UNIVERSITY OF HAWAI'I

Amendments to Chapter 20-12
Hawai'i Administrative Rules

1. Section 20-12-5, Hawai'i Administrative Rules, is amended to read as follows:

§20-12-5 Application procedure.
(a) Application for parking permits. Any employee or student seeking a parking permit shall complete an online parking permit application or obtain an application form from the [parking] Commuter Services office or at a place designated by the chancellor. The information requested in the application form must be completed fully and accurately or it shall be rejected. Employees and students shall follow established parking permit purchasing procedures as designated by the chancellor or a designee and shall be required to show proof of:
(1) Valid driver's license;
(2) Vehicle registration [certificate];
(3) Employment verification [letter or valid faculty or staff identification card (employee)];
(4) Student registration [verification slip or valid student identification card (student)];
(5) Student housing [receipt] residency ([dorm] student residents).

[Eff 6/22/81; am 4/01/93; am DEC 18 2000; am___________] (Auth: HRS §§304-4, 306-2,308-1)
(Imp:§§294-10,304-4,306-9, 308-1)

(b) When and where to get permits. Permits will be sold at times and places designated by the chancellor or a designee, provided that the chancellor shall announce in advance by
appropriate media the intent to make a change in such timing or location which may directly affect either students or employees, so that both said groups or their representatives shall have opportunity to submit comments or recommendations on the matter prior to the chancellor’s decision to promulgate said change.

(c) Only one permit shall be sold to each applicant and such permit shall not be transferable except as otherwise provided.

(d) Permit fees may be refunded in accordance with policy as established by the chancellor. [Eff 6/22/81; am APR 01 1993; am _______] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§294-10, 304-4, 306-9, 308-1)

2. Section 20-12-6, Hawai‘i Administrative Rules, is amended to read as follows:

§20-12-6 Chancellor’s authority and priorities. The chancellor shall have authority to:

(1) Establish, implement, and administer policies and procedures to regulate traffic and parking;

(2) Establish, implement, and administer policies and procedures for issuance of permits to employees and students;

(3) Designate reserved parking for university vehicles, [handicapped] disabled employees and students, and special events at the university;

(4) Engage a private concessionaire or contractor to operate the parking and traffic program or a portion thereof on campus.

(5) Do such other things as necessary to control traffic and parking. [Eff 6/22/81; am APR 01 1993; am _______] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)
3. Section 20-12-8, Hawai‘i Administrative Rules, is amended to read as follows:

§20-12-8 Parking permits, fees and areas.
(a) Fees for regular parking permits and for hourly or daily parking shall be as reflected in Exhibit A, entitled “Regular Parking Fees for UH/Manoa” dated ____________, which is made a part hereof and located at the end of this chapter.
(b) Other fees.
(1) The board may set fees for other periods of time not covered under these rules without the necessity of following the provisions of sections 91-3, 91-4 and 91-5, HRS, provided that the chancellor shall announce in advance by appropriate media the intent to set the fees which setting may directly affect either students or employees, so that both the groups or their representatives shall have an opportunity to submit comments or recommendations on the matter prior to the board’s decision to set the fees.
(2) The board may establish service fees.
(3) The board may establish equitable refundable deposit requirements for returnable items such as gate cards, keys, etc., without the necessity of public hearing.[Eff 6/22/81; am 4/01/93; am 12/18/00; am AUG 21 2009; am __________] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)

4. Section 20-12-9, Hawai‘i Administrative Rules, is amended to read as follows:

§20-12-9 Violations and penalties.
(a) Violations and their corresponding penalties shall be as reflected in Exhibit B, entitled “Violations and Schedule of Penalties for UH/Manoa” dated ____________, which is made a
part hereof and located at the end of this chapter.

(b) Violators shall be subject to a fine, removal or immobilization of motor vehicle, or disciplinary action, or revocation or suspension of permit, or all of the foregoing.

(c) Additional penalties may be imposed if the fine is not paid or contested within [seven] fifteen days after the issuance of the citation as indicated in "Violations and Schedule of Penalties for UH/Manoa" dated ____________.

