

TITLE MC-06
DEPARTMENT OF FIRE CONTROL
SUBTITLE 02
DEPARTMENT OF FIRE CONTROL
CHAPTER 1
RULES RELATING TO FIREWORKS

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SUBCHAPTER 1

GENERAL PROVISIONS

§6-201-1 Applicability and scope. These rules shall apply to the importation, storage, possession, sale, purchase, transfer and discharge of fireworks within the County of Maui. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-2 Objectives. These rules establish guidelines and procedures for the regulation of the importation, storage, possession, sale, purchase, transfer and discharge of fireworks, including non-aerial common fireworks, commonly known as firecrackers, aerial common fireworks, and special fireworks within the County of Maui. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-3 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Aerial common fireworks" means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to rise into the air and explode or detonate in the air or to fly about above the ground and which is prohibited for use by any person who does not have a permit for public display issued by the County under section 132D-16, Hawaii Revised Statutes. "Aerial common fireworks" include firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, and jumping jacks, which move about the ground farther than inside a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.

"Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air way bill.

"Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill.

"Common fireworks" means any firework designed primarily for retail sale to the public during prescribed dates and which produces visible or audible effects through combustion and which is classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G.

"Consignee" means the person named in a bill to whom or to whose order the bill promises delivery.

"County" means the County of Maui.

"County fire code" means the "Uniform Fire Code, 1988 Edition" (UFC), and the "1989 and 1990 Uniform Fire Code Supplements," as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials, and as amended by chapter 16.04A, Maui County Code.

"County building code" means the "Uniform Building Code, 1997 Edition" as copyrighted and published by the International Conference of Building Officials, and as amended by chapter 16.26, Maui County Code.

"Cultural" means relating to the arts, customs, traditions, mores, and history of all of the various ethnic groups of Hawaii.

"Department" means the department of fire control, County of Maui.

"Discharge" means to set off, ignite, or cause to explode.

"Fire chief" means the fire chief of the department of fire control, County of Maui, or a designated representative.

"Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the

United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not include automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its or other devices which contain twenty-five hundredths of a grain or less of explosives substance. The term "fireworks" also shall not include any explosives and pyrotechnics regulated under chapter 396, Hawaii Revised Statutes.

"Firing area" means the area for public display selected for the discharge of aerial shells. The firing area shall be located so that the trajectory of the shells shall not come within twenty-five feet of any overhead object and ground display pieces shall be located at a minimum distance of seventy-five feet from spectator viewing areas and parking areas. Exception: For movable ground pieces with greater hazard potential (such as large wheels with powerful drivers, roman candle batteries, and items employing large salutes) the minimum separation distance shall be increased to one hundred twenty five feet per National Fire Protection Association Standard 1123 "Outdoor Display of Fireworks, 1995 Edition."

"Firecracker" means a non-aerial common firework which is a single paper cylinder not exceeding one and one-half inches in length excluding the fuse and one-quarter of an inch in diameter containing a charge of not more than fifty milligrams of pyrotechnic composition.

"Import" (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in these rules) means to bring or attempt to bring fireworks into the state or to cause fireworks to be brought into the state.

"License" means a nontransferable, formal authorization, valid for a period not to exceed one year from the date of issuance to March 31 of the following year and which the fire chief is hereby authorized to issue under chapter 132D, Hawaii Revised Statutes, to engage in the act or acts specifically designated herein.

"Non-aerial common fireworks" means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to remain on or near the ground and which, while stationary or spinning

rapidly on or near the ground, emits smoke, a shower of colored sparks, whistling effects, flitter sparks or balls of colored sparks and combination items which contain one or more of these effects. "Non-aerial common fireworks" includes firework items commonly known as firecrackers, snakes, sparklers, fountains, and cylindrical or cone fountains which emit effects up to a height not greater than twelve feet above the ground, illuminating torches, bamboo cannons, whistles, toy smoke devices, wheels, and ground spinners which when ignited remain within a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, novelty or trick items, combination items, and other fireworks of like construction which are designed to produce the same or similar effects.

"Non-profit community group" means an organization exempt from income tax and described in section 501(c) of the Internal Revenue Code and which complies with requirements under federal, state and county laws regulating the conduct of charitable or nonprofit organizations.

"Permit" means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which the fire chief is authorized to issue under chapter 132D, Hawaii Revised Statutes, to engage in the act or acts specifically designated herein.

"Person" means any individual, organization, corporation, club, sole proprietor, partnership, establishment, or other similar organization or entity.

