



National Park Service
U.S. Department of the Interior

Pu'ukoholā Heiau
National Historic Site

62-3601 Kawaihae Road
 Kawaihae, HI 96743

Superintendent's Compendium
 Of Designations, Closures, Permit
 Requirements and Other Restrictions
 Imposed Under Discretionary Authority.

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Approved:

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Daniel K. Kawaiaea, Jr., Superintendent

April 13, 2022

Date

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of Pu'ukoholā Heiau National Historic Site unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

Visiting Hours:

- Visitor Center will open daily from 7:30 a.m. to 5:00 p.m. Hours are subject to change for closures due to emergency or hazardous conditions.
- Entrance Road to Samuel M. Spencer County Beach Park at O'hai Ula will be open daily from 6:00 a.m. to 9:00 p.m. subject to closure for monthly maintenance, emergency, or hazardous conditions.

Determination: It is necessary to establish hours that the public may enter an area in order to protect the natural and cultural resources from resource damage, theft, vandalism and inappropriate activities. It is also necessary for visitor safety since these areas can present hazardous conditions and park staff is not generally available.

Unmanned Aircraft: Launching, landing or operating an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries National Historic Site is prohibited except as approved in writing by the superintendent.

Definition: The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links). This

term includes all types of devices that meet this definition (e.g. model airplanes, quad-copters, drones that are used for any purpose, including for recreation or commerce).

Determination: The conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temples (Heiau) associated with Kamehameha the Great. The use of unmanned aircraft may adversely impact visitor experiences by disturbing the enjoyment of the natural and cultural landscape and soundscape. The use of unmanned aircraft presents unacceptable risks to visitors (collisions between unmanned aircraft and visitors, the uncontrolled fall of unmanned aircraft, contact with spinning propellers or rotors of unmanned aircraft).

COVID-19 Mask Implementation

*When The COVID-19 Community Level is **LOW** or **MEDIUM** in the county or all the county or counties where the park is located based on data provided by the Centers of Disease Control and Prevention (CDC), individuals are not required to wear mask.*

*When the COVID-19 Community Level is **HIGH** in the county or all the counties where the park is located based on data provided by the CDC, all individuals over the age of two must wear masks, regardless of vaccination status, in all common areas and shared workspaces in buildings owned, leased, or otherwise controlled by the National Park Service, including, but not limited to, park visitor centers, administrative offices, lodges, gift shops and restaurants.*

*When the COVID-19 Community Level is **HIGH** in one or more, but not all, of the counties where the park is located based on data provided by the CDC, the superintendent will determine whether individuals are required to wear masks. The requirement, if any, will apply to all facilities within the park.*

Masks must cover the nose and mouth and fit snugly around the nose and chin with no large gaps around the sides of the face. Masks not designed to be protective, masks with ventilation valves, and face shields do not meet the requirement.

Regardless of the COVID-19 Community Level, individuals may wear masks if they choose to do so. Where a state, local, tribal, or territorial government where the park is located imposes more protective mask-wearing requirements than those indicated by the COVID-19 Community Level, individuals must follow those more protective requirements within the park. More protective state, local, tribal, or territorial mask-wearing requirements are hereby adopted as federal requirements in all units of the National Park System located within that state, locality, area subject to a federally recognized Indian tribe's regulatory jurisdiction, or territory, regardless of a particular park's jurisdictional status.

Additionally, all individuals must wear masks in or on public transportation conveyances and transportation hubs/facilities, to the extent required by current orders or directives issued by the CDC, the Transportation Security Administration (TSA), or other federal agencies with jurisdiction over those conveyances or areas. As of March 4, 2022, CDC and TSA orders or directives require all individuals regardless of vaccination status to wear masks in indoor areas of all forms of public transportation conveyances, including busses, trains, and boats/ferries, and in the indoor premises of transportation hubs/facilities. Individuals are not required to wear masks while outdoors on conveyances or while outdoors on the premises of transportation hubs/facilities.

Authority: 36 CFR 1.5(a)(2)

Notice: The administrative order applies to all individuals subject to the regulatory authority of the National Park Service (NPS) within the boundaries of Pu'ukoholā Heiau National Historic Site including visitors, government employees, concession employees, and stake holders.

