

COUNTY OF HAWAII
PLANNING DEPARTMENT

RULES OF PRACTICE AND PROCEDURE

RULE 2. PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES

2-1 Initiation of Rulemaking Procedures.

- (a) The Director may, at any time, initiate proceedings for the adoption, amendment, or repeal of any rule of the Department. Procedures to be followed in rulemaking shall be as set forth in these rules.
- (b) Any interested person may petition the Director for the adoption, amendment, or repeal of any rule of the Department. Such petitions shall contain:
 - (1) A non-refundable filing and processing fee of one hundred dollars;
 - (2) The name, address, telephone number, if available, and signature of the petitioner;
 - (3) A draft or the substance of the proposed rule or amendment or a designation of the provisions, the repeal of which is desired;
 - (4) A statement of the reasons in support of the proposed rule, amendment, or repeal.
- (c) The Director shall, within thirty days after the filing of a petition for rulemaking, either deny the petition or initiate public rulemaking proceedings.
- (d) Any petition that fails in material respect to comply with the requirements of this section or that fails to disclose sufficient reasons to justify the institution of rule-making proceedings shall be denied by the Director. The Director shall notify the petitioner in writing of such denial, stating the reasons thereof. Denial of the petition shall not operate to prevent the Director from acting, on this own motion, on any matter disclosed in the petition. Petitioner may seek review of the denial through the Board.
- (e) If the Director determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking proceedings, the Director shall conduct rulemaking proceedings in accordance with section 2.2 of this rule.

2-2 Notice of Public Hearing.

- (a) When, pursuant to a petition therefor or upon his own initiation, the Director proposes to adopt, amend, or repeal a rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the County, and the notice shall also be mailed to all persons who have made timely written requests for advance notice of the Department's rulemaking proceedings. The notice shall be published at least [twenty]thirty days prior to the date set for the public hearing.
- (b) A notice of the proposed adoption, amendment, or repeal of a rule shall include:

- (1) ~~[A statement of the date, time, and place where the public hearing will be held;]~~ The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal;
- (2) ~~[Reference to the authority under which the adoption, amendment, or repeal of a rule is proposed; and]~~ A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved;
- (3) ~~[A statement of the substance of the proposed rule.]~~ A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made; and
- (4) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person.

2-3 **Conduct of Public Hearing.**

- (a) The public hearing for the adoption, amendment, or repeal or any rule shall be presided over by the Director or his authorized representative. The hearing shall be conducted in such a way as to afford all interested persons a reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing and so as to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary for the orderly conduct of the hearing.
- (b) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.
- (c) Any interested person will be afforded an opportunity to submit data, views, or arguments, orally or in writing, that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations shall not extend beyond the hearing date, unless specified by the presiding officer.
- (d) Unless otherwise specifically ordered by the presiding officer, testimony given at the public hearing need not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received and made a part of the record.

2-4 **Action.**

The Director shall consider all relevant comments and material of record before taking final action in a rulemaking proceeding. Final action shall be taken within sixty days after the close of the public hearing.

2-5 **Emergency Rulemaking.**

~~If the Director [finds that an imminent peril to public health or safety requires adoption, amendment, repeal of a rule upon less than twenty days' notice of hearing and states in writing his reasons for such finding, he may proceed without prior notice or hearing or upon such abbreviated notice and hearing as he finds practicable to adopt an emergency rule. The Director shall make an emergency rule known to persons who will be affected by it by publication at least once in a newspaper of general circulation in the County.]~~ finds that an imminent peril to the public health, safety, or morals, to livestock and poultry health, or to natural resources requires adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing, including posting the abbreviated notice and hearing on the Internet, as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

2-6 **Filing of Rules.**

The Director, upon adopting, amending, or repealing a rule and approval by the Mayor, shall file certified copies of the rule with the County Clerk.

2-7 **Taking Effect of Rules.**

Each rule adopted, amended, or repealed shall become effective ten days after filing with the County Clerk. If a later effective date is required by statute or specified in the rule, the later date shall be the effective date; provided that no rule shall specify an effective date in excess of thirty days after the filing of the rule with the County Clerk. ~~[An emergency rule shall become effective upon filing with the County Clerk for a period not exceeding one hundred twenty days without renewal unless extended in compliance with section 91-3(a), Hawaii Revised Statutes.]~~ An emergency rule adopted pursuant to section 91-3(b) Hawaii Revised Statutes (HRS) shall become effective upon filing with the County Clerk, for a period of not longer than one hundred twenty days without renewal unless extended in compliance with section 91-3(b) HRS if the Director finds that immediate adoption of the rule is necessary because of imminent peril to the public health, safety, or morals, or to natural resources. The Director's finding and brief statement of the reasons therefor shall be incorporated in the rule as filed. The Director shall make an emergency rule adopted pursuant to section 91-3(b) HRS known to persons who will be affected by it by publication at least once in a newspaper of general circulation in the State for state agencies and in the county for county agencies within five days from the date of filing of the rule; and

An emergency rule adopted pursuant to section 91-3(c) HRS shall become effective upon filing with the County Clerk, and shall be effective until no later than adjournment sine die of the next regular legislative session following adoption of the emergency rule. The Director's finding and brief statement of the reasons therefor shall be incorporated in the rule as filed. The Director shall make an emergency rule adopted pursuant to section 91-3(c) HRS known to persons who will be affected by it by publication at least once in a newspaper of general circulation in the State for state agencies and in the county for county agencies within five days from the date of filing of the rule.

2-8 Publication of Rules.

The Director shall, as soon as practicable, compile, index, and publish all rules adopted by the Director and remaining in effect. Compilations shall be supplemented as often as necessary and shall be reviewed at least once every ten years.

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