

SUBCHAPTER 5

WATER SYSTEMS

§10-4-61 Purpose. The purpose of this subchapter is to promote the health, safety and general welfare of the community by providing standards through water administrative rules for governing the provision of water service by the department water services.

§10-4-62 Applicability. This subchapter shall apply to all public drinking water systems operated by DHHL. This chapter shall not be construed to amend or modify rights or entitlements to water as provided for in section 221 of the act and native Hawaiian rights customarily and traditionally exercised for subsistence, cultural, and religious purposes in accordance with article XII, section 7, Constitution of the State of Hawaii.

§10-4-63 Administration. Except as otherwise provided in this subchapter, the chairman shall administer, implement, and enforce the provisions herein. All powers granted to, or duties imposed upon, the chairman may be delegated by the chairman to personnel within the department. All communication to the commission shall be addressed as provided in section 10-2-1 of this title.

§10-4-64 Definitions. As used in this subchapter, unless plainly evident from the context that a different meaning is intended:

"Agricultural consumer" means a consumer that actively engages in crop production, livestock raising, dairy farming, or aquaculture for commercial production, and whose minimum gross annual income from such activities is \$1,000 \$1,000 as shown by the consumer' current State of Hawai'i General Excise Tax License and General Excise/Use Tax Returns.

"Applicant" means any person who causes, or applies to cause, land to be subdivided. It also means any person applying for water service or additional water service.

"Application" means a request for water service or additional water service.

"Consumer" means the person, firm, corporation, association, or governmental entity, whether owner or tenant, whose name appears on the records of the Department as the party responsible and liable for receiving water service from the department.

"Consumer's water system" means the pipes and plumbing extending from the water service connection.

"Cross-Connection" means any actual or potential connection between the public water supply and a source of contamination or pollution.

"County" means the county where the department water service is located.

"Department of Health" means the State of Hawaii Department of Health.

"Department of Health rules" means Hawaii administrative rules, Title 11, Chapter 20, entitled "Rules Relating to Public Water Systems" and Title 11, Chapter 21, entitled "Cross-Connection and Backflow Control."

"Main" or "main pipe" means the department's supply or distribution pipe from which service connections are made.

"Potable water" means water that has been certified by the department of health as suitable for cooking or drinking purposes.

"Premises" means a parcel of real property and any structures thereon which have water service, will require water service, or requires additional water service.

"Public water spigot" means a potable water spigot to be maintained by the department for lessee access to potable water.

"Public drinking water system" means a water system owned, operated, and maintained by the department.

"Service connection" or "service lateral" means the complete installation of pipes, fittings, appurtenances, and meter necessary to provide water service to a consumer's premises and water system.

"Temporary meter" means any meter connected to a fire hydrant or a service lateral used less than one year in accordance with an agreement with the department.

"Water meter" means a device that measures the volume of water delivered to any premises.

"Water service connection" means the terminal end of a service connection from the public drinking water system; i.e., where the department loses jurisdiction and sanitary control over the water at its point of delivery into the consumer's water system. If a meter is installed at the end of the service connection then the water service connection shall mean the downstream end of the meter.

"Water service" means the delivery of water to any premises.

"Water system" means a network of pipelines, main taps, storage, facilities, pumps, shut-off valve, and other appurtenances, wells, water filtration treatment facilities, or other sources which furnishes a supply of water to the premises.

§10-4-65 Public water spigots. (a) Public water spigots shall be provided on all water systems operated by the department or its contractors. The public water spigot, and water spigot area, shall be maintained by the Department or Department's contractor and they may be used by beneficiaries to obtain potable water.

(b) All tanks shall be inspected prior to connection to a public water spigot and before any consumer fills such tank. The connection shall include a backflow prevention device or a properly installed air gap, or both, which must also be inspected.

(c) Once a satisfactory inspection has occurred, a spigot use permit shall be issued for the specific tank inspected. The capacity of the tank must be provided and listed on the permit. The spigot use permit must be kept with the tank, visible to department personnel and the public, should they so request.

(d) Water may only be obtained at the public water spigot noted on the spigot use permit; the spigot use permit is specifically for use at the public water spigot noted on the document.

(e) The consumer shall check in with the department before each fill-up. Failure to do so may result in revocation of the spigot use permit.

(f) Each fill-up will be metered. If not documented, each trip or fill-up shall be assumed to have required a full tank.

(g) The department may refuse a spigot use permit to those unwilling to meet the above criteria and during times of water restrictions.

(h) The department guarantees potable water only to the point of withdrawal from its system.

§10-4-66 Fire hydrants. (a) Any use of a fire hydrant or the taking of water from one for purposes other than fire protection by persons other than authorized employees of a fire department or of the department is prohibited without a written hydrant permit from the department. A fire department shall have the prior right to use any hydrant at any time and shall have the authority to remove peremptorily, if necessary in case of emergency, any connection approved by the Department. Hydrant main line valves shall not be used to control flows.

(b) The Department may provide water to consumers from fire hydrants located within and served by the Department upon compliance with the terms and conditions described in subsections (c) through (k).

