

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

February 16-17, 2021

TO: Chairman and Members, Hawaiian Homes Commission  
FROM: Hokulei Lindsey, Administrative Rules Officer  
SUBJECT: Adoption of proposed Hawaii Administrative Rules Chapter 10-4.1, entitled Management of Water Systems



RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission adopt proposed Hawaii Administrative Rules Chapter 10-4.1, entitled Management of Water Systems:

- with water service rates for Hoolehua attached to the rules as Exhibit A;
- with water service rates for Anahola attached to the rules as Exhibit C; and
- with water service rates for Kawaihae attached to the rules as Exhibit B and the Puukapu maintenance fee attached as Exhibit D.

DISCUSSION:

At the January 2021 regular meeting of the Hawaiian Homes Commission, staff presented the for information only Report of Chapter 91, Hawaii Revised Statutes, Public Hearings for Administrative Rules Related to Management of Water Systems.<sup>1</sup> Comments received in the public hearing process were attached to the January submittal and are attached again, here as Exhibit B. Staff recommends the proposed rules for the water systems be adopted with the following technical and clarifying changes. The proposal is attached in Ramseyer format as Exhibit A, all recommended additions are underlined, deletions are crossed out:

- **§10-4.1-7(c) Installation of water service.** For clarification, the last sentence was amended by adding "on the

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<sup>1</sup> Item C-5 For Information Only - Report of Chapter 91, Hawaii Revised Statutes, Public Hearings for Administrative Rules Related to Management of Water Systems (January 19-20, 2021).

consumer's side of the water service supply pipe." The subsection now reads:

"A readily accessible shutoff valve controlling all outlets shall be installed by the department on the consumer's water service supply pipe at a location to be determined by the department. 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 on the consumer's side of the service supply pipe, it shall be installed by the department and paid for by the consumer."

- **§§10-4.1-10(a) (2) and (c) (1) Discontinuation of service.** For consistency within the section, changes were made to specify "business days" for the notice and decision periods:
  - "(a) The department may refuse or discontinue water service for any of the following reasons:
    - (2) Noncompliance with rules and regulations. If the consumer fails to comply with any of the department's rules and regulations and noncompliance is not corrected within five business days after written notice is given to the consumer, the department may discontinue service."
  - "(c) (1) At the billing conference, the consumer shall have the right to submit evidence, present and cross examine witnesses, and bring a representative to aid in presenting the case. The consumer shall have the right to see the department's records concerning the account and shall have the right to reasonable explanation for any matter concerning the proposed discontinuance of service. The district office supervisor conducting the billing conference shall be empowered to correct any errors in billing and to take whatever remedial action is necessary if the consumer presents evidence that would demonstrate by a preponderance of the evidence that the consumer is not responsible for conditions leading to the department's decision to shut off service other than non-payment of the water bill. The district office supervisor conducting the billing conference shall make a written decision within three ~~working~~ business days of the conference."
- **§10-4.1-10(c) Discontinuation of service.** For clarification, "If an in person conference is requested, the district office supervisor shall travel to meet with the consumer on the consumer's island" was inserted between the second and third sentences:
  - "If the consumer wishes to dispute the shut off, the consumer shall within five business days from the date of the notice of shut off, request a billing conference. Once requested, the

billing conference shall be scheduled at the earliest reasonable opportunity for the consumer and in no case more than ten days from the request and the consumer shall be given the option of having the conference over the phone or in person with a district office supervisor from another district office that manages a department water system. If an in person conference is requested, the district office supervisor shall travel to meet with the consumer on the consumer's island. The district office supervisor conducting the billing conference shall not have previously been involved in the case, shall objectively review the basis for water shut off, shall be subject to all state ethics rules on conflicts of interest, and shall exercise impartial judgment in deciding the merits of the consumer's request for reinstatement of water service."

- **§10-4.1-10(f) Discontinuation of service.** For clarification, the last sentence was amended by adding "with water service": "A consumer about to vacate any premises supplied with water by the department shall give written notice of their intention to vacate, specifying the date service should be discontinued. If the consumer fails to give such notice, the consumer shall be responsible for all water service furnished to such premises until the department has received a notice of discontinuance. Before buildings with water service are demolished, the department shall be notified so the water service can be shut off."

The proposal contains provisions for discontinuation of water service and notice requirements before shut off can occur. To shut off water is a significant step. The proposal also contains repayment plan options, alternative payment options, and an appeal process before shut off for nonpayment can occur. In communicating with staff who work with consumers on the water systems, their focus is communication and working with the consumer so that payments can be made. The shut off provisions provide the extra incentive to stick with the payment plan.

RECOMMENDATION:

Staff respectfully request approval of the three-part motion as stated above.

DEPARTMENT OF HAWAIIAN HOME LANDS

Adoption of Chapter 10-4.1  
Hawaii Administrative Rules

[ ]

1. Chapter 10-4.1, Hawaii Administrative Rules, entitled "Management of Water Systems", is adopted to read as follows:

"HAWAII ADMINSTRATIVE RULES

TITLE 10

DEPARTMENT OF HAWAIIAN HOME LANDS

CHAPTER 4.1

MANAGEMENT OF WATER SYSTEMS

Subchapter 1 General Provisions

§10-4.1-1	Purpose
§10-4.1-2	Applicability
§10-4.1-3	Definitions
§10-4.1-4	General conditions for water service
§10-4.1-5	Water pressure conditions and elevation agreement
§10-4.1-6	Application for water service
§10-4.1-7	Installation of water service
§10-4.1-8	Responsibility for equipment
§10-4.1-9	Payment of bills and delinquency

- §10-4.1-10 Discontinuance of service
- §10-4.1-11 Restoration of water service
- §10-4.1-12 Meter test and adjustment of bill
- §10-4.1-13 Underground leak adjustment
- §10-4.1-14 Water charge adjustment
- §10-4.1-15 Obstructed meter fine
- §10-4.1-16 Tampering prohibited
- §10-4.1-17 Accessing the consumer's premises
- §10-4.1-18 Cross-connection control and  
backflow prevention
- §10-4.1-19 Interruption of water supply
- §10-4.1-20 Meter disconnection or reconnection
- §10-4.1-21 Change in service administration fee
- §10-4.1-22 Department fire hydrants and fire  
protection
- §10-4.1-23 Water spigots
- §10-4.1-24 Consumer's sale of water
- §10-4.1-25 Electrical grounding
- §10-4.1-26 Unscheduled meter replacement
- §10-4.1-27 Compensation
- §§10-4.1-28 to 10-4.1-30 (Reserved)

Subchapter 2 Hawaiian Home Lands Public Water  
Systems

- §10-4.1-31 Water service rates
- §10-4.1-32 Meter reading and rendering of bills
- §10-4.1-33 Conservation and emergency measures
- §§10-4.1-34 to 10-4.1-40 (Reserved)

Subchapter 3 Puukapu Non-Potable Water System

- §10-4.1-41 General conditions
- §10-4.1-42 Monthly maintenance fee
- §10-4.1-43 Conservation measures and emergency  
conditions
- §10-4.1-44 Unauthorized drawing of water

## SUBCHAPTER 1

## GENERAL PROVISIONS

**§10-4.1-1 Purpose.** The purpose of this subchapter is to promote the health, safety, and general welfare of the community by providing standards for governing water service provided by water systems in the exclusive control of the department. [Eff \_\_\_\_\_] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-2 Applicability.** This subchapter shall apply to all water systems under the exclusive control of the department. [Eff \_\_\_\_\_] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-3 Definitions.** As used in this chapter, unless plainly evident from the context that a different meaning is intended:

“Applicant” means any person who submits an application for water service or additional water service.

