

EXHIBIT C

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

Amendment and Compilation of Chapter 15-210 Hawaii Administrative Rules

January 4, 2017

SUMMARY

1. Title amended.
2. §§15-210-1 and 15-210-2 are amended.
3. §15-210-3 is added.
4. §15-210-4 is amended.
5. §15-210-5 is amended.
6. §§15-210-13 through 15-210-16 are amended.
7. §§15-210-26 through 15-210-30 are amended.
8. §§15-210-32 and 15-210-33 are amended.
9. §§15-210-46 and 15-210-47 are amended.
10. §15-210-49 is amended.
11. Chapter 15-210 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 210

RULES, REGULATIONS, CHARGES, AND FEES
FOR 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 Hawaii community development authority, providing passive and active, cultural, educational and commercial activities for the well-being of all who visit the area including permitted park uses. If any provision of these rules, regulations, charges, and fees for parks or the application of such is held to be invalid, the remaining portions of these rules or the application of said portions shall not be affected. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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

"Abandoned property" means any personal property that has been left in, at, or on any Hawaii community development authority property that is closed to the public, and/or the owner of the property is not otherwise permitted to be on the premises. The property of a person violating these rules and who is required to leave any Hawaii community development authority property shall be deemed abandoned;

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

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

"Animals" means all animals wild and domestic;

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

"Camping" means the use of camping items;

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

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

"Commercial activity" means the use of or activity in the 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, and for which transportation to and from the park is provided;

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

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

"Executive director" means the executive director appointed by the authority;

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

"HCDA property" means real property owned and managed by the HCDA and not leased to another entity within the Kakaako community development district. Such real property includes, but is not limited to, parks, park roadways, parking lots, beaches and beach rights-of-way. HCDA property also includes improvements made by the HCDA or the agent of the authority. HCDA property is not limited to real property;

"HRS" means the Hawaii Revised Statutes;

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

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

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

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

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

traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

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

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

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

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds, dune buggies, golf carts, all-terrain vehicles (ATVs), segways, hoverboards, or any other vehicles which are mechanically propelled regardless of whether the vehicle is required by the State or any county to be licensed;

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

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

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

"Permissible animals" means common domestic household pets which includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are

considered livestock, including, but not limited to, chickens, horses, cattle, sheep, or pigs;

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

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

"Personal property" means property of any kind or nature, including but not limited to clothing, personal care items such as personal hygiene products and medicines, household items, materials, containers, cardboard, camping items, furniture, equipment, fixtures, bicycles or mopeds or motorcycles as defined in section 291C-1, HRS;

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

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

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

"Soliciting" means engaging in unpermitted commercial activities;

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

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

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, but excluding

bicycles. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §§206E-2, 206E-4)

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

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

- (1) Law enforcement officer(s) may use a form of citation that is authorized for use for violations of Hawaii Administrative Rules, ordinances, or HRS;
- (2) In every case when a citation is issued, a copy of the same shall be given to the violator, or in the case of a parking, standing, or stopping violation, a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);
- (3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original;
- (4) Whenever a motor vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this section, any law enforcement officer and any other person so authorized shall take the name, address, and driver's license number of the alleged violator and the license

plate number of the vehicle or vehicle identification number of the motor vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the citation in writing at the address provided and by the date listed; and

- (5) Whenever any motor vehicle is parked, standing, or stopped in violation of this section, the law enforcement officer and any other person so authorized finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the citation in writing at the address provided and by the date listed. The registered owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

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

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

responsible and accountable for the illegal parking, standing, or stopping of the vehicle.

