

**RULES OF PRACTICE AND
PROCEDURE FOR THE HAWAI'I
COUNTY CULTURAL RESOURCES
COMMISSION**

RULES 1-5

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RULE 1. GENERAL RULES

1-1 Title

These rules and regulations shall be known as the "Rules of Practice and Procedure for the Hawai'i County Cultural Resources Commission."

1-2 Authority

The rules herein are established pursuant to the provisions of Chapter 2, Article 44 of the Hawai'i County Code and Chapter 91-1 of the Hawai'i Revised Statutes.

1-3 Purpose

These rules and regulations govern practice before and procedures of the Hawai'i County Cultural Resources Commission and set forth general rules applicable to proceedings before the Commission.

1-4 General Definitions

- (a) "Agency" means any agency, board, commission, department, or officer of the county or state government.
- (b) "Applicant" means any agency or person who applies to the Commission for an opinion, recommendation, or determination.
- (c) "Commission" means the Hawai'i County Cultural Resources Commission.
- (d) "Council" means the Hawai'i County Council.
- (e) "County" means the County of Hawai'i, a political subdivision of the State of Hawai'i.
- (f) "Culture" means the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, be it an Indian tribe, a local ethnic group, or the people of the nation as a whole.
- (g) "Department" means the Hawai'i County Planning Department.
- (h) "Director" means the Director of the Hawai'i County Planning Department.
- (i) "Government Record" means information maintained by an agency in written, auditory, visual, electronic, or other physical form.
- (j) "Hawai'i Register" means the Hawai'i Register of Historic Places, which is a state register of historic properties, maintained by the Hawai'i Historic Places Review Board.

- (k) “Historic Asset” means the material products of past human activity, discrete entities of recognized value at any scale from artifact to landscape, terrestrial or marine.
- (l) “Historic Preservation” means the research, protection, restoration, rehabilitation, and interpretation of buildings, structures, objects, districts, areas, and sites, including underwater sites and burial sites, significant to the history, architecture, archaeology, or culture of this state, its communities, or the nation.
- (m) “Historic Property” means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.
- (n) “In-kind repairs” means the repair or replacement of existing materials or features that match the old in design, color, texture, materials, dimensions, shape and other visual qualities.
- (o) “National Register” means the National Register of Historic Places, which is a federal register of historic places maintained by the United States Secretary of the Interior under the authority of section 2(b) of the Historic Sites Act of 1935 and section 101(a)(1) of the National Historic Preservation Act.
- (p) “Person” means any individual, partnership, firm, association, trust, estate, corporation, or other legal entity of any character other than an agency.
- (q) “Project” means any activity directly undertaken by the state or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the state or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the state or its political subdivisions.
- (r) “Site” means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

1-5 The Commission and Staff to the Commission

- (a) Office. The office of the Commission is at Hilo, Hawai‘i.
- (b) Communications. Unless otherwise specifically directed, all communications to the Commission shall be directed to the Commission at the office of the Planning Department of the County of Hawai‘i, 101 Pauahi Street, Suite 3, Hilo, Hawai‘i 96720.
- (c) Membership. The Commission shall consist of nine appointed members. The members shall be appointed by the Mayor with the approval of the Council, with representation from the following professions and persons

with special interest in: architecture, history, archaeology, planning, architectural history, Hawaiian culture, traditional Native Hawaiian burial practices as practiced prior to foreign contact, and ethnic history and culture of Hawai'i County. The Mayor shall solicit lists of two or more persons, recommended by community and professionals, such as the historic societies, architects, and the state Office of Hawaiian Affairs, for consideration in making Commission appointments. Commission members should have a demonstrated interest, competence and or knowledge in historic preservation. The Commission shall be comprised of members from different areas of the county who possess a knowledge and interest in local area history, and shall include at least one representative selected on the basis of that person's understanding of culture, history, burial beliefs, customs, and practices of Native Hawaiians.

