CITY AND COUNTY OF HONOLULU

Repeal of Amended Rules and Regulations Governing Use of City Beach Parks and Other Beach Properties Under The Control of the Department of Parks and Recreation to Provide Access to Conduct Shore Water Events
, 2015

SUMMARY

1. City and County of Honolulu Department of Parks and Recreation Amended Rules and Regulations Governing Use of City Beach Parks and Other Beach Properties under the Control of the Department of Parks and Recreation to Provide Access to Conduct Shore Water Events is repealed.

2. Title 19, Chapter 4, City and County of Honolulu Administrative Rules, entitled "Shore Water Events," is adopted.

CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF PARKS AND RECREATION

CHAPTER 4

SHORE WATER EVENTS

Subchapter 1 General Provisions

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SUBCHAPTER 1

GENERAL PROVISIONS

§19-4-1 Purpose. The purpose of this chapter is to make public parks readily accessible to the public; to ensure maximum permissible use of park areas and facilities by appropriate distribution of users; to ensure proper, orderly and equitable use of park areas and facilities through user controls; to ensure protection and preservation of areas and facilities by not overtaxing facilities; and to promote the health, safety, and welfare of the users of park areas and facilities. [Eff:] (Auth: RCH §4-104, ROH §10-1.3) (Imp: ROH §10-1.3)

§19-4-2 Application. These rules and regulations shall apply to the use of City beach parks and other beach properties under the control of the department of parks and recreation, City and County of Honolulu, to provide access to conduct shore water events. [Eff] (Auth: RCH §6-1203, ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-3 Definitions. As used in this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"ADA" means the Americans with Disabilities Act of 1990, 42 U.S.C.Section 12101 et. seq., as amended.

"Amateur shore water event" means a shore water event open to participants who engage in shore water event only as a pastime and not as a profession.

"Application for use of parks facilities" or "permit application" means a department form to request a permit.

"Applicant" means the person submitting a permit application.

"Big wave event" means a surf event requiring participants to paddle into waves of minimum wave face heights of forty feet or higher without the use of thrill craft or tow-in assistance.

"Bodyboard" means a board consisting of a rectangular piece of foam shaped to a hydrodynamic form used for wave riding. The bodyboard is ridden usually

in a prone position.

"Bodysurfing" means a water sport involving wave riding without the assistance of a floatation device.

"Bodyboarding" means a water sport involving wave riding with the assistance of a floatation device.

"Canoe surfing" means a water sport involving riding a canoe on a breaking wave.

"City" means the city and county of Honolulu.

"Competition day" means any portion of the day not to exceed eight hours used to conduct the shore water event.

"Cooling off period" means the ten-day period preceding and following a surf event when no other surf event will be permitted at the same park.

"Criteria rating sheet" means the rating form used in resolving north shore calendar conflicts.

"Department" means the department of parks and recreation, city and county of Honolulu.

"Director" means the director of the department of parks and recreation, or duly authorized representative.

"Event" means the permitted period, including setup days, waiting period days, competition days and breakdown days.

"Fundraiser" means a special event sponsored by a nonprofit organization for the purpose of raising funds, including the exchange of monies on park properties.

"HRS" means the Hawaii Revised Statutes, as amended.

"IRC" means the Internal Revenue Code of 1994, as amended.

"Kitesurfing" or "kiteboarding" means a water sport using a power kite to pull the rider through the water on a surfboard and which may not involve wave riding.

"Nonprofit organization" means an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational, or other nonprofit purposes, no part of the assets, income or earnings of which insures to the benefit of any exclusively individual or member thereof, and whose charter or other enabling act contains a provision that, in the event of dissolution, the assets owned by such association, corporation or other entity shall be distributed to another association, corporation or other entity organized and operated to association,

corporation or other entity organized and operated exclusively for nonprofit purposes, and which further qualifies for exemption from the general excise tax provisions of Chapter 237, Hawaii Revised Statutes, as amended, and under Section 501 of the Internal Revenue Code of 1954, as amended.

