

CITY AND COUNTY OF HONOLULU

DEPARTMENT OF PARKS AND RECREATION

Under and by virtue of the authority conferred upon him by Chapter 91, Hawaii Revised Statutes (HRS), Chapter 10, Revised Ordinances of Honolulu 1990 (ROH), as amended, and every other enabling power, the Director of the Department of Parks and Recreation of the City and County of Honolulu does hereby prescribe the following:

AMENDED RULES AND REGULATIONS

GOVERNING COMMERCIAL SCUBA DIVING (TO INCLUDE SNUBA) AND

SNORKELING ACTIVITIES IN HANAUMA BAY NATURE PARK

PART IV

Section 23. Findings and Purpose. Pursuant to Section 10-1.3(10)(b), ROH 1990, as amended, and Section 8 of these rules and regulations, a public hearing was conducted to determine the propriety of scuba diving (diving with self-contained underwater breathing apparatus) and snorkeling (use of face mask and tubed breathing apparatus) as commercial activities at Hanauma Bay Nature Park.

The Department duly received applications from various individuals and organizations to conduct these activities, pursuant to Section 7 of these regulations.

As a result of the public hearing, the Department finds the proposed commercial activities to be essentially recreational in nature and complementary to the facilities of the park.

These activities are hereby designated authorized activities in accordance with the definition provided in these rules, subject to the limitations and conditions hereinafter described.

Section 24. Number of Persons.

(a) The maximum number of persons who shall engage in commercial scuba diving and snorkeling at any one time shall be one hundred thirty (130).

(b) The maximum number of persons in any group, including instructors and assistants, shall be six (6).

(c) Each permittee shall be allowed to have only one group at Hanauma Bay Nature Park at any one time.

Section 25. Times of Use.

(a) Permittees may engage in commercial scuba diving and snorkeling on weekdays during park operating hours, except if such a weekday is designated a holiday.

(b) Permittees are prohibited from engaging in commercial scuba diving and snorkeling on weekends and holidays and during park closure hours.

(c) Permittees shall limit commercial activities to weekdays during park operating hours, except if such a weekday is designated a holiday.

Section 26. Fees.

See Chapter 10.3 ROH 1990, as amended.

Section 27. Permits.

(a) The Department may issue up to six (6) annual scuba and six (6) annual snorkel permits, five (5) monthly permits, and four (4) daily permits; however, only one (1) permit shall be issued to each person, group or organization for each day of operation. Applications for these permits shall be limited to those who are qualified to conduct these activities as defined in Section 3, Definitions: Scuba Instructor, Snorkel Instructor, and Snorkel Tour Guide, of Part I of these rules and who shall have and provide proof of having experience of providing these services. No applicant may submit more than one application. If an applicant submits more than one application, all applications submitted by him shall be rejected. For the purpose of these rules, applicants considered to be submitting more than one application shall include but not limited to:

(1) An individual submitting more than one application, whether in his own name or through an agent;

(2) An individual or legal entity submitting an application who also owns, directly or indirectly, any interest in a joint venture, partnership or corporation, which has also submitted an application; and

(3) A joint venture partnership or corporation submitting an application where a person owning, directly or indirectly, any interest in such joint venture partnership, or corporation has also submitted an application; and

(4) A joint venture, partnership or corporation submitting an application where a person owning, directly or indirectly, any interest in such joint venture, partnership or corporation also owns any interest in another joint venture, partnership or corporation, which has submitted an application under these rules.

If there is reasonable ground to believe that collusion exists among two or more applicants, all of the applications of the parties to such collusion shall be rejected and the parties to such collusion shall be prohibited from applying and securing future permits.

(b) Annual Permits. Applications for annual permits shall be submitted no later than 4 p.m. on November 15 of the preceding year. Should November 15 fall on a weekend, the deadline shall be extended to 4 p.m. of the first work day after November 15. Current documents required by these rules shall be on file or submitted by the deadline as described above. Amendments to any deficient documents shall be submitted no later than 4 p.m. of the 7th work day following the deadline for the application. Non-submittal of the required documents and non-submittal of the amended documents shall result in the rejection of the application. It shall be the responsibility of the applicant to be familiar with the requirements of the rules. After the deadline if there are less applications than the allotted six (6) annual scuba permits, any remaining annual scuba permits shall be determined to be excess and may be converted to annual snorkel permits. If there are less applications than the allotted six (6) annual snorkel permits, any remaining annual snorkel permits shall be determined excess and may be converted to annual scuba permits. After the deadline if there are less applications than the allotted annual permits, any remaining annual permits shall be determined to be excess and may be converted to each monthly allotment. Should the number of applications exceed the allotted six (6) scuba and six (6) snorkel annual permits, the Parks Permit Section shall conduct a lottery on December 1 to determine who will be awarded the permits. Should December 1 fall on a weekend, the lottery shall be conducted on the first work day following December 1. The department shall award the permits to the first six applicants selected in each category. The department shall select three (3) additional applicants in each category as alternates. If any of the permits awarded to the first six applicants are declined or not picked up by the deadline as provided below, the permits shall be awarded to the alternates. Alternates shall be determined in the sequence of the drawing of the lottery and alternate permits awarded accordingly. Upon completion of the lottery, applicants awarded the permits shall obtain the permits no later than 4 p.m. of the first work day following the lottery.

