CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 23

DEPARTMENT OF TRANSPORTATION SERVICES

CHAPTER 1

RULES AND REGULATIONS RELATING TO PARADES AND ACTIVITIES FOR THE DEPARTMENT OF TRANSPORTATION SERVICES CITY AND COUNTY OF HONOLULU

§23-1-1 Authority. Pursuant to and by virtue of the authority set forth in Section 6-1703(d) of the Revised Charter of the City and County of Honolulu 1973 (2000 Ed.), Sections 1-9.1 and 15-24.20(g) of the Revised Ordinances of Honolulu 1990, as amended, and Chapter 91 of the Hawaii Revised Statutes, these Rules and Regulations relating to parades and activities for the Department of Transportation Services, City and County of Honolulu, are hereby established. [Eff: JUN 1 0 2006] (Auth: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-2 Purpose and objective. These Rules and Regulations establish procedures to be followed by the Department in preparing and processing applications for parade and activity permits and to effectively control the use of streets within the City and County of Honolulu. [Eff: JUN 1 0 2006] (Auth: RCH § 6-1703(d), ROH § 15-24.20(g), HRS § 91-2) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-3 Definitions. For the purpose of these Rules and Regulations, unless it is plainly evident from the context that a different meaning is intended, words and phrases used herein are defined as follows:

"Activity" means the occupation, use or participation in any endeavor other than a parade that requires the exclusive use of streets.

"Agency" means any federal, state or city agency whose review of a permit application the Director determines or finds to be necessary for the Director to issue such permit.

"Chief of police" means the chief of police of the city, or the chief's authorized subordinate.

"Department" means the Department of Transportation Services, City and County of Honolulu.

"Director" means the Director of the Department of Transportation Services, City and County of Honolulu, or the Director's authorized subordinate.

"Expressive activity" 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 participation in or attendance at such activity. Expressive activity generally would not include sports events such as marathons, fundraising events, beauty contests, commercial events, cultural celebrations or other events the principal purpose of which are entertainment.

"First Amendment parade" means a parade which constitutes an expressive activity.

"Parade" means any march, procession or assembly consisting of persons, animals, bicycles or vehicles, or combination thereof, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

"Public safety" means the safety or protection of any motorists, pedestrians, occupants of vehicles, participants, spectators and police officers assigned to a parade or activity, or the protection of any real or personal property.

"Street" means the entire width between the property lines of every way publicly owned and maintained when any part thereof is open to the use of the public for purposes of vehicular travel, or any private street, highway or thoroughfare which for six months or more has been continuously used by the general public or which is intended for dedication to the public use as provided in HRS Section 264-1 and is open for public travel but has not yet been accepted by the city, except private roads used primarily for agricultural purposes.

"Street block" means one side of any street, the length of such side extending between two consecutive intersections; or, in the case of a dead-end street, one side of such dead-end street, the length of such side extending between the dead-end and the nearest intersection.

"Waikiki special district" means the district described in ROH Section 21-9.80-2, including any precinct thereof established pursuant to Section 21-3.20. [Eff: JUN 1 0 2006 (Auth: ROH §§ 15-2.15, 15-2.23, 15-24.20, 21-9.80-2) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-4 Method whereby the public may obtain information. (a) The public may obtain information as to matters within the jurisdiction of the Department by inquiring at:

(1) The Office of the City Clerk, City Hall, where there are now on file all rules of the Department.

(2) The Office of the Department, Third Floor, Honolulu Municipal Building, 650 South King Street, Honolulu, Hawaii 96813.

(b) Inquiry may be made in person, or by submitting a request for information to the Director in writing. [Eff: JUN 1 0 2006] (Auth: HRS § 91-2(a)(1)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-5 Administration. The Director shall administer the provisions of these Rules and Regulations in consultation with other appropriate governmental agencies. [Eff: JUN 1 0 2006 (Auth: RCH § 6-1703) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-6 Permit required. (a) A permit is required for any parade or activity that does not comply with normal and usual traffic regulations or controls.

(b) No person shall parade on streets or highways, except for funeral processions and parades, marches, or processions by members of the United States Armed Forces, State of Hawaii Armed Forces and City police and fire departments, or undertake any activity on streets or highways without first obtaining a permit therefor. [Eff: JUN 1 0 2006 (Auth: ROH § 15-24.20(b)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-7 Application for permit. (a) Any person desiring a permit shall file an application on forms provided by the Director with the Department. Information to be submitted on the application forms shall include, but not be limited to:

(1) The name, address, phone number and/or email address of the organization wishing to conduct the parade or activity and the purpose of the parade or activity.

