

PLANNING COMMISSION
COUNTY OF HAWAII

RULES OF PRACTICE AND PROCEDURE

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

2-1 Initiation of Rulemaking Proceedings

- (a) The Commission may, at any time, initiate proceedings for the adoption, amendment, or repeal of any rule of the Commission. Procedures to be followed in rulemaking shall be as set forth in these rules.
- (b) Any interested person or agency may petition the Commission for the adoption, amendment, or repeal of any rule of the Commission. 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 Commission 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 rulemaking proceedings shall be denied by the Commission. The Commission shall notify the petitioner in writing of such denial, stating the reasons thereof. Denial of the petition shall not operate to prevent the Commission from acting, on its own motion, on any matter disclosed in the petition. Petitioner may seek review of the denial through the Board.
- (e) If the Commission determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking proceedings, the Commission 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 its own initiation, the Commission 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 Commission's rulemaking proceedings. The

notice shall be published at least twenty 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;
 - (2) Reference to the authority under which the adoption, amendment, or repeal of a rule is proposed; and
 - (3) A statement of the substance of the proposed rule.

2-3 Conduct of Public Hearing

- (a) The public hearing for the adoption, amendment, or repeal of any rule shall be heard before the Commission and presided over by the chairperson or vice-chairperson of the Commission or, in their absence, by another member designated by the Commission. 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.
- (b) 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 Commission.
- (c) In every matter requiring a public hearing, the presiding officer shall take public testimony at some point during the hearing. The presiding officer may limit testimony which is unduly repetitious or lengthy.
- (d) Unless otherwise specifically ordered by the Commission, 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 Commission to be authentic and relevant, shall be received and made a part of the record.

2-4 Action

The Commission 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 Commission finds that an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule upon less than twenty days' notice of hearing and states in writing its reasons for such finding, it may proceed without prior notice or hearing upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule. The Commission 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.

2-6 Filing of Rules

The Commission, 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.

2-8 Publication of Rules

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