DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-219
Hawaii Administrative Rules

JUL 02 2012

SUMMARY

1. §11-219-4 is amended.

2. A new §11-219-4.5 is added.

3. §11-219-5 is amended.

4. §11-219-6 and §11-219-6.5 are amended.

5. §11-219-7 and §11-219-7.5 are amended.

6. §11-219-8 is amended.

7. §11-219-10 is amended.

8. A new §11-219-10.5 is added.

9. §11-219-14 is amended.

10. Chapter 219 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 219

PARKING FOR PERSONS WITH DISABILITIES

§11-219-1	Purpose and scope
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§11-219-12	Penalties
§11-219-13	Reciprocity
§11-219-14	Signage and marking of parking space and access aisle

Historical Note: This chapter 11-219 is based substantially upon chapter 19-150. [Eff 12/31/84; am and comp 4/18/94]

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The 4/18/94 compilation repealed §19-150-15.

§11-219-1 Purpose and scope. The purpose of these rules is to establish a uniform parking system to enhance access and the safety of persons with disabilities which limit or impair their ability to walk, and to conform to 23 CFR Part 1235, chapter 291, part III, HRS. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-1, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-2 Interpretation. These rules shall be construed liberally and consistent with the purpose stated in section 11-219-1. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-2, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-3 Severability. These rules are declared to be severable and if any portion or the application thereof to any person, circumstance, or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons, circumstances, or property shall not be affected. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-3, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-4 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Access aisle" means an accessible route adjacent to a parking space reserved for persons with disabilities that provides for clearances appropriate for the loading and unloading of mobility devices and qualified persons with disabilities from a vehicle parked in a parking space reserved for persons with disabilities.

"Certificate of disability" means a medical statement on the person with a disability parking application form signed by a licensed practicing physician who certifies that the person is a person with a disability as defined in this section.

"Enforcement officer" means a police officer of the county, a commissioned volunteer enforcement officer of the county law enforcement agency, a state officer of a parking enforcement agency or a private security agent.

"International Symbol of Access" means the symbol adopted by the Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

"Issuing agency" means the disability and communication access board.

"Licensed practicing physician" means a doctor of medicine, naturopathy, osteopathy, or podiatry duly licensed and authorized to practice in the State of Hawaii in accordance with chapters 453, 455, 460, and 463E, HRS.

"Parking meter" means a device located in the vicinity of a parking space for the purposes of extending parking privileges to persons for a certain number of minutes or hours upon the payment of the required change by a method allowed by the parking meter. The device shall record a certain number of minutes or hours determining the period of time for which parking privileges have been extended. The term "parking meter" shall include a multi-space parking meter device located in the vicinity of the parking spaces it regulates.

"Parking meter space" means any space which is within a parking meter zone regulated by a parking meter, and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably

marked on the curb or on the surface of the street or public parking area.

"Parking meter zone" means a street, portion of a street, or other public parking area established by ordinance as a zone in which the parking of vehicles upon such street or other public parking area shall be regulated by parking meters.

"Parking permit" means the removable windshield placard, temporary removable windshield placard, or special license plates.

"Parking space reserved for persons with disabilities" means a public or private parking space, including the access aisle, designated for the use of a person with a disability that is designed and constructed in compliance with the requirements of the federal Americans with Disabilities Act of 1990, as amended, and related rules and guidelines; and that is marked with a sign designating the parking space as reserved for persons with disabilities.

"Person with a disability" means a person who is limited or impaired in the ability to walk, and who, as determined by a licensed practicing physician:

(1) Cannot walk two hundred feet without stopping to rest due to a diagnosed arthritic, neurological, orthopedic, renal, oncological, or vascular condition;

(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;

(3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(4) Uses portable oxygen; or

(5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association.

"Person with a disability parking application" means a state form provided by the issuing agency that contains the certificate of disability and other necessary information required of all applicants for parking permits under section 11-219-4.

"Placard" means the removable windshield placard or temporary removable windshield placard.

"Private entity" means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied, except where a private entity is also a religious entity.

"Public entity" means the State or any of its counties.

"Removable windshield placard" means a two-sided, hanger-style placard issued to a person who has been certified with a disability which is expected to last six years in accordance with section 291-51, HRS and which includes on each side:

(1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a blue shield;
(2) An identification number;
(3) A date of expiration; and
(4) The words "State of Hawaii".