Determination: *The NPS issues this administrative order for the purpose of maintaining public health and safety during the COVID-19 pandemic emergence. The order is consistent with Executive Order 13991. Protecting the Federal Workforce and Requiring Mask-Wearing.*

The directive requires the NPS to take the actions identified, as appropriate and consistent with applicable law, to require compliance with Centers of Disease Control and Prevention guidelines with respect to wearing masks, maintaining physical distance, and other public health measures by: on-duty or on-site Federal employees; on-site Federal contractors; and all persons in Federal buildings or on Federal lands.

Public Use Limits:

- Public assembly, and/or gathering of more than 20 persons (maximum of 50 people in any park area) requires a permit (Boardley court decision allows up to 25 for 1st Amendment activity).
- Camping is prohibited.

Determination: This area is designated as Day Use only. This is necessary for visitor safety and the protection of the natural and cultural resource from vandalism, theft and inappropriate use. Park staff is not generally available.

Closures:

- The park is closed to volleyball, football, baseball, flying disks "Frisbee", horse shoe, and all other similar activities other than traditional Hawaiian games.

Determination: These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temples (Heiau) associated with Kamehameha the Great.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted:

Public Use Limits:

- Hiking or Pedestrian Traffic:
 - ..Restricted to trail tread or walkway on all trails and walkways.
 - ..Any access into and upon Pu'ukoholā and/or Mailekini Heiau requires a Special Use Permit.
 - ..Maximum limit of 20 people on Pu'ukoholā and Mailekini Heiau for educational purposes except for special events where the superintendent has the authority to determine the group size.

Picnicking:

- Is limited to 30 minutes in duration unless authorized by a permit.
- Is limited to groups of 10 or less people unless authorized by a permit.

Determination: Pu'ukoholā Heiau Historic Site was established... "in order to restore and preserve in public ownership the historically significant temple (Heiau) associated with Kamehameha the Great...". These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temple (Heiau) associated with Kamehameha the Great.

Water Use:

- Launching or beaching of all water vessels (kayaks, rubber rafts, or other motorized or non-motorized vessels) is prohibited.
- Swimming is prohibited along Pelekane Beach.

Determination: These conditions are established to ensure the protection of the scenic values and natural or cultural resources of the historic Pelekane area, also known as the Royal Courtyard. In addition, to protect human life, for visitor safety due to murky and shallow waters, along with frequent sighting of sharks in the bay.

Segway Use:

- Segway and gas or electric motorized scooters, as defined under section 1.5 are motor vehicles. The park imposes an interim restriction on the use of Segway and motorized scooters from all areas within the park including park roads, trail, and sidewalks. However, any park visitor with a documented disability is permitted to use Segway and electric motorized scooters throughout the park, including all appropriate structures, facilities, park roads, sidewalks, trails, and other surfaces when such devices are used for the sole purpose of mobility assistance. Finally, use of a mobility assistive device, as outlined above, must adhere to the following:
 - ...A person shall operate any mobility assistive device in a safe and responsible manner; maximum speed will not exceed more than 8 mph (Segway "sidewalk/Intermediate" key), so as not to endanger one's self or any other visitor.
 - ...A person riding any mobility assistive device upon and along a sidewalk, while crossing a roadway in a crosswalk or on any other surface shall have all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobility assistive device operator must always yield to pedestrians.

Determination: This provides for the use of mobility assistive devices within the park for individuals with disabilities and protection of the park resources against recreational activities inconsistent with park management.

The following restrictions and/or conditions are in effect for the specific uses or activities noted:

Passenger Carrying Busses:

- Engines must be shut down when not underway.

The idling of bus engines adds unnecessary exhaust fumes to the air and diminishes the enjoyment by visitors of the peace and tranquility of the park.

Refuse Collecting:

- No one may take any item from a dumpster, refuse bin, recycling bin or trash receptacle without a permit.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

All individuals participating in the permitted event or activity must wear masks in accordance with the current mask wearing requirements in the Superintendent's compendium which is available on the park's website or from the Superintendent's office.

**For all permits for events or activities involving over 50 people:
The Permittee must develop and submit to the superintendent a safety plan that addresses current public-health issues posed by the COVID-19 pandemic. As a term of conditions of this Permit, the Permittee is responsible for complying with the plan and for ensuring that all individuals participating in the permitted event or activity also comply with the plan.**

- §1.5(d) The following activities related to Public Use Limits:
 - Walking or entering Pu'ukoholā Heiau by 20 or more people.
 - Picnicking by 11 or more people
 - Special Events
 - Public Assemblies and meetings, political gatherings.
 - Picnicking for more than 30 minutes in duration.
 - Launching or beaching of all water vessels at Pelekane Beach.