(d) Fines imposed shall be over and beyond removal and storage charges, if any.

(e) The applicant or the registered owner of the motor vehicle, or both, shall be subject to the applicable penalties described in subsections (a), (b), and (c), except in the case of a moving violation in which case the driver shall be subject to the applicable penalties.

(f) All fines shall be paid at the [parking] Commuter Services office. [Eff 6/22/81; am 4/01/93; am 12/18/00; am AUG 21 2009; am _______________] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1, 308-3)

5. Section 20-12-10, Hawai'i Administrative Rules, is amended to read as follows:

§20-12-10 Appellate process.

(a) Each person receiving a citation is entitled to a [formal] hearing on the citation. Requests for [formal] hearings must be submitted in writing or submitted online within [seven] fifteen days after issuance of the citation on a form to be provided by the university. Such forms shall be made available at the [parking] Commuter Services office or at the Commuter Services website.

(b) The following rules of practice on parking and traffic matters including both formal and informal procedures are adopted:
(1) Informal procedures. Persons who believe that they have received a parking or traffic citation or notice of citation in error or whose vehicle was towed away by the university may discuss their complaint or problem in person with the Commuter Services manager or other authorized person designated to manage the university’s parking and traffic program within [seven] fifteen days of the issuance of the citation or notice or of the removal of a vehicle. Such managers may waive said period for good cause shown. Such managers may void citations, waive towing and storage charges and reduce the fine imposed upon review of the facts of each case and upon a finding that the parking or traffic citation was improperly issued or that the person did not know of said citations or notice so as to contest them within [seven] fifteen days of issuance.

(2) Formal Procedures. A person requesting a hearing on a parking or traffic citation in accordance with (a) of this section shall be afforded an opportunity for hearing after reasonable notice as provided by chapter 91, HRS. Essentially, that chapter provides as follows: The notice shall include a statement of:
(A) The date, time, place and nature of hearing.
(B) The legal authority under which the hearing is to be held.
(C) The particular sections of the statutes and rules involved.
(D) An explicit statement in plain language of the issues involved and the facts alleged by the officer issuing the citation in support thereof.
(E) The fact that any party may retain counsel if so desired.
Opportunity shall be afforded each party to present evidence and argument on all issues involved. Every party shall have the right to conduct such cross-examination as maybe required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.

The hearing shall be conducted either by a hearing officer appointed by the parking board, or by the parking board itself. If it is the hearing office who hears and examines all the evidence, the hearing officer shall submit findings of fact and conclusions of law to the parking board and to the party. The party may file written exceptions and present arguments to the parking board which shall personally consider the whole record or such portions thereof as may be cited by the party. If the party does not file written exceptions within thirty days after receipt of the report, the decision of the hearing officer shall be final.

In the event a party does not appear at the date, time and place appointed for the hearing, either before the parking board or the hearing officer, the party may be denied another hearing on the matter.

Every 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. Parties to the proceedings shall be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party. If the citation is upheld, the parking board or the hearing officer may direct payment of all or a portion of the fine or charge.
(c) The parking board shall be composed of a student, a faculty member and a staff member appointed by the chancellor. The decision of the parking board shall be final within the university.

(d) The public may obtain information or make submittals or requests relative to parking and traffic matters by addressing a letter to the [parking] Commuter Services office.

(e) Petitions for the adoption, amendment, or repeal of rules shall be in the form of a letter to the chancellor of the University of Hawai‘i stating with particularity the rule or rules proposed to be adopted, amended or repealed and also stating the reasons for such action. The chancellor may confer with appropriate administrative or legal staff, or both. The chancellor shall within thirty days of receipt of the petition either deny the petition in writing, stating reasons for such denial or initiate proceedings in accordance with section 91-3, HRS. The chancellor may also initiate action on his own motion to adopt, amend or repeal rules and regulations pursuant to chapter 91, HRS.