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

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

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

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

(f) Injunction. The authority may maintain an action for an injunction to restrain any violation of this chapter and may take lawful action to prevent or remedy any violation. [Eff 6/11/05; am and comp 5/25/07, am and ren §15-210-3, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-5 to 15-210-12 (Reserved)

SUBCHAPTER 2

USE OF PARKS

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

- (1) Wilfully or intentionally destroy, damage, or injure any property;
- (2) Climb onto any tree, except those designated by signage for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play apparatus which is a part of the park;
- (3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
- (4) Kindle, build, maintain, or use any fire, other than in a HCDA designated barbeque pit;
- (5) Annoy, molest, kill, wound, chase, shoot, launch or throw projectiles or missiles at any animal or bird;
- (6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
- (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
- (8) Construct, repair, or fabricate surfboards;
- (9) Permit any animal to enter and remain within the confines of any park area except as otherwise provided in this chapter or authorized by permits issued by the authority or the agent of the authority;
- (10) Feed any animal or bird unless authorized by a permit issued by the authority or the agent of the authority;
- (11) Wash, polish, or repair cars or other vehicles;

- (12) Enter or remain in any park during the posted hours that the park is closed;
- (13) Camp at any parks or create a camp site;
- (14) Park any vehicle in the parking lot except while its passengers are within the park;
- (15) Appear nude within the park;
- (16) Defecate or urinate other than in public restrooms;
- (17) Dispose of any trash other than in designated rubbish bins;
- (18) Use any type of detergent or soap to launder clothes or wash any personal property within the park;
- (19) Hang or lay more than one article of clothing or personal property to dry anywhere in the park;
- (20) Park vehicles outside of marked parking stalls;
- (21) Operate any vehicle within the park, excluding the parking lot, unless authorized by the authority or the agent of the authority;
- (22) Use skates, skateboards, hoverboards, segways, scooters, or other similar items;
- (23) Use inflatable bouncers or other similar items;
- (24) Insert stakes or spikes of any length into the grounds;
- (25) Smoking of cigarettes, cigars, etc. or utilizing e-cigs, e-cigarettes, vapor cigarettes or similar devices;
- (26) Personal use of fireworks of any type; or
- (27) Access water from any source within the park other than a park comfort station or park shower.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the authority, it is unlawful for any person, within the limits of any 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 recondition any surfboard;
- (5) Operate a motorized scooter, motorized vehicle, or other motorized recreational equipment that is not regulated and licensed by the city and county of Honolulu;
- (6) Enter the park with a cart with items in the cart stacked, piled, or placed exceeding a height of three feet;
- (7) Amplify music or use battery-operated loudspeakers (bullhorns);
- (8) Ride or drive any horse or any other animal;
- (9) Access electricity from any source within the park;
- (10) Kindle, build, or maintain any campfire, fire torch, or fire knife;
- (11) Serve, sell, or consume alcoholic beverages;
- (12) Engage in or conduct any activity which creates any sound, noise, or music exceeding 80 dBA sound pressure level taken at a point ten feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the authority;
- (13) Placement of anchors, stakes, or any ground penetrating item for any purpose;
- (14) Bring wading pools, dunking tanks, inflatable pools, or portable hot tubs;
- (15) Burning or lighting of firecrackers or fireworks display in the parks;
- (16) Placement of any structures;
- (17) Holding any gathering with more than fifty people in attendance;
- (18) Digging holes; or

- (19) Access water from any backflow preventer or tamper with any backflow preventer and/or irrigation system.

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

- (1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;
- (2) Ride upon roller skates, roller blades, skate boards, scooters, wheelies, hoverboards, segways, or other wheeled devices;
- (3) Engage in kite flying;
- (4) Engage in drone flying; or
- (5) Ride bicycles anywhere except on designated paths or areas.

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

- (1) Throw, cast, roll, or strike any bowling ball or golf ball;
- (2) Engage in model airplane, or drone flying;
- (3) Engage in model boat sailing;
- (4) Engage in model car, truck, or motorcycle driving;
- (5) Discharge firearms for target practice only;
- (6) Engage in archery for target practice and tournament only;
- (7) Launch model rockets; or
- (8) Allow any domestic household pet to be off leash at any time.

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

securing of adequate insurance to protect the State from any liability resulting from the repair work.

(f) Within the limits of any 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 parks. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-14 Animals in parks. (a) Adult persons may bring permissible animals into parks as provided in this section or in accordance with any other rules adopted by the authority pursuant to chapter 91, HRS.