- §2.5(a) Specimen collection (Take plant, fish, wildlife, rocks or minerals)
A research permit is required by the superintendent

- §2.12 Audio Disturbances:
 - (a)(2) Operating a chain saw in developed areas
 - (a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas
 - (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51

- §2.17 Aircraft & Air Delivery:
 - (a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means
 - (c)(1) Removal of a downed aircraft.

- §2.37 Soliciting or demanding gifts, money goods or services (Pursuant to the terms and conditions of a permit issued under §2.50, §2.51 or §2.52)

- §2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony, and similar events

- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other **public** expressions of views

- §2.52(c) Sale or distribution of printer matter that is not solely commercial advertising.

- §2.62 Memorialization:
 - (a) Erection of monuments (Requires approval from Regional Director)
 - (b) Scattering ashes from human cremation

- §5.1 Advertisements - (Display, posting or distribution.)
- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).
- §5.5(a) Commercial Photography/Filming: The following types of filming activities may occur in areas open to public without a permit and without advance notice to NPS:
 - (a) Outdoor filming activities (outside of areas managed as wilderness) involving five persons or less and equipment that will be carried at all times, except for small tripods used to hold cameras. The organizer of any other type of filming activity must provide written notice to the Superintendent at least 10 days prior to the start of the proposed activity. Based upon the information provided, the Superintendent may require the organizer to apply for and obtain a permit if necessary to:
 1. maintain public health and safety
 2. protect environmental or scenic values
 3. protect natural or cultural resources
 4. allow for equitable allocation and use of facilities
 5. avoid conflict among visitor use activities

If the Superintendent determines that the terms and conditions of a permit could not mitigate the concerns identified above in an acceptable manner, the Superintendent may deny a filming request without issuing a permit. The Superintendent will provide the basis for denial in writing upon request. The NPS will consider request and process applications in a timely manner. Processing times will vary depending on the complexity of the proposed activity. If the organizer provides the required 10 day advance notice to the NPS and not received a written response from the NPS that a permit is required prior to the first day of production, the proposed filming activities may occur without a permit.

The following are prohibited:

- (1) Engaging in a filming activity without providing advance notice to the Superintendent when required or if the Superintendent has notified the organizer in writing that a permit is required.
- (2) Violating term and condition of a permit issued under this action. Violating a term of condition of permit issued under this action may also result in the suspension and revocation of the permit by the Superintendent.

- §5.6(c) Use of commercial vehicles on park area roads (The superintendent shall issue a permit to access private lands within or adjacent to the park when access is otherwise not available)

III. 36 CFR 1.7 (b) PUBLIC NOTICE

.....the superintendent shall compile in writing all the designations, closures, permit requirements and other restrictions imposed under discretionary authority. The compilation shall be updated annually and made available to the public upon request.

IV. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(5) The following conditions are in effect for walking, climbing, entering, ascending or traversing the listed archeological or cultural resource, monuments or statues:

- The climbing, ascending or traversing of the vertical walls of Pu'ukoholā Heiau, Mailekini Heiau, John Young House sites, any archaeological site or feature, or wooden offering tower (lele) fronting Pu'ukohola Heiau is prohibited.
- Walking upon or entering into Pu'ukoholā and/or Mailekini Heiau by 20 or more people is prohibited unless authorized by a permit.

Determination: Pu'ukoholā Heiau National Historic Site was established "...in order to restore and preserve in public ownership the historically significant temple (Heiau) associated with Kamehameha the Great...and the property of John Young...". These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temple (Heiau) associated with Kamehameha the Great and the property of John Young . The Mailekini Heiau, and additional archaeological sites and features within the park are also on the National Register of Historic Places mandating preservation and protection requirements.

(b) Hiking or pedestrian traffic is restricted to the trail or walkway as listed in Section 1.5 of this document.

- All trails and walkways.

Determination: Pu'ukoholā Heiau National Historic Site was established "...in order to restore and preserve in public ownership the historically significant temple (Heiau) associated with Kamehameha the Great...and the property of John Young...". These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temple (Heiau) associated with Kamehameha the Great.

