

**Document Code No.:** INF-7-6-1 EP

**Title:** Drafting and Implementing Rules

**Affected Agencies:** All Executive Branch Agencies of King County Government

**Authorities:** King County Code 2.98, Rules of County Agencies

**Keywords:** Public Rule, Emergency Rule, Code, Communications, Public Notice

**Sponsoring Agency:** Department of Executive Services, Records and Licensing Services Division

**Type of Action:** Supersedes INF-7-6 EP, January 11, 2016



**King County**

**Executive signature:** David Court

**Effective date:** 2/22/21

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**I. Purpose**

This policy provides a standardized approach to the development and adoption of Rules of County Agencies, including: required organization of content, the required review and approval process, and centralized coding/indexing, maintenance, and distribution.

**Applicability and Audience**

This policy applies to the Administrative Offices and Executive Departments supervised by the King County Executive.

**II. Definitions**

**Agency:** For the purposes of this policy, "agency" means executive departments and administrative offices.

**ARMMS:** Department of Executive Services, Records and Licensing Services Division, Archives, Records Management, and Mail Services Section, or its successor agency.

**Emergency Rules:** Rules that are adopted without opportunity for public comment in accordance with King County Code 2.98.070.

**Official County Newspaper:** The local newspaper with which the County contracts each year to publish most required public notices.

**Public Rules:** Agency orders, directives, or regulations (1) the violation of which subjects a person outside County employment to a penalty; (2) that subject a person outside County employment to the payment of a fee; (3) that establish, alter, or revoke any procedure, practice or requirement relating to departmental hearings; or (4) that establish, alter, or revoke any qualifications or standards for the issuance, suspension or revocation of licenses to pursue any commercial activity, trade or profession.

**III. Policy**

**A. Developing Rules**

1. A department may only adopt a rule to implement an ordinance or other law. Any rule in conflict with an ordinance or other law is null and void to the extent of the conflict.

2. Penalties shall be established only by ordinance or other law. Imposition of fees and the amount of fees shall be established as authorized by ordinance or other law. A department should adopt rules that are clearly and simply stated so the rules are understandable.
3. Rules shall refer to the ordinance or other law upon which the rule is based.
4. There shall be an opportunity for the public to comment on all proposed rules as laid out in Section C of this policy.
5. Amendments to or repeal of any rule shall follow the same review and comment process as the adoption of a new rule and shall cite the existing rule.
6. Emergency Rules must meet the criteria established in this policy, except that emergency rules are exempt from formal review process as described in section III.C of this policy.
7. Emergency Rules shall expire one hundred and fifty (150) days after the effective date.

**B. Coding/Indexing**

The Records and Licensing Services Division, Archives, Records Management, and Mail Services Section (ARMMS), or its successor agency, shall code and index King County Rules and Emergency Rules.

**C. Review and Enactment**

1. Preliminary Review by Key Stakeholders  
A preliminary review and opportunity to comment by key stakeholders is recommended. There is no required timeline for this part of the review process, but ten business days is recommended. Proposed changes should be documented either by revisions made to the rule or by inclusion on a list of proposed revisions.
2. Review by ARMMS  
Prior to the formal review and revision process, the proposed rule will be routed to ARMMS, or its successor agency, for coding and review to ensure proper format. ARMMS' review shall be completed within ten business days.
3. Review for Equity and Social Justice (ESJ) Impacts.  
Prior to the formal public review process, a review of equity and social justice impacts is required. Any adverse impacts should be avoided or mitigated. Reviewers should use the most recent versions of plans and policies to conduct this review such as the Equity and Social Justice Strategic Plan, Declaration of Racism as a Public Health Crisis, the Strategic Climate Action Plan and the Clean Water/ Healthy Habitat Strategic Plan. Reviewers may

also seek advice from the owners of this plans to assist in the review of the policy.

4. Formal Review

Proposed rules must be made available for review by individuals or agencies to be affected by the rule, including community groups, public individuals, other public agencies, county agencies, the Clerk of the Council, and each member of the King County Council. All individuals or agencies must be given at least 45 days to review and comment on the proposed rule.

During the formal review process, the following steps must be taken:

- a. A Notice of Intent to Adopt Rules, to include notice of the public comment period of at least forty-five days, must be provided to members of the public who have requested advanced notice of rulemaking on the topic of the rule and published at least once in the County's official newspaper.
- b. Written public comment must be allowed for at least forty-five days after publication of a Notice of Intent to Adopt.
- c. To the extent practicable, a chance for oral comment should be provided in one of the following ways, to be determined by the initiating department, and specified in the Notice of Intent to Adopt as follows:
  - i. SCHEDULED PUBLIC MEETING: A specific date, time, and place for members of the public to meet with a representative of the initiating agency and orally express their comments. This may be done as a virtual meeting.
  - ii. REQUESTED PUBLIC MEETING: Notice of the County's intention to hold a scheduled public hearing only if five or more persons make a written request for same within the forty-five day written comment period. This may be done as a virtual meeting.
  - iii. WALK-IN COMMENT PERIOD: A scheduled period of five working days, the dates to be published in the Notice of Intent to Adopt, during which the initiating agency solicits oral comments on the proposed rule. This may be done in a virtual environment.
- d. Taking comments and revising draft rule.  
The initiating agency must consider all written and oral comments received within 45 days of the publishing of the Notice of Intent to Adopt. The proposed rule should be revised as appropriate.

Note: Emergency rules must include a finding and a brief a statement of the reasons for the finding that immediate adoption or amendment of a rule is necessary for the preservation of public health, safety or general welfare, and that observance of the notice and comment process would be contrary to the public interest.

5. Enactment:  
The effective date of a rule shall be **thirty days** after the date the final Rule is filed with ARMMS, unless a later date is required by law or specified in the Rule. For Emergency Rules, the effective date is the date the rule is filed with ARMMS. The original signed rule shall be transmitted to ARMMS for preservation and publication.

- D. **Repeal**  
Repeal of any rule shall follow the review and enactment process detailed above.

#### IV. Implementation Plan

- A. This policy becomes effective for Executive Branch agencies on the date that it is signed.
- B. Department Directors and Agency Heads are responsible for communicating this policy to the management structure within their respective departments, agencies and other appropriate parties.

#### V. Maintenance

- A. This policy will be maintained by ARMMS or its successor agency.
- B. Changes to the policy may be proposed by ARMMS or the Operations Cabinet.
- C. This policy will automatically expire five years after its effective date. ARMMS will initiate a new or revised policy prior to the expiration date.

#### VI. Consequences for Noncompliance

Rules adopted under K.C.C. 2.98.060 are not valid unless adopted in substantial compliance with that section. In any proceeding, a rule shall not be considered invalid on the ground of noncompliance with the procedural requirements of this section if two years or more have elapsed from the effective date of the rule.

#### Appendices:

None

Contact the Archives, Records Management, and Mail Services Section (ARMMS) for further guidance on developing rules.