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

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

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

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

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

director shall post signs that notify the public of the designation that describe or map the park or park areas so designated. Signs for areas for leash-free common domestic household pets shall further display the applicable requirements in subsection (c).

(g) Persons bringing permissible animals into 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 park:

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

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

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

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

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

§15-210-16 Abandoned property. (a)
Prohibition.

- (1) Abandoned property is prohibited and may be removed by the HCDA; and
- (2) Moving abandoned property to another location on HCDA property and "left in, at, or on any HCDA property" is within the meaning of the "abandoned property" definition.

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

- (1) Immediate disposal. The HCDA may dispose of immediately, in any manner without notice, verbal or written, abandoned property:
 - (A) Of a perishable nature, including but not limited to items that require refrigeration;
 - (B) Posing a threat to the health, safety, or welfare of the public, including but

- not limited to property containing flammable or otherwise hazardous chemicals, or similarly dangerous items that, if stored, could cause fire, explosion, identifiable disease;
- (C) Deemed to be inappropriate for storage for health and safety reasons by the HCDA, including but not limited to property that is wet, soiled, dirty, sharp, odorous, contaminated by mold or infested with insects, roaches, or bed bugs; or
- (D) Where the apparent owner of the property requests or permits such disposal;
- (2) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided a reasonable opportunity to remove the property from HCDA property; and
- (3) The HCDA shall photograph, video, and/or describe in writing any abandoned property immediately disposed of pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property.
- (c) Removal and storage. The HCDA may remove and store abandoned property that:
 - (1) Interferes with the orderly management of HCDA property;
 - (2) Remains in a park after park closure hours; or
 - (3) Where the apparent owner of the property requests or permits such removal:
 - (A) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided an opportunity to remove the property from HCDA property;
 - (B) The HCDA shall photograph, video and/or describe in writing any abandoned property removed pursuant to this

section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property; and

- (C) Any removed abandoned property shall be stored for at least forty-five calendar days prior to it being disposed.
- (d) Exclusion from enforcement area.
- (1) Members of the public may be excluded from the area within which the abandoned property is being removed by the HCDA; the exclusion area may extend up to ten feet from any property to be removed; and
- (2) A person claiming ownership of the abandoned property shall be permitted to enter the exclusion area for purposes of removing that property so that the property will not be removed by the HCDA; provided, however, that moving abandoned property from HCDA property to another location within the same HCDA property, or to another HCDA property shall not be considered removal from HCDA property, and that the removal is done within forty-five minutes after the initial notice of removal is given.
- (e) Notice. Notice after removal of abandoned property:
 - (1) If physically feasible, a written notice shall also be left in the area/location from where the abandoned property was removed, and be prominently and conspicuously posted for at least three consecutive calendar days following removal of the abandoned property. The notice may be collected by the HCDA after three days have elapsed. This does not require the HCDA to ensure that the notice is in place seventy-two consecutive hours but requires only inspection at the end of the three-day period;
 - (2) Written notice shall also be posted on HCDA's internet website for three consecutive days;

- (3) The written notice shall apprise the owner of the abandoned property of the description and location of the removed property and of the intent of the HCDA to sell, donate, or otherwise dispose of the property if not claimed within forty-five calendar days after removal. The notice shall also include:
 - (A) Date and time the abandoned property was taken;
 - (B) Date and time the written notice was originally posted; and
 - (C) Contact information for the owner of the abandoned property to use if the person desires to reclaim the abandoned property and the time and location at which the owner needs to reclaim the abandoned property; and
- (4) To the extent possible based on information known to the HCDA, an additional written notice shall also be mailed to the person whose property was removed, at that person's last known mailing address.
- (f) Claiming of abandoned property.
 - (1) The owner or any other person entitled to the stored abandoned property may claim the property prior to its disposal upon submitting to the HCDA satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the HCDA in connection with the proposed disposal of the stored abandoned property;
 - (2) Such amounts may be waived by the HCDA upon satisfactory showing of inability to pay; and
 - (3) A dispute between the owner or other person entitled to the stored abandoned property who claimed the property, and another party shall not constitute a dispute to which the State of Hawaii or the HCDA is a party, and

there is no right of action against the State of Hawaii or the HCDA. The State of Hawaii and may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