"Sign designating the parking space as reserved for persons with disabilities" means a sign which contains:

(1) The words, "Reserved Parking";
(2) The International Symbol of Access;
(3) Words indicating that the space is reserved for parking by persons with disabilities who have a valid parking permit; and
(4) The maximum fine for parking illegally in the space.

"Special license plates" means license plates issued to a person whose disability is expected to last for at least six years as certified by a licensed practicing physician. The license plates shall display the International Symbol of Access in a color that contrasts to the background, and in the same size as the letters and numbers on the plates.

"Temporary removable windshield placard" means two-sided, hanger-style placard, issued to a person

who has been certified with a temporary disability up to a period of six months and includes on each side:

(1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a red shield;
(2) An identification number;
(3) A date of expiration;
(4) The words "State of Hawaii"; and
(5) The word "TEMPORARY".

"Transaction fee" means those moneys collected by the counties for issuance of all temporary and replacement placards. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-4, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-51; 23 CFR part 655, subpart F; 23 CFR part 1235)

§11-219-4.5 Agreement with counties to issue permits. (a) The counties are authorized to issue removable windshield placards, temporary removable windshield placards, and replacement placards on behalf of the issuing agency. The counties may retain any transaction fees collected.

(b) The issuing agency shall enter into agreement with the counties to reimburse the counties at a rate of $12 per placard for the issuance of any removable windshield placards for which a transaction fee is not collected. [Eff JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-51; 23 CFR part 655, subpart F; 23 CFR part 1235)

§11-219-5 Person with a disability parking application. (a) In order to be considered for a parking permit and identification card, the applicant shall complete a person with a disability parking application form. The certificate of disability section of the form shall be completed by a licensed

practicing physician and shall be valid for no more than sixty days prior to expiration of the permit.

(b) Reasons for which a person with a disability parking application may be rejected shall include, but not be limited to the following:

(1) Any portion of the person with a disability parking application is illegible or incomplete, or

(2) There are discrepancies within any portion of the person with a disability parking application that may indicate fraudulent tampering.

(c) Individuals who belong to any of the following classes do not qualify for a parking permit based solely on that status:

(1) Persons who have a visual impairment;

(2) Persons who have a mental illness;

(3) Persons who are old; or

(4) Persons who are infants.

(d) The applicant shall present proof of being the person named on the person with a disability parking application form.

(e) The applicant shall submit the person with a disability parking application form in person unless specifically exempted for medical reasons by the certifying physician, in which case the applicant may authorize another person to submit the application in the applicant's stead. Proof that the applicant is the person named on the application form shall also be presented at the time of issuance. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-5, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52, 291-56; 23 CFR part 1235)

§11-219-6 Issuance of parking permits. (a) For the applicant whose disability is expected to last for at least six years, as certified by a licensed practicing physician, the county shall:

(1) Issue one removable windshield placard and one identification card;

(2) Upon assurance that the vehicle is registered in the applicant's name and that the vehicle will be used primarily to transport the applicant, and upon payment by the applicant of an appropriate fee for the special license plates, and completion of any required forms as may be required by the county, shall issue special license plates and an identification card. The fee for the special license plates shall not be more than the regular license plates for the same vehicle class; and

(3) Not issue more than one removable windshield placard to the applicant who also applies for, or already has, special license plates. At no time shall more than one set of valid special license plates be issued to a qualified person with a disability.

(b) For the applicant whose disability is temporary, as certified by a licensed practicing physician, the county shall:

(1) Upon payment of a $12 fee, issue a temporary removable windshield placard, and one identification card. The expiration date of this permit shall be based on the period of disability specified in the certificate of disability, and shall not exceed six months after date of issuance;

(2) Upon request and payment of a $12 fee, issue a second temporary removable windshield placard that shall have the same expiration date as the first temporary removable windshield placard; and

(3) At no time issue more than two valid temporary removable windshield placards to a qualified person with a disability. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-6, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp JUL 02 2012]

(Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52; 23 CFR part 1235)

§11-219-6.5 Issuance of identification cards.
(a) The identification card shall indicate the applicable serial number of the parking permit, and shall have the same date of expiration as the parking permit issued to the person with a disability.
(b) A new identification card shall be issued with the second temporary removable windshield placard. The new identification card shall have the same expiration date as the first temporary removable windshield placard, and shall indicate the serial number of the second temporary removable windshield placard. [Eff and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: SLH 2001, Act 297, §1)

