

RULES AND REGULATIONS
DEPARTMENT OF PARKS AND RECREATION OF THE
COUNTY OF HAWAII

RULE 7
RULES RELATING TO VETERANS CEMETERIES

EFFECTIVE DATE: JUNE 13, 2003

AMENDMENTS TO THE RULES AND REGULATIONS
OF THE DEPARTMENT OF PARKS AND RECREATION OF THE
COUNTY OF HAWAII

SECTION 1. Rule 7 of the Department of Parks and Recreation of the County of Hawaii, relating to veterans cemeteries, is hereby amended to read as follows:

RULE 7 - RULES RELATING TO VETERANS CEMETERIES

Part 1. General Provisions

- 1.01. Title. These rules and regulations may be cited as the Hawaii County Veterans Cemeteries Rules.
- 1.02. Purpose. These rules are promulgated to clarify and implement Section 363—5 and Chapter 91 of the Hawaii Revised Statutes as amended, and Chapter 15, Article 7, of the Hawaii County Code, to the end that the provisions thereunder may be best effectuated.
- 1.03. Scope. These rules shall apply to all veterans cemeteries and Veterans Cemeteries Committees now or hereafter established by law and which are under the management and control of the County of Hawaii.
- 1.04. Terms and Definitions.
- (a) For the purpose of these rules, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words used in the singular number shall include the plural number and words used in the masculine gender shall include the feminine gender.
 - (b) 'Casket' shall mean a rigid container which is designed for the encasement of a human corpse.
 - (c) 'Children' shall mean both adult and minor children as heretofore defined.
 - (d) 'Children, Adult' shall mean all persons above the age of 21 years who are the issue of or who have been legally adopted by any veteran or serviceman eligible to be interred in any county-managed veterans cemetery.
 - (e) 'Children, Minor' shall mean all persons 21 years of age or under who are the issue of or who have been legally adopted by any veteran or serviceman eligible to be interred in any County-managed veterans cemetery.
 - (f) 'County' shall mean the County of Hawaii.

- (g) 'Dependents' shall mean any spouse or children eligible for interment pursuant to these rules.
- (h) 'Eligible Member' shall mean any serviceman, veteran, national guardsman or reservists as those terms are defined in these rules, who is eligible for burial in a veterans cemetery established in the County of Hawaii.
- (i) 'Multiple Burials' shall mean burials of up to three caskets or urns, or a combination thereof, in one standard grave site.
- (j) 'National Guardsman or Reservist' shall mean any member or former member of the National Guard or Reservists who served at least twenty years and is, or will be, eligible for retirement pay.
- (k) 'Reservation' shall mean the setting aside, prior to the time of death of a person eligible for burial in a veterans cemetery, of a specific burial plot in that cemetery.
- (l) 'Resident' shall mean a person who has his true, fixed and permanent home in the County of Hawaii. For the purpose of this definition, the following acts or conduct shall be evidence of residency:
 - (1) actual physical or bodily presence in the jurisdiction;
 - (2) proportionate time spent within and without the jurisdiction;
 - (3) ownership of real property within the jurisdiction;
 - (4) employment or conducting a business within the jurisdiction;
 - (5) registering or being registered as a voter within the jurisdiction;
 - (6) payment of local or State taxes; or
 - (7) location of immediate family. Immediate family shall mean mother, father, brother, sister of the veteran or serviceman.

The above-enumerated items are not exclusive and other relevant factors may be considered to determine the intent of the person in question.

- (m) 'Serviceman' shall mean any person serving as a member of the Armed Forces of the United States who would, upon the termination of his military service, be entitled to veteran's benefits under Federal laws.
- (n) 'Spouse' shall mean the present husband or wife of the eligible serviceman or veteran, but shall not include persons divorced or legally separated from said serviceman or veteran, or subsequently remarried to someone else.

- (o) 'Urn' shall mean a vessel or vase used for preserving the ashes of dead persons after cremation.
- (p) 'Veteran' shall mean any former member of the Armed Forces of the United States or any person who is now a citizen of the United States:
 - (1) who has served in any of the armed services of any country allied with the United States in any war or campaign in which the United States was also engaged and who was a citizen of the U.S. at the time of death; and
 - (2) who has been discharged from service under other than dishonorable conditions; provided that, in case of multiple military service, the condition of discharge from the last service shall not supersede all prior discharge conditions for the purpose of this rule.
- (q) 'Veterans Cemetery' shall refer to any cemetery managed by the County of Hawaii and established by law for the purpose of interring eligible veterans or servicemen and their dependents.