"North shore" means the shore water area that extends from Kaena Point to and inclusive of Kawela Bay under the jurisdiction of the department.

"North shore application period" means the month of July in the calendar year preceding the start of the north shore calendar in which the proposed event is to be held.

"North shore application review period" means the month of August in the calendar year preceding the start of the north shore calendar in which the proposed event is to be held.

"North shore application supplement" means the packet of instructions and application materials provided to all applicants for the north shore calendar.

"North shore calendar" means the schedule of surf events to be held on the north shore from September 1st through May 31st.

"Paddleboarding" means a surface water sport in which the participant is propelled by a swimming motion using their arms while lying or kneeling on a paddleboard or surfboard in the ocean.

"Parks permit" or "permit" means a non-transferrable department document granting a permittee permission to use recreational and other areas and under the control, maintenance, management and operation of the department.

"Parks permit office" means the office in the department responsible for processing and final approval of permit applications and issuing of park permits.

"Person" means an individual, partnership, corporation, government, or government subdivision or agency, business trust, estate, association or any other legal entity.

"Power kite" means a type of dual-line kite capable of generating significant pulling power generally used in conjunction with a vehicle or board.

"Pro-Am shore water event" means a shore water surf event that includes separate divisions for amateurs and professional participants.

"Professional shore water event" means a shore

water event limited to participants who engage in the shore water event as a means of livelihood.

"ROH" means the revised ordinance of Honolulu 1990, as amended.

"Shore water" means any shore or water between the three nautical mile limit and the mean tide mark on the shores of the islands of the State.

"Shore water event" means any organized water sport event including, but not limited to sail race, jet ski race, paddle board race, surf event, swim race, canoe race, or similar activity held in the shore water.

"Shore water event permit" means a document issued by the state division of boating and ocean recreation of the department of land and natural resources which authorizes use of a particular area of the shore water of the state for a specific time period.

"Skimboarding" or "skimming" means a water sport involving riding a board on wet sand or shallow water and which does not involve wave riding.

"Standup paddle surfing" or "stand up paddleboarding" means a wave riding water sport involving the use of a stand up paddle to propel the rider across the surface of the water while standing on a surfboard, windsurf board, or paddleboard.

"State" means the State of Hawaii.

"State division of boating and ocean recreation" means the state division of boating and ocean recreation, department of land and natural resources, State of Hawaii.

"Submit" or "submitted" means that an application has been delivered either by hand or via postal courier by 4:00p.m. HST, to the department of parks and recreation permits section office located at: Frank F. Fasi Municipal Building, 1st Floor, 650 South King Street, Honolulu, HI 96813.

"Surfboard" means any type of board which is used for the sport of surfing.

"Surf event" means a water sport contest, competition, exhibition or organized event involving any form of wave riding.

"Surfing" means a water sport involving riding a surfboard on a breaking wave.

"Tow-in surfing" means a water sport utilizing a surfboard equipped with foot straps to surf waves with the assistance of a thrill craft that is equipped with a rescue sled, bow tow-line and a tow-in-rope.

"Waiting period" means the days within the permitted days within the permit period from which the permittee selects competition days, but does not include setup and breakdown days.

"Windboard" means a modified surfboard having a single sail mounted on a mast that pivots on a ball joint which is sailed by one person standing up.

"Windsurfing" means a water sport using a windboard and which does not involve wave riding.

[Eff] (Auth: RCH §6-1403, ROH §1-9.1) (Imp: ROH §10-1.3)

SUBCHAPTER 2

SPECIFIC PROVISIONS

§19-4-4 Permit required. No person shall use a park to hold a shore water event or use a park in conjunction with a shore water event held in State shore waters without first obtaining a park use permit from the department. [Eff] (Auth: RCH , ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-5 Permit Application. (a) An applicant requesting a permit to conduct a shore water event shall submit an application to the department at least thirty days prior to the date of the shore water event but no earlier than one year prior to the date of the shore water event. Applications for surf events on the north shore shall be submitted in accordance with the deadline set forth in §19-4-6.