§11-219-7 Replacement of lost, stolen, mutilated, or confiscated parking permits and identification cards. The replacement permit(s) and identification card(s) shall have the same expiration date as the permit(s) and identification card(s) that was lost, stolen, mutilated or confiscated. To replace a parking permit or identification card that has been lost, stolen, mutilated, or confiscated, the person with a disability shall:

(1) Submit to the county a new completed person with a disability parking application form that shall indicate whether the permit or identification card was lost, stolen, mutilated or confiscated. A new certificate of disability is not required if the permit is still valid;
(2) Surrender any remaining items relating to the current parking permit, including the identification card, portion(s) of the

mutilated placard, and remaining special license plate, to the issuing agency;

(3) Complete all applicable forms, and pay the fees as required to the county, for special license plates, pay the fees as required by the county, in an amount not to exceed the fee for regular license plates for the same vehicle class;

(4) Pay $12 to the county for a lost, stolen, or confiscated placard.

(5) Obtain from the county a replacement removable windshield placard or temporary removable placard in exchange for a mutilated removable windshield placard or temporary removable placard, at no cost.

[Eff 12/31/84; am and comp 4/18/94; ren from §19-150-7, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; am and comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-7.5 Renewal of parking permits. (a) Permits may be renewed up to sixty days prior to the expiration of the permit.

(b) Proof that the applicant is the person named on the person with a disability parking application form is not required.

(c) To renew a removable windshield placard a completed person with a disability parking application form shall be submitted to the issuing agency by mail. The issuing agency will process the person with a disability parking application form and issue a new removable windshield placard and identification card to the applicant by mail.

(d) To renew a temporary removable windshield placard a completed person with a disability application form shall be submitted to the county in person. The county will process the person with a disability parking application form, collect applicable fees, and issue a new temporary removable

windshield placard and identification card to the applicant.

(e) Special license plates require recertification of disability every six years to retain the use of the special license plates.

(1) If the person with a disability has also been issued a removable windshield placard, the renewal of removable windshield placard will also extend the ability to use the special license plates.

(2) If a person with a disability does not have a removable windshield placard, a completed person with a disability application form shall be submitted to the county. The county will provide the applicant a new identification card indicating the special license plate number and expiration date.

(3) If a person with a disability has been issued one set of special license plates and one six year removable windshield placard, both expire at the same time. [Eff and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; SLH 2001, Act 297, §1; 23 CFR part 1235)

§11-219-8 Return of parking permits and identification cards. (a) The removable windshield placard, temporary removable windshield placard, and identification card are the property of the issuing agency and shall be returned to the issuing agency:

(1) Upon the death of the person with a disability; or

(2) When the person is no longer qualified per section 291-51, HRS; or

(3) When the removable windshield placard and temporary removable windshield placards are expired.

(b) Special license plates shall be returned to the county:

(1) Before the transfer of ownership of a vehicle to another party. The transfer of ownership for a vehicle shall not be recorded until the special license plates assigned to that vehicle have been replaced or returned to the county;
(2) When the special license plates expire;
(3) When the person no longer meets section 291-51, HRS requirements; or
(4) Upon death of the permittee. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-8, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-9 REPEALED. [R 7/26/04]

§11-219-10 Display of permit and presentation of identification card. (a) The removable windshield placard or temporary removable windshield placard shall be displayed in a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror at all times when parking. When a placard cannot be hung securely from the rearview mirror, the placard shall be displayed on the dashboard.

(b) The person with a disability operating or being transported in the vehicle being parked or left standing shall carry a current identification card and present it to any enforcement officer upon request. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-10, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-54; 23 CFR part 1235)

§11-219-10.5 Metered parking privileges. Any vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield placard issued under this part shall be permitted to park, without payment of metered parking fees, in any parking metered space for a maximum of two-and-a-half hours or the maximum amount of time the meter allows, whichever is longer. All parking fees not specifically exempted under this part shall remain in effect. [Eff JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-55; 23 CFR part 1235)

§11-219-11 Nontransferability. The removable windshield placard, temporary removable windshield placard, special license plates, and identification card are nontransferable. (a) No person other than the person with a disability shall park or cause to stand a motor vehicle displaying a placard or special license plates:

(1) In a parking space reserved for persons with disabilities, as defined in section 11-219-4, or

(2) In order to otherwise receive parking privileges under section 291-55, HRS, except when it is used in connection with the transport of the person with a disability.

