

2015-2016 HONOLULU CHARTER COMMISSION  
CHARTER AMENDMENT PROPOSAL FORM

1. Please provide a brief description of the proposed Charter amendment, the purpose of the proposed Charter amendment, the issue or problem to be addressed by the proposal, and how the proposal would address the issue or problem.

**Reference to Codified Ordinances.**

Amend RCH Section 3-204.2 (Amendment, Revision or Repeal; Adoption of Codes by Reference) to clarify that amendments to existing codified ordinances may be made by the City Council by reference to the codified provisions, rather than by reference to the numbered ordinances that may have enacted and amended the codified ordinances.

Section 3-204.2, Revised Charter of Honolulu 1973, as amended (RCH), provides in part that, "[a]ny ordinance or resolution may be repealed by reference to its number or section number. Revisions or amendments may be made in the same manner, but the same, or the section, subsection or paragraph thereof, revised or amended, shall be re-enacted at length as revised or amended".

RCH Section 3-205 requires the Council to cause the preparation of a code of ordinances "appropriate for continuation as law" and requires that "(a)ll proposed ordinances of general application introduced after the approval of the code shall be adopted as amendments of or additions to the code and by reference thereto." Pursuant to RCH Section 3-204, the city's ordinances of general application have been codified in the Revised Ordinances of Honolulu (ROH).

RCH Section 3-204.2 does not currently provide an exception for ordinances codified pursuant to RCH Section 3-205. Hence, Section 3-204.2 could be interpreted to require that, when the Council wishes to amend a codified ordinance, it must set forth in the bill proposing the amendment a list of all prior ordinances (or ordinance sections) amending the codified section. This would be unduly cumbersome and could lead to overly technical legal challenges.

For example, Section 8-2.2, ROH 1990, as amended, has been amended by four separate ordinances since its inclusion in the ROH 1990. The enumeration of each of these ordinances would provide no more useful legislative history than that currently provided by the legislative history note for each ROH section prepared by the revisor of ordinances. Also, because a single section of an ordinance may repeal, amend or enact multiple sections of the ROH (one ordinance section frequently repeals, amends or enacts an entire ROH Chapter or Article), requiring the re-enactment at length of ordinance (as opposed to ROH) sections, subsections or paragraphs, would be wasteful and likely lead to errors.

2. If applicable, list the Charter provision(s) affected by the proposal.

RCH Section 3-204.2.

3. If the proposal is based on a provision or provisions in the charter or laws of another jurisdiction, name the jurisdiction and, if possible, attach a copy of each provision or law.

Not applicable.

4. If the proposal is based on any written materials you have, please attach a copy of each with a citation to its source.

Not applicable.

5. Attach the text of the proposed Charter amendment in Ramseyer format.

Section 3-204, Revised Charter of Honolulu 1973, as amended ("Amendment, Revision or Repeal; Adoption of Codes by Reference"), is amended by amending subsection 2 to read as follows:

"2. Any ordinance or resolution may be repealed by reference to its number or section number. Revisions or amendments may be made in the same manner, but the same, or the section, subsection or paragraph thereof, revised or amended, shall be re-enacted at length as revised or amended; but when the amendment consists of adding new sections, subsections or paragraphs or substituting a word, term or number for another word, term or number, it shall be sufficient to enact the new matter alone, if reference thereto is made in the title. The council may also amend or repeal any provision that has been included in the codification of ordinances prescribed by Section 3-205 of this charter by reference to its designation in the codification and may add new provisions to the codification."