- (1) Commission members shall serve staggered five-year terms. Upon the initial appointment of the Commission, one member shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Members initially appointed for a term of one or two years shall be eligible to succeed themselves for an additional full term.
 - (2) No member whose term has expired shall continue to serve on the Commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
 - (3) Any vacancy occurring in the Commission shall be filled for the unexpired term.
 - (4) The Commission shall annually elect from its membership a Chairperson and Vice-Chairperson.
 - (5) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance.
 - (6) A member may be removed upon recommendation by the Mayor and approval of the Council.
- (d) The Director shall appoint a professional from the disciplines of planning, archaeology, architecture, architectural history, Hawaiian culture, history or historic preservation, herein after referred to as "commission staff", to serve as the liaison with the State Historic Preservation Office pertaining to matters which deal with the Commission. The Director and

commission staff shall provide technical, clerical, administrative functions, and any other duties delegated by the Commission.

1-6 Powers and Duties of the Commission

The Chairperson shall be the presiding officer of the Commission and the Vice-Chairperson shall act as the presiding officer in the absence or at the request of the Chairperson.

(a) Duties of the Commission

- (1) The Commission shall advise and assist federal, state and county government agencies in carrying out their historic preservation responsibilities. The Commission shall provide public information, education, training and technical assistance relating to the national, state and county historic preservation programs.
- (2) The Commission shall initiate, accept, review, and recommend to the State Historic Preservation Officer, historic properties nominations for inclusion on the Hawai'i and national registers.
- (3) The Commission shall maintain a system for the survey, inventory and nomination of historic properties and archaeological sites within the county, as well as a system of site monitoring, that is compatible with that of the State Historic Preservation Office.
- (4) The Commission shall administer the Certified Local Government program of federal assistance for historic preservation within the county.
- (5) The Commission shall provide design review for projects affecting any building or structure, site or district eligible for listing on the National or Hawai'i Register of Historic Places and shall request and consider the State Historic Preservation Officer's review and comment on all county undertakings, including the granting of permits. In its review, the Commission shall consider the cultural significance of the site and its surroundings along with the United States Department of the Interior, Secretary of the Interior's Standards for Rehabilitation, as amended.
- (6) The Commission shall use the State Historic Preservation Plan to develop and implement a comprehensive county-wide historic preservation planning process, which includes the submitting of information pertaining to the state inventory of historic places to the State Historic Preservation Officer.
- (7) The Commission shall make recommendations to the Hawai'i County Council for the expenditure of gifts and grants accepted by the Council for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties,

the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith.

- (8) The Commission shall adopt rules and regulations of procedure and conduct, pursuant to Chapter 91, Hawai'i Revised Statutes.
 - (9) The Commission may review and comment on archaeological reports submitted as part of development proposals to various county agencies.
 - (10) The Commission may make recommendations to the State Historic Preservation Officer and the Hawai'i Island Burial Council on the appropriate management, treatment, and protection of Native Hawaiian burial sites, which are customary with traditional Native Hawaiian burial practices.
 - (11) The Commission may undertake any other action or activity necessary or appropriate towards the implementation of its powers or duties or towards implantation of the purpose of this article. More specifically these may include, but not be limited to, the following:
 - (A) Recommend new ordinances establishing special treatment districts and archaeological districts;
 - (B) Review and recommend amendments to current policies and laws on the enforcement of existing codes relating to historic sites;
 - (C) Continually reevaluate building code requirements and enact amendments that are more sympathetic to preservation or provide exemptions for historic properties;
 - (D) Encourage the county, state, and federal governments, and the private sector, to implement appropriate management strategies, curatorships and meaningful interpretive programs at significant historical and archaeological structures, sites, and districts;
 - (E) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications and other educational means which increase public awareness and participation in preserving the past.
- (b) Duties of the presiding officer
- (1) Open all meetings of the Commission at the appointed hour by taking the chair and calling the meeting to order;
 - (2) Call for the approval of the minutes of any preceding meetings when a quorum is present;