(2) The name, address, phone number and/or email address of the chairperson of the parade or activity. The chairperson will be responsible for the conduct of the organization in conducting the parade or event.

(3) The date of the parade or activity and the starting and ending time.

(4) The route of the parade or activity and its starting point and termination point.
(5) The approximate number of persons participating in the parade or activity.
(6) The approximate number of persons, vehicles, bands, and animals to be in the parade.
(7) The nature of items or equipment to be utilized to produce sounds or noise during the parade or activity.
(8) Any other information that the Director may require to fully evaluate the application.
(9) Any fee or charges, if applicable, shall be payable at the time of filing the application for the permit and cash or checks will be made payable to the City and County of Honolulu.
(b) Application forms required to be submitted to the Department are as follows:
(1) Application/Permit for Parade/Special Event (DTS-79, Rev. 4/97).
(2) Special Event/Parade Worksheet for DTS C&C Honolulu.
(c) Forms are available at the Department Street Usage Office, Honolulu Municipal Building, 650 South King Street, 2nd floor, Honolulu, Hawaii 96813. [Eff: JUN 1 0 2006] (Auth: ROH § 15-24.20(c)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-8 Conditions for issuance of permits. (a) The Director shall determine whether the parade or the activity serves a public purpose. The Director may consider that the parade or the activity is for a public purpose, so long as any private benefit arising out of the parade or the activity is incidental to the public purpose.

(b) An application for a parade or activity, other than one subject to Section 23-1-14, shall be filed with the Department at least 40 working days prior to the date and not more than 325 calendar days prior to the intended event date on which the parade or the activity is to be held.

(c) Upon the filing of an application, the Director shall transmit a copy of such application to the chief of police for review, comments and recommendations, and to any other agency, if the Director determines a particular agency's review is necessary. The chief of police or any agency to which an application has been transmitted shall return such application with comments and recommendations, if any, to the Director within five working days after receipt of the copy of the application.

(d) Any permit granted may contain conditions and restrictions to reduce or minimize the dangers and hazards to vehicular or pedestrian traffic, the impact upon the surrounding community and the public health, safety and welfare, including, but not limited to:

(1) Changes to the date, time or route of the parade or activity.

(2) Changes to the duration of the street closure, parking regulations or other temporary traffic controls.

(3) Limiting the number of participants in the parade or activity.

(4) Requiring a minimum number of police officers to properly police the parade or activity.

(5) Arrangements for additional police officers to man traffic posts adjacent to the route to control the traffic flow diverted from the route of the parade or activity. The amount of officers needed for traffic posts is to be determined by the respective Honolulu Police Department patrol district representative.

(6) Publicizing the parade or activity through the media of newspaper, radio and/or television, with explicit considerations given to temporary traffic restrictions associated with the parade or activity.

(7) Providing for the collection and removal of all trash, garbage, and litter caused by and/or arising out of the parade or activity.

(8) Permitting the passage of authorized emergency vehicles.

(e) An application for special duty police officers shall be filed with the Honolulu Police Department at least 40 working days prior to the intended event. [Eff: JUN 10 2008 (Auth: ROH § 15-24.20(d)(e)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-9 Issuance of Permit. (a) The Director shall issue a permit when, upon consideration of the application and from other information as may otherwise be obtained, the Director finds that:

(1) The chief of police, or other agencies, upon reviewing the request, are in concurrence with allowing the parade or activity.

(2) The conduct of such parade or activity will not interrupt the safe and orderly movement of other traffic contiguous to its route.

(3) The conduct of the parade or activity is not reasonably likely to cause injury to persons or

property or to provoke disorderly conduct or create a disturbance.

(4) The parade or activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment, or for the purpose of advertising the support of a political candidate.

(5) The applicant has secured a comprehensive liability insurance, issued by a carrier, and naming the City and County of Honolulu as an additional insured, and when applicable, the State of Hawaii, covering any claim or liability for damages, injuries or deaths, resulting from or arising out of the parade or activity or in connection therewith.

