

**DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT**

**Adoption of Chapter 15-31  
Hawaii Administrative Rules**

**January 24, 1987**

**SUMMARY**

**Chapter 15-31, Hawaii Administrative Rules,  
entitled "High Technology Development Corporation", is  
adopted.**

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

SUBTITLE 6 HIGH TECHNOLOGY DEVELOPMENT CORPORATION

CHAPTER 31

GENERAL RULES REGARDING DEVELOPMENT

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### SUBCHAPTER 1

#### RULES OF GENERAL APPLICABILITY

Sec. 15-31-1 Purpose. This chapter is adopted pursuant to chapter 91-HRS to implement chapter 206M HRS pertaining to the development of high technology enterprises in the State through the High Technology Development Corporation (hereinafter referred to as the development corporation) which has the authority to develop or to assist in the development of industrial parks for the location of high technology enterprises and to assist in the development and construction of facilities for high technology enterprises through the issuance of special purpose revenue bonds and through other means or assistance, including the establishment of rules pertaining to health, safety, building, planning, zoning and land use laws, ordinances, codes, or designations on its own behalf or for qualified persons. [Eff MAR 20 1987 ] (Auth: HRS Secs. 206M-3, 206M-5) (Imp: HRS Secs. 206M-3, 206M-5)

Sec. 15-31-2 Definitions. As used in this chapter, terms shall be as defined in section 206M-1, HRS, unless a different meaning clearly appears in the context. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-3 Objectives. The High Technology Development Corporation shall have the following general objectives:

- (1) To promote high technology as a viable and desirable industry in the State;
- (2) To develop industrial parks for the location of high technology enterprises and supporting commercial enterprises and activities;
- (3) To assist high technology enterprises and supporting commercial enterprises and activities in connection with the construction and equipping of facilities;
- (4) To issue special purpose revenue bonds to provide financing for the development, construction and equipping of industrial parks, high technology enterprises and supporting commercial enterprises and activities;
- (5) To encourage high technology enterprises to locate in the State. [Eff MAR 20 1987 ]  
(Auth: HRS Sec. 206M-3) (Imp: HRS Secs. 206M-3)

Sec. 15-31-4 Office. The office of the development corporation is located at 220 South King Street, Central Pacific Plaza, Honolulu, Hawaii 96813. All communications to the development corporation shall be addressed to the above address or to post office box 2359, Honolulu, Hawaii 96804, unless otherwise specifically directed.  
[Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-5 Office hours. 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. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-6 Public records. All public records shall be available for inspection in the development corporation's office. Any request for public records in the custody and possession of the development office shall be in writing. Copies of such public records may be made upon payment of fees established by the board from time to time. [Eff MAR 20 1987 ]  
(Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-7 Public information. The chief administrative officer may disseminate information about the development corporation so that the provisions of chapter 206M, HRS, may be understood and effectively implemented. [Eff ~~MAR 2 1987~~ ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

## SUBCHAPTER 2

### DEVELOPMENT PROPOSALS

Sec. 15-31-11 Development by the development corporation. The development corporation may develop on its own or may provide financial and other assistance to qualified persons for the development of industrial parks and projects. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-12 Development by qualified persons. The development of industrial parks or projects initiated by qualified persons shall be processed in accordance with these rules. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-13 Initial proposal. Persons interested in seeking financial or other assistance from the development corporation for the development of an industrial park or project shall submit three initial proposals to the development corporation. Unless otherwise specified, the form of the initial proposal should be typewritten on 8 1/2 x 11 inch paper and shall be signed by the interested person under penalties of perjury. Exhibits to the initial proposal may be larger than 8 1/2 x 11 inches provided they are neatly submitted and identified. The initial proposal shall include the following information:

- (1) The identity and address of the applicant and the principal members of the applicant;
- (2) The expertise, experience and background of the applicant and principal members of the applicant in connection with the development and operation of an industrial park or project;

- (3) Current certified financial statement of the applicant and of the principal members of the applicant who will be guaranteeing any of the financial obligations of the applicant;
- (4) The location and description of the proposed industrial park or project and the names and addresses of all current legal or equitable owners of the land upon which such proposed industrial park or project will be situated. A description of current health, safety, building, planning, zoning and land use matters currently affecting the land;
- (5) The development concept of the industrial park or project;
- (6) The identity and addresses of the applicant's proposed development team;
- (7) Market and feasibility studies and projections on the industrial park or project;
- (8) The proposed sources of interim and permanent financing for the project and any financial assistance and other assistance, such as research, facilities, or health, safety, building, planning, zoning, and land use matters, which the development corporation will be requested to assist with or to take action upon;
- (9) A statement of the community's position with regard to the proposed industrial park or project and how the industrial park or project will be integrated into the immediate surrounding area;
- (10) Environmental concerns environmental assessment or environmental impact statement as deemed necessary;
- (11) Other supporting exhibits and information, including preliminary cost estimates, feasibility studies, marketability studies, surveys, plans and specifications, maps, and the management and disposal of any hazardous wastes;
- (12) The applicant's agreement with respect to the following matters:
  - (A) To pay all costs, expenses or liabilities which the development corporation incurs or becomes liable for in connection with the proposed