- (3) Maintain order and proper decorum;
 - (4) Announce the business before the Commission;
 - (5) Review all matters properly brought before the Commission, call for votes upon the same and announce the results;
 - (6) Appoint all committee chairpersons with the approval of a proper majority of the members;
 - (7) Authenticate by his or her signature all acts of the Commission as may be required by law, unless delegated to the Director;
 - (8) Do and perform such other duties as may be required by law, or such as may properly appertain to such office;
 - (9) Make known all rules of order when so requested, and to decide all questions of order;
- (c) Duties of commission staff
- (1) Receive, submit, and coordinate all matters properly brought before the Commission in consultation with the Chairperson;
 - (2) Provide the agenda and support materials for all meetings;
 - (3) Read bills, resolutions, and other matters to the Commission if so required;
 - (4) Forward at once to the proper parties all communications and other matters, either directly or through a committee, as the case may be;
 - (5) Deliver immediately to the Chairperson of the appropriate committee all petitions, resolutions, bills, or other matters as may be duly referred to such committee;
 - (6) To serve in all matters as ex officio clerk of the Commission and to do and perform all clerical duties and services pertaining to the position as the Commission shall from time to time direct, and as shall be assigned by law or these rules, or rules hereafter adopted, or which properly pertain to such position;
 - (7) To have charge of all records of the Commission and be responsible for the same.

1-7 Meetings

The Commission may meet and exercise its powers in its respective jurisdiction within the county. The parliamentary procedure to be utilized by the Commission in the conduct of its own meeting shall be based on the current edition of Robert's Rules of Order.

- (a) Regular meetings shall be held on the second Wednesday of each month, alternating between the Planning Department's conference room at the West Hawai'i Civic Center in Kona and the Puna Conference Room at the Hawai'i County Building in Hilo. This schedule and meeting location may be altered by the Chairperson and the regular meeting held elsewhere or on a different day or time when necessary to enable the Commission to effectively conduct its business. Regular meetings may be cancelled by the Chairperson, no more than six days before the scheduled meeting date, if no materials are to be considered by the Commission.
- (b) Special meetings may be called by the Chairperson, Director, or by any three members of the Commission.
- (c) Notice of regular and special meetings.
 - (1) The Commission shall give written public notice of any regular or special meeting. The notice shall include an agenda which lists all of the items to be considered at the meeting, and the date, time, and place of the meeting.
 - (2) The Commission shall file the notice in the Office of the County Clerk and in the Commission's office for public inspection at least six calendar days before the meeting.
 - (3) If nominations to the Hawai'i or National Register of Historic Places are to be heard by the Commission, a notice inclusive of the date, time, place and purpose of the hearing shall be published in a newspaper of general circulation in the county at least ten days prior to the hearing.
- (d) Testimony at public hearings.
 - (1) All Commission meetings are open to the public, except as may be provided by law.
 - (2) Any person or a representative thereof shall be entitled to appear and be heard on any matter before the Commission.
 - (3) The presiding officer may place a reasonable time limit on public testimony, which in any event shall be not less than three minutes per person per agenda item.
 - (4) The person desiring to testify shall indicate his or her name and place of residence and indicate whether he or she is testifying on their own behalf or as a representative of the applicant or an organization.
 - (5) An original and fifteen copies of all written testimony offered by any person shall be submitted to the Commission prior to the time the person gives such testimony.

- (6) The presiding officer may limit testimony which is irrelevant, abusive, disruptive, or unduly repetitious.
- (7) All members of the public shall extend proper courtesy and respect to one another and to all Commission members and staff. No profanity or abusive remarks will be allowed at any time in any meeting.
- (8) Any person who does not abide by these rules or who disrupts a meeting which prevents or compromises the conduct of the meeting may be removed from the meeting at the discretion of the presiding officer.
- (e) Five commissioners shall constitute a quorum for the transaction of business. The affirmative vote of a majority of those members present shall be necessary to take any action.
- (f) Whenever a conflict of interest or other ethical question is raised by anyone regarding any member of the Commission, the affected member shall promptly make a full disclosure of the circumstances to the Commission.
- (g) The Commission shall comply with the provisions of Chapter 92, Hawai'i Revised Statutes, as amended.
- (h) A draft agenda for the next meeting shall be established at the end of each meeting. The Chairperson may add items to the agenda prior to the filing of the public notice.

1-8 Committees

The Commission may appoint the necessary standing and select committees to discharge its responsibilities and functions.