(A) General liability (Comprehensive form) insurance covering bodily injury, including death, personal injury and property damage, with limits of not less than $500,000 Combined Single Limit (CSL) per occurrence, and including the following supplemental coverage or endorsements:

i. If alcoholic beverages are to be sold or served, Liquor Liability, with limits of not less than $500,000 CSL per occurrence.

ii. If food or food products are to be sold or served, Products Liability, with annual aggregate limits of not less than $500,000.

(B) Worker Compensation insurance, as required by State statutes, covering the applicant's employees and volunteers working in any capacity in connection with the Parade/Motorcade or Special Event permit.

(C) Certificates of insurance, or copies of such certificates, shall be filed by the applicant at least 15 calendar days prior to the date of the event with the Director.

(D) Such policies shall contain a clause whereby the insurance company agrees to give notice in writing to the Director, of any cancellation or alteration of such policies at least ten (10) days prior to such cancellation or alteration.

i. When a State highway is also utilized, all insurance required above shall name the State of Hawaii as an additional insured.

ii. Certificates of insurance, or copies of such certificates (separate from City's, do not stack certificate holder), shall be filed by the applicant at least 15 calendar days prior to the date of the event, through the

State Department of Transportation (DOT) to the Director.

iii. Such policies shall contain a clause whereby the insurance company agrees to give notice in writing to DOT, of any cancellation or alteration of such policies at least ten (10) days prior to such cancellation or alteration.

iv. The Director shall determine personal injury and property damage coverage based upon the size, location, and type of event involved. A copy of the certificate shall be filed with the Street Usage Section of the Department.

(6) Other conditions contained in these Rules and Regulations and other applicable laws have been met.

(b) Before a Street Usage permit can be issued, the applicant must secure permission and/or obtain other clearances and/or permits from, but not limited to, the following:

(1) Department of Facility Maintenance, Director & Building Superintendent, prior to using grounds surrounding City Hall and Annexes.

(2) Department of Parks and Recreation, Permits Section, prior to using any City parks, beaches, malls and landscaped medians.

(3) Department of Facility Maintenance, Division of Road Maintenance Chief, to request to patch potholes along the route and/or for cleaning of the street with street sweepers.

(4) Public Building and Electrical Services Division, prior to erecting banner(s) and/or sign(s) on streetlights, and/or signal lights. See Application to Display Banners from Lampposts.

(5) Honolulu Police Department, Special Duty Section, phone number 529-3610. [Eff: JUN 10 2006 (Auth: ROH § 15-24.20(d)(e)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-10. Restrictions. (a) No parade or activity will be permitted during peak traffic hours on any street. Peak traffic hours shall be as defined as between the hours of 5:30 a.m. to 8:30 a.m. and 3:30 p.m. to 6:00 p.m., Monday through Friday except holidays.

(b) No person shall join a parade or activity without first obtaining permission from the organization that has been granted a permit to conduct a parade or activity.

(c) Only one parade or activity shall be permitted on any given day on any street.

(d) In the Central Business District, parades or activities will be permitted only on a Saturday, Sunday, or holiday or after 6:00 p.m. on weekdays.

(e) No parade or activity will be permitted to use or travel the entire distance on Hotel Street, from Richards Street to North King Street. [Eff: JUN 1 0 2006] (Auth: ROH § 15-24.20(d)(e)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-11. Notice of Issuance, Denial or Alternative Permit. Written notice of issuance, denial or alternate permit shall be provided to the applicant as soon as practicable but in no event later than 15 calendar days prior to the event. [Eff: JUN 1 0 2006] (Auth: ROH § 15-24.20(f)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-12. Appeals Procedure. (a) Any person aggrieved by the decision of the Director to grant or deny a permit may appeal the decision of the Director by filing a notice of appeal with the Director within 5 calendar days after the date of the Director's decision. The Director shall set the appeal for hearing and shall notify the applicant, the appealing party, if other than the applicant, and any person who submitted written comments to the Director on the application, of the date, time and place of the hearing. Notice of the hearing and the conduct of the hearing shall comply with Chapter 91, Hawaii Revised Statutes. [Eff: JUN 1 0 2006] (Auth: ROH § 15-24.20(f)(g)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-13. Denial or Revocation of Permit. (a) The Director is authorized and empowered to deny any permit if the parade or activity does not conform to any regulation contained in ROH Chapter 15, the State Traffic Safety Act, the rules and regulations promulgated by the state Director of Transportation pursuant to HRS Chapter 91, any conditions imposed by these Rules and Regulations, or any other written conditions imposed by the Director, prior to the issuance of the permit.

