RULES AND REGULATIONS OF THE
DEPARTMENT OF PARKS AND RECREATION
OF THE COUNTY OF HAWAI'I

RULE 8
RULES RELATING TO
THE USE OF PARK FACILITIES

EFFECTIVE DATE: December 3, 2015
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RULES AND REGULATIONS OF THE
DEPARTMENT OF PARKS AND RECREATION
OF THE COUNTY OF HAWAI'I

RULE 8 - RULES RELATING TO THE USE OF PARK FACILITIES

Section 1 Scope

These rules shall apply to all park facilities administered, controlled, operated, or maintained by the Department of Parks and Recreation of the County of Hawai'i, including park facilities jointly maintained with other governmental agencies, except when these rules conflict with the rules of such other agency and such other agency has primary jurisdiction over such facility or in the event that these rules are inconsistent with rules specifically applicable to a particular park facility, in which case, the rule(s) of the other agency or specific rule shall prevail.

Section 2 Definitions

As used in these rules, except as otherwise required by the context:

A. "Adult" shall mean any individual eighteen (18) years of age or older who is competent to enter into a contractual agreement.

B. "Alcoholic Beverage" shall mean beer, wine, liquor, spirits and other liquid substance capable of producing an intoxicating effect.

C. "Department" shall mean the Department of Parks and Recreation of the County of Hawai'i.

D. "Director" shall mean the Director of the Department of Parks and Recreation, County of Hawai'i.

E. "Minor" shall mean any individual younger than eighteen (18) years of age.

F. "Park facility" shall mean the entire area of land or property administered, controlled, operated, or maintained by the Department of Parks and Recreation, County of Hawai'i, for public recreation purposes, including land or property jointly maintained or controlled with any other governmental agency. The term "park facility" shall also mean all structures, buildings, sheds, parking areas, roads, fences, rock walls, and sidewalks located upon such land.
G. "Person" shall mean and include an individual, partnership, corporation, association, trust, organization, or any entity comprised of individuals.

H. "Person with Disabilities" shall mean, with respect to an individual, a physical or mental impairment which substantially limits one or more major life activities of such individual, a record of such an impairment nor being regarded as having such an impairment.

I. "Service Animal" shall be defined by the current Americans with Disabilities Act, Title II and Title III rules.

J. "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon, including devices moved by human power and including, but not limited to, devices such as bicycles, wagons, motor vehicles, scooters, motorcycles, skateboards, and roller skates.

Section 3 Rules Relating to Director's Authority to Prohibit Use

A. The Director or the Director's duly designated representative may prohibit any person from using any park facility or portion thereof when the Director has reason to believe that such person poses a threat to the health, safety, or welfare of persons or property at such park facility or when such person has previously failed to comply with or abide by the rules and regulations of the Department. The Director may prohibit such person from using a park facility until such time as the Director or the Director's duly designated representative is reasonably satisfied that such person intends to abide by all rules and regulations, laws, or ordinances concerning such person's conduct or use of the park facility. The person shall be notified in writing of the specific period. During this period, if any further problems arise, the Director or the Director's duly designated representative reserves the right to extend the period. Any person aggrieved by the decision of the Director or the Director's duly designated representative to prohibit a person's use of any park facility shall have the right to appeal the Director's decision within thirty (30) days of such decision, pursuant to Rule 1 of the Rules and Regulations of the Department of Parks and Recreation.

Section 4 Rules Regulating Conduct in Park Facilities

A. Only rubber-soled shoes may be worn in gymnasiums unless the floors of such gymnasium have been protected from damage with materials approved by the Director. Rubber-tired wheelchairs or other assistive mobility devices may be used in gymnasiums with discussion, inspection and permission of staff at the facilities.
B. No person may attach or affix nails, tacks, staples, or screws in or upon any portion of the park facility or apply paint thereon, without the express written permission of the Director.

C. No person may remove, alter, or disturb any part or portion of a public building, sign, equipment, monuments, markers, fences, rock walls, or any other structure located upon a park facility without the written permission of the Director.

D. The storage of privately owned materials, equipment, clothing, supplies, or any other such personal property on or about any park facility without the permission of the Director shall be prohibited. The County will not be liable for any privately owned materials that are damaged or stolen from the facility.

E. The use of water at a park facility by any person for a purpose not connected with such person’s authorized recreational use of such facility is prohibited.