“Application” means a written 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.

"Governmental entity" means any State of Hawaii or county department or office.

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

"Non-potable water" means water that has not been certified by the department of health as suitable for cooking, drinking, and bathing purposes.

"Potable water" means water that has been certified by the department of health as suitable for cooking, drinking, and bathing 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 system" means a water system which provides water for human consumption as provided by the department of health in title 11, Hawaii administrative rules chapter 20.

"Service lateral" means the main tap and complete installation of pipes, fittings, and appurtenances from the main to and including the meter.

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

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

"Water spigot" means a water spigot or standpipe that is maintained by the department and connected to a public water system for lessee access to potable water.

"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. [Eff ]

(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-4 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 policies of the department relating to water service.

(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 and only the department is authorized to install water meters on department water systems.

(d) The department shall determine the final location and size of the service lateral. Service laterals shall be operated and maintained by the department.

(e) The department shall only be responsible for the operation and maintenance of water systems in its exclusive control, which may include contracted operations and maintenance services.

[Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-5 Water pressure conditions and elevation agreement.** (a) The department shall exercise due diligence and reasonable care to maintain adequate pressure in its water mains but accepts no responsibility to 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 due to any inadequacy in the department's system or inadequacy of water supply to the premise including but not limited to lack of fire department services in the event of a fire.

(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, or relief valves, or both. 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 or relief valves, or for damage that may occur through the installation, maintenance, or use of such equipment. [Eff ]  
(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-6 Application for water service.** (a) Each prospective consumer shall complete a standard application form for the water service desired. Prospective consumers shall assume responsibility for

the payment of future charges for service at the location identified on the application before water is turned on for any use. The department shall inform the applicant in writing that the application is complete and accepted or if the application is deficient, what specific information is necessary to complete the application. The department shall assign an account number when the application is complete. The person, entity, or organization executing the application form shall be liable for the payment of all charges for water service at the designated location including a meter charge with each billing cycle as provided in section 10-4.1-31 and 10-4.1-42.

(b) Charges for service shall begin when the service lateral and the consumer's water system are physically joined and water is made available to the consumer, and will continue until:

- (1) The consumer makes a written request to discontinue service;
- (2) A judicial order to discontinue service is issued; or
- (3) The department discontinues service 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 the 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 application for transfer is not made, and accumulated bills for water service are not paid upon presentation, the water service may be discontinued ten business days after written notice is sent to the consumer. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-7 Installation of water service.** (a)

When an application for water service has been approved, water service shall be installed as approved. 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 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 lateral, 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 as a means to protect the public water system, however the cost of installation shall be paid by the consumer within thirty days of installation. 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 replacement.

(c) A readily accessible shutoff valve controlling all outlets shall be installed by the department on the consumer's water service supply pipe at a location to be determined by the department. 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 on the consumer's side of the service supply pipe, it shall be installed by the department and paid for by the consumer.

(d) The department may make the connection to the consumer's water service supply pipe once the consumer installs the supply pipe at the approved location.

(e) Only the department may connect or disconnect the water service to or from the department's main.

(f) When the proper size of service lateral for any premises has been determined and the department has made installation 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. If the consumer desires a change in size of the service lateral 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 consumer. Such costs 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. [Eff ]  
(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-8 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 dangerous fixtures or uses have been corrected, removed or discontinued, and the department is assured that the dangerous 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 service laterals are 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 without consent whenever necessary to inspect, maintain, repair, replace, or remove the equipment. The consumer shall exercise reasonable care to prevent damage to meters and other equipment of the department upon the premises and shall in no way interfere with the operation of the same.

(f) Any cost to repair damaged water mains, service laterals, valves, fire hydrants, or other property of the department shall be paid for by the party 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 thereof. In the event settlement for such damage is not made within thirty days, the department may discontinue water service to the premises according to 10-4.1-10.

(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. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-9 Payment of bills and delinquency.** (a)

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. Any bill not paid within thirty days from the bill date, shall be considered delinquent and the water service shall be subject to shut-off. There shall be a service charge for payments made by check or electronic debit which have been dishonored for any reason. The service charge shall be as set in section 40-35.5, HRS. On accounts where payments have been dishonored 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 equal to the highest amount billed in the last twelve months to be held.

(b) An account is delinquent when it is not paid in full within thirty days after the bill date. A late payment charge shall be assessed at an amount of one per cent for each month or fraction thereof against the delinquent balance. When a delinquent account remains unpaid twenty-one days after the second regular billing, water service for the account may be discontinued.

(c) The department may enter into a payment agreement with a consumer to facilitate the payment of delinquent water charges. The terms of a payment agreement between the department and a lessee-consumer may include alternative payment methods and shall not exceed the term of five years. Current charges shall continue to be paid when due. The agreement shall be signed by the department and the consumer, and breach of such an agreement by the consumer shall result in further collection efforts including disconnection.

(1) Alternative payment methods are goods that are grown, caught, or produced by the consumer and donated to the homestead community on island or services provided by

the consumer free of charge to the department. Goods shall be dropped off at the district office at a time determined by the district office supervisor for distribution among beneficiaries. Services shall be provided to the department as determined by the district office supervisor.

- (2) The value of the alternative payment methods rendered shall not exceed five per cent of the delinquent amount. All terms regarding alternative payment methods, including the goods or services or both to be donated, valuation, and dates and times of service or drop off shall be included in the payment agreement. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-10 Discontinuation of service.** (a) The department may refuse or discontinue water service for any of the following reasons:

- (1) Non-payment of bills or fees. If the consumer fails to pay any sums due, the department may discontinue service five business days after written notice is given to the consumer.
- (2) Noncompliance with rules and regulations. If the consumer fails to comply with any of the department's rules and regulations and noncompliance is not corrected within five business days after written notice is given to the consumer, the department may discontinue service.
- (3) Unauthorized use of water. Without notice, the department may refuse or discontinue water service to any premises or consumer to protect itself against fraud, abuse or unauthorized use of water. For unauthorized use of water, a surcharge may be assessed as provided in section 10-4.1-31 and 10-4.1-42.