(b) The permit application shall set forth the name of the applicant, nature of proposed shore water event, requested park, requested dates and time of the shore water event, requested number of competition days, requested contest dates, number of days to setup and remove equipment and facilities, an estimate of the numbers of participants and spectators, a statement of equipment or facilities to be used, including site plan, proposed fees including entry fees, applicable Federal, state identification numbers and any other information as may be requested by the department.

(c) The department may reject any application

that contains false information or that is incomplete.

(d) The department may issue a permit, without unreasonable delay and provided that an application is submitted with reasonable timeliness and applicant has met all permit application requirements, unless;

(1) The requested park has been reserved for City or department sponsored activity;

(2) A prior application for a permit for the same time and place has been made that has been or will be granted;

(3) Issuance of a permit will result in a violation of City, State or Federal rules, regulations or ordinances;

(4) It reasonably appears that based upon the information provided that the shore water event will present a clear and present danger to the public health or safety;

(5) The shore water event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering factors such as probable damage to the park's resources or facilities, interference with program activities, or impairment of the operation of the public use facilities or services of city concessionaires or contractors; or

(6) Applicant fails to pay required fees or deposits, or if a payment made by check is returned unpaid.

(7) The permit application for a surf contest on the north shore shall be subject to the conflict resolution process described in §19-4-12.

(e) The department may require an applicant to provide additional information that may be considered in resolving scheduling conflicts.

(f) If a permit is denied, the applicant shall be informed in writing, with the reasons for the denial set forth. [Eff] (Auth: RCH §6-1403, ROH §1-9.10) (Imp: ROH §10-1.3)

§19-4-6 <u>Permit Application deadline for surf events held on the north shore.</u> (a) An application for a permit to conduct a surf event on the north shore shall be submitted to the department on or before the last business day in the month of July of the year preceding the start of north shore calendar for the event. For example, an applicant desiring a permit to

conduct a surf event during the 2020-2021 north shore calendar year (September 1, 2020 to May 31, 2021) must submit an application no later than the last business day in July, 2019. Applications which are not completed and received by the close of business on the deadline will not be considered during the conflict resolution process. [Eff] (Auth: RCH §6-1403, ROH §1-9.10) (Imp: ROH §10-1.3)

§19-4-7 Permit conditions.

(a) Prior to the issuance of a permit, permittee shall provide a current copy of the shore water permit for the event issued by the state division of boating and ocean recreations.

(b) Prior to the issuance of a permit, permittee shall provide confirmation

(c) Permittee shall provide special duty police officers as determined necessary by the department for traffic, parking, security and crowd control in consultation with the Honolulu police department.

(d) Permittee shall be required to provide portable toilets at locations where public restrooms are not available or not operational, or where existing restrooms are determined inadequate by the department to cover the estimated number of participants and spectators of the shore water event. Where public restrooms are not available, permittee shall be required to provide minimum of two portable toilets for every 500 spectators. Where public restrooms are available, permittee shall provide two portable toilets for every 1,000 spectators if it is determined by the department that the public restrooms are inadequate for the estimate number of participants and spectators. Permittee shall provide at least one ADA accessible portable toilet, with a minimum ratio of one ADA accessible portable toilet for every ten inaccessible portable toilets.

(e) Permittee shall service the portable toilets and public restrooms before the start of the shore water event and shall maintain the portable toilets and public restrooms in a clean and sanitary condition throughout the event. Portable toilets shall be serviced and remain open on the event day. The portable toilets can be locked and remain locked until the start of the event day. Permittee shall insure that the portable toilets are accessible to the service contractor and that access to the portable toilets is not blocked by park users, vehicles or equipment.