F. All trash, garbage, rubbish, and other refuse materials shall be placed in receptacles provided by the Department for such purpose or shall be removed from the park facility if such receptacles are unavailable or are filled to capacity. Failure to do so will result in forfeiture of the security deposit.

G. No person shall transport any trash, garbage, rubbish, or other refuse materials from private households or commercial activities and discard them in litter receptacles or at any other place in a park facility.

H. No person shall play or engage in any aspect of the sport of golf on or about any park facility, except for the Hilo Municipal Golf Course and other areas designated by the Director for golfing activities.

I. No person shall remain in, enter upon, or be present at any park facility at any time other than the posted operating hours without a valid permit issued by the Director therefor.

J. Any person whose intended use of a park facility poses a risk of damage to the floor of such facility must first cover such floor with a protective material approved by the Director.

K. No animals shall be permitted on or within any park facility except as follows:

1. Service animal aiding the disabled shall be permitted in all park
facilities;

2. Horses, cows, bulls, calves and goats shall be permitted only in park facilities designated for rodeo or other equestrian activities;

3. When authorized by the Director;

L. Temporary structures requiring a permit shall be assessed a flat fee of ten dollars ($10) per permit.

M. Lessees or other members of the public who start using a pavilion before 8:00 a.m. on weekdays and 9:00 a.m. on weekends and observed holidays will forfeit the option of having Department personnel clean the pavilion prior to it being used.

N. Smoking or the use of any tobacco products, or the use of electronic smoking devices is prohibited.

Section 5 Rules Relating to Operation and Parking of Vehicles

A. No vehicle shall be parked in a park facility except on roads, parking areas, and within stalls designated or provided by the Director for such purpose.

B. Parking of vehicles on or about park facilities shall be prohibited between the hours of the specific park closure and 6:00 a.m., unless the person controlling such vehicle is authorized to be present at such park facility during such time by a valid permit issued by the Director or by invitation of a person having a valid permit therefor.

C. The driving or operating of any vehicle other than upon a road in a park facility is prohibited unless for the purpose of going directly to and from an area designated by the Director for parking or loading/unloading purposes.

D. Any person operating a vehicle on or about a park facility shall obey all traffic control devices, directional roadway markings, and other signs or signals posted by the Director.

Section 6 Rules Applicable to Persons Having Exclusive Use of Park Facilities

A. No person shall be entitled to the exclusive use of a park facility or any portion thereof unless such person has first obtained a permit authorizing such exclusive use from the Director. The fees and charge assessed for such use, and policies related to such use, shall be in accordance with the
provisions of Rule 6 of the Department of Parks and Recreation, County of Hawai‘i, and other rules applicable to specific park facilities.

B. Public meetings, assemblies, gatherings, demonstrations, parades, and other expressive activities are permitted within park areas on lands which are open to the general public, provided a permit issued by the Director shall be required when the public meeting, assembly, gathering, demonstration, parade, or expressive activity involves seventy-five (75) or more persons.

1. As used in this section, “expressive activities” means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas and for which no fee is charged or required as a condition of the participation in or attendance at such activity. Expressive activity generally would not include sports events, fundraising events, beauty contests, commercial events, cultural celebrations or other events where the principal purpose is entertainment.

2. Exceptions: This section shall not apply:

   a. To expressive activities organized or planned fewer than twenty (20) days in advance of such expressive activity in response to news or affairs coming into public knowledge in which case the organizer shall provide written notice to the County as soon as practicable prior to such expressive activity; or

   b. To students when constituting a part of their educational activities and under the immediate direction and supervision of the proper school authorities or to any governmental agency within the scope of its functions.

C. Commercial activity without a permit is prohibited; provided, that this section shall not apply to transactions with authorized concessionaires. Commercial activity includes, but is not limited to, the exchange of buying and selling of commodities; the providing of services related to or connected with the trade, traffic or commerce in general; any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services. Commercial activity does not include commercial speech or the distribution of handbills.
D. Permits for the exclusive use of any park facility or part thereof shall be issued on a first-come, first-served basis but may be denied any person when:

1. The number of persons who are anticipated to use the facility exceeds the design capacity of the park facility;

2. The nature of the activity to be conducted at the facility would pose an unreasonable risk of injury to persons, property, or the park facility;

3. Repairs or improvements will be made to the facility during the period of intended use;

4. Such person has been deemed by the Director to have violated any rule or regulation pertaining to the use of park facilities within the year preceding the date of application;

5. The use is deemed by the Director to be a regularly scheduled commercial, religious, or other non-recreational activity which would tend to reduce the availability of the facility for recreational use;

E. Applications for a permit shall be filed with the Director at least twenty (20) days but not more than one hundred eighty (180) days before the date on which it is proposed to conduct any such activity, provided that this requirement shall not apply to “expressive activity” as defined in Section 6 (B) above.