"Public display" means a public exhibition and the discharge of fireworks for commercial activities (including such activities as movie or television production).

"Pyrotechnic composition" or "pyrotechnic contents" means the combustible or explosive component of fireworks.

"Special fireworks" means any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a public display permit issued by the county.

"State fire code" means the State Model Fire Code as adopted by the State of Hawaii on March 27, 1992, pursuant to chapter 132, Hawaii Revised Statutes, which model code adopts, with modifications, the "Uniform Fire Code, 1988 Edition" (UFC), and the "1989 and 1990 Uniform Fire Code Supplements," as copyrighted and published by the Western Fire Chiefs Association and the International Conference of Building Officials.

"Unit" means one individual firecracker. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 2

LICENSES

§6-201-4 General license provisions. (a) It shall be unlawful for any person to import, store, transfer, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or non-aerial common fireworks without a license issued by the fire chief. It shall be unlawful to possess aerial common fireworks or special fireworks without a license to store fireworks issued by the fire chief.

(b) A separate license shall be required for:

- (1) Importation;
- (2) Each storage site;
- (3) Each transfer site;
- (4) Each wholesaling site; and
- (5) Each retailing site.

(c) A license may be issued only to a person eighteen years of age or older.

(d) Licenses shall be non-transferable.

(e) Licenses shall be valid only from the date of issuance or effect to March 31 of each year.

(f) Licenses shall be prominently displayed in public view and secured at the location for which the license has been issued.

(g) Persons to whom licenses are issued shall comply with the applicable provisions of section 6-202-5 and with all applicable federal, state, and county laws. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-5 Applications for licenses. (a) Applications for licenses to import, store, transfer, offer to sell, or sell, at wholesale or retail, aerial common fireworks, special fireworks, or non-aerial common fireworks may be obtained at the department's fire prevention bureau, 21 Kinipopo Street, Wailuku, Hawaii 96793, or at those locations so designated by the fire chief.

(b) Applications for all licenses shall be submitted to the department's fire prevention bureau at least twenty working days before the date on which importing, storage, transferring, wholesaling or

retailing activities would begin. Completed applications for licenses may be delivered in person to the department's fire prevention bureau during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department's Fire Prevention Bureau, or to those locations and times so designated by the fire chief. Proper identification must be provided in person prior to issuance of license.

(c) The fee for each license shall be payable by check or money order to the "Director of Finance" and must be submitted to the department with the application. The fee shall be non-refundable and cash shall not be accepted. The fee for each license required under this section shall be for each year, fraction of a year, or event in which the licensee plans to conduct business in the County where the permitted activity is to occur. The fee schedules shall be set forth in the annual budget.

(d) Non-profit community groups shall be exempt from the license fees for importation and storage of fireworks for public displays once a year.

(e) The fire chief shall determine whether or not to issue the license. The fire chief may place reasonable conditions on any license to prevent any safety hazards. Licenses or denials of licenses shall be mailed to the applicant by the fire chief unless other arrangements have been mutually agreed upon by the applicant and the fire chief.

(f) Applications for all licenses shall state the following:

- (1) The date of the application and the name, address, telephone number, and age of the applicant;
- (2) If the applicant is a sole proprietor, the name of the proprietor;
- (3) If the applicant is a partnership, the name of the partnership and the names of all partners; or
- (4) If the applicant is a corporation, the name of the corporation and the names and titles of its officers.

(g) If the license is to import fireworks, the application shall also include the following:

- (1) The address of the location of the importer;
- (2) The date upon which importation will begin; and

- (3) The class and estimated quantity of fireworks to be imported.
- (h) If the license is to store, transfer, offer to sell, or to sell fireworks, the application shall also include the following:
 - (1) The date upon which the storage, transfer, sale, or offers for sale will begin;
 - (2) The address of the location of the licensee;
 - (3) The address where the fireworks will be stored, and the address where the sales, transfers or offers to sell will occur; and
 - (4) The class and estimated quantity of fireworks to be stored, transferred, or sold.
- (i) The fire chief may deny a license if the applicant is not in compliance with the requirements of these rules or chapter 132D, Hawaii Revised Statutes. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-6 Power of fire chief to conduct inspections. Anytime prior to or following the issuance of a license the fire chief may inspect the proposed location where the fireworks will be stored, transferred, or sold, at wholesale or retail to ensure that the applicant is in compliance with the state fire code, county fire code and county building code. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-7 Licensee duties and responsibilities.