(f) Permittee shall present to the department a certificate of comprehensive general liability insurance in which the combined limit of liability for bodily injury and property damage is two million dollars per occurrence. Such policy or policies shall be placed with a company with an A.M. Best rating of A, Class 7, or better. The insurance certificate shall name the city and county of Honolulu, its officers and employees, the State, its officers and employees, as additional insured, and a copy of the certificate of insurance shall be filed with the parks permit section. Said coverage to commence from the first day the equipment is set up on the park for the event to the last day of the event or the last day the equipment is removed from the park, whichever is the later. All policies and coverages required by this section are subject to the approval by the city risk manager as to content and form. If at any time in the judgment of the city risk manager said policies and/or coverages are not sufficient for any cause or reason, the city risk manager may require the permittee to replace said policies and/or coverages within five days with other policies and/or coverages acceptable in accordance with this section. If said permittee fails to replace said policies within said period, the permit issued or to be issued shall be, by such failure, automatically suspended until such time said requirement is complied with, and the director or his designated representative is hereby authorized to halt the activities of the permittee and enforce such suspension after receiving written notice from the city risk manager that said policies and/or coverage have not been replaced with good and sufficient policies and/or coverage.

(g) Permittee shall pay to the department prior to issuance of a permit for an amateur shore water event a $500 deposit for clean-up and restoration of damages and a deposit of $2,500 for professional shore water event and pro-am shore water event. An additional $500 deposit shall be required of any permittee who obtains approval from the department to drive or park vehicles on the grass at the park site. Any damage to utilities, including sprinklers, water and electrical lines, facilities and grounds shall be repaired by a licensed contractor, retained by the permittee, immediately and to the satisfaction of the department. Should clean-up and repair be deemed unsatisfactory by the department, the department shall clean-up and repair any damage to the park caused by the event or

the permittee and use the deposit as full or partial payment for the clean-up and repair costs incurred by the department. If clean-up or restoration of damages is not satisfactory as determined by the director, or if clean-up and repair costs exceed the amount of the deposit, permittee shall be responsible for any costs incurred by the department exceeding the deposit.

(h) Permittee shall be responsible to provide security using bonafide security company or special duty police officers for all materials, supplies, equipment, and personal property stored on park property during the event. Permittee assumes full responsibility for the risk of property damage or loss which may arise from, or is in any way connected with the storage of permittee's property on park property or the shore water event.

(i) Permittee shall be responsible for monitoring and controlling noise levels generated by the event, loudspeaker system and other equipment in order to comply with HRS Chapter 342F and ROH Section 10-1.2(b)(8), as amended. Violation of this provision shall automatically null and void the permit.

(j) Permittee shall not transfer, assign, or sell any or all rights granted by the permit or grant the use of any or all of the permit period to a third party or relinquish possession or use of the whole or any parts of the part granted to permittee under the permit. Any transfer, assignment, sale, grant or relinquishment of the permit shall automatically null and void the permit.

(k) Commercial announcements over the public address systems shall be limited to recognition of sponsors.

(l) Announcements over the public address systems and music shall not be in access of 80 dBA sound pressure level, as established by ROH section 10-1.2(b)(8), as amended.

(m) The permit may contain such conditions as are reasonably consistent with the protection and use of the park for the purposes for which the park is managed. It may also contain reasonable limitations on equipment to be used and the time and area within which the event is allowed, and may require the permittee to provide additional portable toilet facilities, restroom maintenance, parking attendants, and police security.

(n) 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 government. [Eff] (Auth: ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-8 Revocation of permit. (a) A permit may be revoked under any of the conditions listed in Section 19-4-5(d) that constitute grounds for the denial of a permit. Such revocation shall be in writing, with the reasons 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.

