

TENTATIVE FINAL PROPOSED AMENDMENTS  
TO THE CHARTER OF THE COUNTY OF MAUI  
BY THE CHARTER REVIEW COMMISSION 1991-1992

ARTICLE 3 - COUNTY COUNCIL

1. Amend Section 3-1 (relating to council composition) to provide that there shall be a council member residing in each of the following proposed County Council residency areas:
  - (a) the island of Lanai (population 2,426)
  - (b) the island of Molokai (population 6,587)
  - (c) West Maui (population 14,574)
  - (d) Makawao-Haiku-Paia (population 14,897)
  - (e) Hana-Keanae-Kailua (population 2,270)
  - (f) Pukalani-Kula-Ulupalakua (population 11,652)
  - (g) South Maui (population 15,365)
  - (h) Kahului (population 16,889)
  - (i) Wailuku-Waihee-Waiehu (population 15,705)
2. Amend Section 3-2 (relating to terms of council members) to provide that:
  - (a) the terms of office of council members shall begin on the first working day of December; and
  - (b) a council member shall not serve more than five (5) consecutive two-year terms.
3. Amend Section 3-3 (relating to qualifications of council members) to state that to be eligible for the office of council member a person must be a resident of the County for at least 90 days prior to the filing of nomination papers, and a resident of the residency area from which the person seeks to be elected at the time of filing.
4. Amend Section 3-5 (relating to the Salary Commission)
  - (a) to relocate this section in the Charter to be adjacent to other Commissions and Boards; and
  - (b) to provide that the Salary Commission shall set the salaries of all elected officials and appointed directors and deputies; provided that the Salary Commission shall consult with the commissions or boards which have appointing authority (ie. Police Commission; Liquor Control Commission; Civil Service Commission; and Board of Water Supply).
5. Amend Section 3-6.4 (relating to council meeting voting procedures) to provide that voting on motions shall be in accordance with council rules, except that a roll call vote shall be taken if one (1) member so requests.

ARTICLE 6 - EXECUTIVE BRANCH

Amend Section 6-2.3 (relating to appointment of officers) to provide as follows:

- (a) the Mayor may appoint acting department heads with full authority of the office temporarily held;
- (b) the Mayor shall submit the name of the nominee(s) for Corporation Counsel and/or Prosecuting Attorney within sixty (60) days of taking office, or upon the creation of a vacancy;
- (c) the Council shall act to approve or disapprove the nominee within sixty (60) days of the Mayor's submittal of the nomination;
- (d) if the nomination is disapproved, the Mayor shall submit the name of a new nominee to the council within sixty (60) days of the disapproval, and the council shall act to approve or disapprove within sixty (60) days of submittal of the name of the new nominee;
- (e) any disapproved nominee shall not continue in the nominated position; and
- (f) if the council does not act within sixty (60) days, the nominee shall be deemed approved.

ARTICLE 7 - OFFICE OF THE MAYOR

Amend Section 7-2 (relating to term of the Mayor) to provide that the term of the Mayor shall begin on the first working day of December.

ARTICLE 8 - COUNTY DEPARTMENTS

1. Amend Section 8-3.2 (relating to qualifications of the Prosecuting Attorney) to delete the requirement that the prosecuting attorney shall have been engaged in the practice of law in the State of Hawaii for at least three (3) years.
2. Amend Section 8-3.3.a (relating to the staff of Prosecuting Attorney) to provide that investigators of the department shall have the powers and privileges of a police officer in the County of Maui.
3. Amend Section 8-4.3.7 (relating to the Director of Finance) to provide that the director of finance may issue checks, in addition to warrants.
4. Amend Article 8, Chapter 5 (relating to the Department of Public Works) to expand the title and duties of the department to read: Department of Public Works and Waste Management.

ARTICLE 8 - COUNTY DEPARTMENTS (Continued)

5. Amend Section 8-5.4 (relating to powers and duties of the Board of Variances and Appeals) to delete the reference to variances from the general plan, and to add words of limitation regarding variances from zoning ordinances:

Hear and determine applications for variances from the strict application of [any general plan,] the provisions contained within any zoning, subdivision or building ordinances.

6. Amend Section 8-7.3.7 (relating to duties of the Fire Chief) to include "provide mitigation and stabilization of hazardous materials incidents."
7. Amend Sections 8-8.1 and 8-8.4 (relating to Planning Commissions) to establish a Lanai Planning Commission.
8. Amend Article 8, Chapter 10 (relating to the Department of Human Concerns) to expand the title and duties of the department to read: Department of Housing and Human Concerns.

