caterer or lunchwagon is allowed to operate by prior arrangement with the nonprofit organization, liability insurance coverages, including products liability, shall be provided by both the nonprofit organization and commercial food caterer or lunchwagon; and

(9) Groups or applicants applying for the temporary concession permit to sell food shall first obtain clearance from the department of health. The clearance certificate must be presented to the authority before the temporary concession permit may be issued. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-47 Fees for use of facilities. (a) The executive director is authorized to issue a permit and

charge a fee for the use of the parks or recreational facilities within the parks to help cover operating and maintenance expenses when the parks or facilities are used for special events. A schedule of fees shall be set from time to time by the authority. The effective date of any change in fees shall be thirty days after posting the approved fee schedule on the Hawaii community development authority website. For purposes of this section, "special events" means:

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

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

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

(d) The executive director shall provide the authority with an annual report setting forth the permit fees established for special events at the parks or recreational facility within the park and the amount of fees collected for each park or facility. The report shall be submitted no later than sixty days following the end of the Hawaii community development authority's fiscal year. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-48 Fees for attendant or custodian services. Organizations whose use of state recreational facilities requires an attendant or custodian, shall pay the cost of the attendant or custodian service fees to the authority. [Eff JUN 11 2005] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-49 to 15-210-58 (Reserved)

Chapter 15-210, Hawaii Administrative Rules, on the Summary Page dated May 4, 2005, was adopted on May 4, 2005, following a public hearing held on April 27, 2005, after public notice was given in the Honolulu Star-Bulletin, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and The Maui News on March 28, 2005.

The adoption of chapter 15-210 shall take effect ten days after filing with the Office of the Lieutenant Governor.

DANIEL DINELL
Executive Director
Hawaii Community Development Authority

THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism

APPROVED AS TO FORM:

DEPUTY ATTORNEY GENERAL

LINDA LINGLE
Governor
State of Hawaii

Date: MAY 31 2005

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