

2014 Proposed amendments to the Neighborhood Plan

The Neighborhood Commission Plan Committee met on:

August 26, 2013
October 28, 2013
April 11, 2014
June 14, 2014 (public hearing, Honolulu)
June 14, 2014 (public hearing, Kapolei)
July 11, 2014

The Notice of Public Hearing was published in the newspaper on May 15, 2014 with the proposed rule changes and meeting date, time and the two meeting places.

Public hearings for the proposed rule changes were held on June 14, 2014 at the following locations and two commission members attended at each location to receive public testimony and receive any written testimony or data:

Mission Memorial Building Hearings Room, Ground Floor
550 South King Street
Honolulu, HI 96813
10:00-11:00 a.m.

One person, Tom Heinrich, was present to testify at the Mission Memorial location.

Kapolei Hale-Conference Room A
1001 Uluohia Street
Kapolei, HI 96707
10:00-11:00 a.m.

No one testified or turned in testimony at the Kapolei location.

Attached are the proposed amendments to the Plan and the reason for each amendment.

The Resolution Adopting Amendments to the Rules and Procedures of the Neighborhood Commission and the Neighborhood Plan has been drafted.

The Neighborhood Commission would like to adopt the amendments to the Plan on September 22, 2014 at the next commission meeting if possible.

Delete §2-11-302 Absences and removal recommendation process

Commission recommends deleting the Absences and removal recommendation process:

§2-11-302 [Absences and removal recommendation process;] [r] Resignation.

[(a) If a commissioner is absent for more than three meetings within a one year period, beginning July 1 and ending June 30, the commission shall notify the commissioner of the absences in writing, sent by both United States registered or certified mail with return receipt requested and first class mail, at the commissioner's last know address.

(b) The notice shall:

- (1) Inform the commissioner of the accumulated three absences; and
- (2) Inform the commissioner that at its next regular meeting the commission will consider whether to recommend to the appointing authority the removal and replacement of the commissioner based on the absences.

(c) A commissioner who has accumulated three absences and received written notice from the commission shall have the opportunity to appear before the commission at its next regular meeting to explain the circumstances of the absences and request to be retained on the commission. After hearing the matter, the commission may recommend to the appointing authority the removal and replacement of the commissioner.

(d) If the commissioner remains and accumulates an additional three absences within the one year period beginning July 1 and ending June 30, the commission shall again consider recommending removal of the commissioner pursuant to subsections (a), (b), and (c).]

[(e)] (a) A commissioner may resign from the seat held at any time and for any reason in writing to the commission chair, executive secretary, and the appointing authority. [Eff. 10/20/08;] (Auth: RCH §§4-105(4), 14-102) (Imp: RCH §§4-105(4), 14-102).

Reason:

Commissioners are appointed and unlike the neighborhood boards, who can remove a board member, commissioners cannot be removed except by the appointing authority. The commission can only make recommendations regarding removal to the appointing authority, should a commissioner have more

than three absences. 1973 Revised Charter of the City & County of Honolulu (2000 Edition), as amended, specifically states that "any vacancy in the commission shall be filled in the same manner as for an original appointment." Article XIV, §14-102. The commission determined that this rule is unnecessary and if a commissioner cannot serve, that commissioner should resign. In addition, for the past five years, the commission has been meeting more than the required six regular meetings within a one year period.

Amend §2-14-103 Transition and initial convening.

§2-14-103(d) If the board establishes a quorum and is unable to elect a chair or other presiding officer, no agenda item may be taken out of order except for actions to:

- (1) Fill any vacant seat on the board;
- (2) Pre-establish a specific day of the month on which the board will hold its regular meetings;
- (3) Pre-establish a specific location at which the board will hold its regular meetings; and
- (4) [Take any budgetary action necessary for the board to continue convening its regular meetings.] Pass any formal requests for the Neighborhood Commission Office to enter into contracts on behalf of the board to include but not be limited to facility rentals and videographer services. [Eff. 10/20/08; am 2/5/11] (Auth: RCH §14-103(a)) (Imp: RCH

§14-104).

Reason:

§2-14-103(d)

Clarifies that boards must have a quorum at the first meeting to elect officers and if they do not have a quorum, section (d) applies.

§2-14-103(4)

Reflects the actual process of entering into contracts.

Amend §2-14-111 Meeting notice and agenda.

§2-14-111 Meeting notice and agenda. (a) A board shall give written public notice of any and all regular, special, or anticipated executive meetings.

The notice shall state the day, date, time, and place of the meeting, and include an agenda which lists all of the items to be considered. In the case of an anticipated executive meeting, the purpose shall be stated on the agenda.