(c) The consumer seeking to purchase water from fire hydrants must first apply for a hydrant permit. The consumer shall provide the department an estimation of the length of time for which a hydrant permit is sought. No permit shall be issued for a period longer than six months. Hydrant permit approval shall be withheld unless the applicant agrees to notify the department as soon as the use of the hydrant is finished. The department may reject any application and revoke approval at any time.

(d) At the time of hydrant permit issue, the department shall collect a non-refundable hydrant permit fee and security deposit. The amounts to be paid shall be established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department. The security deposit is a meter assembly and unpaid charges deposit. This sum shall remain on hold during the life of the hydrant permit and may be applied by the department against damage to, loss of, or failure to return the meter assembly or to the water use charges owing. Upon surrender or termination of the hydrant permit, the deposit shall, unless applied to such damage or charges, be refunded to the consumer without accumulation of interest.

(e) The department reserves the authority to and shall collect from the consumer the difference between the deposit and the cost of repair or replacement of the meter.

(f) Upon receipt of the hydrant permit fee and security deposit and issuance of the hydrant permit, the consumer shall be issued a meter assembly to be attached to a designated fire hydrant as directed by the department and through which water is to be purchased by the consumer.

(g) Any failure of the consumer to properly utilize the meter assembly to record water taken through a fire hydrant shall constitute a violation of

the hydrant permit and shall terminate the hydrant permit and the consumer's right to continue use of the meter. Consumers found to have violated the hydrant permit shall have their deposit forfeited as liquidated damages for such violation and be disqualified from obtaining a hydrant permit from the department until such time as a hydrant use agreement can be drafted by the department.

(h) The hydrant permit fee shall not include the cost of the water usage. The department shall bill the consumer for the amount of water consumed. The consumer shall pay the bulk sales rate established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

(i) The consumer shall deliver the meter to the department at the end of the hydrant permit period for verification of reading and billing. The department shall thereafter issue a billing for water used during the applicable period. Charges billed shall be subject to past due and late payment penalties authorized pursuant to this rule.

(j) A charge per calendar day shall be levied for each day, or a portion thereof, that the meter is past due.

(k) The use of any hydrant under a hydrant permit and the connections thereto shall be subject to the direction and approval of the department. As a further condition of the validity of the hydrant permit, the consumer shall comply with all rules and regulations of the department and shall maintain the hydrant permit or a valid copy thereof on site, and surrender it for inspection to department's personnel, at all times during which it shall engage in the removal of water from any fire hydrant. The consumer shall report any defect in or damage to the hydrant promptly to the department.

(l) Only regulation fire hydrant wrenches which shall have been approved by the department shall be used for the operation of fire hydrants. The use of any other type of wrench or operating device shall not be permitted. The permit will be revoked if other

than approved regulation fire hydrant wrenches are used.

(m) The department may reject any application and to revoke approval at any time.

(n) If approval is revoked, the department shall remove any connections to the hydrant after notice to the consumer is made. The consumer shall pay all of the costs of disconnecting from the hydrant. The department shall inspect each hydrant and all costs of repair, which the department has determined to be due to consumer use, as well as the cost of inspection, shall be paid for by the consumer.

(o) The department shall not be held responsible for any damage to property or injury to persons arising from the use of any hydrants for any cause whatsoever. Any damage to fire hydrants shall be paid by the consumer.

(p) The department guarantees potable water only to the point of withdrawal from its system.

(q) Any and all person or persons or entities, or both, found to have used obstructed, or tampered with a department fire hydrant without the express written consent of department shall be assessed fees and charges.

(1) For each offense the person or persons, or entities or both shall be:

- (A) Charged for an estimated amount of water based on the intended use and estimated size of the vehicle conveying the water at the current rate for bulk water sales;
- (B) Charged, at the bulk water rate for water discharged by the Department to clear the mains affected by the illegal use;
- (C) Charged for labor and materials required to correct adverse conditions created by the illegal use of a fire hydrant, such charges at prevailing rates;
- (D) Charged administrative costs incurred for

the purposes of billing the offenders, such charges at prevailing rates; and
(E) Fined increasing amounts for first, second and third offenses.

- (2) Each invoice not paid within ten days of date thereon will accrue a late charge equal to five per cent of the unpaid balance at the time it becomes delinquent and an additional five per cent for each month delinquent thereafter.

(s) The department shall, if it approves the request for a change in location of a hydrant, change such location; provided, that the cost of all labor, material, equipment and all other charges are paid in advance by the consumer.

§10-4-67 General conditions for water service. (a) Any applicant whose premises is located within service limits established by the department and adjacent to a distribution main, where pressure conditions permit, may obtain water service, provided, that:

- (1) The existing water system servicing the area has adequate physical and legal capacity as determined by the department for such intended use without impairing service to existing consumers or future lessees;
- (2) All applicable fees and deposits for such service have been paid in full;
- (3) The applicant is not delinquent on other services in his or her name; and,
- (4) The applicant agrees to abide by the rules, regulations and standards of the department.

(b) Water service shall be restricted to the property for which the application is made.

(c) All water service supplied by the department shall be measured by means of meters furnished by the department. The amounts to be paid for water service shall be established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

(d) The department shall determine the final location and size of the service connection. All service connections and service laterals up to the water service connection shall be operated and maintained by the department.

(e) The department shall only be responsible for the operation and maintenance of its public drinking water systems.