1-9 Minutes

The Commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required, but written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The written minutes shall be government record and shall be available within thirty days after the meeting, except where such disclosure would be inconsistent with Section 92-5, Hawai'i Revised Statutes, or Section 13-20 of the Charter of the County of Hawai'i; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. The minutes shall include, but not be limited to:

- (a) The date, time, and place of the meeting;

- (b) The members of the Commission recorded as either present or absent;
- (c) The substance of all matters proposed, discussed, or decided, and a record, by individual members, of any votes taken; and
- (d) Any other information that any member of the Commission requests be included or reflected in the minutes.

1-10 Government Records

The term “government records” shall have the same meaning as is defined in Chapters 92 and 92F, Hawai‘i Revised Statutes, and shall include all maps, rules, written statements of policy or interpretation formulated, adopted, or used by the Commission in its functions, all decisions, orders, minutes of the Commission meetings and records of any proceeding on file with the Commission, but shall not include records protected by law or which invades the right of privacy of an individual.

- (a) Inspection of government records. All government records shall be available for inspection by any person during established office hours unless public inspection of such records is in violation of any other state, federal, or county law; provided that, except where such records are open under any rule of court, the corporation counsel or prosecuting attorney may determine which records may be withheld from public inspection when such records pertain to the preparation of the prosecution or defense of any action or proceeding to which the county is or may be a party, or when such records do not relate to a matter in violation of law and are deemed necessary for the protection of the character or reputation of any person.
- (b) Copies of government records. Copies of records printed or reproduced for persons other than governmental agencies shall be given to any person, provided that the fees or costs provided for by Chapter 2, Article 17 of the Hawai‘i County Code are paid.
- (c) Denial of inspection; application to circuit court. Any person aggrieved by the person having custody of any government record of the right to inspect the records or to obtain copies of extracts thereof may apply to the circuit court for an order directing the person having custody of the record to permit the inspection of or to furnish copies or extracts of the government record. The court shall grant the order after hearing, upon a finding that the denial was not for just and proper cause.

1-11 Computation of Time

In computing any period of time under these rules, by notice, or by any order or rule of the Commission, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or

legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

1-12 Severability

In the event any portion of the Rules of Practice and Procedure for the Hawai'i County Cultural Resources Commission are declared invalid, such invalidity shall not affect other parts of the Rules of Practice and Procedure.

RULE 2. PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES

2-1 Initiation of Rulemaking Proceedings

- (a) The Commission may, at any time, initiate proceedings for the adoption, amendment, or repeal of any rule of the Commission, so long as any adoption, amendment or repeal is not deemed to be required under State or County law. Procedures to be followed in rulemaking shall be as set forth in these rules.
- (b) Any interested person or agency may petition the Commission for the adoption, amendment, or repeal of any rule of the Commission. Such petitions shall contain:
 - (1) A non-refundable filing and processing fee of five hundred dollars;
 - (2) The name, address, telephone number, if available, and signature of the petitioner;
 - (3) A draft or the substance of the proposed rule or amendment or a designation of the provision, the repeal of which is desired;
 - (4) A statement of the reasons in support of the proposed rule, amendment, or repeal.
- (c) The Commission shall, within sixty days after filing of a petition for rulemaking, either deny the petition or initiate public rulemaking proceedings.
- (d) Any petition that fails in material respect to comply with the requirements of this section or that fails to disclose sufficient reasons to justify the institution of rulemaking proceedings shall be denied by the Commission. The Commission shall notify the petitioner in writing of such denial, stating the reasons thereof. Denial of the petition shall not operate to prevent the Commission from acting, on its own motion, or any matter disclosed in the petition. Petitioner may seek review of the denial through the Board of Appeals.
- (e) If the Commission determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking proceedings, the Commission shall conduct rulemaking proceedings in accordance with Section 2-2 of this rule.

2-2 Notice of Public Hearing

- (a) When, pursuant to a petition therefore or upon its own initiation, the Commission proposed to adopt, amend, or repeal a rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the county, and the notice shall also be mailed to all persons who have made timely written requests for advance notice of the

Commission's rulemaking proceedings. The notice shall be published at least thirty days prior to the date set for the public hearing.

