

APPLYING FOR A MOORING PERMIT IN A DLNR/DOBOR FACILITY



USER RESOURCE SERIES

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PREFACE

Thank you for your interest in securing a berth or and offshore mooring in a Department of Land and Natural Resources (DLNR, the department), Division of Boating and Ocean Recreation (DOBOR, the division) facility.

Most harbors in the DLNR/DOBOR system have waitlists. The mooring rates are better or comparable to just about any private/public facility in the State. Inquire with staff at the harbor of your choice to get on a waitlist or inquire about berth/offshore mooring availability. Visit:

<https://dlnr.hawaii.gov/dobor/dobor-facilities/>

for contact information for DOBOR District and harbor offices and a list of available facilities in our system.

This document cites passages from the Hawaii Revised Statutes (HRS) and the Hawaii Administrative Rules (HAR). They are often criticized for being too wordy or written in a style that is difficult to understand. Unfortunately, there are guidelines on how they need to be written and DOBOR is required to follow these guidelines. If you are unsure of the intent of a statute or administrative rule, you can always ask your harbor staff members to help explain these laws for you in easy-to-understand terms.

HAWAII REVISED STATUTES (HRS)

This set of laws gives broad authority to DLNR to regulate the mooring, docking, or anchoring of recreational and commercial vessels; the launching of recreational or commercial vessels at small boat harbors, launching ramps, and other boating facilities; uses of the boating facilities; and requirements for permits and fees for use of a vessel as a principal place of habitation while moored at a state small boat harbor (HRS §200-4). This is a very short list of the authority granted to the department.

To access Hawaii Revised Statutes Chapter 200, Ocean Recreation and Coastal Areas Program navigate to:

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-.htm

HAWAII ADMINISTRATIVE RULES (HAR)

One of the most critical things the statutes empower an agency like DLNR to do is create Administrative Rules. Usually, the statutes are written in a way that covers certain aspects of a topic in broad, sweeping strokes. The administrative rules provide the much finer details on how the department must manage its facilities and responsibilities. To get an accurate perspective on an issue, you should look at the pertinent statutes and administrative rules together.

To access Hawaii Administrative Rules, **Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, Chapters 13-230 through 13-257** navigate to:

<https://dlnr.hawaii.gov/dobor/rules/>

DISCLAIMER

THE FOLLOWING PASSAGES ARE EXERPTS OF STATUTES (HRS) AND ADMINISTRATIVE RULES (HAR) PERTINENT TO DLNR/DOBOR HARBOR TENANTS AND THE MANGEMENT OF STATE RECREATIONAL BOATING FACILITIES. THE STATEMENTS MADE IN THIS DOCUMENT PARAPHRASE THE HRS AND HAR FOR READABILITY AND ARE NOT BINDING. REFER TO THE FULL VERSIONS OF THESE LAWS FOR THE COMPLETE TEXT.

TABLE OF CONTENTS

<i>PREFACE</i>	1
<i>HAWAII REVISED STATUTES (HRS)</i>	2
<i>HAWAII ADMINISTRATIVE RULES (HAR)</i>	2
<i>DISCLAIMER</i>	2
<i>TABLE OF CONTENTS</i>	3
<i>THE PERMITTING PROCESS</i>	4
ALLOCATION OF BERTHS AND OFFSHORE MOORINGS	4
PERMIT REQUIREMENTS	4
MARINE SURVEYORS	5
HOW FEES ARE BASED	5
APPLICATION	5
FEES TO APPLY FOR A PERMIT AND TO MAINTAIN A PLACE ON A WAITLIST	5
VESSEL INSURANCE	5
DETERMINATION OF RESIDENCE	6
LENGTH OF VALIDITY FOR A PERMIT APPLICATION	6
REVIEW, ACCEPTANCE, OR REJECTION OF APPLICATIONS	7
REQUIREMENT TO UPDATE APPLICATION INFORMATION	7
WITHDRAWAL OF AN APPLICATION	8
NOTICE OF AVAILABLE BERTH OR OFFSHORE MOORING	8
ACCEPTING AN OFFER FOR A BERTH OR OFFSHORE MOORING	8
CONDITIONS OF A PERMIT FOR A BERTH OR OFFSHORE MOORING	9

THE PERMITTING PROCESS

ALLOCATION OF BERTHS AND OFFSHORE MOORINGS

HAR §13-231-80 It is the policy of the department to promptly assign an available berth on a first-come, first-served basis to the first qualified applicant, provided that the proposed use by the vessel affords maximum, safe, convenient, and efficient utilization of facilities and provided that assignment is not contrary to public interests, or otherwise unlawful or contrary to these rules.