§10-4-68 Application for water service. (a)

Each prospective consumer shall be required to complete a standard application form for the water service desired. The application shall include, but is not limited to: name, address, phone number, legal description of property to be served, parcel or tax map of property to be served with requested meter location noted. Verification of information provided may be required. Such information shall be considered confidential and to be used for setting up the water service, billing and collection purposes only. Prospective consumers shall assume responsibility for the payment of future charges for service at the designated location before water is turned on for any use. The department will inform the applicant in writing that the application is complete and accepted or that the application is deficient and what specific information is necessary to make the application complete. When a complete application is received, the department shall assign an account number. The person, entity or organization executing the application form shall be held liable for the payment of all charges for water service at the designated location.

(b) If a consumer fails to pay water service bills rendered as required in these Rules water will remain available to the lessee at the public water spigot.

(c) Charges for service will begin when the service connection and the consumer's water system are physically joined and water is made available to the

consumer and will continue until due notification in writing from the consumer, the consumer's authorized agent, or by judicial order, or until discontinued by the department for failure of the consumer to comply with the provisions of this subchapter.

(d) When an application for water service is made by a former consumer who was responsible for and failed to pay all bills for water service previously rendered, regardless of location or time incurred, the Department may refuse to furnish service to the premises of the applicant until the outstanding bills are paid.

(e) A consumer taking possession of premises and using water without having made application for the transfer of water service shall be held liable for the water delivered from the date of the last recorded meter reading. If required application for transfer is not made, and if accumulated bills for water service are not paid upon presentation, the water service may be discontinued ten business days after written notice is given to the consumer.

§10-4-69 Accessing the consumer's premises. Any properly identified officer or employee of the department shall have the right of ingress to and egress from the consumer's premises at all reasonable hours for any purpose reasonably connected to the protection of the public drinking water system and furnishing of water to said premises and the exercise of any and all rights secured to it by law or this subchapter. In case any such officer or employee is otherwise prevented from carrying out the duties, the department may cause the water to be turned off from said premises after giving at least twenty-four hours' notice to the consumer/occupant of said premises.

§10-4-70 Installation of water service. (a)
When an application for water service has been

approved, such water service will be installed as agreed upon between the department and applicant. There shall be one meter for each service, unless the department, because of operating necessity, installs a combination meter or two or more meters in parallel. All meters shall be sealed and tested for accuracy before installation. All meters shall be installed along the property boundary, unless due to operating necessity or other extenuating situations, the department approves installation of the meter elsewhere.

(b) It is the consumer's responsibility and expense to install their supply pipe and water system, to connect such system to the department's service connection, and to install an approved backflow prevention device on the consumer's system on the downstream side of the meter. The department may provide backflow prevention devices to lessees and beneficiaries as a means to protect the public drinking water system. The consumer's water system shall, at all times, remain the sole property of the consumer, who shall be responsible for its maintenance, repair, and/or replacement.

(c) A readily accessible shutoff valve controlling all outlets will be installed by the department on the consumer's water system supply pipe at a location to be determined by the department (usually immediately after the meter and within the meter box). In addition, the department may install a shutoff valve before the meter for the use of employees of the Department. If a replacement of the shutoff valve is necessary, it shall be installed by the department and paid for by the consumer.

(d) If the consumer's water system supply pipe is installed to the intended and agreed location of the meter, the department may make the connection to it when setting the meter.

(e) Only employees of the department will be allowed to connect or disconnect the water service to or from the department's main.

(f) When the proper size of service connection for any premises has been determined and the

installation has been made by the department at the location specified by the consumer, the department has fulfilled its obligations insofar as the size of the service and the location thereof are concerned. For those water systems where the department has determined that water is available, each dwelling unit or lot shall use a separate 5/8-inch meter at a minimum. If thereafter the consumer desires a change in size of the service connection or a change in the location thereof, the consumer shall bear all costs of such change.

(g) Whenever a check valve or pressure reducing valve is installed on the consumer's cold water supply line between the meter and the hot water storage tank or heater, there shall be installed on the consumer's hot water distribution system a suitable pressure relief valve.

(h) Once installed, any costs associated with the repair or replacement of damaged or missing meters and services will be charged to the owner of the property. Such costs may include but are not limited to gaskets, meter boxes, lid inserts, meters, pressure regulator valves, related labor, equipment, vehicles, and materials. This does not include replacement of meters that are operating outside of tolerances.

§10-4-71 Responsibility for equipment. (a) At the consumer's own risk and expense, the consumer shall furnish, install and keep in good, safe and operating condition all equipment that may be required for receiving, controlling, applying, and utilizing water. The department shall not be responsible for any loss or damage caused by the improper installation of such equipment, or the negligence, want of proper care, or wrongful act of the consumer.

(b) Water service may be discontinued to any consumer whose water system includes plumbing fixtures or water containers in any form, or of any use, which in the opinion of the department may contaminate the Department's water supply or may endanger the public

water supply from a public health standpoint. Any such discontinuation of service shall continue until such objectionable fixtures or uses have been corrected, removed or discontinued, and the department is assured that the objectionable fixtures or uses will not be reinstalled or resumed.

(c) The department shall not be responsible for damage to property caused by spigots, faucets, valves, and other equipment that may be open when water is turned on at the meter either when turned on originally or when turned on after temporary shutdown.