- (4) Wasteful use of water. Where negligent or wasteful use of water exists on any premises and such conditions are not corrected within five business days after written notice is given to the consumer, 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 of the consumer will result in inadequate service to others.

(b) Where discontinuation of water service for any of the above reasons is proposed, the department shall, prior to the proposed shut off, give the consumer written notice at least five business days before shut off. The notice shall specify the reasons for the proposed shut off as well as inform the consumer of the right to dispute the shut off by making appropriate request to the department at the address or phone number provided on the notice. The notice shall further inform the consumer that once water service has been discontinued, water service may be restored but only in accordance with section 10-4.1-11.

(c) If the consumer wishes to dispute the shut off, the consumer shall within five business days from the date of the notice of shut off, request a billing conference. Once requested, the billing conference shall be scheduled at the earliest reasonable opportunity for the consumer and in no case more than ten days from the request and the consumer shall be given the option of having the conference over the phone or in person with a district office supervisor from another district office that manages a department water system. If an in person conference is requested, the district office supervisor shall travel to meet with the consumer on the consumer's island. The district office supervisor conducting the billing conference shall not have previously been involved in the case, shall objectively review the basis for water shut off, shall be subject to all state ethics rules on conflicts of interest, and shall exercise impartial

judgment in deciding the merits of the consumer's request for reinstatement of water service.

- (1) At the billing conference, the consumer shall have the right to submit evidence, present and cross examine witnesses, and bring a representative to aid in presenting the case. The consumer shall have the right to see the department's records concerning the account and shall have the right to reasonable explanation for any matter concerning the proposed discontinuance of service. The district office supervisor conducting the billing conference shall be empowered to correct any errors in billing and to take whatever remedial action is necessary if the consumer presents evidence that would demonstrate by a preponderance of the evidence that the consumer is not responsible for conditions leading to the department's decision to shut off service other than non-payment of the water bill. The district office supervisor conducting the billing conference shall make a written decision within three ~~working~~ business days of the conference.
- (2) If the consumer is dissatisfied with the decision from the billing conference, the consumer shall have the right within five business days of receipt of the written decision to appeal the matter to the chairman or the chairman's designee. The amount due shall be paid into an escrow trust account after the billing conference with the district office supervisor and shall not be postponed pending the appeal. The chairman or the chairman's designee shall review the consumer's written appeal and the billing conference record and decision for compelling factual, legal, or procedural errors, or any combination

thereof, and render a final written decision affirming the district office supervisor's written decision or remanding the matter to the district office supervisor for further handling pursuant to the chairman's or the chairman's designee's written decision and direction on appeal. The decision of the chairman shall be final.

(d) A charge of \$150 shall be added to each account in which service is discontinued if the consumer or other party cuts the lock and turns the meter on without prior approval of the department. The meter shall be removed and the water service capped off. Water service shall not be reconnected until the consumer has paid the past due water charges, water disconnection charges, and the meter disconnection and reconnection charges.

(e) An account that remains disconnected or suspended because of delinquent payment shall continue to accrue monthly base rate service charges as well as late fees.

(f) A consumer about to vacate any premises supplied with water by the department shall give written notice of their intention to vacate, specifying the date service should be discontinued. If the consumer fails to give such notice, the consumer shall be responsible for all water service furnished to such premises until the department has received a notice of discontinuance. Before buildings with water service are demolished, the department shall be notified so the water service can be shut off.

(g) The department may remove a meter for non-use after one year of non-use. A consumer whose meter is removed for non-use forfeits all previous fees and reapplication shall be treated as a new service connection with applicable costs. [Eff ]  
 (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-11 Restoration of water service.** Water service shall not be resumed until all of the consumer's delinquent accounts, including all charges, fees, and reinstallation costs, including one hour of labor, and materials, transportation, and any other overhead costs for the meter reinstallation and reactivation, have been paid in full or the consumer has entered into and signed an approved payment plan. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-12 Meter test and adjustment of bill.**

(a) Any consumer who has a reasonable doubt of the accuracy of the meter serving his or her premises may request a test of the meter. The consumer may request to be notified as to the time of the test and may witness the test. No charge shall be made for meter tests unless such tests are requested more often than once every twelve months.

(b) If, as a 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 fixed, then 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. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-13 Underground leak adjustment.** (a) If a consumer experiences a leak within their water line, the consumer may request the department provide a leak adjustment for excessive bills provided a leak adjustment was not granted to the consumer within the twelve month period prior to the request and the leak was reported to the department and repaired within thirty days of detection. The adjustment shall be one-half of the excess consumption over a normal bill.

(b) No additional refunds shall be given.

(c) 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.

(d) Department personnel shall be dispatched to inspect the consumer's meter to verify the leak has been repaired. [Eff \_\_\_\_\_] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-14 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. [Eff \_\_\_\_\_] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-15 Obstructed meter fine.** (a) The department shall charge the consumer an obstructed meter fine of twenty-five dollars per billing period when access to the water 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) If the consumer fails to remove the obstruction, the department may remove the obstruction

and bill the consumer twenty-five dollars for the cost of remediation. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-16 Tampering prohibited.** (a) Any person found tampering with service laterals, water meters, the valve, or stopcock before the meter shall be guilty of a misdemeanor, pursuant to section 701-107(3), HRS, and shall be liable for all costs associated with any repair to the service lateral, water meter, valve, or stopcock.

(b) A late payment charge shall be assessed at the rate of one per cent for each month or fraction thereof against costs associated with repairs for tampering that go unpaid for thirty days following the date of billing. After sixty days, the delinquency shall be reported to the commission and the amount due turned over to collections. Further legal action may be taken with commission approval.

[Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-17 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 any reasonable hour, and at any hour during an emergency, 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 all rights secured to it by law or this subchapter. If the officer or employee is prevented from carrying out the duties, the department may shut off water service to said premises five business days after written notice

is given to the consumer. [Eff ]  
 (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-18 Cross-connection control and backflow prevention.** (a) No cross-connections shall be made without the written consent of the department.

(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 premises shall be in accordance to this subchapter.

(c) The department may require installation of an approved backflow prevention assembly on the consumer's side of the meter at the consumer's expense before service will be provided. The department may provide for the installation of an approved backflow prevention assembly to homestead lots in the service area.

(d) If uninterrupted water service is necessary, an additional backflow prevention assembly may 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.