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ARTICLE 9 - FINANCIAL PROCEDURES

1. Amend Section 9-4 (relating to the budget public hearing) to provide that the Council may hold a public hearing prior to April 1st.
2. Amend Section 9-9 (relating to appropriation changes) to provide that the Mayor shall certify to the Council on a quarterly basis the amount of revenues actually received in excess of estimates, provided that any anticipated shortfall in revenues shall be considered in so certifying.
3. Amend Section 9-10 (relating to transfers of appropriations)
  - (a) to provide that the mayor and the council may initiate changes within their respective operating budgets; and
  - (b) transfers of appropriations between departments, and transfers between legislative offices may be made by resolution.
4. Amend Section 9-11 (relating to lapsing of appropriations) to provide that the mayor shall notify the council within ten (10) days of the abandonment of any capital improvement appropriation.
5. Amend Section 9-13 (relating to audits) to provide that an audit of the accounts of the director of finance shall be made upon the expiration of the term of the director.

ARTICLE 10 - CODE OF ETHICS

1. Amend Section 10-1 (relating to purpose and scope of the Code of Ethics) to provide that the code applies to board and commission members.
2. Amend Section 10-2 (relating to duties and procedures of the Board of Ethics) to provide that the board shall issue advisory opinions within forty-five (45) days of the filing of a request.
3. Amend Section 10-3 (relating to the filing of financial disclosure statements by County officers) to provide that the members of any board or commission established by the Charter shall file financial disclosure statements.
4. Amend Section 10-4 (relating to prohibited conduct of County officers and employees) to provide that County officers or employees shall not:
  - (a) represent a private interest for compensation before the department by which the individual is employed, or agency to which the individual is appointed;
  - (b) represent a private interest for compensation in any matter which is related to any official action to be taken by the County officer or employee; and
  - (c) use "county time" for other than public activity or purpose.

ARTICLE 11 - INITIATIVE

1. Amend Section 11-3 (relating to initiative petitions)
  - (a) to reduce the number of signatures required from 20% to fifteen percent (15%) of the voters registered in the last general election;
  - (b) to delete the requirement that signers of the petition disclose voting precinct; and
  - (c) to add the requirement that signers print name and address.
2. Amend Section 11-4 (relating to filing of initiative petitions)
  - (a) to delete the thirty (30) day time limit for filing of the petition; and
  - (b) to allow for the withdrawal of a signature within fifteen (15) days of the filing of the petition.
3. Amend Section 11-6 (relating to voting on petitions) to provide that:
  - (a) the initiative proposal contained in a valid petition be submitted to the voters at the next general election; and
  - (b) a special election is not required.

TENTATIVE FINAL PROPOSED AMENDMENTS  
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Page 5

ARTICLE 12 - RECALL

1. Amend Section 12-3 (relating to recall petitions) to:
  - (a) delete the requirement that signers of the petition disclose voting precinct; and
  - (b) add requirement that signers print name and address.
2. Amend Section 12-4 (relating to filing of recall petition) to:
  - (a) increase the time for filing a petition to sixty (60) days; and
  - (b) allow for the withdrawal of a signature within fifteen (15) days of the filing of the petition.
3. Amend Section 12-6 (relating to recall elections) to provide that a valid recall petition will be submitted to voters at the next general election, unless such delay would defeat the purpose of the recall by allowing a full term of office for the person sought to be recalled, in which case a special recall election would be scheduled.

ARTICLE 14 - CHARTER AMENDMENT

1. Amend Section 14-1 (relating to initiation and approval of charter amendments) to provide that any proposed amendment supported by a petition signed by at least twenty percent (20%) of the voters registered in the last general election be placed on the ballot at the next general election.
2. Amend Section 14-3 (relating to mandatory review of the charter) to provide that a Charter Commission be appointed prior to March 1, 2001, and to allow sixteen (16) months for the submittal of a report by the Commission.

7/2/92 CHARTER COMMISSION REVOTE

\*\* ARTICLE 8 - COUNTY DEPARTMENTS

Amend Article 8, Chapter 11 (relating to Department of Water Supply) to rescind the 1988 amendment granting semi-autonomy, and to bring the Department of Water Supply back under the administration of the County.