development of the industrial park or project, and, if required by the development corporation, to deposit funds in advance with the development corporation which the development corporation can use without restriction in connection with evaluating the development of the industrial park or project;

- (B) To agree that the development corporation is not under any obligation to issue any commitment to the applicant nor is the development corporation liable to the applicant for any costs, expenses or other liability;

The development corporation may require that an industrial proposal fee be paid at the time that the initial proposal is submitted to cover the development corporation's cost for reviewing the industrial proposal.

Any item of information, which is not applicable, is not available, or has been estimated, should be identified as such. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-14 Evaluation and selection of initial proposals. (a) The development corporation shall time stamp initial proposals as they are received. The development corporation's staff shall review and analyze each initial proposal as to whether the initial proposal is potentially feasible in terms of appropriateness, technical compliance and feasibility, and availability of funds or other resources from the development corporation. The staff shall also analyze whether the initial proposal will best fulfill the intent of chapter 206M, HRS, and can meet minimum standards of health, safety, building, planning, zoning and land use matters. The staff may request that the applicant submit additional information to the development corporation. After reviewing an initial proposal, the development corporation staff shall make one the following recommendations to the chief executive officer:

- (1) The initial proposal is potentially feasible;
- (2) The initial proposal should be rejected;
- (3) Action on the initial proposal should be deferred or referred for further review.

(b) The chief executive officer shall review the staff's recommendation and make a recommendation to the board. The chief executive officer is not bound by the staff's recommendation.

(c) The board will review and consider the chief executive officer's recommendation. Not later than ninety days after the last of any information which the applicant has submitted or has been requested to submit has been received by the development corporation, the board will inform the applicant of the board's decision. The board reserves the right to request the applicant to submit additional information. The board is not required to accept the chief executive officer's recommendation. Any applicant whose initial proposal is rejected by the board may reapply or resubmit to the development corporation the same or revised proposal. The resubmission shall occur within sixty days following the board's rejection of the initial proposal.

[Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

### SUBCHAPTER 3

#### DEVELOPMENT PROCESS

Sec. 15-31-20 Formal proposal. If the board determines that an initial proposal is potentially feasible, the board shall notify the applicant of such determination and shall request the applicant to file a formal proposal. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-21 Content of formal proposal. The formal proposal will contain all of the information contained in the initial proposal. In addition the formal proposal will contain plans, specifications and technical information relating to the development of the proposed industrial park or project. [Eff MAR 20 1987] (Auth: HRS Sec. 206M-3) (Imp: Sec. 206M-3)

Sec. 15-31-22 Updating formal proposal. The applicant shall be under a continuing duty to update the information which is submitted in the formal



Sec. 15-31-22

proposal to the development corporation on its own and upon request by the development corporation.  
[Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-23 Processing formal proposal. After the applicant's formal proposal has been received, the development corporation staff will proceed to review and analyze the formal proposal and enter into negotiations with the applicant for a project agreement. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-24 Conditions, covenants, and restrictions. The use and operation of industrial parks and projects for high technology shall be monitored and enforced through a written agreement duly recorded with the bureau of conveyances between the qualified person and the development corporation. The agreement shall contain conditions, covenants, and restrictions governing the use and operation of the industrial park or project that are acceptable to the development corporation and provisions affording the development corporation to exercise any and all rights provided by law, including without limitation the assessment of fines and penalties with respect to any breach of any covenants, conditions, and restrictions by the qualified person or occupants of the park. The development corporation shall also have the right to bring an action at law or in equity, including seeking injunctive relief, for the purpose of enforcing its rights, under the project agreement and conditions, covenants and restrictions. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-25 Bonds. (a) As contained in section 206M-9, HRS, the development corporation may finance all or a part of the cost of developing, constructing and equipping a project or industrial park with loans, including construction and permanent loans, to qualified persons with funds raised through the issuance of bonds.

- (1) If the development and construction of an industrial park, a project or a multi-project program is proposed to be

financed through the issuance of bonds, the development corporation shall submit to the governor of the State a request that bonds be issued.

