

COUNTY OF KAUAI
DEPARTMENT OF FINANCE

RULES AND REGULATIONS OF THE DIRECTOR OF FINANCE

Pursuant to Chapter 91, Hawaii Revised Statutes, and the County Charter, the following rules are adopted by the Director of Finance of the County of Kauai, State of Hawaii.

PART 1

RULES OF PRACTICE AND PROCEDURE

Rule 1.01 Methods Whereby Public May Obtain Information

The public may obtain information as to matters within the jurisdiction of the Director of Finance of the County of Kauai, sometimes referred to as the "Director," by inquiring at:

(a) The office of the Lieutenant Governor at the State of Hawaii, where there are on file all rules of the Director of Finance;

(b) The office of the Clerk of the County of Kauai, where there are on file all rules of the Director of Finance; or

(c) The office of the Director of Finance of the County of Kauai, where all rules, orders or opinions of the Director of Finance are on file.

Such inquiry may be made in person at said offices during business hours, or by submitting a request for information in writing to the Director of Finance.

Rule 1.02 Petition for Adoption, Amendment or Repeal of Rules

(a) Any interested person may petition the Director of Finance requesting the adoption, amendment or repeal of any rule of the Director of Finance.

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(b) The petition shall be submitted in four copies and shall include:

- (1) The name, address and telephone number of the petitioner.
- (2) A statement of the nature of the petitioner's interest.
- (3) A draft of the substance of the proposed rule or amendment or a designation of the provision sought to be repealed.
- (4) An explicit statement of the reasons in support of the proposed rule, amendment or repeal.
- (5) Any other information relevant to the petition.
- (6) The signature of each petitioner.

(c) The Director may reject any petition which does not substantially conform to the foregoing requirements and the format illustrated in Appendix A.

(d) The Director shall within thirty (30) days after submission of the petition either deny the petition, in writing, stating its reasons for such denial, or initiate proceedings in accordance with Section 91-3, Hawaii Revised Statutes, for the adoption, amendment or repeal of the rule, as the case may be.

Rule 1.03 Declaratory Ruling by Director

(a) Any interested person may petition the Director of Finance for a declaratory order as to the applicability of any statute or ordinance administered or enforced by the Director of Finance or of any rule or order of the Director of Finance.

(b) The petition shall be submitted in four copies and shall contain:

- (1) The name, address and telephone number of the

petitioner.

- (2) A statement of the nature of petitioner's interest.
- (3) A designation of the specific provision, rule or order in question.
- (4) A complete statement of facts.
- (5) A statement of the position or contention of the petitioner.
- (6) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.
- (7) The signature of each petitioner.

(c) The Director may reject any petition which does not substantially conform to the foregoing requirements and the format illustrated in Appendix B.

(d) The Director may for good cause refuse to issue a declaratory ruling. Without limiting the generality of the foregoing, the Director may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future.
- (2) The petitioner's interest is not of the type which would give him standing to maintain an action if he were to seek judicial relief.
- (3) The issuance of the declaratory ruling may adversely affect the interest of the County, the Director or any of its officers or employees in any litigation which is pending or may reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the Director.

(e) Where any question of law is involved, the Director may refer the matter to the County Attorney. The Director may also obtain the assistance of other agencies, where necessary or desirable.

(f) Upon disposition of his petition, the petitioner shall be informed in writing thereof by the Director. Orders shall be applicable only to the fact situation alleged in the petition or set forth in the order. They

shall not be applicable to different fact situations or where additional facts not considered in the order exist.

Rule 1.04 Rules of Practice

Except as otherwise provided by law, in any proceeding involving the adoption of any rule authorized by law, the amendment or repeal of any rule, or the making of any adjudication by the Director, which is required to be made after an opportunity for a hearing, the following shall apply:

(a) All persons who have made a timely written request of the Director for advance notice of its rule-making proceedings shall be notified in writing of the proceedings and of their opportunity to be heard at the hearing thereon. Such notice shall conform to the requirements of Section 91-3(a), Hawaii Revised Statutes, and shall be sent at least twenty (20) calendar days before the date of the hearing. Such notice shall be in addition to any notice required by law to be published in a newspaper.

(b) All interested persons shall be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing or by mail.

(c) The hearing shall be conducted in conformity with the applicable provisions of Sections 91-9, 91-10, 91-11 and 91-13, Hawaii Revised Statutes.

(d) The determination shall be subject to such limitations or standards as may be prescribed by law.

(1) If the Director decides in favor of the applicant or petitioner, the Director shall promptly notify the applicant or petitioner thereof.

(2) If the Director decides otherwise, he shall issue an appropriate decision and order in writing. Such decision and order shall be accompanied by separate finding of fact and conclusions of law. The Director shall within a reasonable time send a certified copy thereof to the applicant or petitioner

or to their attorney of record.

(e) Any of the foregoing procedures may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(f) Judicial review shall be provided by law.