(b) Violation of the terms and conditions of a permit issued in accordance with these rules and regulations may result in the revocation of the permit and permittee shall be ineligible to apply for any shore water permit for a minimum of one calendar year following revocation and other penalties provided in ROH sections 10-1.3(c) and 10-1.6, as amended. [Eff] (Auth: RCH §6-1203, ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-9 Appeal of application denial or revocation. (a) An applicant aggrieved by the decision of the director to deny or revoke a permit may appeal the decision by filing a written petition of appeal with the director within 10 calendar days after receipt of written notification of the denial or revocation.

(b) Petitions for appeal shall be filed and sent to the office of the Director of Parks and Recreation, 1000 Uluohia Street, Suite 309, Kapolei, Hawaii 96707.

(c) The petition of appeal shall contain the following information:

(1) Petitioner's name, address, and telephone number and/or cellular telephone number, and, if any, the facsimile number and/or e-mail address.

(2) The issue on appeal.

(3) A statement of the relevant facts.

(4) The remedy sought, including the rationale and legal basis in support of the requested remedy.

(5) Petitioner's signature and the date the petition is submitted to the director.

(d) The director shall set the appeal for hearing. The hearing shall be conducted in conformity with the application provisions of Sections 91-9, 91-10, and 91-11, Hawaii Revised Statutes.

(e) The director shall provide written notice of the hearing on an appeal to the applicant by certified mail, return receipt requested, or by publication in accordance with the provisions of Section 91-9.5, Hawaii Revised Statutes. Petitioner shall be given written notice of the hearing at least fifteen calendar days prior to the hearing.

(f) All hearings shall be conducted by the director or by a hearings officer appointed by the director, who shall have the necessary powers to conduct the hearing and rule on procedural matters related thereto.

(g) At the hearing, parties shall be entitled to call witnesses, to cross-examine witnesses and make legal arguments.

(h) The hearings officer shall have the power to exclude irrelevant, immaterial or unduly repetitious evidence.

(i) An appeal shall be sustained if the director finds that the action of the director was arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(j) Each decision and order adverse to a party to the proceeding shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the director shall incorporate in its decision a ruling upon each proposed finding so presented.

(k) The director shall notify the parties to the proceeding by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to the party's attorney of record.

(l) Any person aggrieved by the final decision and order of the director may appeal such action in the circuit court in accordance with section 91-14, Hawaii Revised Statutes. [Eff]

(Auth: RCH §6-1203) (Imp:, ROH §1-9.2, HRS §§91-9 - 91-14)

§19-4-10 Regulations governing shore water events. (a) Posting of any signage, banners, posters, brochures, or advertising shall be subject to prior approval of the director.

(b) All litter shall be picked up, bagged and removed from the park at the end of each day, or the permittee shall provide an on-site dumpster for the purpose of daily rubbish collection. The filled dumpster(s) shall be emptied daily as needed, and removed no later than 12:00 noon of the first working day after the end of the shore water event.

(c) Equipment, including spectator bleachers, judges' stand, or platforms may be allowed subject to the prior approval of the department and provided twenty-four hour security is provided by the permittee.

(d) All materials, supplies, equipment and personal property shall be removed from the park no more than three days after the end of the shore water event or three days after the final competition day, whichever is sooner.

(e) Permittee may not enter into any agreement with any for-profit organization except as otherwise provided herein to be on the park property during the shore water event.

(f) Permittee may arrange for a commercial food caterer or lunch wagon to provide prepaid food to the shore water event participants. Authorization is to be noted on the park use permit.

(g) Food and refreshments shall be served only to event participants and not to other park users or event spectators. There shall be no exchanging of monies on park properties.

(1) Liability insurance coverage, including products liability, is to be provided by the commercial food caterer or lunch wagon in the following minimum amounts: two million dollars per occurrence for bodily injury and property damage.

(2) The certificate of insurance shall name the city and county of Honolulu and the State of Hawaii and their officers and employees as additional insured.

(h) Fundraising shore water events. Permittee may enter into an agreement with a nonprofit

organization to conduct fundraising in conjunction with the shore water event which may include sale of food and merchandise. Authorization is to be noted on the park use permit.

