

FIRE COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

RULES OF THE HONOLULU FIRE COMMISSION

RULE 1. TITLE

- 1-1. Title. These Rules are entitled “Rules of the Honolulu Fire Commission.”
[Eff _____] (Auth: Revised Charter of the City & County of Honolulu
1973 (2000 ed.) (RCH) §6-1006) (Imp: RCH §6-1006)

RULE 2. DEFINITIONS

- 2-1. Definitions. Wherever used in these Rules, unless plainly evident from the content that a different meaning is intended, the following terms mean:
- (a) “Chair” means the chairperson of the Honolulu Fire Commission or duly authorized representative.
 - (b) “Chief” means the chief of the Honolulu Fire Department.
 - (c) “City” means the City and County of Honolulu.
 - (d) “Commission” means the Fire Commission of the City and County of Honolulu, State of Hawaii.
 - (e) “Complainant” means any individual aggrieved by the conduct of the Department or its personnel who files a complaint or petition with the

Fire Commission. “Complainant” also means any individual who was a witness who has direct knowledge of any misconduct on the part of an employee of the Department (third-party complainant). In the instance an individual aggrieved is a minor or adjudged to be incompetent, “complainant” shall mean said individual’s legal representative.

- (f) “Corporation Counsel” means the corporation counsel of the City and County of Honolulu or any deputy corporation counsel.
- (g) “Department” means the Fire Department of the City and County of Honolulu, State of Hawaii.
- (j) “Revised Charter” means the Charter of the City and County of Honolulu which became effective January 2, 1973, as amended. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §6-1006)

RULE 3. POWERS, DUTIES, AND FUNCTIONS

3-1. Powers, Duties, and Functions. The Fire Commission shall:

- (a) Adopt rules necessary for the conduct of its business and review rules for the administration of the Department.
- (b) Review the annual budget prepared by the Chief and make recommendations thereon to the mayor and the council.

- (c) Review the Department's operations, as deemed necessary, for the purpose of recommending improvements to the Chief.
- (d) Evaluate at least annually the performance of the Chief and submit a report to the mayor and the council.
- (e) Review personnel actions within the Department for conformance with the policies under Section 6-1002 of the Revised Charter.
- (f) Hear complaints of citizens concerning the Department or its personnel and, if deemed necessary, make recommendations to the Chief on appropriate corrective actions.
- (g) Submit an annual report to the mayor and the council on its activities. Except for purposes of inquiry or as otherwise provided in the Revised Charter, neither the Commission nor its members shall interfere in any way with the administrative affairs of the Department.

[Eff _____] (Auth: RCH §6-1006) (Imp: RCH §6-1006)

3-2. Composition of Commission. The Commission shall consist of seven members, as provided by Revised Charter, Section 6-1005, as amended.

[Eff _____] (Auth: RCH §6-1005) (Imp: RCH §6-1005)

3-3. Election of Chair and Vice-Chair. The members of the Commission shall elect annually a Chair, as provided by Revised Charter, Section 13-103(f), and a Vice-Chair to serve for the ensuing year, or until a successor shall be

elected. In the absence of the Chair, the Vice-Chair shall assume the duties of the Chair. In the absence of the Chair and Vice-Chair, a Chair may be appointed pro tempore. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-103)

3-4. Transacting of business. Four members of the Commission shall constitute a quorum. The affirmative vote of four members shall be necessary to take any action, and such action shall be made at a meeting open to the public. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-103, HRS §92-15)

3-5. Special committees. Special committees, as may be necessary, shall be appointed by the Chair. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-103)

3-6. Commission meetings. The regular meetings of the Commission shall be held on the third Wednesday of each month or such other day as may be determined by the Commission, at a place and time to be determined by the Commission. Special meetings may be held at the call of the Chair or the acting Chair. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-103; HRS §92-7)

3-7. Testimony. The Chair shall recognize members of the public who wish to present oral testimony on an agenda item at a meeting. Such oral testimony shall be limited to three (3) minutes. The time for the public to speak may

be extended at the discretion of the Chair. Written testimony may be submitted on agenda item(s) by filing the same with the Chair as provided in Rule 4.1 before the meeting or at the meeting. [Eff _____] (Auth: RCH §6-1006) (Imp: HRS §92-3)

**RULE 4. COMMUNICATION WITH AND OBTAINING
INFORMATION FROM THE FIRE COMMISSION**

4-1. Correspondence. Correspondence addressed to the Commission shall be sent to the Chair with copies provided to the Commission's secretary at its offices located at 650 S. King Street, 9th Floor, Honolulu, Hawaii 96813 and at nmurata@honolulu.gov. The Commission's secretary shall transmit copies of such correspondence to all Commissioners in a timely manner.

[Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-105)

4-2. Information requests. The public may obtain information as to matters within the jurisdiction of the Commission by inquiring at:

- (a) The office of the City Clerk, City Hall, where all rules of the Commission are on file; or
- (b) The office of the Commission, 650 S. King Street, 9th Floor, Honolulu, Hawaii 96813. All rules, orders, or opinions of the Commission are on file and available for public inspection at this

office. [Eff _____] (Auth: RCH §6-1006, Hawaii Revised Statutes (HRS) §91-2) (Imp: RCH §13-105, HRS §§92F-11, et seq.)