(b) The chief of police is authorized to revoke any permit if the chief finds that, at the site when a parade or activity is to commence, and prior to the actual commencement of such parade or activity, any written conditions imposed by the Director have not been met. The Director is also authorized to

terminate any parade or activity in progress if the Director finds that public safety is endangered, or any written conditions to be observed during a parade or activity imposed by the Director have been breached.

(c) Whenever the chief of police revokes a permit under the conditions set forth in Section 23-1-13(b) above, the permittee may pursue any and all remedies as provided by law, since there will be no time to issue a notice and conduct a hearing as prescribed in HRS Chapter 91.

(d) Including but not limited to the foregoing, the word, "violation" used in this subsection shall mean any person who: (A) fails to obtain a permit for a parade or activity on any public street; (B) authorizes, urges or solicits any person to participate in a parade or activity without a permit; (C) participates in a parade or activity on a public street when there is no permit issued therefor, or the permit therefor has been denied or revoked as provided herein; or (D) fails to obey any lawful directive, order or command of a police officer when such police officer believes that public safety is in peril.

(e) Any person who violates any provision contained in ROH Section 15-24.20 or falls within the definition of the word "violation," as defined in Section 23-1-13(d), shall be fined up to $200.00, or imprisoned up to 30 calendar days, or both. [Eff: JUN 1 0 2006 (Auth: ROH § 15-24.20(f)(h)) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-14 <u>First Amendment Parades.</u> (a) This Section shall only apply to parades held for the purpose of participants expressing views or engaging in other activities protected by the First Amendment of the United States Constitution.

(b) For purposes of ROH Section 15-24.20(d)(1), a parade held for the purpose of participants expressing views or engaging in other activities protected by the First Amendment of the United States Constitution shall constitute a "public purpose."

(c) The City Department of the Corporation Counsel shall determine if an application meets the above requirements of a parade held for the purpose of participants expressing views or engaging in other activities protected by the First Amendment of the United States Constitution.

(d) The City shall be permanently enjoined from enforcing the 40 working day filing period required by ROH Section 15-24.20(d)(2). Where the applicant has submitted a complete application, the maximum filing period shall be five working days.

(e) For purposes of ROH Sections 15-24.20(d)(3), 15-24.20(e)(2), and 15-24.20(f)(1) and (2), the conditions to be imposed by the Director shall be reasonable and necessary and not unduly restrict the parade participants' ability to express views or engage in other activities protected by the First Amendment of the United States Constitution. The conditions referred to in ROH Sections 15-24.20(e)(2) and 15-24.20(f)(1) and (2) are subject to the criteria listed in ROH Section 15-24.20(d)(3).

(f) The insurance requirement shall be waived if an applicant for a parade permit self-certifies in writing that the applicant is (1) unable to obtain the insurance coverage required by such section, or (2) unable to pay for such insurance coverage.

(g) The City shall accept an applicant's self-certification with respect to compliance with workers' compensation insurance requirements imposed by State of Hawaii law.

(h) The Director may impose requirements for applicants to provide police assistance with control of vehicle and pedestrian traffic only to the extent that such requirements are uniform for all parades with a similar duration, route and number of participants, vehicles and animals, and do not vary with the views being expressed by the participants. Such requirements shall not unduly restrict the parade participants' ability to express views or engage in other activities protected by the First Amendment to the United States Constitution. The Director shall waive such police assistance requirements to the extent that an applicant for a parade permit self-certifies, in writing, that the applicant is (1) unable to obtain such assistance, or (2) unable to pay for such assistance. The Honolulu Police Department may provide such assistance to the extent that providing such assistance is necessary and feasible.

(i) Traffic Coning and Signage Costs for First Amendment Parades.

(1) The City agrees to be responsible for traffic coning and signage costs of up to $2,500 per First Amendment parade subject to a cap of $25,000 per calendar year.

(2) After reaching the $2,500 cap per First Amendment parade, the City shall have no obligation under to pay any remaining costs for traffic coning and signage.

(3) After the $25,000 cap is exhausted in any calendar year, the City shall have no obligation to pay any further traffic coning and signage costs. The City need not pay costs for traffic coning and signage exceeding $2,500 per First Amendment parade or $25,000 per calendar year absent a court order.

