

DEPARTMENT OF LAND AND NATURAL RESOURCES.

Adoption of Chapter 13-7
Hawaii Administrative Rules

April 26, 1996

SUMMARY

Chapter 7 of Title 13, Hawaii Administrative Rules, entitled "Assemblies, Meetings, and Distribution of Literature on Department of Land and Natural Resources Lands", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 1

ADMINISTRATION

CHAPTER 7

ASSEMBLIES, MEETINGS, AND DISTRIBUTION OF LITERATURE
ON DEPARTMENT OF LAND AND NATURAL RESOURCES LANDS

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§13-7-1 Purpose. This chapter recognizes and sets forth the rights and privileges of individuals or groups to engage publicly in assemblies and meetings, or to sell or distribute literature in parks and other sites designated in this chapter under the jurisdiction, management, and operation of the department of land and natural resources of the State of Hawaii. Specifically, the purposes of this chapter, as to those lands, are to:

- (1) Provide for the exercise of constitutional freedoms, commensurate with ensuring the normal functioning of government activities;
- (2) Provide safe, orderly, convenient, and efficient use of and enjoyment of those lands by the general public;
- (3) Ensure users of those lands free access across the lands and free access to, among, and between facilities on those lands;
- (4) Prevent interference with normal pedestrian or vehicular traffic on those lands, and between facilities of those lands; and

(5) Prevent interference With or disruption of government functions or facilities on those lands. [Eff MAY 0 6 1996] (Auth: HRS §§171-6, 171-7) (Imp: HRS §§171-6, 171-7)

§13-7-2 Application. These rules govern expressive activities in parks and other sites designated in this chapter under the jurisdiction, management, and operation of the department of land and natural resources. [Eff MAY 0 6 1996] (Auth: HRS §§171-6, 171-7) (Imp: HRS §§171-6, 171-7)

§13-7-3 Definitions. As used in this chapter unless the context clearly indicates otherwise:

"Board" means the board of land and natural resources of the State of Hawaii.

"Chairperson" means the chairperson of the board of land and natural resources, or a designee.

"DLNR" means the state department of land and natural resources.

"Facilities" means public structures or improvements on lands regulated by this chapter.

"Literature" means any written or printed material, including but not limited to books, Pamphlets, handbills, cards, circulars, pictures, magazines, and leaflets, containing political, religious, philosophical or ideological messages, or solicitations for contributions to be made outside DLNR land. The term does not include other items of merchandise, such as, but not limited to, food, drink, coffee mugs, sunglasses, flags, records, patches, jewelry, handicraft, decals, audio or video tapes, shirts, hats, ties, shorts, or any other clothing articles.

"Person" means an individual or organization.

"Sale" means the transfer of money, including monetary donations, in exchange for literature or any other item.

"Solicit" means to ask, implore, plead for; to endeavor to obtain by asking; to importune; or to try to obtain.

"State" means the State of Hawaii.
[Eff May 06 1996] (Auth: HRS §§171-6, 171-7) (Imp: MRS §§171-6, 171-7)

§13-7-4 Jurisdiction. These rules shall apply to all areas designated as DLNR parks and certain other areas under the management and control of the DLNR divisions and offices. These certain other areas are designated as:

- (1) Fort DeRussy Beach;
- (2) Historic preserves;
- (3) Natural area reserves;
- (4) Forest reserves;
- (5) Beaches under DLNR jurisdiction;
- (6) Certain game management areas as may be designated by the board of land and natural resources; and
- (7) Unencumbered state lands immediately adjacent to areas covered by these rules.

The areas where these rules apply for purposes of this chapter shall be collectively referred to as "DLNR land." A current list of these areas shall be kept at all DLNR state parks district offices and the office of the chairperson. [Eff May 06 1996] (Auth: HRS §§171-6, 171-7) (Imp: HRS §§171-6, 171-7)

§13-7-5 Soliciting and sales. Soliciting and the sale of gifts, money, goods, or services on DLNR land is prohibited, except pursuant to:

- (1) Section 13-7-7;
 - (2) A concession, lease, or contract issued by DLNR; or
 - (3) A permit issued by DLNR, valid as of the effective date of these rules.
- [Eff MAY 06 1996] (Auth: HRS §§171-6, 171-7) (Imp: HRS §§171-6, 171-7)

§13-7-6 Public assemblies and meetings. (a) Public assemblies, meetings, gatherings, demonstrations, parades, and other such events, including those recognized under chapter 7, Hawaii Revised Statutes, resulting in assemblies of twenty-five or more persons are allowed on DLNR land, provided a permit for such event has been issued by the chairperson.

