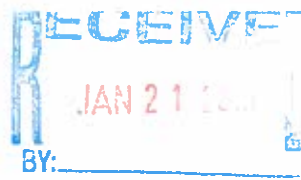


ALAN M. ARAKAWA  
Mayor



KA'ALA BUENCONSEJO  
Director

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Deputy Director

**DEPARTMENT OF PARKS & RECREATION**  
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January 13, 2016

Ms. Lynn McCrory  
Senior Vice President of Government Affairs  
Pulama Lanai  
733 Bishop Street, Suite 2000  
Honolulu, Hawaii 96813

Dear Ms. McCrory:

**SUBJECT: Hulopoe Beach Park Revised Rules and Regulations**

Thank you for the opportunity to review the proposed amendments to the Hulopoe Beach Park Rules and Regulations. The Department has no issues with the new rules.

Please feel free to contact me or Robert Halvorson, Chief of Planning and Development, at [robert.halvorson@co.maui.hi.us](mailto:robert.halvorson@co.maui.hi.us) or 270-7387, should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ka'ala Buenconsejo".

KA'ALA BUENCONSEJO  
Director of Parks and Recreation

KB:RH:do

c: Robert Halvorson, Chief of Planning & Development

## PARK AREA RULES AND REGULATIONS

### PREFACE

The following park area rules and regulations as incorporated with the Unilateral Agreement dated April 23, 1987 between Lanai Company, Inc., and the County of Maui are not intended to ignore or supersede traditional, recreational uses. The agreement and its rules and regulations recognize and defers to any and all existing traditional recreational uses of Hulopo'e Beach Park and adjacent shoreline areas.

ARTICLE I GENERAL PROVISIONS	1	
Definitions	1	defined by the State and is therefore under the jurisdiction of the State and not subject to the rules and regulations of the "Park Area Rules and Regulations."
ARTICLE II PROHIBITIONS	2	
General prohibitions applicable to all parks and recreation facilities.	2	
ARTICLE III OPERATING POLICY	3	
Hours	3	B. "Camper" means any person who remains or intends to remain at the park or recreational facility in order to use the facility as overnight accommodations.
ARTICLE IV PERMITS AND FEES	3	
Casual user	3	C. "Camping" means the use and occupation at the park or recreational facility whereby one or more persons remain or intend to remain at the park or recreational facility in order to use the park or facility as overnight accommodations.
Commercial user	3	
Separate events	3	
Priority of use	4	
Fees and deposits	4	
Activity Permit Procedures	4	
Revocation	5	D. "Casual User" means any person or organization utilizing the park area who would not be covered by any of the permitting activities listed in the Park Rules and Regulations and would not be subject to any registration requirements or fees.
Limitations on Use of Permits	5	
ARTICLE V CAMPING	5	
Camping areas	5	
Permits	5	
Fees	5	E. "Company" means Lāna'i Resorts, LLC, doing business as Pūlama Lāna'i, as successor-in-interest to Lanai Company, Inc., and its successors and assigns.
ARTICLE VI AMENDMENTS	6	
ARTICLE VII PENALTIES	6	F. "Deposit" means a sum of the money placed with the Company as security for the use and maintenance of park and recreational facilities.
ARTICLE I. GENERAL PROVISIONS		
<u>Definitions:</u>		
For the purpose of these rules and regulations, certain phrases and words are defined as follows:		
A. "Beach" means areas directly oceanside of park areas that are designated public property as		
G. "Fees" means monetary charges required by the Company pursuant to the provisions herein for the authorized use of parks and recreational facilities.		

- H. "Park" means the park, park roadway, (beach, beach right-of-way) and other recreational areas at Hulopo'e under the control, management and operation of the Company.
- I. "Permit" means a written authorization signed by the Company or an authorized representative allowing the use of park and recreational facilities.
- J. "Recreational facility" means any building or other physical structure, such as pavilions and picnic tables used for recreational purposes and under the control, management and operation of the Company.
- K. "Resident" means any person who permanently resides on Lāna'i as his/her principal place of residence. This includes military and full-time students financially dependent on their parents. The Company will use such criteria as Post Offices boxes, driver's license address, voter registration, tax "home" etc. to verify the same. A resident includes new Company employees (not seasonal), teachers, police and firemen from the first day of physically taking up residence on Lāna'i. It does not include non-resident property owners or individuals who are temporarily employed on Lāna'i by a non-resident employer, contractors, etc.
- L. "Type I Activity" means any activity organized and conducted by the Company.
- M. "Type II Activity" means any activity organized and sponsored by any person or nonprofit entity which does not charge an admission to attend the activity.
- N. "Type III Activity" means an activity organized and sponsored by any nonprofit entity which charges admission to attend the activity.
- O. "Type IV Activity" means any activity organized and sponsored by any person or entity for the purpose of carrying on a profit making enterprise.