- (a) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks to a licensed retailer, to sell or offer to sell any fireworks at any time to any person who does not present a valid permit.
- (b) The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks, and the seller or transferor shall indicate on the permit the amount and type of fireworks sold or transferred;
- (c) The seller or transferor shall retain a copy of the permit and shall submit the permit copy to the department within seven calendar days of the sale or transfer.

(d) No fireworks shall be sold or delivered to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit previously to have been purchased, if any; and

(e) No fireworks shall be sold to a permittee holding a permit more than five calendar days prior to the designated periods for use as set forth in section 6-201-11. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-8 License revocation. (a) If a licensee fails to comply with the requirements of these rules, chapter 132D, Hawaii Revised Statutes, any license condition or applicable county laws, or if the fire chief determines that the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard, the fire chief may immediately revoke the license.

(b) If the fire chief discovers at a later date that a licensee has been convicted of a felony under chapter 132D, Hawaii Revised Statutes, the fire chief shall revoke the licensee's license and no new license shall be issued to the licensee for a period of two years. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 3

PERMITS

§6-201-9 General permit provisions. It shall be unlawful to purchase or discharge non-aerial common fireworks commonly known as firecrackers, aerial common fireworks, or special fireworks without a permit. The following provisions shall apply to all permits:

- (1) A permit may only be issued to a person eighteen years of age or older.
- (2) Permits shall be nontransferable.
- (3) Permits shall be valid only when the fireworks are used at the site, time, and date so indicated on the permit.
- (4) Permits shall be signed by the seller or transferor pursuant to section 6-201-7.
- (5) Permits shall be prominently displayed in public view at the site, time, and date of the fireworks discharge.
- (6) A permit may be denied if the proposed discharge of fireworks presents a substantial inconvenience to the public or presents an unreasonable fire or safety hazard.
- (7) If the permittee fails to remain in compliance with the requirements as set forth in these rules or in chapter 132D, Hawaii Revised Statutes, the fire chief may immediately revoke the permit.
- (8) The date of issuance, effect, and expiration shall be noted on the permit, but in no case shall the expiration date exceed the period of one year from the date of issuance of the permit.
- (9) The fire chief may place reasonable conditions on any permit to prevent safety hazards. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-10 Types of permits. The following types of fireworks permits shall be issued by the fire chief upon approval of a permit application:

- (1) Permit for the purchase and discharge of non-aerial common fireworks commonly known as firecrackers for events set forth in section 6-201-11.
- (2) Permit for the purchase and discharge of non-aerial common fireworks commonly known as firecrackers for cultural purposes or events as set forth in section 6-201-11.
- (3) Permit for the purchase and discharge of aerial common fireworks, special fireworks, or both, for public displays. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-11 Permit for purchase and discharge of non-aerial common fireworks commonly known as firecrackers.

(a) A permit shall be required for the purchase and discharge of non-aerial common fireworks commonly known as firecrackers. Non-aerial common fireworks may be discharged within the County during the following periods:

- (1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day;
- (2) From 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and
- (3) From 1:00 p.m. to 9:00 p.m. on Independence Day; provided that not more than five thousand units of firecrackers shall be allowed under each permit.

(b) A permit for purchase and discharge of non-aerial common fireworks commonly known as firecrackers for cultural purposes shall be required if the proposed cultural use is to occur at any time not specified in subsection (a) of this section. A permit issued pursuant to this subsection authorizes the purchase and discharge of non-aerial common fireworks commonly known as firecrackers from 9:00 a.m. to 9:00 p.m. on the date for which the permit is issued; provided, that not more than five thousand units of firecrackers shall be allowed under each permit. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-12 Permit for purchase and discharge of aerial common fireworks and special fireworks. (a) A permit shall be required for the purchase and discharge of aerial common fireworks and special fireworks, or both.

(b) No person with a valid permit shall sell or transfer aerial common fireworks, or special fireworks, or both, to any other person. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-13 Applications for permits. (a) The following provisions shall apply to all permit applications:

- (1) Applications for permits shall be obtained at the department's fire prevention bureau, 21 Kinipopo Street, Wailuku, Hawaii 96793, or at those locations so designated by the fire chief.
- (2) Completed applications for permits may be delivered in person to the department's fire prevention bureau during business hours from 8:00 a.m. to 4:00 p.m. or mailed to the department's fire prevention bureau, or at those locations and times so designated by the fire chief. Proper identification must be provided in person prior to issuance of permit.
- (3) The fire chief shall determine whether or not to issue the permit. Permits or denials of permit applications shall be mailed to the applicant by the fire chief unless other arrangements have been mutually agreed upon by the applicant and the fire chief.
- (4) All permit applications shall be in writing, signed by the applicant and shall include:
 - (A) Name, age, telephone number, and address of the applicant and permittee, if different;