(e) The backflow prevention assembly installed in accordance with these rules shall, unless otherwise approved by the department in writing, be located above ground and in a manner safe from flooding or submergence in water or other liquid, properly protected from external damage, freely accessible, and with adequate working room for inspections, testing, and repairing.

(f) All backflow prevention devices shall be tested at least once annually and as often as required

by the department where successive tests indicate repeated failure. Repairs, replacement of parts, or any other maintenance shall be made whenever deemed necessary by the department and at the expense of the consumer. The annual test shall be the responsibility of the consumer and shall be made in accordance with methods approved by the department. Upon request by the department, the consumer shall present an affidavit certifying that there are no cross-connections of the type prohibited under this rule on the premises or describing in detail all nonconforming connections or installations.

(g) Records of tests, repairs, parts, and inspections shall be made on forms prescribed by the department and furnished to the department. Failure of the consumer to properly test and submit the records may, at the option of the department, result in termination of service or the department making the tests, repairing and replacing any equipment, and charging the cost to the consumer.

(h) 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 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.

(i) 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 shall terminate water service at the premises immediately. Written notice shall be given to the consumer after water service termination.

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

(k) 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 federal, state, and county laws, ordinances, and rules. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222)  
(Imp: HHC Act §221)

**§10-4.1-19 Interruption of water supply.** (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 shut off water from the mains without notice for making repairs, extensions, alterations, or for other reason. 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. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-20 Meter disconnection or reconnection fees.** (a) The department shall charge a fee equal to one hour of labor and overhead costs 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. [Eff ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-21 Change in service administration fee.** (a) The department shall levy a charge when a change in service status requires administrative action or a special meter reading by department personnel.

(b) When a change in account status requires a special water meter reading by the department a fee equal to one hour of labor and costs shall be charged to the consumer. When a change in account status does not require a special water meter reading by the department the standard change of owner fee shall be charged to the consumer. [Eff ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-22 Department fire hydrants and fire protection.** (a) Any use of a fire hydrant, fire protection reservoir, or the taking of water from one for purposes other than fire protection by persons other than authorized employees of the fire department or of the department is prohibited without a written permit from the department. The 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. The fire department shall notify the department when use of water during non-fire events, including training, is contemplated. Hydrant main line valves shall not be used to control flows. The fire department shall coordinate with the department during a fire emergency to prevent damage to the water system.

(b) The department may provide water to a governmental entity provided the governmental entity first submits a written hydrant permit application and agrees to all the terms and conditions contained therein including but not limited to notifying the department when any use of water is contemplated, paying a security deposit for a meter assembly and backflow prevention device and utilizing the meter assembly and backflow prevention device. Any failure of the permittee to properly utilize the meter assembly to record water taken through the fire hydrant shall constitute a violation of the hydrant permit and shall immediately terminate the hydrant permit and the permittee's right to draw water. Hydrant permits shall not be issued for a period longer than six months. Renewal shall be allowed on a case by case basis.

(c) Any damage to fire hydrants, and any consequent resulting loss or damage to property, or any injury to persons arising from or out of the damage to fire hydrants shall be paid for by the person or legal entity responsible for the damage. All repairs for any damage to fire hydrants shall be paid by the person or entity responsible for the damage.

(d) Any 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 including the estimated amount of the water taken, water discharged by the department to clear the mains, labor and materials, and administrative costs. Each invoice not paid within ten calendar 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.

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

(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-23 Water spigots.** (a) The department may provide water spigots connected to public water systems. The water spigot shall be labeled with the appropriate public water system number as issued by the department of health. Each water spigot, and water spigot area, shall be maintained by the department in a manner suitable for lessee access to potable water.

(b) Each spigot shall be metered and the commission shall set the maximum amount that may be drawn from each spigot during a single billing cycle.

(c) The department shall manage access to the spigot by reasonable means.

(d) The department may restrict spigot use during time of water restrictions.

(e) The department guarantees potable water only to the point of withdrawal from the public water system. [Eff ] (Auth: HHC Act §222)

(Imp: HHC Act §221)

**§10-4.1-24 Consumer's sale of water.** Subject to civil or criminal prosecution or both, unless specifically agreed upon by the commission, the consumer shall not sell any water received or purchased from the department. [Eff ]

(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-25 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 laterals 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.

[Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-26 Unscheduled meter replacement.** If a

consumer requests a meter replacement prior to the scheduled routine replacement, 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. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-27 Compensation.** Employees of the department are strictly forbidden to demand or accept personal compensation for services rendered.  
[Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

§§10-4.1-28 to 10-4.1-30 (Reserved)

## SUBCHAPTER 2

### HAWAIIAN HOME LANDS PUBLIC WATER SYSTEMS

**§10-4.1-31 Water service rates.** (a) The department shall conduct a cost of service study annually, based upon enterprise accounting, and a water service rates analysis at least every three years.

(b) Water service rates for each department owned public water system shall be established by the commission and attached to this chapter. Effective July 1, 2019, once each fiscal year the commission may adjust base water service charges by no more than ten per cent per thousand gallons of water delivered. Effective upon approval by the commission, water service rates are set as follows:

- (1) The table entitled, "Hoolehua Water System Service Rates Approved on April 17, 2018", dated April 17, 2018, attached as Exhibit "A" at the end of this chapter and made part of this chapter.
- (2) The table entitled, "Kawaihae Water System Service Rates Approved on May 14, 2018", dated May 14, 2018, attached as Exhibit "B" at the end of this chapter and made part of this chapter.
- (3) The table entitled, "Anahola Water System

Service Rates Approved on August 21, 2018", dated August 21, 2018, attached as Exhibit "C" at the end of this chapter and made part of this chapter. [Eff ]  
 (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-32 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 a period shorter than the regular billing period 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 shall be rendered following acceptable practices using the reading, where available, of the same time the previous year.

(c) Bills for metered water service shall be on a per meter basis. If the consumer has more than one metered installation on the premises, each meter shall be billed separately. [Eff ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-33 Conservation and emergency measures.**

(a) Whenever, in the department's opinion, special conservation measures are advisable to forestall water shortage or an emergency, the department may restrict the use of water by any means or method of control. 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.

(b) When the department's water supply usage exceeds the rate of resupply, the commission may declare a water shortage or emergency and further

restrict the use of water by any means or method of control.

(c) The department shall notify consumers of emergency conditions by written communication through mailing, electronic posting, or the newspaper, or combination thereof. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

§§10-4.1-34 to 10-4.1-40 (Reserved)

### SUBCHAPTER 3

#### PUUKAPU NON-POTABLE WATER SYSTEM

**§10-4.1-41 General conditions.** (a) The water supplied by the Puukapu non-potable water system is intended to be used only for pastoral uses consistent with pastoral leases. Consumers may not use water for any other purpose except with the express written consent of the department. The department makes no guarantee, warranty, or representation, expressed or implied, as to the quality, quantity, flow rate, condition, or fitness of the water supplied for any use or purpose.