(c)(1), (c)(2) The following fruits, nuts, berries or unoccupied seashells may be gathered by hand for personal use or consumption, in accordance with the noted size, quantity, collection sites and/or use or consumption restrictions:

- The following fruits, nuts or berries may be gathered for personal consumption in quantities less than one quart per person per day, and no more than 5 total quarts per calendar year.
 - ...Milo, Thespesia, poplnea
 - ...Noni, Morinda citrifolia
 - ...Kukui (Candlenut tree), Aleurites moluccana
 - ...Nui (Coconuts), Cocos nucifera, maybe gathered from the ground.
- Nioi (Peppers),, Capsicum annum, may be gathered for personal consumption in quantities of not more than one-quarter or the total peppers on plant.
- Ipu (gourd), Lageneria siceraria, may be gathered for personal consumption in quantities of one person (mature gourds).
- Maximum Quantity/Type of Specimens which may be collected:
 1. Hala 3 bundles (20 leaves per bundle)
 2. Niu limited for specific use
 3. Milo one lei for head, neck, wrists, and ankles
 4. Aloe 3 leaves per person
 5. Gourds 1 per person (mature gourds)

Determination: The gathering of these fruits in these amounts and within the location will not adversely affect park resources, the reproduction potential of any plant species, or otherwise adversely affect park resources. If future monitoring indicates the such consumption is likely to cause adverse affects to park resources, then the authorization of this consumptive use will be terminated. Use of these items for any purpose other than personal consumption is specifically prohibited.

36 CFR §2.2 - WILDLIFE PROTECTION

(e) The following areas are closed to the viewing of wildlife with the use of an artificial light:

- Viewing wildlife with any type of artificial light is prohibited in the Park.

36 CFR §2.3 – FISHING

(e) Fishing in salt waters with net, spear or weapon, are authorized in the following areas only and in the following manner:

- Coastal shore and in compliance with Hawaii State Laws and Regulations.
- Bow fishing is prohibited within the park boundaries.

Determination: These conditions are established to protect the park resources against recreational activities inconsistent with park management and in compliance with State of Hawaii Laws & Regulations.

36 CFR §2.10 – CAMPING and FOOD STORAGE

(a) The sites and areas listed below have been designated for camping activities as noted. A permit system has been established for certain campgrounds or camping activities, and conditions for camping and camping activities are in effect as noted:

- Camping is prohibited within the park.

Determination: Day use area. No campsites, and limited staff to support emergency needs of overnight visitors.

36 CFR §2.11 – PICNICKING

Certain areas have been closed to picnicking and are listed in section 1.5(a)(1) "Closures".

Conditions for Picnicking:

- Park Headquarters authorized by superintendent
- Visitor Center Grounds authorized by superintendent

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

Designated Areas:

- none

Receptacles Allowed:

- none

Established Conditions for Fires:

- None

36 CFR §2.14 – SANITATION and REFUSE

(a)(2) The use of government refuse receptacles or facilities for dumping household, commercial or industrial refuse, brought as such from private or municipal property is allowed under the following conditions:

- The dumping or disposal of household, commercial or industrial refuse brought from private or municipal property onto park lands or into park refuse receptacles is prohibited at all times.

(b) Conditions for the disposal, containerization, or carryout of human body waste have been established as follows:

- Human defecation and urination is prohibited within the park and along the trails and within 100 feet of water or road.

Determination: Pu'ukoholā Heiau National Historic Site was established... "in order to restore and preserve in public ownership the historically significant temple (Heiau) associated with Kamehameha the Great..." These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temple (Heiau) associated with Kamehameha the Great and for the health and safety of visitors and employees.

36 CFR §2.20 – SKATING, SKATEBOARDS and SIMILAR DEVICES

The use of roller skates, skateboards, roller skis, coasting vehicles, or similar devices are allowed only in the following areas:

- No areas are open for the use of roller skates, skateboards, roller skis, coasting vehicles or similar device.

Determination: These conditions are established for the protection of the scenic values and natural or cultural resources of the historically significant temple (Heiau) associated with Kamehameha the Great.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking as noted:

- Smoking is not allowed in any park facility or government owned, leased, or rented vehicles.
- Smoking is not allowed within 25 feet of any park facility.
- Smoking is not allowed along all park trails.

Determination: Smoking is prohibited to protect park resources, reduce the risk of fire, reduce litter, and prevent conflicts among visitor use activities.

36 CFR §2.22 – PROPERTY

(a)(2) Property may be left unattended for periods longer than 24 hours in the following areas and under the following conditions:

- Property may not be left unattended for periods longer than 24 hours. Unattended property will be collected, disposed of, or destroyed.