- (g) Disposal.
- (1) If any stored abandoned property is not claimed in forty-five calendar days, the HCDA may dispose of the property by disposing it;
- (2) Alternatively, if any singular item of abandoned property is determined by the HCDA to have an estimated value of \$1,000 or more, the HCDA may, in lieu of disposing the abandoned property, seek to publicly auction the property. In that event, the HCDA shall give public notice of the public auction, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was seized; provided that the disposal shall not take place less than five calendar days after public notice has been given. Following proper notices, any item of impounded personal property having an estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the abandoned property may be sold by negotiation, disposed of or sold as junk, kept by the HCDA or donated to any other government agency or charitable organization; and

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

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

- (i) Complaint resolution.

- (1) All complaints by persons claiming ownership or entitlement to abandoned property stored or disposed of under these rules may contact the HCDA at (808) 594-0300; and

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

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

§§15-210-17 to 15-210-25 (Reserved)

SUBCHAPTER 3

COMMERCIAL ACTIVITIES

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

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

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

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit from the

authority or the agent of the authority. The permit shall be subject to terms, conditions, and fees set by the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-29 Permit for commercial activities.

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

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

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

(c) A commercial use permit application may be denied if the authority or the agent of the authority determines that:

- (1) The proposed activity would be detrimental to the integrity of the park;
- (2) The proposed activity would be detrimental to the safety of the users of the park;
- (3) The requested area is already subject to an issued permit(s) and issuing additional permit(s) in the area would compromise the access and availability of the park or the enjoyment or safety of the general public;
- (4) The proposed activity will have a significant negative impact on park users and facilities;

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

(d) The authority or the agent of the authority shall issue a denial of an application in writing setting forth the reason for the denial. The applicant may appeal the denial in writing to the executive director within fifteen calendar days from receipt of the denial. The executive director's decision shall be final. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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

- (1) Permits shall not be transferable or assignable, unless explicitly authorized in the approved permit;
- (2) Permits shall be site and use specific;
- (3) Persons or organizations to which permits are issued are bound by the permit conditions stipulated on or attached to the permit;
- (4) Permittee shall comply with all applicable laws, rules, and regulations of the federal, state, and county governments. Issuance of a permit is not a grant of any other approvals that may be required of the

- permittee for the permitted activity, nor does a permit exempt the permittee or the permitted activity from any applicable laws, rules, ordinances, and regulations of any federal, state, or county governments;
- (5) Permittee shall at all times have comprehensive general liability insurance in minimum amounts that may be set by the authority, listing the State of Hawaii as an additional insured;
 - (6) Permittee shall have the permit at the site and produce it upon request;
 - (7) Depending upon type and intensity of the commercial activity, a refundable security deposit may be required by the authority or the agent of the authority. The security deposit shall be refunded if the area used by the permittee has been cleaned and restored to an acceptable condition upon expiration of the permit or if the permit is 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) status;
 - (9) Permittee shall not transport onto the premises nor cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. "Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in or

pursuant to the Resource Conservation Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule or bylaw, whether existing as of the effective date of these rules, previously enforced, or subsequently enacted or amended;

- (10) Any other restrictions or conditions may be imposed by the authority to protect the integrity, condition, and safety of, or access for the general public to the premises; provided restrictions and conditions may include, but are not limited to, the size of the area available for the activity, location of the activity, the type of activity, seasonal and weather restrictions, intensity of the activity or the requirement to hire licensed security services deemed necessary by the authority or the agent of the authority;
- (11) The issuance of a permit shall not constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period;
- (12) Failure to use the permit at the designated time and place, not due to an act of interference by the authority, shall not result in a refund or credit against paid fees;
- (13) Permits are not automatically renewable. Granting of a permit does not entitle the permittee to re-issuance of the permit;
- (14) Permittee shall be responsible for the cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permittee's activity; and
- (15) Permittee may charge a reasonable admission fee to any person desiring to enter the

premises for the purpose of observing the permitted event. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-31 Commercial use permit fees.