- 4-3. Submittals or requests for information. Such inquiry may be made in person at the office during business hours, or by submitting a request for information in writing to the Chair as provided in Rule 4.1. [Eff _____] (Auth: RCH §6-1006, HRS §91-2) (Imp: RCH §13-105, HRS §§92F-11, et seq.)
- 4-4. Release of confidential records. All complaint investigative reports, disciplinary records, and hearing records shall be considered confidential and may only be released under the following circumstances:
- (a) To the Chief when a recommendation has been made by the Commission;
 - (b) By order of a court of competent jurisdiction or pursuant to a lawfully issued subpoena;
 - (c) To other agencies or to the individual involved within the provisions, limitations, and protection of the Hawaii Revised Statutes, Chapter 92F, the Uniform Information Practices Act; or
 - (d) As otherwise required by law. [Eff _____] (Auth: RCH §6-1006, HRS §91-2) (Imp: RCH §13-105, HRS §§92F-11, et seq.)

**RULE 5. PETITION FOR ADOPTION, AMENDMENT, OR
REPEAL OF RULES**

- 5-1. Petition. Any interested person may petition the Commission requesting the adoption, amendment, or repeal of any rule of the Commission. [Eff _____] (Auth: RCH §6-1006, HRS §91-6) (Imp: RCH §6-1006, HRS §§91-3, et seq.)
- 5-2. Submission. The petition shall be submitted in ten (10) copies to the Chair as provided in Rule 4.1. It shall include:
- (a) A statement of the nature of the petitioner's interest;
 - (b) A draft of the substance of the proposed rule or amendment or a designation of the provision sought to be repealed; and
 - (c) An explicit statement of the reasons in support of the proposed rule, amendment, or repeal. [Eff _____] (Auth: RCH §6-1006, HRS §91-6) (Imp: RCH §6-1006, HRS §§91-3, et seq.)
- 5-3. Disposition of petition. The Commission shall within thirty (30) days after the submission of the petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with Chapter 91, Hawaii Revised Statutes, for the adoption, amendment, or repeal of the rule, as the case may be. [Eff _____] (Auth: RCH §6-1006, HRS §91-6) (Imp: RCH §6-1006, HRS §§91-3, et seq.)

RULE 6. DECLARATORY RULINGS BY THE COMMISSION

- 6-1. Petition. Any interested person may petition the Commission for a declaratory order as to the applicability of any statute or ordinance relating to the Commission, or of any rule or order of the Commission. [Eff _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §6-1006, HRS §91-8)
- 6-2. Submission of petition. The petition shall be submitted in duplicate to the Chair as provided in Rule 4.1. It shall contain:
- (a) The name, address, and telephone number of the petitioner;
 - (b) A statement of the nature of petitioner's interest, including reasons for the submission of the petition;
 - (c) A designation of the specific provisions, rule, or order in question;
 - (d) A complete statement of facts;
 - (e) A statement of the position or contention of the petitioner; and
 - (f) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.
- [Eff _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §6-1006, HRS §91-8)
- 6-3. Rejection of petition. The Commission may reject any petition which does

not conform to the foregoing requirements, or which does not contain information sufficient for the Commission to fully evaluate the petition and render a decision. [Eff _____] (Auth: RCH §6-1006, HRS §91-8)
(Imp: RCH §6-1006, HRS §91-8)

- 6-4. Refusal to issue declaratory ruling. The Commission may for good cause refuse to issue a declaratory ruling and shall so state in writing the reasons for its refusal. Without limiting the generality of the foregoing, the Commission may so refuse where:
- (a) The question is speculative or purely hypothetical and does not involve an existing fact, or facts, which can reasonably be expected to exist in the near future;
 - (b) Litigation is pending which may address the issue raised in the petition, or to which the City, Commission, its employees or officers and the petitioners are parties; or
 - (c) The matter is not within the jurisdiction of the Commission. [Eff _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §6-1006, HRS §91-8)

- 6-5. Referral to other agencies. For petitions that are not rejected or refused by the Commission at the outset, where any question of law is involved, the Commission shall refer the matter to the Corporation Counsel. Where a

question of law is not involved, the Commission may obtain the assistance of other agencies where necessary or desirable. [Eff _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §13-120, HRS §91-8)

6-6. Notification of petitioner. Upon the disposition of the petition, the petitioner shall be promptly informed thereof by the Chair. [Eff _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §6-1006, HRS §91-8)

6-7. Status of orders. Orders disposing of petitions shall have the same status as other Commission orders. 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 _____] (Auth: RCH §6-1006, HRS §91-8) (Imp: RCH §6-1006, HRS §91-8)

PART II- SPECIAL PROVISIONS

RULE 7. COMPLAINTS BROUGHT BY THE PUBLIC

7-1. Complaints. The Commission shall hear complaints of citizens concerning the Department or its personnel and, if deemed necessary, make recommendations to the Chief on appropriate corrective actions. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et

seq.)