(b) A removable windshield placard, temporary removable windshield placard, or special license plates may be confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-11, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-53; 23 CFR part 1235)

§11-219-12 Penalties. Any person who knowingly falsifies an application for a removable windshield

placard, temporary removable windshield placard, special license plates, and identification card, or any renewal or replacement thereof, shall be subject to suspension or revocation of the placard, special license plates, or identification card. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-12, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-53; HRS §291-57; SLH 2001, Act 297 §1; 23 CFR part 1235)

§11-219-13 Reciprocity. The State of Hawaii, counties, and private property owners shall recognize valid removable windshield placards, temporary removable windshield placards, and special license plates which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

(1) Utilize parking spaces reserved for persons with disabilities, or

(2) Exercise other parking privileges afforded by the State, counties, or private property owners for the benefit of persons with disabilities. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-13, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-51.7; 23 CFR part 1235)

§11-219-14 Signage and marking of parking space and access aisle. (a) Parking spaces designated as reserved for persons with disabilities shall be identified as follows:

(1) The parking space shall be posted with the following notice signs:

(A) A reserved parking sign as shown on the "Typical Reserved Parking Sign for Persons with Disabilities" (Exhibit 1) and "Typical Reserved Parking Sign for Van Accessible Stall" (Exhibit 2), dated 10/1/11 at the end of this chapter and made a part of this section. The reserved parking sign shall be located at the front of each parking space reserved for persons with disabilities, except for parallel spaces, where the sign may be posted on the curb side of the access aisle. The reserved parking sign shall be mounted at minimum 60 inches above the finished floor to the bottom of the reserved parking sign. The reserved parking sign shall be mounted on a free-standing pole, on a wall, or suspended overhead. The reserved parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the access aisle or parking space.

(B) A parking space designed to accommodate a passenger van, shall have a van-accessible sign as shown on Exhibit 2 at the end of this chapter. The van-accessible sign shall be mounted immediately below the reserved parking sign at minimum 60 inches above the finished floor to the bottom of the van-accessible sign, unless technically infeasible because of low ceiling height, in which case the van-accessible sign shall be mounted at the highest point above the finished floor.

(C) In residential facilities, where parking spaces are assigned to specific residential dwelling units, or to individuals, identification of accessible parking spaces and access aisles shall not be required.

(2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, the parking space shall be striped on two sides of the parking space. The striping is not required at the curbside of the space. The striping shall be four (4) inches in width and shall be clearly visible in contrast to the parking surface.

(b) Access aisles shall be identified as follows:

(1) Van access aisle shall be posted with a no parking sign as shown on the "Typical Access Aisle Sign" (Exhibit 3) dated 10/1/11, at the end of this chapter and made a part of this section. The no parking in access aisle sign shall be mounted at minimum 60 inches above the finished floor to the bottom of the no parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The no parking in access aisle sign shall be on a free-standing pole, on a wall, or suspended overhead. The sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space. The no parking in access aisle sign shall be located at the front of each access aisle, except for parallel parking spaces, where the sign may be posted on the curbside of the access aisle. The no parking in access aisle sign shall not be placed in the access aisle or parking space. Access aisles, other than van access aisles, shall not require additional signage.

(2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, access aisles shall be outlined except on the curb

side of the space and shall be diagonally striped within the outline. The outline and diagonal striping shall be four inches in width. The diagonal striping shall be at a 45 degree angle to the outline and shall be clearly visible in contrast to the parking surface.

(c) If a private or public entity provides for the towing of illegally parked vehicles, the signage shall comply with the requirements of section 290-11, HRS." [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-14, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp JUL 02 2012] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

EXHIBIT 1

TYPICAL RESERVED PARKING SIGN FOR PERSONS WITH DISABILITIES
(10/1/11)

EXHIBIT 2

TYPICAL PARKING SIGN FOR VAN ACCESSIBLE STALL
(10/1/11)

EXHIBIT 3

TYPICAL ACCESS AISLE SIGN
(10/1/11)

3003

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 219, title 11, Hawaii Administrative Rules, on the Summary Page dated _____ were adopted on JUL 02 2012 following a public hearing held on _____, after public notice was given in the Honolulu Star-Bulletin, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Isle on _____.

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

LORETTA J. FUDDY, A.C.S.W., M.P.H.
Director of Health

NEIL ABERCROMBIE
Governor
State of Hawaii

Dated: 6.21.12

Filed

'12 JUN 21 P4:36

LIEUTENANT GOVERNOR'S OFFICE

APPROVED AS TO FORM:

Deputy Attorney General

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