

OFFICE OF THE GOVERNOR
STATE OF HAWAII

SECOND SUPPLEMENTARY PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, pursuant to chapter 127A, Hawaii Revised Statutes, emergency powers are conferred on the Governor of the State of Hawai'i to deal with disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

WHEREAS, it has become necessary to supplement my Proclamation of May 3, 2018, and my Supplementary Proclamation of May 9, 2018, relating to lava flows which continue thereby endangering communities in the Puna District of the County of Hawai'i, State of Hawai'i, in order to provide additional assistance; and

WHEREAS, the lava flow has expanded, continues and, based upon all scientific information available, is expected to continue to flow and advance; and

WHEREAS, additional residential homes have been destroyed by the advancing lava flow thereby causing additional losses, suffering, and displaced persons and additional properties are expected to be destroyed as the lava continues to flow and advance; and

WHEREAS, the United States Geological Survey has reported that thousands of earthquakes occur every year in the State of Hawai'i, some of which are caused by eruptive processes within the active volcano; and

WHEREAS, these earthquakes, which appear to have been caused, accelerated, or associated with the ongoing eruptive processes of Kīlauea, have caused extensive damage to private and public property within the county of Hawai'i, State of Hawai'i with numerous disaster victims having been forced from their homes or who have lost their homes; and

WHEREAS, pursuant to section 127A-25, Hawaii Revised Statutes, the Governor or mayor is authorized to adopt rules, which may, if so stated in the rules, have the force and effect of law; and

WHEREAS, pursuant to section 127A-29, Hawaii Revised Statutes, any person violating any rule of the governor or mayor prescribed and promulgated pursuant to chapter 127A, Hawaii Revised Statutes, and having the force and effect of law, shall, if it shall be so stated in the rule, be guilty of a misdemeanor and upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and

WHEREAS, I find there is a need to strengthen the enforcement tools available to county and state emergency management officials in controlling public access to dangerous areas and associated evacuation efforts as a result of the failure of the public to comply with instructions and orders issued by officials and that this situation requires the adoption of the attached rules designated as the Governor's Emergency Rules Relating to Public Safety; and

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, Hawaii Revised Statutes, continues in the above areas in the Puna District of the county of Hawai'i, State of Hawai'i, and hereby declare that all the provisions of my Proclamation of May 3, 2018, and my Supplementary Proclamation of May 9, 2018, shall remain in full force and effect and are hereby included in the provisions of this Second Supplementary Proclamation and hereby authorize and invoke the following measures under the Hawaii Revised Statutes:

1. Section 171-85, et. seq., Hawaii Revised Statutes, **disposition to victims of natural disaster**.
2. Section 127A-19, Hawaii Revised Statutes, **shelters**, provided that any location for any county project for shelter, transitional or emergency housing must be identified and approved by the mayor and used for the purposes of any state or county proclamations relating to this disaster.

3. Section 127A-25, Hawaii Revised Statutes, **rules and orders**, by adopting the attached rules designated as the Governor's Emergency Rules Relating to Public Safety and that these rules have the force and effect of law.
4. Section 127A-30, Hawaii Revised Statutes, relating to any prohibited increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of this disaster Proclamation shall continue, provided this prohibition shall not apply to fuel prices.
5. Sections 127A-13 and 127A-12, Hawaii Revised Statutes, and in order to provide emergency relief as a result of this event, I hereby suspend as allowed by federal law, the following additional statutes which shall also be deemed suspended as of my original Proclamation of May 3, 2018, and my Supplementary Proclamation of May 9, 2018, relating to the lava flows are suspended for the limited purpose of implementing the purposes stated in my Proclamation of May 3, 2018, my Supplementary Proclamation of May 9, 2018, and this Second Supplementary Proclamation:
 - a. Chapter 46, Hawaii Revised Statutes, **county organization and Administration** as any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinder, delay, or impede the purpose of this Proclamation.
 - b. Chapter 91, Hawaii Revised Statutes, **administrative procedure**, as those provisions relate to rulemaking.
 - c. Chapter 107, Hawaii Revised Statutes, **public improvements**.
 - d. Chapter 321, Hawaii Revised Statutes, **health**.
 - e. Chapter 342D, Hawaii Revised Statutes, **water pollution**.