(4) This Section 23-1-14(i), relating to traffic coning and signage costs for First Amendment parades, shall sunset four years after December 20, 2004 or after a final judgment is entered in the United States District Court for the District of Hawaii, the Ninth Circuit Court of Appeals, or the United States Supreme Court clearly ruling that municipalities are not required to pay for traffic coning and signage costs or the United States Government enacts a statute clearly providing that municipalities are not required to pay for traffic coning and signage costs, whichever occurs first. This Section 23-1-14(i) shall not set a precedence for future City policy after this provision sunsets or for future Court review as to whether the City is responsible for paying for traffic coning and signage costs for First Amendment parades.

(5) The Corporation Counsel of the City and County of Honolulu and the American Civil Liberties Union of Hawaii agree to cooperate in seeking approval of the Federal Court to initiate, one (1) year prior to the expiration of the provision described in Section 23-1-14(i)(4) above, a declaratory judgment action regarding the legality of imposition of non-discriminatory financial conditions on the use of traditional public forums for core First Amendment activities.

(6) Allocation of the funds set forth in Section 23-1-14(i)(4) shall be pursuant to policies and procedures adopted by the Department after good faith consultation with the American Civil Liberties Union of Hawaii on policies with respect to parades and other events.

(j) With respect to publicizing the parade and removal of trash, garbage and litter (Sections 23-1-8(d)(6) and 23-1-8(d)(7) of these Rules and Regulations and Item 6 on the last page of the Parade/Motorcade, or Special Event Guidelines for permit), the Director agrees that these provisions shall only require an applicant to make best efforts.

(k) Applicants shall not be required to consult with or obtain the approval of any neighborhood board, community association, or property owner.

(l) The Director shall be permanently enjoined from enforcing the requirement that the applicant provide a written indemnification agreement. [Eff: JUN 1 0 2006] (Auth: RCH § 6-1703(d), ROH § 15-24.20(g), HRS § 91-2) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

§23-1-15 Parking Meter Fees. (a) Whenever parking meters are utilized for parade/special events, the following schedule, payable in cash or check to City and County of Honolulu, will be followed:

(1) ON-STREET: $3.00 a day, per meter, Monday thru Saturdays, except holidays (from 7:00 am to 6:00 pm).

(2) MUNICIPAL PARKING LOTS:

(A) Civic Center. . . - refer to Department of Facility Maintenance, Parking and Property Management Branch, Monday thru Friday, except holidays (from 8:00 am to 4:00 pm).

(B) Kailua. . . . . - $4.50 a day, per meter, Sunday thru Saturday, no exceptions (24 hours).

(C) Kaimuki . . . . . - $3.00 a day, per meter, Sunday thru Saturday, no exceptions (24 hours).

(D) Kuhio . . . . . - $6.00 a day, per meter, Sunday thru Saturday, no exceptions (24 hours).

(E) River . . . . . - refer to Department of Facility Maintenance, Parking and Property Management Branch, Sunday thru Saturday, no exceptions (24 hours).

(F) Salt Lake . . . . - $2.00 a day, per meter, Sunday thru Saturday, no exceptions (24 hours).

(G) Honolulu Zoo . . .- $2.00 a day, per meter, Sunday thru Saturday, no exceptions (have Department of Parks & Recreation sign permit) (24 hours).

(H) Kapiolani Park (Kalakaua Ave., between Monsarrat Ave to Poni Moi, mauka side) . . - $2.00 a day, per meter, Sunday thru Saturday, no exceptions (have Department of Parks & Recreation sign permit) (from 10 am to 6:00 pm).

(I) Queen Emma Square - $2.00 a day, per meter, Monday thru Saturday, except Holidays (have Department of Parks & Recreation sign permit) (from 7:00 am to 6:00 pm).

(b) Non-profit group applicant, with IRS certification, may be exempt from paying the above fees. [Eff: JUN 1 0 2006] (Auth: RCH § 6-1703(d), ROH § 15-24.20(g), HRS § 91-2) (Imp: RCH § 6-1703(d), ROH §§ 1-9.1, 15-24.20(g), HRS § 91-2)

ADOPTED this 31st day of May, 2006 by the Director of the Department of Transportation Services, City and County of Honolulu, State of Hawaii.

MELVIN N. KAKU
DIRECTOR, DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this 31st day of May, 2006

MUFI HANNEMANN, Mayor

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