

CHAPTER 31-5

RULEMAKING PROCEEDING

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31-5.001 Commencement of Proceedings. Proceedings held for the adoption, amendment or repeal of a District rule shall be conducted according to these rules. Rulemaking proceedings are initiated by the District, on its own initiative, or on the petition of a person regulated by the District, or on the petition of a person having a substantial interest in a District rule. A proceeding shall be deemed to have been initiated upon publication of notice by the District.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19) History-New 12-31-74, Amended 6-10-75, 3-23-80, 10-20-2011.

31-5.002 Notice of Proceeding and the Proposed Rules.

(1) Except as provided in 31-5.011, notice of its intention to adopt, amend, or repeal a rule shall be published by the District on its website at least fourteen (14) days prior to the adoption, amendment or repeal.

(2) Upon the publication of notice of its intention to adopt, amend or repeal a rule, a draft of the proposed rules shall be made available to the public.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 12-31-74, amended 3-23-80, 10-20-2011.

31-5.003 Content of Notice. The notice must include the subject matter of the rulemaking and the text of the proposed rule may be included in the notice.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 12-31-74, Amended 6-10-75, 3-23-80, 10-20-2011.

31-5.004 Petitions to Initiate Rulemaking Proceedings.

(1) All petitions for the initiation of rulemaking proceedings must contain the name and address of the petitioner, specific action requested, the date submitted, and shall specify the proposed rule.

(2) Any interested person may file a statement in support of or in opposition to any petition for the initiation of rulemaking proceedings. The interested person shall furnish the petitioner with a copy upon filing of the statement with the District.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 12-31-74, Amended 6-10-75, 3-23-80, 10-20-2011.

31-5.005 District Action on Petitions to Initiate Rulemaking Proceedings.

(1) Upon receipt of any petition for the initiation of rulemaking, the District shall assign the petition an identification number. The District shall publish notice of receipt and disposition on its website.

(2) If the District determines that the petitioner is not regulated by the District or does not have a substantial interest in the District rule, or does not have the interest as stated in the petition, or the subject matter of the requested rulemaking is not required to be addressed by the District as determined by the District's Governing Board, the District may forthwith deny the petition, and shall notify the petitioner in writing of the denial. If the District determines that the petition should be considered further, the District shall issue notice and initiate such District action. If the District determines that rulemaking should not be initiated, a written statement of the determination shall be provided to the petitioner.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 12-31-74, amended 6-10-75, 3-23-80, 10-20-2011.

31-5.007 Rulemaking Materials. After the publication of notice initiating rulemaking, the District shall make available for public inspection and shall provide upon request, copies of the text of the proposed rule, or any amendment, or repeal of any existing rule.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 3-23-80, 10-20-2011.

31-5.008 Rulemaking Proceeding – No Hearing. When no hearing is requested, and when the District chooses not to initiate a hearing on its own, the District may direct that the proposed rule be considered on its consent agenda.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). History-New 3-23-80, 10-20-2011.

31-5.009 Rulemaking Proceeding – Hearing.

(1) If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide, upon request, a public hearing for presentation of evidence, argument and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay or disruption of the proceeding.

Written statements may be submitted to the District prior to the hearing by any person, and may be considered and made a part of the record if authorized by the District.

(2) A public hearing shall be held if an affected person requests a hearing within fourteen (14) days after the date of publication of the notice. The District may decide on its own initiative to hold a public hearing and shall publish notice of this fact.

(3) The District shall prepare an agenda for the hearing that provides affected persons with sufficient time to present evidence, argument or oral statements, and other information.

(4) The District may take official recognition of any material that is of common and general knowledge, authoritatively well settled and free from uncertainty. If the material is officially recognized by the District, it is deemed to be admissible without the necessity of the offering party presenting evidence. This material shall be part of the record and all affected persons shall be given a reasonable opportunity to examine and offer evidence and argument in opposition.

(5) Upon request of any affected person, the District shall cause to be made a transcript of the proceeding and copies of the transcript of the proceeding shall be available to the public. Cost of preparing the transcript and having the proceeding recorded shall be paid by the requesting person. A copy of the transcript shall be available to the public at cost.

(6) The Chairman of the Governing Board, any member thereof or any person designated by the Chairman may preside at a hearing. If requested by the Chairman, following the hearing the Executive Director shall provide a statement of changes which will be recommended in the proposed rule, to any person who requests it at the hearing, and shall prepare a summary of such hearing and recommendations for changes in the proposed rule to the Governing Board for final consideration.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). *History-New* 12-31-74, Amended 6-10-75, 3-23-80, 10-20-2011.

31-5.010 Incorporation by Reference. Any rule, standard, specification or similar material which is generally available to affected persons, which includes material available on the District's website may be incorporated in a rule, by reference.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). *History-New* 12-31-74, amended 6-10-75, 3-23-80, 10-20-2011.

31-5.011 Emergency Rule Adoption.

(1) The District may adopt an emergency rule if the District finds that immediate danger to the public health, safety and welfare exists, or which could exist, which requires immediate District action.

(2) Unless it defeats the purpose of any emergency rule, the District should notify the Palm Beach Post and place a notice of emergency rulemaking on the District's website before adopting an emergency rule. The District shall permit, upon request, any affected persons to present testimony, evidence, and submit written statements.

(3) Upon the request of any affected person, the District shall cause a transcript to be made of the proceeding and shall compile a record, consisting of the transcript, copies of the notice, and any other matter of information considered by the District in adopting the emergency

rule. Cost of preparing the transcript and having the proceeding recorded shall be paid by the requesting person. A recording may be made of the proceeding.

(4) Notwithstanding subsection (2) and (3) above, the District may use any procedure which is fair under the circumstances in the adoption of any emergency rule as long as it protects the public interest.

Specific Authority and Law Implemented Laws of Florida, Chapter 2002-358 §(6)(19). *History-New* 12-31-74, amended 6-10-75, 3-23-80, 10-20-2011.