

HIGH TECHNOLOGY DEVELOPMENT CORPORATION

**Adoption of Chapter 30
Hawaii Administrative Rules**

September 26, 1984

SUMMARY

**Chapter 30, Hawaii Administrative Rules,
entitled "High Technology Development Corporation
Rules of Practice and Procedure", is adopted.**

HAWAII ADMINISTRATIVE RULES
TITLE 15 DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT

SUBTITLE 6 HIGH TECHNOLOGY DEVELOPMENT CORPORATION

CHAPTER 30
HIGH TECHNOLOGY DEVELOPMENT CORPORATION

RULES OF PRACTICE AND PROCEDURE

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§15-30-1 Purpose. This chapter governs procedures before the high technology development corporation under chapter 206M, HRS, and shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Board" means the board of directors who constitute the governing body of the development corporation, as provided by section 206M-2(b); HRS;

"Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for hearing;

"Chairperson" means the person elected by the board to serve as chairperson of the board;

"Designated representative" means any person designated in writing by the state director of planning and economic development, or the state director of finance, to represent the designator as an ex officio voting member of the board;

"Development corporation" means the high technology development corporation established by section 206M-2(a), HRS; to develop industrial parks and facilities for high technology enterprises;

"Ex officio member" means the state director of planning and economic development, or the state director of finance;

"Executive director" means the chief administrative officer of the development corporation appointed by the board pursuant to section 206M-2(d), HRS;

"HRS" means the Hawaii Revised Statutes;

"Meeting" means the convening of the board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter under the supervision or control of the board;

"Petitioner" means any person or agency that petitions the board, or on whose behalf a petition is made to the board, and concerning which the board may take action under statutory or other powers granted to it;

"Proceeding" means any matter brought before the board which is given consideration in light of the powers and duties of the board as provided by law. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-3 Office and office hours. (a) The office of the development corporation is located at 220 South King Street, Central Pacific Plaza, Suite 252, Honolulu, Hawaii 96813. All communications to the development corporation shall be directed to the above address or to P.O. Box 2359, Honolulu, Hawaii 96804, unless otherwise directed.

(b) The office of the development corporation shall be open from 7:45 a.m. to 4:30 p.m. Monday through Friday, unless otherwise provided by statute or executive order. [Eff DEC 24 1984] (Auth: HRS §§80-1, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-4 Meetings; conduct of meetings. (a) The board may meet and exercise its powers in any part of the State of Hawaii. All meetings of the board shall be open to the public except executive meetings. Public notice of all meetings, except emergency meetings, shall be made pursuant to section 92-7, HRS. The parliamentary procedure to be utilized by the board in the conduct of its meetings shall be based on Robert's rules of order, newly revised, 1981 edition. Minutes of the board's meetings shall be kept in accordance with section 92-9, HRS.

(b) The board may hold an executive meeting from which the public may be excluded, for those purposes permitted by section 92-5, HRS, but only if there is an affirmative vote of at least two-thirds of the members present at the meeting. The reason for holding the executive meeting and the vote of the members shall be recorded and entered into the minutes of the meeting. No ruling, rule, contract, appointment, or decision shall be finally acted upon in an executive meeting.

(c) The board may call an emergency meeting under conditions permitted by section 92-8, HRS.

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(d) The chairperson may remove any person who wilfully disrupts a meeting. [Eff DEC 24 1984]
(Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-5 Quorum and number of votes necessary for a decision; designated representatives.

(a) The power of the development corporation shall be vested in the members of the board in office from time to time. A quorum shall consist of a majority of all the members the board is entitled to by statute, and the affirmative vote of at least that number of members shall be necessary to make any action of the board valid.

(b) A designated representative shall serve as a voting member when representing an ex officio member. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§92-15; 206M-3)

§15-30-6 Authentication of board actions.