(d) All water service connections and service laterals shall become the property of the department and shall be operated and maintained by the department.

(e) All equipment belonging to the Department and installed upon the consumer's premises for measurement, test, check, or any other purpose, shall continue to be the property of the Department, and the Department may access the consumer's premises at all reasonable times so that the equipment may be repaired, replaced or removed by the department without consent of the consumer. The consumer shall exercise reasonable care to prevent damage to meters and other equipment of the department upon said premises and shall in no way interfere with the operation of the same.

(f) Any cost to repair damage to water mains, service connections, valves, fire hydrants, or other property of the Department shall be paid for by the person or organization responsible for the damage. The consumer shall be liable for any damage to a meter or other equipment or property of contractors, licensees or permittees, on the consumer's premises, and the Department shall be promptly reimbursed by the consumer for any such damage upon presentation of the bill there of. In the event settlement for such damage is not promptly made within thirty days, the department reserves the right to discontinue water service to such premises.

(g) When a meter is found to have been damaged by hot water or steam emanating from the premises

served, the consumer shall pay for all costs required to repair the meter.

§10-4-72 Electrical grounding. (a) Protective grounding of alternating current secondary distribution circuits made to the water system shall conform in all details with the national electrical code of the national board of fire underwriters and with the county building code where the water system is located.

(b) The department shall not be responsible for any damage or injury caused by any electrical grounding.

(c) No grounding of direct current to any portion of the water system shall be permitted.

(d) No grounding other than as provided in this section shall be made to any portion of the water system without the department's written approval.

(e) The department shall not be responsible for the maintaining of a continuous metallic water piping system and reserves the right, without liability to public utility electric companies, electric consumers, or any other agency, consumer, or individual, to create a physical break in its service connections and mains, or to incorporate non-metallic pipes and appurtenances in its system and to make joints of any materials, without regard to their efficiency as conductors of electricity and without giving notice.

§10-4-73 Cross-connection control and backflow prevention. (a) No cross-connections with other water supplies shall exist or be installed, located, maintained or operated that could permit the flow of water or other liquids, mixtures, gases or other substances from the consumer's premises into the department's water system.

(b) It is unlawful for any person to make, maintain, or cause temporarily or permanently, any

cross-connection that has a potential for backflow between their plumbing pipes or water fixtures and the department's water system. Existing cross-connections between the department's water system and any auxiliary water supply shall be eliminated or protected by means of an approved backflow prevention assembly. Cross-connection control and backflow prevention requirements for facilities and/or premises shall be in accordance to the department's rules and standards.

(c) The department shall require the consumer to install an approved backflow prevention assembly at the consumer's expense for continued service or before a new service will be provided, whenever the consumer has an actual or potential situation for backflow condition within their premises and/or for any reason or cause deemed in the best interest of the Department. The assembly shall be located immediately downstream of the meter.

(d) The department may at its discretion, provide for the installation of an approved backflow prevention assembly to lessees and beneficiaries.

(e) If there is a need for uninterrupted water service, an additional backflow prevention assembly shall be installed in an approved manner to ensure continued water service whenever inspection, testing and repair procedures is being performed on any one of these assemblies.

(f) The consumer is solely responsible for the installation, maintenance, testing and repair of their backflow prevention assembly. The department will not be responsible for any loss or damage incurred by the consumer or owner as a result of non-compliance with the department's rules and standards.

(g) All installations shall conform to the uniform plumbing code, the county's code, and the department's rules and standards.

(h) Details of backflow prevention assemblies, showing both plan and elevation views, including size and location of devices, shall be submitted to the Department for review and approval prior to installation. The backflow prevention assemblies

shall be installed on the consumer side of the property line immediately downstream of the water meter. Connections between the meter and backflow assembly are not permitted. Installation heights shall conform to the department's standards.

(i) Backflow assemblies shall be installed above ground unless otherwise approved by the department.

(j) The department reserves the right to determine the type of backflow prevention installation based on a case-by-case evaluation. In situations where the hazard cannot be readily determined or access is restricted, a reduced pressure principle assembly or air-gap separation shall be required.

(k) Temporary water meter installations shall require installation of an approved backflow prevention assembly to protect the department's water system. The following conditions shall apply:

- (1) Applications for temporary meter installations shall be made at the department on appropriate forms provided by the department. All costs and fees for the installation of the temporary water meter, backflow protection assembly and water use shall be paid by the consumer.
- (2) The applicant shall install a department approved reduced pressure principle backflow preventer. The department shall inspect the installation and test the applicant's backflow preventer before activating the temporary service. Applicant shall be responsible for the maintenance, repair, and yearly testing of the backflow preventer.

(1) Conditions relative to the installation and maintenance of cross-connection control and backflow prevention referred to in this section shall be subject to change to meet changing requirements of the State and federal health authorities, the county's building and plumbing codes, and the department's rules.

(m) It is the responsibility of the consumer/owner to maintain all backflow prevention assemblies on the consumer's premises in good working

order. No piping or other arrangement for the purpose of bypassing backflow prevention assemblies shall be permitted. Upon request by the department, the consumer shall present an affidavit certifying that there are no cross-connections with other water supplies or other physical cross-connections installed, located, maintained, or operated that could permit backflow.