36 CFR §2.35 –ALCOHOLIC BEVERAGES and CONTROLLED SUBSTANCES

(a)(3)(i) The following public use areas, portions of public use areas, and/or public facilities within the park are closed to consumption of alcoholic beverages, and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal has been broken or the contents of which have been partially removed:

- Government buildings
- Pelekane Beach Area
- Headquarters grounds and parking lot
- Visitor Center parking lot
- Trails/Coastal trails

36 CFR §2.62 – MEMORIALIZATION

(b) A permit is required for the scattering of ashes from cremated human remains, or in the following designated areas without a permit, in accordance with the following terms and conditions:

- No memorials, plaques, photos, flowers, or similar items may be left in the park.

36 CFR §4.21 – SPEED LIMITS

(b) The following speed limits are established for the routes/roads indicated:

- Visitor Center Parking Lot 5 mph
- Park Headquarters Road 15 mph
- Spencer Beach Road 25 mph

Determination: These speed limits are established to protect drivers and other park visitors from excessive speeds on small, short park roads not designed for faster vehicle operation.

36 CFR §4.30 – BICYCLES

(a) The use of bicycles are prohibited for use except on established park roads and in parking areas that are open to motor vehicles that are open to motor vehicle use by the public. Bikes may only be “walked” (and not ridden) on designated park trails.

(b) Electronic Bicycle (e-bike)

An e-bike is a bicycle with an integrated electric motor. The National Park Service classifies e-bikes as a “Electric Bicycle” and in 36 CFR 1.4 which includes the definition of “electric bicycles”, and in 36 CFR 4.30(i), which contain rules about the use of e-bikes in park areas.

By policy, e-bikes are defined as a two or three-heeled cycles with operable pedals and an electric motor of less than 750 watts (1 h.p.) that provides propulsion assistance.

E-bikes are prohibited for use except on established paved and public access park roads. E-bikes, with electric motor turned off, may only be “walked” (and not ridden) on designated park trails.

Determination: Bicycles are allowed on park roads and in parking areas under 36 CFR 4.30(a). On September 23, 2021, the Superintendent designated park roads and parking area as open to electric bicycles using the discretionary authority given to the Superintendent under 36 CFR 4.30(i). Allowing electric bicycles on park roads and in parking areas will create new opportunities for recreation and access within the park. It will not create any adverse impacts to park visitors, resources or values due to the existing use of these locations by motor vehicles and bicycles. The action is covered by categorical exclusion 3.2E in the NPS NEPA Handbook.

Negative impact to park resources, values, and visitor enjoyment and hazardous conditions for employees and visitors.

Other Power-Driven Mobility Devices (OPDMD) use by Mobility impaired Persons

Other Power-Driven Mobility such as the Segway and similar devices are authorized for use by persons with mobility disabilities.

Types of OPDMD

Any OPDMD operated in Pu'ukoholā Heiau National Historic Site under this rule shall meet the following standards:

- Size: OPDMD shall not be wider than 36” or longer than 48”.
- Speed: OPDMD shall not be operated in excess of 5 miles per hour.
- Operation: A person shall operate any mobility assistive device in a safe and responsible manner.
- Noise: OPDMD shall not produce noise levels in excess of 70 decibels.
- Emission: OPDMD shall no excess zero emissions during use.

Areas of Authorized Use:

OPDMDs which meet the above criteria are allowed in the following locations within Pu'ukoholā Heiau National Historic Site:

- Exterior routes of travel designated for pedestrian use within developed public area
- Trails and pathways specifically designed and constructed of ADA standards
- Park roads and parking areas

Determination: This provides for the use of OPDMD within the park by Mobility Impaired persons and the protection of park resources and recreational activities inconsistent with park management.

The NPS is subject to section 504 of the Rehabilitation Act of 1973, as amended (Section 504), which prohibits discrimination on the basis of disability in federally and federally conducted programs and activities. The NPS notes the Department of Justice interprets requirements under Section 504 consistently with those under Title II of the Americans with Disabilities Act (ADA), which include requirements governing “Other Power-Driven Mobility Devices” (OPDMDs) at 28 CFR 35.137. When used by a person’s with disabilities, the NPS considers e-bikes to be OPDMDs and therefore, the requirements and policies governing OPDMDs under the ADA will apply to use of e-bikes for purposes of compliance with Section 504.