Since each berth and each vessel presents unique ship handling and other peculiar berthing problems in relation to the small boat harbor, the department reserves the right to utilize its fair and impartial judgment, flexibility, and discretionary authority to allocate berths based upon its knowledge of available facilities, prevailing small boat harbor conditions, safe boating practices, effective harbor management procedures, and other factors which must be thoroughly considered prior to acceptance of an application and allocating a berth to a vessel.

HAR §13-231-80 contains additional, detailed information explaining how allocations of berths and offshore moorings are made. Please refer to the full text for details.

PERMIT REQUIREMENTS

HRS §200-10 The following are the basic requirements. The applicant:

- must be the owner of the vessel;
- must provide a marine surveyor's inspection or a vessel inspection by the department, no more than two years old, certifying that the vessel has been inspected and fulfills the requirements set by DLNR;
- must provide documentation that the applicant is the owner of the vessel. The documentation shall meet requirements established by the department;
- must provide satisfactory proof that the person has attained the age of eighteen years prior to obtaining a permit or being placed on the waitlist for a permit.

In addition, the vessel must be inspected for required equipment, and the owner or the vessel's agent must demonstrate the vessel is seaworthy prior to a permit being issued. It will be required to perform a "buoy run" witnessed by a harbor representative.

HRS §200-10 (c) The permittee shall pay moorage fees to the department for the use permit that shall be based on but not limited to the use of the vessel, the vessel's effect on the harbor, use of facilities, and the cost of administering the mooring program. **See the full text of §200-10 for additional details on fees and permit transfers found in statute at:**

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-0010.htm

MARINE SURVEYORS

HRS §200-13 DLNR/DOBOR maintains a list of approved, qualified Marine Surveyors. **Please check with the any small boat harbor for a copy of the list.**

HOW FEES ARE BASED

HRS §200-10 (c) The permittee shall pay moorage fees to the department for the use permit that shall be based on but not limited to the use of the vessel, the vessel's effect on the harbor, use of facilities, and the cost of administering the mooring program.

APPLICATION

HAR §13-231-81 An application for a berth shall be made in writing to the department on a form provided by the department. The applicant shall indicate in the application the type and characteristics of the vessel the applicant proposes to moor, including but not limited to, the vessel's length overall, draft, beam, principal source of propulsion, and any secondary or auxiliary source of propulsion, the type of mooring desired, and if applicable, the category or categories desired, etc. The Application for a Mooring Permit/Mooring Waitlist must be accompanied by a Proof of Residency Form.

<https://dlnr.hawaii.gov/dobor/files/2020/09/App-MooringWaitlist.pdf>

<https://dlnr.hawaii.gov/dobor/files/2020/09/App-HIResidency.pdf>

FEES TO APPLY FOR A PERMIT AND TO MAINTAIN A PLACE ON A WAITLIST

HAR §13-231-81 No application shall be accepted until the applicant pays the application fee prescribed in these rules and a review has been conducted.

HRS §200-10(c)(3) An application (waitlist) fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. The application fee is set by the department.

VESSEL INSURANCE

In December 2009, DOBOR instituted mandatory insurance for vessels moored in state boating facilities as a condition of a mooring permit. Acceptable coverage would include a minimum of \$300,000* in boat liability insurance (protection and indemnity) that names the State of Hawaii, Division of Boating and Ocean Recreation as "additional insured" or "additional interest." **As of 1/1/2014, the minimum coverage was increased from \$300,000 to \$500,000.**

Beginning 3/1/2020, Hawaii Revised Statutes **HRS §200-13.5** required boats 26 feet in length and greater that are registered or documented and operated in State waters to have at least \$100,000 in insurance, in a form and content to ensure that removal and salvage of a grounded vessel are covered.

To acquire and maintain a mooring permit in a DOBOR facility and operate your vessel in State waters, a permit holder/vessel owner must satisfy **both** insurance requirements.

Be sure that your insurance policy covers the (\$500,000) minimum to satisfy the mooring permit requirement AND the (\$100,000) minimum to ensure removal and salvage of your grounded vessel or you will be held responsible for the cost of removing your vessel if it is left in State waters. You should not assume a \$500,000 policy (for protection and indemnity) also covers removal and salvage.