(b) An application for such a permit shall set forth the name of the applicant, the date, time, duration, nature, and place of the proposed event, an estimate of the number of persons expected to attend, a

statement of equipment or facilities to be used and any other information required by the permit application form. Permittees shall display a copy of the application containing the required information in plain view during the event at the permitted location.

(c) chairperson shall, without unreasonable delay and provided an application is submitted with reasonable timeliness, issue a permit on proper application, unless:

- (1) A prior application for a permit for the same time and place has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of that particular location;
- (2) It reasonably appears that the event will present a clear and present danger to the public health or safety; or
- (3) The event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as probable damage to the DLNR land's resources or facilities, impairment of DLNR land's atmosphere of peace, tranquility, or recreation, interference with program activities, or impairment of public use facilities.

(d) If a permit is denied, the applicant shall be informed in writing, with the reason(s) for the denial set forth.

(e) The chairperson shall designate on maps, copies of which shall be available for inspection at all state parks district offices and the chairperson's office, the locations available for public assemblies. Locations may be designated as not available for an activity only if such activity would:

- (1) Cause damage or injury to DLNR land;
- (2) Unreasonably impair the atmosphere of peace, tranquility, or recreation maintained in DLNR land;
- (3) Unreasonably interfere with interpretive, visitor service, or other DLNR program activities;
- (4) Substantially impair the operation of public use facilities or services of DLNR concessionaires or contractors; or

(5) Present a clear and present danger to the public health and safety.

(f) The permit may contain such conditions as are reasonably consistent with protection and use of the DLNR land for the purposes for which the land is managed. It may also contain reasonable limitations on equipment to be used and the time and area within which the event is allowed.

(g) No permit shall be allowed for a period in excess of seven consecutive days, provided that a permit may be extended for a like period, upon a new application, unless another applicant has previously requested use of the same location for the same time period and multiple occupancy of that location is not reasonably possible.

(h) No person shall engage in activities covered under this section so as to obstruct or impede pedestrians or vehicles, or harass visitors to DLNR land, either verbally or with physical contact.

(i) Should the number of applications for a permit exceed the available area at a particular location and time, the chairperson reserves the right to allocate spaces for which permit applications were received in the chairperson's sole discretion, on the basis of a shared use concept.

(j) A permit may be revoked under any of the conditions listed in paragraph (c) that constitute grounds for the denial of a permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension of the permit may be made, to be followed by written confirmation within seventy-two hours.

(k) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit. [Eff May 06 1990] (Auth HRS §§171-6, 171-7) (Imp: HRS §§171-6, 171-7)

§13-7-7 Sale or distribution of literature.

(a) The sale or distribution of literature is allowed on DLNR land. However, the use of a portable table or chair to sell or distribute literature on DLNR land, in sizes and numbers acceptable to the chairperson, is allowed only if a permit for such use has been issued by the chairperson. No other structure or equipment,

including, but not limited to display mats, park surfaces, tents, canopies, podiums, or platforms, shall be used to sell or distribute literature on DLNR land.

(b) An application for a permit under this section shall set forth the name of the applicant, the name of the organization (if any), the date, time, duration, and location of the proposed sale or distribution, the number of participants, a statement of equipment or facilities to be used, and any other information required by the permit application form. Permittees shall display a copy of this application in plain view on any permitted portable table or chair. Permittees not using a portable table or chair shall keep a copy of this application with them, and shall produce it upon request.