(b) The meeting notice and agenda shall be prepared by the chair or presiding officer and shall be filed in the Neighborhood Commission Office at least seven calendar days before the meeting. The notice and agenda shall also be posted at the site of the meeting whenever feasible.

(c) If the chair receives a written request from any member of the chair's board to include an item on the agenda, the chair shall:

- (1) Include the item on the agenda for the next regular meeting; or
- (2) Include the request for inclusion of the item on the agenda for the next regular meeting for the board to decide whether to include the item on the agenda for the following regular meeting;

provided that if the request is not received at least ten days before the next regular meeting, the item or the request shall be included on the agenda for the following meeting.

Once filed with the city clerk, no item shall be added to the agenda for that duly noticed meeting except by a recorded two-thirds vote of all members to which the board is entitled, and provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. [Eff. 10/20/08; am 2/5/11] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

(d) The Executive Secretary shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than six days prior to the meeting date.

Tom Heinrich testified that "Executive Secretary" should be changed to "Neighborhood Commission Office" to be consistent with §2-14-111(b).

Reason:

Clarifies who is responsible for maintaining the mailing list. The Commission kept the language as is. The Commission feels that having the Executive Secretary responsible for maintaining the mailing list is important as it contains sensitive information rather than leaving the responsibility to the office in general.

Amend §2-14-118 Discussion.

§2-14-118 Discussion. (a) When a board member or person properly before the board wishes to speak, the member or person shall address the chair, be recognized before proceeding, and shall confine remarks to the subject under discussion, avoiding personalities and abusive language. [Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

(b) The boards shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item.

(c) The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item.

(d) The boards may provide for reasonable administration of oral testimony by rule.

Reason:

This would allow the Commission to impose a sanction if public testimony is not accepted.

Amend §2-14-120 Officers.

§2-14-120 Officers. (a) The officers of a board shall consist of the chair, one or more vice chairs, the secretary, the treasurer, and any other officer the board determines it needs to conduct its business.

(b) All officers shall be elected annually by and from the membership of the board [in July] at its first meeting held on or after July 1. Each officer shall be elected at a meeting by a majority vote of the entire membership to which the board is entitled.

(c) The term of an officer shall be for one year, beginning in July [and ending the following June] and expire the June following their election, or until the election of a successor. [Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH§14-104).

Reason:

Some boards recess in July and are unable to hold their elections until the next meeting date.

Amend §2-14-123 Duties of officers.

§2-14-123 Duties of officers.

(b) It shall be the duty of the chair to:

(12) At a duly noticed meeting. [A]ppoint and remove all committee chairs, unless otherwise directed by the board. If a committee chair resigns from the board, the board chair may appoint a committee chair pro-tem.

(13) At a duly noticed meeting. [A]ppoint and remove all board delegates, unless otherwise directed by the board. If a board delegate resigns, the board chair may appoint a delegate pro-tem.

[Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

Clearly defines that the Chair can only appoint or remove committee members during a board meeting unless there is a resignation, in which case, they can appoint a pro-tem member, which must become a permanent member at the next meeting.

Amend §2-14-124 Committees.

§2-14-124 Committees. (a) The board may establish committees from among its membership and the public without regard to place of residence. The committee chair shall be a member of the board. The committee members shall be appointed by the board.

(g) Committees shall prepare meeting notices, agendas, and minutes, and shall hold meetings at places reasonably accessible to the public. Committee [meeting notices, agendas, and] minutes shall be filed with the NCO within thirty days after the Committee meeting.

[Eff. 10/20/08; am 2/5/11] (Auth: RCH §14-103(A)) (Imp: RCH §14-104).

Reason:

Amendment to subsection (a) clarifies who as authority to appoint committee members, the board at a meeting or the chair at anytime.

Amendment to subsection (g) removes the conflict regarding notices and agendas. Notices and agendas must be filed prior to the meetings, not thirty days after the committee meeting along with the committee minutes.

Amend §2-11-106

§2-11-106 Computation of time; reestablishment of deadline dates. (a) Unless otherwise provided by statute or rule, in computing any period of time prescribed or allowed by this chapter or by the plan, the first day of the designated period of time shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday in the State, in which event the period runs until the next day which is not a Saturday, Sunday, or holiday.

(b) If [unforeseen] conditions or circumstances affect the election process timetable, [including] such as weather catastrophe, power outage, computer failure, delay in the procurement process, delay in the arrival of election materials, or civil unrest, the commission may reestablish suitable deadline dates for the election process timetable.

[Eff. 10/20/08; ren §2-11-106 2/5/11] (Auth: RCH §§ 4-105(4), 14-102) (Imp: RCH §§ 4-105(4), 14-102).

Reason:

Allows the commission to reestablish timelines during a major staff catastrophe, e.g. 100% turnover with an incoming administration.