- P. "Nonprofit entity" means an entity which complies with Section 416-19 of the Hawaii Revised Statutes.
- Q. "Traditional recreational use" means current and past uses of beach and park areas by Lāna'i residents, which shall include but are not limited to: camping, pole fishing and picnicking.

## ARTICLE II. PROHIBITIONS

Any activity deemed illegal on public property by the laws of the State of Hawaii and the County of Maui, shall be prohibited in the beach park area.

General prohibitions applicable to (all) park areas and recreation facilities. Traditional recreational use shall not include any of the following:

- A. Within the limit of the park or within any recreational facility, it shall be unlawful for any person to:
  1. Abandon any vehicle or other personal property or leave any vehicle or other personal property unattended for a period of excess of twenty four hours;
  2. Throw or dispose of any refuse or any waste material except in a receptacle designated for such;
  3. Permit any animal, except as hereinafter provided in Subsection D of this Section, to enter and remain within the confines of the park area;
  4. Destroy, injure, deface or remove in any manner any structure, sign, equipment, monument or device; or
  5. Be in possession of or discharge firearms, air rifles or spring guns, all types of guns and rifles, and bows and arrows.
- B. Except as otherwise authorized by the Company, it shall be prohibited for any person, within the limits of the park or recreational facility to:
  1. Distribute, post or place any commercial handbill or circular, notice or other advertising material;
  2. Repair cars or other vehicles;

### ARTICLE III. OPERATING POLICY

3. Store, repair, or condition any boat, canoe, raft or other vessel;
4. Park or operate any vehicle on grassed and sand areas;
5. Use or operate loudspeakers; or
6. Kindle, build, maintain or use any fire other than in a grill or hibachi and in designated areas.

C. The Company will designate, by posting signs, areas where certain activities, including but not limited to the following, are prohibited:

1. Active recreational uses, such as football or baseball, which endanger or impair the use and enjoyment of the park by others; and
2. Ride on roller skates, skate boards or bicycles.

D. Regulation on animals.

1. The Company may set aside areas for horse riding, animal shows, classes and trials.
2. All pets and animals are prohibited in the park area, except for "service animals," as defined by the Americans With Disabilities Act ("ADA"), which is limited to animals that are individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the animal must be directly related to the person's disability. Under the ADA, "comfort," "therapy," or "emotional support animals" do not meet the definition of service animal. All permitted service animals shall be on a leash with owners responsible for any clean-up of the animal's waste.

E. Regulation on motor vehicles.

The Company may, with just cause, prohibit or restrict the operation or parking of a motor vehicle, including motorcycles, sand buggies, etc., within the premises of the park or the premises of a recreational facility.

#### Hours

The park shall be open to the public every day of the year.

Special events shall not close more than one-fourth ( $\frac{1}{4}$ ) of the entire park area, and no such event shall exceed two (2) consecutive days per year. Any closing of a designated area for special events days shall require forty-eight (48) hours' notice to Lāna'i residents. Notice can be the posting of the date and times of special events at the community bulletin board. The beach access road and parking lot will remain open for public use at all times. There will be no maintenance or custodial services provided on Christmas and New Year's Day.

### ARTICLE IV. PERMITS AND FEES

#### Casual User

This permit procedure shall apply to a person or organization seeking the exclusive use of the park or recreational facility or a portion thereof and shall not apply to a casual user.

#### Commercial User

Commercial activity in the park is prohibited, except as provided in these rules. Commercial activity means any act whereby a person receives any benefit or promise to receive a benefit by providing goods or services to another person. Commercial use, includes, but not by way of limitation, the provision of goods and services (including but not limited to food, beverage, recreation and other beach oriented services) on Park property for a fee or other consideration and/or as part of a commercial enterprise, whether or not there is consideration exchanged on Park property or elsewhere. The Company shall have discretion to authorize commercial use on the Park upon the issuance of a Type IV permit.

#### Separate Events

Except for camping, a request for separate days shall be considered separate events and will require separate permit applications.

## Priority of Use

No more than one person or organization applies for the use of the park or recreational facility for the same time period and the mutual use of the applicants is incompatible, as determined by the Company, priority as to use will be given on the basis of the first written application received by the permit office except that the present tour boat operators who have pre-existing agreements with the Company shall have continued commercial access.

## Fees and Deposits

### A. Fees

Fees may be charged for the exclusive use of the park or any portion thereof or recreational facilities by persons or organizations. Fees shall be charged in accordance with the fee schedule set forth herein and as may be adjusted from time to time by the Company.

### B. Custodian Deposit

Custodial deposit may be required for exclusive use of the park or any portion thereof for recreational facilities. The deposit shall serve as security for the cleaning and repairing of the park or recreational facility premises. Custodial deposits are refundable upon determination by the Company that the cleaning and restoration of the facilities or park have been satisfactorily performed. Custodial deposits will be forfeited if restoration is not completed within the time provided on the permit. If the permit holder does not satisfactorily clean and restore the facility or park, the Company shall perform the necessary cleaning and restoration, deduct the cost of the cleaning and restoration from the deposit and recover by legal means available, any cost in excess of said deposit.