- (B) Name(s) of the organization's, corporation's, club's, establishment's, or other entity's proprietor(s), partner(s), or officer(s) and verification that the person making the application is the authorized agent of the applicant;
 - (C) Date of the permitted activity;
 - (D) Location where the permitted activity is to occur;
- (5) The fee for all permits shall be set forth in the annual budget, payable to the "Director of Finance", and submitted at the time of the application. No cash shall be accepted. The fee shall be non-refundable.
- (6) A permit issued pursuant to this section shall not allow purchase and discharge of non-aerial common fireworks for more than one event.
- (b) Permits for the purchase and discharge of non-aerial common fireworks for designated periods prescribed in section 6-201-11 relating to New Year, Chinese New Year and Independence Day.
- (1) Applications for permits to purchase and discharge non-aerial common fireworks for use during the designated periods set forth in section 6-201-11 shall include the estimated quantity of firecrackers to be used under the permit, but shall not exceed five thousand units.
- (2) Any purchase of fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated periods for use as set forth in section 6-201-11.
- (c) Permits for the purchase and discharge of non-aerial common fireworks for proposed cultural use during time periods other than designated time periods set forth in section 6-201-11.
- (1) The application shall include the following:
- (A) Name, address, telephone number and age of the person who will supervise the use of the firecrackers;
 - (B) Estimated quantity of firecrackers to be used under the permit, but shall not exceed five thousand units.

- (2) A person, including the proprietor, partner, corporate officer or duly authorized agent of any temple, cemetery, or any cultural association, lion dance club, or other similar organization desiring to purchase and discharge non-aerial common fireworks for cultural purposes or occasions, or desiring to provide for the discharging of non-aerial common fireworks by members of their organizations, clients, patrons or customers, for cultural purposes or occasions may obtain a permit pursuant to this subsection.
 - (3) A permit may be issued to an establishment for the purchase and discharge of non-aerial common fireworks at the establishment during the period of the permit. Such permit shall allow the establishment to purchase and discharge non-aerial common fireworks for cultural purposes specified in the permit. The time period of the permit for the establishment shall not exceed six months.
 - (4) Any purchase of fireworks with a permit issued pursuant to this section shall not occur more than five calendar days prior to the designated period for use as stated on the permit.
- (d) Permits for aerial common fireworks or special fireworks, also known as public display permits.
- (1) A permit may be issued to purchase and discharge aerial common fireworks, special fireworks, or both, for a public display.
 - (2) The application shall include the following:
 - (A) The name, age, and address of the person who will operate the public display, and verification that the person is a licensed pyrotechnic operator as duly authorized by the State of Hawaii;
 - (B) The time, date, and plot plan of the place for the public display;
 - (C) The type and quantity of aerial common fireworks, special fireworks, or both, to be displayed publically; and
 - (D) The purpose or occasion for which the public display is to be presented.
 - (3) An application for a public display permit shall be submitted to the department's fire

prevention bureau not less than twenty working days before the proposed date of the public display.

(4) No public display permit shall be issued unless the applicant presents, at the applicant's option, either:

(A) A certificate of an insurance carrier or a policy providing for the payment of damages in the amount of not less than \$5,000 for injury to, or death of, any person, and subject to the foregoing limitation for one person; in the amount of not less than \$10,000 for injury to, or death of, two or more persons; and in the amount of not less than \$5,000 for damage to property, caused by reason of the authorized public display and arising from any tortuous acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the public display and name the County as an additional insured if the public display is on County property or is sponsored in whole or in part by the County; or

(B) The bond of a surety company duly authorized to transact business within the state, or a bond with not less than two individual sureties who together have assets in the state equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than \$10,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized public display and arising from any tortuous acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect

for not less than ten days after the date of the public display.