(n) Records of tests, repairs, parts and inspections shall be made on forms prescribed by the Department. The consumer shall furnish a copy of such records to the department. Failure of the consumer to make the proper tests and submissions of records may result in termination of service. The department has the option to schedule tests, needed repairs, and replacements at the expense of the consumer. Failure to pay for such costs shall be a cause for termination of water service.

(o) The department shall provide periodic testing and inspection schedules for all backflow prevention assemblies. Intervals between such testing, inspections and overhauls of each assembly shall be established in accordance with the degree of hazard, age and condition of the backflow assembly and the cost to do it shall be the responsibility of the consumer. The following maintenance requirements shall apply:

- (1) All backflow prevention assemblies shall be inspected and tested upon initial installation.
- (2) All backflow prevention assemblies shall be inspected and tested yearly.
- (3) If a backflow prevention device fails the requirements from a certified tester, the consumer is responsible for the costs to repair and for the device to be re-tested before being placed back into service. Wastewater facilities' backflow prevention assemblies shall be inspected and tested every four months, immediately repaired if necessary, and retested before being placed back into service.

- (4) A certified general tester acceptable to the department shall perform the inspection and testing.
- (5) Inspections and test of backflow prevention assemblies may be required at more frequent intervals as required by the department.
- (6) Test equipment shall be certified by University of Southern California Foundation for Cross Connection Control and Hydraulic Research, calibrated by the manufacturer every two years, and shall maintain a precision of +/- 5% of the actual reading.

(p) All backflow prevention devices assemblies, testing, and record keeping shall be in accordance to the department's backflow standard operating procedures.

(q) When a backflow prevention assembly fails in service the consumer shall notify the department. Repairs are the responsibility of the consumer. A certified general tester approved by the department shall perform the testing. Backflow prevention assembly test forms shall be completed and sent to the Department for confirmation that the device has been properly repaired and functions as required. Inspection and approval by the department shall be conducted before the device is put back into operation.

(r) When the department encounters water uses that represent a clear and immediate hazard to the department's water supply that cannot be immediately abated, the department may terminate water service at the premises immediately. A written notice will be given to the consumer after water service termination. Conditions or water uses that create a basis for immediate water service terminations include, but are not limited to the following:

- (1) Refusal to install or to test a backflow prevention assembly, or to repair or replace a faulty backflow prevention assembly.
- (2) Direct or indirect connections between the department's water system and a sewer line.
- (3) Unprotected direct or indirect connections

between the department's water system and a system or equipment containing pollutants and/or contaminants.

- (4) Unprotected direct or indirect connections between the department's water system and an auxiliary water system.

(s) For other situations requiring backflow protection where there is not apparent and immediate hazard to the water supply, the department will terminate water service to a consumer's premises after proper notification has been sent. The termination steps are the following:

- (1) The consumer will be notified by letter of the department's intent to terminate water service, allowing thirty calendar days to remedy the situation.
- (2) If compliance has not been met, a letter to terminate water service will be issued stating that water service will be terminated within five calendar days. Water service will not resume until the corrective action has been completed and approved by the department.

§10-4-74 Interruption of water supply and emergency conditions. (a) While the department shall exercise reasonable diligence and care to deliver an adequate supply of potable water under reasonable pressure, the department shall not be financially liable for any direct or consequential damages resulting from water supply interruption, shortage, insufficiency of supply, inadequate or excessive water pressure, leakage on the consumer's premises, or temporary colored and turbid water quality conditions caused by emergency repair of water mains. The department further disclaims all warranties, expressed or implied, and reserves the right to shut off water mains for repairs, extensions, or alterations, and to terminate water service as provided herein for conservation measures, during emergency conditions and

for other reasons deemed by the department to be necessary and proper without notice.

(b) The department may declare water shortage whenever the water supply becomes inadequate in any area because of a period of drought, an infrastructure or mechanical malfunction, natural disaster, or other event causing a water shortage. Whenever, in the department's opinion, special conservation measures are advisable in order to forestall water shortage and/or an emergency, the department may restrict the use of water by any reasonable method of control including the procedures set forth below. The department shall also have the right to limit the quantity of water taken from any of its facilities. In determining the priorities in restricting the use of water, the health and safety of the public shall be given first consideration over other uses.

(c) When the department's water supply usage exceeds the rate of resupply (when we are not able to meet demand), the commission may declare whether such condition constitutes a stage 1 minor emergency, a stage 2 moderate emergency, or a stage 3 severe emergency, whereupon the following user restrictions and penalties shall apply to use of water from the department's sources:

- (1) Stage 1 Minor Emergency Conditions:
 - (A) No watering of lawns but this does not include the grass areas of public use athletic and physical education fields;
 - (B) No washing of sidewalks, walkways, driveways, parking lots, or other impervious surface areas;
 - (C) No washing of any building or structure except that high pressure, low water volume washers may be used;
 - (D) No washing of any motor vehicle, boat, travel trailer other than for safety cleaning of windows;
 - (E) No tap water served to customers at restaurants unless requested by the customer to whom it is provided;
 - (F) No use of water for fire department