(c) The chairperson shall, without unreasonable delay and provided an application is submitted with reasonable timeliness, issue a permit on proper application unless:

- (1) A prior application for a permit for the same time and location has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular location;
- (2) It reasonably appears that the sale or distribution will present a clear and present danger to the public health and safety;
- (3) The number of persons engaged in the sale or distribution exceeds the number that can reasonably be accommodated in the particular location applied for, considering such things as damage to DLNR land resources or facilities, impairment of the atmosphere of peace, tranquility, or recreation in DLNR land, interference with program activities, or impairment of public use facilities;
- (4) The location applied for has not been designated as available for the sale or distribution of literature; or
- (5) The activity would constitute a Violation of an applicable law or regulation.

(d) If a permit is denied, the applicant shall be informed in writing, with the reason(s) for the denial set forth.

(e) The chairperson shall designate on maps, copies of which shall be available for inspection at

all state parks district offices and the office of the chairperson, the locations within DLNR land where permitted activities may occur. Locations may be designated as not available for issuance of permits, only if activities under the permit would:

- (1) Cause injury or damage to DLNR land resources;
 - (2) Unreasonably impair the atmosphere of peace, tranquility, or recreation maintained in DLNR land;
 - (3) Unreasonably interfere with interpretive, visitor service, or other DLNR program activities;
 - (4) Substantially impair the operation of public use facilities or services of DLNR concessionaires or contractors; or
 - (5) Present a clear and present danger to the public health and safety.
- (f) The permit may contain such conditions as are reasonably consistent with protection and use of the DLNR land for the purposes for which the DLNR land is managed.

(g) No permit shall be issued for a period in excess of fourteen consecutive days, provided, that a permit may be extended for a like period, upon a new application, unless another applicant has requested use of the same location for the same time period and multiple occupancy of that location is not reasonably possible.

(h) Should the number of applications for a permit exceed the available area at a particular location and time, the chairperson reserves the right to allocate spaces for which permit applications were received in the chairperson's sole discretion, on the basis of a shared use concept.

(I) No person shall engage in the sale or distribution of literature so as to obstruct or impede pedestrians-or vehicles, harass visitors to DLNR land, either verbally or with physical contact, misrepresent the purposes or affiliations of those engaged in the sale or distribution, or misrepresent whether the literature is available without cost or donation.

(j) A permit may be revoked under any of the conditions listed in paragraph ©) that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for

revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension of the permit may be made, to be followed with a written confirmation within seventy-two hours.

(k) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit. [Eff MAY 06 1996](Auth: HRS §§171-6, 171-7)
(Imp: HRS §§171-6, 171-7)

§13-7-8 Enforcement. (a) Any person violating any provision of this chapter shall be subject to a fine of not more than \$500 a day for the first offense and shall be liable for administrative costs incurred by DLNR and for payment of any damage suffered by DLNR. Upon a second and any subsequent offense, the violator shall:

- (1) Be fined not less than \$500 or more than \$2,000 per day;
- (2) If required by the board, restore any DLNR land affected to its original condition if altered and assume the costs thereof; and
- (3) Assume such costs as may result from adverse effects from such restoration.

(b) In addition, the DLNR reserves the right to seize any literature or any other merchandise, such as, but not limited to, food, drink, coffee mugs, sunglasses, flags, records, patches, jewelry, handicraft, decals, audio or video tapes, shirts, hats, ties, shorts, or any other clothing articles, being sold or distributed on DLNR land by any person violating any provision of this chapter. - DLNR may dispose of any such seized items in accordance with law. [Eff MAY 06 1996] (Auth: HRS §§171-6, 171-7)
(Imp: HRS §§171-6, 171-7)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Chapter 13-7, Hawaii Administrative Rules, on the Summary Page dated April 26, 1996, was adopted on April 26, 1996 by the Board of Land and Natural Resources following public hearings held on January 22, 23, 24, 25, 26 and 30, 1996 after public notice was given in the Honolulu Advertiser, Hawaii Tribune - Herald, Maui News, and the Garden Island newspapers on December 21, 1995.

The adoption of chapter 13-7 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Signed

Chairperson
Board of Land and
Natural Resources

APPROVED:

Signed

Benjamin J. Cayetano
Governor
State of Hawaii

Date: April 26, 1996

APPROVED AS TO FORM:

Deputy Attorney General

APR 26 1996

Filed