(b) The department shall deliver water to the lot of each consumer at the ground elevation and at the outlet site as the department may establish upon each consumer's land convenient with the operation of the department's irrigation system, and it shall be the responsibility of each consumer to provide for the distribution of water upon the consumer's lot by the consumer's own method. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-42 Monthly maintenance fee.** (a) The lease shall provide service conditions and for the assessment of the monthly maintenance fee set as follows: the table entitled, "Puukapu Maintenance Fee" Approved on May 19, 2014 and Extended on May 15, 2018", dated May 15, 2018, attached as Exhibit "D" at the end of this chapter and made part of this chapter. [Eff ] (Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-43 Conservation measures and emergency conditions.** (a) Whenever, in the department's opinion, special conservation measures are deemed necessary to forestall a water shortage and a consequent emergency, the department may restrict or ration the use of water by any method or means of control. Livestock watering consumers may be required to install an automatic water flow control device to prevent waste or continued overflow from livestock drinking troughs. Each device shall be approved by the department prior to installation and shall be tested periodically to determine its functionality.

(b) The department reserves the right in times of declared emergency to allow the use of water for emergency purposes. Charges for the water used shall be established by the commission based on the nature of the emergency and attendant circumstances.

(c) During periods of special conservation measures, the department shall develop notices and criteria for the manner in which water will be delivered, restricted, and allocated for the duration for the emergency. Violations of the restrictions or allocations may result in the discontinuance of service, additional water toll surcharges, or the removal of the water connection.

(d) Upon declaration of emergency conditions and implementation of mandatory conservation measures (i.e., ten per cent, twenty per cent, or thirty per cent cutbacks), consumers exceeding the level of

mandatory cutback shall be assessed a surcharge as established by the commission. [Eff ]  
(Auth: HHC Act §222) (Imp: HHC Act §221)

**§10-4.1-44 Unauthorized drawing of water. (a)**

No person or entity shall be permitted to draw water from any part of the system without the written consent of the department. No approval shall be granted in cases where, in the opinion of the department, the drawing of water may adversely affect the water service extended by the department to lessees.

(b) Approvals given by the department under this section are subject to revocation upon thirty days written notice." [Eff ] (Auth: HHC Act §222) (Imp: HHC Act §221)

2. The adoption of chapter 10-4.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafter in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on [ ] and filed with the Office of the Lieutenant Governor.

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WILLIAM J. AILA, JR., Chairman  
Hawaiian Homes Commission

APPROVED AS TO FORM:

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Deputy Attorney General

HOOLEHUA WATER SYSTEM SERVICE RATES  
 APPROVED ON APRIL 17, 2018

**Lessee Service Rates:**

Lessee water service delivery (usage) tiers:

	<b>Gallons Bi-Monthly</b>
Tier 1	0 - 10,000
Tier 2	10,001 - 25,000
Tier 3	Over 25,000

Residential lessee meter service (base) fees:

<b>Meter size (inches) Bi-Monthly</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
5/8"	\$6.21	\$6.82	\$7.43	\$8.04	\$8.65	\$9.26	\$9.87	\$10.48	\$11.09	\$11.70
3/4"	\$7.76	\$8.53	\$9.29	\$10.05	\$10.82	\$11.58	\$12.34	\$13.10	\$13.87	\$14.63
1"	\$12.75	\$14.01	\$15.26	\$16.51	\$17.77	\$19.02	\$20.27	\$21.53	\$22.78	\$24.04
1 1/2"	\$24.40	\$26.80	\$29.19	\$31.59	\$33.99	\$36.39	\$38.79	\$41.18	\$43.58	\$45.98
2"	\$33.27	\$36.54	\$39.81	\$43.08	\$46.35	\$49.62	\$52.89	\$56.16	\$59.43	\$62.70
3"	\$66.54	\$73.08	\$79.62	\$86.16	\$92.70	\$99.24	\$105.78	\$112.32	\$118.86	\$125.40
4"	\$121.99	\$133.98	\$145.97	\$157.96	\$169.95	\$181.94	\$193.93	\$205.92	\$217.91	\$229.90
6"	\$216.26	\$237.51	\$258.77	\$280.02	\$301.28	\$322.53	\$343.79	\$365.04	\$386.30	\$407.55
8"	\$332.70	\$365.40	\$398.10	\$430.80	\$463.50	\$496.20	\$528.90	\$561.60	\$594.30	\$627.00

Residential lessee water service delivery (usage) fees:

<b>Per 1,000 gallons</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
Tier 1	\$1.53	\$1.65	\$1.76	\$1.87	\$1.99	\$2.10	\$2.22	\$2.33	\$2.44	\$2.56
Tier 2	\$2.06	\$2.22	\$2.37	\$2.52	\$2.67	\$2.83	\$2.98	\$3.13	\$3.29	\$3.44
Tier 3	\$2.43	\$2.61	\$2.79	\$2.97	\$3.15	\$3.33	\$3.51	\$3.69	\$3.87	\$4.05

(CONTINUED)

Agriculture lessee meter service (base) fees:

<b>Meter size (inches) Bi-Monthly</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
5/8"	\$6.21	\$6.82	\$7.43	\$8.04	\$8.65	\$9.26	\$9.87	\$10.48	\$11.09	\$11.70
3/4"	\$7.76	\$8.53	\$9.29	\$10.05	\$10.82	\$11.58	\$12.34	\$13.10	\$13.87	\$14.63
1"	\$12.75	\$14.01	\$15.26	\$16.51	\$17.77	\$19.02	\$20.27	\$21.53	\$22.78	\$24.04
1 1/2"	\$24.40	\$26.80	\$29.19	\$31.59	\$33.99	\$36.39	\$38.79	\$41.18	\$43.58	\$45.98
2"	\$33.27	\$36.54	\$39.81	\$43.08	\$46.35	\$49.62	\$52.89	\$56.16	\$59.43	\$62.70
3"	\$66.54	\$73.08	\$79.62	\$86.16	\$92.70	\$99.24	\$105.78	\$112.32	\$118.86	\$125.40
4"	\$121.99	\$133.98	\$145.97	\$157.96	\$169.95	\$181.94	\$193.93	\$205.92	\$217.91	\$229.90
6"	\$216.26	\$237.51	\$258.77	\$280.02	\$301.28	\$322.53	\$343.79	\$365.04	\$386.30	\$407.55
8"	\$332.70	\$365.40	\$398.10	\$430.80	\$463.50	\$496.20	\$528.90	\$561.60	\$594.30	\$627.00

