

CITY ADMINISTRATIVE RULES

TITLE 03

DEPARTMENT OF BUDGET AND FISCAL SERVICES

SUBTITLE 1 ADMINISTRATION

CHAPTER 1

RULES OF PRACTICE AND PROCEDURE

- §03-1-1 Methods Whereby Public May Obtain Information
- §03-1-2 Petition for Adoption, Amendment or Repeal of Rules
- §03-1-3 Declaratory Ruling by Director of Budget and Fiscal Services
- §03-1-4 Rules of Practice

Historical note: This chapter is based substantially upon Rules of Practice and Procedure, Department of Finance, Part I, Rule 1. [Eff 11/05/66; R **OCT 3 1 2004**]

- §03-1-1 Methods Whereby Public May Obtain Information. (a) The public may obtain information as to matters within the jurisdiction of the Director of Budget and Fiscal Services by inquiring at:
- (1) The office of the Lieutenant Governor of the State of Hawaii, where there are on file all rules of the Director of Budget and Fiscal Services;
 - (2) The office of the City Clerk of the City and County of Honolulu, where there are on file all rules of the Director of Budget and Fiscal Services; or
 - (3) The office of the Director of Budget and Fiscal Services. All rules, orders or opinions of the Department of Budget and Fiscal Services are on file and available for public inspection at said office. Copies of rules and compilations thereof are available to the public upon payment of the charges provided for in chapter 6, article 11, ROH 1990, as amended.
- (b) 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 Budget and Fiscal Services. [Eff **OCT 3 1 2004**]

§03-1-2 Petition for Adoption, Amendment or Repeal of Rules.

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

(b) The petition 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- (3) A draft of the substance of the proposed rule or amendment or a designation of the provision sought to be repealed.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 of Budget and Fiscal Services may reject any petition which does not conform to the foregoing requirements.

(d) The Director of Budget and Fiscal Services shall within thirty (30) days after the submission of the petition either deny the petition, in writing, stating his reasons for such denial, or initiate proceedings in accordance with chapter 91, HRS, as amended, for the adoption, amendment or repeal of the rule, as the case may be. [Eff **OCT 31 2004**]

§03-1-3 Declaratory Ruling by Director of Budget and Fiscal

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

(b) The petition 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 of Budget and Fiscal Services may reject any petition that does not conform to the foregoing requirements.

(d) The Director of Budget and Fiscal Service may for good cause refuse to issue a declaratory ruling. Without limiting the generality of the foregoing, the Director of Budget and Fiscal Services 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 interests of the City and County, the Director of Budget and Fiscal Services or any of their officers or employees in any litigation that is pending or may reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the Director of Budget and Fiscal Services.
- (e) Where any question of law is involved, the Director of Budget and Fiscal Services may refer the matter to the Corporation Counsel. The Director of Budget and Fiscal Services may also obtain the assistance of other agencies, where necessary or desirable.
- (f) Upon the disposition of his petition, the petitioner shall be informed in writing thereof by the Director of Budget and Fiscal Services.
- (g) Orders disposing of petitions shall have the same status as other orders of the Director of Budget and Fiscal Services. 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. [Eff **OCT 31 2004**]

§03-1-4 Rules of Practice. Except as otherwise provided by law, in any proceeding involving the adoption by the Director of Budget and Fiscal Services of any rule authorized by law, the amendment or repeal of any such rule, or a contested case, which is required to be made or decided after an opportunity for a hearing, the following shall apply:

- (1) Adoption, amendment or repeal of rule.
 - (A) All persons who have made a timely written request of the Director of Budget and Fiscal Services 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 chapter 91, HRS, as amended, 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.

- (2) Contested case.
 - (A) Each party to a contested case shall be notified in writing of the hearing and of his opportunity to be heard thereat. Such notice shall conform to the requirements of Chapter 91, HRS, and shall be sent by registered or certified mail with return receipt requested, not less than fifteen (15) 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) The hearing shall be conducted in conformity with the applicable provisions of Section 91-9, HRS.
 - (C) The determination shall be subject to such limitations or standards as may be prescribed by law.
 - (i) If the decision of the Director of Budget and Fiscal Services is in favor of a party other than himself he shall promptly notify the party thereof in writing.
 - (ii) If the decision of the Director of Budget and Fiscal Services is adverse to a party other than himself, he shall issue an appropriate decision and order in writing. Such decision and order shall be accompanied by separate findings of fact and conclusions of law. He shall within a reasonable time send a certified copy thereof to the parties to the contested case.
 - (D) 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.
- (3) Judicial review shall be provided by law. [Eff **OCT 31 2004**]

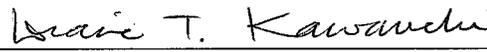
DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

Title 3, Chapter 1, Rules of Practice and Procedure, on the summary page dated [**OCT 12 2004**] following public hearing held on July 29, 2004 after public notice was given in the Honolulu Advertiser on June 14, 2004.

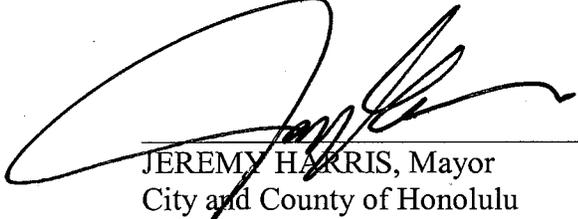
These rules shall take effect ten days after filing with the Office of the City Clerk.


for IVAN M. LUI-KWAN, Director
Department of Budget and Fiscal Services

APPROVED AS TO FORM AND LEGALITY:

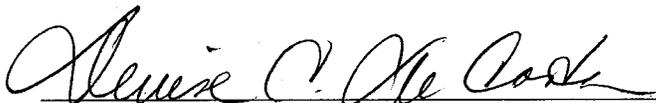

Deputy Corporation Counsel

APPROVED:


JEREMY HARRIS, Mayor
City and County of Honolulu

Dated: October 12, 2004

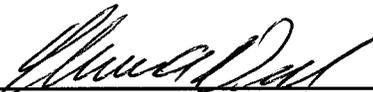
Received this 21st day of October, 2004.


DENISE COSTA, City Clerk

CERTIFICATE

I, Ivan M. Lui-Kwan, Director of Budget and Fiscal Services, City and County of Honolulu, hereby certify:

1. That the foregoing is a full, true and correct copy of Title 03, Chapter 1 of the Rules and Regulations of the Director of Budget and Fiscal Services, relating to rules of practice and procedure, having been adopted by the Director of Budget and Fiscal Services after a public hearing held on July 29, 2004.
2. That notice of public hearing on the foregoing Rules and Regulations, which notice included a statement of the substances of the proposed Rules and Regulations, was published in the Honolulu Advertiser on June 14, 2004.



For IVAN M. LUI-KWAN
Director of Budget and Fiscal Services
City and County of Honolulu