1.05. Administration. The County Department of Parks and Recreation shall be responsible for the administration of these rules and regulations and may prescribe whatever procedures and forms it may deem necessary for its implementation.

Part 2. Eligibility

- 2.01. Serviceman and Veterans. The following deceased persons are eligible to be buried in veterans cemeteries established in the County of Hawaii:
- (a) Servicemen who are residents or former residents of the County of Hawaii at the time of their death.
 - (b) Veterans with either peacetime or wartime service who are residents or former residents of the County of Hawaii at the time of their death.
 - (c) National Guardsman or Reservists who are residents or former residents of the County of Hawaii at the time of their death.
- 2.02. Spouses of Eligible Members. The spouse of an eligible member may also be interred in the same cemetery as the eligible member, provided that a marriage certificate is produced as proof of marriage and provided that the following conditions are also met:
- (a) The already deceased eligible member must be interred in the same veterans cemetery in which the spouse desires to be buried.
 - (b) If the eligible member is living at the time of the spouse's death, the spouse may be interred in a County veterans cemetery only if the living eligible member shall sign a statement expressing his intention to be buried in the same veterans cemetery as his spouse.

- (c) If the eligible serviceman has not yet been buried in a veterans cemetery in the County of Hawaii, but has been declared officially dead or missing in action, the spouse of such serviceman may be interred in any veterans cemetery in the County of Hawaii to which she has committed, in writing, the remains of the eligible serviceman.
- (d) Any re-marriage of a surviving spouse of a veteran that has been annulled or otherwise declared void by a court or competent jurisdiction.

2.03. Children of Servicemen and Veterans.

- (a) The unmarried minor children of an eligible member who has been buried or whose spouse has been buried in a veterans cemetery in the County of Hawaii may also be interred in the same veterans cemetery.
- (b) The unmarried minor children of any living eligible member who predecease such eligible member and his spouse, may be buried in a veterans cemetery in the County provided the eligible member shall sign a statement committing his remains to the same cemetery.
- (c) The unmarried adult children of an eligible member may also be interred in a veterans cemetery in the County if they are:
 - (1) pursuing a course of instruction at an accredited educational institution, and not over 22 years of age; or
 - (2) incapable of self—support because of a physical or mental disability incurred before attaining the age of twenty-one years. Eligibility shall be supported by the following documents submitted by the next of kin:
 - (A) a statement of the decedent’s marital status;
 - (B) a statement of the degree of the dependency; and
 - (C) a statement of an attending physician about the nature and duration of the physical and/or mental disability.

2.04. Determining Eligibility. The County Department of Parks and Recreation shall determine, in consultation with the State of Hawaii, Veterans Services Counselor for Hawaii County, whether a person is qualified to be buried in a County veterans cemetery. In so doing, the department may require the production of official documents such as birth certificates, military discharge papers, voter registration certificates, driver’s licenses, or marriage certificates, which may be relevant in determining the eligibility of the person in question to be interred in a County veterans cemetery.

Part 3. Plot Reservation

- 3.01. Reservation of plots shall not be allowed, except that all reservations obtained prior to the effective date of this amended rule shall remain in effect unless terminated by:
 - (a) a determination under Section 2.04 that the person to be buried is no longer eligible for burial in a veterans cemetery;

- (b) a withdrawal of the reservation; or
- (c) the non-renewal of a reservation.

3.02. Renewal of Reservation. The Director shall cause to be prepared a list of all reservations. The list shall be reviewed not less than every five years, beginning January 1980; the list shall accurately reflect those reservations which have not been terminated.

The Director shall, not less than 45 days prior to the date that the reservation list is to be reviewed, send notice to all persons who have made a reservation. Notice may be written or oral; written notice may be delivered by mail or by other means, reasonably calculated to reach the intended recipient; if by mail, notice will be deemed given on the date of mailing.

Failure to respond within 60 days shall cause the Director to issue a final notice of termination to be effective 6 months from the date of final notice.

Any person eligible to be buried in a County veterans cemetery for whom a plot was not reserved prior to death shall be buried in a plot designated by the County Department of Parks and Recreation.