(1) If authorized by law, commercial food caterers, lunch wagons, and commercial vendors are allowed to operate only by prior arrangement with the non-profit organization conducting the fundraiser.

(2) The non-profit organization shall obtain authorization from the parks permit office to operate a temporary concession.

(3) Liability insurance coverage, including products liability shall be provided by both the non-profit organization and the commercial food caterer or lunch wagon in the following amounts: two million dollars per occurrence for bodily injury and property damage. The certificate of insurance shall name the city and county of Honolulu and the State of Hawaii and their officers and employees as additional insured.

(4) In parks, where a food concession is operated under contract with the city, the non-profit organization shall obtain written permission from the food concessionaire to sell food and refreshments in that park. The written permission shall be presented to the parks permit office prior to obtaining a temporary concessions permit.

(5) The permittee shall provide a copy of a state department of health temporary food concession permit for each caterer and/or a lunch wagon State health certificate to the parks permit office.

(i) Temporary structures over 2,100 square feet in size require a permit from the Honolulu fire department. Applicant is responsible to obtain all applicable permits. Applicant shall obtain the requisite agency and department approvals. No permit shall be issued until the department receives a copy of the temporary building permit and Honolulu fire department permit. [Eff] (Auth: RCH §6-1203, ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-11 <u>Regulations governing surf events held on the north shore.</u> (a) Use of a park for a surf

event to be held on the north shore is permitted only during the period from September 1 through May 31. No permit will be issued for use of a park on the north shore for a surf event from June 1 through August 31.

(b) All surf events held on the north shore must be scheduled on the north shore calendar before a park use permit is issued.

(c) A surf event shall be permitted only at Mokule'ia Beach Park, Haleiwa Ali'i Beach Park, Waimea Bay Beach Park, Ehukai Beach Park, Sunset Beach Park and other north shore parks as approved by the director.

(d) The department shall establish a north shore calendar for surf events no later than November 1 of the year preceding the start of the north shore calendar being established.

(e) The total number of competition days for surf events permitted on the north shore during a north shore calendar period shall not exceed sixty-four, provided that no more than sixteen competition days may be scheduled at each beach park.

(f) At each park there shall be a ten-day cooling off period.

(g) Except as authorized by the director, no surf event shall be permitted a waiting period of more than fifteen days.

(h) Scheduling of overlapping waiting periods is prohibited. However, the director may approve a big wave event to have a waiting period of up to a maximum of ninety days which may overlap the waiting periods of other surf events.

(i) No surf event shall be permitted more than four competition days, however, the director may, in the director's discretion and if consistent with the purposes of this chapter and in the public's interest, permit a surf event five competition days if the maximum number of competition days scheduled at the requested park have not been awarded after the conclusion of the conflict resolution process.

(j) Under no circumstance may two or more surf events, including big wave events, be held on the same day on the north shore.

(k) No surf event shall start before 8:00 a.m. All surf events shall be completed before 4:30 p.m.

(l) A competition day shall not exceed eight hours of active competition.

(m) The maximum period of time a surf event shall be permitted is as follows:

(1) A surf event awarded one day may include a portion of two calendar days not to exceed a cumulative total of eight hours to complete the event.
(2) A surf event awarded two days may have a maximum of three calendar days not to exceed a cumulative total of sixteen hours to complete the event.
(3) A surf event award three days may have a maximum of five calendar days not to exceed a cumulative total of twenty-four hours to complete the event.
(4) A surf event awarded four days may have a maximum of six calendar days not to exceed a cumulative total of thirty-two hours to complete the event.