All actions, decisions, and orders of the board requiring authentication shall be signed by the chairperson, or, in the chairperson's absence, by an officer of the development corporation or by such other person as provided by the bylaws. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-7 Submittals and requests of petitioners. All submittals and requests requiring action by the board which may be taken at a board meeting shall be made in writing and filed with the office of the development corporation at least ten calendar days before the date of a scheduled meeting. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-8 Inspection of public records; requests for public information. All public records of the development corporation shall be available for inspection by any person during office hours unless public inspection of the records is in violation of any state or federal law, or of any court order. Requests for inspection of public records and for public information shall be referred to the executive director, or to a subordinate staff member designated

by the executive director. As used in this section, the term "public records" shall be as defined by section 92-50, HRS. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-9 Duties of executive director. The board shall appoint an executive director to serve as the chief administrative officer of the development corporation. The executive director shall be directly responsible to the board, and shall have control over and responsibility for the execution of the board's policies, the administration of its affairs, and the supervision of its staff. [Eff DEC 24 1984] (Auth: HRS §206M-2) (Imp: HRS §206M-3(5))

§15-30-10 Delegation of administrative duties. The board may delegate to the executive director any power or authority vested in the board as it deems reasonable and proper for the effective administration of chapter 206M, HRS, except the power to adopt, amend, or repeal rules; and any power or authority expressly reserved to the board by statute or rule. [Eff DEC 24 1984] (Auth: HRS §206M-3) (Imp: HRS §206M-3)

§15-30-11 Appointment of hearing officer to hold hearing. The board by written resolution adopted by the board, may appoint a hearing officer to hold a hearing as provided by this chapter. Responsibilities of the hearing officer shall be described in section 92-16(3), HRS. A hearing officer shall not be used to hold a hearing in any contested case. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §92-16)

SUBCHAPTER 2

PROCEEDINGS BEFORE THE DEVELOPMENT CORPORATION

§15-30-14 General rule. All petitioners shall comply with this chapter when appearing before the board. Procedures to be followed by the board, unless specifically prescribed in this chapter or by chapter 91, HRS, shall be those which, in the opinion of the board, will best serve the purposes of the

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proceeding. For good cause shown, the board may waive or suspend this chapter. [Eff DEC 24 1984]
(Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-15 Appearances before the board.

(a) Any party to any proceeding before the board may appear pro se or be represented by an authorized representative.

(b) When an individual acting in a representative capacity appears in person or signs a paper submitted to the board, the personal appearance or signature of that individual shall constitute a representation to the board that under the provisions of this chapter and the applicable statute, the individual is authorized and qualified to represent that particular person or entity. The board, at any time, may require any person transacting business with the development corporation in a representative capacity to authenticate the person's authority and qualification to act. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-16 Disqualification of board members. Up to five calendar days before the scheduled hearing or meeting a petitioner may file an affidavit alleging that one or more of the board members has a personal bias or prejudice. Every affidavit shall state the facts and reasons for the belief that bias or prejudice exists. Any member against whom the affidavit is filed may answer the affidavit. The chairperson shall decide whether that member should be disqualified from acting upon the proceeding. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-17 Filing of papers. (a) All requests, submittals, petitions, reports, maps, exceptions, plans, memoranda, and other papers required to be filed with the development corporation pursuant to any proceeding shall be filed within the time limits prescribed by the applicable law, rules, or by order of the board. The date on which the papers are received by personal service or by mail shall be regarded as the date of filing.

(b) All papers filed with the development corporation shall be:

- (1) Written in black ink, typewritten, photocopied, mimeographed, or printed;
- (2) Plainly legible; and,
- (3) On strong, durable paper not larger than 8-1/2" x 11" in size, except that maps, charts, tables, and other like documents may be larger, folded to the size of the papers to which they are attached.

(c) Reproduction may be by any process, provided all copies are clear and permanently legible.

(d) The original of each paper shall be signed in ink by the party.

(e) All papers shall be signed by the petitioner. The signature shall constitute a verification that the paper has been read and that to the best knowledge, information, and belief of that person:

- (1) Every statement contained therein is true;
- (2) No statement is misleading; and,
- (3) That the paper is not interposed for delay.

(f) Unless otherwise required by this chapter or the board, there shall be filed with the development corporation an original and nine copies of each paper. Additional copies shall be promptly provided if requested by the chairperson or executive director.