3.03. Fees for Renewal of Reservations. Every application for the renewal of a dependent's reservation shall be accompanied by a fee of Two Dollars (\$2.00). The fees shall be applied toward the costs of processing applications for such renewals. No application shall be processed if not accompanied by the appropriate fee.

3.04. Administration. The County Department of Parks and Recreation or such other agency as may be duly designated, shall be responsible for the administration of Part 3 of this Chapter and may prescribe whatever procedures and forms it may deem necessary for its implementation.

Part 4. Burial Procedure

4.01. Responsibilities of Funeral Director. The funeral director in charge of the burial of any person desiring to be interred in a County veterans cemetery shall give immediate notice of the death of such person to the County Department of Parks and Recreation and shall submit all documents required by law along with an application for burial in the veterans cemetery and other documents as may be required or requested by the County Department of Parks and Recreation to determine the eligibility of the decedent to be interred in a County veterans cemetery.

4.02. Processing of Applicants. All applications for burial in County veterans cemeteries shall be processed by the Department of Parks and Recreation who shall determine with all deliberate speed the eligibility of the decedent to be interred in said County veterans cemeteries.

Notice of its determination as to the eligibility or ineligibility of the decedent shall be given to the funeral director and to the family of the deceased.

4.03. Schedule of Burial. When the decedent has been deemed eligible for burial, the County Department of Parks and Recreation shall schedule the burial of the decedent after consultation with the funeral director and under no circumstances shall a burial be

arranged for by the funeral director without approval having first been secured from the County Department of Parks and Recreation.

- 4.04. Burial Days. All burials shall be scheduled at times designated by the Director of Parks and Recreation, State and Federal holidays excepted. No burial shall be scheduled on a weekend or a holiday unless the decedent's family shall arrange for the payment of overtime with affected employee(s).
- 4.05. Charges. There shall be no charge for the burial site nor for the opening and closing of graves. All other charges or expenses not expressly assumed by the County shall be borne by the family or estate of the decedent.
- 4.06. Transportation of Remains of Former Residents. As to former residents qualified to be interred in any veterans cemetery in the County, the cost of transporting the remains to the County will be borne by the family or estate of the deceased or by the military service or other Federal agency as may be allowed under Federal laws.
- 4.07. Multiple Burials. Multiple burials of eligible members and/or their dependents shall be made in one standard grave site. The family or estate of the decedent shall declare prior to the initial burial the number of burials to occur in that grave site. Such burials shall begin at an initial depth of seven feet, with the subsequent burial to be made at the depth of five feet. In cases where it is declared that three eligible burials will occur in one grave site, such burial will begin at an initial depth of nine feet, with subsequent burials to be made at depths of seven and five feet respectively.
- 4.08. Urn Burials. There shall be a section(s) set aside exclusively for urn burials. No casket burials will be allowed in this area.
- 4.09. Casket Burials. All caskets used for burial shall as a minimum standard be made of pressed wood or plywood, commonly referred to as a '#0 Flat Top Coffin'.
- 4.10. Interment. Graves shall be closed as soon as practicable after the interment session or before the close of that business day, and shall be temporarily marked using a temporary grave marker until the Department of Veterans Affairs provides the permanent marker for each grave.
- 4.11. Military Honors. Arrangements for military honors shall be the responsibility of the family or representative of the decedent, not the veterans cemetery.

Part 5. Grave Site Markers; Decorations and Offerings; Operation and Visitation

- 5.01. Type; Size Limits. All grave site markers will be of the type made from marble, granite, or other similar material, with dimensions 24 inches in length, 12 inches in width, and 4 inches in thickness, and will be laid flat on the grave site with the top surface of the marker at ground level. The family or estate of an eligible member may obtain such a marker through the Department of Veterans Affairs at government expense. Bronze markers may also be obtained from the Department of Veterans Affairs. However, costs for the required concrete base shall be at the expense of the family and all arrangements for placement of the base and marker shall be made through the mortuary in charge of funeral arrangements. A marker of the same type and dimensions shall be required for a qualified spouse or child who is interred in the same cemetery as the eligible member, and shall be obtained at private expense at the time of interment. In the event of multiple

burial, the inscription on the marker shall bear the names and other pertinent information of all the decedents interred therein. Placement of the marker shall be determined by the County Department of Parks and Recreation.