(n) Except for a big wave event, a surf event shall not be held on any of the following dates:
(1) Labor Day - The first Monday in September.
(2) General Election Day - In even-numbered years, the first Tuesday in November following the first Monday.
(3) Veterans' Day - The eleventh day in November.
(4) Thanksgiving Day - The fourth Thursday in November.
(5) Christmas Day - The twenty-fifth day in December.
(6) New Year's Day - The first day in January
(7) Dr. Martin Luther King, Jr. Day - The third Monday in January.
(8) Presidents' Day - The third Monday in February.
(9) Prince Jonah Kuhio Kalanianaole Day - The twenty-sixth day in March.
(10) Good Friday - The Friday preceding Easter Sunday.
(11) Memorial Day - The last Monday in May.

(o) Dates listed in 19-4-11(n)on which surfing is not permitted shall not be counted as part of the waiting period.

(p) Expression sessions and exhibitions shall not be considered in the conflict resolution process, but shall count as a competition day.

Eff] (Auth: RCH §6- , ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-12 <u>North shore calendar conflict resolution.</u>
(a) The department shall review all applications for

scheduling conflicts during the first week of the month of August in the year preceding the north shore calendar, or a date designated by the department.

(b) The department shall apply the following conflict resolution process when it receives a permit application requesting the same block of dates and park requested by another permit applicant.

(1) Submitted information will be evaluated by a panel consisting of the windward district recreation director V, the park permits officer or the assistant park permits officer, and one ocean recreation specialist. The director may designate another department employee in the event one of the above employees is not available.

(2) During the first week of the permit application review period, the Department shall provide all applicants with a list of the applicants, requested dates and locations. At their own expense, the applicants will have until the close of business on the fifteenth business day after the application deadline to review the applications, determine conflicts, mediate solutions to the conflicts and submit an amended application, if desired. All amended applications for use of park facilities submitted at this time will nullify the applicant's original application.

(3) On the sixteenth business day after the original application deadline, if there are any remaining conflicts, the department shall immediately proceed to conflict resolution and determination of all permits during the application period.

(c) For the conflict resolution process, each panel member shall complete a conflict resolution criteria rating sheet for each application in conflict using the following methodology:

(1) The applications shall be scored on 12 criteria divided into three categories.

(2) The criteria and associated categories shall be as follows:

(A) Submitted plans for compliance with permit conditions - Plans submitted as part of the North Shore application supplement will be evaluated on whether the plans address complying with the

following permit conditions:

(i) Park rules and regulations

(ii) Cleaning and stocking restrooms

(iii) Trash removal

Each of the above criteria shall be assigned a score, where zero points indicates an unacceptable response or no response, one point indicates a response that minimally addresses compliance with permit conditions, two points indicates a response that partially addresses compliance with permit conditions, and three points indicates a response that completely addresses compliance with permit conditions. The scores for this category shall be weighted so that the total score for this category comprises 50 percent of the final score.

(B) Submitted plans for mitigating impacts to the community - Plans submitted as part of the North Shore application supplement will be evaluated on whether the plans address complying with the following permit conditions:

(i) Traffic

(ii) Parking

(iii) Crowd control

(iv) Local resident and government services access

(v) Noise control

Each of the above criteria shall be assigned a score, where zero points indicates an unacceptable response or no response, one point indicates a response that minimally addresses compliance with permit conditions, two points indicates a response that partially addresses compliance with permit conditions, and three points indicates a response that completely addresses compliance with permit conditions. The scores for this category shall be weighted so that the total score for this category comprises 40 percent of the final score.

(C) Diversity of north shore calendar events - the prevalence of events shall be considered in scoring events with a goal of including a broad range of events

within the calendar. The following aspects shall be taken into account:

(i) Primary type of event

(ii) Age range(s) of participants

(iii) Whether event is professional, amateur, or pro-am.

(iv) Gender(s) of participants

For the evaluation of event diversity, all applications will be grouped based each of the above criteria. Points will be assigned based on the relative prevalence or scarcity of similar events as follows: Three points will be assigned to events that are rare, falling at or below the 24th percentile of all applications for the season (For example, if 20 percent of applications are open only to youth, then these events will each receive three points for this criterion.); two points will be assigned to events that are moderately common, falling at or above the 25th percentile and at or below the 74th percentile of applications for the season; and one point will be assigned to events that are most common, falling at or above the 75th percentile of applications for the season. The scores for this category shall be weighted so that the total score for this category comprises 10 percent of the final score.