## **PROPOSED AMENDMENTS TO THE CHARTER OF THE COUNTY OF MAUI**

### **ARTICLE 3 - COUNTY COUNCIL:**

1. *Amend Section 3-1 (relating to council composition), to provide that of the nine council members, one shall be a resident of each of the following proposed County Council residency areas:*
  - (1) *the Island of Lanai; (population 2,426)*
  - (2) *the Island of Molokai; (population 6,587)*
  - (3) *West Maui; (population 14,574)*
  - (4) *Makawao-Haiku-Paia; (population 14,897)*
  - (5) *East Maui (Hana-Keanae-Kailua; population 2,270)*
  - (6) *Upcountry (Pukalani-Kula-Ulapalakua; population 11,652)*
  - (7) *South Maui; (population 15,365)*
  - (8) *Kahului; (population 16,889)*
  - (9) *Wailuku-Waihee-Waiehu; (population 15,705)*
2. *Amend Section 3-2 (relating to terms of councilmembers), to provide that:*
  - (1) *the terms of office of council members shall begin on the first working day of December; and*
  - (2) *a councilmember shall not serve more than five (5) consecutive two-year terms.*
3. *Amend Section 3-3 (relating to qualifications of councilmembers), to state that to be eligible for the office of councilmember, a person must be a resident of the County for at least 90 days prior to the filing of nomination papers and a resident of the residency area from which the person seeks to be elected at the time of filing.*
4. *Amend Section 3-5 (relating to the Salary Commission), to provide that the Salary Commission shall set the salaries of all elected officials and appointed directors and deputies, provided, that the Salary Commission shall consult with the commissions or board which have appointing authority (Police Commission; Liquor Control Commission, Civil Service Commission and Board of Water Supply).*

5. *Amend Section 3-6.4 (relating to council meeting voting procedures), to provide that voting on motions shall be in accordance with council rules, except that a roll call shall be taken if one (1) member so requests.*

#### **ARTICLE 6 - EXECUTIVE BRANCH**

6. *Amend Section 6-2.3 (relating to appointment of officers), to provide as follows:*
  - (1) *that the Mayor may appoint acting department heads with full authority of the office temporarily held;*
  - (2) *that the Mayor shall submit the name of the nominee(s) for Corporation Counsel and/or the Prosecuting Attorney within sixty (60) days of taking office or upon the creation of a vacancy;*
  - (3) *that the Council shall act to approve or disapprove the nominee within sixty (60) days of the Mayor's submittal of the nomination;*
  - (4) *that if the nominee is disapproved, the Mayor shall submit the name of a new nominee to the council within sixty days of the disapproval, and the council shall act to approve or disapprove within sixty (60) days of submittal of the name of the new nominee;*
  - (5) *that any disapproved nominee shall not continue in the nominated position; and*
  - (6) *that if the council does not act within sixty (60) days, the nominee shall be deemed approved.*

#### **ARTICLE 7 - OFFICE OF THE MAYOR**

7. *Amend Section 7-2 (relating to term of the Mayor), to provide that the term of the Mayor shall begin on the first working day of December.*

#### **ARTICLE 8 - COUNTY DEPARTMENTS**

8. *Amend Section 8-3.2 (relating to qualifications of the Prosecuting Attorney), to delete the requirement that the prosecuting attorney shall have been engaged in the practice of law in the State of Hawaii for at least three (3) years.*

9. Amend Section 8-3.3.a (relating to staff of the Prosecuting Attorney), to provide that investigators of the department shall have the powers and privileges of a police officer of the county.
10. Amend section 8-4.3.7 (relating to duties of the Director of Finance) to provide that the Director of Finance may issue checks in addition to warrants.
11. Amend Chapter 5 of Article 8 (relating to the Department of Public Works), to expand the title of the department to the "Department of Public Works and Waste Management".
12. Amend Section 8-5.4 (relating to powers and duties of the Board of Variances and Appeals), to delete the reference to variances from the general plan, and to add words of limitation regarding variances from zoning ordinances, as follows:

*"Hear and determine applications for variances from the strict application of [ any general plan, ] the provisions contained within any zoning, subdivision or building ordinances."*
13. Amend Section 8-7.3.7 (relating to duties of the Fire Chief), to include within the responsibilities of the Fire Chief, to "provide mitigation and stabilization of hazardous materials incidents".
14. Amend Sections 8-8.1 and 8-8.4 (relating to Planning Commissions), to establish a Lanai Planning Commission.
15. Amend Chapter 10 of Article 8 (relating to the Department of Human Concerns), to expand the title of the department to the "Department of Housing and Human Concerns".

#### **ARTICLE 9 - FINANCIAL PROCEDURES**

16. Amend Section 9-4 (relating to the budget public hearing), to provide that the Council may hold a public hearing prior to April 1st.
17. Amend Section 9-9 (relating to appropriation changes), to provide that the Mayor shall certify to the Council on a quarterly basis, the amount of revenues actually received in excess of estimates, provided that, in so certifying, any anticipated shortfall in revenues shall be considered.