DETERMINATION OF RESIDENCE

HAR §13-230-25 provides categories to aid in determining resident status. Categories include situations for minors, unemancipated minors, unemancipated minors of divorced, separated or deceased parents, nonresident unemancipated minors attending school or on active duty with the US Armed Forces, aliens, military personnel, married persons. For a complete list of categories and the associated resident status, refer to the administrative rule.

Per HAR §13-230-26, any person seeking to be classified as a Hawaii resident for fee purposes shall, at the time of application for or prior to being issued a permit, complete and submit to the department a questionnaire provided by the department designed to elicit facts which will aid the department in determining the applicant's resident, nonresident, or Armed Forces status. A nonresident who believes that the nonresident's residency status has changed so that the nonresident has achieved Hawaii residency status may seek reclassification as a resident by submitting a completed questionnaire.

HAR 13-230-27 requires a permittee to report a change of residence while continuing to moor in the harbor within seven (7) days. An individual that agrees to assume responsibility of the vessel must be identified and must live on the same island where the vessel is moored.

HAR §13-230-29 states that it is illegal for any person to misrepresent any fact on any form or document used in determining resident status.

LENGTH OF VALIDITY FOR A PERMIT APPLICATION

HAR §13-231-81 An application shall continue in full force and effect for a period ending one year from the effective date of the application. An application may be renewed within a ninety-day period preceding its expiration date. An application renewed prior to its expiration date shall be valid for a period ending one year from the expiration date of the previous application.

The applicant is responsible for the timely renewal of an application without receipt of a renewal notice from the department.

REVIEW, ACCEPTANCE, OR REJECTION OF APPLICATIONS

HAR §13-231-82 The department shall examine and determine the genuineness and regularity of each application for a mooring or other small boat harbor use permit and may conduct any investigation as may be deemed necessary for its examination and determination; and it may require additional information from the applicant as may be necessary to determine the genuineness and regularity of the application.

The department shall reject any application that contains a material misstatement or if the applicant has failed to disclose any material fact in the application.

An application shall not be accepted for consideration and shall be rejected if the application fee is not paid at the time the application is made or the applicant is delinquent in payment of any moneys due and payable to the department.

An application may also be rejected if the applicant has a pending citation for violation of any of the department's rules or the category or type of mooring requested is inappropriate for the vessel to be moored by the applicant and will not, therefore, afford maximum, safe, convenient, and efficient utilization of small boat harbor facilities as determined by the department.

Upon rejection of an application, the department shall inform the applicant, in writing within a reasonable time. The applicant shall be afforded the opportunity to submit a new application upon the correction of deficiencies cited in the notification of rejection of the original application.

REQUIREMENT TO UPDATE APPLICATION INFORMATION

HAR §13-231-83 An Applicant is required to furnish a current address and report contact information changes that occur in writing in order to maintain the validity of the applicant's application.

IMPORTANT NOTE: As a reminder, the department may revoke a permit if misstatements were made in the application or reapplication process or there is a failure to disclose material facts during vessel registration, vessel documentation or application of any use permit. This is allowed under **HAR §13-231-6**. Concealing the transfer of ownership of a vessel on a mooring permit in a DLNR/DOBOR facility is grounds for termination. Per **HAR §13-231-15**, misstatement of facts or omission of facts regarding ownership of a vessel is cause for immediate termination of the permit. Holders of catamaran permits may be barred from holding permits.

WITHDRAWAL OF AN APPLICATION

HAR §13-231-84 An application may be withdrawn by an applicant upon written notice to the department. An applicant who withdraws an application or whose application has expired or becomes void may submit a new application for acceptance by the department.

The application fee shall not be refunded if an applicant withdraws an application or if the application expires or becomes void.

NOTICE OF AVAILABLE BERTH OR OFFSHORE MOORING

HAR §13-231-87 When an offer of a regular mooring permit to use a berth or offshore mooring area can be made, the department shall deliver the offer or send it by certified mail, return receipt requested, addressed to the applicant eligible to receive the offer at the post office address furnished to the department in writing by the applicant.

The department shall offer a temporary mooring permit to the applicant eligible to receive it by telephone, personal service, or first-class mail, postage prepaid addressed to the applicant at the post office address furnished to the department in writing by the applicant. The offer must be accepted within seven days.