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

2-3 Conduct of Public Hearing

The Commission shall hold a public hearing regarding the adoption, amendment or repeal of rules pursuant to Section 1-7 of these rules.

2-4 Action

The Commission shall consider all relevant comments and material of record before taking final action in a rulemaking proceeding. Final action shall be taken within sixty days after the close of the public hearing.

2-5 Filing of Rules

The Commission, upon adopting, amending, or repealing a rule and approval by the Mayor, shall file certified copies of the rule with the County Clerk.

2-6 Taking Effect of Rule

Each rule adopted, amended or repealed shall become effective ten days after filing with the County Clerk. If a later effective date is required by statute or specified in the rule, the later date shall be the effective date, provided that no rule shall specify an effective date in excess of thirty days after the filing of the rule with the County Clerk.

2-7 Publication of Rules

The Commission shall, as soon as practicable, compile, index, and publish all rules adopted by the Commission and remaining in effect. Compilations shall be supplemented as often as necessary and shall be reviewed at least once every ten years.

RULE 3. STATE AND NATIONAL HISTORIC REGISTERS

3-1 Authority

Pursuant to the provisions of Chapter 2, Article 44 of the Hawai'i County Code, the Commission is charged with the following relating to the Hawai'i and National Registers of Historic Places:

- (a) The Commission shall initiate, accept, review and recommend to the State Historic Preservation Officer, historic properties nominations for inclusion on the Hawai'i and National Registers.
- (b) The Commission shall maintain a system for the survey, inventory and nomination of historic properties and archaeological sites within the county, as well as a system of site monitoring, that is compatible with that of the State Historic Preservation Office.
- (c) The Commission shall use the Hawai'i State Historic Preservation Plan to develop and implement a comprehensive county-wide historic preservation planning process, which includes the submitting of information pertaining to the State Inventory of Historic Places to the State Historic Preservation Officer.
- (d) The Commission shall provide design review for projects affecting any building or structure, site or district eligible for listing on the National or Hawai'i Register of Historic Places and shall request and consider the State Historic Preservation Officer's review and comment on all county undertakings, including the granting of permits. In its review, the Commission shall consider the cultural significance of the site and its surroundings along with the United States Department of the Interior, Secretary of the Interior's Standards for Rehabilitation, as amended.

3-2 Purpose

It is the purpose of this rule to encourage the restoration, rehabilitation and continued functional use of historic properties and to encourage the identification, preservation, promotion and enhancement of those historic properties which represent or reflect distinctive elements of cultural, social, economic, political and architectural history, and to encourage the designation of historic properties, thereby ensuring that our cultural and historic heritage will be imparted to present and future generations of residents and visitors.

3-3 Historic Register Nominations.

Any person or organization, including the Commission, may submit nominations to the Hawai'i or National Register by submitting a completed nomination form to the State Historic Preservation Officer.

- (a) Transmittal to the Commission.

- (1) The State Historic Preservation Officer may forward nominations to the Hawai'i and or National Register that are within the county to the Commission for review and recommendation.
 - (2) Nominations to the Hawai'i and or National Register shall be received by the Commission no less than twenty calendar days before the next scheduled Commission hearing to be heard at that hearing. Nominations received less than twenty calendar days before the next scheduled Commission meeting may be placed on the agenda for the subsequent meeting.
 - (3) In addition to the submitted materials, the Commission may require the nomination be accompanied by a cover form, approved by the Commission, which may include but not necessarily be limited to the involved tax map keys, property owner's signature, current use of the property, county zoning, and wishes of the property owner to be on one or both of the registers.
 - (4) Upon publication, a copy of the Commission's agenda shall be mailed to the registered landowner of the property that is to be considered for nomination to the Hawai'i or National Register.
- (b) Review of Historic Register nominations.
- (1) The Commission shall hold a public hearing pursuant to Section 1-7 of these rules after receiving notification from the State Historic Preservation Officer of nominated historic properties within the county.
 - (2) The Commission shall review the nominations to the Hawai'i Register against the criteria set forth by Title 13, Chapter 198, Hawai'i Administrative Rules relating to the Hawai'i and National Registers of Historic Places programs.
 - (3) The Commission shall review the nominations to the National Register against the criteria set forth by Title 36 Part 60, Code of Federal Regulations relating to the National Register of Historic Places.
 - (4) After the Commission has reviewed all materials and public testimony pertaining to a project, the Commission may:
 - (A) Determine that the nomination does or does not meet the criteria for nomination to the Hawai'i or National Register of Historic Places.
 - (B) Determine that the materials supplied with the nomination do not contain sufficient information to evaluate the nomination against the criteria set forth by Title 13, Chapter 198, Hawai'i Administrative Rules or Title 36 Part 60, Code of Federal Regulations.