Agriculture lessee water service delivery (usage) fees:

<b>Per 1,000 gallons</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
Tier 1	\$1.53	\$1.65	\$1.76	\$1.87	\$1.99	\$2.10	\$2.22	\$2.33	\$2.44	\$2.56
Tier 2	\$2.06	\$2.22	\$2.37	\$2.52	\$2.67	\$2.83	\$2.98	\$3.13	\$3.29	\$3.44
Tier 3	\$0.82	\$0.88	\$0.94	\$1.00	\$1.06	\$1.12	\$1.19	\$1.25	\$1.31	\$1.37

(CONTINUED)

**Non-Beneficiary Service Rates:**

Non-Beneficiary water service delivery (usage) tiers:

	<b>Gallons Bi-Monthly</b>
Tier 1	0 – 10,000
Tier 2	10,001 – 30,000
Tier 3	Over 30,000

Non-Beneficiary commercial / non-agriculture meter service  
 (base) fees:

<b>Meter size (inches) Bi-Monthly</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
5/8"	\$40.35	\$50.70	\$61.05	\$71.40	\$81.75	\$92.10	\$102.45	\$112.80	\$123.15	\$133.50
3/4"	\$59.18	\$74.36	\$89.54	\$104.72	\$119.90	\$135.08	\$150.26	\$165.44	\$180.62	\$195.80
1"	\$94.15	\$118.30	\$142.45	\$166.60	\$190.75	\$214.90	\$239.05	\$263.20	\$287.35	\$311.50
1 1/2"	\$182.92	\$229.84	\$276.76	\$323.68	\$370.60	\$417.52	\$464.44	\$511.36	\$558.28	\$605.20
2"	\$282.45	\$354.90	\$427.35	\$499.80	\$572.25	\$644.70	\$717.15	\$789.60	\$862.05	\$934.50
3"	\$524.55	\$659.10	\$793.65	\$928.20	\$1,062.75	\$1,197.30	\$1,331.85	\$1,466.40	\$1,600.95	\$1,735.50
4"	\$860.80	\$1,081.60	\$1,302.40	\$1,523.20	\$1,744.00	\$1,964.80	\$2,185.60	\$2,406.40	\$2,627.20	\$2,848.00
6"	\$1,708.15	\$2,146.30	\$2,584.45	\$3,022.60	\$3,460.75	\$3,898.90	\$4,337.05	\$4,775.20	\$5,213.35	\$5,651.50
8"	\$2,690.00	\$3,380.00	\$4,070.00	\$4,760.00	\$5,450.00	\$6,140.00	\$6,830.00	\$7,520.00	\$8,210.00	\$8,900.00

Non-Beneficiary commercial / non-agriculture water service  
 delivery (usage) fees:

<b>Per 1,000 gallons</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
Tier 1	\$2.21	\$2.63	\$3.04	\$3.46	\$3.87	\$4.28	\$4.70	\$5.11	\$5.53	\$5.94
Tier 2	\$4.12	\$4.89	\$5.66	\$6.43	\$7.20	\$7.97	\$8.74	\$9.51	\$10.28	\$11.06
Tier 3	\$6.09	\$7.23	\$8.37	\$9.50	\$10.64	\$11.78	\$12.92	\$14.06	\$15.20	\$16.34

(CONTINUED)

Exhibit "A"  
 April 17, 2018

Non-Beneficiary commercial / agriculture meter service (base) fees:

<b>Meter size (inches) Bi-Monthly</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
5/8"	\$40.35	\$50.70	\$61.05	\$71.40	\$81.75	\$92.10	\$102.45	\$112.80	\$123.15	\$133.50
3/4"	\$59.18	\$74.36	\$89.54	\$104.72	\$119.90	\$135.08	\$150.26	\$165.44	\$180.62	\$195.80
1"	\$94.15	\$118.30	\$142.45	\$166.60	\$190.75	\$214.90	\$239.05	\$263.20	\$287.35	\$311.50
1 1/2"	\$182.92	\$229.84	\$276.76	\$323.68	\$370.60	\$417.52	\$464.44	\$511.36	\$558.28	\$605.20
2"	\$282.45	\$354.90	\$427.35	\$499.80	\$572.25	\$644.70	\$717.15	\$789.60	\$862.05	\$934.50
3"	\$524.55	\$659.10	\$793.65	\$928.20	\$1,062.75	\$1,197.30	\$1,331.85	\$1,466.40	\$1,600.95	\$1,735.50
4"	\$860.80	\$1,081.60	\$1,302.40	\$1,523.20	\$1,744.00	\$1,964.80	\$2,185.60	\$2,406.40	\$2,627.20	\$2,848.00
6"	\$1,708.15	\$2,146.30	\$2,584.45	\$3,022.60	\$3,460.75	\$3,898.90	\$4,337.05	\$4,775.20	\$5,213.35	\$5,651.50
8"	\$2,690.00	\$3,380.00	\$4,070.00	\$4,760.00	\$5,450.00	\$6,140.00	\$6,830.00	\$7,520.00	\$8,210.00	\$8,900.00

Non-Beneficiary commercial / agriculture water service delivery (usage) fees:

<b>Per 1,000 gallons</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
Tier 1	\$2.21	\$2.63	\$3.04	\$3.46	\$3.87	\$4.28	\$4.70	\$5.11	\$5.53	\$5.94
Tier 2	\$4.12	\$4.89	\$5.66	\$6.43	\$7.20	\$7.97	\$8.74	\$9.51	\$10.28	\$11.06
Tier 3	\$6.09	\$7.23	\$8.37	\$9.50	\$10.64	\$11.78	\$12.92	\$14.06	\$15.20	\$16.34

(END Exhibit "A")

KAWAIHAE WATER SYSTEM SERVICE RATES  
 APPROVED ON MAY 15, 2018

**Residential Lessee Service Rates:**

Residential lessee meter service (base) fees:

Meter size (inches) Bi-Monthly	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28
5/8"	\$49.07	\$63.37	\$77.70	\$92.06	\$106.46	\$120.90	\$135.37	\$149.88	\$164.42	\$179.01

Residential lessee service delivery (usage) tiers:

	Gallons Bi-Monthly
Tier 1	0 - 10,000
Tier 2	10,001 - 30,000
Tier 3	30,001 - 80,000
Tier 4	Over 80,000

Residential lessee service delivery (usage) fees:

Per 1,000 gallons	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28
Tier 1	\$3.67	\$4.73	\$5.81	\$6.88	\$7.95	\$9.03	\$10.11	\$11.20	\$12.28	\$13.37
Tier 2	\$4.92	\$6.35	\$7.79	\$9.23	\$10.68	\$12.12	\$13.58	\$15.03	\$16.49	\$17.95
Tier 3	\$6.89	\$8.90	\$10.92	\$12.94	\$14.96	\$16.99	\$19.02	\$21.06	\$23.10	\$25.15
Tier 4	\$8.30	\$10.73	\$13.15	\$15.58	\$18.02	\$20.46	\$22.91	\$25.37	\$27.83	\$30.30

(CONTINUED)

Exhibit "B"  
 May 15, 2018

**Kailapa Community Association Service Rates:**

Kailapa Community Association meter service (base) fees:

<b>Meter size (inches) Bi-Monthly</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
5/8"	\$49.07	\$63.37	\$77.70	\$92.06	\$106.46	\$120.90	\$135.37	\$149.88	\$164.42	\$179.01

Kailapa Community Association water service delivery (usage) tier:

	<b>Gallons Bi-Monthly</b>
Tier 1	9,999,999

Kailapa Community Association water service delivery (usage) fees:

<b>Per 1,000 gallons</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>
Tier 1	\$11.41	\$14.73	\$18.06	\$21.40	\$24.75	\$28.11	\$31.47	\$34.84	\$38.22	\$41.61

(END Exhibit "B")

ANAHOLA WATER SYSTEM SERVICE RATES  
APPROVED ON AUGUST 21, 2018

**Residential Lessee Service Rates:**

Residential lessee meter service (base) fees:

Meter size (inches)	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29
5/8"	\$28.08	\$32.16	\$36.24	\$40.32	\$44.40	\$48.48	\$52.56	\$56.64	\$60.72	\$64.80
3/4"	\$37.44	\$42.88	\$48.32	\$53.76	\$59.20	\$64.64	\$70.08	\$75.52	\$80.96	\$86.40
1"	\$58.50	\$67.00	\$75.50	\$84.00	\$92.50	\$101.00	\$109.50	\$118.00	\$126.50	\$135.00
1 1/2"	\$105.30	\$120.60	\$135.90	\$151.20	\$166.50	\$181.80	\$197.10	\$212.40	\$227.70	\$243.00
2"	\$175.50	\$201.00	\$226.50	\$252.00	\$277.50	\$303.00	\$328.50	\$354.00	\$379.50	\$405.00
4"	\$514.80	\$589.60	\$664.40	\$739.20	\$814.00	\$888.80	\$963.60	\$1,038.40	\$1,113.20	\$1,188.00

Residential lessee water service delivery (usage) tiers:

METER SIZE	TIER 1	TIER 2	TIER 3
	Gallons Bi-monthly	Gallons Bi-monthly	Gallons Bi-monthly
5/8"	0 – 20,000	20,001 – 40,000	> 40,000
3/4"	0 – 70,000	70,001 – 140,000	> 140,000
1"	0 – 200,000	200,001 – 400,000	> 400,000
1 1/2"	0 – 600,000	600,001 – 1,200,000	> 1,200,000
2"	0 – 1,200,000	1,200,001 – 2,400,000	> 2,400,000
4"	0 – 6,000,000	6,000,001 – 12,000,000	> 12,000,000

Residential lessee water service delivery (usage) fees:

Per 1,000 gallons	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29
Tier 1	\$3.23	\$3.70	\$4.17	\$4.64	\$5.11	\$5.58	\$6.04	\$6.51	\$6.98	\$7.45
Tier 2	\$3.74	\$4.29	\$4.83	\$5.38	\$5.92	\$6.46	\$7.01	\$7.55	\$8.10	\$8.64
Tier 3	\$5.27	\$6.03	\$6.80	\$7.56	\$8.33	\$9.09	\$9.86	\$10.62	\$11.39	\$12.15

(CONTINUED)

**Agricultural Lessee Service Rates:**

Agricultural lessee meter service (base) fees:

Meter size (inches)	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29
5/8"	\$28.08	\$32.16	\$36.24	\$40.32	\$44.40	\$48.48	\$52.56	\$56.64	\$60.72	\$64.80
3/4"	\$37.44	\$42.88	\$48.32	\$53.76	\$59.20	\$64.64	\$70.08	\$75.52	\$80.96	\$86.40
1"	\$58.50	\$67.00	\$75.50	\$84.00	\$92.50	\$101.00	\$109.50	\$118.00	\$126.50	\$135.00
1 1/2"	\$105.30	\$120.60	\$135.90	\$151.20	\$166.50	\$181.80	\$197.10	\$212.40	\$227.70	\$243.00
2"	\$175.50	\$201.00	\$226.50	\$252.00	\$277.50	\$303.00	\$328.50	\$354.00	\$379.50	\$405.00
4"	\$514.80	\$589.60	\$664.40	\$739.20	\$814.00	\$888.80	\$963.60	\$1,038.40	\$1,113.20	\$1,188.00

Agricultural lessee water service delivery (usage) tiers:

METER SIZE	# of structures	TIER 1	TIER 2
		Gallons Bi-monthly	Gallons Bi-monthly
5/8"	N/A	0 – 25,000	> 25,000
3/4"	1	0 – 25,000	> 25,000
3/4"	2	0 – 50,000	> 50,000
1 1/2"	1	0 – 25,000	> 25,000
1 1/2"	2	0 – 50,000	> 50,000
2"	1	0 – 25,000	> 25,000
2"	2	0 – 50,000	> 50,000

Agricultural lessee water service delivery (usage) fees:

Per 1,000 gallons	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29
Tier 1	\$3.23	\$3.70	\$4.17	\$4.64	\$5.11	\$5.58	\$6.04	\$6.51	\$6.98	\$7.45
Tier 2	\$0.82	\$0.94	\$1.06	\$1.18	\$1.30	\$1.41	\$1.53	\$1.65	\$1.77	\$1.89

(END Exhibit "C")

PUUKAPU MAINTENANCE FEE  
APPROVED ON MAY 19, 2014 AND EXTENDED ON MAY 15, 2018

<b>COST COMPONENT</b>	<b>RATE PER MONTH</b>
• Standby Charge: 4-Inch Master Meter \$255.00 per month. \$255.00/184 lots = \$1.39 per lot	\$ 1.39
• Flat Rate Water Charge	\$ 18.00
• Electricity Charge (\$1,692/40 users)	\$ 42.30
• Operations and Maintenance (10,761/184 users)	\$ 58.48
• Potable Water via Spigot (600 gpd/40 users)	\$ 2.24
<b>TOTAL</b>	<b>\$122.41</b>

One-time equipment and installation costs:

<b>EQUIPMENT/INSTALLATION</b>	<b>COST</b>
5/8" Meter	\$114.00
Backflow Preventer	\$675.00
<b>TOTAL</b>	<b>\$789.00</b>

(END Exhibit "D")

## Lindsey, Hokulei

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**From:** Edward Halealoha Ayau <[REDACTED]>  
**Sent:** Saturday, November 21, 2020 5:57 AM  
**To:** DHHL.AdminRules  
**Subject:** [EXTERNAL] Testimony in Support of the Promulgation of Proposed, HAR Chapter 10-4.1 Management of Water Systems

Aloha nui,

I write to unequivocally support the adoption of the proposed Chapter 10-4.1, under Hawaii Administrative Rules (HAR) Title 10, Department of Hawaiian Home Lands, entitled "Management of Water Systems." These rules will improve the effective and efficient operations of all four DHHL water systems by providing the DHHL with the requisite authority it needs to manage a system including enforcement authority when a water customer fails to pay their water bill. These rules lay out a uniform process to manage systems in support of DHHL water managers. I completely support their promulgation.