- 7-2. Filing of complaints. Complaints against the conduct of the Department or any of its employees, shall be in writing, and submitted in duplicate to the Chair as provided in Rule 4.1. [Eff _____] (Auth: RCH §6-1006)
(Imp: RCH §13-114; HRS §§91-9, et seq.)

RULE 8. PROCESSING OF COMPLAINTS

- 8-1. Processing of complaints. Upon receipt of a complaint, and except as provided for in Rule 9, below, the Commission shall refer it to the Chief for investigation except that the Commission may summarily dismiss complaints where:

- (a) The complaint is not filed within sixty (60) calendar days of the occurrence of the event which is the basis of the complaint;
- (b) The complaint is speculative or purely hypothetical and does not involve existing facts;
- (c) The complaint is not within the jurisdiction of the Commission;
or
- (d) The complaint does not provide sufficient facts or information to support a meaningful investigation, evaluation, or determination by the Commission.

Provided, however, the Commission may accept and refer for investigation a complaint received after the sixty (60)-day period if it finds the delay in submitting the complaint was due to one of the following reasons:

- (1) Excusable neglect;
- (2) Newly discovered evidence which by reasonable diligence could not have been discovered in time; or
- (3) Any other reason that the Commission determines justifies relief from the sixty (60)-day limitation.

Lack of knowledge of the existence of the Commission or its complaint procedures shall not constitute excusable neglect in any case. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et seq.)

8-2. Consideration by the Commission. Once the investigation has been completed, the Commission shall consider all valid complaints, along with any investigative reports and information. Such consideration and deliberations may occur in executive session to the extent permitted by the provisions of Hawaii Revised Statutes, Chapter 92. The purpose is solely to ascertain and evaluate the facts with respect to the complaint and determine the Commission's position with respect thereto. Such consideration is not a

hearing in the judicial sense or the administrative procedure sense, as no rights or privileges of the complainant are adjudicated, and the question whether or not Department personnel should be disciplined is not decided.

[Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et seq.; HRS §§92-4, et seq.)

8-3. Other Misconduct Noted. The Commission may further review incidents of misconduct, other than that alleged by the complainant, arising from the investigation of a complaint. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et seq.)

8-4. Findings. The Commission shall submit a written report of its findings to the Chief, the complainant, and the person against whom the complaint is made. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et seq.)

8-5. Classifications for Case Findings.

(a) Unfounded

The complaint was not based on facts, or the incident complained of did not occur.

(b) Exonerated

The incident occurred, but was lawful and proper.

(c) Not Sustained

There is insufficient evidence to either prove or disprove the complainant's allegation.

(d) Sustained

There is sufficient evidence to support the complainant's allegations.

[Eff _____] (Auth: RCH §6-1006) (Imp: RCH §13-114; HRS §§91-9, et seq.)

**RULE 9. HEARING, APPOINTMENT, AND
REMOVAL OF CHIEF**

- 9-1. Hearing. The Commission may, in its discretion, hold a hearing on matters within its jurisdiction. In such a hearing, the provisions of Chapter 92 of the Hawaii Revised Statutes shall govern the manner and procedures in which said hearings shall be conducted. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §6-1003, RCH §13-114; HRS §§92-4, et seq.)
- 9-2. Appointment. The Chief shall be appointed by the Commission pursuant to the Revised Charter, Section 6-1003. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §6-1003, RCH §13-114; HRS §§91-9, et seq.)
- 9-3. Removal and Discipline. The Chief may be removed or disciplined by the imposition of a lesser sanction, by the Commission under the Revised Charter, Section 6-1003, only after being given a written statement of the

charges against the Chief and a hearing before the Commission as required by law. [Eff _____] (Auth: RCH §6-1006) (Imp: RCH §6-1003, RCH §13-114; HRS §§91-9, et seq., HRS §§92-4, et seq.)

The foregoing rules were adopted by the members of the Honolulu Fire Commission of the City and County of Honolulu at its public meeting held on _____.

HONOLULU FIRE COMMISSION FOR
THE CITY AND COUNTY OF HONOLULU
Adopted this ____ day of _____.

CHAIR

KIRK W. CALDWELL
MAYOR
CITY AND COUNTY OF HONOLULU

(Honolulu Fire Commission Rules)
Approved as to form and legality:

DEPUTY CORPORATION COUNSEL

CERTIFICATION

I, _____, in my capacity as Chair of the Honolulu Fire Commission, City and County of Honolulu, do hereby certify that the foregoing is a full, true, and correct copy of the rules governing the Honolulu Fire Commission, which were adopted following a public meeting held on _____, after public notice was given and published on _____, in the _____.

HONOLULU FIRE COMMISSION FOR
CITY AND COUNTY OF HONOLULU

Certified this ____ day of _____.

Chair

Received this ____ day of _____.

CITY CLERK

Effective Date of Rules: _____