- (2) If the governor's approval is obtained, the request that bonds be issued for the industrial park, project or multi-project program shall be submitted to the legislature for its authority to issue bonds.

(b) As part of any request seeking the governor's approval and the legislature's authority to issue bonds to finance all or a part of the cost of developing, constructing or equipping an industrial park, the development corporation may also include a request for the governor's approval and the legislature's authorization to issue additional bonds, which the development corporation anticipates will be necessary and advisable for the purpose of having financing available to persons, who desire to finance the cost of developing, constructing and equipping all or a part of any project in the industrial park through bond financing and who will be applying for such financial assistance as a qualified person under these rules. The development corporation may issue such additional bonds in such principal amounts as the governor has approved and the legislature has authorized at such time or times as the development corporation deems necessary and advisable to finance all or part of the cost of any project in the industrial park. [Eff MAR 20 1981 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-26 Development rules. (a) The development corporation shall review the qualified person's development concept and shall adopt development rules in accordance with section 206M-5, HRS, to be followed during the course of the development of any industrial park, project or multi-project program:

- (1) Whenever the proceeds of bonds are used to finance all or any part of the cost of an industrial park, project or multi-project program; or
- (2) Upon the qualified person's request and upon the development corporation's determination that the adoption of development rules is

desirable and in furtherance of the purposes and objectives of the development corporation.

(b) From time to time if all or any portion of the land already meets or complies with health, safety, building, planning, zoning, and land use ordinances or rules of the county in which the industrial park, project or multi-project program is situated, designations of the use or uses shall follow those rules accordingly and be a part of the development rules for the industrial park. If any portion of the land does not meet or comply with health, safety, building, planning, zoning and land use codes or regulations of the county in which the industrial park, project or multi-project program is situated, the development corporation shall adopt development rules on health, safety, building, planning, zoning and land use which relate to the proposed development of the industrial park upon finding that the proposed industrial park is consistent with the purpose and intent of chapter 206M and meet minimum requirements of design, pleasant amenities, health, safety and coordinated development. The development rules shall be exempt from and shall supersede all inconsistent laws, ordinances and rules relating to the use, zoning, planning, and development of land. [Eff MAR 20 1987 ]  
(Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

**Sec. 15-31-27 Initiation of development rulemaking.** During the course of the development of any industrial park, the development corporation shall initiate development rulemaking proceedings in accordance with the provisions of Chapter 91 and section 206M-5, HRS. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

**Sec. 15-31-28 Rules.** The rules shall define and establish matters relating to the health, safety, building, planning, zoning and land use, as applicable, and describe how such rules will apply to the industrial park. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-29 Notice. (a) Notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the State and in each county affected by the proposed rule.

(b) The notice of proposed issuance, amendment or repeal of a rule shall include:

- (1) A statement of the date, time, and place where the public hearing shall be held. The hearing shall be held at a time which is not less than twenty days but not more than forty-five days after the date the notice is first published;
- (2) Reference to the authority under which the issuance, amendment or repeal of a rule is proposed;
- (3) A statement of the substance of the proposed rulemaking;
- (4) In the case of establishing development rules under section 206M-5, HRS, a statement of the time and place where information pertaining to the development of the industrial park or project may be inspected prior to the public hearing.

(c) A copy of the notice shall be given to the legislative body and to the planning department of the county in which the industrial park or project is situated, to adjoining landowners and to any person having an interest in the property upon which the proposed industrial park, project or multi-project program is situated.

(d) The development corporation may require more than one publication of notice or proposed rulemaking in a newspaper of general circulation.

[Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-30 Time and place. Hearings shall be held at the time and place set in the notice of hearing, but may at that time and place be continued by the board from day to day or adjourn to a later date or to a different place without notice other than the announcement at the hearing. Where the proposed rulemaking affects only one county, the public hearing will be held in that county. [Eff MAR 20 1987 ]  
(Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-31 Conduct of rulemaking hearings.

(a) Each hearing shall be presided over by the chairperson of the board or by its designated representative. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) At the commencement of the hearing, the presiding officer shall read the pertinent portions of the notice of the hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in the order the presiding officer shall prescribe.

(c) All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness may, before proceeding to testify, be sworn, and may be required thereafter to state the witness' name, address, and whom the witness represents at the hearing, and give any other information respecting the witness' appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representatives of the board, but cross-examination by private persons shall not be permitted except if the presiding officer expressly permits it.