- (5) The Commission shall forward its report to the Mayor within forty-five days after receiving notice from the State Historic Preservation Officer, or a longer period as agreed to by the Commission and the State Historic Preservation Officer. The report shall include findings on whether the property meets the criteria for nomination and a recommendation that the State Historic Preservation Officer either nominate or reject the proposed nomination.
- (6) The Mayor shall have fifteen days after receiving the report of the Commission to send this report and a recommendation to the State Historic Preservation Officer. The Mayor's recommendation may, but need not, concur with the recommendation contained in the Commission's report.
- (7) Historic register nominations initiated by the Commission shall be presented at a public hearing pursuant to Section 3-3(b)(1) through (3) of these rules. The Commission shall abstain from issuing a determination as to the eligibility of the nomination for inclusion on a historic register pursuant to Section 3-3(b)(4) through (6) of these rules, and shall instead transmit the nomination, along with any submitted testimony and a copy of the minutes of the public hearing, to the Mayor for their consideration, transmittal, and recommendation to the State Historic Preservation Officer.
- (c) Appeals. A recommendation by the Commission and Mayor regarding an application for nomination to a historic register is not a final administrative decision and therefore is not appealable.

3-4 Review of Proposed Actions Involving Sites on a Historic Register

- (a) Transmittal to the Commission.
 - (1) The State Historic Preservation Officer, the County of Hawai'i Planning Department, or members of the public may forward applications, permit requests, draft environmental assessments, and other applicable documents to the Commission that pertain to sites that are on a historic register.
 - (2) Applicable documents as defined in Section 3-4(a)(1) of these rules shall be received by the Commission no less than twenty calendar days before the next scheduled Commission hearing to be heard at that hearing. Documents received less than twenty calendar days before the next scheduled Commission meeting may be placed on the agenda for the subsequent meeting.
 - (3) In addition to the submitted materials, the Commission may require the documents be accompanied by a cover form, approved by the Commission, which may include but not necessarily be

limited to the involved tax map keys, property owner's signature, current use of the property and the county zoning.

(b) Review of proposed actions.

- (1) The Commission shall hold a public hearing pursuant to Section 1-7 of these rules after receiving a request to review a proposed action involving a site on the Hawai'i or National Register of Historic Places.
 - (2) The Commission shall review the proposed action against the criteria set forth by the Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - (3) After the Commission has reviewed all materials and public testimony pertaining to a project, the Commission may:
 - (A) Request further information regarding the project, including but not limited to an opinion from the State Historic Preservation Division.
 - (B) Vote on a recommendation for consideration by the Director and the State Historic Preservation Officer, which may include an opinion as to whether the project is not likely to impact a historic property, will likely have a limited but acceptable impact on a historic property, or will likely have a severe impact on a historic property.
 - (4) The Commission shall forward their recommendation to the Director and the State Historic Preservation Officer, for their consideration in any approvals, permits, or determinations issued.
- (c) Appeals. A recommendation made by the Commission to the Director or the State Historic Preservation Officer is not a final administrative decision and is therefore not appealable.

3-5 County Historic Inventory

The Commission, with assistance of Commission staff, shall maintain an inventory of all sites listed on the state and national registers. All formal recommendations of the Commission concerning nominations to the registers, or proposed actions to sites on the registers, shall be maintained at the office of the Commission.