- drills or burn house exercises; and
 - (G) Bulk water restrictions at the commission's discretion.
- (2) Stage 2 Moderate Emergency Conditions:
- (A) All of the restrictions listed in subsection (c)(1) above;
 - (B) No washing of any building or structure;
 - (C) No use of water to fill any indoor or outdoor swimming pools or spas; and
 - (D) No use of water for operating private or public fountains or ponds for aesthetic or scenic uses.
- (3) Stage 3 Severe Emergency Conditions:
- (A) All of the restrictions listed in subsection (c)(1) and (2) above; and
 - (B) Shrubs, flowers and tree seedlings and vegetable gardens may only be hand watered or watered by manually initiated timer controlled irrigation systems.
- (4) Upon first violation, the consumer will be issued a written notice of warning. Upon a second and additional violations, the consumer shall be fined in accordance with the rates established by the commission. Copies of these rates shall be on file and available at the department. Upon a third or additional violation, the consumer shall be issued a written notice of violation and water service to such consumer may be disconnected as determined by the commission.
- (5) Any consumer notified of a violation of emergency conditions shall pay an emergency conditions violation fine. The emergency conditions violation fine shall be established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department. The fine will be included in the consumer's next regular billing for

water service by the department. If the fine is not paid in accordance with billing procedures set forth in this subchapter it shall be subject to collections and the commission may elect to take whatever legal action is deemed necessary to collect unpaid fines and protect the assets of the commission.

(d) Any consumer contending that the mandatory water restrictions contained in this section constitute a public or personal health or safety hazard may apply for an exemption from, or modification of, the restriction by application to the commission. For good cause shown, the commission may modify any mandatory water use restriction applicable to such consumer or exempt the consumer from the subject restriction.

(e) The department shall notify consumers of emergency conditions by written communication through mailing, electronic posting, or the newspaper, or any combination thereof.

(f) The department reserves the right at any and all times to shut off water from the mains without notice for the purpose of making repairs, extensions, alterations, or for other reasons deemed necessary or in the best interest of the department. Consumers depending upon a continuous supply of water shall provide for their own emergency water storage and any check valves or other devices necessary for the protection of plumbing or fixtures against failure of the pressure or supply of water in the department's mains. Repairs or improvements shall be completed as rapidly as practicable.

§10-4-75 Water pressure and elevation conditions. (a) The department shall exercise reasonable diligence and care to maintain adequate pressure in its water mains but accepts no responsibility for maintain such pressure.

(b) Where a premise is situated at such an elevation that it cannot be assured of a dependable supply or of adequate service from the department's distribution system, the consumer, in consideration of water service and connection to the department's system:

- (1) Shall agree to accept such service as the department is able to render from its existing facilities;
- (2) Shall agree to install, if necessary, and maintain at the consumer's expense a tank and pump, with an air gap between the consumer's supply pipe and the department's system, of suitable design and of sufficient capacity to furnish an adequate supply of water; and
- (3) Shall execute a written release in favor of the department for all claims on account of any inadequacy in the department's system or inadequacy of water supply to the premise.

(c) When the pressure of the department's supply fluctuates or is higher than that for which individual fixtures are designed, the consumer shall protect such fixtures by installing and maintaining pressure reducing and/or relief valves. The department shall not be liable for damage due to pressure conditions or for damages caused by or arising from the failure of, or the defective condition of such pressure regulators and/or relief valves, or for damage that may occur through the installation, maintenance, or use of such equipment.

§10-4-76 Water service rates. (a) Water rates for consumers shall be established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

(b) Agricultural consumers are those consumers that actively engages in crop production, livestock raising, dairy farming, or aquaculture for commercial

production, and whose minimum gross annual income from such activities is \$1,000 as shown by the consumer's current State of Hawai'i General Excise Tax License and General Excise/Use Tax Returns.

(c) Consumers who are actively engaged in crop production, livestock raising, dairy farming, or aquaculture for commercial food production, but do not meet the minimum gross annual income requirement to qualify as an agricultural consumer for a given year, because their crop, stock or service did not harvest or produce for that given year, may request a waiver of the income requirement for that year. If approved by the department, the same consumer may request further waivers of the income requirement for subsequent years.

(d) Agricultural consumers will have a separate meter to provide water for agricultural activities. The cost of providing an agricultural meter and backflow prevention device is the responsibility of the consumer.

(e) In the event the total water supply shall be insufficient to meet all of the needs of the consumers, or in the event there is a shortage of water, the Department may prorate the water available among the various consumers on such basis as is deemed equitable by the Department, and may also prescribe a schedule of hours covering the use of water and require adherence thereto, provided that if at any time the total water supply shall be insufficient to meet all of the needs of the consumers for domestic and other purposes, the Department must first satisfy all of the needs of the consumers for domestic purposes before supplying any water for other purposes.

§10-4-77 Meter reading and rendering of bills.

(a) Meter readings and billings shall be on at least a bi-monthly basis, except for closing of accounts for special conditions with the approval of the department.

(b) Closing bills for shorter periods of time shall be determined by the sum of the charges per water meter reading and prorating of the monthly service charge. If a meter cannot be read, an estimated bill will be rendered.

(c) Bills for metered water service shall be on a per meter basis, and several separate meter readings shall not be combined in the event that a consumer has more than one metered installation on his or her premises.