- f. Chapter 356D, Hawaii Revised Statutes, **hawaii public housing authority.**

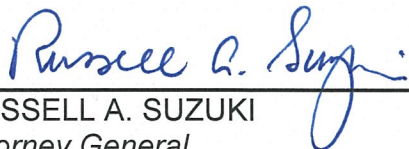
I FURTHER DECLARE that a disaster emergency relief period, including the provisions of section 127A-30, Hawaii Revised Statutes, relating to any prohibited increase in the selling price of any commodity, shall continue through August 4, 2018, except that any contracts, agreements, procurements, programs, projects or employment of personnel employment entered into under this emergency or by reason of the provisions of any of my Proclamations relating to this emergency shall continue until completed or they are no longer needed for purposes of my Proclamation of May 3, 2018, my Supplementary Proclamation of May 9, 2018, and this Second Supplementary Proclamations relating to this emergency.

Done at the State Capitol, this 5th day of June, 2018.



DAVID Y. IGE,
Governor of Hawai'i

APPROVED:



RUSSELL A. SUZUKI
*Attorney General
State of Hawai'i*

Governor's Emergency Rules Relating to Public Safety

- \$1 Purpose
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\$1 Purpose. The purpose of this chapter is to provide rules, pursuant to sections 127A-25, 29, and 31, Hawaii Revised Statutes that have the force and effect of law to carry out the provisions of chapter 127A, Hawaii Revised Statutes, one purpose of which is to protect the public health, safety, and welfare and to preserve the lives and property of the people of the State from disasters or emergencies. [HRS §127A-25]

\$2 Authority. These rules are adopted pursuant to sections 127A-25, 127A-29, and 127A-31, Hawaii Revised Statutes.

\$3 Applicability. These rules apply to all persons unless exempted or authorized emergency personnel and are in addition to any other remedies, penalties, or provisions allowed by any other law.

\$4 Definitions. (a) All definitions provided in these rules will have the same definitions as provided in section 127A-2, Hawaii Revised Statutes, unless specified or given a different or expanded definition by these rules.

(b) As used in this chapter, unless the context indicates otherwise:

"Drone" means any unmanned aerial vehicle or "UAV," unmanned aircraft system or "UAS," or any pilotless aircraft operated remotely by any person for the purpose of photography, videography, reconnaissance, or capturing any image of any type.

"Emergency personnel" means all State, County, and volunteer personnel performing emergency management functions at the direction of the incident commander.

"Evacuation area" means the geographical area affected by a particular incident such that being in the area presents a reasonable threat to the health and safety of the public and emergency personnel or potential risk of bodily injury, harm, or death to those within the area.

"Incident" means any occurrence or event, natural or human-caused, which requires an emergency response to protect life or property. An incident may be an emergency or a disaster.

"Incident area" means the geographical area affected by a particular incident, the boundaries of which shall be established by the incident commander and identify:

- (i) All pedestrian and motor vehicle thoroughfares that will be affected;
- (ii) The nature and extent of the interference with normal movement of pedestrians and vehicular traffic flow on the affected thoroughfares;
- (iii) Any established detours and alternate routes to be utilized by the public; and
- (iv) Any conditions, pre-conditions, limitations, or requirements for entry should entry be authorized or limited.

"Incident commander" means the State or County official with the overall authority and responsibility for conducting incident operations either at the scene or overall and is responsible for the emergency management functions within the incident area and includes officials of county or state emergency management agencies.

§5 Notice. Notice of an evacuation area, incident area, or any other action and associated notice required under these rules shall be made as widely as possible under the circumstances at the time in a means reasonably calculated to bring its contents to the attention of the general public or those impacted by the identification of an incident area and may include official announcement by means of television or radio broadcast, Internet, signs, flyers, leaflets, or verbal instructions.

§6 Criminal Penalties. (a) Any person violating any of these Emergency Rules Relating to Public Safety shall be guilty of a misdemeanor and upon conviction any such person shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(b) Penalties prescribed by these rules are in addition to any other lawful penalties established by law.

§7 Interfering with emergency personnel. (a) A person commits the offense of interfering with emergency personnel when the person intentionally or knowingly uses, or threatens to use violence, force, physical interference, an obstacle, or barrier that impairs, hinders, limits, or prevents the performance of an emergency management function by emergency personnel.

(b) Interference with emergency personnel is a misdemeanor set forth under section 6 of these rules and section 127A-29, Hawaii Revised Statutes.