The application shall state:

1. The name of the person or organization proposing to conduct such activity;

2. If the activity is proposed for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization, and of the authorized agent of such organization;

3. The name, address, and telephone number of the person who will be the chairman of such activity and who will be responsible for its conduct;

4. The name, address, and telephone number of the person or organization to whom the permit is to be issued;

5. The date when such activity is to be conducted;
6. The park or portion thereof for which such permit is desired;

7. An estimate of the anticipated attendance;

8. The hours when such activity will start and terminate;

9. If the activity is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Director a communication in writing from such person proposing to hold such activity, authorizing the applicant to apply for the permit on that person’s behalf; and

10. A statement of equipment and facilities to be used in connection with the activity.

F. No permit for exclusive use shall be issued to any person other than an adult.

G. Any person to whom a permit for exclusive use has been issued shall clean and restore the park facility to its pre-use condition before departing from such park facility. The failure to clean, repair, and restore the park facility shall result in the forfeiture of any bond or security deposit tendered by such person and the person to whom the permit was issued shall be liable for any additional costs incurred by the County in cleaning, repairing, and restoring the facility.

H. Reservations for the exclusive use of a park facility or any portion thereof must be made in writing and submitted at least twenty (20) days but not more than one hundred eighty (180) days before the date on which it is proposed to conduct any such activity, provided that this requirement shall not apply to “expressive activity” as defined in Section 6 (B) above, (unless approved by the Director), except for camping permits and the rental of picnic pavilions. All deposits, bonds, and/or user fees must be paid within such deadline. Upon execution of an agreement or permit for exclusive use by the Director, and upon payment of all fees, bonds, and deposits applicable thereto, the reservation shall be deemed confirmed.

I. Unless otherwise provided, reservations canceled by any person less than two (2) weeks prior to the date for which a park facility has been reserved shall result in the forfeiture of any rental payment, or user fee tendered, unless the cancellation is directly due to an act of God or circumstances beyond the control of the person making the reservations.

J. In the event the Director or the Director’s duly designated representative
cancels any reservation, all rental fees, bonds, and deposits advanced shall be returned to the person making the reservation, without interest, and the Director shall inform such person of the cancellation as soon as possible.

K. The Director may require that an employee from the Department attend a function sponsored under an exclusive use permit when in his opinion, considerations of health, safety, and welfare to person or property require such attendance. An hourly fee for such service shall be charged pursuant to the rates specified in these or other rules and regulations of the Department.

L. No person to whom a permit for the exclusive use of a park facility has been issued shall assign any part or portion of the rights to the exclusive use of the park facility to any other person without the prior written consent of the Director.

M. As a condition of the issuance of a permit for exclusive use, the Director shall require the person to whom such permit has been issued to defend, indemnify, and hold harmless the County of Hawai‘i, its agents, officers, and employees, from and against any and all damages, claims, actions, demands, or proceedings for property damage, personal injury, or wrongful death, arising out of, resulting from, or connected with, the activities or use conducted at any park facility or part thereof or the violation of any rule, ordinance, or law by the person to whom the permit has been issued, except when such damages are caused solely by the negligence of the County.

N. In order to ensure that the person to whom an exclusive use permit has been issued can satisfy the duty of indemnification, the Director may require such person to procure a policy of public liability, medical and property damage insurance, naming the County of Hawai‘i and its officers, agents, and employees as additional insureds, in an amount or amounts sufficient to cover anticipated risks engendered by the activity to be conducted under the exclusive use permit. Such insurance may be required whenever the nature of the activity to be conducted creates a potential risk of property damage, personal injury, or death. (See Section 11 for all other insurance requirements.)

O. Proof of coverage for any insurance required under these rules shall be submitted to the Director when applying for a permit for an event for which insurance is required. The Director reserves the right to cancel the permit if insurance requirements are not met.