18. *Amend Section 9-10 (relating to transfers of appropriations), to provide that:*
  - (1) *the Mayor and the Council may initiate changes within their respective operating budgets; and*
  - (2) *transfers of appropriations between departments, and transfers between legislative offices may be made by resolution.*
19. *Amend Section 9-11 (relating to lapsing of appropriations), to provide that the Mayor shall notify the council within ten (10) days of the abandonment of any capital improvement appropriation.*
20. *Amend Section 9-13 (relating to audits), to provide that an audit of the accounts of the Director of Finance shall be made upon the expiration of the term of the director.*

## **RECOMMENDATIONS PENDING APPROVAL**

*NOTE: The following proposals are Committee recommendations, and have not been approved by the full Charter Commission*

### **ARTICLE 10 - CODE OF ETHICS**

1. *Amend Section 10-1 (relating to purpose and scope of the Code of Ethics), to provide that the Code applies to board and commission members.*
2. *Amend Section 10-2 (relating to duties and procedures of the Board of Ethics), to provide that the Board shall:*
  - (1) *issue advisory opinions within forty-five (45) days of the filing of a request; and*
  - (2) *receive and file lobbyist registration statements in accordance with procedures established by ordinance.*
3. *Amend Section 10-3 (relating to the filing of financial disclosure statements by County officers), to provide that the members of any board or commission established by the Charter shall file financial disclosure statements.*
4. *Amend Section 10-4 (relating to prohibited conduct of County officers and employees), to provide that a County officer or employee:*
  - (1) *shall not represent a private interest for compensation before the department by which the individual is employed, or agency to which the individual is appointed;*
  - (2) *shall not represent a private interest for compensation in any matter which is related to any official action to be taken by the County officer or employee; and*
  - (3) *shall not use "county time" for other than public activity or purpose.*
5. *Add a new section to provide that County officers and employees with substantial discretionary authority should disclose his or her position with the County when appearing at public meetings.*

## **ARTICLE XI - INITIATIVE**

6. Amend Section 11-3 (relating to initiative petitions), to:
  - (1) reduce the number of signatures required to fifteen percent (15%) of the voters registered in the last general election; and
  - (2) delete the requirement that signers of the petition disclose voting precinct; add requirement that signers print name and address.
7. Amend Section 11-4 (relating to filing of initiative petitions), to:
  - (1) delete the thirty (30) day time limit for the filing of a petition; and
  - (2) allow for the withdrawal of a signature within fifteen (15) days of the filing of the petition.
8. Amend 11-6 (relating to voting on petitions), to provide that:
  - (1) the initiative proposal contained in a valid petition be submitted to the voters at the next general election; and
  - (2) a special election is not required.
9. Amend Section 11-7 (relating to election results), to require the vote of a majority of ballots drawn to approve an initiative measure.

## **ARTICLE 12 - RECALL**

10. Amend Section 12-3 (relating to recall petitions), to delete the requirement that signers of the petition disclose voting precinct; add requirement that signers print name and address.
11. Amend Section 12-4 (relating to filing of petitions) to:
  - (1) Increase the time for filing a petition to sixty (60) days; and
  - (2) allow for the withdrawal of a signature within fifteen (15) days of the filing of the petition.
12. Amend Section 12-6 (relating to recall elections), to provide that a valid recall petition will be submitted to voters at the next general election, unless such delay would defeat the purpose of the recall by allowing a full term of office for the person sought to be recalled, in which case a special recall election would be scheduled.

13. *Amend Section 12-7 (relating to voting on recall petitions), to require the vote of a majority of ballots drawn to approve a recall petition.*

#### **ARTICLE 13 - GENERAL PROVISIONS**

14. *Amend Section 13-2 (relating to composition of boards and commissions), to provide that the Mayor shall give due consideration with regard to representation from each of the nine community plan districts (except Kahoolawe).*

#### **ARTICLE 14 - CHARTER AMENDMENT**

15. *Amend Section 14-1 (relating to initiation and approval of charter amendments), to provide that:*
  - (1) *any proposed amendment supported by a petition signed by at least twenty percent (20%) of the voters registered in the last general election be placed on the ballot at the next general election; and*
  - (2) *the vote of a majority of ballots drawn be required to approve a charter amendment.*
16. *Amend Section 14-3 (relating to mandatory review of the charter), to provide that a Charter Commission be appointed prior to March 1, 2001, and to allow sixteen (16) months for the submittal of a report by the Commission.*