§8 Conduct and movement of civilians, pedestrians, and vehicular traffic. (a) Incident commanders and emergency personnel may direct or control the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after emergencies or disasters, as follows:

- (1) The partial or complete closure of any thoroughfare;
- (2) The movement of pedestrians and vehicular traffic away from affected thoroughfares towards designated detours and alternate routes;
- (3) Establish and operate pedestrian and vehicle checkpoints along private or public roadways around the perimeter of incident or evacuation areas to

monitor, limit, direct, and control the flow of pedestrian and vehicular traffic into or out of the incident or evacuation areas

- (i) All checkpoints will have signs posted in a manner that provides advance notice of the checkpoint so that persons are afforded a reasonable opportunity to turn around without passing through the checkpoint;
- (ii) Persons passing through a checkpoint may be required to produce proof of identification, register with emergency management, or comply with other requirements for vetting and identification for authorization to pass;

(b) All pedestrians and motorists shall comply with the reasonable directions of incident commanders and emergency personnel that are related to their duties under this section, and shall not abandon any personal property, including any motor vehicle, which may partially or completely obstruct any thoroughfare, impeding the movement of other pedestrians or vehicular traffic;

(c) In addition to conduct expressly prohibited under this Section, no person or persons shall engage in any other activity hindering or interfering in emergency management functions.

(d) Any person who intentionally or knowingly fails to comply with the reasonable directions of incident commanders and emergency personnel that are related to their duties under this section commits the offense of Failing to Comply With the Reasonable Directions of Incident Commanders and Emergency Personnel.

(e) A failure to comply with any provision of this section is a misdemeanor as set forth under section 6 of these rules and section 127A-29, Hawaii Revised Statutes.

§9 Mandatory Evacuation. (a) When an emergency or disaster has been declared by proclamation by the governor or any mayor, the incident commander may identify evacuation areas and order evacuation of persons therefrom.

(b) Immediately following a notice to the public of a mandatory evacuation order, all emergency personnel shall

immediately evacuate the public and unauthorized persons from the evacuation and incident areas;

(c) Incident commanders and emergency personnel may control the conduct and movement of civilians, pedestrians, and vehicular traffic pursuant to section 8 of these rules which also apply to this section.

(d) All persons within the evacuation area subject to evacuation shall comply with all directions given by emergency personnel related to their duties under this section;

(e) Any person who intentionally or knowingly remains in or enters into the mandatory evacuation area commits the offense of Failing to Evacuate From a Mandatory Evacuation Area.

(f) A failure to comply with any provision of this section is a misdemeanor as set forth under section 6 of these rules and section 127A-29, Hawaii Revised Statutes.

§10 Curfew. (a) When an emergency or disaster has been declared by proclamation by the governor or any mayor, the Governor, mayor, Administrator of the Hawaii Emergency Management Agency, or the administrator of the county emergency management agency may establish curfew for an incident area and designate hours when it shall be unlawful for any person to be present in or upon any place within an incident area.

(b) All persons shall comply with all curfew orders issued pursuant to this rule and no person shall enter in, remain in, or otherwise be allowed into an incident area when curfew is in effect.

(c) Any person who intentionally or knowingly violates a curfew order commits the offense of Violating Curfew.

(d) A failure to comply with any provision of this section is a misdemeanor as set forth under section 6 of these rules and section 127A-29, Hawaii Revised Statutes.

§11 Drones. No person shall operate a drone into or within an incident area regardless of where the person is located when operating the drone or where the drone takes off and lands.

(b) Any drone found operating within an incident area is deemed a nuisance pursuant to section 127A-13(a)(1), Hawaii Revised Statutes, as they constitute a condition that is dangerous to the public health, safety, or property and existing laws are not adequate to preclude the operation thereof and that the drone, as a public nuisance shall be summarily abated and, if need be, destroyed, by any police officer or person authorized by the incident commander.

(c) Any person failing to comply with any provision of this section may be guilty of a misdemeanor as set forth under section 6 of these rules and section 127A-29, Hawaii Revised Statutes.

§12 Detention. (a) Any emergency personnel may detain so far as necessary any person found to be within any incident or evacuation area without proper authorization, who is interfering with emergency personnel, or who is not complying with instructions of any emergency personnel for the purpose of directing or controlling the conduct of civilians and the movement and cessation of movement of pedestrians.