P. Security protection may be required by the Director, for large functions,
special events and tournaments by the hiring of either Special Duty Hawai‘i County Police Officers or licensed security guards. The lessee shall submit written evidence confirming the hiring of the required number of security personnel fourteen (14) days prior to the scheduled activity. The minimum number of security personnel required for any activity shall be determined by the Director or the Director’s duly designated representative.

Q. All lessees of Department facilities are responsible for ensuring their use complies with the current Americans with Disabilities Act.

Section 7 Co-Sponsored Activities

A. At all functions, activities, or events sponsored or co-sponsored by the Department and any person, the person co-sponsoring the event shall defend, indemnify, and hold the County of Hawai‘i and its officers, agents, and employees harmless from and against any and all damages, claims, actions, demands, or proceedings for property damage, personal injury, or wrongful death, arising out of, resulting from, or connected with the activities or use conducted at any park facility or part thereof by the person to whom the permit has been issued.

B. In order to ensure that the person to whom an exclusive use permit has been issued can satisfy the duty of indemnification, the Director may require such person to procure a policy of public liability, medical and property damage insurance, naming the County of Hawai‘i, its officers, agents, and employees, as additional insureds in an amount or amounts sufficient to cover anticipated risk engendered by the activity to be conducted under the exclusive use permit. (See Section 11 for all other insurance requirements.)

Section 8 Rules Relating to Use of the Skeet and Trap Range

A. Attendants employed by the Department of Parks and Recreation or by the Lessee shall be on duty to open and secure facilities and to ensure the enforcement of rules and regulations.

B. The skeet and trap machine and related equipment shall be made available for public use at the times chosen by the Director. The loading and operation of such machines and equipment shall be the responsibility of the assigned attendant or other assigned individuals who have been cleared for operational efficiency by the attendant.

C. All shotguns, clay birds, and other paraphernalia used in the sport of skeet shooting or trapshooting shall be supplied by each individual utilizing the
facilities.

D. Maximum size of shot allowed shall be No. 6, and minimum size shall be optional, except in competition wherein various tournament rules shall apply.

E. Persons not authorized by attendant shall not be permitted to enter any of the skeet and trap houses. All loaders of skeet and trap machines shall be cleared for operational efficiency by the skeet attendant.

F. Children under the age of eighteen (18) years old shall not be permitted to shoot unless cleared for competency to handle weapons by the attendant. Verification of an individual’s age shall be required by the attendant whenever an individual’s true age is in question. All children under the age of eighteen (18) years old shall be under the strict supervision of a parent, guardian, or a responsible adult.

G. Individuals violating any rules contained herein shall forfeit all rights and privileges with respect to the use of the range facilities for that period of time as shall be determined by the Director or the Director’s duly designated representative. Appeals regarding the decision of the Director shall be submitted in writing to the Director within ten (10) days following notification of forfeiture.

Section 9 Rules Relating to the Use of the Outdoor Archery Range

A. Archers under eighteen (18) years old must be supervised by an adult.

B. Archers shall not point their bows at any person or animal.

C. Archers shall inspect their equipment before shooting. Damaged equipment such as cracked or broken arrows or bows, short arrows, or frayed string shall not be used.

D. Archers shall only shoot arrows at authorized targets. No person, animal, tree, or any other object shall be used as a target.

E. An archer shall not shoot at a target until the archer has inspected the target and the area behind and around the target and is sure that the target is capable of stopping the archer’s arrows and that no persons or animals will be endangered by the archer.

F. Archers shall nock their arrows only on the shooting line and with the arrow pointed in the direction of the target.
G. Archers shall not retrieve any arrows or any portion of which that may fall over the shooting line while other archers are engaged in shooting.

H. Archers may retrieve or pull their arrows out of the targets only after all archers on the shooting line have ceased shooting their arrows. Two (2) archers for each target may go forward to retrieve their arrows. Archers shall stand to the side of the target when pulling their arrows and shall make sure that no one is standing behind the arrows as the arrows are being pulled out of the target. Archers shall pull out their arrows one at a time and shall place the arrows in a quiver. Archers shall return to the waiting line after they have retrieved all of their arrows.

I. No alcoholic beverages shall be consumed or allowed on the premises. Archers shall not be under the influence of any alcohol or any drugs or medication, prescribed or unprescribed, which could affect the archer’s performance or judgment.

J. No food shall be sold to the public until the vendor has obtained all applicable permits from the Department of Health and has received prior written permission from the Department’s Hilo District Supervisor and the Recreation Director of the Waiākea Recreation Center.