RULE 4. REVIEW OF PROJECTS WITHIN THE COUNTY OF HAWAI'I

4-1 Authority

Pursuant to the provisions of Chapter 2, Article 44 of the Hawai'i County Code, the Commission is charged with the following relating to the review of State and County projects:

- (a) The Commission shall advise and assist federal, state, and county government agencies in carrying out their historic preservation responsibilities. The Commission shall provide public information, education, training and technical assistance relating to the national, state and county historic preservation programs.
- (b) The Commission shall make recommendations to the Council for the expenditure of gifts and grants accepted by the Council for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith.

4-2 Purpose

It is the purpose of this rule to protect and preserve historic properties and artifacts in the county and encourage, where appropriate, their adoption for appropriate and feasible use, and to formulate county-wide comprehensive, historic preservation policies, programs and plans.

4-3 Projects within the County of Hawai'i

(a) Transmittal to the Commission.

- (1) The State Historic Preservation Officer, the County of Hawai'i Planning Department, or members of the public may forward applications, permit requests, draft environmental assessments, archaeological reports or other documents to the Commission that involve projects or sites that may be of historical or cultural importance to the county of Hawai'i but are not listed on a historic register.
- (A) Upon receipt of materials in 4-3(a)(1), the Director shall assume the authority of the Commission in responding to inquiries and approving interior or exterior alterations to any building or structure, including but not limited to:
 - (i) Installation of solar/PV/photovoltaic systems on existing buildings, dwellings and carports.
 - (ii) Installation of electrical meters on existing structures.
 - (iii) Interior electrical upgrades.

- (iv) Interior plumbing upgrades.
 - (v) Demolition of detached structures which are less than fifty years of age.
 - (vi) Demolition of additions to historic structures when such additions are less than fifty years of age if no new addition is proposed in its place.
 - (vii) Interior unit and office renovations for mid- and high-rise buildings.
 - (viii) Interior modifications to stores or restaurants in shopping malls and strips.
 - (ix) In-kind repairs of interior architectural features including doors, siding and cabinets.
 - (x) In-kind repairs to exterior architectural features including doors, windows, siding fascia and decking.
 - (xi) Antenna and satellite dish replacements on existing towers and structures not subject to FCC permits.
 - (xii) Bathroom and kitchen renovations that do not include changes to the building exterior.
 - (xiii) In-kind repairs to carports and garages.
 - (xiv) The enclosure of existing rear lānai that will not destroy historic materials or features.
 - (xv) Emergency repairs to structures caused by natural or man-made disasters.
 - (xvi) Structures destroyed by fire or other calamities where damage exceeds fifty percent of the structure.
 - (xvii) Projects involving existing privately-owned, single-family detached dwelling units or townhouses.
- (B) The Director may authorize administrative actions per Section 4-3(a)(1)(A) of this rule, provided that:
- (i) The project is not a federal undertaking subject to review under Section 106 of the National Historic Preservation Act.
 - (ii) The project is not on or nominated for inclusion on the Hawai‘i or National Register of Historic Places.
 - (iii) The project is not subject to Section 6E-8 or 6E-10 of the Hawai‘i Revised Statutes, or is a project subject to Hawai‘i Revised Statutes, Section 6E-42 review in a special district.
 - (iv) A report of administrative actions is made to the Commission each month.