- 5.02. Decorations and Offerings. Potted plants and flowers not more than 2 feet in height may be placed at the grave site, but no plants shall be grown on the grave site and no artificial flowers shall be placed on the grave site. Not more than four (4) one gallon sized containers of flowers are allowed on each grave site. However, new burials will be allowed an unlimited amount of flowers for a period of four (4) months. Other decorations and offerings as may be the custom of a religious belief may be placed at the grave site, for a maximum of two weeks, provided they do not adversely affect the general appearance, do not exceed the above height limitations, the common public good, and such other standards as deemed necessary by the County Department of Parks and Recreation. Breakable containers made of glass, ceramic and the like, will not be allowed for any decorations or offerings. Commercially purchased and installed holders for cut flowers and other offerings shall be installed so that the top of the holder is at ground level and no farther than eight (8) inches from the headstone. Flags shall not be permitted to be placed or displayed upon any grave site, except upon the written approval of the Director.
- 5.03. Removal of Decorations and Offerings. The County Department of Parks and Recreation personnel may remove withered, wilted, shriveled or drooping decorations and their containers if they are not properly taken away by friends or family of the decedent within the prescribed time limitations set forth in Section 5.02.
- 5.04. Plot Size. Plot size shall be 4 feet by 9 feet with adequate walkways provided.
- 5.05. Hours of Operation.
- (a) The director or a designated cemetery official shall establish a reasonable schedule of visiting hours for all or portions of the cemetery and close or restrict public use of all or any portion thereof, when necessary for the protection of the area, maintenance, upkeep, construction, or the safety and welfare of persons or property, by the posting of appropriate signs indicating the extent and scope of closure.
 - (b) All persons shall observe and abide by the officially posted signs designating closed area and visiting hours.
 - (c) Hours of operation for the cemetery are:
 - (1) Visitors: Sunrise to sunset, in coordination with the gate opening and closing schedule of the veterans cemeteries.
 - (2) Office: 7:45 a.m. to 4:30 p.m.
- 5.06. Visitors.
- (a) Visitors may be admitted during the hours the cemetery is open.
 - (b) Visitors shall not be permitted to:

- (1) Litter the grounds;
 - (2) Cut, break, remove, or injure trees, shrubs, grass, or other plantings;
 - (3) Use the cemetery for any form of sports or recreation, including but not limited to:
 - (A) Jogging;
 - (B) Skate boarding;
 - (C) Bicycling;
 - (D) Picnicking;
 - (E) Ball playing;
 - (F) Consumption of intoxicating beverages or illegal use of controlled substances;
 - (G) Loitering;
 - (H) Pets. This section shall not apply to seeing eye dogs accompanying their masters.
 - (I) Any service, ceremony or demonstration, except as authorized by a designated cemetery official.
- (c) Visitors at public gatherings or ceremonies shall observe proper standards of decorum and decency while upon the cemetery premises.

Part 6. Maintenance of Grave Sites and Cemeteries

- 6.01. Grave Site Maintenance. The maintenance of markers and decorations and offerings of each grave site shall be assumed by the family or friends of the decedent interred therein.
- 6.02. Flags. The Department of Parks and Recreation shall be responsible for raising and lowering the American Flag daily, Sunday through Saturday.
- 6.03. General Maintenance. The County Department of Parks and Recreation shall be responsible for the establishment and general maintenance of all County veterans cemeteries including the grading, filling, leveling and platting of grave sites; the maintenance of roadways, walks, curbs, fences, buildings and monuments; and the planting, mowing and trimming of grass, trees, and shrubs.

CERTIFICATION

I, Patricia G. Engelhard, Director of the Department of Parks and Recreation of the County of Hawaii, State of Hawaii, do hereby certify:

1. That the foregoing is a full, true and correct copy of the amendments to the Rules and Regulations of the Director of Parks and Recreation on matters relating to veterans cemeteries which were adopted by said Director on May 15, 2003.

2. That notice of the public hearing on the foregoing rule, which notice included a statement of the substance of the proposed rule, was published in the Hawaii Tribune Herald and the West Hawaii Today on April 6, 2003.

Dated this 21st day of May 2003.



PATRICIA G. ENGELHARD, Director
Department of Parks and Recreation

DATE OF PUBLIC HEARING: MAY 15, 2003

APPROVED:




HARRY KIM, Mayor
County of Hawaii

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Hawaii

I hereby certify that the foregoing rules were received and filed in the Office of the County Clerk this 3rd day of June 2003.



County Clerk
County of Hawaii