(f) Petitions for declaratory rulings as to the applicability of any statutory provision concerning parking or operation of motor vehicles on the campus or any rule under this subchapter shall be in the form of a letter to the chancellor of the University of Hawai‘i stating the interest of the petitioner in the matter, the reasons for requesting the ruling and specific nature of the ruling being requested. The chancellor may confer with appropriate administrative or legal staff, or both, and shall render in writing a declaratory ruling or other order disposing of the matter. [Eff 6/22/81; am April 01 1993; am____________________](Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)
UNIVERSITY OF HAWAI'I

Amendments to Chapter 20-12
Hawai‘i Administrative Rules
(
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SUMMARY

1. §20-12-5 is amended.
2. §20-12-6 is amended.
3. §20-12-8 is amended.
4. §20-12-9 is amended.
5. §20-12-10 is amended.
§20-12-5  Application procedure.

(a) Application for parking permits. Any employee or student seeking a parking permit shall complete an online parking permit application or obtain an application form from the Commuter Services office or at a place designated by the chancellor. The information requested in the application form must be completed fully and accurately or it shall be rejected. Employees and students shall follow established parking permit purchasing procedures as designated by the chancellor or a designee and shall be required to show proof of:

(1) Valid driver's license;
(2) Vehicle registration;
(3) Employment verification;
(4) Student registration;
(5) Student housing residency (student residents).

***

[Eff 6/22/81; am 4/01/93; am DEC 18 2000;
am ] (Auth: HRS §§304-4, 306-2, 308-1)
(Imp: §§294-10, 304-4, 306-9, 308-1)

(b) When and where to get permits. Permits will be sold at times and places designated by the chancellor or a designee, provided that the chancellor shall announce in advance by appropriate media the intent to make a change in such timing or location which may directly affect either students or employees, so that both said groups or their representatives shall have opportunity to submit comments or recommendations on the matter prior to the chancellor's decision to promulgate said change.

(c) Only one permit shall be sold to each applicant and such permit shall not be transferable except as otherwise provided.

(d) Permit fees may be refunded in accordance with policy as established by the chancellor. [Eff 6/22/81; am APR 01 1993; am ]
§20-12-6 Chancellor's authority and priorities.
The chancellor shall have authority to:

(1) Establish, implement, and administer policies and procedures to regulate traffic and parking;
(2) Establish, implement, and administer policies and procedures for issuance of permits to employees and students;
(3) Designate reserved parking for university vehicles, disabled employees and students, and special events at the university;
(4) Engage a private concessionaire or contractor to operate the parking and traffic program or a portion thereof on campus.
(5) Do such other things as necessary to control traffic and parking. [Eff 6/22/81; am APR 01 1993; am ] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)
§20-12-8 Parking permits, fees and areas.

(a) Fees for regular parking permits and for hourly or daily parking shall be as reflected in Exhibit A, entitled "Regular Parking Fees for UH/Manoa" dated __________, which is made a part hereof and located at the end of this chapter.

(b) Other fees.

(1) The board may set fees for other periods of time not covered under these rules without the necessity of following the provisions of sections 91-3, 91-4 and 91-5, HRS, provided that the chancellor shall announce in advance by appropriate media the intent to set the fees which setting may directly affect either students or employees, so that both the groups or their representatives shall have an opportunity to submit comments or recommendations on the matter prior to the board's decision to set the fees.

(2) The board may establish service fees.

(3) The board may establish equitable refundable deposit requirements for returnable items such as gate cards, keys, etc., without the necessity of public hearing.[Eff 6/22/81; am 4/01/93; am 12/18/00; am AUG 21 2009; am ________] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)
§20-12-9 Violations and penalties.
(a) Violations and their corresponding penalties shall be as reflected in Exhibit B, entitled "Violations and Schedule of Penalties for UH/Manoa" dated __________, which is made a part hereof and located at the end of this chapter.
(b) Violators shall be subject to a fine, removal or immobilization of motor vehicle, or disciplinary action, or revocation or suspension of permit, or all of the foregoing.
(c) Additional penalties may be imposed if the fine is not paid or contested within fifteen days after the issuance of the citation as indicated in "Violations and Schedule of Penalties for UH/Manoa" dated __________.
(d) Fines imposed shall be over and beyond removal and storage charges, if any.
(e) The applicant or the registered owner of the motor vehicle, or both, shall be subject to the applicable penalties described in subsections (a), (b), and (c), except in the case of a moving violation in which case the driver shall be subject to the applicable penalties.
(f) All fines shall be paid at the Commuter Services office. [Eff 6/22/81; am 4/01/93; am 12/18/00; am AUG 21 2009; am __________] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1, 308-3)
§20-12-10 Appeals process.