- (v) The Director may refer any materials submitted per Section 4-3(a)(1)(A) of this rule, which could otherwise be entertained administratively, to the Commission.
 - (C) Should materials received pursuant to Section 4-3(a)(1) of these rules have time constraints that would prohibit review by the Commission, or in instances where the project requires comment prior to the Commission meeting, the Director shall assume the authority of the Commission in generating a response, provided a report of administrative actions is made to the Commission each month.
 - (2) Applicable documents as defined in Section 4-3(a)(1) of these rules shall be received by the Commission no less than twenty calendar days before the next scheduled Commission hearing to be heard at that hearing. Applicable documents received less than twenty calendar days before the next scheduled Commission meeting may be placed on the agenda for the subsequent meeting.
 - (3) In addition to the submitted materials, the Commission may require the documents be accompanied by a cover form, approved by the Commission, which may include but not necessarily be limited to the involved tax map keys, property owner's signature, current use of property, county zoning, the reasons for concern about the property and the request of the Commission.
- (b) Commission review of proposed projects within the county of Hawai'i
- (1) The Commission shall hold a public hearing pursuant to Section 1-7 of these rules after receiving a request to review a proposed action that may affect a site of historical or cultural importance in the county of Hawai'i that is not on a historic register.
 - (2) The Commission shall use the following documents on file at the office of the Commission for guidance in matters pertaining to the review functions of the Commission:
 - (A) "Hawai'i County General Plan" and any adopted community development plan for the island.
 - (B) "Hawai'i State Historic Preservation Plan" prepared by the State of Hawai'i Department of Land and Natural Resources.
 - (C) "Historic Preservation Program Guidelines" prepared by the National Park Service.
 - (D) "Office of Hawaiian Affairs Guidelines for the Consideration of Traditional Native Hawaiian Values in Historic Preservation Review", dated 1988.

- (E) Other reports, plans, studies, issue papers and memos as may be adopted by the Commission.
- (3) After the Commission has reviewed all materials and public testimony pertaining to a project, the Commission may:
 - (A) Request further information regarding the project, including but not limited to an opinion from the State Historic Preservation Division.
 - (B) Vote on a recommendation, which may include an opinion as to whether the project is not likely to impact a historic asset, will likely have a limited but acceptable impact on a historic asset, or will likely have a substantial impact on a historic asset.
- (4) The Commission shall forward their recommendation, including possible modifications, mitigation measures, or suggestions regarding the proposal to the proposing agency or person for their consideration in execution of any action.
- (c) Appeals. A recommendation made by commission staff on behalf of the Commission may be brought before the full Commission upon request of an applicant or the Chairperson of the Commission.

4-4 Inventory of Commission Decisions

The Commission, with assistance of commission staff, shall maintain an inventory of all projects reviewed by the Commission and all formal recommendations made by the Commission.

RULE 5. CERTIFIED LOCAL GOVERNMENT

5-1 Authority

Pursuant to the provisions of Chapter 2, Article 44 of the Hawai‘i County Code, the Commission shall administer the Certified Local Government program of federal assistance for historic preservation within the county. Pursuant to the provisions of the National Historic Preservation Act, as amended, to applicable federal regulations provided by Title 36 Part 61, Code of Federal Regulations, and to Chapter 6E of the Hawai‘i Revised Statutes, the County of Hawai‘i shall:

- (a) Enforce appropriate legislation for the designation and protection of historic properties, including, but not limited to Chapters 6E-13, 6E-14, and 6E-15 of the Hawai‘i Revised Statutes.
- (b) Maintain an adequate and qualified historic preservation review commission composed of professional and lay members pursuant to Hawai‘i’s Requirements for Certified Local Governments.
- (c) Maintain a system for the survey and inventory of historic properties pursuant to Hawai‘i’s Requirements for Certified Local Governments.
- (d) Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register.
- (e) Adhere to all federal requirements for the Certified Local Government program.
- (f) Adhere to requirements outlined in the State of Hawai‘i’s Certified Local Government manual issued by the State Historic Preservation Office.

Dated: Hilo, Hawai'i, NOV 18 2015

HAWAI'I COUNTY CULTURAL
RESOURCES COMMISSION, COUNTY
OF HAWAI'I, STATE OF HAWAI'I

By: Deborah L. Chang
Its Chairperson

Notice of Public Hearing:

Hawai'i Tribune-Herald: October 16, 2015

West Hawai'i Today: October 16, 2015

Date and Place of Hearing: November 18, 2015

Hawai'i County Building, Puna Conference Room, *and*

West Hawai'i Civic Center, Planning Department Conference Room

APPROVED:

Walter Z
fr MAYOR, County of Hawai'i
Date: NOV 30 2015

APPROVED AS TO FORM:

[Signature]
ASST ~~Deputy Corporation Counsel~~
Date: NOV 24 2015

I hereby certify that the foregoing Rules of Practice and Procedure for the Hawai'i
County Cultural Resources Commission was received and filed in my office this 3rd
day of December 2015.

[Signature]
County Clerk