The Company may deny any future permits to permit holders for a period of one year upon failure on the part of the permit holder to:

1. Satisfactorily clean and restore any part of the park or any recreational facility; or
2. Pay any cost in excess of the above mentioned cleaning deposit

## C. Schedule of Fees and Deposits (See Ranger)

### Activity Permit Procedure

#### A. Application

Any person or organization seeking issuance of a permit for Type II, Type III or Type IV activities shall submit a written application with the Company. The application shall include the following:

1. Name and address of the person or entity applying for the permit and the name and address of any responsible agent for the applicant;
2. Name and address of the person or organization sponsoring the activity;
3. The nature of the activity to be engaged in by the person or organization;
4. The day and hours for which the permit is requested;
5. The park or recreational facility or portion thereof for which the permit is requested;
6. An estimate of the anticipated attendance;
7. Certification of payment in full or all required fees and deposits;
8. Certificate of insurance evidencing coverage for liability insurance as required by the Company; and
9. Any other information which the Company may require in making the determination as to whether the permit should be granted;

#### B. Responsibilities of the Applicant

1. Obtain the necessary permits required by State and County agencies;
2. Secure the necessary utility services not provided by the Company;
3. Hire any personnel deemed necessary by the Company to accommodate the planned activity;

4. Perform any services deemed necessary by the Company to accommodate the planned activity; and
5. Perform or cause to be performed daily custodial services while the permit is effective and cleaning and restoration after the use of the park or recreational facility.

#### Revocation

The Company may revoke a permit upon the violation of these rules or any County ordinance, State statute, or Administrative Rule.

#### Limitations on Use of Permits

- A. A use permit for Type II, Type III, and Type IV activities at any park or recreational facility shall not be given to any person or organization for more than three consecutive days.
- B. The approval of the permits for the Type IV activities shall be at the sole discretion of the Company with the objective of assuring that the park shall be primarily for the public's use and enjoyment of Type I, II and III activities by the residents, their guests, and guests of the hotel.
- C. It is understood that Types I-IV activities shall be in accordance with the permitting rules and regulations applicable to all parties and the exclusive use of any park increment shall be limited to no more than one half of that increment and its facilities.

### ARTICLE V. CAMPING

#### Camping Areas

- (a) Camping shall be permitted subject to the following provisions;
- (b) Except as otherwise provided for, camping shall be designated for residents and non-Lāna'i residents at specified designated areas. The Company may curtail or prohibit camping or withdraw any permit issue if the Company determines that camping is or would be detrimental to the public health, safety and welfare, or in violation of law. All designated camping areas shall be used by the permittee so that the camping area is clean of refuse, garbage and any unsanitary areas, campers are required to use restrooms and campsites shall not be utilized for drying laundry. The drying of laundry is

permitted on the camp tent, on the mauka side of the tent, so long as the laundry is not showing above the height of the tent. The Company may establish additional rules and regulations to govern camping in permitted areas.

#### Permits

- (a) Applicants for camping permits shall be 18 years of age or older.
- (b) Any person, organization desiring to camp shall first obtain a camping permit from the Company by applying for the same in person, in writing, by e-mail, or online to the Company.
- (c) Organizations and non-Lāna'i residents shall be authorized to camp with a permit, limited to a maximum of three (3) consecutive days for each camping site. Lāna'i residents shall be authorized to camp, without a permit, in the resident-designated area, limited to a maximum of five (5) consecutive days. Non-Lāna'i residents may be authorized to camp with Lāna'i residents, as a guest of a Lāna'i resident, in the resident-designated area, as long as the Lāna'i resident camps with the guests between the hours of 6:00 p.m. to 7:00 a.m.
- (d) Any person or organization shall have in its possession a copy of the permit.

#### Fees

- (a) Any non-Lāna'i resident or organization applying for a camping permit shall at the time of the application pay a camping fee, which shall be payable on a per person, per day basis. Said camping fee shall be set at the reasonable discretion of the Company and may be adjusted by the Company to reflect the increased cost of administering and supporting the camping program.

## ARTICLE VI. AMENDMENTS

These regulations may be amended, revised and altered by the Company or by action of the Park Council through the Company to assure that the public use and enjoyment of the park shall be maximized for the greatest number of users and to minimize the cost of maintenance to provide maximum utilization provided the rules and regulations are amended in a reasonable, nondiscriminatory and nonarbitrary manner. Any proposed amendments shall require a public meeting on Lānaʻi by the Park Council before formal application is made by the Company to the Parks Department of the County of Maui to amend these rules and regulations.

## ARTICLE VII. PENALTIES

Any person violating these park area rules and regulations shall be subject to administrative, civil, and/or criminal penalties, as provided by law.