- (6) The fire chief may require insurance or bond coverage in amounts greater than the minimum amounts set forth in subparagraph (5) of this subsection if deemed necessary or desirable in consideration of such factors as:
 - (A) Location and scale of the public display;
 - (B) Type of aerial common fireworks, special fireworks, or both, to be used; and
 - (C) Number of spectators expected.
- (7) Prior to the issuance of a public display permit and at the discretion of the fire chief, an inspection of the proposed firing area may be required. Inspections, when conducted, shall ascertain compliance with National Fire Protection Association Standards 1123 entitled "Outdoor Display of Fireworks" or 1126 entitled "Pyrotechnics Before A Proximate Audience, 1995 Edition", which are incorporated herein by reference.
- (8) A public display permit may be denied by the fire chief if the requirements imposed by these rules or chapter 132D, Hawaii Revised Statutes are not met. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-14 Permit revocation. The fire chief may immediately revoke or suspend any permit for public display of aerial common fireworks or special fireworks, or both, for the following reasons:

- (1) The climatic, atmospheric, or other conditions on the day of the proposed firing may reasonably be believed to make the use of aerial common fireworks, special fireworks, or both, hazardous to persons or property; or
- (2) Any requirement imposed by these rules or chapter 132D, Hawaii Revised Statutes, or any condition of the permit necessary to minimize the danger to persons or property is not met. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 4

IMPORTATION, BILL OF LADING, NOTIFICATION AND STORAGE

§6-201-15 Licensee's duty of notification. Any person who has obtained a license and ships fireworks or causes fireworks to be shipped into the county shall:

- (1) Designate with specificity on the bill of lading or shipping manifest the type(s) of fireworks in each shipment.
- (2) Declare with specificity on the bill of lading or shipping manifest the gross weight of aerial common fireworks, non-aerial common fireworks, and special fireworks in each shipment.
- (3) Declare with specificity on the bill of lading or shipping manifest, the location of the storage facility, if applicable, in which the fireworks are to be stored.
- (4) Prior to shipment and when booking each shipment of fireworks, notify the fire chief regarding whether the shipment will be distributed from:
 - (A) Pier to pier;
 - (B) Pier to warehouse or storage facility; or
 - (C) Pier to redistribution.
- (5) At the time shipping is booked, the licensee shall notify the fire chief in writing of the expected shipment's landing date. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-16 Discretionary inspection of shipment of fireworks. The fire chief shall be allowed to inspect any shipment of fireworks within the county. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-17 Approval to store fireworks. (a) The facility in which fireworks are to be stored must:

- (1) Obtain a license pursuant to subchapter 2; and

- (2) Satisfy the requirements of the State fire code, County fire code and County building code. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-18 Seizure and forfeiture of fireworks. Any fireworks within the county shall be subject to seizure and forfeiture if:

- (1) The importer or consignee does not have in the importer's or consignee's possession a valid license to import fireworks under subchapter 2;
- (2) The consignee does not have a valid license to store fireworks under subchapter 2; or
- (3) The fireworks have not been declared or have been mis-declared in violation of section 6-201-15. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-19 Importation of aerial common fireworks, special fireworks, or both, for public display. Aerial common fireworks, special fireworks, or both, shall only be imported and stored, if necessary, in an amount sufficient for an anticipated three-month inventory; except that if a licensee provides aerial common fireworks, special fireworks, or both, for public displays more than once a month, the licensee may import or store, if necessary, sufficient aerial common fireworks special fireworks, or both for a six-month inventory. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 5

GENERAL PROHIBITIONS

§6-201-20 Unlawful to remove or extract pyrotechnic contents. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person to remove or extract the pyrotechnic contents from any fireworks without a permit. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-21 Unlawful to throw any ignited fireworks from a moving vehicle. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person to throw any ignited fireworks from a moving vehicle without a permit. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-22 Unlawful to discharge fireworks in the vicinity of health care facilities and facilities for the care of animals. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person to discharge any fireworks within one thousand feet of any operating hospital, convalescent home, for the elderly, or animal care hospital without a permit. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-23 Unlawful to discharge fireworks in schools. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person to discharge any fireworks in any school building, or on any school grounds and yards without a permit and authorization from the appropriate school official. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-24 Unlawful to discharge fireworks on public ways, in parks, cane fields, or places of worship. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person without a permit to discharge any fireworks on any highway, alley, street, sidewalk, or other public way; in any park; within fifty feet from a cane field; or within one thousand feet from any building used for public worship during the period when services are held. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-25 Unlawful to discharge fireworks from a hotel. Except as permitted by section 132D-6, Hawaii Revised Statutes, it shall be unlawful for any person to discharge any fireworks within five hundred feet from any hotel without a permit. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-26 Prohibitions relating to minors below age eighteen years. It shall be unlawful for any person to offer for sale, sell, or give any fireworks to minors, and for any minor to possess, purchase, or discharge any fireworks, except that the parents or guardians may allow the minor to discharge fireworks while under the immediate supervision and control of an adult. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 6

PENALTIES

§6-201-27 Penalty. (a) Any person importing aerial common fireworks or special fireworks without a valid license shall be guilty of a class C felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed five years or both.