ACCEPTING AN OFFER FOR A BERTH OR OFFSHORE MOORING

HAR §13-231-88 An offer of A regular mooring permit is valid only fourteen days. An applicant for a regular mooring permit may decline an offer to the applicant of a regular mooring permit and retain the applicant's seniority if the applicant declines the offer in writing addressed to and received by the department, not later than fourteen days after the date of receipt of the offer. Other conditions exist. See the full text of this rule for details.

An applicant who has delivered a written notice of intention to accept the offer to the department shall accept the offer by:

- Securing a use permit for use of the berth or mooring area offered to the applicant within fourteen days after the applicant mails or personally delivers the notice of intention to accept;
- Moving the applicant's vessel into the assigned berth or mooring area, as applicable, within fourteen days after the applicant mails or personally delivers the notice of intention to accept the offer to the department.
- The offer shall be void if the applicant fails to secure a use permit and to move the applicant's vessel into the applicant's assigned berth or mooring area, as applicable, within fourteen days.

- The department may extend the deadline for acceptance of a regular mooring permit for hardship. Other conditions apply.

Once you are offered a slip in a DLNR/DOBOR and your permit is processed, please check out the DLNR/DOBOR [Harbor Tenant Handbook](#) to answer many of the questions you may have as a new tenant.

CONDITIONS OF A PERMIT FOR A BERTH OR OFFSHORE MOORING

This is a preview of the general conditions of a permit you will agree to when you accept an offer of a berth or an offshore mooring in a DLNR/DOBOR facility. The language in the following list may differ slightly from what is stated on the actual permit.

- The PERMITTEE shall agree to abide by all rules promulgated by the Department of Land and Natural Resources (the Department or DLNR) and conditions of the permit. Rules are available online at <http://hawaii.gov/dlnr/dbor/borrules.htm>.
- The permitted vessel will be moored at the location in the facility designated by the official representative of the DLNR and tied up in a manner approved by the representative.
- The mooring permit shall not exceed (1) year from date of issue. The permit termination date will be indicated on the permit.
- A new mooring permit may be obtained up to ninety (90) days prior to the termination dated of an existing permit only if all fees and charges due, per Hawaii Administrative Rules (HAR), have been paid and upon completion of a satisfactory vessel inspection and buoy run. Failure to obtain a new mooring permit prior to the termination date listed on the permit shall result in the owner being charged the rate for vessels moored without a permit, and a one-time payment of \$250.00 shall be paid, as long as it is within 30 days from the date of the expiration. Failure to comply with the 30-day extension shall result in the vessels being required to vacate the harbor, offshore mooring area, and/or ramp facility.
- The PERMITTEE will pay the DLNR fees and charges in advance or before the first day of each month for the use of the berth and any additional facilities or services assigned or provided to the PERMITTEE by the DLNR, in such sums to be calculated according to the provisions of Hawaii Revised Statutes (HRS) Section 200-10 (c) and HAR Chapter 13-234, and amendment or increase of such fees. The permit will state the fees that are due for the permitted vessel, including but not limited to (if applicable) mooring charges, electricity, shower fees, gear locker rentals.

- A mooring permit may be cancelled by a boat owner upon thirty (30) days written notification as prescribed in HAR 13-231-9, and charges will be made in accordance with HAR 13-234-2(d). The Security Deposit paid by the PERMITTEE will be applied to any outstanding balance. The remaining will be returned via mail within a reasonable time.
- The mooring privilege may be terminated by the DLNR by written order and the boat will be moved from the mooring at any time should necessity arise. Failure to comply may result in the impoundment of the vessel.
- The mooring permit and related use permits will **AUTOMATICALLY EXPIRE** if the vessel is absent from its assigned berth, mooring, and/or assigned offshore anchorage area for more than fourteen (14) days unless the holder of the permit applies for and receives permission from the DLNR to retain the use of the assigned berth and related permits upon the vessel's return (HAR13-231-11).
- The DLNR retains the right to not issue a new permit after the termination date of the permit.
- The PERMITTEE shall obtain and continue to secure a Certificate of Insurance policy for General Liability insurance in the amount of \$500,000 and name the State of Hawaii as an additional insured, for as long as the permit is valid. Commercial Permittees shall refer to HAR 13-231-65 on minimum insurance requirements. Vessel owners will be required to show proof of insurance when applying or reapplying for mooring permits. Acceptable coverage would include a minimum of \$500,000 in boat liability insurance (protection and indemnity) that names the State of Hawaii, DLNR Division of Boating and Ocean Recreation as additional insured.