§10-4-78 Obstructed meter fine. (a) The department shall charge the property owner an obstructed meter fine per billing period when access to the meter is significantly obstructed by landscaping or other barriers and the meter cannot be read. This fine shall be applied only after the property owner has been notified, via a door hanger, that the obstruction exists and that the problem must be corrected by the time of the next meter reading.

(b) The obstructed meter fine shall continue to be charged each billing period until such time as the obstruction has been removed. The obstructed meter fine shall be established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

§10-4-79 Tampering fine. (a) The department shall levy a fine to the property owner for water services and/or meters which are tampered with and shall further charge the property owner, on a time and materials basis, the department's costs associated with any necessary repair to the water service connection and/or meter. Consumers are prohibited from using or tampering with the valve or stopcock before the meter. Meters which are tampered with shall be removed and will not be reinstalled until the Tampering Fine is paid. The tampering fine shall be

established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

(b) In the event such charges shall remain unpaid for a period of thirty days following the date of billing, the department shall charge the late fee to the account. After sixty days the department shall certify such delinquency to the commission and turn the amount due to collections. The commission may elect to take whatever legal action is deemed necessary to collect unpaid fines and protect the assets of the commission.

§10-4-80 Payment of bills. All bills shall be due and payable within twenty-one days from the bill date. Payment shall be made at the office of the department or, at the department's option, to duly authorized collectors of the department. If any bill is not paid within thirty days from the bill date, it shall be considered delinquent and the water service shall be subject to shut-off.

§10-4-81 Delinquency, shut-offs, and collections. (a) An account is delinquent when it is not paid in full within thirty days after the bill date and at that time the account the outstanding balance becomes subject to a monthly late fee as established in a resolution by the commission. A copy of the rates and fines resolution shall be on file and available at the department.

(b) When a delinquent account remains unpaid twenty-one days after the second regular billing water service will be shut-off/discontinued to the consumer.

(c) For those water charges not paid by the due date, a reminder notice will be sent to the consumer. The notice shall state the amounts and types of charges past due and the date by which such charges must be paid to avoid turn off procedures. The

reminder notice shall be placed in the United States mail during the next billing cycle.

(d) For those water charges not paid by the due date stated on the reminder notice, a shut-off notice shall be hung on the front door of the dwelling or hung on the property gate at least forty-eight hours prior to the scheduled actual shut-off. The department shall maintain a list of all shut-off notices indicating the time and location the notice was placed and by whom. The shut-off notice shall state the amounts and types of charges past due and the date and time such charges must be paid to avoid actual shut-off of services.

(e) All accounts determined to be unpaid forty-eight hours after a shut-off notice has been placed on the premises shall be listed and scheduled for shut-off. The forty-eight hours shall be counted on business days only and shall not include holidays or weekends. On the day scheduled for shut-off, daily payments will be reviewed to determine if any applicable payments have been received. The list as amended will then be delivered to the appropriate department personnel that will then shut off and lock those meters on the list.

(f) A delinquency fee established in a resolution by the commission shall be added to each account that has not been paid prior to the time indicated on the shut-off notice. The fee covers all costs associated with the delinquent collection process. The charge shall apply even if actual shut-off is not performed due to the payment of the past due balance made in the office just prior to shut-off.

(g) Water service will be reconnected the same day as disconnection if the outstanding bill and related charges are paid in full by close of business of the district office. If payment is not made prior to the close of business of the district office, the consumer's water will not be reconnected until the next regular business day. No water will be reconnected after normal operating hours or on weekends.

(h) A charge of one hundred fifty dollars shall be added to each account in which a meter is turned off and locked for nonpayment if the consumer or other party cuts the lock and turns the meter back on without prior approval of the department. The meter will be removed from the ground and the water service capped off. Water service shall not be reconnected until the consumer has paid the past due water charges, water disconnection charge, and the meter disconnection charge.

(i) An account remains disconnected or shut-off it will continue to accrue monthly base rate charges as well as late fees.

(j) An account that has been delinquent without response or payment for over six will be notified by certified mail that they are subject to collections and the commission may elect to take whatever legal action is deemed necessary to collect unpaid water bills and protect the assets of the commission. If no response is received by the department within two weeks of the date of the certified letter the account will be sent for collection.

(k) Each consumer about to vacate any premises supplied with water by the department shall give notice of their intention to vacate, specifying the date service should be discontinued. Otherwise, the consumer shall be responsible for all water service furnished to such premises until the Department has received a notice of discontinuance. The consumer and/or applicant shall be responsible for all charges resulting from non-notification. Before buildings are demolished, the department should be notified so the water service can be closed.

(l) The department shall provide written notice to the consumer fifteen days prior to discontinuing water service for any of the following reasons:

- (1) Non-payment of bills. If the consumer fails to pay any fees due the department has the right to discontinues service as set forth in these rules.
- (2) Noncompliance with rules and regulations. If

the consumer fails to comply with any of the departments rules and regulations, the department has the right to discontinue service.

- (3) Unauthorized use of water. If a consumer or other person uses water without the authorization of the department, the department has the right to discontinue service.
- (4) Wasteful use of water. If it is determined by the department that the consumer or other users are negligent or wasteful with water or are not putting the water to beneficial use the department may discontinue service.
- (5) Service detrimental to others. The department may refuse to furnish water and may discontinue the service to any premises, where the demands are beyond the useage allotted to the consumer or results in inadequate service to others.

