

HAWAII ADMINISTRATIVE RULES

TITLE 10

DEPARTMENT OF HAWAIIAN HOME LANDS

CHAPTER 1

GENERAL PROVISIONS

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Historical Note: Chapter 1 of Title 10, Hawaii Administrative Rules, is based substantially upon Parts I and XIII, Rules and Regulations, Department of Hawaiian Home Lands. [Eff 8/18/72; am 11/14/77; R 7/30/81]

§10-1-1 Purpose. These rules are adopted under Chapter 91, HRS, and implement the Hawaiian Homes Commission Act of 1920, as amended. They are adopted in accordance with section 222 of the Hawaiian Homes Commission Act of 1920, as amended, for:

- (1) Effective execution of functions vested in the department by the act;
- (2) To provide for management of lands and funds entrusted to the department; and
- (3) To further rehabilitation of the Hawaiian race as stated in article XII, section 2 of the constitution of the State of Hawaii.
[Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act)

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§10-1-2 Information. (a) Information about the department, submittals, or requests may be obtained from:

- (1) The main office, P.O. Box 1879, Honolulu, Hawaii 96805, twelfth and twentieth floors, 1099 Alakea Street Honolulu, Hawaii; or
- (2) Neighbor island district offices as follows:
 - (A) West Hawaii: P.O. Box 125, Kamuela, Hawaii 96743 Mamalahoa Highway, Kamuela, Hawaii 96743;
 - (B) East Hawaii: 160 Baker Avenue, Hilo, Hawaii 96720;
 - (C) Kauai: 3060 Eiwa Street, Room 203, Lihue, Kauai 96766;
 - (D) Maui: Puuone Plaza, Room C-206, 1063 East Main Street, Wailuku, Maui 96793; or
 - (E) Molokai: P.O. Box 198, Hoolehua, Hawaii 96729 Puukapele Street, Hoolehua, Molokai 96729.

(b) The department shall disseminate information to the public through available news media in order that provisions of the act may be understood.

(c) Unless otherwise provided by law, all information contained in any document or other papers filed with the commission pursuant to the requirements of law, rule or order of the commission shall be available for inspection; provided that no written complaint or charges filed against an applicant or the holder of a lease or license shall be open to inspection unless and until the commission has ordered that the matter be set for hearing and a notice of hearing has been issued to the person against whom a complaint or charge has been filed. [Eff 7/30/81 am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HRS §91-2)

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§10-1-3 Government records. (a) All government records will be available for inspection during working hours unless otherwise provided by law.

(b) Copies of government records will be made available to any person requesting same upon payment of the fee imposed by law.

(c) Requests for copies of government records shall be signed and made on department provided forms unless otherwise provided by law.

(d) Personal data received or recorded by the department shall be held in absolute confidence and no release of information shall be made without written approval of the individual concerned. [Eff 7/30/81; am and comp 10/26/98] (Auth: HRS §91-2) (Imp: HRS §§91-2, Chapter 92F)

§10-1-4 Terms. Unless otherwise specifically stated, the meaning of terms used in Title 10 shall have the same meaning as provided by law. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act)

§10-1-5 Definitions. As used in this title, unless the context clearly provides otherwise:

"Act" means the Hawaiian Homes Commission Act of 1920, as amended;

"Advisory council" means the park advisory council established in section 10-4-34 for the purpose of advising the department on rules, practices and activities on or affecting parks on Hawaiian home lands;

"Agency" means an agency of the federal, state, or county government;

"Appraisal" means the process of estimating value;

"Authorized representative" means any person permitted by the commission to act on its behalf including the chairman and the chairman's designee;

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"Available lands" means public lands designated as available lands under section 203 of the act;

"Camper" means any person who remains or intends to remain at a park on Hawaiian home lands in order to use the park for overnight accommodations;

"Camping" means the use and occupation of any park on Hawaiian home lands on which at least one person remains or intends to remain overnight;

"Chairman" means the chairman of the commission;

"Commission" means the Hawaiian homes commission;

"Complainant" means the person or agency upon whose complaint a proceeding is instituted;

"Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for hearing before the commission, and shall include but not be limited to proceedings involving the denial or cancellation of homestead leases issued by the department, and loan or tax delinquencies;

"Deferred status" means the status of an applicant in which the applicant will not be considered for an award, but will retain one's position on the waiting list;

"Department" means the department of Hawaiian home lands;

"Government records" has the same meaning as defined in chapter 92F, HRS;

"Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the act;

"Hearing officer" means a person appointed by the commission or chairman at the request of the commission, authorized and qualified to hold a hearing for the purpose of taking evidence and making recommended decisions in any contested case;

"Homesteader" means the holder or successor thereto of a lease which may be of the following classes issued under section 207 of the act:

- (1) Residential or residence lot lease;
- (2) Pastoral or pastoral lot lease; and
- (3) Agricultural or agricultural lot lease;

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"HRS" means the Hawaii revised statutes, as amended;

"Lessee" has the same meaning as homesteader;

"Native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian islands previous to 1778;

"Party" means each person or agency named or admitted as such, or properly seeking and entitled as a matter of right to be admitted as such in a proceeding.

"Person" includes any individual, partnership, corporation, association, or public or private organization of any character other than an agency;

"Petitioner" means any interested person who in an individual or representative capacity requests:

- (1) A hearing as authorized by statute, law, or these rules;
- (2) A declaratory ruling;
- (3) Applicability of a departmental rule or order; or
- (4) Adoption, amendment, or repeal of any departmental rule;

"Picnic" means use of a park on Hawaiian home lands that does not include overnight accommodation;

"Presiding officer" means the person conducting a hearing and may be the chairman or a duly appointed representative;

"Public lands" has the same meaning as defined in chapter 171, HRS;

"Respondent" means the party in a contested case against whom an order to show cause has been issued by the commission on its own initiative or a notice of hearing has been issued on the basis of a complaint filed with the commission;

"Rule" means a statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure or practice requirements of the department;

"Rulemaking procedure" means any formal action to adopt, amend, or repeal any rule of the department;

"State" means the State of Hawaii; and

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"Tract" means any tract of Hawaiian home lands leased, as authorized by section 207 of the act. [Eff 7/30/81; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act)

§10-1-6 Numbering. Words importing the singular number may be applied to several persons or things; words importing the plural may include the singular. [Eff 7/30/81 am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HRS §91-2)

§10-1-7 Severability. If any section, sentence, clause, or phrase of Title 10 be for any reason held by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portion of this title. [Eff 7/30/81; am 2/3/83; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HRS §91-2)