Amend §2-12-102 Definitions.

§2-12-102 Definitions. As used in this plan, unless the context otherwise specifically requires:

“Ballot” means a written or printed, or partly written and partly printed, paper or card containing the names or persons to be voted for and the office to be filled, or a passcode used to access a ballot. A ballot may be in electronic form.

[Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

Reflects the possible use of a passcode to access an electronic ballot.

Amend §2-17-203 Change of residence.

§2-17-203 Change of residence.

(c) The commission office shall issue a new ballot within ten days after receiving a request and affidavit pursuant to subsection (a). [Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

Clarifies that a new ballot shall issue from the commission office, rather than from the commission itself.

Amend §2-17-204 Candidate eligibility and registration.

§2-17-204 Candidate eligibility and registration.

(c) The candidate registration form shall be released no later than the third Friday of December in the year preceding the election.

[(c)](d) The candidate registration deadline shall be the third Friday in February of the election year. Any affidavit filed in person or delivered other than by United States mail must be received by the commission office by 4:30 p.m. on the candidate registration deadline. When filed by United States mail, the envelope containing the affidavit shall be postmarked by candidate registration deadline and must be received by the office by 4:30 p.m. on the seventh calendar day thereafter to be accepted.

[(d)](e) No affidavit shall be filed with the commission office by means of facsimile or any other electronic means, unless otherwise duly authorized by the chief elections officer or commission.

[e](f) Any filed affidavit which fails to satisfy these rules shall be disqualified and the affected individual notified.

[Eff. 10/20/08] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

Creates a deadline when a candidate registration form must be released (two months prior to the deadline).

Amend §2-17-207 Prohibition on election service.

§2-17-207 Prohibition on election service. No candidate shall serve as an election official or election employee in the same election in which the individual is a candidate; nor shall any parent, sibling, spouse, child, or household member of any candidate serve as an election official or election employee [in any area in which the ballots are handled or votes may be cast or tabulated for the candidate]. [Eff. 10/20/08 (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

To remove any appearance on impropriety.

Amend §2-17-210 Insufficiency of candidates.

§2-17-210 Insufficiency of candidates. If there are an insufficient number of candidates for a neighborhood district or subdistrict, as applicable, the unfilled seats shall be declared vacant by the commission after certification of the election results pursuant to section 2-17-309. [Eff. 10/20/08] (Auth: RCH §14-103(A)) (Imp: RCH §14-104).

Reason:

Specifies that the commission declares the seat vacant after the certification of the election.

Amend §2-17-303 Replacement ballots.

§2-17-303 Replacement ballots.

(c) The commission office shall issue a replacement ballot within seven calendar days after receiving a request pursuant to subsection (a). [Eff. 10/20/08] (Auth: RCH § 14-103(a)) (Imp: RCH §14-104).

Reason:

Specifies that the commission office rather than the commission itself will issue the replacement ballot.

Amend §2-17-304 Return of ballots.

§2-17-304 Return of ballots. (a) The ballot return deadline shall be the third Friday in May of the election year. Any ballot returned in person in the return envelope provided must be received by the commission office by 4:30 p.m. on the ballot return deadline. Any ballot returned by United States mail in the return envelope provided, shall be postmarked by the ballot return deadline and received by the commission office by the seventh calendar day thereafter to be accepted.

(b) Any ballot which is:

(1) Delivered to the commission office other than in person or by United States mail;

(2) Received in person or postmarked after the ballot return deadline;

(3) Received by United States mail more than seven calendar days after the ballot return deadline; or

(4) Not sealed in an official ballot envelope signed by the voter; shall be disqualified and declared invalid. [Eff. 10/20/08] (Auth: RCH §14-103(a))

(Imp: RCH §14-104).

(c) If passcodes are distributed to allow access to electronic ballots, the website shall remain publicly accessible until 11:59 p.m. on the ballot return deadline.

Reason:

Specifies a deadline when electronic voting is used.

Amend §2-18-101 Complaints.

§2-18-101 Complaints.

(b) The Executive Secretary shall review all complaints submitted by a Board, Board Member, or a Resident. If a complaint does not meet the criteria of the Neighborhood Plan, it shall be forwarded to the Neighborhood Commission with a recommendation it be dismissed. The commission may, at any time, dismiss any complaint or end any sanctions proceeding for failure to comply with any requirement under this subchapter.

[Eff. 10/20/08; am and ren §2-18-101 2/5/11] (Auth: RCH §14-103(a)) (Imp: RCH §14-104).

Reason:

Allows the Executive Secretary to review all complaints and forward all complaints that do not specify an actionable offense under the Plan to the commission with the recommendation to dismiss.