(c) Monthly permits. Applications for monthly permits shall be submitted no later than 4 p.m. of the 15th day of the preceding month. Should the 15th day fall on a weekend, the deadline shall be extended to 4 p.m. the first work day after the 15th. Current documents required by these rules shall be on file or submitted by the deadline as described above. Applications with deficient documents shall be rejected if not submitted by deadline. After the deadline, any remaining monthly permits shall be determined excess and may be converted to daily permits. Should the number of applications exceed the allotted permits, the Parks Permit Section shall conduct a lottery on the first work day following the deadline to determine who will be awarded the monthly permits. Upon completion of the lottery, applicants awarded the permits shall obtain the permits no later than 4 p.m. of the first work day following the lottery.

(d) Daily permits shall be limited to four (4) per day, except that when excess monthly permits are available, these may be converted to daily permits and added to the following month's allotment of daily permits. All permits shall be issued as follows:

(1) Beginning at 7:45 a.m. each Friday, daily permits shall be issued on a first-come, first-served basis for the following week. Should Friday be a holiday, permits shall be issued on Thursday.

(2) Only one daily permit shall be issued each applicant for any one date; however, an applicant may be issued up to five (5) daily permits, one for each day of the week.

(e) Permittees with commercial scuba and snorkeling permits for Hanauma Bay Nature Park may be allowed to use any other City beach park, except Koko Head Sandy and Makapuu Beach Parks, in the event Hanauma Bay Nature Park is determined to be unsuitable for scuba diving or snorkeling on the day the permit is effective; however, such use shall be limited to weekdays, excluding holidays.

Section 28. General Conditions.

(a) Each permit applicant must possess the licenses required to conduct business within the State of Hawaii.

Applications for these permits shall be limited to those who are qualified to conduct these activities as defined in Section 3, Definitions: Scuba Instructors, Snorkel Instructors and Snorkel Tour Guides, of Part I of these rules and who shall have and provide proof of having experience of providing these services.

(b) Each permit applicant must have in current force and effect an insurance policy covering the respective activity in which the combined limit of liability for bodily injury and property damage is \$1 million per occurrence. The insurance certificate shall name the City and County of Honolulu, the State of Hawaii and the Bishop Estate as additional insured. A certificate of insurance shall be filed with the Parks Permit Section of the Department.

(c) Permits shall be issued in the name of the person, organization or group designated on the Certificate of Insurance and shall be non-transferable.

(d) Picnic tables and benches or areas owned by the City shall not be reserved for the exclusive use of permittees. Nor shall these picnic tables and benches be used for storage or a staging area for commercial scuba and snorkeling equipment.

(e) Vehicles used for commercial scuba and snorkeling activities shall not reserve parking stalls nor shall any permittee be allowed to have more than one commercial vehicle in the parking lot. In addition, said vehicles are prohibited from using the access road to the beach.

(f) Engaging in or soliciting business is expressly prohibited within Hanauma Bay Nature Park, except as may be specifically provided in writing at the time a permit is issued.

(g) Except for the usual advertisements on company vehicles, other commercial notices or advertisement for the activities under discussion shall not be displayed, posted or distributed within Hanauma Bay Nature Park.

(h) Permittees shall be responsible for the safety of persons under their charge and for determining that their physical capability and experience are adequate to safely participate under the existing sea and surf conditions. Scuba instructors, snorkel instructors and guides shall accompany their charges and remain in the water during the period while charges are participating in the activities.

(i) Should it be adjudged that harm or death has resulted from the permittee's negligence or use of faulty equipment, the permit issued to the permittee shall be immediately revoked upon notice, review and consideration by the Department of Parks and Recreation without the possibility of future permits.

(j) Permittee failing to perform in accordance with the conditions of these rules and regulations shall forfeit any further use of an existing permit and will not be allowed to apply in person, member of a firm, corporation, or entity for a period of two years from the date of failure to perform.

ADOPTED this 2nd day of October, 1992, by the Director of the Department of Parks and Recreation, City and County of Honolulu, State of Hawaii.

Recreation

WALTER M. OZAWA, Director
Department of Parks and
City and County of Honolulu

APPROVED AS TO FORM:

Deputy Corporation Counsel

APPROVED this 12th day of
October, 1992.

FRANK F. FASI, Mayor
City and County of Honolulu

CERTIFICATION

I, WALTER M. OZAWA, 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 **Amended Rules and Regulations Governing Commercial Scuba Diving (to Include Snuba) and Snorkeling Activities in Hanauma Bay Nature Park**, which were adopted on October 2, 1992, following a public hearing held on September 22, 1992 after public notice was given on August 16, 1992, in the Honolulu Advertiser and the Honolulu Star-Bulletin.

WALTER M. OZAWA, Director
Department of Parks and Recreation

Received this 13th day of

October, 1992.

RAYMOND K. PUA, City Clerk

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