§10-4-82 Restoration of water service. (a)

Water service shall not be resumed until all of the consumer's delinquent accounts, including all fees and reinstallation charges (which shall include the cost of labor, materials, transportation, holiday pay, overtime pay, and all other incidental charges) for reinstalling the meter and turning on the water, have been paid or until the consumer has entered into and signed an approved payment plan.

(b) The department may enter into a payment agreement with a consumer to facilitate the payment of delinquent water charges. Such agreements shall not exceed the term of five years, current charges must continue to be paid when due, and the agreement must be signed by the Department and the consumer. Breach of such an agreement by the consumer shall result in further collection efforts or disconnection.

§10-4-83 Meter test and adjustment of bill. (a)

All meters are tested prior to installation. Any consumer who has a reasonable doubt of the accuracy of the meter serving his premises may request a test of the meter. The consumer, if requested, shall be notified as to the time of the test and may witness the test if desired. No charge shall be made for meter tests unless such tests are requested more often than once every twelve months.

(b) If, as the result of the test, the meter is found to register more than five percent fast under conditions of normal operation, the department shall refund to the consumer the overcharge based on past consumption, for a period not exceeding six months, unless it can be proven that the error was due to some cause, the date of which can be determined and established. In this latter case, the overcharge shall be computed back to, but not beyond, such date.

(c) The consumer has sole control of the water delivered beyond the department's meter and the department is not responsible for the maintenance and repairs to pipes and fixtures beyond the meter.

(d) If the meter fails to register due to any cause except the non-use of water, an average bill may be rendered. Such average bill will be subject to equitable adjustment taking into account all factors before, during, and after the period of said bill.

§10-4-84 Unscheduled meter replacement. If a consumer requests a meter replacement prior to the scheduled routine change, the consumer will be billed for the service call plus the current cost of the meter. As is the case with all new meters, upon installation the meter becomes the property of the department.

§10-4-85 Leak adjustment. (a) When a consumer experiences a leak on within their water system/line, the consumer may request the department provide a leak adjustment to the water bill provided a leak adjustment has not been granted to the consumer within the twelve month period prior to request (only one leak adjustment per year shall be granted any single account) and the leak was reported to the Department and repaired within 30 days of detection. An adjustment shall be calculated for the latest single billing cycle which reflects the leak.

(b) If the consumer demonstrates that the leak is repaired within thirty days of department notice thereof, the consumer's account is credited as follows:

(1) The amount determined to have leaked is calculated as the total metered usage less use from the same period one year prior equals leaked water; and

(2) The revised water will be for the total metered usage less the estimated leaked water.

(c) No additional refunds will be considered or given.

(d) If there is not an existing valve on the consumer side of the meter, there shall be no credit processed on the account until a valve is installed.

(e) Department personnel will be dispatched to inspect the consumer's meter to verify the leak has been repaired.

(f) Dripping faucets, leaking toilets or outdoor spigots that have been left running do not constitute a leak. This subsection only covers underground piping on the consumer's side of the meter that has been compromised.

(g) If the consumer has extenuating circumstance a written appeal from this section may be made to the commission.

§10-4-86 Water charge adjustment. Errors in billing or collection shall be corrected in a timely manner by the Department. Resulting credits on accounts or refunds shall be made as expeditiously as possible. Disputed billings or other collection transactions shall be heard by the chairman or designee. Any appeals concerning utility rates or services, or interpretation or enforcement of these Rules are to be heard by the chairman. Any applicant aggrieved by the chairman's decision may appeal to the commission by filing with the commission a written request for review no later than ten days after receiving the chairman's decision.

§10-4-87 Insufficient funds fee. The department shall charge the consumer an insufficient funds fee (NSF) on all bank items/checks returned by the consumer's bank unpaid. The amount shall be equal to the amount charged by the financial institution but no less than fifteen dollars. The amount shall be applied to the consumer's account. On accounts where non-payable bank items/checks are submitted more than four times in one calendar year the department may require payment on the account to be made by cash, by certified or cashier's check or by money order, and may require a deposit to be held.

§10-4-88 Meter turn on/turn off fee. (a) The department shall charge a turn on/turn off fee equal to one hour of labor and overheads to those consumers requesting disconnection or reconnection of a water meter when not related to an account delinquency. The department shall apply such charges to the consumer's account.

(b) Upon request and payment of a turn off fee the department shall turn off the water at the meter during regular business hours. Upon request and

payment of a turn on fee, the department shall turn on the water at the meter during regular business hours.

§10-4-89 Connect/disconnect administration fee.

(a) The department shall levy a charge where a change in service status requires administrative action and/or a special meter reading by department personnel.

(b) In the event that a change in account status requires a special water meter reading by the department a fee equal to one hour of labor and overheads will be levied.

(c) In the event that a change in account status does not require a special water meter reading by the department the standard change of owner fee will be charged.

§10-4-90 Consumer's sale of water. Unless specifically agreed upon by the department, the consumer shall not sell any water received or purchased from the department.

§10-4-91 Compensation. Employees of the Department are strictly forbidden to demand or accept personal compensation for services rendered.