(b) Any person purchasing, possessing, or discharging aerial common fireworks or special fireworks without a valid permit or storing, selling, or possessing aerial common fireworks or special fireworks without a valid license:

(1) If the total weight of the aerial common fireworks or special fireworks is twenty-five pounds or more, shall be guilty of a class C felony; or

(2) If the total weight of the aerial common fireworks or special fireworks is less than twenty-five pounds, shall be guilty of a misdemeanor, punishable by a fine not to exceed \$2,000 or imprisonment not to exceed one year or both.

(c) Any person violating subchapter 4 shall be subject to the following for shipments of fireworks:

(1) Twenty-five pounds or less gross weight shall be a petty misdemeanor;

(2) Over twenty-five pounds to three hundred pounds gross weight shall be a misdemeanor;

(3) Over three hundred pounds to ten thousand pounds gross weight shall be a class C felony; and

(4) More than ten thousand pounds gross weight shall be a class B felony.

(d) Any person who transfers or sells aerial common fireworks or special fireworks to a person who does not have a valid permit shall be guilty of a class C felony.

(e) Any person holding a retailer license to sell non-aerial common fireworks and who sells non-aerial common fireworks commonly known as firecrackers in a package size larger than five thousand units shall be guilty of a misdemeanor.

(f) Any person who removes or extracts the pyrotechnic contents from any fireworks and uses the

contents to construct fireworks or a fireworks related device shall be guilty of a misdemeanor.

(g) Except as provided in subsections (a), (b), (c), (d), (e), and (f) of this section, or as otherwise specifically provided for in chapter 132D, Hawaii Revised Statutes, any person violating any other provision of chapter 132D, Hawaii Revised Statutes, shall be fined not more than \$2,000 for each violation. [Eff 12/24/00]
(Auth: HRS Chapter 132D; Maui County Charter §8-7.3)
(Imp: HRS Chapter 132D)

SUBCHAPTER 7

APPEALS

§6-201-28 Right to a hearing. Whenever the fire chief denies, suspends or revokes a firework license or permit under these rules and regulations, the fire chief shall immediately notify the applicant, licensee or permittee in writing, by registered or certified mail with return receipt requested, of the fire chief's decision and the right of the applicant, licensee or permittee, to a hearing. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-29 Filing of petition. (a) The applicant, licensee or permittee shall have ten calender days from the date of receipt of the fire chief's decision denying the issuance of a license or permit or revoking or suspending a license or permit, to file a written petition of appeal for a hearing with the fire chief. Appeals submitted after the time limits prescribed in this section will be considered untimely.

(b) Petition of appeals shall be filed with the department's fire prevention bureau, 21 Kinipopo Street, Wailuku, Hawaii 96793.

(c) The petition of appeal shall contain the following information:

- (1) Petitioner's name, address, and telephone number.
- (2) The issue on appeal.
- (3) A statement of the relevant facts.
- (4) The remedy sought, including the rationale and legal basis in support of the requested remedy.
- (5) Petitioner's signature and the date the petition is submitted to the department. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-30 Designation of hearing officer. The fire chief may designate a hearing officer who is assigned to a division other than the fire prevention bureau. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-31 Hearing. (a) Within ten calendar days from the filing of a petition of appeal, the fire chief or a designated hearing officer shall notify the petitioner in writing as to the date, time and place of the hearing by registered or certified mail with return receipt requested. The petitioner shall be given written notice of the hearing at least fifteen days prior to the hearing.

(b) The notice of hearing and hearing shall be in conformity with the provisions of chapter 91, Hawaii Revised Statutes, relating to contested cases. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-32 Final decision and order. Each decision and order shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. The petitioner shall be notified by delivery or mailing of a certified copy of the decision and order and accompanying findings of facts and conclusions of law within thirty days from the close of the hearing. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

§6-201-33 Judicial review. Any person aggrieved by the final decision and order of the fire chief or designated hearing officer may appeal such action in the circuit court in accordance with section 91-14, Hawaii Revised Statutes. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)

SUBCHAPTER 8

MISCELLANEOUS

§6-201-34 Severability. If any chapter, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of these rules is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. [Eff 12/24/00] (Auth: HRS Chapter 132D; Maui County Charter §8-7.3) (Imp: HRS Chapter 132D)