(g) If any paper filed with the development corporation is not in substantial conformity with the applicable rules of the development corporation, the board, on its own motion or on motion of any party, may strike the paper or require its amendment. If amended, the paper shall be effective as of the date of the receipt of the amendment.

(h) Papers filed with the development corporation shall be retained for a reasonable time by the board in its files. [Eff DEC 24 1984]
(Auth: HRS §§91-2, 206M-3) (Imp: HRS §§91-2, 206M-3)

§15-30-18 Continuances or extensions of time. Whenever a person or agency is required to take action within the period prescribed or allowed by this

chapter, or by notice given under this chapter, or by an order, the chairperson may:

- (1) With or without notice, extend the period before the expiration of the prescribed period; or
- (2) Upon motion, permit the act to be done after the expiration of a specified period where the failure to act is reasonably shown to be excusable.

[Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3(5)) (Imp: HRS §§91-2, 206M-3)

§15-30-19 Hearing procedures. (a) Any public hearing before the development corporation shall be presided over by the chairperson, or, in the chairperson's absence, by another member or hearing officer designated by the board. A quorum of the board shall not be required in the conduct of a hearing, except in contested cases. Interested individuals and agencies shall have a reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing. A clear and orderly record shall be obtained. The presiding officer may administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) Each hearing shall be held at the time and place set in the notice of hearing but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement at the hearing.

(c) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in the order the presiding officer prescribes.

(d) To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

(e) Any person who wilfully disrupts a hearing to prevent or compromise the conduct of the hearing shall be removed from the hearing room.

(f) Before proceeding to testify, witnesses shall state their name, address, and whom they

represent at the hearing, and shall give any information respecting their appearance as the presiding officer may request. The presiding officer shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board.

(g) All interested persons or agencies shall 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 may be extended beyond the hearing date by the presiding officer for good cause. An original and nine copies shall be required when submitting written comments, recommendations, or replies.

(h) Any party to the hearing upon request shall be allowed to be represented by counsel and be allowed reasonable rights of examination and cross examination of witnesses.

(i) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, an original and nine copies of the exhibits shall be submitted. [Eff DEC 24 1984] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6, 92-16)

§15-30-20 Declaratory ruling by the development corporation. (a) Any person may petition the development corporation for a declaratory order as to the applicability of any statutory provision or of any rule or order of the development corporation, by submitting a signed letter to the chairperson. The letter of the petitioner shall contain:

- (1) A statement of the nature of the petitioner's interest, including reasons for the submission of the petition;
- (2) A designation of the specific statutory provision, rule, or order in question;
- (3) A statement of the relevant facts;

- (4) A statement of the interpretation given the statutory provision, rule, or order by the petitioner, including any legal authorities, in support of the interpretation of the petitioner;
- (5) A statement that the petition is being made pursuant to this section; and
- (6) The name, address, and telephone number of the petitioner.

Any petition which does not conform to the requirements of this section may be rejected by the development corporation.

(b) Upon receipt of the petition, the development corporation shall cause it to be dated to establish the date of receipt. Within thirty days of the date of receipt, the development corporation shall notify the petitioner of the date, time, and place when the development corporation shall hold a hearing to consider the petition, the petitioner's privilege of personal appearance, with or without counsel as the petitioner may elect; and the petitioner's privilege of presenting evidence in support of the petition.

(c) The development corporation for good cause may refuse to issue a declaratory order. Good cause may include, but shall not be limited to, any of the following:

- (1) The question is speculative or purely hypothetical and does not involve an existing situation or one which may reasonably be expected to occur in the near future;
- (2) The petitioner's interest is not the type which would give the petitioner standing to maintain an action in a court of law;
- (3) The issuance of the declaratory order may adversely affect the interest of the development corporation or the State of Hawaii in any litigation which is pending or may reasonably be expected to arise;
- (4) The matter is not within the jurisdiction of the development corporation.

(d) Within thirty days after a hearing is held, the development corporation shall inform the petitioner in writing that the petition is denied and shall state reasons therefor, or that a declaratory

order will be issued within sixty days from the date of the hearing. If a petition is denied, the petitioner may seek judicial review pursuant to chapter 91, HRS, and applicable rules of court.
 [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M-3)
 (Imp: HRS-§91-8)

SUBCHAPTER 3

RULEMAKING PROCEDURE

§15-30-21 Initiation of rulemaking procedure. (a) The adoption, amendment, or repeal of any rule of the development corporation may be made by the board on its own motion, or by petition of any interested person or agency.