Ola nā iwi,

E Halealoha Ayau  
[REDACTED]

*We carry in our hearts the true country  
And that cannot be stolen  
We follow in the steps of our ancestry  
And that cannot be broken  
--- The Dead Heart by Midnight Oil (1986)*

## Lindsey, Hokulei

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**From:** Kailapa Board <[REDACTED]>  
**Sent:** Thursday, December 3, 2020 5:44 PM  
**To:** DHHL.AdminRules  
**Cc:** Kailapa Board; Keala Drummondo; Pualani Lincoln Maielua; Liana Aveiro; Cindy Sharp; Gail Noeau; Amoo Kainoa; Tani Waipa  
**Subject:** [EXTERNAL] Proposed Administrative Rule Changes, Water Management System

To: William Aila, David Ka'apu, DHHL Directors and Staff & All Others Concerned

RE: Proposed Administrative Changes to Rules Pertaining to the Water Management System for Kailapa, Hawai'i

Mahalo for taking the time to read this email and for taking the time to seriously consider the comments and concerns the Kailapa community has with regard to the proposed changes. Keeping in mind that DHHL should have, first and foremost, the concern and well being of its beneficiaries in mind we'd like to ask that the department address the following issues:

- Under proposed rule §10-4.1-31(b), water rates can be increased by no more than 10% per thousand gallons once each year. This seems to be much higher than other County water suppliers especially given the fact that DHHL currently possess riparian rights to much of the water that trickles down to our community. Here are some comparisons:
  - Oahu's Board of Water Supply's (BWS) the rate schedule demonstrates a 3-8% raise.
  - **Hawaii county increased its rates at most by about 4%.**
- In terms of it's processes these proposed rule change do not provide a set out process or any parameters to help guide the Department or the Commission in determining how water rates are to be evaluated and raised.
  - §10-4.1-31(b) simply states that water rates will be established by the HHC. The process as outlined by §10-4.1-31(a) states that DHHL will conduct a cost-of-service study each year, based on enterprise accounting and a water service rates analysis every three years.
  - In contrast, according to Oahu's BWS, when increasing rates
    - The BWS Board of Directors conducted an extensive analysis of proposed rate changes, including holding a rates workshop in January 2018, receiving monthly updates from the BWS staff on the rates setting process, and holding five public hearings throughout the island for public input. Public input was given full consideration during the Board's deliberations prior to their approval of the rates.
- The water delivery base fee from Hawai'i County, as of July 2019, was \$20.20 per thousand gallons.
- The water delivery base fee for Kawaiahe during the Fiscal Year 2019 was \$49.07, a \$29.87 difference.
- In 2019, Hawaii County water customers paid a rate of \$0.92 - \$2.01/1,000 gallons
- Kawaiahe beneficiaries paid a rate of \$3.67/1,000 gallons - almost double the cost of average Hawaii County water customers.

At some point the Department must address the disparity between the rates its beneficiaries pay and the rate the average Hawai'i County water customer pays and provide solutions that bring parity to beneficiaries rather than penalization for being a beneficiary.

We look forward to your response and hope that the concerns we've delineated above will be addressed to both the Department's as well as the beneficiaries satisfaction in as timely a manner as possible.

Sincerely,  
The Kailapa Community Association Executive Board  
(members names and email addresses listed above)

Marion A Kapuniaia

December 3, 2020

Department of Hawaiian Home Lands  
P. O. Box 1879  
Honolulu, Hawaii 96805

**SUBJECT: TESTIMONY for Chapter 10-4.1 Hawaii Administrative Rules**

**MANAGEMENT OF WATER SYSTEMS**

- A. **Communication:** Your offices have all the contact information for each Consumer – Emergency and other system matters
1. **Phone AND**
  2. **Written Notice: ALL WRITTEN NOTICES SHALL BE SENT VIA CERTIFIED MAIL WITH A RETURN RECEIPT REQUEST TO BE SIGNED BY THE ADDRESSEE,** which will be returned by the Post Office.

**PURPOSE???? To prove that contact has been made and the intended consumer has received the notice.**

**ONLY DIRECT COMMUNICATION IS ACCEPTABLE!**

3. The number of days for resolve/cure **will start the day after** the addressee receives and signs for the notice.
4. **Number of days for resolve will be 10 days, not 5 days** as is mentioned here and there throughout this document.

**Please correct all subchapters and subsection s (1) + (a +).**

This document is filled with **OPPORTUNITIES FOR NOTICES. ALL REFERENCES TO “NOTICE” SHALL BE CHANGED TO THE PROCESS NOTED.** I would be happy to list them, or verify your changes.

**10-4.1-33 (c) The only written notification shall be as aforementioned- DIRECT WITH CONSUMER!  
NO ELECTRONIC POSTING, NO NEWSPAPER**

**B. ACCESS TO CONSUMERS' PROPERTY SHALL ONLY HAPPEN UPON PROPER NOTICE, AND IF REQUESTED BY THE CONSUMER, ACCOMPANIED BY THE CONSUMER. NO ONE SHALL HAVE THE "RIGHT OF INGRESS TO, AND EGRESS FROM, THE CONSUMER'S PREMISES.**

**UPON EMERGENCY, CALL THE CONSUMER AND TOGETHER RESOLVE THE ISSUE.**

*The only big emergency which could happen is, someone sees a fountain or Geiser which needs immediate attention. Call the consumer, Identify the Problem and Location, Discuss, and Resolve. SIMPLE! We live it! We Do!*

**THIS DOCUMENT SHALL NOT VIOLATE ANYONE'S CONSTITUTIONAL RIGHT.**

**Please correct all related sections & subsections.**

**I would, again, be very happy to assist you in verifying the necessary changes.**

**Respectfully submitted,**

**Marion MK A Kapuniai  
Consumer at Puukapu**

P. S. No time to list every subsection and paragraph – Can do at a later date