(d) All interested persons or agencies of the State or its political subdivisions shall be afforded an opportunity to submit data, views or arguments which are relevant to the issues. In addition, or in lieu thereof, persons or agencies may also file with the board within fifteen days following the close of public hearing a written protest or other comments or recommendations in support of or in opposition to the proposed rulemaking. Persons designated by the presiding officer shall be furnished with copies of any written protest or other comments or recommendations, and they shall be afforded a reasonable time within which to file their comments in reply to the original protest, comments, or

recommendations. Written protest, comments, or recommendations or replies thereto shall not be accepted unless an original and ten copies (or lesser number of copies as may be specifically agreed to by the presiding officer) are filed. The period for filing written protest, comments, or recommendations may be extended by the presiding officer for good cause.

(e) Unless otherwise specifically ordered by the board or the presiding officer, testimony given at the hearing need 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 the furnishing of the required number of copies impracticable and reduces the number, eleven copies of the exhibits shall be submitted.

(f) At the close of the final public hearing, the board shall announce the date when its decision shall be announced, or the board may, if it so desires, make the decision at the public hearing. The board shall consider all relevant comments and material of record before taking final action in a rulemaking proceeding.

(g) The board shall adopt the development rules as is or with modifications and direct the chief executive officer to implement such development rules. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-32 Emergency rulemaking.

Notwithstanding sections 15-31-1 to 15-31-31, if the board finds that an imminent peril to public health, safety, or morals requires adoption, amendment, or repeal of a rule upon less than twenty days' notice of hearing, and states in writing its reason for the finding, it may proceed without prior notice or hearing or upon an abbreviated notice and hearing to adopt an emergency rule to be effective for a period not longer than one-hundred and ten days without renewal. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)

Sec. 15-31-33 Petitions for adoption, amendment, or repeal of rules. (a) Any interested person or any

agency of the State or county government may petition the board for the issuance, amendment, modification, or repeal of any rule which is designed to implement, interpret, or prescribed by law, policy, organization, procedure, or practice requirement of the board.

(b) Petitions for rulemaking shall set forth the text of any proposed rule or amendment desired or specifying the rule the repeal of which is desired and stating concisely the nature of the petitioner's interest in the subject matter and the reasons for seeking the issuance, amendment, or repeal of the rule and shall include any facts, views, arguments, and data deemed relevant by petitioner. The board may require the petitioner to adequately and properly notify persons or governmental agencies known to be interested in the proposed rulemaking of the existence of the filed petition. No request for the issuance, amendment, modification, or repeal of a rule which does not conform to the requirements set forth above shall be considered by the board. Where the board determines that the petition does not disclose sufficient reasons to justify the institution of public rulemaking procedures, or where the petition for rulemaking fails in material respect to comply with the requirements of these rules, the petitioner shall be so notified together with the grounds for the denial. The provisions of this section shall not operate to prevent the board, on its own motion, from acting on any matter disclosed in any petition.  
[Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3).

#### SUBCHAPTER 4

#### MISCELLANEOUS

Sec. 15-31-40 Severability. If any part, section, sentence, clause, or phrase of these rules, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of these rules, or the application of these rules to other persons or transactions or circumstances shall not be affected. [Eff MAR 20 1987 ] (Auth: HRS Sec. 206M-3) (Imp: HRS Sec. 206M-3)


Sec. 15-31-41 Compliance with laws. The board may waive any provision of these rules to comply with applicable federal or state laws, ordinances, etc., which have not been preempted. [Eff MAR 20 1987 ]  
(Auth: HRS Sec. 206M-3) (Imp: HRS Secs. 206M-4 and 206M-5)



STATE OF HAWAII  
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Chapter 15-31, Hawaii Administrative Rules, on the Summary Page dated January 24, 1987, was adopted on January 24, 1987, following a public hearing held on November 24, 1986, after public notice was given in the Honolulu Advertiser on November 3, 1986, and in the Honolulu Star Bulletin on November 3, 1986.

This chapter shall take effect ten days after filing with the Office of the Lieutenant Governor.



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

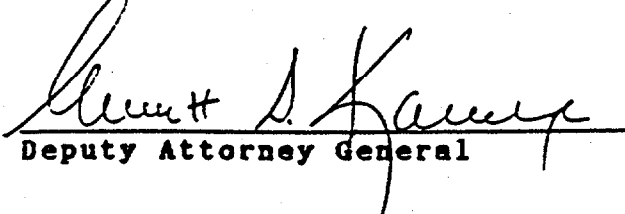
APPROVED:



John Waihee  
Governor  
State of Hawaii

Dated: MAR 09 1987

APPROVED AS TO FORM:



Deputy Attorney General

Filed

REC'D BY

MAR 9 1987