(a) Each person receiving a citation is entitled to a hearing on the citation. Requests for hearings must be submitted in writing or submitted online within fifteen days after issuance of the citation on a form to be provided by the university. Such forms shall be made available at the Commuter Services office or at the Commuter Services website.

(b) The following rules of practice on parking and traffic matters including both formal and informal procedures are adopted:

(1) Informal procedures. Persons who believe that they have received a parking or traffic citation or notice of citation in error or whose vehicle was towed away by the university may discuss their complaint or problem in person with the Commuter Services manager or other authorized person designated to manage the university’s parking and traffic program within 15 days of the issuance of the citation or notice or of the removal of a vehicle. Such managers may waive said period for good cause shown. Such managers may void citations, waive towing and storage charges and reduce the fine imposed upon review of the facts of each case and upon a finding that the parking or traffic citation was improperly issued or that the person did not know of said citations or notice so as to contest them within 15 days of issuance.

(2) Formal Procedures. A person requesting a hearing on a parking or traffic citation in accordance with (a) of this section shall be afforded an opportunity for hearing after reasonable notice as provided by chapter 91, HRS. Essentially, that chapter provides as follows: The notice shall include a statement of:
(A) The date, time, place and nature of hearing.
(B) The legal authority under which the hearing is to be held.
(C) The particular sections of the statutes and rules involved.
(D) An explicit statement in plain language of the issues involved and the facts alleged by the officer issuing the citation in support thereof.
(E) The fact that any party may retain counsel if so desired.

Opportunity shall be afforded each party to present evidence and argument on all issues involved. Every party shall have the right to conduct such cross-examination as maybe required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.

The hearing shall be conducted either by a hearing officer appointed by the parking board, or by the parking board itself. If it is the hearing officer who hears and examines all the evidence, the hearing officer shall submit findings of fact and conclusions of law to the parking board and to the party. The party may file written exceptions and present arguments to the parking board which shall personally consider the whole record or such portions thereof as may be cited by the party. If the party does not file written exceptions within thirty days after receipt of the report, the decision of the hearing officer shall be final.

In the event a party does not appear at the date, time and place appointed for the hearing, either before the parking board or the hearing officer, the party may be denied another hearing on the matter.

Every 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. Parties to the proceedings shall be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party. If the citation is upheld, the parking board or the hearing officer may direct payment of all or a portion of the fine or charge.

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(f) Petitions for declaratory rulings as to the applicability of any statutory provision concerning parking or operation of motor vehicles on the campus or any rule under this subchapter shall be in the form of a letter to the chancellor of the University of Hawai‘i stating
the interest of the petitioner in the matter, the reasons for requesting the ruling and specific nature of the ruling being requested. The chancellor may confer with appropriate administrative or legal staff, or both, and shall render in writing a declaratory ruling or other order disposing of the matter. [Eff 6/22/81; am April 01 1993; am ] (Auth: HRS §§304-4, 306-2, 308-1) (Imp: §§304-4, 306-9, 308-1)
UNIVERSITY OF HAWAIʻI

Amendments to chapter 20-12, Hawaiʻi Administrative Rules, on the Summary page dated ____________,
were adopted on _____________ following a public
hearing held on _____________ after public notice
was given in the Honolulu Star Advertiser
on _____________.

These amendments shall take effect ten days after
filing with the Office of the Lieutenant Governor.

Randolph G. Moore
Chairperson
Board of Regents
University of Hawaiʻi

APPROVED AS TO FORM:

Carrie K.S. Okinaga, Esq.
Vice President Legal Affairs
and University General Counsel
University of Hawaiʻi

APPROVED:

DAVID IGE
Governor
State of Hawaiʻi

Date: _______________

Filed