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

(b) All payments of fees and charges shall be in cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the authority. [Eff 6/11/05; comp 5/25/07, comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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

(b) The authority or the agent of the authority may cancel, revoke, or terminate a permit without notice and hearing when:

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

general public's use and enjoyment of the premises or surrounding lands.

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

§15-210-33 Indemnification and hold harmless.

The permittee shall hold the authority and the State harmless with respect to, and indemnify the authority and the State against, all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the permittee, or the permittee's employees, officers, agents, or subcontractors with respect to any commercial activity conducted or any improvement constructed or installed at the parks, unless this requirements is waived or modified by the authority based on a finding of good cause. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-34 to 15-210-45 (Reserved)

SUBCHAPTER 4

PERMITS AND FEES FOR USE OF PARKS

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

- (1) Picnic groups, consisting of fifty or more persons;
- (2) Sports activities conducted by a league, organization, association, group, or individual;

- (3) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals;
- (4) Meetings, gatherings, or other similar activity held by organizations, associations, or groups consisting of fifty or more persons;
- (5) Non-recreational, public service activities, meetings, and gatherings held by organizations, communities, or groups consisting of fifty or more persons;
- (6) The playing of musical instruments as solo or two or more instruments described as follows:
 - (A) Musical instruments which are limited to two octaves or less, including, but not limited to, the following musical instruments:
 - (i) Tympani;
 - (ii) Maracas;
 - (iii) Uliuli;
 - (iv) Castanets;
 - (v) Tambourine; or
 - (vi) Percussion instruments in which a human hand or drumsticks are used to create sounds;
 - (B) Musical instruments which when played do not exceed the sound pressure level established in section 15-210-13(b)(11); and
 - (C) Musical instruments which are used or played continuously without a regular hourly break of thirty minutes, or for more than six hours within a day;
- (7) Hang gliding; or
- (8) Commercial activities designed for profit, which include but are not limited to the exchange or buying and selling of commodities or the providing of services relating to or connected with trade, traffic, or commerce in general. The

proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted.

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

- (1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users;
- (2) Ensure proper, orderly, and equitable use of areas and facilities through scheduling and user controls;
- (3) Ensure protection and preservation of areas and facilities by not overtaxing facilities; and
- (4) Promote the health, safety, and welfare of the users of said areas and facilities.

(c) General provisions.

- (1) Permits governing the use of public facilities and areas within the premises shall consist of the following types:
 - (A) Group use; or
 - (B) Special use;
- (2) The authority or the agent of the authority may issue permits. Permits shall be obtained from the authority. The current address of the authority is: 547 Queen Street, Honolulu, Hawaii 96813. Future change of address will be reflected on Hawaii community development authority's website (www.hcdaweb.org). The following conditions shall apply to all permits:

- (A) Permits shall be issued on a first-come first-served basis;
- (B) All responsible persons eighteen years of age or older shall be eligible to secure permits;
- (C) Permits shall be requested no later than forty-five days before the requested permit date and, once issued, may be picked up between the hours of 8:00 a.m. and 4:00 p.m. on State of Hawaii regular working days;
- (D) Permits shall not be transferred;
- (E) Persons or organizations to whom permits are issued are bound by the permit conditions stipulated on or attached to the permit and any applicable federal, state, and county laws, ordinances, rules, and regulations;
- (F) The size of groups as well as the length of time any permit may be in effect may be limited by the authority or the agent of the authority;
- (G) Fees and charges as set by the authority shall be assessed for permits to defray the cost of park maintenance, special facilities, services, or supplies provided by the State, or to meet other conditions as the authority or the agent of the authority may prescribe to carry out the provisions of this chapter. Charges may be waived by the authority if, in its opinion, the waiver is in the public interest and benefits the State;
- (H) Deposits. The authority or the agent of the authority may require a security deposit as a condition of issuing a permit. A deposit shall be collected from the applicant prior to issuance of the permit. This deposit is required to assure proper cleanup and

restoration and shall be refunded by mail if the area used is cleaned and restored to the satisfaction of the authority or the agent of the authority. The amount of deposit shall be determined as follows:

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

- (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 agent of the authority; and
 - (K) Other procedures, terms, and conditions deemed by the authority or the agent of the authority necessary to carry out the provisions of this chapter, or any applicable federal, state, or county laws, ordinances, rules, or regulations;
- (3) Permits may be denied when:
- (A) The premises or park facilities are closed or will be closed because of damages, or because of scheduled or ongoing construction, repairs or maintenance activities, or because of other reasons;

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

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

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

- (D) The event will significantly interfere or conflict with the public's general use and enjoyment of the particular park area applied for; or
 - (E) Applications or requests for permits are not received by the authority within the times specified in paragraph (4);
- (7) The permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, reasonable limitations on the time and area within which the event is permitted, and requirements for liability insurance coverage;
 - (8) The authority or the agent of the authority may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when recommended by public safety and/or law enforcement officer; and
 - (9) Groups or applicants applying to sell food shall first obtain documentation demonstrating the proper approval from the department of health. The clearance certificate must be presented to the authority before the special use permit may be issued. Liability insurance coverages, including products liability, shall be provided prior to the issuance of the special use permit. [Eff 6/11/05; am and comp 5/25/07, am and comp]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-47 Fees for use of facilities. (a) The executive director is authorized to issue a permit and charge a fee for the use of the parks or recreational facilities within the parks to help cover operating

and maintenance expenses when the parks or facilities are used for special events. "Special events" means:

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

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

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

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

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

§15-210-49 Usage fee schedule.

Activity	Daily	Monthly Permit	Annual Permit
Commercial:			
Carnivals	\$1,000	N/A	N/A
Concerts	\$1,000 per 100 projected attendees	N/A	N/A
Demonstrations (non-political)	\$200	N/A	N/A
Festivals	\$500	N/A	N/A
Fitness training	\$100	\$1,000	\$4,000
Food/beverage sales	\$100	\$1,000	\$4,000
Ocean recreational activities (surfing, scuba diving, kayaking, etc.)	\$100	\$1,000	\$5,000
Other	\$500	N/A	N/A
Pageants	\$500	N/A	N/A
T-shirt sales	\$100	\$500	\$2,000
Wedding ceremonies	\$100	\$1,000	\$5,000
Commercial filming/videotaping	\$300	\$2,500	\$10,000
Commercial photography	\$100	\$500	\$3,000
Special Events:			
Athletic practices and events as specified in §15-210-47(a)(1) (A through E)	\$500	N/A	N/A
International, national, or regional events	\$500	N/A	N/A
Entertainment events	\$1,000	N/A	N/A
Educational events	\$100	N/A	N/A

Promotional events	\$500	N/A	N/A
Other	\$500	N/A	N/A

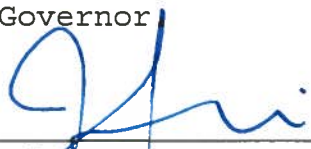
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 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

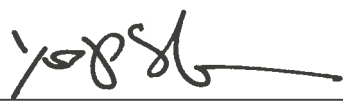
§§15-210-50 to 15-210-58 (Reserved)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

Amendments to and compilation of chapter 15-210, Hawaii Administrative Rules, on the Summary Page dated January 4, 2017 were adopted on January 4, 2017, following public hearings held on December 21, 2016 and January 4, 2017, after public notice was given in the Honolulu Star Advertiser, The Maui News, The Garden Island, West Hawaii Today, and the Hawaii Tribune-Herald on November 20, 2016.

They shall take effect ten days after filing with the Office of the Lieutenant Governor



JESSE K. SOUKI
Executive Director
Hawaii Community Development
Authority

LUIS P. SALAVERIA
Director
Department of Business,
Economic Development &
Tourism

DAVID Y. IGE
Governor
State of Hawaii

Dated: 2/14/17

APPROVED AS TO FORM:



Deputy Attorney General

Filed