(d) After each application has been scored, the department shall prepare a draft north shore calendar. The dates and park site requested by the application receiving the highest total score shall be scheduled first on the draft calendar. The dates and park site requested by the application receiving the second highest score shall be scheduled on the draft calendar as long as the date and location requested do not conflict with an event that scored higher, and so on until all requests have been calendared or the maximum number of events permitted at each park site has been calendared.

(e) An application which requests dates and park site which has already been assigned on the draft calendar to another application shall not be assigned alternate dates and/or park sites on the draft calendar.

(f) Late applications, incomplete applications submitted without required documentation and

applications requesting more than four competition days shall not be considered.

(g) At the conclusion of the conflict resolution the department shall notify all permit applicants in writing of their permit application status and the department will post the final north shore calendar on the internet website of the city.

(h) Once the calendar has been posted and all applicants notified, the north shore calendar shall be considered final. Permits issued for events on the calendar may not be issued for a longer period than is indicated on the calendar.

(i) In the event an application is withdrawn, denied, or revoked after the north shore calendar is finalized, the resulting vacancy in the calendar shall not be filled by another event. [Eff] (Auth: RCH §6-1403 ROH §1-9.1) (Imp: ROH §10-1.3)

§19-4-13 Indemnification. Prior to issuance of a permit, permittee shall submit to the department a signed agreement in a form approved by the director acknowledging that permittee assumes all risks of personal injury or wrongful death and loss or damage to property by whomsoever owned, arising out of or in connection with permitee's use of the public facilities under such permit; and agrees to indemnify, hold harmless and defend the city and county of Honolulu against any claim, cause of action, liability, loss, damage, cost or expense for bodily injury, wrongful death, or property damage, arising or resulting from permittee, its agents, employees, contractors or invitees use of the public facilities under such permit, as well as any breach of regulations or ordinances, except where such injury, death or property damage is caused by the willful act or gross negligence of the city. [Eff] (Auth: RCH §6-1403, ROH §1-9.1 (Imp: ROH §10-1.3)

§19-4-14 Violation. Any person violating any provision of these rules shall be subject to the penalties provided in ROH sections 10-1.3(c) and 10-1.6, as amended. In addition, permittee shall be ineligible to apply for any shore water permit for a minimum one calendar year following revocation. [Eff] (Auth: RCH §4-105; ROH §1-9.1) (Imp:

ROH §§10-1.2, 10-1.3)

§19-4-15 Severability. If any chapter, section, subsection, sentence, clause, phrase, or portion of these rules is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. [Eff] (Auth: RCH §4-105, RCH §1-9.1)

DEPARTMENT OF PARKS AND RECREATION

The Department of Parks and Recreation Administrative Rules and Regulations governing Shore Water Events, which were adopted on _____, 2015, following a public hearing held on _____, 2015, after public notice was given on _____, in the _____.

These rules shall take effect ten (10) days after filing with the Office of the City Clerk.

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

_____
Michele K. Nekota, Director

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this day of

, 2015.

_____
KIRK CALDWELL, Mayor
City and County of Honolulu

CERTIFICATION

I, MICHELE K. NEKOTA, in my capacity as Director of the Department of Parks and Recreation, City and County of Honolulu, do hereby certify that the foregoing is a full, true and correct copy of the Department of Parks and Recreation Administrative Rules governing Shore Water Events, which were adopted on _____ following a Public Hearing held on _____, after public notice was given on _____, in the Honolulu Star Bulletin.

_____
MICHELE K. NEKOTA, Director

Received this ____ day of
_____, 2015

_____
City Clerk

13-07124/31492