K. Requests for exclusive use of the Outdoor Archery Range may be made at the Waiākea Recreation Center.

Section 10  Rules Relating to Beach Parks

A. The storage of all boats, rafts, jet skis, kayaks, surfboards or similar devices at any County beach park without the express permission of the Director shall be prohibited unless such activity is required for emergency purposes but in no event to exceed forty-eight (48) hours. Refer to Hawai‘i County Code, Chapter 15, Section 15-32 and 15-34 for other applicable rules.

Section 11  Insurance Requirements

A. Required Insurance Coverage:

Insurance may be required for the use of any park facility, and the Lessee shall file with the County of Hawai‘i, upon filing an application for use of the facility, a copy of a policy of public liability, property damage and medical insurance. Lessee’s policy shall be primary to any other insurance covering County of Hawai‘i property. Lessee shall provide the Department of Parks and Recreation with written notice of any policy change at least thirty (30) days before the change takes effect and direct its insurance
carrier to provide the Department of Parks and Recreation with written notice of any policy change. Lessee shall obtain, at its own expense, public liability, medical and property damage insurance in the following amounts as determined by the Director, depending upon the anticipated or potential risks engendered by the activity conducted or sponsored by the Lessee:

1. From one hundred thousand dollars ($100,000) minimum up to five hundred thousand dollars ($500,000) maximum for bodily injury to each person;

2. From three hundred thousand ($300,000) minimum up to one million dollars ($1,000,000) for bodily injury for each occurrence;

3. Twenty thousand dollars ($20,000) property damage;

4. Five thousand dollars ($5,000) medical coverage;

5. Maximum of fifty dollars ($50) deductible clause permitted;

6. Provides coverage for "all operations of the insured conducted on County property" and contains a description of the work performed by the insured. (This may require policies covering premises occupied, products sold, amusement liability, or automobiles used.)

7. The County of Hawai’i must be named as an additional insured in respect to all operations of the insured. A copy of the policy and certificate of insurance shall be submitted for inspection by the Director upon filing an application for a permit for use of a facility;

8. Said policy shall contain a cancellation clause providing in substance the following language: "It is agreed that this policy shall not be canceled, altered, or amended, nor the amounts of coverage provided herein reduced, unless the Department of Parks and Recreation shall have been given thirty (30) days' prior written notice of such cancellation, alteration, or reduction."

9. No policy shall be acceptable unless first approved by the Department of Parks and Recreation.

B. Required Insurance Coverage by Specific Activity:

1. Carnivals and Fairs with rides:
One million dollars ($1,000,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

2. Drag, Motorcycle, BMX Races:

One million dollars ($1,000,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

3. Horse Races and Rodeos:

Five hundred thousand dollars ($500,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

4. Fairs without rides:

Three hundred thousand dollars ($300,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

5. Canoe Regattas:

Three hundred thousand dollars ($300,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

6. Concerts, Festivals, Ho‘olaule‘a:

Three hundred thousand dollars ($300,000) liability each occurrence, twenty thousand dollars ($20,000) property damage and five thousand dollars ($5,000) medical coverage.

Section 12 Severability Clause

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

All policies, certificates, and endorsements shall be sent to the Department of Parks and Recreation, County of Hawai‘i, 101 Pauahi Street, Suite 6, Hilo, Hawai‘i 96720.
CERTIFICATION

I, Clayton S. Honma, Director of the Department of Parks and Recreation of the County of Hawai‘i, State of Hawai‘i, do hereby certify:

1. That the foregoing is a full, true and correct copy of the amendments to the Rules and Regulations of the Department of Parks and Recreation on matters relating to the Use of Park Facilities which were adopted on November 10, 2015, after public hearings were held in Hilo and Kona on November 9, 2015.

2. That notice of the public hearings on the foregoing rule, which included a statement of the substance of the proposed rule, was published in both the Hawai‘i Tribune-Herald and the West Hawai‘i Today on October 5, 2015.

Dated this 17th day of November 2015.

CLAYTON S. HONMA, Director
Department of Parks and Recreation
County of Hawai‘i

APPROVED:

WILLIAM P. KENOI
Mayor
County of Hawai‘i

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel
County of Hawai‘i

I hereby certify that the foregoing rules were received and filed in the Office of the County Clerk this 23rd day of November 2015.

County Clerk
County of Hawai‘i