(b) Petitions for rulemaking shall conform to the requirements of section 15-30-17 and shall contain:

- (1) The name, address, and telephone number of each petitioner;
- (2) The signature of each petitioner;
- (3) A draft of 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 petitioner's interest in the subject matter; and
- (5) A statement of the reasons in support of the proposed rule, amendment, or repeal.

(c) Within thirty days after the filing of a petition for rulemaking, the board shall either deny the petition or initiate rulemaking proceedings.
 [Eff DEC 24 1984] (Auth: HRS §§91-2, 91-6)
 (Imp: HRS §§91-3, 91-6)

§15-30-22 Denial of petition. Any petition that fails in any material respect to comply with this chapter or fails to disclose sufficient reasons to justify the institution of public rulemaking proceedings shall not be considered by the board. The board shall notify the petitioner in writing of the denial, stating the reasons therefor. Denial of a petition shall not operate to prevent the board from acting, on its own motion, upon any matter disclosed in the petition. The petitioner may seek judicial

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review of denial pursuant to chapter 91, HRS, and applicable rules of court. [Eff DEC 24 1984]
(Auth: HRS §91-6) (Imp: HRS §91-6)

§15-30-23 Acceptance of petition. If the board determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking to justify the institution of rule making proceedings, the procedures to be followed shall be as set forth in this chapter and chapter 91, HRS. [Eff DEC 24 1984] (Auth: HRS §91-6)
(Imp: HRS §91-6)

§15-30-24 Notice of public hearing. (a) Whenever, pursuant to a petition or upon its own motion, the board proposes to adopt, amend, or repeal any rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the State. The notice shall also be mailed to all agencies or persons who have made timely written requests for advance notice of the development corporation's rulemaking proceedings. All notices shall be published at least twenty days prior to the date set for public hearing.

(b) A notice of the proposed adoption, amendment, or repeal of any 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 the rule is proposed; and
(3) A statement of the substance of the proposed rulemaking.

(c) The public hearing shall be conducted in accordance with procedures of section 15-30-19.
[Eff DEC 24 1984] (Auth: HRS §§91-2, 91-6)
(Imp: HRS §§91-3, 91-6, 92-41)

§15-30-25 Board action. The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

(1) The final public hearing; or

- (2) The expiration of any extension period for submission of written comments or recommendations, whichever occurs later. [Eff DEC 24 1984] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-30-26 Emergency rulemaking. The board may adopt emergency rules pursuant to section 91-3(b), HRS. [Eff DEC 24 1984] (Auth: HRS §91-2) (Imp: HRS §91-3)

SUBCHAPTER 4

CONTESTED CASES

§15-30-31 Contested case procedures and requirements. (a) Sections 91-9 to 91-13, HRS, shall be followed by the board in any contested case.

(b) A quorum of the board shall be required to hold a hearing on a contested case. [Eff DEC 24 1984] (Auth: HRS §§91-2, 206M) (Imp: HRS §§91-9 - 91-13)

STATE OF HAWAII
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Chapter 30, of Title 15, State of Hawaii
Department of Planning and Economic Development
Administrative Rules, on the Summary Page dated
September 26, 1984, was adopted on September 26, 1984,
following a public hearing held on September 21, 1984,
after public notice was given in the Honolulu
Advertiser on September 1, 1984, and in the Honolulu
Star Bulletin on September 1, 1984.

These rules shall take effect ten days after
filing with the Office of the Lieutenant Governor.



K. Tim Yee, Chairperson
High Technology/Development
Corporation Board of
Directors

APPROVED:



George R. Ariyoshi
Governor
State of Hawaii

Dated: Dec 8, 1984

APPROVED AS TO FORM:

Special Junell Y. K. Lee
Deputy Attorney General

Filed

REC'D. BY

NOV 14 1984

GOVERNOR'S OFFICE